

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

December 7, 2004

A meeting of the Planning and Economic Development Committee was held on Tuesday, December 7, 2004 at 7:02 p.m. in the Aldermanic Chamber.

Chairman David Rootovich presided.

Members of the Committee present: Alderman Kathryn D. Vitale
Alderman Richard LaRose, Vice Chair
Alderman Robert G. Shaw, Jr.

Members Not in Attendance: Alderman David MacLaughlin

Also in Attendance: Alderman-at-Large Brian S. McCarthy
Alderman-at-Large David W. Deane
Mike Lowe, Planning Board Liaison
Katherine E. Hersh, Div. Dir., Community Development
Jay Minkarah, Economic Development Director
Roger Houston, Director/Manager, Planning Department
Brad Whitney

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COMMUNICATIONS

From: Peter Dolloff, Fields Grove Flats LLC
Re: Request for Waiver of School Impact Fee – 173 Chestnut Street

MOTION BY ALDERMAN LAROSE TO ACCEPT, PLACE ON FILE AND GRANT THE REQUEST FOR WAIVER OF SCHOOL IMPACT FEE

ON THE QUESTION

Alderman Deane

Is there a fiscal impact here to the rest of us if we are going to waiver the percentage of their ...

Chairman Rootovich

There is no impact with respect that there will be no school-aged children attending any of the public schools since it is a senior center for senior citizens. There will be no impact to the school system. Under the current ordinances they have the right or this Board has the right to waive those impact fees.

Alderman Deane

Is that just on developments? As my children get out of the school system can I come down and ask for a waiver of ... is this just a one time fee?

Alderman McCarthy

The impact fee is a one-time fee that is paid when the Certificate of Occupancy for the property is initially gathered. If you look at the State enabling legislation it more or less anticipates that you will do this. In order to pass the impact fee you have to pass what is called a rationale nexus test that says you can reasonably assume that property will have a certain impact on roads or schools or whatever. In our case we only do it for schools, but for elderly housing where there is no expectation that they will add to the number of seats that we require we have traditionally waived the impact fee.

Alderman Deane

What amount of money is that?

Alderman McCarthy

I don't know exactly what it is for this property. I think it has been about \$1 a square foot on residential properties.

Chairman Rootovich

I believe on this one here it is \$.50 per square foot.

Alderman McCarthy

It is actually not anywhere near sufficient on residential properties to pay for the anticipated school impact anyway.

Chairman Rootovich

Alderman Deane a detached single-family is \$1.00 per square foot where everything else; mobile homes, manufactured housing, attached townhouses, multi-family dwellings are all \$.50 per square foot.

Alderman Deane

Thank you.

Mike Lowe

The Planning Board usually puts a stipulation on it that if the use changes they have to go back and

pay that fee.

Chairman Rootovich

Alderman LaRose do you wish to amend your motion or leave it as it is?

Alderman LaRose

Yes I do. I was waiting for my colleague from the Planning Board to say that because I couldn't remember what the wording was.

AMENDED MOTION BY ALDERMAN LAROSE TO ACCEPT; PLACE ON FILE, GRANT THE REQUEST FOR WAIVER OF SCHOOL IMPACT FEE CONTINGENT UPON RECONSIDERATION SHOULD THERE BE A CHANGE IN USE

ON THE QUESTION

Chairman Rootovich

The motion is to accept and place on file and grant the recommendation, however, if the particular occupancy were to change they would come back to the Planning Board and the Planning & Economic Development Committee to pay those fees.

Alderman Vitale

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By any chance have we ever had a change of occupancy where they have had to come back at a later date and pay that school impact fee?

Mike Lowe

Not yet. We just started doing it recently. In fact I think it was the huge Hunt complex. They asked for a waiver of the fees, and we realized that some of them were going to have detached homes with it, and thought that we should start doing that.

Alderman LaRose

The other thing that we were cognizant of – some of these places, although this one doesn't, but some of these elderly housing have two bedrooms and so one of the concerns was what happens if all of a sudden a grandchild comes to live with these people and we have to educate that child. That unit should be under the laws that we have impact fees on.

Alderman McCarthy

I think what we have done in the past is that most of the 55 and older developments have covenants that don't allow anyone under 55 to live there for more than a couple of months a year, which I think is probably the cleaner – there is a fairly standard set of covenants, which is about the only thing you

can get away with under HUD rules restricting the elderly housing. I guess I am not sure from the State enabling legislation that we actually have the ability to go back and retrospectively put that fee in place when a change of use occurs. This is actually the first time I have ever heard that we had approved those.

We have only I think approved probably three waivers of these in the time that we have had the impact fees – all of them for elderly properties – I think the one on the corner of Westgate Crossing was the first non-public housing that we waived the impact fees on and there have been a couple more like that - the Huntington and I forget where the other one was. I am a little worried if we try to do it based on what the perspective use might be that we may have trouble doing that.

Roger Houston

Alderman McCarthy is correct. I know when the Planning Board took up the Huntington they did not – if I recall correctly they discussed what Mr. Lowe said, but they didn't put it as a stipulation. The State law is very specific that it can only be collected at time of Certificate of Occupancy. Once we issue a CO we can't go back retroactively because if changes happen the impact fee is for capital improvements not operating costs of the schools.

AMENDED MOTION BY ALDERMAN LAROSE TO ACCEPT, PLACE ON FILE AND GRANT THE REQUEST FOR WAIVER OF SCHOOL IMPACT FEE
MOTION CARRIED

MOTION BY ALDERMAN LAROSE THAT THE RULES BE SO FAR SUSPENDED AS TO ALLOW FOR THE INTRODUCTION OF A COMMUNICATION RECEIVED AFTER THE AGENDA WAS PREPARED
MOTION CARRIED

From: Charles F. Bass, Member of Congress
Re: Nashua Commuter Rail Project

MOTION BY ALDERMAN VITALE TO ACCEPT AND PLACE ON FILE

ON THE QUESTION

Chairman Rootovich

Just to let the committee know – at the last meeting I had told you I would ask Congressman Bass to come before our meeting, however, he has the vote this afternoon, which is going on this evening as we speak with respect to reforming the Intelligence Division of the United States. He could not make it. He was kind enough to send this letter over yesterday on behalf of where he stands with the rail trail. This is a letter signifying his thoughts and concerns.

MOTION CARRIED

Chairman Rootovich

How many people are here tonight in the audience to discuss O-04-19 besides Mr. Whitney. Mr. Whitney if you will just be a little bit patient I would ask for a motion from a committee member to go out of order and take up R-04-134.

MOTION BY ALDERMAN SHAW TO GO OUT OF THE REGULAR ORDER OF BUSINESS TO TAKE UP R-04-134

MOTION CARRIED

MOTION BY ALDERMAN SHAW TO TAKE FROM THE TABLE R-04-134

MOTION CARRIED

R-04-134

Endorsers: Mayor Bernard A. Streeter
Alderman-at-Large Brian S. McCarthy
Alderman David MacLaughlin
Alderman-at-Large James R. Tollner
Alderman Kathryn D. Vitale
Alderman Lori Cardin
Alderman Marc W. Plamondon
Alderman-at-Large David Rootovich

CONTINUING SUPPORT FOR COMMUTER RAIL AND SUPPORT FOR TRANSIT ORIENTED DEVELOPMENT AT AN APPROPRIATE TRAIN STATION LOCATION

IN

SOUTH NASHUA

MOTION BY ALDERMAN SHAW TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman Deane

About a week and a half ago or so I called Alderman McCarthy and spoke with him about my concerns with this piece of legislation, and I asked him if he would draft up some go and no go points that clearly spelled out the process in which we were going to go through that would help with my comfort level and perhaps others who might have had some issues with some of the language in the legislation. I felt that what he had done after reviewing it and speaking with him I felt was suitable. I am asking to amend the current legislation. I would have to ask a committee member..

Chairman Rootovich

Alderman Deane what you could do is ask a committee member to amend this piece of legislation based on a copy that was placed on our desks this evening.

Alderman Deane

So moved, but I can't do that either.

MOTION BY ALDERMAN SHAW TO AMEND R-04-134 WITH THE COPY THAT WAS PLACED ON OUR DESKS THIS EVENING

ON THE QUESTION

Alderman Deane

I think this should be read into the record so that the viewing public and whatnot could understand it – if you don't mind.

Chairman Rootovich

Not at all.

Alderman Deane

What will be added is “By passage of this Resolution the Board of Aldermen supports using increased tax revenue to finance the match required for commuter rail understanding that the following tasks must be undertaken by the city before said match is available for the project:

1. A site which is suitable for the development must be identified,
2. A Development Agreement must be in place, which demonstrates the economic viability of the proposed development and guarantees that the proposed development will generate sufficient new revenues to pay for the matching funds;
3. A Tax Increment Finance (TIF) District must be established in concern with the Development Agreement and related Financial Plan; and
4. That bonds must be sold only after approval of the site, Development Agreement, related Financial Plan, and TIF to cover the city's share of matching funds.

The Board also recognizes that the following additional steps must be taken prior to finalization of the commuter rail project:

1. A Project Management Agreement must be executed between the New Hampshire Department of Transportation and the City,
2. A Transit Authority must be established; and
3. Development Operations and Management Agreements must be confirmed with the MBTA and Gilford Transportation.”

That is what I would request be added.

Chairman Rootovich

Thank you Alderman Deane. Also on your desks this evening I put some proposed amendments that Alderman Johnson had given me last night asking to pass out to committee members. From my perspective a lot of the language that she is proposing is pretty much parallel to what Alderman

Deane and Alderman McCarthy had suggested. I will leave it up to the committee if there is any further language changes you would like to make. Please take a moment to go through it, but again I think it is pretty much parallel to what has already been written.

Also let me say that I thank Alderman Deane and Alderman McCarthy for drafting the proposed language that clearly makes myself more comfortable in supporting this. The two areas that I had concerns with were addressed. I believe the language is suitable, and I will be supporting R-04-134. I want to thank you again for the efforts to draft that language. Thank you.

Is there any further discussion or comments?

MOTION CARRIED

MOTION BY ALDERMAN SHAW TO RECOMMEND FINAL PASSAGE OF R-04-134 AS AMENDED

ON THE QUESTION

Alderman LaRose

I didn't realize that we were going to discuss this tonight so I wasn't really prepared to address it. I will address it when it comes in front of the full Board of Aldermen. I have great reservations about this project. I think it is desirable, but I am not sure that we can really do this. I don't think that we should be burdening the taxpayers with a \$14 million bond. I understand how the system works. I understand that this is non-binding, but I still feel very strongly. As I said when it comes in front of the full Board I will have my reasons why I am not supportive of this at this time. Thank you.

Chairman Rootovich

Alderman LaRose you realize that with the amended language that Aldermen Deane and McCarthy have proposed, there are many checks and balances – a stopgap before we even get to that level.

Alderman LaRose

I understand the whole thing.

MOTION CARRIED

MOTION BY ALDERMAN SHAW TO RETURN TO THE REGULAR ORDER OF BUSINESS

MOTION CARRIED

UNFINISHED BUSINESS – RESOLUTIONS - None

UNFINISHED BUSINESS – ORDINANCES

o-04-19

Endorser: Alderman-at-Large Brian S. McCarthy

AMENDING THE PLANNING AND ZONING ORDINANCES OF THE
CITY OF NASHUA IN THEIR ENTIRETY

Discussion Topics Include: Article IV. Procedures. Division 1, Generally

Chairman Rootovich

Before we start, Jay you had sent me an e-mail today with respect to 16-422. Do you wish to address that before we start?

Jay Minkarah

Not particularly, but you did ask at the last meeting that I do that.

Chairman Rootovich

Please would you start.

Jay Minkarah

At the last meeting we had a discussion on Certificates of Occupancy and what the required period would be between the request for the Certificate of Occupancy and a request for a final inspection and the inspection. I discussed this with Mike Santa, the building official and Bruce Buttrick the Plans Examiner, and was surprised to find that there is no requirement. There is nothing in the building code that specifies a timeframe and there is nothing in the statutes that specifies a timeframe for a response. The department's policy, unwritten policy, is apparently to respond to a request within 24 hours. They generally do adhere to that. Obviously they can't always. Again there is no formal policy. My suggestion was we might ask the consultant where he came up with the recommended 7 day time period.

Chairman Rootovich

Roger do you remember why that was placed in the document, why there was that timeframe placed in there?

Roger Houston

I think that is the timeframe in existing ordinance. There is really no basis for that. The 24-hour turnaround is only for building inspections - electrical, plumbing, structural inspections. It has nothing to do with the application itself. Usually the turnaround time on that is roughly 30 days.

Jay Minkarah

If I could disagree. This section does not deal with applications it deals with a request for a final inspection. When I spoke with the building official they did indeed say their unwritten policy is to respond to those within 24 hours. They generally do adhere to that.

Chairman Rootovich

We will take your recommendations and send them on to the consultant with some further comments and suggestions.

We left off at our last meeting I believe on page 231, Section 16-424 to 16-429, Division 3 – Zoning Procedures. I would ask that we would start there. Section 16-431 – Zoning Adjustments – are there any comments, concerns or issues?

Jay Minkarah

My only concern with this section - it really starts on the next page is the statutory criteria. It lists some of the statutory criteria that exists around zoning. It doesn't list all of the criteria.

Chairman Rootovich

Jay just tell us where you are.

Jay Minkarah

Where it says statutory criteria. Page 232. It lists some of the criteria that exists in State law relative to the purposes and the limitations on zoning. It is not exhaustive. It is not completely conclusive. As you know State law tends to change very often. I would suggest that rather than listing it we just reference the applicable statutes and not try and replicate the RSAs in the document.

Roger Houston

That Statute is RSA 674:17. That should be referenced in this section. I don't necessarily see the need to spell out everything in that section in the code itself, but it is there for I think it was put there for explanatory reasons.

Brad Whitney

On page 232 number 3 – “New Hampshire law prohibits spot zoning. Spot zoning is the improper creation by municipal ordinance of a small zone of inconsistent use within a larger zone. However, small areas may be rezoned in a manner different from surrounding properties where consistent with the Master Plan, and there is a public need for the rezoning. The extension of district boundaries is not typically considered spot zoning.” This I would like to mention that D2 or the proposed D2 there are certain changes going on right now in process to get permanently change facilities from what D2 would be, and that would leave – if they all go through, that would leave only the area between Mulberry and actually Kinsley Street and Prospect Avenue. Between Mulberry and Kinsley on the West side of Main Street you have a public institution, the Chandler Library. What I am meaning to say is that this is a very small area that is undeveloped with the original buildings that have been there for a long time and it gives a character to the property, to the city, but the D2 zoning is not consistent with the Master Plan. It conflicts with them on 4 separate areas. I feel that the D2 area would be

conflicting with this number 3, and that the D2 is being not consistent and in violation of the number 3. I would just like to bring that to your attention.

Chairman Rootovich

Thank you. Is there anything further?

Jay Minkarah

Going down to the section on Amendments and Scope of Approval, I think there should be reconsideration for the way this is worded. It is worded as though rezonings are generally applications so if you look under (d) Amendments, it says "Any subsequent rezoning requires a new application for a rezoning and shall be processed..." Zoning changes are generally not applications. Any member of the Board of Aldermen can introduce legislation to change the zoning. It is not the same as a subdivision or site plan application. I think the reference to it as an application isn't correct. Under (e) Scope of Approval, it says "A rezoning authorizes the applicant to apply for a building permit..." That is also not accurate. I would eliminate those sections.

Chairman Rootovich

Are there any further comments? Moving on to 16-432 – Conditional Use Permits and 16-433 -- Special Exceptions -- are there any questions?

Roger Houston

Just backing up here. It just occurred to me with Mr. Minkarah's wishes to remove that existing application process there is a process and a fee associated with the rezoning application for an applicant who wanted to change the zoning on their property. It requires certain mapping positions and some other things that need to be done as part of that process as well as an Alderman to endorse it. Is it your intent to change those other sections as well relative to the fees and ...

Jay Minkarah

I didn't see them here. I don't know where they are.

Roger Houston

It is in another section in the back under fees. Anything you change in this code changes another section in the code unless you know the reference – that is one thing that we might want to look at.

Jay Minkarah

If there is another section that deals with the procedures for a citizen requesting a zoning change shouldn't that be in this section on procedures?

Roger Houston

There was one... it should reference ... I am not sure which one. That is something we can get the consultant or whomever to look at.

Jay Minkarah

That is another section? I haven't – I guess I haven't come across that in this document so I am not sure where – where would I find it?

Alderman Shaw

It appears that it is B31 – at least it says rezoning applications – that is page 399. It appears to be submittal requirements. Maybe there is another item in a different index as well.

Jay Minkarah

Maybe we can ask the application to look at this – incorporating this somehow and providing this and procedures in the same section?

Chairman Rootovich

Is that your understanding Roger? Original rezoning or subsequent rezoning?

Roger Houston

We have a process in place and this is rezoning application. Part of this process we first of all have to know where it is. It has to be referred to the Planning Board. The Planning Board staff does make a recommendation to the Planning Board and that recommendation goes on to the full Board in any map change or rezoning change for the official map. That is the process that we use today. There is currently a fee. I believe it is \$500, but I would have to look that up. It would be remiss to change another section in the ordinance unless the intent from a policy point of view is to do away with that section. If it is well then it creates procedurally a problem for the city that we have had in the past when a rezoning application comes along and no one has a copy or the maps are not there and no one has the information that is submitted – they don't know who to submit it to, it gets lost here in City Hall. We have had some that have gone up to the city attorney's office and it sits up there.

We don't see too many of these go through and that is why we established this application process. An ordinance was changed a few years back to correct that. I just didn't want to see this going back in that direction.

Chairman Rootovich

Okay.

Alderman Shaw

In the same context, the fees and the rezoning fee itself is listed on page 390, item #4. It is at least here the \$500.

Katherine Hersh

I think there was some question about whether or not the submittal requirements should be put up in this section under zoning procedures, but since Appendix B refers to submittal requirements it seems to make sense to me to just leave it where it is, submittal requirements, and it doesn't clutter up some of the other sections.

Jay Minkarah

I suggestion wouldn't be that we put the submittal requirements – of course we have the application forms there, but if there is a procedural process related to zoning that exists it should be in the section on process. If you will note if you go back to I think it is page 399 we have an application form here for conditional use permit, but if you turn to the section on procedures we also have a procedure outlined for conditional use applications. All application processes related to land use should be referenced in this section, and then of course the applications would be in the Appendix.

Roger Houston

Maybe under subsection (d) Amendments, we should just have a reference to that section under submittal requirements so that sends the individual to the procedure for that section.

Chairman Rootovich

Anything further? Continuing with 16-432 – Conditional Use Permits and 16-433 – Special Exceptions – are there any questions or comments? No comments or issues? Moving ahead to 16-435 – Concurrent Zoning Amendment and Site Plan Approval – any questions or comments?

Roger Houston

This is just a typographical, but under – about $\frac{3}{4}$ of the way down under subparagraph (b) Initiation, the last word it says “officer personnel” it should be or designee – strike the word personnel.

Chairman Rootovich

I would have to assume that if this came into a formal amendment we would have a long discussion on it.

Brad Whitney

Page 236 (a) Applicability (2) “Any rezoning to a PI or GI zoning district in which the Planning Board determines that the proposed development will generate significant increases...” Is there or should there be criteria for the Planning Board or a balance or is it just the Planning Board has the sole authority to determine whether or not it will increase revenues and jobs?

Chairman Rootovich

Mrs. Hersh, Mr. Houston or Mr. Minkarah do you wish to respond? I assume it would come with a recommendation from staff.

Katherine Hersh

I guess I sort of think that this is a relative issue. It depends on what the economy is at the moment. Whether or not it is a significant increase in jobs and employment. It could be a significant increase in jobs and employment if it is a small number of increases but the economy is not good. I guess this kind of gives that flexibility. I am not sure how you would – I think you are asking if it can't be more definitive about quantifying that?

Brad Whitney

Whether there should be a balance. I don't particularly have an objection. I think it is important to be able to understand there are certain situations where it will have a beneficial impact on the city for jobs and employment and industry that is all well and good. I just noticed that the only person that determines that is the Planning Board. My question is does that satisfy all people here?

Chairman Rootovich

I look at criteria as it is written here not require a significant public expenditures for service and infrastructure.

Roger Houston

This section is currently in the city zoning ordinance. I think it was 1989 when it was introduced. It has been used a couple of times in the city. It is a timing mechanism. It allows the Planning Board basically to approve and review a site plan at the same time as a request for a zoning amendment and the map is also being introduced to the Board of Aldermen. It gives an opportunity for the Planning Board to conditionally approve the site plan and forward that conditional approval along with the recommendation on the rezoning to the Board of Aldermen who make the policy issue on the zoning map amendment. I hope how I have described that is clear. It is not used very often. It is here, it is on the books. If someone wants to use it, it requires someone to up front all of the engineering costs relative to the site plan before they discover whether or not they get their rezoning approved by the Board of Aldermen. There is a certain risk element associated with this. That is why it hasn't been used a lot. Those that are willing to take the risk, and it has been a tool for the Aldermen in a sense they can see what the Planning Board is approving in terms of the site and how it will function, what the buildings will look like – this ordinance was written out of response to -- and Alderman LaRose probably remembers this – the issue of a rezoning over on Amherst Street – the villages where the Kmart plaza is today. This was written in regards to that. That is why it is on the books. There are some minor modifications to this from the consultant, but none that are major.

Alderman McCarthy

Is that the last place where we applied it?

Roger Houston

I believe the last one that came in was where Home Depot is on D.W. Highway – that whole shopping center was processed that way. Most of the site was heavy industrial at the time and they came in with a site plan and a concurrent submittal at that point in time with the rezoning. It took them approximately 3 months.

Alderman McCarthy

I am thinking hard about the likelihood of utilizing it given the problems with having to engineer the site first. It sort of strikes me as putting the cart before the horse. What we have done more recently on rezonings is basically to do rezonings that have performance criteria for the subdivision plan built into them, which basically defers the engineering cost until the policy issue over the change in use has been brought up. I am just wondering how useful it is to keep it the way it is. I understand the goal of trying to streamline the process, but it just seems like it is a big risk to ask developers to take and one that the Board has run into problems with where we have basically told the developer to go ahead and think about something and have them expend a significant amount of money and come back to the board, and at that point we are in an extremely adversarial position if the Board then has a clearer articulation of its performance criteria that is not matched by that site plan.

Maybe we want to look at it the other way around – are there ways where we can better articulate what the criteria are that we want from some of the zones to make it more obvious when you will be able to come in with a successful site plan?

Jay Minkarah

I would agree with that completely. I didn't really see an advantage to it in terms of streamlining simply because of the risks as mentioned, but didn't want to really go through too much comments since it is already existing, but I do agree.

Alderman Shaw

Originally I was going to make the comment regarding the Board of Aldermen's involvement. The other thing I am still not sure I am interpreting this correctly or not. The one thing it appears that there is initiation comments – it says after "accommodate the contemporaneous" with the introduction to the Board of Aldermen with legislation amending the zoning ordinance. It seems that it really doesn't necessarily allow for the applicants to be ahead of that legislation, but only really as either concurrent or right after legislation do the rezoning. I am not sure that really changes much in the crux of the comments that Alderman McCarthy just made either, but I don't know if this is a little bit different in terms of statement and what current practice allows or if it is just a matter of where things get to a formal stage in the process. I don't know if Mr. Houston has any comments on that or not.

Roger Houston

There again I have not reviewed this word for word recently, but I think the purpose behind this is as I stated earlier, to provide – it was an economic development tool at one time. Perhaps it isn't any more. There was one project I remember that was a very – I think the city saw as a very important project, but it evaporated because of the merger and there was a proposed change and was going to use this process, and they spent quite a bit of money up front in engineering costs at the time and unfortunately the project went away not because of the process but it went away and it was going to provide several high quality jobs to the community and it went away because of a merger I believe in Dallas. You can argue the points. You could take it out or leave it in. I have no preference one way or another. It might be used or it might have some usefulness in the future.

Katherine Hersh

Is there a downside from the city's perspective for leaving it in because it certainly sounds like it has been used on occasion and I would think that if there isn't a downside to the city then we would want to leave as many options open as possible. I guess I don't know I direct it to maybe Alderman McCarthy who had some comments about it.

Alderman McCarthy

I guess I just see it as leaving infrequently used verbiage in like the current planned business developments – one of the complaints we have had about the ordinances is that they are too lengthy so one of the easy ways to address that is to remove things that aren't likely to be used anyway. The other thing I have seen particularly with the planned business development is you then have different criteria for doing the same thing, which may result in confusion or interesting roundabout ways to get to an end result. I am not strongly opposed to leaving it in, it just doesn't seem to me like something that is ever likely to be a strong advantage, and, therefore, why have more language than we need.

Brad Whitney

My feeling is that at worst it should be left in. As Mrs. Hersh said, in the case of economic change or downturn it is an avenue, which can be used. Without it I don't know how you would address solving a problem of if there was a severe economic downturn at least it gives a method which the Aldermen can use to accomplish something that if it is a benefit through jobs and not a safety hazard or detriment. My comment was only whether or not there should be a balance in the judgment of it. I do think something of this nature is important to have in because in the past 30 years you might not have had a need for it, but in the next 30 years you may well want it. Thank you.

Alderman Shaw

I am inclined to suggest that we leave it in – maybe in light of the discussion I am wondering if it might be appropriate perhaps essentially after the sense and the purpose where it says “It is the intent of this section to provide for a streamline process.” To add either some sort of caveat that speaks to the risk of the investment in the preliminary work just the nature of doing this in a concurrent fashion that it will put the applicant at a greater risk of investment without guarantee of approval or something to that affect. I think it essentially highlights, and this creates an opportunity, but it also does state up front

that there is more risk in terms of investing in something that there is not a guarantee of support for.

Chairman Rootovich

Is there anything else with respect to 16-435? Moving on to 16-436 – Appeals from Zoning Actions – any questions or concerns?

Jay Minkarah

I think there is some confusion with 16-436 and the following sections; 16-437 – Variances From Zoning. Without going into a lot of detail I think it stems from if you look in the statutes appealing for a variance – appealing anything to the Zoning Board is all considered an appeal, but if you will notice on the bottom of page 238 you kind of go through the process and say this is the approval criteria and they list the hardship criteria. Then if you go to 437 or Section 16-437 and you go to page 240 again you list the hardship criteria. There is an overlap to the method and a confusion between the two. I would suggest that the consultant look at these and remove the redundancies and kind of reconcile those two sections.

Chairman Rootovich

Roger do you know is either one of these new or are they both in the old zoning ordinance?

Roger Houston

I don't believe so. There are a few of them that the decision of the administrative officer and any decision that is made and then there is the variance process, which is essentially a variance – an applicant request from the terms of an ordinance where there is a dimensional variance like a setback or a use variance. I don't procedurally see any problem here. I know the consultant did spend time with David Connell, Corporation Counsel, on some of these points. I assume this is one of those. It may be further expanded from existing ordinances.

Jay Minkarah

Section 16-436 deals with appeals from zoning actions. If you look you go through applicability, initiations, completeness review – you go on to page 238 – Decision, you go down Approval Criteria and it lists the hardship criteria for variances. That is not the criteria for an appeal for an administrative decision. It is whether or not the administrative officer made an erroneous decision. This criteria doesn't belong here. There is confusion between the following section related to variances and this section. My only request is that the consultant reconcile those inconsistencies – the problems between the two.

Roger Houston

Maybe if we refer to it as appeal from – maybe not zoning action because I think that is in appropriate – approval criteria probably should not – that appears to be some sort of repeat there that perhaps shouldn't be there under (f).

Mike Lowe

I don't have the updated book, but isn't there somewhere in here where the Planning Board can send back to the Zoning Board something that it doesn't approve, that it thinks that the Zoning Board should look at from maybe another point of view? This is that section and I don't see anywhere where the Planning Board can send it back, and I know there is a section somewhere.

Jay Minkarah

I don't know that it expressly needs to be in here but it could be. The Planning Board does have the authority to act as an administrative officer and make a decision based on the zoning ordinance. In that sense they could reject something on zoning grounds and send it to the Zoning Board.

Alderman Shaw

This is maybe more housekeeping, but it appears that the use of the term just I think Board of Adjustment at one point in here to refer to the Zoning Board of Adjustment – at the beginning of 16-436 right in the purpose section I think it states it that way twice. I know this might be jumping ahead, but 16-437 it says the Board of Zoning Appeals now do we actually have a Board of Zoning Appeals as a separate entity or is that just...

Chairman Rootovich

They are one in the same. We can clarify the language on both of those. Are there any other concerns with either 16-436 and 16-437?

Brad Whitney

On 16-437, page 240 (f)(2)b – “In granting any variance pursuant to this subsection, the zoning board of adjustment may provide, in a finding included in the variance, that the variance shall survive only as long as the particular person has a continuing need to use the premises.” If I am correct that would mean that if someone had permission to do something and let's say for one example in-law apartment we will say and they invest a lot of money and the in-law dies that is the end of that apartment and now if they have made changes they either have to live with those changes or may additional money to revert back to prior condition to eliminate the apartment and they may be having a couple of mortgages – in order to do this the cost of elder care it may be prohibitive and out of reach for a lot of people. There are other instances I am sure where this particular revision reverting back to the original condition or no longer permitting the grant of use could create tremendous financial hardship, it could discourage people from investing – it leaves them with no avenue of relief. I just wonder if there is a better way to allow either to limit this to certain special criteria or whether or not – I just see no compassion here at all and for the expense and investment it could put tremendous hardship on someone.

Chairman Rootovich

I guess as I read it says “may provide” it is not an absolute.

Brad Whitney

That is correct. That would be the judgment of the board is that correct?

Chairman Rootovich

As I read it yes.

Roger Houston

The Chair is correct in that assumption. Basically with the ADA if someone has a physical challenge and they need a ramp or they need some other structure revision that is within a side setback or whatever then they could say permit the variance, but they could also put a provisal on it that when that person that is living in the premise leaves that the structure be removed. They may do that. We don't see too many of those, but usually that hasn't been a problem in the past.

I had one other comment on this section after approval criteria – The New Hampshire Supreme Court can modify some of these criteria. We need to have the current case law reflected.

Brad Whitney

I wondered if they would consider in the event that the board was to determine that what was granted be removed if whether they could allow an appeal by the citizen in the event that they had to remove something. I wasn't thinking particularly of this, but if you allow an addition to go on within closer to the property line it would be kind of ridiculous to make them remove the addition to the building, but I was thinking more of changes that weren't outside visible. If there was an appeal allowed at least the citizen would have an opportunity to explain themselves rather than just have to accept it.

Alderman McCarthy

I guess you know we have an appeal, we granted relief, and then we want an appeal process to relieve the stipulations on the appeal. We have a zoning law to protect the value of properties in the community. If somebody comes and asks for relief from it, which is permission to do something which is on its face not legal when they come in, we make reasonable accommodations for that – I don't want a process where we encourage people to come in and make large investments in changes to their property that are not in keeping with the zoning code and adversely impact the rest of the houses in their community. If somebody comes in and says I have an in-law who has a problem and I need to put a ramp that extends into the setback that is fine let's do that. Ten years later when somebody else owns the house that shouldn't grant them the right to build a sun porch in that same space that overhangs the neighbor's house and impacts them.

When we make accommodations and there are stipulations they should be stipulations. We don't want to encourage people to break the zoning left and right because that just gets us to the same situations that all of us who sit around here on the Board see time after time with neighbor disputes

over the way a development goes.

Alderman LaRose

It seems to me that if I come in and I want to put a handicapped ramp for one of my in-laws or whatever and a stipulation is put on there, I know that stipulation is there. It is not like they didn't know. You are told that once that person is no longer residing in that house that ramp has to come down. I don't see why there should be such a problem.

Jay Minkarah

I think that this section has a very, very narrow application. I don't think in general it is intended to be used for things like handicapped ramps. We have a section that deals with encroachments already with the very minor encroachments and then the next level of encroachments. I think this is really primarily intended as a relief valve for some sort of accommodation that for a type of handicap that is really difficult for us to perceive, but we want to make sure that we have a procedure in place ... tape flipped ...

Brad Whitney

I think that I might have misinterpreted what you said – they may provide that. I was under the impression that in certain circumstances most all of them would be that way, but it is not it is only when the Board determines. Thank you.

Chairman Rootovich

Is there anything further with 16-437 and 16-437?

Roger Houston

Following up with Mr. Whitney on the same issue, you do have the right obviously if you don't like the stipulation the board puts on your application you can certainly appeal that stipulation, ask for a re-hearing then appeal it to the board.

Alderman Shaw

Just more housekeeping, but this section that we have been talking about really should be numbered section 3 because right now there are two section 2s. Also at the beginning of that section it says "Pursuant to RSA 674:33, the Zoning Board of any zoning board of adjustment" I think that should just say the Zoning Board of Adjustment. Then I guess I would just as our consultant to basically in the rest of this section through G, H, and I it appears that we were referenced the board in several different fashions sometimes capitalized, sometimes it is just the board, and sometimes it is the Zoning Board of Adjustment. I would prefer to see it be consistent and clear.

Chairman Rootovich

Is there anything further? Moving on to Division 4, Subdivision Procedures – any comments?

Jay Minkarah

I don't want to jump ahead of anybody – starting on page 242 – this is really minor – Recordation of Unapproved Plat Prohibited – it is awkwardly phrased, but it says the “Register of Deeds shall not file” – I don't think we can dictate what the Register of Deeds can or cannot do. Perhaps an applicant can't record. We can try to look at it that way.

On the next page on 243 – I was a little confused about what was intended in this paragraph. This is a section on the completeness review and in the very last sentence it seems to suggest the board may upon motion of any member determine if the application is complete and then it is approved with conditions or denied at the same public meeting. I am not sure if the intent here is that is referencing an expedited process. It just surprised me to see in a section on application completeness that there is a sentence that says that they can also take final action on it that night because it doesn't seem to give with the section on decision that comes after it. I would ask that the consultant look at that. I am not sure if there was an intent there or if that section came from another section and really wasn't supposed to be there. I would just ask that be looked at.

Brad Whitney

On page 241, Division 4 the last bullet – in the code book the code does not permit private enterprise to utilize anything that is moved by the wind. It is perfectly okay to have an energy system. There is a little inconsistency here. It is okay for one but not the other to utilize the wind. Thank you.

Jay Minkarah

On the top of page 244, the statement there I think we have some word mergers or something. The first sentence isn't a sentence, but I am also not sure what is being referenced here where again we have gone through the section on decisions, then we have decision again and a statement referencing the preliminary layout, and I am not sure what that is supposed to do. I have come across this a few times in this section where there seems to be something that seems out of place and I am thinking that there has been some word processing issues. I just as that the consultant take a look at some of these areas where I think we have some sections merged or words merged.

Chairman Rootovich

Are there any further comments? I will take comments on Subdivision Procedures and 16-440.

Jay Minkarah

On the Scope of Approval on the bottom of 245 – number 3, first statement “all applicants shall complete all street, sanitary, and other public improvements of the subdivision as required by this Chapter before the plat is recorded.” I don't think we can do that. I don't think we do that now. I think we approve a subdivision plat, the plat gets recorded. You don't make the improvements first. I know that we can require that. It also says in a subsequent section that they can't sell the lots, and I don't

think that is accurate either. I don't believe we can do that.

Mike Lowe

Mine says as accepted in providing in 16-445 so maybe that got dropped out.

Jay Minkarah

Maybe I am wrong in looking at 16-445. Maybe I misread it.

Alderman McCarthy

Jay could you go over what the issue is again?

Jay Minkarah

I apologize I misread that.

Alderman McCarthy

It seems to me that we do do that. We require you to put in ...

Jay Minkarah

I misread the reference to 16-445, which is performance guarantees.

Chairman Rootovich

Is there anything further? Moving on to 16-441 – Preliminary Conceptual Consultation – any questions? We will also go through 16-442, 16-443, and 16-444. Are there any comments?

Jay Minkarah

On 16-443 under Decision, you go down to subsection (2) and it says “a conditional plat shall be certified to the Planning Board by the Administrative Officer” and I wasn't sure what that meant.

Roger Houston

I am not sure what they mean by that. I believe this is language in the State Statute. I suppose we could do certify by letter or affidavit. The city currently does not have this section. This is probably right out of RSAs. We currently don't practice conditional approval. We do have stipulations and traditions or approval by the Planning Board that can be lengthy timing. We have not followed this particular section. It is available. The consultant put it in. I think the committee felt it was a good idea to have it in there and we would have to cross that certification process when we get to it. It is a good question.

Alderman Shaw asked me about the number 3 about the written letter and that is done currently. If I could jump to 16-444 – under Applicability it says “Before the Planning Board approves the building permit,” it should be before the Administrative Officer approves the land use permit – land use and building permit actually.

Alderman Shaw

Another consistency thing – it looks like in 16-442 and the beginning of 16-443 there are references to the board or just board, and again I would like to suggest we just state Planning Board directly there.

Chairman Rootovich

Is there anything further?

Brad Whitney

Page 248, (a) Applicability (2) B – This apparently is designed for developers to make sure that they don't go selling a house before it is completed and the city has a guarantee that what they say they are going to do gets done. There doesn't seem to be any opportunity for an individual who – I don't know if anybody is able to do it now, but to build their own house and if they wanted to move in and do their landscaping at a later date according to this I don't know – would it be that they could not move into their own house if they hadn't done every single thing? Is there a way to have it so that if the owner is occupied he cannot sell it to somebody else or let another person live in it, rent to another person, until it is done, but if he wants to live in it himself before certain things have been completed well if it is safe and healthy and all that ...

Chairman Rootovich

I don't think this pertains to any additions, this is new construction.

Brad Whitney

I was thinking new construction.

Katherine Hersh

In section (3) B on page 248 it talks about sidewalks on lots occupied during winter conditions will be paved prior to the completion of the lot's landscaping or the next succeeding June 1, whichever is earlier. It gives that flexibility because we do run into that in the wintertime where somebody is building something and it gets to be too late to be able to finish that landscaping or whatever and we certainly don't prevent people from moving in if there aren't live safety conditions.

Chairman Rootovich

Moving right along – 16-445 – Performance Guarantees – are there any comments? Moving on to 16-

446 – Revocation of Recorded Approval – any questions or comments?

Roger Houston

I am not sure – I think if we are going to allow this provision under State Law – it is shown in italics here, but “A plat may be revoked as provided for in RSA 676:4-a. I think if we want to use this process I think we probably should just list it in the ordinance. The city did use this provision in the early ‘90s when we had several of the banks go under and we had I believe it was 4 subdivisions that the city and the Planning Board went after under revocation statutes. It could be handled either way. It just would seem awkward if we are going to use it – we have quoted the RSAs verbatim and it would save someone going to the RSAs to look it up, but it could be a constraint in terms of how thick is the ordinance.

Chairman Rootovich

Is there anything further? Moving ahead to Division 5 – Site Plan Procedures, 16-450 – Site Plan Procedures, Generally – any comments? No comments or concerns?

Roger Houston

Are we on 16-452 yet?

Chairman Rootovich

We can do 16-451 and 16-452.

Roger Houston

I think there is in the first section under purpose it refers to Article V-XIII. I think it should be Article – there is no Article XIII. We will have to figure out which section it is and correct that.

Chairman Rootovich

Are there any further comments? There being none Division 6 – Other Review Processes – 16-461, 16-462, Division 7 – Appeals, Variances & Waivers, 16-470, 16-471, 16-472, and Division 8 – Enforcement Procedures – 16-480, 16-481, and 16-482 – are there any questions or comments? There being none – Article V – Development Standards for Site Plans and Subdivision Plats – 16-500 – Applicability, 16-501 – Americans with Disability Act, 16-502 – Official Map and 16-503 – Bonds – are there any questions or comments?

Jay Minkarah

Under the section of Americans with Disability Act – I am not sure this could be our current practice. I am a little concerned in referencing that everything shall comply with it only because I am not sure we would want to be in the position of necessarily enforcing it. It is very complex and very detailed. It is certainly a good idea for everybody to do it, it is the law that they have to, I am just not sure if we

should be in an enforcement position relative to it given its complexity. Maybe that is already our current practice. I am not sure.

Chairman Rootovich

Mr. Houston or Mrs. Hersh are we currently enforcing that?

Roger Houston

We can enforce on a site plan where we require certain ADA compliance. There is another State agency and I think there is a Federal agency that works on a regional basis. We have had those situations in the community in the past on existing situations. It depends who wants to enforce on it. We have enforced on site plans that show handicapped spaces that for whatever reasons aren't maintained. We have gone after those yes.

Alderman McCarthy

I guess I am sympathetic to Mr. Minkarah's concern, which is not can we enforce it, but if we state in our ordinances that we shall enforce it what additional burden does that put on us that we don't currently have in terms of perhaps liability if we fail to notice a glaring violation of the ADA in a site plan review?

Roger Houston

I am not an attorney and we do have an enforcement department that handles these things today. My opinion is the city can – the word shall probably should be replaced with a may. I don't like to see us obligated to – if you don't have the resources you can't enforce on it. I think that is your question correct Alderman McCarthy?

Alderman McCarthy

Yes. Either that or where we fail to interpret the ADA in the way that an authority higher than us would interpret it eventually and then are found to have not complied with our own zoning ordinances for failure to ensure compliance with the ADA.

Katherine Hersh

I am not sure if this is related or not, but it just seems that there is a lot of things in this city that aren't quite compliant as it is. I am not sure if this is different than that.

Alderman McCarthy

I guess my concern is I agree with you there are things and we do our best to try and get things to comply, but as Mr. Minkarah points out the ADA itself is perhaps more complex than the rest of our zoning code in its entirety, and therefore difficult from an administrative standpoint to be sure. What I would hate to see is somebody come back and say the city had an obligation to make sure that was

not quite in compliance and therefore ...

Katherine Hersh

We have that all the time – we have that on occasion with other things as well. Are people required to have theft systems or whatever and sometimes those get for whatever reason they are not being used properly and whatever – because we haven't found it or enforced on it doesn't I don't think puts us in a more liable situation. It doesn't go off. Do you know what I am saying?

Alderman McCarthy

I think in general you are correct that we don't gain any additional liability by mandating that, but I ...

Katherine Hersh

We can certainly flag this one and then have somebody legal ...

Chairman Rootovich

I guess that one word alone will make a difference – rather than shall we use may.

Katherine Hersh

We have to comply with it anyway as it is law.

Roger Houston

It probably should remain shall, but I think the onus if we are talking about a new site plan usually when you are dealing with a subdivision – if it is a ramp on a roadway system the engineer or architect of record is required to know these statutes and comply with them. I think if there is any kind of action to be taken it wouldn't be the city it would be against whoever drew the plans and stamped them as such that they comply with ADA regulations. They do change from time to time like any federal statute. Most professionals keep up to date with those changes and rulings that come out.

Chairman Rootovich

What if you have a plaza that has three businesses in the plaza and the one in the middle is completely renovated – it is gutted out and gets renovated and they have to come within compliance with the sprinkler systems and emergency doors and other things, but the businesses to the left and the right have so many violations yet they continue to run with those violations and nothing is done, but the individual who wishes to renovate his property is put under the microscope to make sure that every little thing is done ..

Katherine Hersh

If there are violations then that is not acceptable and we enforce on the violations. I think what might

be the difference is that one person might have a system that was legal by the books in 1985 when that was done and then now somebody comes along and the codes are different and have a higher standard. When those buildings are renovated they have to make them with the standards of today. Certainly the one in 1985 still has to meet the code in 1985.

Jay Minkarah

I am going to make the same comment on the next section on Multifamily Housing in reference to the Fair Housing Act. Again you do have to comply with the Fair Housing Act, but it is Federal Law. I just don't think we should state it is a requirement of our ordinance. In both cases I would suggest that we might – what starts with the second sentence “applicant should consult the ADA Technical Assistance Manual” then if you look under Multifamily Housing “Applicants should consult the Fair Housing Accessibility Guidelines” – I think those are fine telling people they should consult them and that we reference them. It is that first sentence that they shall comply with that concerns me.

Brad Whitney

I am wondering if the city should have it checked against the ADA codebook. I do know that the ADA does not allow you to demean a handicapped person and make them use the rear entrance if they are in a wheelchair by not putting a handicapped ramp in the front where the public use is. You can't do that. Where the city has rear parking and they have a front door and I can see situations where it would be beneficial to have the handicapped entrance near the parking lot where they park their car or the handicapped vehicle, but as I understand the code it would require them to go around and utilize the front door and not lengthen the distance they would have to walk and whether there are steps involved in the process. I do know that I think with Peterborough, NH one of these towns had to spend a tremendous amount of money to put a handicapped ramp so that the handicapped people could use the front door of their old building when they had a very adequate ramp or entrance in the rear, but it did not meet the standards of the ADA. You don't want to get involved in something that you weren't aware of.

Roger Houston

I think this provision needs to be looked at by Corporation Counsel. Obviously the land use consultant that put this in there probably this is a provision his firms puts in most land use codes that they put together across the country. There may be some reason behind that, but I believe that Corporation Counsel should look at that and advise the city what they should do.

If I may back to page 258 I caught something here on the back of my eye – under 16-461 – Wetlands Application, this change it should be Zoning Board of Adjustment and scratch out Planning Board at the end of the sentence. I think when the first draft came out I believe the Conservation Commission was thinking about having a Planning Board be the review agency and that went back and forth and stayed with the Zoning Board of Adjustment. That needs to change.

Chairman Rootovich

Is there anything further with respect to 500-503?

Alderman Shaw

Just maybe for clarification. I am kind of curious why under the official maps, 15-502, page 259 under applicability and there are items 1 and 2, which seems to be very specific to a couple of street plans from 1972 or road improvements and it just seems like that information appears to be somewhat out of place, but perhaps there is some reason that needs to be accounted for here.

Roger Houston

This section – the official map is essentially only parcels that have been officially mapped in the city are those two referenced in there plus any subdivision plans approved when that statute came into affect. There is perse no official map construed by the city other than those mapped as indicated in this section. I think the committee itself they wanted to leave that in – those two official maps that had been done, and leave it at that.

Chairman Rootovich

The city does not have an official map?

Roger Houston

Not under the terms of that RSA no. That has been kind of a misnomer for years.

Chairman Rootovich

We have an official city map because remember that the Board passed legislation in years [past changing certain parts of the official map. Is there a different official map other than what the RSA 1674: states?

Roger Houston

I think you might want to consult with Corporation Counsel. The Board may have made changes to the official map, but technically speaking an official map doesn't exist. There is a city map that is prepared by the city engineer, but that has never been adopted as the official map in the city.

Chairman Rootovich

Let me ask my distinguished colleague to my right, Alderman McCarthy, with respect to this – we have had legislation before us before where we have made changes to the official city map. Mr. Houston has indicated that there is no official city map.

Alderman McCarthy

I thought there was.

Chairman Rootovich

That is what I thought. We have passed legislation – I know there was some pretty hefty discussion while we were doing that. I don't know what the legislation was for. It goes several years back.

Alderman McCarthy

May I ask Mr. Houston to repeat whatever ...

Chairman Rootovich

We are on 15-502 Alderman McCarthy with respect to the Official Map and he said the only really official map we have is in section 1 and 2 in here.

Roger Houston

Technically speaking the subdivisions that were approved after the time of the statute are part of the official map so if the subdivision was subdivided at the time of the statute then it is part of the official map as long as it was approved and recorded by the Planning Department, but there is no physical map that the city has and uses and calls the official map. There have been some various different – we had a different city attorney I think when those changes went in and the city attorney or Corporation Counsel was advised at that point in time. That is something that because we have a lot of old land plans and streets that existed in this city long before the statute that no official map has even been, to my knowledge, has even been prepared.

Chairman Rootovich

Did you say that the city engineer has one it just hasn't been ...

Roger Houston

There is a city map of the city that has been prepared by the city engineer that shows the location of city streets and private ways and I think everyone generally construes that somewhat as an official map.

Alderman McCarthy

Is it under State Law is it the purpose of the official map to show the layout of the streets or the edges of the zoning or both?

Roger Houston

It was originally designed to preserve corridors and future streets and locations in the city as well as layout those that had been approved by the Planning Board. I am certainly not prepared to get in a discussion. I would like to read this section. I know we had this discussion at the committee level.

Alderman McCarthy

I think this is taken verbatim out of the existing ordinance.

Roger Houston

It is.

Alderman McCarthy

I think this is like 1624 in the current ones, but in the discussion it seems like it is almost a mute point. For the purposes that we maintain the city map the one that is maintained by the engineer's office is good enough, which is the mapping of where the corridors ought to be, etc. Any dispute over the actual physical boundaries of any of those things is going to go back to the legal descriptions of the properties that are recorded with the deeds anyway so it is almost anachronistic to have a different map than that because I don't think that it can serve any purpose other than the guidance that we currently get from the one that we apparently haven't ever accepted as the city map.

Jay Minkarah

Basically trying to explain what it is – it is confusing to most people, but this is really an anachronism. This is not something that – I am not sure there is any New Hampshire municipality that has actually gone through an official map process. There may have been some. What this is is not – a lot of communities have a map, which they have accepted. We accept that this accurately shows our streets. This is really something that is more akin to a Master Plan. The concept was is that communities have to go through this process. This is probably verbatim out of the statute adopting an official map where you laid out new roads. At one time the feeling in Planning was even actually lay out the street system for your community and you went through a hearing process and adopted it probably I think by town meeting if you were a town and then you establish a process for amending it. That is why it is referencing building permits, appeals because once the city adopted an official map you couldn't develop your property in a way that was inconsistent with it. This is really not something that we would be doing. I don't know any community that does it anymore. It is an anachronism.

Mike Lowe

It was 1972 when they put in the bypass. They wanted to keep those roads rural. That is what it is all about. There is some sort of a codicil or something when they started to develop that Spit Brook Road area it said that those roads; Lamb Road, Middle Dunstable, East Dunstable would remain rural. That is the reason for this. Obviously it is 35 years later and things have changed and it probably doesn't need to be there anymore, but it is there. That is the reason. I can remember it because I was buying a house in the area at the time.

Roger Houston

The two that are referenced under Section Applicability, those are actually engineer-surveyed plans that were stamped and drawn to scale and they show everything and they are on file with the city Engineer's office. Those have surfaced on a number of different occasions. Most recently it was with

the subdivision on Middle Dunstable and Searles Road. The city can elect to purchase the land that is shown on that area that they officially mapped. We can use it to purchase that land. It was designed to be a planning tool. The city lays out these streets and these locations, and if you want to subdivide then the city has a right, if it is part of the subdivision or the city – it is complex – it is – Jay is absolutely correct it is an anachronism, but the city has the right of first refusal on the land if someone is to subdivide it or sell it the city can say we want to buy this land for this road as a planning tool. I think Corporation Counsel would tell you the same. We may want to see this section removed I think from a staff point of view. That is a policy decision.

Alderman McCarthy

Particularly the Spit Brook/East Dunstable plan is that currently still accurate as of the – in the early '80s we re-aligned the intersection with Spit Brook and East Dunstable and Lamb and New Dunstable and Ridge and New Dunstable – I think probably Searles as well. Was that all in keeping with what is in the plan?

Roger Houston

I will try to answer that. I don't know exactly – those plans are filed with the engineering department. They are reviewed and looked at. They essentially lay out the corridor. We don't actually construct the road. They reserve a corridor and a strip of land. They are still in affect. They have never been removed from the process. They are still on the books so to speak.

Alderman McCarthy

My question is, and I think we would have to look at the plans to understand it, is when those re-alignments took place my recollection is that where the road was and the right of way changed fairly dramatically in some of the ones where we turned the East Dunstable intersection from a T in one direction to the other. I am wondering whether that was what was anticipated in the plan or whether we did something else.

Roger Houston

Without looking at the plan I couldn't tell you. I know that there was considerable right of way shown on the official map essentially for Lamb Road that was quite excessive because they had to deal with a severe slope issue when they originally laid it out and I suspect that is why we laid it out because of the slope issues and the grade issues there.

Chairman Rootovich

Does anybody want to see a city map? Is there anything further in 500 and 503? Moving on to 16-504 – Standard Specifications – any questions or comments?

Division 2 – Site Design – 16-520 – Applicability and 16-521 – Lot Layout and Configuration – are there any questions or comments?

Ahead to 16-522 – Blocks, 16-523 – Frontage – are there any questions or concerns?

Mr. Houston as we are going through this if there is any additional language that wasn't in the original zoning ordinance I would appreciate just highlighting that as we go through it.

Roger Houston

I have generally gotten to look, and I haven't gotten as far as Article V. I can try to paste it with the existing code.

Chairman Rootovich

Moving on to 16-524 – Utility or Conservation Lots – any questions? There being none moving right along to Division 3 ..

Alderman McCarthy

I just have one small comment on 16-524. Utility lots we exempt water towers, telephone, electric, sewer, etc. I wonder if we want to be a little more specific about that being telecommunications and not necessarily just telephone. We currently don't except under etc. allow for a network infrastructure for example.

Chairman Rootovich

Good point. Is there anything further in Division 3 – Adequate Public Facilities? Am I ahead of where you have gone Mr. Houston or Minkarah?

Jay Minkarah

You have passed it. I didn't think we would get this far.

Chairman Rootovich

Would you prefer some time before we continue to go through that?

Jay Minkarah

I wouldn't want to hold up the rest of the committee. Certainly I would, but I wouldn't want to hold up the rest of the committee.

Chairman Rootovich

What is the committee's pleasure?

Alderman Shaw

We are ahead of what I had reviewed through also. I guess I would appreciate it if maybe we break somewhere around here and pick back up.

Chairman Rootovich

We will continue our next meeting with Division 3 – Adequate Public Facilities. Are there any discussion items before I accept a motion to adjourn? I want to thank Mrs. Hersh, Mr. Houston, and Mr. Minkarah for going through the document prior to our meetings and giving us the input. It is sincerely appreciated. Is there any further discussion?

NEW BUSINESS – RESOLUTIONS - None

NEW BUSINESS – ORDINANCES - None

HELD IN COMMITTEE

DISCUSSION

-
Brad Whitney

I just mention that in 1932 when we moved into our two-car garage house it had no water, no sewer – we lived on a cement floor. We got water from a hose from the neighbor. We had a chemical toilet and it was my brother's job first and then me to dump it out in the woods. The people across from us had a cow and an outside – a three-holer by the way. Times have changed since then. We had to leave our window open in the bedroom because people would get affixed from the kerosene stove. We had a trap door to keep the heat downstairs and we slept upstairs in a freezing cold room with no heat and the roofing nails would get all frosty. The snow would pile up in the bedroom because the window was open. It was a little different than what the law requires today.

Chairman Rootovich

I guess my only comment is ah the good old days.

-
Brad Whitney

The other comment was it was in the depression and the fellow who co-signed the note for \$1,200 to build the house he was an unemployed carpenter who was helping my father. He co-signed.

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ADJOURNMENT

MOTION BY ALDERMAN LAROSE TO ADJOURN
MOTION CARRIED

The meeting was declared adjourned at 8:50 p.m.

Alderman Kathryn D. Vitale

Committee Clerk