

PLANNING BOARD

March 21, 2023 at 7:00 PM

 **MEETING MINUTES
 Approved May 9, 2023**

**Members Present:** Eric Botterman (Chair), Val Shelton (Vice-Chair), Scott Blackstone (Town Council Ex officio), Jane Ford, Jeff Goldknopf, Bart McDonough (Director of Planning & Community Development), Patrick Reynolds, and Timothy Rossignol **Member Absent**: Michal Zahorik (alternate)

Chair **Eric Botterman** opened the meeting at 7:00 PM. [time on DCAT 3:34]

The voting members this evening will be **Eric Botterman**, **Valerie Shelton**, **Scott** **Blackstone**, **Jane** **Ford**, **Jeff** **Goldknopf**, **Patrick** **Reynolds**, and **Timothy** **Rossignol**.

**1. Pledge of Allegiance**

**2. Public Comments**The Chair opened public comment at 7:01 PM. No one from the audience wished to speak during public comments. The Chair closed comments at 7:02 PM.

**3. Acceptance of Minutes**  [time on DCAT 4:13]
***a. February 14, 2023***
 **Action
Motion: Patrick Reynolds** moved to approve the draft minutes of Feb. 14, 2023.
**Second: Jane Ford
Discussion:** none  **Vote: Approved 6-0-1** (**Val** **Shelton** – abstained) **4. Regular Business** [time on DCAT 4:59]
***a. Election of Officers for 2023-2024***
**Patrick Reynolds** nominated **Eric** **Botterman** as **Chair**. There were no other nominations.

 **Action**

**Motion: Patrick Reynolds** moved to appoint **Eric Botterman as Chair.**
**Second: Val Shelton
Discussion:** none **Vote: Approved 7-0-0

Jeff Goldknopf** nominated **Val Shelton** as **Vice-Chair**. There were no other nominations.
  **Action**

**Motion: Jeff Goldknopf** moved to appoint **Val Shelton as Vice-Chair.**
**Second: Jane Ford
Discussion:** none **Vote: Approved 7-0-0

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Jeff Goldknopf** recused himself from both item a. and item b.

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a. **SCG Management Corp/Second Bennett Way Limited Partnership – Pursuant RSA 674:35 and 676:4I(d) and Appendix B – Site Plan of the Municipal Code of**

**the Town of Newmarket, New Hampshire, there will be a continuation of a public hearing for an application for Major Site Plan Review, requested by SCG**

**Management Corp/Second Bennett Way Limited Partnership, for property located at 4 Bennett Way, Tax Map U4, Lot 4-11, within the B1 Zoning District.**

**The proposed application seeks approval to develop the east-side of the parcel**

**with a 2- story, 12-unit building with associated parking and amenities.
Michael** **Sievert**, of Horizons Engineering, is present this evening with **Scott** **Foster** from SCG Management Corp/Second Bennett Way Limited Partnership to report on the modifications made to the application for a Major Site Plan Review for the property at 4 Bennett Way. The Chair gave a brief update on the history of this project. It was approved several years ago for 24 units, but it was not built. It is, therefore, technically ‘grandfathered’. The proposal now before the PB is for 12 units. At a previous meeting, it was acceptable to the PB except for an issue with stormwater. At that meeting, it was agreed that Michael Sievert would meet with the Town Engineer to resolve these issues. The application layout is the same except for the drainage layout which was worked out with the Town Engineer, Lyndsay Butler, and DPW, Rick Malasky. They have now relocated the drainage system to tie into the Bennett Way overflow and not tie into the previously planned drainage into Moonlight Brook. There is now good infiltration during normal rain/storm events and there will be a small increase during 100 year storms flowing down to the Rt. 108 system.
The Chair opened the meeting to public comment at 7:12 PM [time on DCAT 15:42]
With no comments, the Chair closed public comment at 7:13 PM [time on DCAT 16:39]

**Bart** asked Scott Foster from SCG how many residents they expect and what size are the units. Scott said that they originally planned 24 units with 2 bedrooms, now they are planning 12 units which will be between 1,100 -1,300 sq ft with 2 bedrooms each. They believe that occupancy will likely not exceed 2 per unit, possibly three. There is no den or other space which could be turned into a third bedroom. **Bart** reported the **Finding of Facts** in the Planner’s Report which include:

1. Applicant and agent submitted a final application on November 22, 2022 for Planning Board review for their December 13, 2022 meeting
2. Pursuant to RSA 672:3; RSA 676:4 II(b),(c), and (d) and Appendix B – Site Plans of the Municipal Code of the Town of Newmarket, New Hampshire, a public hearing was noticed and scheduled for a site plan review application for the Planning Board’s December 13, 2022 meeting.
3. At the December 13, 2022 Planning Board meeting, the Planning Board accepted the application as substantially complete and open the public hearing and the applicant presented the application. The applicant and agent introduced the project and described how it was vested from an earlier Planning Board approval with the demolition of the existing building to be replaced. Due to economic factors, the Phase II of the development was never built. Unlike the originally approved site plan, the current applicant proposes to reduce the number of dwelling units from 24 to 12 units.
4. During the December 13, 2022 meeting, the Planning Board was made aware by the Planning Director, Bart McDonough, that there were still stormwater issues and other minor site adjustments that needed to be rectify before the Planning Board moved forward with a final vote on the application. Otherwise, the Planning Board had no issues with the proposed application.
5. Due to the amount of time required to ground truth and redesign the proposed stormwater system for the development, the public hearing was continued to three meetings: January 10, 2023, February 14, 2023 and March 21, 2023.
6. At the March 21, 2023 meeting, the Planning Board was presented a revised application and reviewed how it measured with the site plan standards. It was found that the revised site plan met the purpose of the zone and satisfied development standards. Thereafter, the Planning Board closed the public hearing, discussed the merits of the application, voted on the waiver requests (6-0-0) in the affirmative from section §3.04(C)(2) and §4.08 of Appendix B —*Site Plans* of the Municipal Code of the Town of Newmarket, New Hampshire, and ultimately voted on the final application (6-0-0) in the affirmative.
7. Pursuant to 32-238 *Impact Fees*, of the Municipal Code of the Town of Newmarket, New Hampshire, the proposed development was found to be considered new development and is subject to the fee schedule. Accordingly, the following impact fees are imposed per unit:

Impact Fee Schedule for a Multi-Family Building 5+ Units

● Public Schools $743.00

● Recreation Facilities: $279.00

● Wastewater Treatment: $791.00

● Water Supply & Treatment: $475.00

● Total= **$2,288.00
Bart** spoke to the waivers required. 1) SCG still needs to have input on #3.04 from COAST on current and future transit accommodations, 2) on #3.11 regarding ADA compliance in particular the slope detail on the proposed sidewalk. 3) #3.16 outdoor lighting detail , 4) #4.03 the plan requires a tax stamp number.

**Waiver Requests from Section #3.04 and #4.08:
Motion #1: Val Shelton** made a motion that the Planning Board waive section *#3.04**pedestrian, bicycle, and transit amenities* and section *#4.08 scale.* **Second: Jane Ford
Discussion:** none **Vote: Approved 6-0-0

Bart** was asked to go through the **Conditions Precedent** which include the following and must be met prior to the issuance of a building permit:
1. The site plan shall undergo a final review and receive approval from the Director of Environmental Services and Town Engineer as it relates to development’s water, sewer and stormwater systems.
2. The site plan shall be updated reflecting the comments made at the March 21, 2023, staff notes, dated March 17, 2023 and all subsequent review changes by Town staff as stated in condition 1 above.
3. The applicant shall demonstrate that they provided data input to the PTAPP Database.
4. The applicant shall submit the revised site plan that has received final approval from Town Staff and have it endorsed by the Planning Board Chair and subsequently recorded at the Rockingham County Registry of Deeds.

The **Conditions Subsequent** include the following and must be met before the following events:

1. Prior to the preconstruction meeting, the Applicant shall develop a scope-of-work with the Town related to the construction inspections for the site work and utilities and subsequently enter into an agreement enumerating the activities to be inspected by the Town and its consultant.
2. Prior to the commencement of construction, the Applicant shall have a pre-construction meeting with Town staff and consultant to review the construction sequencing and the approved site plan requirements.
*The following* ***conditions subsequent****, as enumerated below, must be met prior to the following events:*1. An as-built plan shall be submitted and reviewed and approved by the Town of Newmarket prior to the issuance of the final dwelling unit’s certificate of occupancy.
2. Impact fees shall be paid to the Town of Newmarket prior to the issuance of each unit’s certificate of occupancy.
 **Motion #2: Val Shelton** made a motion to approve the application made by SCG Management Corp/Second Bennett Way Limited Partnership, to grant approval of the major site plan for property located at 4 Bennett Way, Tax Map U4, Lot 4-11, within the B1 Zoning District. The proposed application seeks approval to develop the east-side of the parcel with a 2- story, 12-unit building with associated parking and amenities as outlined in the Finding of Fact recorded by the Town Planner as of March 17, 2023 and subject to the conditions of approval as noted on the Planner’s Report that were discussed and amended\* this evening.  **Second: Tim Rossignol
Discussion:** none **Vote: Approved 6-0-0
\*** The PB amendments are included in the conditions in the minutes above.
 **Val** asked Scott what is the expected time line for the project. He stated that he still needs a builder but, if all goes well, they hope to break ground this fall. He agreed to the vesting suggestion of 24 months.

**Motion #3: Val Shelton** made a motion that the site plan review approval shall be deemed to have lapsed twenty-four (24) months after the date of approval, unless active and substantial development has commenced within said period as provided by RSA 674:39. For purposes of vesting, the site plan approval shall be deemed to have permanent vesting upon substantial completion of building and site improvements as shown on the plans. Substantial development or building shall occur after grading and foundation work is completed, and installation of infrastructure (parking, water, sewer, drainage structures, and underground utilities).
**Second: Patrick Reynolds
Discussion:** none **Vote: Approved 6-0-0**The Chair read the Appeal of Decision process:
1) This conditional approval is subject to all representations and statements made by the Applicant and Engineer to the Planning Board during the review process. Any appeal of the Planning Board’s decision, pursuant to RSA 677:15, any person aggrieved by any decision of the Planning Board may appeal the decision to the Superior Count within 30 days, after the date upon which the Planning Board voted to approve or disapprove a site review application.
 **\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\***Read by Chair: [time on DCAT 31:28 – 1:44:07]

b. **D.R. Lemieux Builders, LLC - Pursuant to RSA 672:3; RSA 676:4 II(b),(c), and (d)**

**and §2.02 *Design* Review of Appendix A *–Subdivisions* and of Appendix B – *Site***

***Plans* of the Municipal Code of the Town of Newmarket, New Hampshire, notice**

**is hereby given that a public hearing for an application for Design Review will be**

**held, requested by D.R. Lemieux Builders, LLC, located on real property with an**

**address of 242 South Main Street, Tax Map U4, Lot 69, within the R2 zoning**

**district. The applicant seeks to engage with the Planning Board in a nonbinding**

**discussion relative to certain elements for a proposed 32-unit, age-restricted,**

**multi-family development with appurtenant infrastructure and associated**

**improvements.**Representing D.R. Lemieux Builders LLC this evening is **F.X. Bruton** Esq. from Bruton & Berube PLLC of Dover NH. Also present this evening are **Dave Lemieux**, Principal, and **Heather Droesch**, General Manager, of D.R. Lemeiux Builders LLC.Other members of the team include: **Christian Smith**, Principal at Beals Associates, PLLC, **Brenden** **Walden**, Wetlands Scientist and General Manager at Gove Environmental, **Robbi Woodburn**, from Woodburn & Co. Landscape Architecture LLC, and **Mike Lassel**, from Lassel Architects.
Attorney Bruton presented an overview of the project. The team had looked at three different concepts before choosing this one. They will not be asking for any density bonuses. They have met with the Town Engineer about issues which came up during their due diligence in selecting a plan concept. Mr. Smith rose to review the project for the Board. The first thing on their checklist was to hire Doucet Survey to complete a full boundary survey along with a wetlands delineation by Gove to determine the existing conditions. They also hired Vanasse & Associates Inc. to complete a traffic impact study. They plan to carve off the existing home on the property from the new construction. The total property is 7.76 acres after they take the house out of the calculation. Poorly drained soils cover .9 acres. Brenden Walden from Gove rose to say that the wetlands were flagged last October. He also stated that NHDES has designated the Tier 3 flood plain as a priority resource area and must not be disturbed. Robbi Woodburn rose to speak about conceptualized landscape buffers. She showed the plans and described a 12-14 ft scrub buffer which would include also planting trees 3” in diameter. It may take 3-5 years to reach full growth. **Patrick** asked about the possible advantage of walkability to downtown. Robbi reviewed the placement of walkways around the building and the path that would lead to a flashing crosswalk to the south side of South Main Street. **Val** asked about the line of sight issues with the proposed landscaping. Attorney Bruton said that DOT has given this project a Level A for sight lines.Mike Lassel, from Lassel Architects, was askedabout the height of the building. He said it would be 35 ft at the peak from the slab level. The footprint will be 7,600 sq ft and each of the 32 units will be 500 sq ft with 1 bedroom. They plan 1 parking place per unit and a total of 2 handicapped spaces. **Patrick** asked about any plans to formally conserve the undeveloped land. Mr. Lemiuex stated that his plan was to deed restrict the property for non-development. The Chair asked Attorney Bruton to explain 55+ Affordable Elderly Housing to the audience. There are two components: 1) 55+ and 2) under the Federal Fair Housing Act, one may not discriminate against families. The affordable part of the restriction goes through the NH Housing Finance Authority (NHHFA). They would have very specific regulations regarding income. There is one other property like this in Newmarket – just up the road at 290 Wadleigh Falls called Wadleigh Senior Housing.
The Chair opened the meeting to public comment at 8:03 PM [time on DCA T 1:06:38]

Speakers:
#1 Derek Conrad, 245 South Main Street. Mr. Conrad’s concerns included: 1) safety for pedestrians, besides the tenants but especially children using the crosswalk, 2) traffic accidents in the area – he is aware of two major accidents in the last 30 days- one involving a school bus, and 3) landscaping issues – will the plantings be drought and sun tolerant as well as deer tolerant. Why not budget for mature trees? Who will care for the grounds post installation i.e. watering etc.
#2 Liz Dowst, 255 Wadleigh Falls Road.Ms. Dowst is concerned that this design is not in keeping in the ‘neighborhood’. The scope and design is much too big and tall. The other facility at 290 Wadleigh Falls is set farther back and is only two stories. #3 Steve Suraci, 240 South Main Street.Mr**.** Suraciis also concerned with traffic safety. He recounted the situations of three accidents in the last 8 months. The PD has put up a sign which counts cars and flashes speed. He has asked Officer O’Brian for the statistics and will be able to present that data at a later meeting. He also is concerned that the DOT sight lines change right at Grant Road from 200 ft in Town on South Main Street to 400 ft on Wadleigh Falls. He also pointed out the scope of design issues. In this neighborhood, most of the houses are about 100 years old and are 1 ½ stories. The proposed structure is way out of line with the area. He understands the buffers along South Main Street, but what do they propose for the abutters on the backside? He questions the drainage plans. Rt 152 is currently 3.5 ft higher than when it was first paved. And lastly, he wanted to ask about the parking spaces. Where is the parking for guests? Why only 2 spaces for handicapped vehicles with so many people above the age of 55? Regardless of the requirements, why are they not planning for more handicapped spaces.
#4 Linda Doshier, 249 South Main Street. She is also concerned with line of sight. Her house is directly across from the proposed driveway. Getting in and out of her driveway if already difficult because there are curves on either side of the road and you cannot see oncoming traffic (especially when they exceed the speed limit). She also believes that this proposed building does not blend into the neighborhood in any way.#5 Christine Hegarty, 259 Wadleigh Falls Road.She wants to reiterate several of her neighbor’s issues about traffic safety concerns. She did want to know if this was a smoke free facility? Mr. Lemieux answered that it was a State regulation that no smoking is allowed in the building, but they could go outside to smoke. She would like this issue to be thoughtfully addressed since children would walk past the entrance/smoking area on their way to and from school every day. #6 Tim Noyes, 38 Maplecrest Street.He is most concerned with wetlands drainage considerations.#7 Dawn Mazur, 34 Maplecrest Street.Ms. Mazur has lived in her house for 64 years. Her house would not be constructed today due to the wetlands. Her sump pump goes off every 15 minutes 24-7. She said that the ditch out back used to get cleaned out, but it doesn’t anymore and the water can’t go anywhere. Her backyard is saturated. If this building is constructed, where will the water go? She also agrees with what everyone else has said. #8 Fred Wallace, 237 South Main Street.Mr. Wallace has lived in his house for 28 years and works for DOT. He is very concerned about the curves on South Main Street which hinder line of sight in both directions in this area. His house has been hit twice in traffic accidents. The speed limit is not maintained. In addition, a three*-*story 32 unit building is just too big for this neighborhood- maybe two stories?*#9 Gene Connolly, 1 Grant Road.*Wants to reiterate the concerns of previous speakers – traffic and aesthetics. With the curves on South Main Street, it is difficult to traverse. He can hear speeding traffic whizzing by all night long. #10 Lauren McGinley, 32 Maplecrest Street. Ms. McGinley has worries about possible flooding. She has spent 10 years working to decrease flooding from the wetlands onto her property. Her sump pump also goes off about every 30 minutes even after their remediation efforts. She is worried about effects on the wildlife flow in the area. Right now there is a family of deer just about every day and just last night there were three foxes traveling past. How will this project affect the natural flow of wildlife? She also has safety concerns and in particular the flashing crosswalks vs. the non-flashing crosswalks in Town. She believes drivers may not pay attention to non-flashing crosswalks as they get used to the flashing systems. She also agrees that this project does not match the aesthetics of the community in this area. She has many of the same concerns as her neighbors. Ms. Halliday’s front picture window looks out at the wildlife in the field especially the family of deer being raised in the area. She is not opposed to elderly and/or affordable housing, but she would like to see more care in further discussions about this plan and if the proposed scale of such a development on this land is appropriate. She wanted to add that “just because we can, doesn’t mean we should”.#12 Fred Wallace, 237 South Main Street(second comment). He will contact **Bart** with another of his concerns.
#13 Steve Suraci, 240 South Main Street(second comment). He wanted to add that this was not the first time many of the people attending had seen this plan. Mr. Lemieux asked several abutters to review the plans in his office. Mr. Suraci wanted to mention that the facility located just up the road at 290 Wadleigh Falls is not even visible from the road especially in the summer. Even in the winter, he can only see a little bit of roof line. It seems that there is a large parcel of land to work with for this project and trying to move the building back sounds like it might be possible. Building in an open field will guarantee that the buffer will not be fully grown in his lifetime. #14 Derek Conrad, 245 South Main Street(second comment). He just wanted to comment on the great show from direct and indirect abutters this evening. He believes that the Newmarket community wants to be heard and engaged in development projects.

The Chair wanted to let everyone know that this is just the first step in what may be a long process. This was a requested, non-binding design review by Mr. Lemieux to present the plan to the PB for questions/feedback and to the hear from the public. If they decide to come forward with a plan, they must meet a set of criteria in our regulations which are given rigorous review by the Board. The Chair and the members thanked the audience for their thoughtful comments and concerns. The Chair would like to encourage community participation in the Planning Board process and hopes that everyone will comeback as we go forward.
The Chair closed public comment at 8:41 PM. [time on DCAT1:43:13

Attorney Bruton thanked the Board and all of the speakers/abutters this evening. He and the team hope to be able to address the questions/concerns as they move forward in this process.
 **Jeff Goldknopf** took his seat with the Board after recusal for the previous two items.  **\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*
5. New/Old Business** [time on DCAT 1:45:49]

a**. Discussion - Pursuant to §24-1 Zoning ordinance amendment procedures, of the Municipal Code of the Town of Newmarket, New Hampshire, the Planning Board shall review draft language proposed by the Newmarket Town Council**

**to. amend §32-161 Historic overlay district of the Municipal Town Code of**

**Newmarket, New Hampshire, that seeks to add architectural design**

**requirements within the historic overlay district, or take any other action relative**

**thereto.**

**Bart** is still working on the historic overlay district by looking at the site plan review process. He will have the product ready for discussion at the May meeting.b. The Chair is concerned about how lengthy the agenda packets are getting. The Board discussed ways to solve this issue. They asked **Bart** if he could index the meeting folder for easier viewing. **Bart** agreed to do that and he was asked to continue to provide his most excellent Planner’s Reports!

c. The Chair brought up the two State bills (HB 655 & HB 2) under consideration right now that would do away with the need to be a certified wetland scientist, certified soil scientist, and/or certified forester. They are also considering the need for licensed Landscape Architects. The members discussed this proposal.
 **Action**

 **Motion: Jeff Goldknopf** moved to authorize Bart McDonough, Director of Planning and Community Development, to write a letter to our State Representative regarding our strong concerns regarding certain provisions in HB 2 and HB 655 on behalf of the Planning Board for the Town of Newmarket. **Second: Patrick Reynolds
Discussion:** none **Vote: Approved Unanimously 7-0-0

Bart** will send the letter not only to the House, but to the Senate and the Governor.

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6. Committee Reports***Energy and Environment Advisory Committee:* **Patrick** reported the EEAC will hold their first hearing on the Community Power Aggregate Plan next week. The second hearing will be held in May and then it will be presented to the Town Council for their consideration. They are also near completion of the Draft Energy Plan Chapter for the Master Plan and hope to get that submitted to the Planning Board shortly.*Conservation Commission:* **Jeff** reported on the guest speaker from the recent ConCom meeting. Dr. Stephen Jones, UNH “Tracking Sources of Fecal Contamination in the Lamprey River Watershed: 2021-2023”. The most alarming issue was the contamination found at the culvert of Moonlight Brook. The tracking of sources is being funded by LRAC. The final report may be found at: [2022\_bacterial\_tracking\_FINAL\_report.pdf (lampreyriver.org)](https://www.lampreyriver.org/application/files/4816/7424/5935/2022_bacterial_tracking_FINAL_report.pdf) . Dr. Jones is hoping to expand the source tracking back up Moonlight Brook this season and members from the ConCom have agreed to show him the way.
*Town Council:***Scott** reported that the ADU plan passed unanimously. The Town Annual Report is being dedicated to Mike Provost, a well-deserving town resident. The TC increased the veteran property tax credit from $500 to $750. After the ballots were counted on election day, two seats remain open on the Town Council. They will be working to fill those vacancies as quickly as possible.
 **7. Adjournment** [time on DCAT 2:16:16] **Action**

 **Motion: Jane** **Ford** moved to adjourn the meeting at 9:14 PM. **Second: Val Shelton
Discussion:** none **Vote: Approved Unanimously 7-0-0** Respectfully submitted,

Sue Frick

Recording Secretary

**DCAT:
https://videoplayer.telvue.com/player/XSekkdEeRsk0JHQVHAvKJVka7\_5VjxKP/videos**