

## Planning Board Minutes 04/09/13

### NEWMARKET PLANNING BOARD MEETING APRIL 9, 2013 MINUTES

Present: Eric Botterman (Chairman), Rick McMenimen (Vice Chairman), Diane Hardy (Planner), Janice Rosa, Val Shelton, Elizabeth Dudley, John Brackett, Dan Wright (Town Council ex officio)

Absent: Jane Ford (Alternate)

Called to order: 7:02 p.m.

Adjourned: 8:42 p.m.

Agenda Item #1 – Pledge of Allegiance

Agenda Item #2 – Public Comments

None.

Agenda Item #3 – Review & approval of minutes: 03/19/13

The minutes had not been reviewed and were postponed until the next meeting.

Agenda Item #4 – Regular Business

Pursuant to RSA 675:6 and RSA 675:7, a public hearing will be held by the Newmarket Planning Board on Tuesday, April 9, 2013 in the Town Council Chambers of the Newmarket Town Hall, at 7:00 pm. regarding the adoption of the updated Existing Land Use Chapter, as an amendment to the Town of Newmarket Master Plan. The amendment includes a discussion of existing land use and development patterns, a buildout analysis, land use and sustainability, and smart growth principals.

Eric Botterman stated, at the last meeting, Kyle Pimental was here, from Strafford Regional Planning Commission, and he went over this with the Board.

Eric Botterman opened the public hearing.

Val Shelton asked how the Board proceeded with this item. Diane Hardy stated the public was notified by a posting in the newspaper and in three public places. There were notations that copies were available at the Planning Office for public review. There have been no inquiries.

There were no public comments.

Eric Botterman explained this was just updating the Existing Land Use chapter to reflect things that have happened in the town since the chapter was last updated.

Kyle Pimental gave a review of how this process got started and where the funding originated. The total cost of this project was about \$5,500.

He stated he took the Existing Land Use chapter and updated it over the winter and they will be starting on the Future Land Use Chapter this spring and summer.

The Existing Land Use chapter is fairly traditional. It was prepared by the Strafford Regional Planning Commission (SRPC) and a designated Master Plan subcommittee of the Planning Board. They looked at development patterns, existing and current land uses, and smart growth principles. They did a buildout analysis. They also looked at land use as a component of sustainability.

The Future Land Use section will have a climate adaptation and resiliency focus.

The major differences in the findings between the 2001 Existing Land Use chapter and this one is that the three dominant forms of land use in the old chapter were described as strip, sprawl and scattered development. They realized that may have happened in the late 1980s and 1990s, but over the last decade that is not what has occurred in Newmarket. There have been more residential developments involving open space designs, land conservation, redevelopment, growth management, and infill development.

They also did an inventory of current land uses. The old chapter was based on 1994 and 2000 data. So it was out of date. They updated those figures using 2010 data and GIS (geographic information system) technology. They defined land use classifications, then looked at land use changes and patterns. There is now more of a focus on the downtown, the Route 108 corridor and the town's industrial areas.

He talked briefly about smart growth principles.

There are three forms of land use which are pre-dominant today. The first is residential open space development. This is a flexible zoning option used to preserve rural character. They looked at 21 developments which occurred from 1978 to 2012. There was about 1283 acres involved. Out of that, 585 acres were preserved as open space. Another form was land conservation. He spoke about the efforts of the Open Space Commission and what they had achieved for the town. Another form was redevelopment, growth management and infill, including downtown revitalization.

He showed the update for current land use. They looked at residential, commercial, industrial, mixed-use development, transportation, vacant and outdoor recreation. Anything that fell under those headings was considered "developed" land. Forests, water, agriculture, wetlands and other were the other criteria. About 27% of Newmarket is developed land.

They also looked at changes from 1962 to 2012. He presented a chart that shows changes over time. Agriculture and forest have gone down a little bit and developed land has gone up. In 1962 there were 700 acres that were developed and in 2011 there were 2400 acres developed, a 344% increase over 50 years. He showed a map showing land built up over the last 50 years.

He talked about the existing land use patterns. Newmarket has a wide range of housing opportunities. According to the Regional Housing Needs Assessment of 2009, Newmarket is only one of four urban communities within our planning region that has provided an adequate supply of affordable housing for all ages and income levels.

He talked about the downtown revitalization and the mill redevelopment. The chapter also shows that historic landmarks are important. Public transportation is very accessible in the downtown.

He stated the Town has updated the Water Resources chapter and adopted new stormwater regulations.

He showed a map that shows the 21 developments and how much land was conserved, an existing land use map and a buildout map.

They will be updating the Future Land Use chapter next.

The Board was comfortable moving ahead with this chapter.

Action

updated includes a and	Motion:	Rick McMenimen made a motion to approve (pursuant to Existing Land Use Chapter, as an amendment to the Town of discussion of existing land use and development patterns, a smart growth principals.	RSA 675:6 a
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Second:	Val Shelton
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Vote:	All in favor
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Newmarket Mills, LLC – Continuance of a public hearing for an application for Site Plan, at Main Street, Tax Map U2, Lots 57, 60B, and 61, B1 Zone (a proposed zoning amendment to change the zoning from B1 to M2 is under consideration by the Town Council at the time of this notice). The proposal is to convert the vacant former “Riverdale Automotive” structure into an eatery, with an attached specialty retail store.

Eric Botterman recapped the last meeting. There was a Technical Review Committee (TRC) meeting, where concerns of the Town departments were addressed.

He stated the Board did receive a letter from resident, Amy Thompson, with several concerns relative to development. Diane Hardy did respond to Ms. Thompson’s letter and Chairman Botterman was very comfortable with the Planner’s responses.

He stated the Board has the information they had asked for from the applicant. A parking analysis memo has been distributed to the Board. That is more relevant to the bigger retail development, but is part of this one.

Jeff Clifford, Altus Engineering, reviewed what had changed since the last meeting. He stated there were a few minor items. The bike rack has been added. A note about retail space was taken off of the plan. It is proposed solely as a restaurant now. The sidewalk was changed to a more logical configuration. A sign was added to exit the site right to Main Street. The freezer was relocated and rotated. The dumpster was moved. They added vertical curbing at the front of the parking lot at the request of the Town DPW. It would prevent cars from blocking the public sidewalk. The designated snow storage area has been taken off the plan. They took a sign out that would have needed a variance. They may pursue one later. They changed the notes on the plan to correctly state that this lot was in the B-1 zone. He showed a future lot line adjustment proposal. They are not adding any lighting except what is required by code at the doorways. They added a note that, if there was any additional lighting, it would meet the requirements of the ordinance. The plan

has a note about having a 100 gallon grease trap in the building itself. They identified the number of patio seats as 24. On the grading and utility plan, they clarified where the erosion control would be located. They are proposing a rain garden that would take quite an area of stormwater and treat it. They had some grading revisions and made sure it was ADA accessible. They have a landscape plan. They provided screening around the gas tank and at the dumpster. They will use black posts on signage.

He stated there are various waiver requests that have to do with parking. The driveway permit is pending with NH DOT. DOT has agreed with everything, except they would like a letter from the Town saying it is okay for this traffic to exit there. There is traffic coming out of there now. They just want it to make sure the Town is okay with that. He showed an area for delivery trucks. There is 25 feet of one way access through the site, so if a truck had to park in another area, vehicles can still get around. That is still a fair amount of distance from Main Street. It would be mainly off-hours and there would be single unit vehicles, not trailer trucks for deliveries.

Eric Botterman opened the public hearing.

Joan DeYoreo represented the library. She stated the Library Board met with Diane Hardy and they went over the plans for the project. She stated regarding the proposed traffic flow, the driveway is busy already. People use it to come to the library and to get in and out of the mill parking lot. She showed the library parking on the plan. When people are getting out of the lot, there have been many close calls. People turn in from Main Street and they do not slow down. They are concerned about that.

She stated, if the restaurant's business was mostly in the evening, it probably would not impact the library as much. The library is open until 8:00 p.m. on Monday, Wednesday and Thursday.

She stated another question that came up at her meeting with Diane Hardy was where the employees of the restaurant would park. Ms. DeYoreo stated the twenty public parking spaces on the adjacent lot owned by Chinburg are not adequate for the library. A lot people who work downtown park there. Sometimes it hard for library customers to find a parking space.

She stated there are four spaces for staff and five for patrons in back of the library. People do park elsewhere in the front on occasion, where it says "No Parking". The only library parking is the spaces behind the building and the one space in the front.

Val Shelton asked, regarding the waiver on the curbing, where the granite was proposed and where the Cape Cod berm style would go. Jeff Clifford indicated the areas on the plan.

Jeff Clifford explained, as long as it is working out okay, they do not at this time intend to designate parking at the retail location. The applicant would have the right to have designated parking at any time. Their intent initially is to allow the free flow of parking. Eric Botterman clarified the applicant was saying that people are welcome to park there, but if a conflict arises, the people who live in the mills and patrons of the retail building will have priority over the library patrons.

Val Shelton stated there is signage in the lot now relative to parking for mill residents and business patrons only. The signage is already there on both sides stating it is not public parking. It is intended parking for mill residents and patrons of mill businesses. She stated that the Board should be clear, relative to their regulations, that, for this particular project, they were talking about nine spaces short relative to the required parking for the use. The proposal is to utilize, on a shared basis, the excess parking on the adjacent retail site.

Matt Assia, Chinburg Properties, stated, at this point, it is a matter of education, so folks are aware of the parking lot's intended use. They are interested in sharing parking, as it works well for everyone. A letter was submitted to the Board last week presenting an analysis of the existing parking demand and parking supply, which was reviewed by the Board back with the original mill approval process. It goes on to demonstrate the incremental increase in parking supply and

demand as a result of the two proposed projects. In each scenario (the existing condition and the proposed condition with both the reuse of the Riverdale garage space and the additional retail space) there is a surplus of parking. The management and enforcement of parking rules will make sure there is shared space.

Eric Botterman stated everyone needs to be clear the discussion is for the Riverdale site only, at this point. He understood the library's concerns. This application is not reducing the parking that is available to them.

Val Shelton stated: if both projects are approved, as proposed, there will be twenty-three surplus parking spaces.

Elizabeth Dudley stated she felt there should be an area for public parking loosely available, without restrictive signage, so library customers could utilize it. Eric Botterman stated the Board needs to be careful. That is something that, if Eric Chinburg and his team want to allow, they can do that, if they do not want to, they do not have to. They could say today there could be shared parking, but demand on one of their facilities could be such that there will not be extra parking spaces in the future. They need to be able to have the right to have their patrons and their residents use their parking lot ahead of anyone else. The applicant is willing to work with everyone, but there could come a day when this will change and they have the right to change it. Legally, the Board does not have the ability to force this issue.

Val Shelton asked, if the Board is granting waivers for parking, do the surplus parking spaces somehow get transferred into public spaces? Eric Botterman stated, his opinion was, the parking regulations and what is actually available for parking, could be two completely different things. As far as the regulations, they could say there are 23 extra parking spaces, then those two projects could be built six months from now and there could be zero surpluses in actuality. Val Shelton stated the regulations are out of date for the proposed uses. For example, one parking space for three seats would include employees. In today's environment, it may not be that the regulations are consistent with the actual need of one parking space for three seats. If an analysis was done and it was one parking space for four seats, we would not be having this conversation. They would meet the needs onsite. Eric Botterman stated each site is unique. There could be an occasion at the restaurant where there are 70 people there and 50 cars. You never know. To be clear, according to the regulations, there are 23 extra parking spaces. It is noble of Mr. Chinburg to say yes, if those spaces are available, the public can use them. That is going above and beyond. He wanted to be clear, if the time comes that there is not enough parking for the people living at the mills and the people in those developments that situation could change. There is nothing the Board can do about that. Neither of these projects are reducing the parking at the library. In hindsight, the Town agreed for 20 public parking spaces there, maybe they should have asked for 50. They did not. The Board cannot ask for anything above and beyond that. The applicant has said they will work with the Board.

Janice Rosa stated the proprietors of these proposed businesses want customers to come to their restaurant and retail stores. The people who have those businesses will want to be guaranteed that their businesses have parking. That comes first.

Elizabeth Dudley stated maybe some of the 20 open spaces that are there now for public use could be designated for the library. Eric Botterman stated that was a Town Council issue. The Trustees of the Library could go to them about it.

Dan Wright asked how many ADA spaces were designated for the restaurant. Jeff Clifford stated there is one van accessible space. There is an eight-foot wide designated ADA loading area. Dan Wright stated that loading area is in the loading zone access for delivery trucks. Val Shelton stated, if a delivery truck is there, that space becomes unusable. Jeff Clifford stated, it is not in the traveled driveway, but is in the access lane. Val Shelton stated, while a truck is there, someone in a handicapped van cannot get out. Dan Wright stated this was not a safe ADA parking space. He has never seen ADA parking where it was designated in that position. Val Shelton asked if this meets the regulations. Diane Hardy stated the plan says it has to be in compliance with all ADA regulations. In the past, when there were questions as to whether something met ADA, the Governor's Commission on Disability does provide a service, where they will look at plans and provide technical assistance. They did it for the ramp in front of the mills.

Eric Botterman stated, as part of the bigger project development, Joan DeYoreo's concern about increased traffic going in and out would be addressed at that time. Maybe there are traffic calming measures that can be taken.

Janice Rosa clarified, when they speak about 12 spaces on Main Street, it does not mean there are 12 dedicated spaces out there. They can use these for their calculations, but she can park in one of those spaces and walk to the library.

Janice Rosa asked the applicant if they could touch base with MJS Engineering and Doucet Survey about the proposed Veteran's Memorial that will be going in by the library just to make sure there are no complications with that. She did not see any, but wanted to ask.

Rick McMenimen asked about the NH DOT saying the traffic could not go in and out from one of the access points. Jeff Clifford stated they did not say "can't". They said that access is 18 feet wide and they would prefer it to be one-way. It is existing and grandfathered and approved under the mill project as two-way. As part of this application, NH DOT will be scrutinizing that and they will want to see what is going on with the various entrances.

Elizabeth Dudley made some landscape suggestions.

Diane Hardy stated she wanted to follow up on Joan DeYoreo's question regarding hours of operation. They did not know what the hours were yet. There was talk about, to start, just having dinner service in the evening and late afternoon at this point.

Diane Hardy asked what the status was of the NH DES water quality monitoring system. Jeff Clifford was going to research the activity and use restriction. She asked if it was a "clean" site and what the status was. Jeff Clifford stated it was clean and he would forward the report from DES to Diane Hardy.

Action

Motion: Val Shelton made a motion that Section 3.02(A)(1) of the fact the applicant has adequately demonstrated that onsite and use of shared parking on the a will provide sufficient parking for the proposed use of the property, which would prevent the excessive demand street parking. There is no land being wasted for excess parking on the subject site and the arrangement safe and convenient for users. Parking for Number of Spaces be

Second: Rick McMenimen

Vote: All in favor

Val Shelton thought there should be discussion that all of the curbing that is visual from Main Street be granite. That would be consistent with the other developments along Main Street. Jeff Clifford stated, in the B-1 Zone, you are required to put concrete. Part of the waiver would be to use granite. Eric Botterman stated, in talking at the TRC meeting with Rick Malasky and Mike Hoffman, they were comfortable with the granite that was being proposed, because the entryway is framed in granite and what Rick Malasky wanted at those four parking spaces is visible. He felt the rest of the curbing on the site is visible, but it is not jumping out at you. The regulations do say concrete.

Action

Motion: Val Shelton made a motion that they waive Section 3.02(B)(4) as needed to control traffic and direct drainage Curbing rel

Second: Rick McMenimen

Vote: All in favor

Action

Motion: Val Shelton made a motion to waive Section 3.02(C) Parking documentation to find that waiver should be granted

Location. T

Second: Rick McMenimen

Vote: All in favor

Action

not being parking conditions.

Motion: Val Shelton made a motion to waive Section 3.02(C)(5) Onsite allowed between the front of the primary structure and the between the actual primary structure and the street and the

Parking Re s proposed

Second: Janice Rosa

Vote: All in favor

Action

site

Motion: Val Shelton made a motion to waive Section 4.10(B)(2) being required. That would serve no purpose for this

requiring th applic

Second: Rick McMenimen

Vote: All in favor

Eric Botterman stated there was a memo from Diane Hardy with proposed conditions. Eric Botterman mentioned Condition 6 on her memo, which talks about mitigating impacts with the library. He suggested they hold that one and talk about it with the next development. He stated the Board should look at conditions 1-5. Val Shelton stated they should add a condition that "Subject to the handicap parking space being in compliance with the ADA regulations".

Action

Map from B1 to an eatery,

Motion: Val Shelton made a motion to approve the application by U2, Lots 57, 60B, and 61 in the B1 zone and subject to the M2 under consideration by the Town Council to convert the as provided in the plans submitted to the Board and subject

Newmarket Mi proposed zon vacant to the

Newmarket Planning Board for a boundary proposed addition with the boundaries exist currently, and proposed M-2 zoning

1. Prior to the Planning Board Chair signing the final adjustment in Section 4.10(B)(2) to modify current B-1 zone and for rear setback. The site and setback lines to ensure compliance with the that is currently before the Town Council.

plan

prior to the issuance of any Certificate of

2. Impact Fees for the project calculated in accordance Occupancy related to this project.

wit

- 3. The applicant shall enter into a developer's agreement with Facts, special site plan approval conditions, special during construction, requirements prior to the issuance of building permits, certificates of site plan approval conditions, the Town's
- 4. Evidence that all relevant State permits from NH Dep  
Copies of all permits and any corresponding Planning Board Chair. cor
- 5. The revised Site Plan C-2 shall be recorded at the Ro
- 6. That the handicap parking, as shown, will be verified that  
adjustments will be made.

Second: Janice Rosa

Vote: All in favor

Diane Hardy stated she had invited Joan DeYoreo to join the TRC meeting or someone else from the library. They can be kept abreast of the discussions.

Joan DeYoreo asked to speak about the retail development. It had been explained it was going to be continued to the next meeting. Eric Botterman allowed her to speak. She stated, if it happens there is a small grocery at the other end of the lot, it would be nice if there was a pedestrian way to get there. They way it is now, the only way to get there, unless you walk around Elm Street and come around to the back, is through the parking lot. Before the mills were developed, Mr. Chinburg came and talked to the Trustees of the Library and got permission to take part of the land on the library to make the sidewalk that he has now. She asked if that could be continued across the lot. She stated it was a good way to make it more human scale. It would be good to promote people walking. Eric Botterman stated the Board cannot take public comments at this time and did not want to get too far into a discussion of this tonight and he would have to stop the comments at this point. They will be talking about all of that under the review of the project.

Newmarket Mills, LLC – Continuance of a public hearing for an application for Major Site Plan, at Main Street, Tax Map U2, Lots 60A and 61, B1 Zone (a proposed zoning amendment to change the zoning from B1 to M2 is under consideration by the Town Council at the time of this notice). The proposal is to construct a single story, 9,600 sq. ft. commercial building near Spring St at the west end of the Newmarket Mills parking lot. The structure will house various businesses, including a small grocery, restaurant, and retail shops.

Eric Botterman stated the Board is currently having a design review engineer go through the application and comment. There may be about two to three weeks, before they have a TRC meeting.

Action

Motion: Val Shelton made a motion to continue the Newmarket Mills LLC agenda item regarding Main Street, Tax Map U2, Lots 60A and 61 to May 14, 2013

Second: Rick McMenimen

Vote: All in favor

## Agenda Item #5 – Other Business

### Landscape Regulations - discussion

Diane Hardy stated they received some excellent feedback. They received nine sets of comments on the regulations, including a response from one developer, two civil engineers, one wildlife biologist and five landscape architects. All were in support, except for the developer who felt this was going too far. She suggested reconvening the committee and going through the comments and discussing them. Eric Botterman stated Rick Malasky was going to put something together in response to the proposal.

### Subcommittee Appointments

Eric Botterman went over the list Diane Hardy put together regarding subcommittees. He asked, if anyone on the Board heard something they were interested in they raise their hand. The first position is one on the Capital Improvement Program (CIP) and an Alternate for that position. Other positions are on Advisory Heritage and Conservation. Eric Botterman is already on Strafford Regional Planning Commission (SRPC), there is an Alternate position open. Val Shelton will continue on the Economic Development Committee. Elizabeth Dudley volunteered for the CIP Committee. Janice Rosa is on the Conservation Commission. John Brackett will be on the Advisory Heritage Committee. Janice Rosa will be Alternate on SRPC.

There was a discussion of whether Adam Schroadter was an Alternate on the Board. He had inquired. (Record checks show Adam Schroadter was appointed in August 2013 to fill a full member seat vacated by Peter Roy. The position expired in March 2013. Eric Botterman was appointed to fill a full member seat in December 2013 vacated by Justin Normand. The position expired in March 2013. After his appointment in August to a full member seat, Adam was never appointed as an Alternate. He remained a full member until the term expired in March 2013. When he asked the Town Clerk about reapplying for his position and told her he was an Alternate, that being the information she was given, she did answer him correctly saying he did not have to sign up to be on the ballot in the March election. He would need to apply to the Planning Board for consideration to be an Alternate member, should he wish to do so.)

Val Shelton stated it would be beneficial to the Board to take the Table of Contents of the Master Plan and add the dates of adoption. Diane Hardy explained the Board had decided to update a chapter every year, as the Town does not have the staff to commit to a project of this size being done all at once every ten years.

There was a discussion of the Town Council's status with the zoning amendment to the B-1 zone. They were looking at possibly the May meeting to take it up again.

## Agenda Item #6 – Adjourn

### Action

Motion: Janice Rosa made a motion to adjourn at 8:42 p.m.

Second: Rick McMenimen

Vote: All in favor

