



Planning Board Meeting
Monday, March 9, 2009
Council Chambers, City Hall at 7:00 pm

Meeting Minutes

Meeting Called to order by Planning Board Chair Peter Guillette at 7:00 pm

I. Roll Call

Present: Alan Grigsby, Deborah Cutts, Paul LaCasse, Peter Guillette, Lori Richardson, Brian Rapp, Adam Burke, Erwin Caplan, Andy Austin

Absent: Richard Wahrlich

City Staff: Peter Dzewaltowski, Interim City Planner; Ed Tinker, Director of Planning & Development; Michelle Aiken, Boards & Commissions Coordinator

II. Review of Minutes

- Monday February 23, 2009 public meeting minutes

Motion to: Approve the February 23, 2009 meeting minutes.

Made by: Ms. Cutts

Second by: Mr. Rapp

Vote: Unanimous

III. New Business

- **(PL2009-00002) Macleay Prentiss Properties, LLC, PO Box 608, Charlestown, NH** - applicant seeks an amendment/waiver of Site Plan approval at 149 Charlestown Road to utilize the space for contractors storage and retail sales and not build the office building until a later date. Tax Map: 165, Lot 16, Zoning District B-2.

Mr. Dzewaltowski advised that the application is unique because they are proposing to temporarily reduce a component of their site plan. The proposed Site plan was approved in June 2008, the applicant would like to delay the construction of the proposed building and they would like to continue with part of their operation without the building. In the June 2008 approval the Planning Board set a time frame of 2 years that the building must be built, which would be June 2010. This is not typical so we were unsure which route it should go, we were unsure whether or not there would be concerns from the Planning Board with the change in the site. This type of instance has not come up and the staff attorney recommended that this is really a building code issue. Since the applicant is proposing to build the building within the time frame previously approved we would recommend denying the waiver application and have the applicant get a certificate of occupancy from the Building Code Department. Mr. Dzewaltowski is not aware of a need for a certificate of occupancy when there is not a building, although since they are proposing not to connect water at this time they may not be able to run a business without having water or provide sanitary facilities & water in some way. The health officer will guide the applicant. Mr. Grigsby asked if there is going to be a place to do business, for rainy days, shelter or something. Mr. Dzewaltowski is not sure if there is a requirement for a shelter, other than to accommodate sanitary facilities and water. Mr. Grigsby felt that portable toilets and shelter would be needed and there must be some place to do business for transactions. Mr. Grigsby also asked if the applicant intends to do everything else that is on the plan. Mr. Dzewaltowski advised the application that has been presented shows that this is the only change and our determination has found that it has to be within the health and building code. Mr.

Dzewaltowski advised the Planning Office wanted to make sure there were no site issues that the Planning Board wanted to address. Mr. Grigsby is worried that going forward they may never build their building and if that happens will the City go in and shut them down. Mr. Dzewaltowski advised if they do not build within 2 years the Site Plan approval would be null and void and they would have to reapply. They are proposing to build the building within the time frame of November 2009, they have until November 2010.

Mr. Tim St. Pierre advised that the motivation behind the request is that their biggest challenge with the property has been the winter and snow. They want to have the correct building built for spring sales and if they cannot get the correct building built by spring it makes no sense to be open this season at all because 40-50% of their sales are in the first 6-8 weeks of the season. They could throw up a building, but they would like to build the right building with solar power and a spring deadline is not possible. They would like to have a portable sales trailer to sell out of or a small 10X12 garden shed that will allow a little area to sell out of. All the products will be outdoor sales products; there will be nothing the customer will have to come inside for. Mr. Grigsby asked about the bathroom. Mr. St. Pierre advised the bathroom facilities could be provided in the sales trailer or they could install a portable sanitation facility. As far as their staff is concerned we are going to have them go next door, buy a cup of coffee and use their facilities. Everything else will be up and done before they start selling, pavement will be done, drainage structures will be in, they already have the driveway permit, they are just waiting for the weather. The only change is to build the building in November. Mr. Grigsby asked when he thought they would be operational. Mr. St. Pierre advised they should be operational by the first of May.

Mr. Rapp asked if we deny the request does he expect to be able to start in the spring through the building code department. Mr. St. Pierre advised that he wants to find out how he can accomplish what he is requesting, he will work with the department to get going in the spring. Mr. burke asked if they expect to start the building construction in November or will they be finished in November. Mr. St. Pierre advised that they will start building in November and then everything will go pretty quickly. Mr. LaCasse felt that they could approve this waiver and let him start his business and it will give him the extra six months. Mr. Grigsby doesn't think it is a bad idea because it gives the building code department some backing showing that the Planning Board is behind the concept. Ms. Richardson stated that she would prefer to see the trailer with the bathroom facilities inside rather than a garden shed and a portable potty outside.

Ms. Cutts asked Mr. Dzewaltowski to make sure they assist the applicant to have this business in Claremont. Mr. Dzewaltowski advised they would assist the applicant although they cannot negate the requirements of the building code. Ms. Cutts asked if he sees any concern with the building code and does he think this will work out for him and it will have a road block that is going to go on forever. Mr. Dzewaltowski advised he is not sure about the requirements of ADA or the health code requirements but those issues have to be addressed by the building code department. A temporary building will also have building code requirements that will have to be followed. If you take the recommendations of the Planning Department the applicant would still be allowed to install a temporary structure.

Allow the applicant to work with the Planning Department and take recommendations or we can approve the waiver and add conditions regarding a temporary building with conditions. Mr. Grigsby likes the clarity of approving the applications with conditions so it will be on record. Mr. Grigsby advised he would like to have an amendment to the previous site plan approval advising they will have indicate the location of sales, adequate sanitary facilities, the applicant must begin construction by November 2009, and all conditions of the 2008 remain in effect and they need to follow all applicable codes on the site plan approved by the Planning and Development Department.

Ms. Cutts understands that this motion means that he must work with the Planning and Development Office. Mr. Guillette advised the objective in the end will be the same. Mr. Rapp feels it creates less of a hoop to jump through by leaving off the conditions and the city staff can make sure they are following all the requirements. Ms. Cutts is concerned that this board will not cover all the bases. Ms. Richardson is in agreement with the motion and she thinks the applicant is agreeing to do all these things, we are just denying it because it is not necessary for him to go through the board. Chair Guillette advised there is already a process in place; it was just a different type of request. Mr. LaCasse wanted to make sure the construction trailer would be out by the time the new building arrives and it will be placed in the same place as shown on the plan or will it need to remain in place for the crew that is building it. Mr. St. Pierre advised that he and his brother are the two man building team and they will remove the temporary structure before the new building arrives. Mr. Grigsby feels adding conditions memorializes what this boards intentions are, the conditions give them a little more latitude. Mr. LaCasse wants to make sure that by 2010 the building will be in the approved location. Mr. St. Pierre assured the board that the temporary building will be removed as soon as the new building arrives.

Motion to: deny the application and allow the applicant to go through city staff for guidance

Made by: Mr. Rapp

Second by: Mr. Burke

Vote: Mr. Grigsby – Nay

Ms. Cutts – Yes

Mr. LaCasse – Nay

Chair Guillette – Yes

Ms. Richardson – Yes

Mr. Rapp – Yes

Mr. Burke - Yes

- **(PL2009-00003) T-Mobile, d/b/a Omnipoint Communications, Westborough, MA** – applicant seeks a Special Use Permit to collocate antennae on existing guyed tower and install related equipment to the site on Cat Hold Road. Tax Map: 75, Lot 1, Zoning District AR.

Mr. Burke stepped down because he works for a competitor to the company.

Mr. Dzewaltowski advised that the ordinance requires new towers and changes in existing towers are required to obtain a Special Use permit. There is an existing 160ft guyed tower on Cat Hole Road with existing tower and supporting facilities. The applicant is proposing to add three collocated antennae on this facility at about 105ft upon the existing guyed tower. There is also a creation of an ice bridge; there is a small leased area that will have supporting cabinets for electrical equipment. This is being proposed within the leased area and existing tower facilities. There are a couple of things that the Planning and Development Department would like the planning board to act on such as there is an existing access that crosses city land and there is an existing easement on the north end of the site from the prior owner and the Planning and Development office would recommend that the Planning Board make a condition that the easement be renegotiated and a copy provided and the city also be provided any other easements on the property.

The applicant was not present. Mr. Grigsby advised he has technical questions for the applicant. He asked if there are cell phone antennae on this tower and he is concerned that we are creating a new cell phone tower. There was a recent tower that was approved which had the capacity to hold five companies. Mr. Dzewaltowski advised that the applicant would have to answer this question. Mr. Grigsby had some technical questions that he would like to ask the applicant. Mr. LaCasse wanted to know if these antennae were receiving or transmitting and what the range is. Mr. Dzewaltowski advised that they should continue the application if they have questions they would like to ask the applicant.

Motion to: Continue the application until the March 23rd meeting at 7pm

Made by: Mr. Grigsby

Second: Ms. Cutts

Vote: Unanimous

IV. Draft Ordinance 504 Infill and Inclusionary Development – Informational/Discussion

Mr. Guillette advised that the board will continue their discussion on the proposed ordinance. Mr. Dzewaltowski talked about the processes and how the ordinance was going to go to the City Council for first reading but since that time there has been a change to receive further public input. They are expecting the ordinance will go to the City Council for the may City Council meeting with the idea that this gives the Planning Board, the Master Plan Housing Committee and others time to consider the ordinance and the opportunity to provide input. The Planning and Development Office would recommend the board consider the comments you have had so far and identify any other comments that you have. The planning and Development Office will also be providing the Master Plan Housing Sub-Committee with a draft copy of the ordinance to be discussed at their next meeting. They will have a work session sometime next week and discuss the ordinance and following that meeting the staff would then propose some changes and amendments to the Planning Board at that time. Mr. Dzewaltowski felt that after the Master Plan Housing Sub-Committee meeting they would gather all the input they have received and make any necessary revisions.

Mr. Regan advised he is a member of the Master Plan Housing Committee and he was not aware that there was an ordinance before it came to the Planning Board and he did not know that an ordinance was coming. He did not like that no one on this committee knew that this ordinance was coming. Mr. Regan advised that the four people who wrote this ordinance only one of them is a resident of this community which is the City Manager Mr. Santagate. Mr. Regan felt the housing committee should have been informed that an ordinance was in the works.

Mr. Grigsby asked if all the previous questions and concerns were memorialized. Mr. Dzewaltowski advised that the basis for this work is in the Land Use Chapter and they are moving forward with the direction that has been given to the office and they are looking for input. Ms. Cutts would like to know who is on the housing committee. She feels that Ordinance 504 has solicited significant input from the public and the Master Plan Housing Committee will also have their opportunity to provide input.

Mr. Folta wants to know which ordinance will be coming before the City Council in May along with Ordinance 504. Mr. Folta believes the change in the process of the ordinance is an improvement. Mr. Folta feels that people want to participate. Ms. Richardson agrees that it is probably the proper procedure to go to the housing committee although she feels that this in not enough time for them to rewrite the ordinance. Mr. Dzewaltowski advised that when they made the ordinance public and brought it to the Planning Board the Master Plan Housing Sub-committee was made aware of it, but just recently they decided to bring it to them for review. Ms. Richardson felt that if they were to have them involved earlier it would have been beneficial.

Mr. Tinker advised he has been working with the chair of the Master Plan Advisory Committee and they will have a Master Plan Housing Sub-committee meeting sometime next week and this committee will have time to consider this. Ms. Richardson would have liked the housing committee to have been contacted earlier and prior to this meeting. Ms. Cutts advised that the Master Plan Housing Sub-committee is made up of volunteers who participate and provide input and ideas that can be built off. She doesn't think the job of writing an ordinance should be given to volunteers and that was the mistake with the previous open space ordinance and now it is upon the Planning Board to tell the Planning and Development Office what we like and don't like and their job as paid employees is to solicit input and ideas to make the ordinance better. Chair Guillette advised that the Master Plan Housing Sub-committee will make recommendations and he asked when they will bring their recommendations to the Planning Office. Mr. Tinker advised that the meeting is in the process of being scheduled and when they have provided their input we will bring it back to the Planning Board. Chair Guillette wanted to clarify that the ordinance will not be going to the City Council for another two.

Mr. Folta felt that the volunteers should be labeled as citizens. He also thought that maybe it should be looked into to having an elected Planning Board.

Mr. Regan read a list of names of the people on the Master Plan Housing Sub-committee which are Alan Croteau, Jacqui Guillette, Jack O'Sullivan, Scott Pope, Bill Regan and Bernie Folta. Many people who were opposed to heavy density zoning were labeled as being against development and progress from Claremont, this is not accurate, and he is for progress and development. This ordinance he feels addresses neither, we need an ordinance that improves development, not one that approves anything anytime anywhere. He mentioned that anything listed as suggestions in the ordinance can be taken to mean it is required; if it is written down in black and white then it is more than a suggestion. He feels there are too many loopholes in the ordinance. The language is ambiguous and he does not feel that anyone was given the opportunity to weigh in on this ordinance.

Mr. LaCasse felt that May is too soon for it to be on the City Council agenda, it is not the Mayor's duty to put it on the City Council agenda. It is the Planning Boards job to put it on the agenda and if we get it wrong we will be in bad shape. Mr. Grigsby advised the open space ordinance was made up of Claremont citizens appointed by the mayor and City Council and it was vetted by Attorney Matt Upton. In Lebanon they did a review of their zoning ordinance and it was done by a city committee that worked with staff. He would like to see the citizen involvement with the professionals.

Ms. Cutts said that when the City Council considers Ordinance 504 in May it will also consider an open space ordinance. Mr. Folta asked whether it would be the first or second version. Ms. Cutts declined to elaborate.

Mr. Guillette felt maybe it would be a good time for Mr. Dzewaltowski to read the concerns that the PB recently made and he also made note that you cannot please everyone. If there is something you do not like you should vote against it because this is a democracy and then it will go to the City Council. Mr. Dzewaltowski read from a list of comments that he wrote down. Mr. Rapp asked about the density bonuses. Mr. Dzewaltowski advised they are not given by right they have to be awarded and you will receive a portion as your density bonus. He also advised that these are not all easy to achieve. Mr. Rapp asked if there was a way to make it so that when you get a bonus it would need a special exception. Mr. Burke advised the bonuses do also make him uncomfortable and he would rather the bonuses be changed and reduced. Mr. LaCasse felt the density should be 9 units instead of 18.

Mr. Dzewaltowski explained what the definition of affordable housing is. He noted that the average affordable housing cost for Claremont would be \$189,000 and rent would be \$850 per month, which is typical for purchased homes in Claremont. Ms. Cutts asked if the affordable housing bonus for a rental is a max, would they get it if they proposed rent at less than \$850. Mr. Dzewaltowski said yes that would be more affordable. Ms. Richardson felt that \$189,000 was very high and she is not sure how many people in Claremont could afford this. Mr. Dzewaltowski advised they have utilized the research that is available to them for Sullivan County.

Mr. Regan felt that this ordinance has nothing to do with affordable housing and he read from a part of the ordinance. He noted that 550 sqft is a tiny apartment and he feels this is good for an 18-22 year old; these are not units that will attract business people to our community. If you want more development then this ordinance needs to be re-written since it will not bring in the people that the Claremont community needs.

Chair Guillette advised that this is another opinion and that is what these workshops are for and the public input should be heard and everything is fair and on the table. We are not here to re-write the whole document. Mr. LaCasse feels that re-writing the whole document is necessary. Mr. Burke feels that staff has brought a good frame work.

Mr. Folta felt that the mayor should appoint a citizen 504 committee. Mr. Guillette asked for a time table for the input from the Master Plan Housing Sub-committee. Mr. Dzewaltowski advised they are meeting within the next week or so and then it will come to the Planning Board and they may need more than 1 meeting, maybe even 1 or 2. Mr. Grigsby pointed out that the Master Plan Housing Sub-committee is trying to write the Housing chapter for the Master Plan and get the drafts done by May which is already a full plate. Mr. Guillette would like to be fair and give them the time to review. Mr. LaCasse wants to make sure it's the best ordinance for the growth of the City. Ms. Richardson feels that it will take a lot longer to review this than expected. Chair Guillette would like to hear from the Master Plan Housing Sub-committee before the board makes a determination. Maybe a member of that committee can present their recommendations to the Planning Board.

Mr. Folta was under the impression that if the Planning Board withholds its vote then the City Council cannot vote. Mr. Grigsby advised that if they don't act on the ordinance it goes forward regardless. Mr. Dzewaltowski advised that without a recommendation it is considered an acceptance. He advised that the Charter states the City Council proposes ordinances and accepts ordinances; it is not the Planning Board that proposes or makes amendments. This is a process that we are going through now to get input, issues and concerns. Ms. Cutts knows that the City Council is seeking input from the community, the Planning Board and City staff.

V. Adjournment

Motion to: Adjourn

Made by: Mr. LaCasse

Second: Mr. Burke **Vote:** Unanimous

Meeting Adjourned at: 9:16 PM

Respectfully Submitted,

Michelle Aiken

Boards & Commissions Coordinator