

NEEDHAM PLANNING BOARD MINUTES

April 29, 2009

The regular meeting of the Planning Board, held in the Performance Center of the Broadmeadow School, was called to order by Martin Jacobs, Chairman, on Wednesday, April 29, 2009 at 7:00 p.m. with Messrs. Ruth and Eisenhut and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Request to extend temporary certificate of occupancy: Needham Gateway, LLC, c/o Eclipse Partners, 1208 VFW Parkway, Suite 301, Boston, MA, Petitioner (Property located at 100 and 120 Highland Avenue, Needham, MA).

Elizabeth Kaponya, of 27 Highland Terrace, noted she has complaints regarding the trash dumping at Panera Bread. The trash removal has been happening on Sundays at 5:30 a.m. and on holidays. Employees from Panera dump trash early in the morning and in the late evening into the dumpster then every 15 minutes the trash compacts. The hours the tenants can dump trash into the dumpster was not addressed in the decision. Mike Hamra of Panera reviewed the complaints. He noted the rule is no trash taken out at night. That is a concern and a safety issue he will address. The rule he has is if it is dark no trash is to go outside. He will speak with the store and tell them no trash is to be taken out before 7:00 a.m. Ms. Kaponya noted she was not sure how, if they clear the trash at night, there is more in the morning. Mr. Jacobs stated he would like them to sit down and discuss the issues. Mr. Ruth stated he would like a report within 60 day of where they stand. Mike Moskowitz gave Ms. Kaponya his card. She will keep him informed of the dates and times of the dumpster pickup before 8:30 a.m.

Upon a motion made by Mr. Ruth, and seconded by Mr. Eisenhut, it was by the four members present unanimously:

VOTED: to extend the temporary Certificate of Occupancy for 3 months.

Adopt Downtown Plan.

Ms. Newman gave the final downtown plan.

Upon a motion made by Ms. McKnight, and seconded by Mr. Eisenhut, it was by the four members present unanimously:

VOTED: to accept the Needham Center Development Plan dated 3/30/09.

Planning Board CPA Assignments.

It was noted Mr. Eisenhut served one year then a 3 year term on the CPA. He would waive if anyone else would like to do it. Mr. Ruth noted he was not interested and Ms. McKnight noted she has no time.

Upon a motion made by Mr. Ruth, and seconded by Ms. McKnight, it was by the four members present unanimously:

VOTED: to appoint Mr. Eisenhut as the Planning Board representative to the CPA.

Finalize May and June meeting schedule.

It was decided the June meetings will be 6/16 and 6/30. Mr. Jacobs is not here on 5/11. The meetings in May will be 5/4, 5/6 and 5/13.

Public Hearing

7:30 p.m. – Amendment to Major Project Site Plan Review No. 2007-05: 868 Highland Avenue, LLC, 66 Crescent Road, Needham, MA 02494, Petitioner (Property located at 868 Highland Avenue, Needham, MA).

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:

VOTED: to waive the reading of the public hearing notice.

Roy Cramer, representative for the applicant, introduced Adam Reimer. He noted the building was built and mostly occupied. They were landscaping and discovered the sidewalks and ramp do not comply. The building is a few inches too high and the slope is too high. It is a matter of inches but it does not comply. They would like minor changes to allow for the handicap accessibility rules. They need to change it for the right height and the right slope. They need a ramp. They want to keep as much landscaping as possible. The Design Review Board has approved. They will get rid of one foot of concrete and add one bush. It is a tremendous amount of work, time and money. They have handicap accessibility for the parking lot also. They need it in front and back. The Fire, DPW and Police have no comment. They would like it accepted as a modification. They would also like a waiver of the \$1,000 filing fee as it has already been paid once. Mr. Ruth clarified on the original plan there was no ramp but a gentle slope. Mr. Cramer noted that is correct. Ms. McKnight asked if it was the original town sidewalk or did they put it in. Mr. Riccio, Project Manager, noted they closed a curb cut and reconstructed the sidewalk around the side. Mr. Cramer noted they will have to rip up some and replace it. Gary Kaufman noted he was there in support of the project.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:

VOTED: to close the hearing.

Ms. McKnight noted she does not remember and asked if there are also small trees in the right corner area. Mr. Riccio noted there is landscaping there with an irrigation system. Ms. Newman stated they need to indicate the planting bed needs to be extended. Mr. Cramer noted the plans already do that. It is increased by one foot. Ms. Newman noted they are increasing the number of plantings in the bed.

Upon a motion made by Mr. Ruth, and seconded by Ms. McKnight, it was by the four members present unanimously:

VOTED: to grant the relief in the form of the draft decision.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:

VOTED: to waive the additional filing fee.

Upon a motion made by Mr. Ruth, and seconded by Mr. Eisenhut, it was by the four members present unanimously:

VOTED: to extend the temporary occupancy permit through 8/31/09.

Appointment

7:45 p.m. – Meeting with Jason Schrieber, Parking Consultant, Discussion of Parking in the Downtown.

Joyce Moss noted she has the final impact analysis. She noted if anyone wondered why some are long term it is because it may not generate any revenue. She feels they should be prepared to have an answer if someone asks the question. Mr. Schrieber noted the Walgreen's lot and the center are the focus – the core study area. The street parking on the fringes is under utilized and the street parking in the downtown is heavily utilized. It does not exceed about 64% utilization in downtown parking. The off-street lots are

more actively utilized whereas the on street is not as utilized. Walgreen's is chock full in the morning and frees up in the afternoon. To assume an on average annual cost to maintain they feel a surface space will be \$300 per space. Land value increases. They are stealing away from development potential so land value rises. If it costs to build \$3,000 per space the land is worth about \$7,000 per space. Surface parking with land is valued at \$3,000 and structure parking is \$2,000. When they are able to pull together as a shared entity you can share all these advantages. He showed a sample in lieu of fee schedule. He noted you set up the base number then assign an increment, such as \$2,000 base per space and a \$750 increment. Mr. Ruth noted they are not allowed to charge a fee greater than the cost or it is a tax. He asked if this has been subjected to a legal opinion. Mr. Schrieber stated generally as long as the community can substantiate how this money is spent it is ok. Mr. Ruth noted he was not sure that was correct. Mr. Schrieber noted he should look at the Mass Law. Mr. Ruth stated they need to have an answer for the Finance Committee. Mr. Schrieber noted smaller lots with under 20 spaces. They really want them to develop to the potential of the land. Mr. Ruth stated they need to look at the Saugus decision where the figure was arbitrary and therefore a tax. The fee needs to have a relationship. Mr. Schrieber commented he never heard of a legal challenge to in lieu of fees in the counties resolution. The money you get will never be enough to cover the cost to build. It is more cost effective for small landowners to buy into the spaces. Mr. Ruth asked, realistically, what is the largest they can anticipate. Ms. Moss noted a 30,000 square foot lot with an FAR of 3 with a setback in back has 75,000 square feet of space. With a medical use they need 5 for every 1,000. Mr. Ruth suggested they not allow people to waive more than X number of spaces. He is not sure if it has a significant impact. Mr. Schrieber recommends they keep it simple and in straightforward increments. He added a cut off makes sense. Ms. McKnight clarified it seems he is recommending a basic fee of \$2,000 and every space at \$750. This seems reasonable. They should cap at 40 spaces but will probably get a lot of people requesting waivers of 40 spaces.

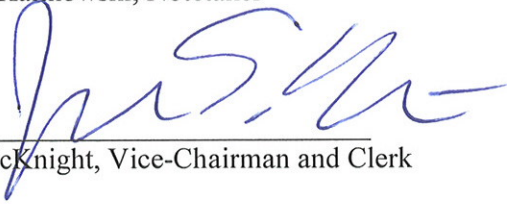
Ms. McKnight noted there is a 3 part test – 1) it is voluntary, 2) the town is not making any money on this and 3) the actual benefit to the person paying. She noted they need a plan for parking. She added the actual benefit to the person paying is harder to prove. Mr. Schrieber noted the town has an obligation to provide it or not. They need to satisfy a utilization number somewhere. Mr. Eisenhut noted the applicant is paying for the town's management. Mr. Ruth asked if maybe 40 was too high and they should put a cap on of 20 until they have a plan. Sean Sweeney, Town Meeting Member Precinct B, noted his understanding is a parking fee is to allow a developer, if they are short on spaces, to have the ability, in lieu of spaces, to pay the town. He noted the town has a responsibility to provide spaces and will use in lieu of fees to do improvements. It is not a waiver. It is used to provide and solve future parking issues. He noted in lieu of fees are fraught with issues. Say they build a medical use and pay a fee. Ten years later Sudbury Farms buys it. Are the spaces able to be used. Is it a right that goes on forever or is there a limit. Also, the ZBA looks to zoning for direction. He asked what they do when the occupancy changes. The last thing is the tax issue. He has a concern if it is a new building or a new project and asks for waiver. Can they buy spaces? Mr. Schrieber noted the in lieu of system means those spaces are required from the requirement period. There is no specific set of spaces in a bank per se. Mr. Ruth noted there should be a base of at least \$2,000 with an unspecified cap and increment. Mr. Jacobs noted the lower the cap the higher the base. Mr. Ruth stated they need to have some parameters for Town Meeting then a public hearing process. Mr. Schrieber stated he will standardize the charts for the Planning Board.

Mr. Eisenhut noted the fiscal impact study. It was 20 years per 30% build out and between 430,000 and 630,000 per year. Ms. McKnight noted the report was talking of new growth. The increasing value of existing properties was not taken into account. Joyce Moss noted none of it is a net loss. Mr. Jacobs asked about the presentation to Town Meeting. Mr. Eisenhut stated people will spend no more than 15 to 20 minutes looking over the material. They should start with a vision of a village concept by trying goals to reach and the economic potential. Ms. Newman noted Mr. Smart will focus on the process – how we got here and overall vision. Mr. Eisenhut noted they should start with a vision of what they are trying to achieve. It is also important to focus on what an overlay district is. He feels it is important that a detail plan be cursory on details. Mr. Ruth agreed with Mr. Eisenhut they should be very general and very short on zoning mechanics. Mr. Jacobs clarified the mechanism at Town Meeting. He thought it was to do the presentation then ask for a vote at a later meeting. Mr. Eisenhut noted this was risky. Mr. Smart and Ms. Newman did not like the idea.

Upon a motion made by Mr. Ruth, and seconded by Mr. Eisenhut, it was by the four members present unanimously:

VOTED: to adjourn the meeting at 9:23 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in blue ink, appearing to read 'J. McKnight', written over a horizontal line.

Jeanne McKnight, Vice-Chairman and Clerk