

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, August 29, 2018

7:00 PM

Council Chambers A

Members Present:

David C. Richards, Chair
Philip M. Jones, Vice-Chair
George S. Hansel
Bart K. Sapeta
Margaret M. Rice

Members Not Present:

Other Councilors Present

Carl Jacobs

Staff Present:

Rhett Lamb, ACM/Community Dev. Dir.
Medard Kopczynski, Economic
Development Director
Mark Howard, Fire Chief
Beth Fox, ACM/HR Director
Elizabeth Dragon, City Manager
Thomas Mullins, City Attorney
Steve Russo, Police Chief
Andy Bohannon, Parks & Rec. Director
Dan Langille, Assessing
Patty Little, City Clerk

Chair Richards called the meeting to order at 7:00 PM.

1. Daron Friedman - Request to Acquire Property - Washington Street

Rhett Lamb, ACM/Community Development Director introduced the applicant Daron Friedman. Mr. Friedman explained he acquired the 529 Washington Street property last year and discovered he only owns about eight feet past his building. The abutting property is a City park. Mr. Lamb referred to the slide depicting the properties. Mr. Lamb confirmed for Chair Richards the property under discussion is a designated City Park. He continued the park property is to the east side of Beaver Brook with a park facility and access off of 93rd Street. The area Mr. Friedman is interested in is the back of the two properties which is mainly floodplain, steep slope, and undeveloped treed area. It is not accessed for park purposes in any way. Mr. Lamb noted the City

acquired the property in the 1960's through a tax deed process.

Mr. Lamb referred to Resolution R-2010-31 Relating to the Sale of City owned Real Property and explained the two step process:

- Council determines whether or not the property is surplus
- If Council determines the property is surplus a report/appraisal/evaluation of special circumstances is prepared and sent through the City Manager to the FOP Committee. The FOP Committee would determine if the property could be sold and under what circumstances.

Mr. Lamb advised we are here tonight to discuss the first step; to determine whether or not the property is surplus. Chair Richards asked what could be built there. Mr. Lamb indicated the location is not something the City would consider for development. He pulled up the slide depicting the floodplain layer in the area. Andy Bohannon, Parks & Recreation Director concurred with Mr. Lamb's comments adding we stay in the maintained area (George Street side) and do not go on the other side of the Brook at all. Mr. Lamb commented there are four to five abutters to this property and the City has no access to this land from Washington Street.

Chair Richards asked the City Attorney about the rules when something is dedicated as a park. Attorney Mullins noted the research he did and that he prepared an internal memo today for staff. Attorney Mullins reported there is an applicable State Statute which he explained for those present. He continued the process is the same as a discontinuance of a highway. This is a process Council is aware of and will have to run if the property is determined to be surplus. Attorney Mullins also noted this would be only a partial discontinuance of the Park. He also explained a public hearing is part of the process.

Chair Richards asked for Committee questions or comments.

Councilor Rice asked if the public hearing had to happen first. Attorney Mullins indicated Council could make the determination but the public hearing would have to happen before the transfer.

Councilor Hansel asked if the section of the stream was in a natural state and is there any reason the City would have to go in there, in the future, to make improvements. Mr. Lamb replied he is not aware of any improvements in this section like there are further downstream. He continued in this area it would be easy to conclude it is a natural stream.

Councilor Jones asked if we can consider it parkland if we do not have access to it. Attorney Mullins replied in the affirmative. He pointed out there is a 15-foot reserved Right-of-Way and we are researching its underlying intent and who has access to it. The City does have some drainage issues with this property so we would want to retain some kind of right of access or easement. There are still things we need to look at he added. Councilor Jones asked about Planning Board steps. Mr. Lamb indicated one part of the process would be approval of a subdivision plan or boundary line adjustment. He also noted the importance of having the survey information prepared before the transfer. Councilor Jones asked if this is where the public would weigh-in on flooding. Mr. Lamb suggested the flooding issue would probably come up at the

public hearing prior to the Planning Board step(s). Attorney Mullins confirmed the discontinuance notice would include abutters.

Councilor Hansel commented in most cases the property would be put on the open market. He then asked if that would be the case here. The City Manager commented in this case, because of the location restrictions it is really only valuable to the abutters. One of the things we were looking at doing in the future is an amendment to the Resolution for Tax Deeded Property. There is some language not yet adopted locally that would make the process easier to go through. For this instance we were talking about making sure the abutters were notified and that they have the opportunity to weigh-in if they have interest in the property. Because of the restrictions and access this was not something we were recommending to be open to the general public. Taking it a little further Attorney Mullins commented this is going to be interesting; all three Committees of the City Council will be taking a look at this thing. You are here tonight to make a recommendation on whether or not it should be surplus property. He reiterated the process that would take place after the determination. He also noted because this property has been in the City's possession for over 10 years it is not subject to any of the other rules otherwise associated with tax deeded property. Mr. Lamb also pointed out if and when this portion of the property is severed it would no longer have frontage on a Class V highway so arguably it would not comply with the zoning ordinance as a free-standing lot. This goes to the City Manager's comment that it is only really usable by abutters.

Councilor Sapeta asked if it would be possible to sell it to a non-profit entity that wants to preserve it forever. Mr. Lamb replied he believes that would be possible if it complied with the zoning ordinance unless it was established as purely conservation use. Councilor Sapeta said he is looking at it from the perspective is it fair to open this for only one person to buy. He does concur with the environmental issues. Mr. Lamb noted these things can be part of the report provided to the City Manager and then onto the appropriate Committees. Chair Richards noted we will be doing a site visit for this thing to move forward. Attorney Mullins reiterated the steps in the process and confirmed the land would stay as a park if it fails at any one of the steps. Chair Richards commented he is in favor as far as let's see what else happens. Councilor Jones asked if step three would be the discontinuance, site visit by City Council, and a public hearing. Attorney Mullins replied in the affirmative.

There being no further questions from the Committee or public Chair Richards asked for a motion.

Councilor Hansel made the following motion which was seconded by Councilor Jones.

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that the portion of City owned property located to the rear of 527 and 529 Washington Street, and to the West of Beaver Brook, being an unused part of Ellis-Harrison Park, be declared surplus property for purposes of Resolution R-2010-31, and that the request to purchase the property be referred to the Finance, Organization and Personnel Committee for further recommendation.

2) 79-E Community Revitalization Tax Relief Incentive District Expansion - Economic Development, Initiatives & Special Projects

Medard Kopczynski, Economic Development Director reported Staff has had several recent conversations with property owners in the Central Business District where they have expressed a desire to utilize 79E property tax incentives. The existing 79E district adopted in December 2017, is limited to the area along the Marlboro Street corridor within the "Business Growth and Redevelopment" and the "Neighborhood Business" Zoning districts. An expansion of the area covered by RSA 79E could provide an economic incentive to renovate some underutilized buildings within the downtown Main Street corridor and further our economic development and expansion goals. Mr. Kopczynski specifically noted Zack Luce and Patty Moreno as interested parties. After conversations with Rhett Lamb and the City Manager he would like to recommend expansion of the district. Mr. Kopczynski confirmed tonight we are only requesting authorization to create the resolution.

Mr. Kopczynski referred to the attached map provided in the Committee packet and noted the map shows an expansion to support economic development in the downtown. To be eligible for 79E, the proposed project must meet public benefit criteria to enhance downtowns and town centers with respect to economic activity, cultural and historic character, sense of community, and in town residential uses that contribute to economic and social vitality. In addition, RSA 79E states that it is a public benefit to encourage the rehabilitation of the many underutilized structures in urban and town centers as a means of encouraging growth of economic, residential, and municipal uses in a more compact pattern, in accordance with RSA 9-B. The expanded area shown on the map is consistent with a logical definition of downtown Keene and when combined with the existing 79E district, which currently covers the Marlboro Street corridor, creates a defined downtown ready for redevelopment. The renovation and restoration of historic structures is a clear goal of 79E. Mr. Kopczynski continued, in addition to the Central Business District, parts of the Central Business Limited District, and a small portion of the Residential Preservation District on both sides of Grove Street is included, which is the only residential area that logically fits a downtown definition; bridging the existing and proposed 79 E districts.

Noting previous discussions Chair Richards asked why this would be a benefit now. Mr. Kopczynski replied specifically to the inquiries we received in the Downtown District. He also noted there were no inquiries from Marlboro Street. Mr. Kopczynski noted his intent to send a mailer out to the property/business owners in the Marlboro Street District (in process). The City Manager noted previous concern about overlaying in the TIF District adding nothing in the TIF District will be jeopardized. She continued we now understand the financing mechanisms in place and the timing is right.

Chair Richards asked for questions or comments from the Committee or public.

Councilor Sapeta commented this is good news and noted his interest in expanding to the south. He asked if it was possible to get the mailers out faster to obtain more feedback. The City Manager replied tonight is our first step and we fully expect to have more conversations about the boundaries. She also noted we are limited to some degree based on our zoning map. Staff wants to be more responsive and efficient this time because we do have some willing participants who could make significant investments in our downtown.

Councilor Hansel commented this is an important adjustment to make; he sees this as a natural and timely adjustment to our plans. Councilor Hansel explained this is still an experimental thing. He noted his work on a similar idea based around housing and suggested getting experience on the commercial side is a good thing.

Councilor Jones clarified this is not a tax break, but a tax deferral on the improvements made. He addressed Councilor Sapeta's question noting this is coming back to us as a draft at which time we can change it. Councilor Jones added he likes the way the motion is written and looks forward to passing this. Chair Richards clarified we cannot change it anyway we want; it depends on what has been designated. With that said when this comes back we will see what the parameters of what could be done versus where we are; then we will know better how this will progress. Councilor Jones clarified he meant that would be the time to ask for the changes. Mr. Lamb commented we would be happy to review the options with the Committee. Councilor Sapeta asked if there was a timeline. Mr. Kopczynski commented the mailers are going out to the district already established; they really have nothing in particular to do with this. He explained we are trying to get business owners excited about what the City is doing. Mr. Kopczynski added he was surprised they have little knowledge about what the City is doing.

Carl Jacobs, asked what BGR meant. Mr. Lamb explained it is a zoning district created around Marlboro Street (Business, Growth, and Redevelopment). It is a combination of industrial and commercial districts that used to exist there.

Councilor Jones made the following motion which was seconded by Councilor Rice.

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that City Council authorize City staff to draft a Resolution to expand the existing NH RSA 79-E district.

The City manager commented she wanted to recognize the work Mr. Lamb, Mr. Kopczynski, Ms. Kessler, and Ms. Landry are doing around economic development and redevelopment. She continued this is working in large part due to City Council approving the plan we put forward.

3. NHMA Legislative Policies - City Manager

The City Manager referred to the informational memo in the packet noting she is also looking for feedback from the Committee. The NHMA will be voting on its 2019-2020 legislative policies at their Legislative Policy Conference on Friday, September 14th. The policy recommendations reflect three focus areas: General Administrative and Governance, Finance and Revenue, and Infrastructure, Development and Land Use. In each category there are three types of policies: Action Policy Recommendations, which, if adopted, would be drafted by staff for introduction in the 2019-2020 legislature session, Priority Policy Recommendations, which may be developed into legislation depending on staff resources and other factors and Standing Policy Recommendations, which give guidance to NHMA staff if legislation is submitted by others. Included in the packet are the final recommendations that are going forward. Each municipality's voting delegate will be asked to vote on the policy recommendations. Beth

Fox, who is a member of the Board of Directors of NHMA, will be the City's voting delegate. The City Manager noted staff members are present to answer any questions. Staff has already provided their feedback. Included in the packet are floor policies and a letter the Mayor has signed onto in regards to some energy bills. The General Court is expected to convene on September 13 to consider overriding the governor's vetoes on several bills. Two of the bills are important to municipalities. SB 446, which would increase the maximum allowable capacity for net-metered renewable energy projects from one megawatt to five megawatts and SB 365, which would require electric distribution companies to buy energy from six eligible biomass facilities and one waste-to-energy facility, all located in New Hampshire.

Chair Richards asked for Committee questions or comments.

Councilor Hansel commented it looks pretty straight forward. Councilor Sapeta also commented he feels if this goes through the Council there is a better possibility of disseminating information to the public. Councilor Sapeta encouraged the City Manager to look for ways of getting this to the Council so they can weigh-in. The City Manager agreed as more important bills come through we will do that. Councilor Jones added one or two of these are already supported by our Comprehensive Master Plan/Economic Development Plan so we have a good starting point to take a position on this.

Chair Richards asked for public questions or comments.

There being no further comments from the Committee or public Chair Richards asked for a motion.

Councilor Rice made the following motion which was seconded by Councilor Hansel.

On a vote of 5-0, the Planning, Licenses and Development Committee accepted the memorandum from the City Manager on the 2019-2020 NHMA Legislative Policies as informational.

The City Manager thanked the Committee for their feedback and the staff for coming out tonight.

3) Adjournment - There being no further business before the Committee Chair Richards adjourned the meeting at 7:48 PM.

Respectfully submitted by,
Mary Lou Sheats Hall
September 2, 2018