NEEDHAM PLANNING BOARD MINUTES

November 1, 2011

The regular meeting of the Planning Board held in the Charles River Room of the Public Services Administration Building was called to order by Bruce Eisenhut, Chairman, on Tuesday, November 1, 2011 at 7:30 p.m. with Messrs. Warner and Ruth and Ms. McKnight as well as Planning Director, Ms. Newman.

Appointments

7:30 p.m. – Sam Bass Warner: discussion regarding Lessons for Needham from Lake Oswego, OR.

Mr. Warner noted his article that was published in the Needham Times. He noted Oswego, OR is the same physical size as Needham but has a higher density. It is a 10 square block town with a library, supermarkets, a store for buying clothes, ice cream and anything else you want in town with apartments on the outskirts of town with parking underneath. He showed pictures and noted the railroad runs through it and the main street goes to Portland. He noted there is one entire block with a 3-story parking garage inside. There is a very active parks department in town, plenty of open space and a picnic area that is kept clean and available for the public. He suggested they think of the Walgreen's block.

Mr. Eisenhut asked if they got the land for the parking garage by eminent domain. Mr. Warner noted he suspects it was an urban renewal project but he gave the name of the company (Gramor) that managed the leases if anyone wanted more information.

Ms. McKnight noted there was a nice example of public/private project in a suburb of Chicago. They were building a new library with underground parking and apartments and stores. It was one big building and the whole effect was nice. She thinks the Oswego example shows you can have above ground parking that blends in. Ms. McKnight discussed a couple of examples she worked on in Belmont and Millis.

Mr. Warner suggested the Planning Director call Oswego and see how they did this. Ms. Newman will call and get some information.

Public Hearing

7:45 p.m. – Amend Zoning By-Law – Section 4.8 Dimensional Regulations for NEBC, Footnote (1)

Mr. Eisenhut noted this was to correct an unintentional omission. Ms. Newman stated it was not covered in the original hearing notice. This will correct the zoning article going forward.

Upon a motion made by Mr. Ruth, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to close the hearing.

Upon a motion made by Mr. Ruth, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to rescind the Board's earlier vote recommending adoption of the NEBC dimensional controls.

Upon a motion made by Mr. Ruth, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to recommend adoption of the NEBC dimensional controls in the form presented in the previous meeting and in the copy of the warrant tonight in light of the procedural fix regarding the dimensional height issue.

Request for Extension of Temporary Occupancy Permit: Major Site Plan Review No. 2004-01: Permanent Public Building Committee for the Needham High School, 609 Webster Street, Needham, MA, 02492, Petitioner (Property located at 609 Webster Street, Needham, MA).

Steve Popper, representative for the applicant, noted the reason for the extension. They are close to finishing but they are not at the point of having the sign off yet. The work is completed but they need to get all the documentation together. They are not quite at the point for the occupancy permit. They would like an extension to the end of the year. He added they are working out the details with the Building Department.

Ms. McKnight noted the plantings off Webster Street are in sad shape. They had discussed this previously. She asked if anything has been done about them. Mr. Popper noted they have done xeriscaping and intend to do more along with natural grasses. He stated the wood chips do not bring out the best. Mr. Popper noted it is a 3-year project.

Upon a motion made by Mr. Warner, and seconded by Ms. McKnight, it was by the four members present unanimously:
VOTED: to extend the temporary permit of occupancy through 12/31/2011.

8:00 p.m. – Oak Street Definitive Subdivision: Richard Nigro, 9 Cabernet Drive, Unit 2, Concord, NH 03303-1035, Petitioner (Property located at 66 Oak Street). ***Note: This hearing is continued from the June 21, 2011, July 12, 2011, September 8, 2011, & October 18, 2011 Planning Board meetings and will be further continued to the December 6, 2011 Planning Board meeting.***

Ms. Newman noted George Giunta Jr., representative for the applicant, has requested this be continued to the 12/6/11 meeting and would like the action deadline extended to 1/31/12.

Ms. McKnight asked what the reason for the continuance was. Ms. Newman noted the drawings have never been revised by the engineering firm doing the work. Mr. Ruth stated he wants to be real careful on the deadlines. He thinks this is a project that could be a lot of trouble and he does not want to get into a constructive grant situation. He would prefer to turn it down without prejudice rather than keep extending it.

Ms. Newman stated she will let Mr. Giunta Jr. know there is a concern and reschedule for 12/6/11.

Upon a motion made by Ms. McKnight, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to approve a continuance to 12/6/11 with the caveat that the owners attorney be cautioned the Board is not in favor of any further continuances and extend the action deadline to 1/31/12.

Request to authorize Planning Director to Review and Approve final plans and to authorize issuance of a Building Permit: Lot A Amendment to Major Project Site Plan Review No. 2000-02: Digital Realty Trust, c/o Walter Greaney, 451 D Street, Suite 912, Boston, MA 02210, Petitioner (Property located at 128 First Avenue and 72 A Street, Needham, Massachusetts).

Request to authorize Planning Director to Review and Approve final plans and to authorize issuance of a Building Permit: Lot B Amendment to Major Project Site Plan Review No. 2000-02: Digital Realty Trust, c/o Walter Greaney, 451 D Street, Suite 912, Boston, MA 02210, Petitioner (Property located at 128 First Avenue and 72 A Street, Needham, Massachusetts).

Mr. Eisenhut noted this is the Digital Realty Trust project. He noted they are doing both parcels together. They are developing a new facility. They are revising the drawings for such details as landscaping around the transformer, fence detail, and certified building design incorporating sound attenuation components. The Planning Director would like authority to approve issuance of the permit once she is satisfied. She noted there a meeting before Town Meeting if there are any issues.

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

VOTED: to authorize the Planning Director to review and approve the final plans and issue a building permit for Lots A and B as she deems appropriate.

Discussion and position of Planning Board regarding Stretch Code adoption.

Ms. McKnight stated she has had 2 other discussions with this Board and all members spoke favorably about Needham applying to become a green community and adopting the Stretch Code. She noted a decision has not been made yet by the Selectmen and a recommendation has not been made by the Green Communities Study Committee. They need to show the state they can meet the energy savings goals. The Selectmen voted 3 to 2 in favor of the Stretch Code. She would like to be able to give a favorable recommendation at Town Meeting.

Mr. Eisenhut stated he is in favor of adoption but he thinks there is an issue that should be addressed. The higher cost for a new construction single family home is estimated to be about $8,000. He feels Town Meeting should be concerned about that higher figure. He feels that the cost differential would flatten out eventually but they should try to get that across.

Ms. McKnight noted there is a quick pay back of the investment. She commented they have people here who are able to do the work and upgrade the building. What they do not have is the energy. She stated the goal is to reduce energy consumption and the Stretch Code does that.

Mr. Warner stated he would go off in a different direction. He feels to not take the next step would be accepting low quality work. He feels it is an important consumer protection to give high quality construction to the buyer.

Mr. Ruth commented the expectations among realtors is the Stretch Code is about to be eclipsed by other codes. A vast majority of construction in Needham these days is relatively upper end and not really affordable.

Ms. McKnight stated assuring the quality of the work is important and advantageous to the homeowner.

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

VOTED: to authorize Ms. McKnight to say the Planning Board has recommended by a vote to recommend to Town Meeting adoption of the Stretch Code.

8:10 p.m. – Bob Smart: discussion regarding Major Project Site Plan Special Permit No. 2010-04: The Mackin Group, LLC, 7 Harvard Street, Brookline, MA 02445, Petitioner (Property located at 916-932 Great Plain Avenue and 36-58 Dedham Avenue, Needham, MA).

Robert Smart, representative for the applicant, stated they would like a diminimus change. He noted his letter dated 10/11/11. He has some issues and would like to take them one at a time. He would like the affordable housing restriction tied to the Certificate of Occupancy rather than the building permit as his clients have not made a decision at this point if there will be rental units or condos. Mr. Warner asked if there would still be some affordable units and was informed there would be. Mr. Smart stated they want to start construction before making a decision.

Ms. McKnight stated having an affordable housing project accepted and approved by DHCD is a long process. She does not see any harm in waiting until the Certificate of Occupancy stage. All members agreed.

Mr. Smart noted with the directional warning signal the installation of an AV system is tied to the construction of a building. The clients may not build the Dedham Avenue building. He would like to postpone the installation of the system and have the plans for approval tied back to the Dedham Avenue building. He feels it is a minimal impact to public safety.

Mr. Ruth noted the plans for vegetation screens parking and the driveway from pedestrians and pedestrians from drivers exiting. Concern had him raise this issue. Ken Mackin noted it is about 15 to 16 feet away from the fence where any vegetation would be. He stated he could not find any building in Needham Center that had any audible alarm. He hopes to do the building in Phase 1 but he does not know where the market is going.

Mr. Ruth stated he feels there is a need for a public hearing. There are sight line and vegetation issues but the scope of this discussion goes beyond. Mr. Eisenhut agreed. Mr. Mackin stated he would get more information that is easier to understand. He may have to have something free standing but not aesthetically pleasing. He stated he cannot hang or attach it if there is no building. Mr. Eisenhut stated all agree a hearing is necessary.

Mr. Smart noted he has concerns with the traffic control measures language in 3.16. He wants the Board of Selectmen to notify his clients before they impose a requirement where they do not know what the dollar limit will be. They are being asked to pay for something unlimited in total dollars. He noted the installation of the median is a fair distance.

Mr. Warner asked if Dedham Avenue was a state highway. It was noted it was Route 135. It is the same issue they had with Highland Avenue. Mr. Smart stated this could be a very expensive fix. Mr. Eisenhut commented he thought it did not have to be a median extension but could be a median at the appropriate spot along the way. Ms. McKnight stated, ultimately, it would be up to the Selectmen and what they want for traffic control measures.

Ms. McKnight noted adding "adjacent to petitioner's property" is diminimus but to delete "or median installation" would need a new hearing. She noted she is not in favor of it. She added the interpretation of adjacent could be different. Mr. Mackin noted the Selectmen may want, from a design standpoint, a median to extend 140 to 150 feet. That could be a couple hundred thousand dollars. Mr. Eisenhut stated he feels it is diminimus.

Mr. Smart noted they need to limit it to the property boundaries. He is concerned with tying it back to the existing median. He clarified that is along Mr. Rothman's property. Mr. Ruth stated they need a monetary cap. That would be the solution but it is not diminimus. Mr. Eisenhut stated the rest would be diminimus. They will need a hearing to set the monetary cap.

Mr. Smart reviewed the other issues. He feels they should add a reference to 3.9 in Section 1.13 to link the 2 sections so there is no misunderstanding. This was fine. He wants the word "requested" deleted in section 1.20. No Board approval is required. He wants that clear. Mr. Eisenhut noted they have the right. Mr. Ruth suggested they delete 1.20 and add an affirmative statement in Section 3.

Mr. Smart wants a correction to change the number of units for Dedham Avenue from 10 to 9. This is fine. In 3.18 it refers to 3.16 above. They have nothing to do with each other. He thinks the reference is incorrect and should be a reference to "this paragraph" not "3.16 above." This is fine. Mr. Smart wanted "weekly" deleted from the meeting requirement. They feel this is excessive. Mr. Eisenhut asked if that was standard. Ms. Newman stated they used it in the hospital language but it is fine.

Mr. Smart noted the streetscape improvements. Sections1.9 and 3.13 have language that he wants deleted. These sections read together could prevent his client from getting a Certificate of Occupancy which could be dependent upon town approval of the streetscape plan. He feels money should not be held for a vast length of time. Some should come back if the town does not act in a timely fashion.

Ms. Newman clarified the intent is to let him do the base improvement and the town will get the money to do the work. Mr. Smart stated he feels there should be a cut off date so the $30,000 will come back otherwise it feels like it will be a tax. Mr. Eisenhut noted they did not discuss timelines. Mr. Mackin noted they discussed 3 years as being a reasonable time limit. Mr. Smart stated it is a matter between the developer and the town. Mr. Ruth commented there have been many comments from townspeople on the streetscape.

Mr. Warner stated there should be an obligation on the town to set a date. Mr. Eisenhut feels they need to do it in the context of a hearing. Ms. McKnight noted town staff sets a date on what is reasonable. Do they need a hearing or just input from town staff? Ms. Newman noted they could do it without a hearing. She feels the streetscape is very important to people. This is a vehicle to pay for it. Mr. Mackin stated they need a reasonable time limit. It may never get done for 5 or 10 years. Ms. Newman will get a date from the town and hand it off to them.

Mr. Smart asked if the AV system at Citizen's Bank fits the bill. Ms. Newman noted it would be a diminimus change. She will need a diminimus change form from the applicant and only the median will be a hearing.

Report from the Planning Director.

Ms. Newman noted she sent an e-mail draft of a Memorandum of Understanding pertaining to Eaton Square. Town Counsel David Tobin is working on it with an attorney from the bank about the bank's intentions. The framework of the agreement is going forward. This will allow the bank to expand and will add parking and cross easements.

Mr. Eisenhut stated the town is giving up a valuable piece of real estate. He would like full public use of that space. The bank should not be able to put out tables and benches for their employees only. He stated this only gives the public an access easement and the bank has control. Ms. McKnight agreed with Mr. Eisenhut. She noted she sent clarifying language regarding a more expansive easement. This needs to be clarified.

Mr. Eisenhut stated the site plan does not show the rights of the public to use. The intent is for the public to use it but he wants the language clarified. Ms. Newman will speak with Town Counsel Tobin.

Mr. Ruth noted there are 3 curb cuts on Garden Street and asked why. He does not understand it. Ms. Newman commented she thinks it is because of a proposed ATM. She believes it will be a drive up. Mr. Ruth clarified he does not want a drive through in this area. Ms. Newman will check this.

Ms. McKnight stated in #5 it says "the bank will obtain easements" but the bank would like the town to get the easements. Ms. Newman noted the bank's property on the Great Plain Avenue side is in the Center Business District and the other side is in the Chestnut Street District. They cannot have an ATM drive through in the Center Business District. She asked if they could have it as an independent use but noted it looks like it is located on the portion that is zoned Center Business.

Ms. McKnight stated the MBTA has the right of way. The bank will need their permission to put tables in the MBTA right of way. She noted this is subject to the clarification that they are not authorizing the use of an ATM or the curb cuts shown. They need to clarify the public can use the area for public purposes and uses customary to a public plaza.

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

VOTED: to recommend Town Meeting to vote to discontinue Eaton Square pursuant to an agreement with the town that reserves the town easement rights as proposed in the Memorandum of Understanding provided the Memorandum of Understanding makes it clear what has been said and that it is not implied the Board is approving curb cuts, an ATM or the building itself.

Ms. Newman asked how she should process the amendment to the High School to allow temporary parking of buses at the High School lower lot. They need 60 spaces on a temporary basis. They say there is adequate space. She asked if it is a diminimus change or does it need to be a formal amendment? She noted 60 less spaces does not conform with the permit. Ms. McKnight stated lighting all the time will not be good for the strip of houses along the back.

Mr. Eisenhut stated they specifically said in the permit the spaces were to be used for the school. This is a changing use. Mr. Ruth noted he is concerned that there are 60 extra spaces and asked why there were so many. Mr. Eisenhut reiterated it is not diminumus.

Upon a motion made by Ms. McKnight, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to approve the minutes of 2/1/11 with changes discussed.

Upon a motion made by Ms. McKnight, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to approve the minutes of 7/12/11 with changes discussed.

Upon a motion made by Ms. McKnight, and seconded by Mr. Ruth, it was by the four members present unanimously:
VOTED: to approve the minutes of 8/9/11 with changes discussed.

Upon a motion made by Mr. Ruth, and seconded by Mr. Warner, it was by the four members present unanimously:
VOTED: to adjourn the meeting at 9:45 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Sam Bass Warner, Vice-Chairman and Clerk