

Planning Board Workshop Minutes 07/24/12

NEWMARKET PLANNING BOARD WORKSHOP JULY 24, 2012 MINUTES

Present: Val Shelton (Chairman), Diane Hardy (Town Planner), Ed Carmichael (Town Council ex officio), Jane Ford (Alternate), Janice Rosa (Vice Chairman), Rick McMenimen

Absent: Adam Schroadter (Alternate), Justin Normand

Called to order: 7:02 p.m.

Adjourned: 8:28 p.m.

Agenda Item #1 – Pledge of Allegiance

Agenda Item #2 – Workshop

Cynthia Copeland, Strafford Regional Planning Commission – Updating the Master Plan Land Use and Future Land Use Chapters

Cynthia Copeland was not able to make it to the meeting. Kyle Pimental, a Regional Planner from Strafford Regional Planning Commission, spoke in her place.

He gave an overview of what they are planning on doing to update the Master Plan. They received a grant, from the Coastal Program at NH DES to update the Land Use chapters for Newmarket, both the Existing Land Use and Future Land Use chapters. They hope to focus on climate adaptation strategies. That is what was funded by the Coastal Program.

He went over a packet of material given to the Board. This includes the Scope of Work, focusing on working with the Planning Board and a subcommittee, made up of Planning Board members as well as volunteers, to move this project forward. It will be a traditional update of the Existing Land Use chapter. The Future Land Use chapter will also include a “resiliency focus” which will be about community vulnerabilities. The first page lays out the project description. They have \$5,500 to complete the update, half of which is match, made up of volunteer time, in meetings like this, and meetings of the subcommittee.

They have put together a schedule for the grant purposes. They originally projected a start date of January 2013 with an end date of November 2013, but it sounds like Newmarket is ready to start earlier, so they are planning to begin as soon as possible. The project has been budgeted for 120 hours.

He mentioned a memo from Cynthia Copeland outlining a scope of work and what they would like the members to do, such as read through these chapters, make notes, and find out what they think needs updating. A lot of the data contained in the old plan is outdated. The information they have now is from 2010. They can give now acreages and percentages of land use.

He explained the Vision Statement. They would like to focus on making sure what is happening with Existing Land Use is consistent with what was present in the Vision Statements. Is what is happening in Newmarket reflective of the Master Plan and on course with what was planned at the time?

He spoke about Chapter 3, which is Existing Land Use. They have already spoken to Diane Hardy about potential

changes and trends. The section on downtown revitalization should be updated to assess whether it is meeting the goals and recommendations.

Next he talked about Future Land Use. He stated they will focus on climate change in this chapter. This will focus on four major categories: flooding events, sea level rise, warmer temperatures, and drought. He suggested that Cameron Wake speak to the Board. He works with Carbon Solutions and Earth Systems Research at UNH and he is an expert. He also has been updating the 100-year floodplain data for the Lamprey River. His presentation may interest the public and spark their input. Another resource is the Climate Adaptation Work Group (CAW). They are doing work in Newfields on a similar project.

He spoke about Generalized Land Use. The land use data in the current Master Plan is from 1993 through 1998 and the chapter was done in 2000. This will be something that SRPC will update. All of the maps will be updated with the newest land use data.

The next item to be completed is a build-out analysis. The previous plan called it a "Potential Development Map". He was not sure what was meant by the various soil potential ratings for development. He stated they have done similar build-out studies and will add the shoreland conservation lands to the map. He said the 100 year floodplain is not shown on the existing map. They could add that. For the 2001 update, Newmarket decided they would use potential ratings for soils to determine land suitability for development. All he could find on that system were references from two publications. In the build-out maps they have done, they have not used this model. If the Board wants to use soils for evaluating the development potential of land, that is up to them. They will use aerial photography as the base map for the build-out analysis instead of a zoning overlay map.

Diane Hardy stated there was a build-out analysis that was done by Underwood Engineers that was part of the sewer facility plan update in 2010. There is a possibility that information could be expanded upon to include areas outside of the current sewer service area. Kyle Pimental stated they could, it was completely up to the Board what data they would like to use.

Elizabeth Dudley stated they could take into account the location of aquifers and their recharge areas to figure out where development should ideally go. Kyle Pimental stated there could be a series of maps, where you take vacant undeveloped land, overlay your environmental characteristics ordinances (wetlands, steep slopes, aquifers, flood plains and shorelands), determine what land and where land remains that is suitable for development and look at various zoning scenarios for development.

Diane Hardy stated, in 2005, CEI was hired to do a detailed delineation of Newmarket's aquifers, as part of the ground work for the Aquifer Protection Ordinance. She would make that report available to Mr. Pimental. Kyle Pimental stated there was a lot of land shown on the old map as developable, but it is probably not. This other information will help to more accurately make determinations. They want to get the most up-to-date information available onto the maps.

Kyle Pimental stated there are a series of land use maps that compare land use in 1962, 1974, 1998, and 2005. These will give a generalized idea of what is happening with land use within the Lamprey River watershed. They plan on taking this data and zooming in on Newmarket, so you will be able to see land use trends for the town.

He also mentioned the 2010 Land Use layer available through GRANIT. All of this data can be used to create maps to help guide the Planning Board in this process.

Chairman Shelton stated they need volunteers from the Town and Planning Board to assist with the updating of these two chapters. Kyle Pimental stated they would like to get a subcommittee together that could meet and guide this process. Diane Hardy and a few members of SRPC will be working on it, but they would like a handful of members to volunteer. It is up to the Board whether they want one committee for both chapters or separate committees with a few different people on them. Future Land Use will have more strategies and recommendations coming out of it. The Existing Land Use chapter is pretty straightforward. He would like, for now, to have some core people to work on the Existing Land Use chapter.

Chairman Shelton stated the Board will pull a group together for that purpose. They will take up the issue of Planning

Board volunteers at the end of the meeting and also ask for volunteers from the public or past Planning Board members.

Consideration and discussion of a possible re-zoning of property in the vicinity of Elm Street, Nichols Ave, and Spring Street. The Planning Board is looking for feedback from residents and property owners about the possibility of re-zoning property within the existing B-1 (General Business) zone to a M-2 (Mixed-Use) district classification and possibly a portion to R-3 (Moderate Density residential) to reflect the character and density of the existing neighborhood

Chairman Shelton indicated there were handouts on the table showing the zoning districts, table of permitted uses, and dimensional controls.

Chairman Shelton stepped over to a map on the wall showing the area being discussed. She described the area involved in the rezoning proposal. The area being talked about runs across the street from the mills and includes the old Sufflex parking lot, the Polish Club lot, the large parking lot used for the mills, the former Riverdale Automotive lot, the Town parking lots, and the Library. Then it jumps over to Elm Street to the Lamprey Health Care building, some residential lots along Elm Street and another large lot fronting on Lincoln Street. There is a mix of uses in this area, particularly on the north side of Elm Street. It is all zoned for business use, but there are no businesses there, other than the non-profit Lamprey Health Care office. There is a single-family and two multi-family lots, one with eight units, one with three units. There are also three duplexes and a large undeveloped piece. Lots along the river would be subject to the 125' setback under our Shoreland regulations. She explained how the color coding on the map worked, indicating residential, duplexes, multi-family, and the non-profit commercial uses.

Diane Hardy explained the history of the proposed zoning changes. The proposal before everyone tonight is a result of the process they have gone through in looking at areas that might be more suitable for uses other than those for which they are currently zoned. She indicated the area that is currently zoned B-1, which is a general business district. She reviewed the B-1 section of the Zoning Ordinance to give everyone an idea of the character of that zone. She referred to the Table of Permitted Uses and went over the uses currently permitted in the B-1 zone. She also went over the Dimensional Requirements.

She stated, in looking at this area, the Committee felt that the current zoning really was not consistent with the character of some of the adjacent neighborhoods. The B-1 district also includes recently purchased land in back of the Library by Eric Chinburg as part of the mill redevelopment. This is land he has an interest in developing for commercial uses at some point. It was felt a more appropriate zoning classification might be to change the south side of Elm Street to an M-2 District. This is a mixed-use area. She reviewed the M-2 section of the Zoning Ordinance. She referred to the Zoning Map on the wall. She pointed out most of the area from Elm Street to the Durham town line and then west to the railroad tracks is an R-3 district, which is envisioned for medium density residential development. She read the description of the R-3 district in the Zoning Ordinance.

She stated this is being presented as an idea and the Planning Board is looking for feedback from members of the public and abutters to get a sense of whether we are on the right track. If so, the Board would finalize this in an ordinance format and present it for a formal public hearing and the possible recommendation to the Town Council for a zoning amendment.

She stated, on the north side, the frontage along Elm Street could be converted to an M-2 district and behind that, for only two or three parcels, it could become R-3. The committee is suggesting a few changes to fine tune this area, so it is more in keeping with the character of the neighborhood. In the R-3 district, multi-family is permitted by right. It is being suggested that it be a use that is allowed by Special Exception and the Planning Board can write into the ordinance what the criteria is for that Special Exception. Affordable elderly housing is already permitted in that zone. That raises the question whether it would be appropriate to continue to have this as a permitted use in that zone. They are also looking for input on whether open space developments should be allowed in R-3. It is currently not allowed.

She stated they are thinking of changing some of the density requirements by which multi-family housing would be permitted. They found the R-3 district is currently two units per acre, however, if you look at a composite of that area, you would find the density is much higher than that. Another area they are looking for feedback on is the minimum road setbacks, which are currently 25 feet in the R-3 district. If you ride down the street and look at where these houses are located in relation to the street, you will find that many of them are really close to the street, almost to the front line. There is a new trend in urban design that encourages the houses to be closer to the street to make more of a pedestrian scale

neighborhood and create a space, as opposed to where you have houses way back that don't really create a feeling of "neighborhood".

She stated there are a few lots that are currently available for development. If multi-family is permitted by Special Use Permit, it would provide the opportunity for the Planning Board to take a look at fiscal impacts, traffic, and to define more clearly the number of units per building. The question also came up how many units would trigger sprinkler requirements. She believed it was three units or more.

Chairman Shelton stated, when they are looking at the south side of the street, where they are proposing to change the zone to M-2 where the large parking lot areas are, one thing that is also in the current zoning for lots within the Downtown Commercial Overlay District

Section 5.08 fronting on Main Street, that multi-family is currently allowed by Special Exception in the M-2 district, but it is prohibited in any street level space. She asked they keep in mind that non-residential uses would be required on the ground level in M-2 zone, if the lot has frontage on Main Street.

Chairman Shelton stated she would like to hear any questions, comments and thoughts from the public.

Judith Ryan stated she was representing Lamprey Health Care located at 14 Elm Street. This building was occupied by the Health Center until it moved to South Main Street. Currently, it is being used as office space, for the storage of medical records and there is an apartment on the second floor. Their concern is what the impact of this would be on them, particularly because they have a large parcel and want to be able to maintain the current status. She asked if they would be grandfathered and would they require a Special Exception if there was further sale of the property. They have thought about selling, but it seems that something else always comes up and they keep it. She asked if this proposal would put them into the R-3 zone or the M-2 zone. Diane Hardy stated there are two proposals on the table. One would be to include everything north of Elm Street as R-3 or include the lots with frontage on Elm as M-2 and the lots in back would be included in R-3. She stated all lots would be grandfathered with respect to the current uses. She stated, if the owner expands the non-conforming use, there would be restrictions on physical expansion. If an owner wanted to expand the use, move it closer to the lot line or expand upwards, they would have to get a Special Exception from the Zoning Board of Adjustment or Planning Board. If the Lamprey Health Center lot became part of the M-2 zone, it would no longer be a nonconforming use. Judith Ryan stated she was concerned down the road, if there was a sale. The potential buyer might be interested in expanding the building. There are no plans for that, at this point.

Chairman Shelton asked if there are uses in B-1 that are not allowed in M-2 that Ms. Ryan might have a concern about. She stated most of the uses allowed in B-1 are allowed in M-2 on the commercial side. She asked what Ms. Ryan's thoughts were relative to having the zoning district split the lot. It is a unique lot, larger than most in the areas, with frontage on Elm and Washington Streets. Judith Ryan stated she would have to look at that. They had not discussed that potential. Diane Hardy stated, as a general rule, she did not encourage anyone to split a lot into two zones, it can be problematic for interpretation purposes. Judith Ryan stated it was to their advantage to be included in the M-2 zone. Diane Hardy stated they would no longer be a non-conforming lot, if they were.

Bill Doucet, 25 Smith Garrison Road, stated he was speaking on his own behalf at this point. He stated the proposed zoning changes are an interesting prospect. He stated, what makes this unique is, the zoning in this area does not reflect what is built there or how it is used today. As was discussed about the Lamprey Health building, they have about a third of an acre, with a commercial and residential unit. They are allowed one unit per half acre. You could not expand beyond that, even if it was shifted to M-2. They are already at their limits for additional units. He stated he was unsure of what the intent was, when the zoning was put into place. The Committee is trying to balance the fact the area is developed and things have been in harmony for a long time, with how to continue development within that area. He had looked at the proposed changes. He would appreciate help in finding where it says in the M-2 zone there is no residential use allowed on the first floor. Diane Hardy stated it was in Section 5.08 Downtown Commercial Overlay District. Bill Doucet asked if there were any other properties with commercial on the first floor and residential on the upper floors. Chairman Shelton stated the only commercial use in that area is Riverdale Auto. Bill Doucet stated a lot of areas have zoning where they are trying to encourage retail and commercial on the first floor and residential on the upper floors. He said it has its place. Whether that fits in an existing neighborhood that doesn't have any of that at all, he was not sure. He was specifically referring to the north side of Elm Street.

Bill Doucet stated he would now speak on behalf of Gary Decker, a property owner in the area of the proposed zoning change. He owns Lot 248, 249, and 243 on the north side of Elm Street. Mr. Decker is a client of Mr. Doucet's. He

referred to a letter from Mr. Decker that was dated July 15, 2012. Gary Decker has been before the Planning Board in the past and had spoken about his business. They do residential development of multi-family housing. The company is Milton Elm Street LLC and Gary Decker is the Manager. He read the letter. The letter said Milton Elm Street LLC wanted to develop the 1.87 acre lot at 2 Elm Street. Mr. Doucet stated Lincoln Street would be a better depiction of where the lot is situated. He stated they wanted to develop the lot into an economically viable multi-family project. Each building would be built to fit in with the surrounding neighborhood. They have done work already at the historic property at 2 Elm Street. They believe the work there will reflect what good neighbors they are trying to be. Their proposed plan is considered to be Level A. The grounds will be professionally landscaped and the aesthetics of the lot will be maintained with care. He went on to read a brief description of the project. Mr. Decker stated in the letter that he felt everyone believed the current zoning of B-1 was not suitable for this site. They propose it be rezoned as M-2. This would allow for the use and density for the goals he described. This would also most closely resemble the makeup of the existing neighborhood.

Bill Doucet stated Mr. Decker's desire is for the zoning to be changed to M-2. To the north of his property, there is an eleven unit multi-family and to the south there is an eight unit multi-family. On the west is a row of duplexes. M-2 does not allow multi-family use without a Special Exception. In order to construct a multi-family development, you have to go to the ZBA and present them with an economic analysis that your business plan is sustainable. You also have to present an impact analysis. If it was to become M-2, it does not give an automatic blessing to build a multi-family. There are checks and balances. The density requirements within the existing M-2 zone are still less than the existing density of housing in that area.

Fred Puchlopek, 5 Cushing Road, was representing the Polish Club. He asked if the Polish Club building was currently in M-2. Chairman Shelton stated their parking lot was in the B-1 Zone. The building is in M-2. Mr. Puchlopek asked if this would affect their current use. Chairman Shelton and Diane Hardy stated it would not affect the current use. Mr. Puchlopek stated they were in the process of working with the Fire Marshal and Fire Chief to upgrade the sprinkler system, which is a substantial investment and he wanted to make sure the use of the building would not be affected by the zoning change. He asked, in the proposed changes, would make any of the lots that are now legal become non-conforming, because of setbacks or uses. Chairman Shelton stated most are now non-conforming, because of setback requirements in B-1, M-2 and R-3 in that area. Mr. Puchlopek asked if the current use of any of the properties would be grandfathered. Chairman Shelton stated they would be. Diane Hardy stated no one could be forced to change the current use of their property. Chairman Shelton stated their parking lot would actually come more into compliance with the use of the building it services.

Bill Doucet stated, in M-2, there is a minimum setback of ten feet. The houses in this village, on average, range between ten and fifteen from the property line. He spoke about allowing maximum setback as ten feet or consistent with the neighboring properties. Diane Hardy stated the committee had talked about this approach, which is called "form based zoning". Dover has been experimenting with this. The idea is instead of having a prescribed standard that may be inconsistent with the setbacks of the neighborhood; you would make something that will fit into the character of the neighborhood. They had talked about adding language that would provide that option and kind of flexibility.

There were no more comments from the public. Chairman Shelton opened the topic up for discussion among the Board members.

Elizabeth Dudley stated they should consider changing allowed uses, too. She stated, in terms of student housing, she understood Newmarket was not always interested in encouraging student housing. She felt M-2 was an appropriate place for student housing. She did not feel student housing was that much different than multi-family. She also thought, in terms of B-1, she could not see why the Board would not want to include research and development. This could also be in M-2. Since there is now more interest in high tech industry, maybe that could be considered. She stated it would seem odd to include commercial excavation in R-3. As far as the subject of multi-family housing in Newmarket, she felt we should find out what the existing mix of housing is and assure that it is balanced and matches the goals of our Master Plan. Before we add more multi-family housing, we should make sure that we are keeping things within the balance that is set forth in the Master Plan. If we were to go to our current numbers and find we have a plethora of multi-family housing, we might want to think twice about adding more.

Elizabeth Dudley stated it seemed to her the committee preferred the B-1 to be largely M-2, with just Lot 243 remaining R-3. Chairman Shelton stated, under current zoning, in M-2 it requires any mixed-use residential building to have the first floor to be commercial if the property fronts on Main Street. The thought was it would be inconsistent with the neighborhood along Lincoln Street to allow this. It would not be inconsistent with the potential development on the south side of Elm. Historically, there have been several types of businesses along Elm Street.

Elizabeth Dudley asked, in terms of Gary Decker's plans, if that would work for him, with Lot 243 being R-3 and Lot 249 being M-2. Chairman Shelton stated the current R-3 zoning is not consistent with the actual density and land use of properties within that zone. The density was changed dramatically, at some point, down to two units per acre. When you look at Twin Rivers, River Ridge, the build-out of New Village, which is all R-3, the density is so much higher than that. She stated she thought it was changed to the current standard to curb multi-family development. When you read the Future Land Use chapter of the Master Plan that is clear.

Chairman Shelton stated the committee really struggled with the multi-family issue in town. There is a lot of multi-family in this town. Where do we want to have smart growth? The last Master Plan chapter we updated had the population trends. We know we have growth to deal with in town. Where do we want to put the people? That is the role of the Planning Board in updating the Future Land Use Plan.

Elizabeth Dudley stated it would make sense to put the people within walking distance to facilities, such as recreational, entertainment, and cultural opportunities. Her inclination is to look at how much multi-family the town now has, where we are with that, and try to be strategic as to where or if any additional multi-family should go in. That is why she felt student housing would work here, as well. It makes sense to put students in the lively center of Newmarket, because the young aspect of Newmarket is a big attraction.

Jane Ford stated her concern about what would be a student population and a student lifestyle over the needs of business. Could it mean that some businesses might not be attracted to the area, because of student housing? She was thinking of how life cycles are and time schedules. It might not be attractive to students. She does agree about the liveliness of downtown and trying to promote that asset. That will help with businesses, too. But are we talking about what type of businesses we want to go into that area and does a student lifestyle and pocketbook appeal to the type of business we are trying to attract.

Diane Hardy stated they should call and define it as "dormitory housing", as opposed to "student" housing". She had concerns about the perception that we discriminating against a certain segment of the population. What we are talking about here is the "housing", i.e. the land use, not the people who will reside in the housing. It is important that we make that distinction.

Jane Ford stated students may not want to live above a business, as they study while the business is running. Students would be looking for something quieter. She felt the lifestyles may not be a good match.

Janice Rosa stated Durham has a big problem with students living in residential neighborhoods. That is a big concern for her. There are a lot of residential properties in the area where the people living there are not student age. They have been there for years and, all of a sudden, to just throw student housing at them is not fair. She stated the committee took a lot of time looking at this, because, when a land owner owns land, she hates to see restrictions put on them. We are trying to be fair to the land owners. The idea of elderly housing came up in that area, because it is walking distance to town.

Rick McMenimen stated they had talked about multi-family residential, but M-2 does not allow it. Diane Hardy stated it was not allowed by right, so it does not reflect on the Table of Permitted Uses, but it is allowed by Special Exception, provided certain conditions are met, as described in the text of the Zoning Ordinance. She read the conditions under which it is allowed. Rick McMenimen likes to see people have the most options possible available to them. He would like the M-2 zone, as opposed to anything else. People in the town, as well as developers, will get many options.

Chairman Shelton stated it sounded like that is the direction in which the Board needs to head. She did not hear anyone object to that idea. The committee will draft some revisions based on that.

Rick McMenimen stated it might be a good idea if questionnaires were sent to the residents of this area to get their feelings on it. Diane Hardy stated the Planning Department did notify all of the property owners who own property within this area of this workshop. In addition, the abutters whose property touched these area properties were notified. She stated they did an extensive mailing. We wanted to do that as a courtesy to encourage residents to come forward and express their feelings. She stated, as part of the process, there will eventually be a formal public hearing that will be publicly noticed at both the Planning Board and Town Council level, so there will be further opportunities for public input.

When we get some language together, it can be placed on the Town's website and we can encourage people to provide comments and feedback.

Ed Carmichael asked if the houses on Lincoln Street were all duplexes. Chairman Shelton stated yes, except for the one on the end with eleven units.

Diane Hardy stated she would like to do a GIS analysis of the whole R-3 district and get a reading on what the current density is. We can use that as a gauge to see how closely the proposal fits the conditions we currently have.

Chairman Shelton would like to have something drafted by the September meeting. She thanked everyone for coming to the workshop. She would like to have a workshop every other month to get these updates going and get back on track with the B-1 zone along the south end of Exeter Road from the railroad tracks to the car wash area. Diane will update the zoning material and get it to us.

Elizabeth Dudley asked how extensive will the fact finding be for the Land Use chapters of the Master Plan. She felt it was of value to address some of the things that were already in these chapters and answer some of the questions raised. Chairman Shelton asked if she would be willing to serve on the Land Use chapter update. She stated she would. Chairman Shelton stated anyone in the community could also serve on helping with this update of the Land Use chapters of the Master Plan. It is extremely important. The Master Plan is the basis for all new regulations that go into the Zoning Ordinance relative to density, dimensional requirements, uses and zoning districts.

Agenda Item #3 - Adjourn

Action

Motion: Janice Rosa made a motion to adjourn at 8:28 p.m.

Second: Rick McMenimen

Vote: All in favor