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***Town Planner's Recommendation***  
**Wednesday, October 28, 2015**

- VI. **Submission Procedures.** Clarification whether all materials for site plan and subdivision applications must be submitted by the three-week application deadline or whether it is acceptable to submit certain materials after the deadline but prior to the application being sent to the Planning Board. *Recommended action:* Clarification of policy and amendment to regulations, if appropriate.
- I recommend the board discuss the policy and incorporate an appropriate amendment into the Rules of Procedure, as stated below under Recommended Language. I also include this language in the proposed changes to the Rules of Procedure, item VII on the agenda.

Please note the following:

- Timing of extra materials. Note that this issue is separate from the board's accepting an application as complete. That determination is based on the documentation that is submitted. This issue pertains to the *timing* of submission for additional items prior to anything being forwarded to the board. If it is okay for an applicant to submit some specific items after the deadline the Planning Board still receives everything together for its consideration, and its review would not be affected in any manner.
- The issue. See my email below explaining more the issue and Robin Mower's email below that raising concerns. Again, note that this issue is separate from the acceptance. I do believe that it would be unduly rigid to not allow for an applicant to follow up his or her substantial application with some additional items later, as long as it is coordinated with the Town Planner. Say, that the property owner is bringing in the application fee separate from the engineer and they are out of town and not able to come into the office until a day or two later. This is the type of thing that the staff is perfectly able to handle. It would also present some practical challenges. When I receive the application on the 3 week deadline I often do not have a chance to look at it carefully for a week or so. Then, when I do, I may see that some information is needed, or it would be helpful to have. It would be counterproductive for me not to be able to contact the applicant and tell them that something additional is needed (and still have the application be potentially accepted at the first meeting).

Also, say that the applicant did not include a drainage analysis with the original submission, and he then submits it prior to the initial packet going out to the board.

The board has everything when it is considering acceptance at the meeting. The board  
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could determine that the application is not complete because everything was not submitted at the deadline (though it is complete when the board is looking at it) but what would this accomplish? The acceptance and the review would then be pushed off to the next meeting.

Note that if certain items will be submitted after the deadline I can coordinate the process as needed. For example, if the drainage study will come in later, I simply let the Town Engineer know. This is not a problem as the other departments generally have rolling reviews; they continue to review with new iterations and do not generally do their full review until later in the process when we are ready for signoffs. We do hold our first Technical Review Group meeting on the Tuesday or the week prior to the first Planning Board meeting so I coordinate with the applicant and pertinent TRG member about the status of the application. Depending on what is outstanding, I will advise the applicant that they need to submit it by a certain time (prior to the TRG or prior to when the packets are sent) or they may request of the Planning Board that the application be accepted as complete subject to submitting this additional item some time later, after acceptance (solely at the board's discretion).

- \* Recommended language. I am certainly not implying that we ignore our 3-week deadline. The deadline must be respected or it would throw our process into disarray. I am recommending that the Planning Board allow the Town Planner some discretion in handling these submittals. Of course, if the applicant did not meet the deadline with the application or if the application was just thrown together and not substantial at the time of the deadline then I would inform the applicant that he/she failed to meet the deadline and the Planning Board should not accept it at the upcoming meeting. I recommend adding language to this effect in the Rules of Procedure:

*“The deadline for submission of applications is provided in the Site Plan and Subdivision Regulations. The Town Planner is granted some flexibility in allowing for additional items to be submitted after the deadline provided: a) the application is substantially complete at the deadline; b) the applicant communicates in a timely fashion with the Town Planner about any items that he or she would like to submit later; c) The Town Planner determines that the submission of specific items after the deadline will not impair the review process in any meaningful manner. This issue deals with the timing for submission of materials, assuming that everything is in place when the Planning Board will first see the application and make its determination of completeness. If certain items are not in place when the Planning Board makes its determination of completeness, then the Planning Board shall determine whether or not to accept the application or not.”*

- My email. This is the email that I sent to the board on September 3, 2015:

To the Planning Board,

The Site Plan Regulations provide that formal applications must be submitted 21 days prior to the Planning Board meeting. At the meeting the Planning Board accepts the

application as complete (if all is in place) and then sets a public hearing, usually for the following Planning Board meeting.

My practice as a professional planner has always been to require applicants to submit a substantially complete package on the deadline date (today for the September 23 meeting) – with the application form, fees, letter of intent, and drawings. Often, the design engineer needs a little more time to complete additional items such as the drainage report and landscaping plan (some of which are prepared by other parties than the design engineer). I allow applicants to submit some of these items after the deadline date as long as they submit them at least a day or two before the package is sent to the Planning Board (on the Friday prior to the meeting) so that the board gets everything. What occurs at that first Planning Board meeting is a decision whether or not to accept as complete, and usually other discussions about the project (I think it would waste an opportunity to only make a quick decision on completeness and not start the discussion on the project).

I believe that it would be unduly inflexible to require that absolutely everything be submitted on the deadline day (I do not see that it would add to the quality of our review and it could delay projects, induce engineers to rush the applications, and frustrate applicants). I trust that this approach makes sense to the board, but if the board wishes to discuss it please let me know.

- Robin Mower's email. This is an email that Robin Mower sent in response to my comments.

Dear Members of the Planning Board,

I am writing to express concerns about supporting the Planner's approach to submitting applications for acceptance by the Board as outlined in his email, below. The role of the Planner relative to the Planning Board is to prepare information sufficient for the Board to take action on a timely basis.

Please see my **three points**, below.

**1) The Planner's request for approval of his current practice would codify a practice that has for years been problematic.** Inadequate time to review information that may raise significant issues has been a complaint of both Board members and members of the public. Minutes of past Planning Board meetings substantiate that can be the case even during discussion of acceptance of an application.

Members of the Board may have a different perspective from the Planner about what constitutes \*significant,\* particularly if they have expertise in a field, such as engineering, that the Planner does not. Thus, while a drainage report appears to be a \*minor\* component that could be reviewed administratively, perhaps it is not always

so. Similarly, some of us have come to realize that landscaping plans -- long a stepchild of the process -- should be reviewed carefully early in the process. (I hate to mention the word \*Peak,\* but.....)

2) Underlying my concern about the process is that incomplete applications waste time - of the Board, the public, and, potentially, Town staff -- and, more importantly, **may inappropriately set the legal clock ticking**. RSA 676:4 Board's Procedures on Plats includes the following text:

\*Upon determination by the board that a submitted application is complete according to the board's regulations, the board shall begin formal consideration and shall act to approve, conditionally approve as provided in subparagraph (i), or disapprove within 65 days, subject to extension or waiver as provided in subparagraph (f).\* <<http://www.gencourt.state.nh.us/rsa/html/LXIV/676/676-4.htm>>

The ticking clock appropriately benefits the applicant, including by enabling vesting under current land use regulations relative to the Design Review phase, when the applicant must have invested in a greater degree of design and engineering.

However, a rush to submission is typically not a good sign. It may reflect a less carefully prepared application. In addition, if land use regulation amendments are pending although not yet \*noticed,\* incomplete application submissions can be a means for getting a foot in the door under existing, rather than new, regulations, as we saw in June 2012. Sometimes that is at great loss to the community.

For the Town, \*too early\* submission may also result in an untenable workload, requiring review and other action on multiple projects without adequate information. (We all know that having complete information allows a single pass review rather than repeated \*piecemeal\* passes.)

While a \*jamming up of an agenda\* is sometimes unavoidable due to legal timeframes/deadlines, I believe there have also been times when the flexibility of planning an agenda has been compromised due to the submission of incomplete applications.

3) Finally, **WHY establish regulations only to have them systematically ignored?** How can we expect applicants to take deadlines seriously if we ourselves do not? We have regulations because we want a desired outcome.

(And what is so unreasonable about asking an applicant to complete an application before submitting it to the Board -- if they need an additional two weeks to do so, so be it.)

It is certainly possible that I have misunderstood the situation, and if so, I hereby apologize. But I do ask that you consider very carefully the ramifications of supporting the Planner's request to submit incomplete applications.