



PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE

2004200.5
James Roby Day, Jr., Chairman
Richard A. Smith, Sr., Vice Chairman

MINUTES
(Work Session September 9, 2004)

CALL TO ORDER: Chairman Day called the work session of the East Kingston Planning Board to order at 7:00PM.

Members present – Mrs. CE Belcher, Chairman JR Day, Vice Chairman RA Smith, Sr., Dr. RA Marston, DVM

Alternate members present – Mr. JD Burton, Mr. EV Madej

Advisers present – Ms. Maura Carriel

BOARD BUSINESS:

Mr. Day stated that the Board's task at the meeting was to nail down what it wants to say in the way of Master Plan Housing Chapter recommendations. He added that the second challenge for the Board is the CIP. He stated that he has a plan to deal with it to have something to give the Selectmen before the budget cycle starts in November.

Mr. Day listed the inventory of the last package of information given to the Board.

Mr. Day stated that he handed out a letter from Denny Quintal to the DOT regarding Masone asking about the signage and whether the increased traffic would trigger another look at the intersection. Mrs. Belcher expressed her disappointment that the letter did not contain a question regarding the tractor trailers entering and exiting the premises. Mr. Burton asked if it would be possible for the Board to make a recommendation to the Selectmen for them to officially approach the DOT. Mrs. Belcher stated that the Board would be asking the State to confirm that the driveway as it exists can safely accommodate the entering and exiting of tractor trailers. Mr. Day stated that he would put together a letter and get it to Al Garland. Mr. Burton made the suggestion that the letter from the Board asks them to consider a sign. Mr. Day stated that Mr. Garland is receptive to input from planning boards.

Mr. Day noted the pages from the draft minutes of the Selectmen's last meeting where they addressed the questions with the Fire Department and the Building Inspector about building permits and fire suppression systems. Mrs. Belcher stated that the conditional information cannot be put on the mylar because that will all be taken care of before the final plan. She asked if the Selectmen are asking for the fire suppression requirements to be added to the mylar. Mr. Day stated that the Board cannot record a mylar as a final plan unless all the conditions are satisfied and if one of the conditions is to have fire suppression systems signed off by the Fire Department and it is not in the ground, it doesn't work. Mr. RA Smith stated that the original plan was directly associated with subdivisions of large proportions and it has drifted away from what it was designed for. He stated that he thinks it got a little out of hand because now when someone wants to build a house, they are required to have a suppression system that would do a whole village. He suggested that one system could be used by many houses and that the cost is split among them. Mrs. Belcher asked how to reconcile the fact that if someone builds three houses and has to have a fire suppression system, but someone builds one house and does not. She added that it needs to be fair for everyone.

Mr. Burton stated that the ordinance would have to be rewritten. He added that the way it is done now every time someone comes in with a plan a set of standards is applied that originally were designed and written for developments and even if it is only one lot, there are the same standards applied. He suggested that maybe instead of having it be the same standards for fire suppression no matter how many units, base it on actual need. He stated that if there is a fire suppression system that is close enough, an exception is provided. He added that he has gotten the impression from the Fire Department that they don't need all of this. Mr. Day stated that he would like to have the Fire Department in on a discussion. Mr. Smith stated that it has been proven that they can put a house fire out with far less water than what they recommend they need. Mr. Day stated that he has the mylar for Joanne Brandt on

the desk and the one condition that hasn't been satisfied is the fire suppression system and it could very well be that she can't afford it. Mr. Smith stated that there used to be a budget in the Fire Department to put in three fire ponds a year in different places where they could get someone to allow them to put it in to protect the town. Dr. Marston stated that a hydrant could have been put in right behind the fire station from the 18 foot deep pond, but they decided it was too much money to dig the ditch and put the pipe in. He added that it was offered by the owner of the pond for free.

Targeted Block Grant Mr. Day stated that the application is in. Ms. Carriel stated that it is generally allocated to towns that haven't gotten a lot of projects funded. She stated that East Kingston just had the housing chapter. She added that it depends on how many applications come in.

Mr. Day noted the information from Ms. Carriel regarding the Town of Bow. Mr. Day stated that the effective date of their growth management ordinance expires in March of 2005. Ms. Carriel stated that they must have set a time frame up front for it. Ms. Carriel stated that one of the reasons she chose Bow was because one of their Planning Board members is an attorney who has done an NHMA lecture series on growth control.

Mrs. Belcher noted the traffic study for light industrial that was done using 20-year-old data. Ms. Carriel stated that if it is something out of the Traffic Generation manual, that relies on people doing traffic counts and submitting it. She added that she would be surprised that they had that old data in a current edition if it wasn't something that had proven out not to have changed. Mrs. Belcher stated that the data was on page 89. Ms. Carriel stated that they are using the Trip Generation Manual Seventh Edition, which is the standard for doing traffic studies. Mr. Day stated that he didn't think what they were talking about was site specific, that they were talking in terms of functions.

New Hampshire Estuaries Project Mr. Day noted the handout from the New Hampshire Estuaries Project and a free lunch and boat trip and the registration deadline is September 15.

Letter from Carolyn Russell Mr. Day stated that the Board received a letter from Carolyn Russell (NHDES) answering its questions regarding cluster housing ordinance. Mr. Day stated that she looked directly at the Town's cluster housing ordinance and thought it was a pretty good piece of work. He added that she does make some recommendations in regard to how much land the Board would want to require to be put into conservation or open space and to make that particular ordinance more competitive with the other standard ordinances.

September 16 Meeting Mr. Day stated that Christian Smith wants to look at doing a conservation subdivision on Glen Clark's property on Burnt Swamp Road (40 acres). Mr. RA Smith stated that the Planning Board needs to go look at the property. Mr. Day noted that this is for discussion only. Mr. Day stated that Christian Smith is suggesting three options; two conservation options which would leave some open space and a standard subdivision and the difference in the number of units varies from 15 houses to 18 houses. Ms. Carriel stated that she spoke with Christian Smith and he said that he wants to find out if the Board is interested in seeing a conservation subdivision. She stated that she told him that the town is going through NROC and it was her guess that the town would be pretty interested in seeing a conservation subdivision. She added that he wants to know if the property is suitable for a cluster subdivision. She stated that she is not familiar with the property at all. She added that she thinks the back part would be part of their open space. She stated that one question to ask them and Larry Smith what is valuable on that parcel to preserve.

Proposed Agenda for October 21 Planning Board Meeting Mr. Day noted the proposed Agenda and it's very full. He stated that Wayne Ewald and Mr. Beatty want to come back and talk to the Board about putting in a fire pond versus a cistern. He noted that there is a discussion only item is Mike Garrepy, who is looking at the 107 acres south of the post office. He added that Mike Garrepy is a planner but he is working for some developer. Ms. Carriel stated it is Turner Porter. Mr. Day stated that the property is very wet in one portion and there are spots of uplands here and there.

Mr. Day asked Dr. Marston to give a report on his trip to Exeter. Dr. Marston stated that this is in regard to the old Rolling Ridge mini horse farm on Powder Mill Road. He stated that there are 21 acres in Exeter, 85 acres in Kensington and 62.5 acres in East Kingston. He said that there is going to be a 1,700 foot cul-de-sac and put nine house lots off that in Kensington along with an existing house, which will make it 10 house lots and two entryways into Kensington. He added that these will be active adult communities. He said there would be 23 single units in

one group and 23 multi-family units in another group and the entrance to these is off the cul-de-sac. He stated that this will be entering onto Powder Mill Road, which is designated as a scenic road with stone walls and trees that are not supposed to be removed. He added that the builder is proposing to make a cut in the walls and remove a bunch of trees to get some sight distance. There was a traffic impact study done. The neighbor across the street noted that the traffic study was done from noon to 1:30 on a summer day. Dr. Marston stated that the road is posted for 30mph and the traffic impact study found that the average speed is 32 mph and very little traffic. He noted that that was not when school is in session. He added that the speed at that time is about 50mph according to the neighbors. He added there is no direct road from Kensington into these. The closest road is Kimball Road and the builder has approached Paul Kimball to buy a right-of-way for a road, but Paul Kimball claims that the Kimball Farm was in existence prior to 1737 when Kensington was incorporated and he feels that it is his responsibility to keep it that way and not break up the farm. So he will not sell any land. Dr. Marston stated that Exeter does not want to send their ambulances in to Kensington.

Mr. Day noted a memo from the Exeter town planner and her list includes the maximum length of a cul-de-sac is 1,200 feet. Dr. Marston stated that he didn't think Exeter was too happy with this. Ms. Carriel said that she didn't feel Exeter was very receptive and the fire access issues are going to be huge. Mrs. Belcher suggested telling them that East Kingston won't sign the mylar unless it goes into conservation. Dr. Marston stated there was concern regarding well water since this is located across from the Exeter dump. He added that this was just a preliminary meeting. Ms. Carriel stated that they had initially applied to the town of Exeter only. She added that Exeter told them they should go to Kensington at the same time. She said that the Kensington planner put on her review memo that it does require the East Kingston Planning Board's signature. Mr. Day stated that the East Kingston Planning Board should have been notified since it is an abutter. Dr. Marston was notified because he is an abutter. Mr. Day noted the Scapicchio development on Andrews Lane, there was no property in Kensington but because it was right on the border Kensington was an abutter and they would have been a signatory on the mylar.

Mr. Day noted a handout that came from Larry Smith who came from the RPC meeting the night before. He stated that it is a handful of zoning ordinance actions which the Board can take except for one, which is a mandatory FEMA zoning amendment. He stated that this needs to be put into a warrant article for the flood plain management ordinance.

Mrs. Belcher asked what would the pros be of adopting a mandatory preliminary plan review, to which Ms. Carriel stated that hopefully someone would come in before they have all their plans drawn up so that the Board could influence the design of the project. Ms. Carriel stated that a preliminary meeting would not be a public hearing. She added that before an applicant filed an application, they would have to come before the Board for a preliminary meeting and this would not involve abutter notification.

Municipal Law Lecture Series Mr. Day stated that the deadline is September 10 to give NHMA names of those who want to attend. He stated that there are three lectures on Wednesdays, October 13, 20, 27 in the Newmarket Town Hall. He added that he would be interested in at least two of them. He stated that Land Use Law Update is on the 13th. The 20th is New Challenges for Municipal Regulation of the Environment and the 27th is Basics of Subdivision Site Plan Review.

Discussion ensued regarding the citizen's petition for sensible growth. Mr. Day stated that Bob Moore was told what the statute says about citizen's petitions with regard to who do they go to and time frames. Ms. Belcher explained to him how to formulate a petition. Mr. Day stated that Mr. Moore's petition was to rescind the elderly housing ordinance.

Ms. Carriel stated that one of the petitions last year that passed puts a cap that no more than 50% of the dwelling units in the town can be elderly housing. She noted that this is a pretty high percentage. She suggested the Board change that percentage because that is a real shift of the demographics of the town.

Master Plan Housing Chapter

Mr. Day stated that it was his hope that the Board could settle on a list of recommendations for the end of the chapter. He reviewed the current recommendations from 2000. 1) The Planning Board will look at the growth control ordinance and see if it can be tailored to prevent phenomena like the housing boom that has occurred since 1990; 2) The Planning Board should study the implementation of a multi-family cluster zoning; and 3) Local regulations should continue to encourage manufactured housing on individual lots and in cluster developments. Mr. Day stated that the ordinance does allow manufactured housing on individual lots, but not trailer parks.

Ms. Carriel pointed out a conflicting item in the cluster zoning ordinance regarding manufactured housing. She stated on page 34 V: Manufactured housing as defined by RSA 674:31 shall not be allowed in cluster developments proposed under Article XI. She then pointed to page 27 D: Manufactured Housing may be permitted in a cluster development in any residential district provided such housing meets all other requirements of the East Kingston Zoning Ordinance. Ms. Carriel stated that she presumed that D was part of the original. Mr. Burton stated that it was his opinion that the one on page 34 was adopted after the one on page 27. Mr. Day stated that he could find out what the date of the ordinance is by going through the town reports.

Mr. Day noted Ms. Carriel's recommendations listed as general, land use and other potential. Mr. Day stated that he questioned the first recommendation's applicability. He stated that the Board may find itself unable to support the growth control ordinance this year. Mrs. Belcher stated that she thought it was no longer a boom, it's more like a trend. Ms. Carriel stated that the growth control ordinance was adopted in March 1998.

Mr. Day noted the second recommendation and stated that it falls into Carolyn Russell's thoughts and comments about the cluster housing ordinance. He added that one of her suggestions is to make it multi-family, which would make it more competitive with the other forms of development. Mrs. Belcher stated that it also means the town would have a bunch of multi-family houses. Mr. Day stated that the Board has decided that it does not allow multi-family housing and that the town is limited to duplexes. Mrs. Belcher stated that if the Board wants to stay with the overall housing patterns that have been in the town, then multi-family construction would be a new trend. She added that it is not conducive with keeping the growth trend that the town has experienced. Mrs. Belcher stated that she would personally not want to see multi-family housing in the town regardless how good it is for the conservation goals.

Mr. Burton stated that he thinks that the town is required by law to provide an option of multi-family housing. He added that if the town does not comply with the law, someone can come in and say that since the ordinance does not comply with the law, and that they can build anything. Mr. Burton stated that the town would be better off controlling what is required by having an ordinance that allows the town to determine what it looks like, where it is, etc. He added that if there is no ordinance, the Board is not keeping people from doing it. Mr. Belcher stated that she thinks the likelihood of that happening is very low for someone to come in and take the town to court and do whatever they want. Ms. Carriel said that the purpose of zoning is to basically provide opportunity for diversity of housing and it specifically says multi-family housing, which the State defines as "three plus units". She added that right now the town is in the position where the Master Plan says the recommendation is to create multi-family allowance. She added that right now the town is in the situation where anybody can come in and say they want to do multi-family housing, the Master Plan says the town should have it, yet it hasn't been done. She said that she could not see how the town would get off the hook for that.

Ms. Carriel stated that the town can define where multi-family would be allowed, what it looks like, the density. She added that there has to be reasonable opportunity and that is what the case law focuses on. She said that if it is going to be allowed in certain zones, it can't be one-acre when the town has so many acres of undeveloped land.

Mr. Burton stated that his personal opinion is the adverse reaction to multi-family housing is offensive. Mrs. Belcher stated that people come to East Kingston because of what type of town it is. Ms. Carriel stated that everything this chapter says now is that East Kingston doesn't have opportunities. She added that the chart she distributed shows that the town is much higher in terms of income range, it's not representative of the region. She reiterated that that is what the State is looking at; every town has to do its share of absorbing the regional housing demand at all income and age levels. She added that there is a need for a more diverse housing stock. Mr. Day suggested using that kind of verbiage in the recommendation rather than saying multi-family, cluster zoning. He

suggested saying that the Planning Board should study how the housing stock in East Kingston might be made more diverse to conform with regulations. Mr. Day stated that the less specific the recommendations are, the better because that gives more latitude. He noted, however, a fairly clear picture has to be painted of what is wanted. Mr. Smith stated that the size of the trailer park should be expanded for low income housing because there is enough room for expansion.

Mrs. Belcher asked how can this type of growth be limited. Mr. Burton stated that a way to limit it is the village concept, differentiating zoning based on soil or natural resources. Ms. Carriel stated that there can be a defined area like a commercial district. Ms. Carriel stated that it would probably be an overlay district where any kind of residential use is allowed including multi-family or mobile homes and once the area is fully developed, that is the end of it. Mr. Burton stated that the town is not required to provide affordable housing, only the opportunity to have affordable housing. Mr. Day stated that the Board has to recraft that second recommendation to make it more general in its focus suggesting that the Planning Board would examine ways to provide a more diverse housing stock. He added that the RSA can be referenced.

Mr. Day stated that he is looking at discreet recommendations that the Planning Board can begin to act on and to say that the Planning Board should examine ways to create a more diverse housing stock, opens the door for other recommendations like the Planning Board should consider a village district or conservation district overlay.

Mrs. Belcher noted RSA 672:1 III-e: "All citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the state of New Hampshire, and serves a vital public need. Opportunity for development of such housing, including so-called cluster development and the development of multi-family structures, should not be prohibited or discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers."

Ms. Carriel stated that there is a development in Exeter which has a multi-family component and is apparently a beautiful project done in the 1970's or 1980's off 111. Mrs. Belcher said "Marshall Farms". Ms. Carriel stated that there are apartments in the back which she didn't know were rentals or owned. She added that it is helpful to look at examples of some good smaller developments. Mr. Burton noted that the statute says "three or more". Mr. Day said the Master Plan should reflect what the town is willing to do to anticipate the future or to make the future unfold the way it wants it to unfold. Mr. Burton stated that he felt that any reference to the statute should not be put in the plan because it could be looked at as an admission that the town is not currently in compliance.

Mr. Day noted recommendation #3: "Local regulations should continue to encourage manufactured housing on individual lots and in cluster developments". He stated that there is a conflict, i.e., either eliminate the "in cluster developments" or eliminate the whole recommendation because the town does not discourage manufactured housing on individual lots. Mr. Day recommended getting rid of Recommendation #3.

Mr. Day noted that Ms. Carriel separated her recommendations into general, land use regulations and other potential recommendations. He added that her #4 specifies that the minimum lot size be determined by soil types. He suggested assorted districts where a minimum lot size can be a part of a village district zoning definition.

Mr. Day noted the next recommendation: The Planning Board should adopt an accessory apartment ordinance. Mrs. Belcher stated that she is behind this in-law type apartment because it has minimum requirements. Maura's #6: The Planning Board should continue to review growth in the community and explore the need to assess impact fees to offset the costs of those. Mr. Day stated that that recommendation is good. Ms. Carriel stated that if the Board expects the growth control ordinance is going to be ended at some point, there has to be some other means to control growth. Mr. Day stated that impact fees hinge on the CIP and you can't apply an impact fee on something that is not documented and called for in the CIP. He added that if the growth control ordinance was done away with tomorrow, there would be nothing to apply an impact fee on.

Mr. Day stated that he thinks Ms. Carriel's other potential recommendation about amending the single-family cluster bears looking at in view of Carolyn Russell's comments.

Mr. Day asked the Board for their opinion on the village concept. Mr. Burton stated that having a village district might provide a mechanism whereby requiring larger lot sizes out in the more open areas of town could be justified. He added that that would give people the option of a smaller lot size somewhere else in the town. Mr. Day stated that if there is a village district, then there could be a rural open space district. Mr. Burton suggested a recommendation to look into or investigate a village district plan. Mrs. Belcher stated using the term "diverse zoning strategies".

Mr. Day said that he would rough a list of recommendations that have been discussed and they can be looked at at the next meeting. He added that if there is going to be a public hearing, these recommendations have to be nailed down.

Adjournment: The meeting was adjourned at 9:05 PM

Respectfully submitted,

Recording Secretary

Approved by 9/16/04