

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT
COMMITTEE MINUTES

November 7, 2018

7:00 PM

Council Chambers A

Members present:

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

Staff present:

Thomas Mullins, City Attorney
Rhett Lamb, ACM Planning Director
Elizabeth Fox, ACM HR Director
Medard Kopczynski, Economic
Development/Special Projects Director

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

1. Keene SnoRiders Snowmobile Club - Request to Use City Property

Mr. Medard Kopczynski, Director of Economic Development, Initiatives and Special Projects stated that he had a brief conversation with the Management Director of the Keene SnoRiders Club and the Director informed him that the Club will be shifting their routes around a bit. Chair Richards said that the Club has a strong reputation for maintaining trails.

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

On a vote of 5-0, the Planning, Licenses and Development Committee recommends that this item be placed on more time.

2. 79-E Community Revitalization Tax Relief Incentive District Expansion Resolution Resolution R-2018-33

Mr. Kopczynski stated that based on comments that Planning Department staff received about RSA 79-E and its possible use in a further area, they have come to City Council to ask if the Council has an interest in expanding that district. Based upon the City Council's direction, he said they have created a Resolution that they are presenting tonight, along with a map of the area related to it, as well as the changed language that is required to make the Resolution work relative to the map area. He stated that Community Development Director Rhett Lamb has more detailed maps to show Council if requested and is available to answer any questions they may have.

Councilor Jones asked Mr. Lamb to identify the tax increment financing district on a map. Mr. Lamb provided Council members with maps identifying the TIF and Zoning Districts. Mr. Lamb said that the Resolution is a replacement, in other words the expanded area that is shown in the map, represents one Resolution represented by the entire red line. The changes in the Resolution reflect different zoning districts, the presence of the TIF district, and for example, properties in the preservation zoning district they have established criteria for the granting or approval of 79-E for properties that are exclusively residential.

Councilor Hansel asked if there is any case in which both the TIF and 79-E could both be used together. Mr. Lamb replied that 79-E uses the incremental value and creates a temporary tax benefit to the owner who is not responsible for paying the tax on incremental value. In the case of a TIF, it is exactly the opposite; the incremental value is assessed by the City and then collected for the purpose of building some public infrastructure that might be needed to support the development. Mr. Lamb said the Resolution includes language so that if the project requires a public investment through the TIF it is not eligible for 79-E. He said that this is important because in some cases there may still be benefit for the TIF District in the City to make some improvements necessary for development to take place. He said for each individual project creating a new increment, you would have to choose one or the other; it would not make sense to apply both to the same increment. However, if you have a project that is 79-E eligible and designated for a tax deferral for a three-year period, there is no reason why the next improvement or increment could not go through a TIF project if that were appropriate at that time. Mr. Kopczynski stated that the proposal itself does not make an either or proposition for providing tax relief, but allows the City Council to consider the fact that this may be in a TIF District and to evaluate the impact it may have with respect to existing or required City infrastructure.

Councilor Hansel asked if Mr. Kopczynski and Mr. Lamb could describe a scenario in which there are two abutting properties or lots, and one is 79-E approved and the other is stuck in a situation in which the City is stating that the project is part of the TIF. Mr. Kopczynski stated that 79-E will probably be used more in areas with existing infrastructure and therefore they did not anticipate much conflict between the two.

Mr. Lamb said that the projects done through 79-E as opposed to TIF will probably be smaller, for example, in the past a TIF parking structure was built which in turn allowed a developer to build a hotel which without the parking structure probably would not have been built. He said large projects will have funding problems on their own even with the benefit of a 79-E tax deferral so for larger projects the TIF would still be the best choice. Councilor Jones added that if they had made the railroad structure a 79-E, they would not have the funds to pay off the bonds for the TIF. Mr. Lamb agreed that if a project needs a lot of public infrastructure, it is unlikely that 79-E would be the best way to go. Councilor Jones asked if 79-E goes up to 7 years. Mr. Kopczynski replied that it can be any term up to 5 and it is individually-approved by City Council. Mr. Lamb stated that there is a two-year floor for projects which can meet one or two criteria for public benefit and for projects that can provide more public benefit it can go up to five years.

Councilor Sapeta asked if properties in the district can use 79-E and TIF multiple times over the years. Mr. Kopczynski stated that he is not aware of any restriction on that, however, final permission and approval is solely up to City Council. Councilor Sapeta asked if it allows the developer to make the choice. Mr. Lamb clarified that the 79-E is an individual property owner coming to the City and applying through the process which is established, however, the TIF District already exists, so incremental value that is being generated in the TIF district today is already going towards the bonds that were established under that TIF. Councilor Sapeta asked if it goes on forever. Mr. Lamb stated it goes on until the bonds are repaid but they can establish new bonds depending on the need. He said that individual properties do not apply for TIF projects. Councilor Sapeta thanked Mr. Lamb for the clarification.

Councilor Hansel asked if someone takes advantage of 79-E and gets a two year tax relief, after the two years is up, does the incremental value go into the TIF or is there no more incremental value after 79-E expires. Ms. Fox replied that the incremental value after the two-year period would only impact the TIF to the extent that it might be needed for debt service that the TIF had incurred or to support the District's operation. Councilor Hansel stated that a project that is looking for 79-E, eventually could still contribute to the TIF by increasing incremental value.

Councilor Jones asked if there is potential conflict with the ERZ. Mr. Kopczynski replied no there is no conflict with the opportunity zone and new market tax credits, this program is specifically tailored to forestall the increase in taxes as related to improvement as allowed by City Council. Attorney Mullins stated that the value of the property taxes becomes a potential expense that could boost your eligibility and offset for tax credits so there may be some interplay between those two. Mr. Kopczynski agreed that they are not exclusive.

Councilor Sapeta asked how they came up with the new boundaries. Mr. Lamb replied the boundaries reflect a combination of existing districts including central business, portions of central business limited and edges of the downtown area. They did not include all of central business limited and south of the central business district. They only included parts of the zoning district that were modified as part of the Marlborough Street project (purple lines on map) as the rest of it was covered in the first 79-E Resolution. He said they did not include other districts which are not considered village center or downtown in the category of where 79-E is applicable in the statute. Mr. Sapeta asked if they could move it down to Proctor and Elliot Street as there are many historic properties in that area that might benefit from 79-E. Mr. Lamb said they included Grove, Willow and Water Street because they needed a connection and Proctor and Elliot are not really downtown.

Attorney Mullins said the way the statute is written, a historic structure can qualify regardless if it is downtown or not, so if there is someone located outside of the map area, they could be included in 79-E. Mr. Sapeta said that is great to know but asked how the owners would know if they are included or not. Chair Richards replied that hopefully they are watching the meeting tonight.

Councilor Jones stated that they designed a Seed District with many incentives; however, there was only one petitioner interested. He asked whether or not adding 79-E as another incentive would help the Seed District. Mr. Lamb said when they did the Seed District zoning and

evaluated what types of incentives to promote interest; they determined the answer was some sort of tax relief. However, following the City Attorney's commentary of what the Statute says, the area must be defined as downtown. Mr. Lamb said most of the Seed District is in the commerce district and high density and those areas are not immediately identified with a downtown or village center designation as the Statute requires.

Councilor Jones asked what the definition of "downtown" is. Attorney Mullins said the way they have structured the Master Plan documents and zoning documents, they put central business and central business limited because that is the area that the community historically considers its downtown area. Councilor Jones said the State statute says "downtown community" but it does not specify central business or central business limited. Mr. Lamb replied that in the absence of another document defining what Keene's "downtown" is, they had to defer to the zoning definitions and purpose statements for this District.

Councilor Hansel said the best advertisement for this program will be a successful project or two, and when the applications and upgrades are demonstrated to the community, applicants will come to the City to ask how they can make 79-E applicable to their buildings and the City can revise the districts as the community need dictates.

Mr. Sapeta stated that lower Main Street going down to Winchester Street is more downtown than lower Marlborough Street, so if they are struggling with this definition maybe they should make a decision similar to how they managed for the TIF district and 79-E to coexist. He said they need to promote development so expanding 79-E down more would be great, especially for historic structures. He said they also need to focus on advertising to ensure that people will know about the program. Mr. Sapeta said he would like the Community Development Department to start thinking about changing the definitions. Mr. Kopczynski replied that definitions are by zoning district and the districts down by Main Street are residential as that could cause a conflict with residential communities being rezoned in the commercial district. Mr. Lamb added that the question is where do they stop and ideally they should focus on what the community defines as a downtown as opposed to zoning as that can become messy.

Attorney Mullins said they cannot forget the purpose of the Statute which is primarily aimed at revitalizing downtowns or village districts where economic activity has traditionally been generated. They must be careful thinking about the Statute as something that can be used everywhere in the City for every purpose. He said if they start changing the zoning ordinance it opens up complications. Councilor Sapeta asked if the Statute refers directly to zoning. Mr. Mullins said it does, which is why they did it as a zoning ordinance. Councilor Sapeta suggested that they could develop different language. Mr. Mullins replied that the source documents have a default mechanism for small communities, where historically the downtown is defined by patterns of practice the community has created. He said the City of Keene has already created the downtown structure so they have to operate by it.

Councilor Sapeta asked why Marlborough Street is included in the 79-E because it is not located downtown and they are already stretching it. Mr. Mullins said they specifically did that to allow 79-E to operate in that environment. Chair Richards said they are trying to extend downtown to

Marlborough Street for economic growth. He said there is no problem with modifications by Council, but they would really like to pass the Resolution today.

Councilor Jones said Ralston Street has the look and feel of a downtown and is a place that needs improvement and incentive, so if they could add the Seed District into the 79-E it would improve that part on Ralston Street. Mr. Richards replied that Ralston is not really downtown, so the message is to get people applying and they can always come back and rewrite and add changes later.

Councilor Rice said this is a good example of government working for the people, if people in different areas want to expand they can modify as the interest develops. Mr. Sapeta stated this is a redevelopment tool with very little trade-off for the City and he would like to see the program expand through the entire City as a development tool in the future. Mr. Lamb said criteria have been added for the purpose of addressing buildings that are exclusively residential. He said the first round criteria were oriented around business development and investment, but by adding an area that is exclusively residential they wanted to create criteria specific to residential areas based on public feedback. He said they came up with two criteria: (1) returning or retaining residential properties to owner occupied status, and (2) greenhouse gas emissions standards relating to carbon emissions, as a way to measure an improvement. For example, if there is a way to show that a residential property has reduced their carbon emissions it can demonstrate the public need criteria for the 79-E process.

Mr. Kopczynski provided hand-outs to committee members and said they needed to develop a method for demonstrating the carbon savings and energy improvements. He said there is a Department of Energy program called the Home Energy Score which allows you to develop a score for pre-reconstruction buildings and evaluate carbon savings of buildings which is a genuine mechanism for demonstrating that the improvements meets the criteria for the City's Climate Action Plan - a proven public benefit.

Councilor Hansel asked if the program is a certification program similar to NH Saves. Mr. Kopczynski said it is not a certification program it is a scoring program. He said the Planning staff would go through a training program to allow them to score buildings as part of the program and they may take scoring mechanisms beyond this program in the future.

Councilor Jones said this is great but it is not part of the 79-E Resolution. Mr. Kopczynski said it is related as the particular scoring system is only good for 1, 2 and 3 family houses, so if someone wanted to hire a rater in the state of New Hampshire they could do that today. This is a program that they are marrying to 79-E program but they can carry it beyond in the future. Chair Richards asked where this program can be found in the 79-E Resolution. Mr. Kopczynski said it is located under Roman Numeral 9.

Mr. Sapeta stated that number 8 states a return to owner occupancy which further underscores his comments that properties on Proctor, Elliot, Blake, Wilcox and Davis should be included in this District so there is an opportunity for people to buy those properties. Councilor Hansel agreed that the Resolution sounds promising. He suggested keeping track of staff time for ratings as

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there may be the option for the owners to hire a professional to do the ratings instead of City staff.

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

On a vote of 5-0, the Planning, Licenses and Development Committee recommends to the full City Council the adoption of Resolution R-2018-33.

Respectfully Submitted by,

Ayshah Kassamali-Fox