NEEDHAM PLANNING BOARD MINUTES

April 15, 2009

The regular meeting of the Planning Board, held in the Performance Center of the Broadmeadow School, was called to order by Martin Jacobs, Chairman, on Wednesday, April 15, 2009 at 7:30 p.m. with Messrs. Ruth and Eisenhut and Ms. McKnight as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Public Hearing

7:30 p.m. – Major Project Site Plan Special Permit No. 2009-01: Restaurant Pomodoro Inc., 1019 Great Plain Avenue, Needham, Massachusetts, Petitioner (Property located at 1019 Great Plain Avenue, Needham, MA).

Upon a motion made by Mr. Eisenhut, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to waive the reading of the public hearing notice.

George Giunta Jr., representative for the applicant, introduced Kevin Ryan, principal behind Pomodoro. This is a proposed Italian restaurant. Recently it was Quince's restaurant and Vicki Lee Boyajian's with food back to 1991. Quince had 45 seats for dinner and 20 for lunch. They had a bakery, take out and catering. This will be a full service restaurant with 100 seats and waiter/waitress service. They will only serve dinner during the week and Saturday and Sunday brunch. They need a special permit for restaurant use, accessory catering, more than one use and parking waivers. Quince' had required 24 spaces. Pomodoro requires 34 spaces for a net increase of 10 spaces. They request a waiver for the spaces required. He feels this produces a net benefit to downtown with no lunch service. There is a surplus of parking in the downtown at night. He explained the existing infrastructure. The basement space will be food storage and prep, the first floor will be entirely redone. No exterior changes are proposed except for signage lettering. There will be no new impacts. Ms. McKnight asked what the parking arrangement was in the public area behind – is it paid or free and what time of the day does it free up. Mr. Giunta Jr. noted the Chapel Street lot is metered and permit. He thinks the meters end at 6:00 p.m. but there is on-street parking on Chapel Street, Great Plain Avenue, etc. Ms. McKnight noted the closing time of midnight and stated she thought it was 11:00 p.m. generally. Ms. Newman will verify this. Ms. McKnight commented there are no immediate residences now but with the proposed mixed use she has a concern with a midnight closing. She would like to stick with the same closing time. Mr. Eisenhut agreed they need to be consistent. Mr. Ruth also agreed but noted he is not sure residents are an issue. Mr. Jacobs asked if a midnight closing is an important item in this application or would he go along with 11:00 p.m. if all others are. Mr. Giunta Jr. noted Petit Robert closes at 11:00 p.m. Sunday through Thursday and midnight on Friday and Saturday. Ms. McKnight noted that sounds reasonable.

Mr. Jacobs noted the following correspondence for the record: a letter from Tony DelGaizo, dated 4/1/09, noting no comments or objections; a memo from Inspector Papetti of the Fire Department, dated 4/1/09, noting no comments or objections; a memo from the Health Department, dated 4/10/09, with comments regarding the dumpsters; and a memo from Lt. Kraemer of the Police Department, dated 4/15/09, with no safety concerns. Ms. McKnight stated she went by the site today and noticed the dumpster. She asked if it was exclusive to this establishment. Mr. Giunta Jr. noted it goes with another in the same block and it would be another dumpster that will serve this exclusively. Ms. Newman asked if they have looked into screening the dumpster. Mr. Giunta Jr. stated it would limit the functionality and visibility. He noted it could be painted to blend in better. Ms. McKnight noted the Health Department letter states no enclosure is necessary. They see no need for an enclosure and can observe the cleanliness better without an enclosure. Mr. Ruth stated he has a question on parking and lunch. He is curious about long-term plans and asked if there would be a request to come back in 6 to 8 months for a lunch trade. Mr. Giunta Jr. stated they have no plans to come back but he does not know what may happen in the future. Mr. Jacobs noted in a 4/24/09 letter from Mr. Giunta Jr. he noted the lettering will be changed on the awning. Mr. Jacobs asked if this is the same awning. Kevin Ryan, owner, noted they are just changing the canvas. Ms. McKnight asked if they propose handicap parking and what is available in the vicinity. Mr. Giunta Jr. noted there are some spaces in the lot behind. Ms. McKnight noted there are 2 spaces at the back and asked if they are large enough to be designated handicapped. She is also concerned with handicap access. Mr. Giunta Jr. stated he is not sure right now. Mr. Eisenhut asked if there are 100 seats will they be requesting a liquor license. Mr. Giunta Jr. confirmed they will seek a license. Mr. Eisenhut noted he has concerns with 100 seats on Saturday afternoon.

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

VOTED: to close the hearing.

Ms. Newman informed the Board she has prepared a draft decision. The hours will need to be modified. Mr. Ruth stated he was thinking about Ms. McKnight's thought on the 2 spaces at the rear. They both or at least one should be a handicap space. Ms. McKnight noted 2 spaces are sufficient if a handicap space is within X distance otherwise one should be a handicap space. Mr. Ruth stated he is concerned this ties their hands. Mr. Eisenhut commented they should have the Building Inspector look into it and make a determination. Ms. McKnight clarified there are no exterior changes in the decision. Ms. Newman stated they approve the plans in front and any changes they want they will need to come back. They can add a specific condition there are no exterior changes except signage. Ms. McKnight noted in 3.6 it should say at least 2 parking spaces or one handicap accessible space on the property. The applicant will make inquiries about handicap spaces and install one if appropriate.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to grant the requested Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to grant a Special Permit under Section 3.2.2 of the By-Law for a restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter in the Center Business District.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to grant a Special Permit under Section 3.2.2 of the By-Law for a catering operation accessory to a restaurant use.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to grant a Special Permit under Section 3.2.2 of the By-Law for more than one non-residential building or use on a lot (restaurant use with accessory catering).

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to grant a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements).

Upon a motion made by Ms. McKnight, and seconded by Mr. Eisenhut, it was by the four members present unanimously:
VOTED: to grant a Special Permit pursuant to the decision prepared by the Planning Director with 2 changes: one related to the hours of operation – 11:00 p.m. Sunday through Thursday and midnight Friday and Saturday and the other in Section 3.6 requiring the use of at least 2 parking spaces or one handicap spaces on site and no exterior changes.

Release of off-street drainage bond for Lots A1 and E: Hunter Way (Bridge Street) Definitive Subdivision Plan, Eugene Kushner, Petitioner (Property located at Bridge Street, Needham, MA).

David DiCarlo, representative for the applicant, noted Mr. Kushner's letter of 4/9/09 requesting they release the remaining balance of the bond. Ms. Newman noted there is $11,500 and they will hold back $2,500 with $9,000 to be released. The Board of Health met today and recommended release of $9,000.

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

Informal Discussion of North Hill Proposal.

Roy Cramer, representative for the applicant, noted North Hill proposes to change the entry with a new sign. They would like to do as a deminimus change. Ms. Newman noted there is a concern about the turning radius with the placement. They are considering a raised elevation of the sign to solve this. She recommends a deminimus change. Mr. Eisenhut asked if the Design Review Board has seen this. Mr. Cramer noted they have. They will need a variance of the sign by-law. There will be notice to the abutters. They plan to extend the median 12 feet closer to the street and have addressed Mr. DelGaizo's one concern. Mr. Eisenhut stated he is concerned with the abutter's thoughts. Ms. McKnight asked what the reason is for this. Mr. Cramer noted the present sign is not visible. Mr. Jacobs reiterated Mr. Eisenhut has a concern with the neighbors having an opportunity for a say. Mr. Cramer noted there are no abutters on that side of the street but there are residents across the street. Ms. McKnight asked about the lighting. Mr. Cramer was not sure if it would be lit from the inside or from below. Mr. Eisenhut asked if lighting is part of the Design Review Board criteria and was informed it was. Mr. Eisenhut stated it is fine as long as the neighbors have an opportunity to discuss it but there should be a limit to the extension of the footprint.

Deminimus Change: Major Project Site Plan Review No. 2008-09: Town of Needham Permanent Public Building Committee, Petitioner (Property located at 500 Dedham Avenue, Needham, MA).

This is a request to change the hours of construction. Ms. Newman noted they have given public projects longer hours in the past. They are requesting Monday through Saturday. Mr. Eisenhut commented he feels this is an issue the neighbors should come in and talk about. Mr. Jacobs asked what the hours were now and was informed they begin at 7:00 a.m. and are done at 5:00 or 6:00 p.m. Ms. McKnight asked if they want to extend the evening hours and was informed they do. Mr. Jacobs agreed with Mr. Eisenhut. He thinks it is an issue. Ms. Newman will advertise it. Mr. Ruth also feels it affects the neighbors.

Request to authorize the Planning Director to authorize the Permanent Occupancy Permit: Major Project Site Plan Special Permit No. 2007-08: Aronson Insurance and Highland Montrose (Property located at 922-958 Highland Avenue, Needham, MA).

Ms. Newman noted the elevator is in, the inspection has taken place and the permit was issued.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to authorize a permanent Certificate of Occupancy.

Board of Appeals – April 16, 2009.

Babson College, 231 Forest Street, Babson Park, MA 02457-0310 – 0 Map Hill Drive, Trim Parking Lot

Ms. Newman stated she does not feel this belongs with the ZBA. She thinks it belongs with the Planning Board. There is a condition on parking in the lot remaining for the dorm and they kept jurisdiction. They want to put a temporary tent on it. The property is covered under site plan approval. They approved the dorm in 2005 and the parking goes with it.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to authorize the Planning Director to bring to the attention of the ZBA the Planning Board's jurisdiction.

John Foley, 26 Rose Drive, Newton, MA 02465 – 43 Wexford Street.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: "No comment."

Cerritos, Inc., One First Avenue, Needham, MA 02494 – One First Avenue.

Ms. McKnight commented she went down there to look at the additional plantings. She noted they have some quite nice plantings.

Upon a motion made by Ms. McKnight, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: "No comment."

Harvard Vanguard Medical, 133 Brookline Avenue, Boston, MA 02215 – 152 Second Avenue.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: "No comment."

Review and Discussion of CPA Articles.

Mr. Eisenhut noted the CPC is meeting tonight. He feels they will vote to approve all items. Article 41 is just housekeeping. The Finance Committee had no comments except a concern with Article 39 and using funds for private housing. They feel this is exactly what the Community Preservation Act was made for. Ms. McKnight noted for the record her brother is served by the Charles River ARC and she is will say nothing about Article 39. Mr. Ruth and Ms. McKnight recommend the Board support Article 35. Mr. Ruth noted Article 36 augments the towns planning capabilities. All agreed. Mr. Eisenhut noted in Article 37 it really is the purpose of design to protect the fragile environment and they should support. All agreed. All the members support Article 38. Mr. Ruth asked if there was a fee interest in Article 39 (ARC). Mr. Eisenhut noted yes, it is a non profit entity that holds this building. All agreed to support with Ms. McKnight abstaining. Ms. McKnight noted Article 40 to buy down 4 homes is a nice concept. They have mixed income levels. Mr. Jacobs asked if they need to appropriate the sum of up to $370,000. Mr. Eisenhut stated they will know at Town Meeting and will change it there. In Article 41, Ms. McKnight notes she did not know they could transfer CPA funds to the Conservation Commission. Mr. Eisenhut clarified they could but it can only be used for CPA purposes. All are in support of all articles.

Discussion of Warrant Article 20, Citizen's Petition – Quiet Zone Study.

Ms. McKnight noted there are 5 grade crossings in Needham. The proponent would like the Planning Board support. Growth is proposed in downtown but there are noise issues at Oak Street, Great Plain Avenue, May Street and the worst noise is at West Street. Mr. Jacobs noted this may be viewed as a financial impact in the downtown study. Ms. McKnight met with the Finance Committee. They were fairly receptive and asked if any persons would be donating to the cost of a feasibility study. The Selectmen have no idea how much it would cost without the feasibility study. In Concord the total cost was $55,000 for 2 grade crossings so cars cannot go around the gates. They like to see 4 gates or like Concord can put medians in the middle of the street so cars can not get around the gates. Ms. McKnight introduced her husband, Stephen, who has a powerpoint presentation. Ms. McKnight added wayside horns may be used to warn cars rather than horns on trains. Mr. McKnight, a member of the Transportation Committee, presented a powerpoint presentation dated 7/23/07 by Duncan Allen. He reviewed the Federal Railway Administration Regulations. The decibal levels and length of the horn sounding is spelled out. The Quiet Zone Regulation is at least one half mile in length. All crossings need flashers and gates. If you apply supplementary safety improvements to all crossing you automatically get Quiet Zone approved. Mr. McKnight noted common supplementary safety improvements include: median barriers or channelization, 4 quadrant gates, temporary closing of crossings for a partial quiet zone and wayside horns that focuses the sound at the crossing. Implementation, as they noted at the 7/23/07 presentation, could be up to $1,000,000 for 5 crossings if 4 way gates are put at all intersections but median barriers are much less cost. Mr. Eisenhut stated they need traffic counts. Ms. McKnight noted they think they already have them. Mr. Ruth asked if there have been informal discussions with the Selectmen. Ms. McKnight noted she has talked with a couple of Selectmen herself. Mr. Ruth commented he feels November may be a more opportune time to get the information out, rather than argue on the floor. Mr. Eisenhut stated they cannot blame all the decreased assessments on noise. It may be the proximity to the tracks or something else. Mr. Jacobs feels that until the Selectmen and Finance Committee are convinced the million dollar number is not final they would not go for it. Mr. Ruth stated they are not going to get there between now and May 10 but maybe between now and November. He added it is hard to have discussions 2 to 3 weeks prior to Town Meeting. Mr. Jacobs noted he would support it. Mr. Eisenhut stated he would support it with the support of a feasibility study. He would like to see the cost. Mr. Ruth noted he would support it but is not crazy about the timing. Ms. McKnight stated they need to convince the Selectmen it could be less than $1,000,000.

Discussion of Town Meeting Zoning Presentation.

The Downtown Study article will be presented by Ms. McKnight and Robert Smart. Ms. Newman noted they need a volunteer to present the adjustment on lot coverage. Mr. Ruth volunteered to present. Ms. Newman noted they will need a vote on the articles.

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

VOTED: to recommend approval of all 7 articles as adopted in the warrant with regard to the Downtown Zoning articles as presented in the warrant.

Planning Board Vote of Zoning Articles.

This was done.

Vice-Chairman to sign previously approved and revised minutes of November 5, 2008 and November 25, 2008.

Ms. McKnight signed the minutes.

Minutes

Ms. McKnight noted on the February 17, 2009 minutes, on the 1st page, 1st paragraph it should state "it precluded a complete inspection" rather than "precluded an inspection of the street." On page 2, 2nd paragraph, it should be 3 amendments not 2. On page 3, 1st paragraph, it should state "they are objective criteria" not "want subjective criteria." On page 3, 3rd paragraph, it should be Carredwyn Horrigan rather and a Garden Street resident. It should state 5 residences not residents. After the 8:00 p.m. hearing, there is no heading for the Zoning Article 7 discussion. Add a heading. Put the date of the minutes, 11/12/08.

Upon a motion made by Mr. Ruth, and seconded by Mr. Eisenhut, it was by the four members present unanimously:
VOTED: to adopt the minutes of 2/17/09 with changes.

Finalize May and June meeting schedule.

Ms. Newman noted they will meet ½ hour prior to Town Meeting on 5/4 and 5/6. There is a public hearing on 5/19 which is a regular meeting. They will meet June 16 and 30.

Report of the Planning Director and Board Members.

Ms. Newman gave a Finance Committee update. The Downtown Study draft is done and will be presented at the 4/29 meeting. Mr. Ruth will go with Ms. Newman. Mr. Ruth stated they should try to limit it to traffic signals.

Upon a motion made by Mr. Ruth, and seconded by Mr. Eisenhut, it was by the four members present unanimously:
VOTED: to adjourn the meeting at 10:25 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne McKnight, Vice-Chairman and Clerk