

Planning Board Minutes 07/12/11

NEWMARKET PLANNING BOARD MEETING JULY 12, 2011 MINUTES

Present: John Badger (Chairman), Val Shelton (Vice Chairman), Diane Hardy (Town Planner), Eric Botterman (Town Council ex officio), Janice Rosa, Peter Roy, Elizabeth Dudley, Rick McMenimen (Alternate)

Absent: Justin Normand, Adam Schroadter

Called to Order: 7:03 p.m.

Adjourned: 8:26 p.m.

Agenda Item #1 – Pledge of Allegiance

Agenda Item #2 – Public Comments

None.

Agenda Item #3 – Review & Approval of Minutes – 06/14/11

Chairman Badger appointed Alternate Rick McMenimen to take Justin Normand's place for the evening.

There was a correction on page 4 to a sentence containing the extra word "we".

Action

Motion: Pete Roy made a motion to accept the minutes as amended

Second: Janice Rosa

Vote: Eric Botterman & Elizabeth Dudley abstained due to absence

All others in favor

Agenda Item #4 – Regular Business

Appoint one full representative and one alternate representative to the CIP Committee from the Planning Board.

Action

Motion: Janice Rosa made a motion to appoint Rick McMenimen as the full representative and Peter Roy as the Alternate.

Second: Val Shelton

Chairman Badger asked if there were any other nominations. There were none and he closed the nominations.

Vote: All in favor

Eric Chinburg, Chinburg Builders, Inc. – Update on downtown mill project

Eric Chinburg, from Chinburg Builders, Inc, stated that a week ago Friday they had closed and acquired all of the financing for the entire project.

They have started putting in windows, patios, walkways, and steps. They are hoping to get a temporary Certificate of Occupancy this Friday to get Independent Fabricators, the custom bicycle manufacturer, in the building. Their sister company, Baileyworks, is actually in: they have installed sewing machines and they are ready to make bags.

Out of the 53,000 square feet of commercial space, 27,000 of it has been leased. Within a week or so, 11,000 square feet will be occupied. They are hoping to have N and N1 done by the end of the year and aiming for April of next year to have J, K, L & M completely done.

They are getting ready to put in irrigation and landscaping. They have started the public waterfront park.

There are several leases signed for occupancy in September and October. One company is an artist group that uses recycled materials to make sculptures and other designs, another company is "Craghoppers" from the UK (United Kingdom) which manufactures outdoor clothing and "Redfin Solutions" is a software development company. Loco Sports will move from across the street to the mill building. Also, Chinburg Builders will move in, and there are some others. The smallest user is 300-400 square feet; the largest took 10,000 square feet.

He spoke about the overlook of the mill. He looked at a comparable project in Richmond, Virginia and they had an overlook like the one here, with a granite planter in the middle. He has improved the plans by including a place to sit and a green space in the middle of the plaza. Otherwise there would have been just a 25 square foot area with just a railing. He also linked the courtyard and pathway, so the door to the south now links to the upper courtyard.

Val Shelton commented about the demand for commercial space in the N and N1 buildings. She asked if he foresaw any change in the makeup of J, K, L and M buildings. Eric Chinburg predicted smaller users, but if the demand was great for commercial space, the zoning would allow for that to happen and for the site plan to be amended. They have not advertised yet: it's all been word of mouth. They did not want to formally market the site until they got their financing

approved.

He owes a draft easement deed for the sky bridge; his attorney is working on it. Diane Hardy stated they would like to get the design work under contract by the end of September.

Pursuant to RSA 675:6, a public hearing will be held by the Newmarket Planning Board, regarding the adoption of an update to Chapter 6 titled "Economic Development" as an amendment to the Town of Newmarket Master Plan, dated August 2001. The amendment includes a discussion of proposed actions to address the community's development goals, given economic strengths and weaknesses in the region, and ways to attract new and retain current businesses while providing opportunities for economic growth.

Chairman Badger stated there has been participation from the Newmarket business community, industry, Newmarket Community Development Corporation (NCDC) and a variety of other interests in putting this document together. He thanked those who participated, and especially Diane Hardy, for their hard work.

After explaining the process for updating the Master Plan, he stated there have been numerous open committee meetings during the development of this chapter. Tonight's public hearing will be the last opportunity for the public to comment on Chapter 6, before the Planning Board. After this meeting, the Planning Board will consider all public comments and will modify the document as appropriate and will vote on its acceptance. The Planning Board will make a formal presentation to the Town Council for their consideration to accept, modify, or reject our recommendations.

Chairman Badger opened the public hearing at 7:19 p.m.'

Gary Levy, 12 Smith Garrison Road, stated, when he was Chairman on Black Bear Tax Increment Financing (TIF) District Committee, he was unaware the Town had secured approval from the Public Utility Commission (PUC) to make a railroad crossing. Does the Town actually have a PUC crossing document? Chairman Badger stated he and Mr. Levy were on the Black Bear TIF committee together and the Committee determined the Town does hold a PUC permit to cross the railroad tracks. Mr. Levy stated he brought it up because he found the mortgage deed that he passed on to the Town. He wanted to verify the PUC had issued a permit. If the Town is going to pursue this, they might want to make sure everything is updated. The crossing was secured back in 1988 and things changed in 1998, when the TIF district was formed and high speed rail was introduced. Chairman Badger, as the Planning Board representative to the Black Bear TIF, stated he was not aware the PUC has rescinded any permits.

Mr. Levy also asked, on page 48 of the Master Plan Implementation Guide, if those items were going to be recommendations. Chairman Badger stated those were the recommendations. Mr. Levy stated a lot of the comments were good and it was good the Town is focusing on this. He read ED 3.5, "Define the type of commercial development suitable for Newmarket, assess the market potential for this type of development, and prepare a marketing strategy to attract the desired business development that offers high skilled jobs." It went on to talk about a charette and getting people's input. He asked if they could explain how the Planning Board sees this happening. Diane Hardy stated this is presented as a recommendation. They have been in touch with UNH Cooperative Extension's Charles French, who has worked with many communities in the state to help them define their planning goals, whether for land use changes or economic development. Given there have been questions about what is appropriate, marketable, etc., the Planning Board thought it would be a good starting point for the Black Bear TIF committee and the economic development program to engage the public in that type of a process. It is an idea, at this point, and there are no funds or commitment attached to it. The idea is to get as much input as possible to provide the framework for future recommendations that come out of that process. Another option is a design charette. There is a group in New Hampshire called "Plan NH" made up of landscape architects, architects, engineers and other design professionals. They have a grant program and, if your project is selected, they will sponsor a design charette to engage the public in a session to help a community define what it wants for development and to help solidify community goals, so the community can move forward with an economic development project. It not only engages the public, but educates the public and gives everyone an opportunity to present their point of view to help promote "buy in" and build public support. Mr. Levy thought that would be a very good start, not just for Black Bear, but for some of the other areas in town.

Val Shelton stated this was really relative to the Town Council, where we would prioritize actions for economic

development. The committee, organized at the last Planning Board meeting, to look at commercial and industrial zoning, will provide a basis for these discussions. They will explore issues such as: what kind of commercial/industrial entities does the Town want to see? Are they economically viable to be housed in Newmarket? Does our zoning give us the ability to attract the types of development that would be viable? And, if so, where should those entities be located? And, what do we need to do to modify our zoning to accomplish these goals?

Mr. Levy stated he has a fairly good background on the TIF, he felt public input is important, and it is a good idea to reassess different areas in town.

Chairman Badger said Val Shelton is heading up the zoning ordinance, which is the next project the Board is taking on.

Mr. Levy stated, on the revitalization of downtown in ED 4.1, he thought they did a nice job. He stated, on ED 4.1, for projects seeking RSA 79-E as an economic development tool, it should be used judiciously. He read it as more broad in use than he would personally want. He felt it was something that did not have to be annotated in the Master Plan itself. If this is included, in the future, it might be good to let the people know and run the numbers through 79-E and say what you are doing, the cost, the break-even point. Chairman Badger stated the committee felt 79-E was critical for the path forward for the mills redevelopment. If the Town Council had declined the request for 79-E, it may have jeopardized Mr. Chinburg's path for redevelopment. Val Shelton stated an explanation could be included stating it has to be linked to something that is a positive tax benefit for Newmarket.

Cynthia Copeland, from the SRPC, stated she was here as a representative of the Strafford Regional Planning Commission, not as a resident. She had one of her colleagues review the plan and she presented some comments she wished to share with the Board. Ms. Copeland stated they thought the plan was well-organized and impressive with data and statistics. The infrastructure information was good. What comes out in the document is that Newmarket has many opportunities to attract new business. The commuting patterns were interesting to think about. It is clear water and wastewater needs will play an important role in future growth. The local tax rate of \$20.51 makes Newmarket an attractive alternative to Lee and Durham, who have higher tax rates.

Their first comment underscores the importance of exploring and forming an economic development committee, which she sees is included in ED 1.1. A suggestion is to integrate any of your CEDS (Comprehensive Economic Development Strategy) projects listing into the action plan, to earn points for grants. Another suggestion is to put foreclosure data into the document as, coming out of the recession, it is interesting. On Table 69, the high school graduation rate is over 95%, which is really good when you look at others within the state and other counties.

She stated they are working on the scenic byways process and it is moving forward. They are looking at developing a scenic byway that starts at the Newmarket/Newfields town line and connects with the Independence Byway, which follows Route 27 in Exeter. The project is moving forward.

She congratulated the Board and Committee for a job well done.

Ed Wojnowski, Town Administrator, stated he, too, wanted to congratulate the Planning Board and especially the efforts of Diane Hardy for the work done on this. One of the things Newmarket has realized over the last 2-3 years is the re-growth of the downtown. We were not going out and searching for people to come to Newmarket, people were drawn here and wanted to start a business here. This is a plan on which we should continue to build. We talked about the different zones for businesses and the need to look at what might need to be changed today. He felt a charette is a great opportunity for people. Not every suggestion in the document will happen, but it is an opportunity to look at ourselves and see what we can bring here. We will not bring in some of the big businesses like the ones at Pease, but we can bring in opportunities and get the economic boost we need tax-wise to do the things we want to do in town, such as building a new school and opportunities for diversity in the tax base.

Chairman Badger thanked everyone for their contributions to the discussion and he closed the public hearing at 7:45 p.m., as there were no further comments.

Eric Botterman stated he would like to comment on what Mr. Levy said about the railroad crossing. It was his understanding the Town does not have the permit. The original developer received that permit and there is a question of

whether that is transferable to the Town. That should be reworded, as he did not think the Town has the authority to install a crossing. He stated the developer has the permit.

Ed Wojnowski clarified the Town does have a PUC permit issued to the Town of Newmarket. The developers went to the PUC to obtain it. However, it is in the name of the Town. When he and Chairman Badger were in Concord at NHDOT, they brought up the permit. NHDOT said it was a valid permit under the authority of the Commissioner of NHDOT, as the PUC no longer has that authority. There is no expiration date on the permit.

Acadia Engineers & Constructors – Preliminary Conceptual Consultation for a mixed use development, with retail on the first floor, commercial on second floor, and residential condos on the third and fourth floors, at 13 Water Street, Tax Map U3, Lot 4, M2 Zone

Tim Nichols of Acadia Engineers stated he has been looking at a building in which to put an office. He came across the property at 13 Water Street. He has been looking at different options and concepts. He stated Diane Hardy has been a great help. He wanted to present their current concept for the property. He is on the board of Plan NH and generally thought the idea of a design charette was a good one. He was here because his firm would like to have a showpiece development in Newmarket. They are looking at a mixed use, compact, commercial development, with retail, a restaurant and residential condominiums above. Their project is something that could support community events, concerts, festivals, farmers markets, etc. The design target is for a historic look, something consistent with early 19th century architecture found in Newmarket, within a working mill town. The building will incorporate a lot of sustainable building practices and renewable energy technologies, including solar power and geothermal heating and cooling. They would have to take advantage of funding sources. A lot will have to fall into place financially to make it work. There is some momentum and they are moving forward. The current footprint is a little under 20,000 square feet. The shortest sections represent the main building and later additions will be consistent with the surrounding architecture. There are four stories on the main building and three on the addition. Retail and restaurant will be on the first floor, commercial and retail on the second level and residential condos on the third and fourth levels. Some hurdles could be perceived as negative impacts by neighbors. They want to make sure they are sensitive to those and people understand what they are trying to achieve. There are water issues there, which would require bringing up the foundation a little bit. The footprint would not be within the Federal Emergency Management Administration (FEMA) designated floodplain. They will need setback variances. Right now there is no pedestrian connection from the parking garage to the north side of the property down to the Riverwalk. That is something they are hoping to work on with the Town.

He showed some conceptual views. His objective tonight was to show what they were trying to achieve and, hopefully, gain support and move forward.

Chairman Badger stated there is a building there now that is empty and it is an ideal location for something new. He is very interested in having something that would benefit the town and bring in more commerce, rather than the building standing empty, as it is now.

Elizabeth Dudley stated she was curious about the parking garage. She wanted to make sure the developer had an understanding of what is public and what is not. Val Shelton stated she was wondering where the public parking garage was he was referring to. Mr. Nichols stated he had assumed that parking area was public. The Board advised him that belonged to Rivermoor Landing.

Eric Botterman stated, in concept, it is a great idea. He asked what the proposed parking needs were. He said there was some parking on the water. Diane Hardy stated this was in the M-2 District and there are no prescribed parking standards as there are in other districts. It is negotiated depending upon the needs. The ordinance talks about making use of shared parking arrangements. It is up to the Planning Board. The ordinance is written in such a way to be as flexible as possible to encourage redevelopment of downtown buildings, as opposed to providing obstacles to redevelopment. Eric Botterman stated if there are residential units and you don't provide parking for them, it is going to be difficult to market the units. He hopes this goes forward; the Planning Board will help the applicant work through challenges.

Val Shelton asked if he was looking for a variance for structure height. Mr. Nichols stated it was a 50' high allowance and they would be within that. She thought this was a great project. Her issue would be parking and the connectivity of pedestrians getting to and from the building.

Eric Botterman asked what the anticipated schedule was. Mr. Nichols stated they have a schedule. They have made an offer on the property. They have a long window to close, 120 days, but if things go well, they will be doing site work before the winter. They are hoping for presales on the condos.

Chairman Badger explained about the Technical Review Committee and site plan review process.

Janice Rosa stated Durham has several buildings in the same situation with parking. She asked the Planning Board to look at Durham as a model. She stated Durham was asking the developers to put money toward a parking garage. Newmarket has talked about a parking garage and this will not be the only business coming into town.

Diane Hardy stated there are some other options in site plan review regulations for a payment in lieu of parking with the idea that over time those fees would help to finance parking facilities.

Eric Botterman stated the lack of parking downtown is an issue for the developer. From a practical standpoint, will they be able to sell units without parking? Mr. Nichols stated there is adequate parking for the residential units.

Diane Hardy stated, with Mr. Serbagi's proposal, they were able to work out sixteen (16) parking spaces on site for the project, which included a slightly smaller footprint than what is being proposed here.

New Business

Janice Rosa stated there was talk of a traffic light at the shopping center site on North Main Street. Could the Planning Board see if the developer would provide a police officer instead of a traffic light? Meredith has one all the time. She felt a traffic light would cause a lot of problems. Diane Hardy stated she would make note of it.

Diane Hardy stated she spoke with Mr. Landry today and they are moving forward, albeit slower than originally hoped. He is still negotiating with property owners and indicated he would probably be coming before the Board in September. He is concerned about the cost of off-site improvements. He has asked for a meeting with the Town Administrator and the Superintendent of the Water and Wastewater Department to iron out these details before they come forward with their proposal.

Peter Roy asked who the developer would get in touch with to look into costs of paying an officer to be out there directing traffic. Eric Botterman asked how long they would be out there, weekends, etc. He felt a traffic signal is cheaper than putting a police officer out there. The traffic engineer for the developer could be asked to research this question.

John Badger asked Diane Hardy to make the changes in the Economic Development Chapter that were discussed tonight and they will vote on it in August and we can go in front of the Town Council in September. Diane stated any proof reading changes would be done.

Diane Hardy stated she had data from the Assessor breaking out apartments from commercial tax assessments. There is now a listing of commercial properties. It will be summarized and included in the report.

Old Business

Jim Daley, Solon Realty, was at the meeting regarding his property at 438 Wadleigh Falls Road. Diane Hardy stated Val

Shelton had forwarded an email to her from a Conservation Commission member regarding their concerns about the site. She has forwarded this to Tobin Farwell, Mr. Daley's engineer and asked him to address the concerns. She also drafted her own letter, dated July 6, to clarify some of the points raised. There was a comment made in the final report by Marc Jacobs that it was his opinion that the project was substantially completed and there would be no need for further inspections. She wanted to clarify one of the conditions of approval is annual inspections to be done by the Town until compliance is achieved. The Conservation Commission set forth some performance standards. The Planning Board had included language, if it is determined the performance standard has not been met after the annual inspection, the trees and plants would be replanted to assure compliance in the future. There was also a concern about the variety of plants and trees used for the restoration. There is a condition, if the stabilization does not occur, there would be replanting to achieve that standard. She consulted with the RCCD and Frasier Firs are not indigenous to New England and they are not a recommended species for wetlands restoration. If they are planted in the wetland or buffer area, the chances of survival are not that great, so they would have to be replaced. RCCD did not feel the burn piles were a particular concern. She also had asked for information about well tiles. If they are existing on site, they should be on the site plan as existing conditions. Mr. Farwell has given us information on that. She would suggest these comments be forwarded to the Conservation Commission and see if their concerns have been adequately addressed. Val Shelton stated she would bring it up to the Commission.

Diane Hardy stated they are very close to getting the plan signed. There were a few items the engineer had a concern about and Mr. Farwell is providing the information that has been requested.

James Daley stated he got the certified letter asking him to attend the meeting. He had difficulty hearing the Board's discussion. Diane Hardy explained what had been discussed. Mr. Daley stated he had state water analysis test results for the well. The well has been there. Val Shelton asked if she could bring his information to the Conservation Commission meeting. Mr. Daley stated, as far as the Frasier Firs, they had just cleaned the fill out of the wetlands and they had not put any trees into that area. He went to the Strafford County Conservation Commission and bought 100 trees and 25 were Frasier Firs. They were planted on the up side of the well, where most of the big pines were. Most of that area is upland. He also bought 25 flowering crabapple trees to delineate where the wetland buffer was. He bought 400 hay bales and put those in.

Diane Hardy stated this information and Mr. Farwell's comments should go to the Conservation Commission. Mr. Daley stated the refueling slab is in. Everything is ready to go.

Val Shelton mentioned the ZBA taking up suggested amendments to the Zoning Ordinance. Chairman Badger stated there is an interest in zoning changes and the committee looking at updating the Zoning Ordinance will be doing that.

Adjourn

Action

Motion: Janice Rosa made a motion to adjourn at 8:26 p.m.

Second: Peter Roy

Vote: All in favor