**NEWMARKET PLANNING BOARD MEETING**

**JULY 12, 2016**

**MINUTES**

Present: Eric Botterman (Chairman), Val Shelton (Vice Chairman), Diane Hardy (Town Planner), Rose-Anne Kwaks, Janice Rosa, Ezra Temko, Peter Nelson (Alternate), Dale Pike (Town Council Alternate ex officio),

Absent: Jane Ford, Glen Wilkinson (Alternate), Amy Burns (Town Council ex officio) all excused

Called to order: 7:06 p.m.

Adjourned: 8:06 p.m.

**Agenda Item #1 – Pledge of Allegiance**

**Agenda Item #2 – Public Comments**

None.

**Agenda Item #3 – Review & approval of minutes:** 06/14/16

 Eric Botterman appointed Peter Nelson to replace Jane Ford and Dale Pike will fill in for Amy Burns.

 **Action**

**Motion: Rose-Anne Kwaks made a motion to approve the minutes, as written**

 **Second: Peter Nelson**

 **Vote: Janice Rosa abstained due to absence**

**All others in favor**

**Agenda Item #4 – Regular Business**

***Jarib M. Sanderson - Robin Realty Newmarket Trust/Tuck Realty Corporation – Continuation of a public hearing for an application for a Special Use Permit, at 36 Dame Road, Tax Map U2, Lot 297, and Bay Road, Tax Map U2, Lot 320, both in the R1 Zone. The two lots total approximately 28 acres. The proposal is for an eleven lot open space subdivision, with septic and wells, leaving approximately 21 acres of open space.***

 Eric Botterman stated, since the last meeting, there had been a site walk and a Technical Review Committee (TRC) meeting.

 Diane Hardy stated there was a TRC meeting on June 30, with members Rose-Anne Kwaks, Val Shelton and Jane Ford. They had a very productive meeting with the applicant’s representative and engineer. There is a checklist for Special Use Permits and they went through it to make sure all of the Town’s requirements were addressed. They spent a lot of time discussing the yield analysis. They looked at the general criteria for an open space development. They made determinations as to whether the committee felt the application fit the criteria. They also looked at the calculations for open space. She put together a memo on behalf of the TRC, which outlines the findings of fact based on the technical review process. The yield plan called for the creation of 10 lots and the applicant was able to claim an additional density bonus to allow one additional lot, because more than 50% of the open space was considered to be developable lands. There is a requirement for open space and the application well exceeded that: 21 acres of open space were provided. The calculations indicated a minimum requirement of 18.8 acres and they exceeded the amount. All calculations were consistent with the ordinance and the TRC felt comfortable recommending the 11 units and the 21 acres of open space. 63% is considered developable, whereas 50% is the threshold. With that, she has recommended approval of the Special Use Permit application and the yield plan and open space calculations.

Diane Hardy stated there are some conditions of approval:

1. All easement documents and deeds pertaining to the open space and any drainage structures, to be reviewed and approved by the Town’s legal counsel.

2. A land stewardship plan be provided in a narrative form, professionally prepared by an appropriate environmental consultant, which focuses on the long term management of the open space and how it will be maintained over time.

3. Suitable provisions and plans be provided for trail access for the public to be incorporated into the final subdivision plans and that with this in hand the applicant come forward with an application for a subdivision plan that meets all of the remaining requirements of the Town’s subdivision regulations for residential open space developments.

 ***Eric Botterman opened the public hearing.***

Melissa Sharples, an abutter on the back side, 8 Boardman Avenue, stated they had talked about this initially. One of her primary concerns is the third condition mentioned, which is the plan for trail access. That trail is her backyard. One of the original items mentioned was signage and pointing everyone to that area. Right now, she finds beer cans, fire pits and different things at different times. She is concerned about advertising that area as a right of way. It will diminish her property value and make it hazardous out there. There is a lot of wildlife there. There is a path back there and the kids are back and forth. It is visible and she didn’t want it to get any bigger. She also said she was concerned about the lighting and whether there would be one main street light at the entry or planted lighting on the road. She wanted to know how her backyard was going to light up. Eric Botterman stated that will be covered in the subdivision application. Diane Hardy stated, at a minimum, the Public Works Director typically likes to see a light at the access point in order for police and fire to be able to locate the road at night. She stated Ms. Sharples was welcome to attend the TRC meetings, too, and watch the progress of those discussions.

 There were no other members of the public who wished to speak.

 Mike Garrepy, Tuck Realty, stated he spoke with several abutters the first time they appeared before the Board. They talked about public access, but they had taken the access off the plans since. Discussions at the site walk and TRC indicated that the public access is encouraged. They defer to the Board. They are not proposing to do a parking area, but to maintain a 20’ easement for access is fine. That will be taken up at subdivision stage. As far as lighting, they will do what DPW wants for the intersection and they are not proposing any lights within the subdivision.

 Diane Hardy stated regarding the yield plan that they need to have assurance that the project, when envisioned as a conventional subdivision, is marketable. The applicant has provided a statement from Nate Dickey, from Keller Williams Realty, indicating that it is his professional opinion that the yield plan is economically realistic.

 Rose-Anne Kwaks stated regarding the trails that, once you have homes in there, you will probably have fewer beer cans and more people specifically for nature hikes. She found that was true on their property. Once the development is in, there will be fewer problems.

 Mike Garrepy stated that trail is on the eastern side of the stream. There is a good 100’ or so before the property lines.

 There was some discussion of the stewardship plan. Mike Garrepy stated there would be once a year mowing. They will be happy to work with the Conservation Commission or any other groups once they draft it.

***Eric Botterman closed the public hearing.***

 **Action**

**Motion: Val Shelton made a motion to approve the application of**  **Jarib M. Sanderson - Robin Realty Newmarket Trust/Tuck Realty at 36 Dame Road, Tax Map U2, Lot 297, and Bay Road, Tax Map U2, Lot 320, for a Special Use Permit for Residential Open Space Design Development pursuant to the authority granted under Section 6.01 of the Newmarket Zoning Ordinance for property to permit construction of eleven single family homes based on the Findings of Fact within the letter from the Town Planner dated July 7, 2016 and including the letter from Keller-Williams Coastal Realty under Section 6 of those Findings of Facts dated 07/11/16 and with the conditions as noted in the Planner’s memo, with the following amendment to Number 4, that the applicant provide a complete application for subdivision plan, which meets the requirements of the Town’s Subdivision Regulations, including those in Section 3.14 Residential Open Space Design, “and which conforms to the Findings of Fact in Conditions of Approval for this Special Use Permit”**

*Conditions in memo were:*

*1. All easement documents and deeds pertaining to the open space and any drainage structures, to be reviewed and approved by the Town’s legal counsel.*

*2. A land stewardship plan be provided in a narrative form, professionally prepared by an appropriate environmental consultant, which focuses on the long term management of the open space and how it will be maintained over time.*

*3. Suitable provisions and plans be provided for trail access for the public to be incorporated into the final subdivision plans and that with this in hand the applicant come forward with an application for a subdivision plan that meets all of the remaining requirements of the Town’s subdivision regulations for residential open space developments.*

**Second: Rose-Anne Kwaks**

**Vote: Peter Nelson opposed**

**All others in favor**

***Maplewood & Vaughn Holding Co., LLC, & NIP-LOT6, LLC – Continuation of a public hearing for an application Major Site Plan Review, at 2 Forbes Road, Tax Map R3, Lot 9-6; 175 Exeter Road, Tax Map R3, Lot 6; 177 Exeter Road, Tax Map R3, Lot 7; 181 Exeter Road, all in the B2 Zone. The project consists of constructing two new industrial buildings (approximately 14,000 sq. ft. and 20,000 sq. ft.) along with a 12,000 sq. ft. addition on the existing industrial building on Lot 9-6. The existing houses and driveways on Lots 6, 7, and 8 will be removed and the lots will be combined with Lot 9-6 and the boundaries will be adjusted into three new lots, one for each building.***

 Eric Botterman stated the applicant has requested a continuance.

 **Action**

**Motion: Dale Pike made a motion to continue this application to August 9, 2016**

 **Second: Val Shelton**

 **Vote: All in favor**

***DDC Realty Trust/David P. Valcovic, Trustee – Continuation of a public hearing for an application for subdivision, at 125 Grant Road, Tax Map R4, Lot 44, R1 Zone. The proposal is to subdivide the 8.01 acre lot into three lots. The lot with the existing house located on the corner of Grant and Ash Swamp Road will be 2.57 acres, the second lot located on Ash Swamp Road will be 2.30 acres and the third lot located on Grant Road will be 3.14 acres. The full application is available to view at the Planning Office during normal business hours.***

 Eric Botterman stated the applicant has requested a continuance.

**Action**

**Motion: Rose-Anne Kwaks made a motion to continue the application for subdivision, at 125 Grant Road, Tax Map R4, Lot 44, R1 Zone for DDC Realty Trust/David P. Valcovic, Trustee to the August 9, 2016 meeting**

 **Second: Janice Rosa**

 **Vote: All in favor**

***Future Land Use – (Continuance) Pursuant to RSA 675:6 and 675:7, discussion, deliberation and possible adoption by the Newmarket Planning Board regarding the “Future Land Use” chapter as an amendment to the Town of Newmarket Master Plan. The amendment includes the future land use map with changes, for a Residential Coastal Protection District (RCPD), Continuing Care Retirement Overlay District, Assisted Living Overlay (AL0) District, and Route 108 Corridor Overlay District, and recommendations related to zoning for economic development, a developer’s guide, climate change, shoreland protection, stormwater management, property maintenance, and junk yards.***

Eric Botterman stated they had closed the public hearing on this, at the last meeting.

Diane Hardy stated they received a letter on July 8, 2016, from Sean and Mary O’Shaunnessy**,** 179 New Road, which supported the Residential Coastal Protection District. A copy of the letter is in the record.

Val Shelton has submitted suggested amendments. After assessing the public input and the information at various meetings, it would be her position that they remove the section on the Residential Coastal Protection District (RCPD) and amend other sections to incorporate some of it within the document.

Her proposed amendments were as follows:

1. Remove “Residential Coastal Protection District” (RCDC) under Zoning Recommendations Section;

2. Amend “Shoreland Protection Measures under Other Recommendations as follows:

a. Rename “Shoreland and Water Quality Protection Measures”

b. Replace the text in its entirety with the following (note text in bold is added):

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

(Following is from original RCPD paragraph 1)

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

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

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

(Following is from original RCPD paragraphs 2 and 4 with further revisions)

Regulations should permit land uses which ensure the protection of the environmentally sensitive Great Bay and other critical resources including drinking water aquifers subject to potential salt water intrusion or other negative impacts from large groundwater withdrawals, wetlands, steep slopes, and surface waters. This could be accomplished by limiting commercial/industrial and high-density residential development in certain key areas of the town, adopting/updating ordinances and regulations for protection of groundwater resources and minimizing erosion and other contributors of nutrients to non-point source pollution.

Zoning changes would be intended to limit vulnerability of private and municipal infrastructure from both tidal flooding due to increased frequency of major storm events and potential sea level rise scenarios and over development or uses which could negatively impact ground water resources. Additionally, due to increased environmental vulnerabilities, innovative land use and planning techniques for Low Impact Development (LID) should be strongly encouraged. Zoning changes for increased road frontage, lot size, and setback standards, together with lower density and height restrictions, would help address protection of the important environmental resources and cultural aspects within the high value areas of the Town.

3. Replace “Stormwater Management Standards” under Other Recommendations, “Recommendations” section as follows:

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

4. At the end of first of paragraph of “Open Space Design and Other Flexible Subdivision Methods” under Other Recommendations section insert:

(Note a portion of this language comes from original RCPD Paragraph Four (4)

Low-impact uses which are characteristic of high-quality neighborhoods with lower overall densities should be encouraged within these areas of the town. Such uses include, but are not limited to: single-family housing, bed & breakfasts, and family daycare. Increased road frontage, minimum lot size, reduced density, height, and setback standards [may] would also help address protection of the important environmental aspects within these areas.

5. Under section “Zoning Ordinance Modifications for Economic Development”, add the following paragraph after the section “M-2 and M-3 Zoning Districts”:

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

Val Shelton stated the premise of this is to take these “goals” of the Town and information from reports and having them applied across the town. The coastal watershed is not limited to what they had established as this coastal district. By moving this under the stormwater and shoreland regulations and renaming it, they can look at the entire town.

 Rose-Anne Kwaks stated this was a fair document and well-done. Eric Botterman agreed. He asked about B2 and was there any thought of leaving that for commercial area. Val Shelton stated that was up to the Planning Board to decide.

Ezra Temko wanted it to read that low impact development and other innovative land use and planning techniques should be strongly encouraged.

 Dale Pike stated Val Shelton did a good job in keeping this open enough, but has them looking to the future.

 **Action**

**Motion: Rose-Anne Kwaks made a motion to amend the proposed Future Land Use Chapter of the Town of Newmarket Master Plan, dated April 22, 2016, and watermarked “Draft 06/14/2016”, as discussed this evening on the new language and moving of the paragraphs as proposed this evening, dated July 8, 2016**

 **Second: Ezra Temko**

 **Vote: All in favor**

Matt Sullivan asked if the motion was to amend or adopt the Future Land Use chapter.

 **Action**

**Motion: Rose-Anne Kwaks amended her motion to state at the beginning “to adopt, as amended”**

**Second: Ezra Temko**

**Vote: All in favor**

**Agenda Item #5 – Other Business**

***Discussion – Design Review***

Rose-Anne Kwaks stated Peter Nelson and Ezra Temko had discussed some interest in getting together on this and she hoped to set a date tonight. Ezra Temko asked if they could discuss some proceedings after tonight’s meeting. Rose-Anne Kwaks and Peter Nelson agreed.

 ***Chairman’s Report***

Eric Botterman stated, at a previous meeting, they voted against a site plan on Grape Street. The applicant has filed a lawsuit against the Town. Our legal counsel is saying we should settle. The applicant’s attorney has made an offer to settle. Diane Hardy stated the Board should meet with legal counsel to discuss whether it is appropriate and whether they want to accept the offer. Eric Botterman stated they voted based on an opinion from their legal counsel and it seems as if their legal counsel is backtracking from that opinion.

Diane Hardy explained the procedure for a “non-meeting” with legal counsel. She will send out a meeting schedule e-mail to everyone, so the date and time of meeting can be set.

 ***Conservation Commission***

Ezra Temko stated there was a suggestion, in the future for Master Plan chapters, if they are thinking about creating a subcommittee that the Conservation Commission be invited to be a part of that. They would love to contribute and be involved.

 ***Strafford Regional Planning Transportation Advisory Committee***

Peter Nelson stated, last Friday, they did a slide presentation regarding potentially available funding opportunities for highway projects. It would be useful to him to gain more knowledge to know if there are any road priorities for Newmarket, so that he can keep those in perspective with other things being discussed. One item was there is an increasing gap between the actual available amount of federal funds and projects that are requesting funding at the local level. It wasn’t clear as to why Newmarket is not getting their full share of available public federal dollars. He suspected part of it was due to matching grants and money. The SRPC is coming up with a new planning framework that discusses how transportation projects are prioritized. The ten year State transportation plan has been passed and is online. He is working on a way to align some of the available opportunities to what is being looked at for Newmarket.

 Diane Hardy stated every two or three years, they go through a process with the staff at SRPC. The Transportation Planner will meet with the Town Administrator, herself and sometimes the Public Works Director and they identify projects that are critical for the Town to pursue. With that input they incorporate that information into the ten year planning process. She suggested this year that Peter Nelson participate in those discussions.

 She also stated the Transportation chapter of the Master Plan has not been updated in a number of years. This is one section that is critical, as there is still funding available to address issues and the Board should consider this as a possible next chapter update.

 There was discussion and an update on the Newmarket portion of the Route 108 project that is currently being worked on in Durham and other road projects in the area.

 ***Town Council Report***

Dale Pike stated he was part of a subcommittee with two School Board members and two Town Council members. They went to Cape Elizabeth. The new Superintendent comes from there and they have a “one town” concept. They got to see how that is executed. They have integrated substantially. They started this back in the 1970s. NH just changed the law to allow that earlier this year. Discussions will begin soon for this to happen here.

**Agenda Item #6 - Adjourn**

 **Action**

 **Motion: Janice Rosa made a motion to adjourn at 8:06 p.m.**

 **Second: Rose-Anne Kwaks**

 **Vote: All in favor**