

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

JANUARY 21, 2003

A meeting of the Planning and Economic Development Committee was held on Tuesday, January 21, 2003 at 9:30 p.m. in the Aldermanic Chamber

Chairman Brian S. McCarthy presided.

Members of the Committee present: Alderman Scott A. Cote, Vice Chair  
Alderman Kevin McAfee

Members Not in Attendance: Alderman Lori Cardin  
Alderman Timothy B. Nickerson

Also in Attendance: Katherine E. Hersh, Div. Director, Community Devel.  
Division  
Mr. Mark White, Land Use Consultant, Freilich, Leitner &  
Carlisle

COMMUNICATIONS – None

UNFINISHED BUSINESS - RESOLUTIONS – None

UNFINISHED BUSINESS – ORDINANCES – None

NEW BUSINESS – RESOLUTIONS

R-02-147

Endorser: Alderman Brian S. McCarthy

REFUNDING THE IMPACT FEES PAID BY SSJ, LLC FOR HOUSING FOR  
THE  
ELDERLY AT THE COLONY CLUB OFF CONANT ROAD PURSUANT TO  
NRO  
SECTION 16-594

MOTION BY ALDERMAN COTE TO HOLD IN COMMITTEE PENDING RECEIPT  
OF THE WRITTEN FINDINGS AND RECOMMENDATIONS FROM THE PLANNING  
DIRECTOR AND THE NASHUA CITY PLANNING BOARD AS REQUIRED BY NRO

16-594  
MOTION CARRIED

NEW BUSINESS – ORDINANCES

-  
O-02-131

Endorser: Alderman Kevin E. Gage  
ADDING PUBLIC HEARING AND ABUTTER NOTICE REQUIREMENTS TO  
REVIEWS BY THE HISTORIC DISTRICT COMMISSION

MOTION BY ALDERMAN COTE TO HOLD IN COMMITTEE AND SCHEDULE A  
PUBLIC HEARING FOR MONDAY, FEBRUARY 10, 2003 AT 7:00 PM IN THE  
ALDERMANIC CHAMBER  
MOTION CARRIED

-  
DISCUSSION

Chair McCarthy

We have an update on the land use ordinance update. Director Hersh and Mr. White would you care to come forward?

Kathy Hersh

Mark White is here with me. He is the consultant that has been working with us on the land use ordinance update since last May. There is a committee that has been working on this that has been meeting every month and discussing the different issues from a point of perspective of reviewing the drafts. There is an all day meeting tomorrow with this committee and then also scheduled for Thursday morning if we need more time to discuss that. Mark will go back and work on the parts of the changes that need to be made based on the conversations and then we will be back in February. We did want to talk to you about the schedule for the land use ordinance update. Currently our discussions with the committee have been to then present those to have the Board of Aldermen introduce them and begin that discussion at the end of February/beginning of March. There has been some suggestion that maybe that there be consideration that the committee have a couple of meetings where they take some public input before it goes to the Board. That would be up to the Board how you want to do that at this point.

Alderman Cote

I think that makes sense to have a couple of meetings where we can get some public input, but I think before we do that perhaps a meeting dedicated to discussion about the issue amongst ourselves would be helpful. I am wondering if we can't – I have looked at the book but I certainly haven't studied it to the length that I am sure you have, but is there any way that we can get a brief overview of what the major changes are that have occurred in that?

Kathy Hersh

Yes. In fact we have that. Do you have a copy of that with you now?

Mark White

Yes. I've got one extra one here and then Roger has some back in his office.

Alderman Cote

I could make copies of it if you would like. Is that being handed out at tomorrow's meeting?

Kathy Hersh

Yes.

Mark White

I will just give you my copy and then I can pick up an extra one tomorrow.

Kathy Hersh

I can make sure that everybody gets one in their boxes tomorrow.

Alderman Cote

You may want to even wait until after you have your meeting tomorrow and if there are any other substantive changes that come out of it.

Kathy Hersh

Okay. Why don't we give you a copy so that you can see basically the type of outline that it is? There have been – for example somebody asked us if we couldn't have a striped through version that would have been more helpful to them. It is impossible. Because this is a complete ordinance rewrite – a comprehensive ordinance rewrite, we have moved sections around and things like that. It really would not work that well, but this particular summary helps because it tells you what has changed and what hasn't and give you sort of a highlight of what has changed. The other thing that is very nice about the draft and will be in the final ordinance is that in the beginning of each Division it talks about what the purpose is and then it talks about – it references the master plan and how this is implementing the master plan – what the goals and objectives are in the master plan that this is related to. That is the purpose of these ordinances. We adopted a master plan as a city back in December, 2001 – both the Planning Board and the Board of Aldermen. The next step would then be to make sure that our ordinances are

consistent with what the vision is that we have all adopted as our vision – our goals and objectives for the future of our city.

There may be as we go forward some areas where people feel that doesn't seem like what we really want to do, but we have really taken very seriously the responsibility that these are consistent with the master plan. In fact, I had a discussion with somebody this morning for breakfast – came in and was discussing it with Mark and Mark said it is right here in these ordinances and I was looking at them and saying I'm not really sure if that is exactly what I was thinking and he said well you have to go back and change the master plan then because that is what the master plan says. That is the way we have been viewing this. If that is what the master plan says that is what we are doing. If when you have your discussions and public input the people say no that isn't what we were thinking then we really need to go back and visit the master plan as well.

Chair McCarthy

To go back to your statement about the process, the proposal is to have public meetings held by the steering committee?

Kathy Hersh

Yes.

Chair McCarthy

Who would decide whether we change the draft ordinance based on public input at those meetings?

Kathy Hersh

I guess the intent would be that the committee would take under advisement any comments from the public and then the committee would discuss those and see whether or not they thought that was something that was a reasonable change to make.

Chair McCarthy

I guess I have two concerns. The first one is just logistics that if we do that now and put this before the Board of Aldermen in the April/May timeframe and we will have to have our set of public hearings on it, which will be quite lengthy during the same timeframe as budget, which will be at best difficult to do and at worst impossible. The second one is the steering committee, at least in my mind, is tasked with getting Mr. White to produce an ordinance that matches the intent of the master plan. At least in my experience with public input on ordinance changes is that what you get are requests for deviation from the master plan or the intent of the ordinance to

meet the needs of specific people who are affected by it. Those to me seem more appropriate as – basically you will be in the process of trading off the master plan as a matter of policy and that to me seems like it is something that the Board of Aldermen ought to be doing and not the steering committee.

Mark White

Can I answer that?

Chair McCarthy

Sure.

Mark White

I'm going to answer a few questions at once here. I can make my PowerPoint presentation available to you. It also has some highlight features at the beginning with what some of the major changes are from what you do today and I think that would be helpful. One of our ground rules in the discussions tomorrow is if you're going to give us a comment tell us how it relates to the master plan. What I have said is for example tree preservation or affordable housing. Those are two big top issues for two different groups of people. What I have been telling people is if you don't agree with us having a regulation that addresses it this is not the place to raise that question. What you want to do is to go to the Board of Aldermen and ask them to amend the master plan and then we will consider it, but to not have a tree preservation ordinance or to not have some regulation that promotes affordable housing is not something that we are considering right now. We're going forward with this and we can argue about what the right numbers are and we can argue a number of different things, but we're doing something about that. Unless the Board of Aldermen thinks that – if you don't want a tree preservation ordinance don't tell us about it we're not listening. We'll listen when the Board changes the master plan. It is that simple. We're going to give the Board of Aldermen something to implement the master plan. What we are urging the steering committee to do is to help us implement the master plan. We know all of you have different perspectives and attitudes about – if you want to change the master plan...

Alderman Cote

I guess I have a couple of concerns about that because we didn't do a very good job in the past keeping up to date with our master plan and went through a tremendous effort to bring it to the level where it is now, and there are certain parts of it that I like and there are certain things that have occurred over the past few months since the master plan was adopted that have changed. I don't think it is the intent for our land use codes to be driven by a master plan that may be dated how many years before we update it again?

Kathy Hersh

I understand where you are coming from. The master plan is the result of actually a couple of years of work and public meetings – many, many public meetings, and really truly represents, from my perspective, what the vision was that we heard as a city. I agree with you that things change, and in fact I will always, as long as I can find the resources to do so, be coming into you with more plans because I truly believe that we need to ascertain what it is that we are trying to accomplish if we going to try to accomplish it. If we ever have any ideas of what we want to be as a city we need to articulate that and we need to put into place the tools to do that. From my perspective, the major part of all of the work of understanding where we want to go was the master plan and then this work is really the technical work to go forward and implement that. All of this being a changing working document – you can always go back and adjust the master plan. The master plan is a much higher level and then we can discuss what percentages of open space that you want per zoning and things like that all in here, which are not going to be in your master plan as long as it is consistent. Really to me this is more the technical document that implements the master plan. The conversations of what we wanted as a community were much more part of the master plan process than part of the ordinance process.

I think the ordinance process will generate discussions. I expect that we will have to go back and do a little bit of amending, and I think it will be good. I think it will be healthy for us to start to take a look at it and say maybe that goal isn't exactly what we wanted. Clearly the conversation that I had with the person this morning and followed by coming in and having a conversation with Mark who said that is exactly what it says in the master plan. I reviewed that and voted on that – it was certainly a logical goal, maybe it wasn't exactly what I was thinking. Don't forget that everything that we adopt we can always go back and change. I believe that we will have to tweak some of these things. There is a huge amount of legislation to change at one time.

#### Alderman Cote

That is not what I am hearing. What I am hearing is that we will not even permit dialogue unless you can demonstrate how the question relates to the master plan. That is so exceptionally short sighted.

#### Kathy Hersh

No, only for the part to look at that comes to you. Only until it comes to you. Mark is not part of the process once it comes to you. Once it comes to you any changes – anything that deviates from the master plan in this is a policy decision because you approved the master plan.

#### Alderman Cote

The issue is that you have a very large steering committee that is working on developing the land use code and what I heard was that the discussion that is going to be ongoing tomorrow with your all day session is that unless a member from that steering committee can demonstrate how their question relates to the master plan then there isn't going to be any discussion on that.

Mark White

That is not exactly what I said. What I Said was if you're comment is let's don't do something that is in the master plan this isn't the right place to bring it up. There are a lot of issues and very fine grain issues that really either don't implement the master plan or there are different ways of implementing the master plan, but coming to us and saying we don't want a tree preservation ordinance – it is the wrong place to bring that up. The master plan says we're going to have an ordinance like that and spending an hour debating whether we're going to have an ordinance is a waste of time.

Alderman Cote

I feel the master plan falls terribly short in addressing redevelopment issues.

Kathy Hersh

Yes.

Alderman Cote

I fought that argument all through the development of the master plan and spoke against it when I in fact voted for the master plan, but thought it fell short on that. How does the land use code address redevelopment issues and how would you deal with it when I brought that question up to you?

Mark White

Frankly I agree with your comments ... tape inaudible ... again that is an amendment issue. That doesn't mean that we ignore redevelopment issues. There are a lot of things in here that encourage it – there's maximum set backs, there are different kinds of corridors issues that address the needs of the traditional corridor and suburbanized corridors, there's ... tape inaudible... conditions in it that encourage rehab. of existing buildings. There is a great deal of redevelopment. One of the provisions encourages redevelopment of shopping malls. There is the storm water regulations, the buffer and landscaping and the conservation regulations section in here for places like the downtown and what we are calling the corridor exits where the emphasis is more on urban design and infilling small lots than it is on preserving the large tracks of lands for wetlands, which really isn't an issue very much in this city any more. The code really does place a lot of emphasis on redevelopment. I think much more so than the master plan does.

Alderman Cote

Are you comfortable that it places enough?

Mark White

Yes, I think so. We could do more and there will probably be people who will bring other things to our attention, but yes, we have done everything that we could in this code to address these.

Kathy Hersh

I know I heard that message loud and clear from you and I think that was one of the first messages we talked to Mark about – the whole redevelopment issue – that this isn't about greenfields, about new development – that really we are into a redevelopment and that is what we really need to focus on.

Chair McCarthy

I guess that is where I would expect the ordinance to go into more detail because that is actually ambiguous in the master plan. What I am concerned about is there are areas where people are going to come to us and say take that part of the ordinance out when it is clearly consistent with major points in the master plan. The one I expect to see it on is the affordable housing issue and density bonuses, which as you and I both know turn out to be just density bonuses at this point. Those are issues where I don't want to see beyond what is in the master plan that issue getting argued out of the master plan's context except at the Board of Aldermen if that is what we choose to do because that is a policy issue that has significant impact and I think is one that the Board ought to be the ones to take action on. Those are the kinds of concerns that I have. I agree with you on the redevelopment and I think that is an issue that has come up at the steering committee and has been a push to resolve that because it is not well articulated in the master plan.

Kathy Hersh

What do you want us to do with the schedule? When do you all want to see it, and do you want us to have public meetings as a committee first?

Alderman McAfee

As painless as possible. We have a busy schedule, but I don't want to have just simple lip service – I want it to get the attention that it deserves.

Chair McCarthy

I would like to see it get to the Board quickly so that we can start the hearing process. I don't anticipate that is going to go – that will not be a two week process. The more of that we can get out of the way before the budget is laid on our desks the better. Bear in mind once the ordinance is introduced it is in effect for 120 days until we take action on it, and if we fail to act on it in 120 days all hell will break loose on the 121<sup>st</sup>.

Kathy Hersh

That subject has come up a couple of times in the last couple of days in discussions about the 120 days. I guess I would like the Board to consider whether or not – what we could do for example if we didn't feel the need to trigger the 120, which when you are talking about this entire ordinance that means that anything that comes in that 120 days needs to be reviewed by staff based on this ordinance versus based on what our current existing ordinances are, then as it changes when there are amendments made it just gets very complicated. I think that actually it is the right way to do it that is the state law when you have a piece of legislation that comes in because then people try to get their things in before legislation gets introduced or whatever. In a case like this where this is a huge amount of work to review, I would like to at least get some feedback as to whether or not people think that maybe this could be for example like a discussion item at the Planning & Economic Development Committee.

Alderman Cote

Couldn't we just stipulate it in the legislation itself that it wouldn't go into effect until ...

Kathy Hersh

I don't know can you do that? If you can do that – it is governed by state law, but I am not sure if it is enabling. Actually the discussion I had today somebody said well it only relates to towns and the city had to adopt it as an ordinance in order to be able to – I don't know, I didn't look it up.

Alderman Cote

It would be worth having Dave Connell give an opinion on it.

Kathy Hersh

I can have Dave, but I want to make sure before I do that people are comfortable not being stuck by that...

Alderman Cote

Can you have a real public hearing process though without having something introduced? I don't think you can. Can you?

Chair McCarthy

You can have one, but it won't be binding.

Kathy Hersh

Then what you would do is have public meetings on it and then you can, when you are ready, introduce it and pass it. You can introduce it, schedule a public meeting, and pass it. It may be more work than it is worth. I will be happy to look into it and see whether or not there is a way to deal with that if people are comfortable with that.

Chair McCarthy

That might be a reasonable way to accomplish both goals is to have some public input before PEDC prior to its introduction as an actual ordinance.

Kathy Hersh

That is a good idea. Rather than having the public input before the committee have it – maybe there could be a joint Planning & Economic Development Committee meeting with the committee to have that public input. How about that? I would feel a lot better about that. That would be great.

Chair McCarthy

I guess probably what we ought to do is just have first the meeting with the committee to bring the rest of the committee up to speed on the ordinance draft and what the differences are and then schedule some public meetings after that.

Kathy Hersh

Okay. Why don't we plan to do that at the next meeting, which Mark will not be at, and then we will schedule the next planning meeting will be here again. If we can schedule Mark around that it would work.

Chair McCarthy

All right.

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Kathy Hersh

Thank you very much.

Alderman Cote

Sorry you had to wait around so long.

Mark White

You are the ones working late.

ADJOURNMENT

MOTION BY ALDERMAN MCAFEE TO ADJOURN  
MOTION CARRIED

The meeting was declared adjourned at 9:50 p.m.

Alderman Scott A. Cote  
Committee Clerk