

**MINUTES OF MEETING
REGULAR MEETING
PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

**CITY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

MAY 15, 2003

MEMBERS PRESENT: Kenneth Smith, Chairman; Paige Roberts, Vice-Chairman; Brad Lown, City Council Representative; Thaddeus J. "Ted" Jankowski, Deputy City Manager; Raymond Will; Donald Coker; George Savramis; and, alternates, John Ricci and Jerry Hejtmanek

MEMBERS EXCUSED: Richard A. Hopley, Building Inspector; and, John Sullivan

ALSO PRESENT: David M. Holden, Planning Director; and, Lucy E. Tillman, Planner I

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The Chair called the meeting to order at 7:00 p.m.

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I. CITY COUNCIL REFERRALS/REQUESTS

A. Sagamore Creek Property

SPEAKING TO THE REFERRAL:

Mr. Holden explained that the proposal was a very interesting one. He felt that the Board should be familiar with the site as they had dealt with it at an earlier time. He stated that Peter Britz, the City's Environmental Planner, had spent a good amount of time working on the proposal. Mr. Holden further explained that a recommendation back from the Planning Board was needed for the next Council meeting (May 19th) in order to meet certain requirements.

Mr. Britz stated that he had a quick Power Point presentation that would take the Board through the property and would talk a little bit about the project. The site is comprised of 10.12 acres with some 1,800' of shoreland frontage that the City would like to acquire. Mr. Britz explained that a prior application for an LCHIP grant was disapproved by the State. However due to the efforts of U.S. Senator Judd Gregg, the site is still on the antenna screen. There is a new grant program within NOAA that basically buys coastal properties around the country. Two Hundred Thousand Dollars is available from the Conservation Commission fund. Mr. Britz stated that he was looking for a favorable recommendation to the City Council to go forward with the grant acquisition and the actual acquisition of property.

Mr. Britz spoke to the importance of the salt marches for habitat value. He spoke to the pleasing aesthetics of the site adding that there is a former trail on the site. He went on to state that as one stands on the cliff one has a really nice view of Sagamore Creek and the associated maritime activities.

The Chair inquired as to what would happen with the current trail. Mr. Britz responded that the grant program stipulates public access; that there are a couple of areas where improvements could be made. Presently, the thought is to just acquire the property for a passive recreation area. Mr. Britz spoke to a looped trail as being the most logical thing to do.

The Chair commented that he realized the agenda item was not a public hearing, but asked if anyone was present who wished to speak. No one rose to speak.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Holden reiterated that the agenda item is a City Council referral. He urged the Board to authorize the filing of an application and that the City take all actions necessary to secure ownership of the land in question. Mr. Will so moved. Mr. Savramis seconded the motion.

Councilor Lown stated that one of the messages from the Study Circle was the unanimous opinion that the City do whatever it could to preserve open space adding that the site is a beautiful piece of land and that 90% of the purchase price would come from the Federal Government. It was his opinion that the City should do this (purchase the land).

Mr. Jankowski applauded Mr. Britz for the work he had done in securing the grant noting that Peter Britz is the City’s first Environmental Planner. Mr. Jankowski strongly recommended moving the agenda item forward to City Council with a favorable recommendation.

Ms. Roberts noted that \$200,000 would be taken from the Conservation fund for this project and wondered what would happen if a crisis situation should occur with another great piece of property. The Chair commented that money is set aside every year in the Capital Plan for such an event adding that some \$86,000 would be left in the Conservation fund. He went on to state that if an emergency situation did occur, that the City Manager and City Council would have access to other funds.

Mr. Jankowski pointed out that the Great Bog is a perfect example where Federal and private grants played a major role in the purchase of the Great Bog adding that the City Council was very supportive and prepared to step forward. Mr. Britz interjected that the Trust for Public Lands has certain donors that will provide emergency funds on an interim basis until grant funds are obtained.

The motion to send a favorable recommendation to the City Council passed unanimously.

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II. OLD BUSINESS

A. A proposed amendment to the City’s *Subdivision Rules and Regulations* regarding the requirement to submit in a digital format final plans presented for recording. Copies of the amendment are available at the office of the Planning Department. **(This Agenda item was tabled at the Board’s March 20, 2003, meeting.)**

The Chair read the notice into the record.

SPEAKING TO THE AMENDMENT:

Mr. Will moved to take this agenda item off the table. Ms. Roberts seconded the motion that passed unanimously. Mr. Holden stated that the Board may recall that a few meetings back comments were received from various engineering/surveying firms on the proposal to require the submittal of subdivision plans in a digital format. The agenda item was tabled for a work session with various consultants. Mr. Holden commented that the work session was very productive. Having said that, he gave the floor to Peter Britz.

Mr. Britz stated that the purpose behind the amendment is to assist the GIS efforts of Jason Wise, the City's GIS Specialist. At the present time, the tax maps are amended by using submitted plans after they have been recorded at the Registry. Essentially the amendment is to improve the technology and improve accuracy of the GIS. Mr. Britz stated that the engineers involved added some great input to the process.

Mr. Coker stated that, as he recalled, the last time the item was before the Board, there was some comment that the required format for submittal was different than the format used by the various surveyors. Mr. Coker inquired if he could assume that the issue had been overcome. Mr. Britz replied in the affirmative stating that software is available that is much more compatible.

Mr. Coker asked if there were any mechanics in place with regard to the waiver provision. Mr. Holden commented that the Board has always had waiver requirements. He went on to state that basically department staff would be meeting with the applicant to determine if a plan is suitable to start through the process adding that the submission in a digital format is a final requirement. It was his feeling that the department would probably be recommending waivers for the small landowner.

Mr. Will suggested that any recommendations for waivers be included in the memo to the Board from the department and inquired if that would seem appropriate with Mr. Holden replying, "certainly" adding that the department is willing to work with applicants. He pointed out that a more onerous requirement is that the lots have to be surveyed.

Ms. Roberts asked if preservation would be in a digital format or hard copy. Mr. Britz replied that a record of what is provided will be incorporated into the City's GIS.

The Chair made three calls for anyone in the public who wished to speak to, for or against the application. Seeing no one rise, the Chair declared the Public Hearing closed and asked the Board's pleasure.

Councilor Lown moved to approve the amendment to the *Subdivision Rules and Regulations*. Ms. Roberts seconded the motion. The question was called. The motion passed unanimously. The Chair commented that it was a "good step forward".

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III. PUBLIC HEARINGS

A. A public meeting on a proposed amendment to the City's *Subdivision Rules and Regulations* regarding the installation of utilities. Copies of the amendment are available at the office of the Planning Department. Public comment is invited.

The Chair read the notice into the record.

SPEAKING TO THE AMENDMENT:

Mr. Holden stated that it had become apparent over the last several months that there was a problem with how the City was controlling the installation of utilities and the issuance of pole licenses; that there was a disconnect from when the Planning Board approved something to the time the work actually occurred and licenses were received from the City Council. The intent of the amendment is to clarify how the process would be done. The Chair read for the public's benefit the three new requirements. In other words, the Board might approve a utility location and the utility might require a

change. Furthermore, the placement of utilities has become problematic for the Public Works Department.

The Chair made three inquiries as to whether there was anyone in the public wishing to speak to, for or against the amendment. Seeing no one rise, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

It was Mr. Holden’s feeling that the Board would be revisiting its *Site Review Regulations* and *Subdivision Rules and Regulations* in the not too distant future and that the amendment could be revisited, if necessary. Mr. Lown moved approval of the amendment to the *Subdivision Rules*. Mr. Ricci seconded the motion that passed unanimously.

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B. The application of **Kenneth R. and Catherine A. Adair** for property located at **320 F. W. Hartford Drive** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to allow the construction of a single-family home with an attached garage and deck within an Inland Wetlands Protection district. Said property is shown on Assessor Plan 270 as Lot 20 and lies within a Single Residence B district.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Mr. Adair, owner of the property, addressed the Board and stated that he was before the Board about a year and a half ago for exactly the same thing. He explained that he just wanted the same permit; that he was not aware of the expiration date.

The Chair inquired as to the recommendation from the Conservation Commission with Mr. Adair explaining that a favorable recommendation had been received from the Conservation Commission. The Chair inquired if the request before the Board is exactly as the previous request. Mr. Adair replied in the affirmative and went on to state that Lucy Tillman of the Planning Department had helped him in clarifying the plans. However, nothing was changed in any way. Ms. Tillman concurred with Mr. Adair’s statement and stated that the submitted plan is much more helpful from a staff perspective when reviewing applications.

Ms. Tillman reminded the Board that a few years back an amendment was made to the *Zoning Ordinance* requiring an expiration date. Prior to that time, there was no expiration date.

The Chair inquired as to the delay (in going forward with the Building Permit Application). Mr. Adair responded that basically it was money—getting it lined up.

Mr. Ricci pointed out that the erosion control fences were not indicated on the plan and further asked that the existing and proposed grades be put on the plan.

Councilor Lown asked if he was correct in assuming that the deck was permeable. Mr. Adair responded that the deck would be on sonar tubes so that the stormwater runoff could pass underneath it.

The Chair made three calls for speakers. Seeing no one rise, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

Ms. Roberts moved approval of the request with the four stipulations listed in the memo plus the additional one from Mr. Ricci. Councilor Lown seconded the motion. The Chair asked if there were any questions on the motion. Seeing none, the question was called. The motion passed unanimously with the following stipulations:

1. That the plan indicate the location of erosion control fences;
2. That the plan indicate the area that will not be subject to clear cutting and which would be left in an undisturbed natural vegetative state;
3. That there be no use of fertilizer except low phosphate, slow release nitrogen fertilizer or limestone which may be used on areas with grass;
4. That the plan indicate existing and proposed grades; and,
5. That prior to the issuance of a Building Permit for above-ground construction, that a certified plot plan shall be submitted to the Inspection Department indicating the location of the foundation to ensure that the foundation is properly sited.

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C. The application of **William E. O'Malley, Jr.** for property located **off Woodbury Avenue** and **86/88 Morning Street** wherein Preliminary and Final Approval is requested for a lot line relocation that would allow the transfer of some 1,882 s.f. ± of lot area from property located at 86/88 Morning Street to a vacant lot off Woodbury Avenue and would result in the following: The vacant lot located off Woodbury Avenue would have a lot area of 17,080 s.f. ± and property located at 86/88 Morning Street would have a lot area of 8,551 s.f. ±. Said property is shown on Assessor Plan 163 as Lots 22 and 24 and lies within a General Residence A district. Plat plans are recorded in the Planning Department Office as 5.1-03.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Mr. William O'Malley, Jr. addressed the Board and stated that basically the request is an attempt at land preservation on the part of his family and something that would actually be of some benefit to the neighborhood. He explained that the land in question had been in his family for many years. Mr. O'Malley further explained that he lives at 62 Woodbury Avenue; that it is his intent to sell the duplex at 86-88 Morning Street. He stated that the vacant lot is used by his family as a back yard. The request before the Board is to move some 1,800 s.f. of lot area from the lot upon which the duplex is sited to the vacant lot. This transfer would prevent a future owner of the property located at 86-88 Morning Street from converting the property into three or more units. Mr. O'Malley reiterated that the

transfer would preserve open space for his family adding that the property has been in his family for over one hundred years. He further explained that his father owns the vacant lot; that he (O'Malley, Jr.) owns the duplex and lives at 62 Woodbury Avenue.

With regard to the shed to the rear of the 86-88 Morning Street property that would be part of the conveyance to the vacant lot, Mr. O'Malley explained that he did not want to move the shed and he did not want to build another shed.

Mr. Holden asked Mr. O'Malley to share with the Board a little more information on the vacant lot. Mr. O'Malley responded by stating that it is a sliding hill that the children can use as it is nice and open and that he is trying to keep it that way as much as possible. He went on to state that it is a "secret jewel". The Chair responded, "not for long" explaining that the proceedings are televised (on the local government channel).

The Chair asked if there were any other questions from the Board and made three calls for speakers. Seeing no one rise, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Holden interjected that Planning Department staff met with Mr. O'Malley and that he (Mr. Holden) was less concerned that the site was premature to subdivide. He went on to state that the City tries to develop lots in a coordinated fashion and urged the Board to explore what it feels would be appropriate.

The Chair asked the Board's pleasure. Mr. Coker stated that it was his understanding that one of the stated driving forces, in essence, is to keep 86-88 Morning Street from expanding. Mr. Holden responded that the site is currently a multi-family; that by reducing the lot area, any request for more units would require Board of Adjustment approval where abutters would be notified and could raise objections. It was Mr. Holden's feeling that such was why the request was an interesting conundrum. The Chair asked if anyone cared to make a motion.

Mr. Savramis moved to grant the request of the applicant for a lot line change and also to consider the stipulations that are noted in the memo from the department. Mr. Hejtmanek seconded the motion. Councilor Lown inquired as to the easement issue that was raised in the department's memo. Mr. Holden stated that the applicant was not seeking that alternative by going forward with the application before the Board.

The motion passed unanimously with the following stipulations:

1. That the lot line to be relocated shall be so indicated on the plan; and
2. That permanent boundary monuments be established as per the requirements of the Public Works Department.

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D. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 500 of the Pease Development Authority Subdivision Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **Two International Group** for property located **off Manchester Square and New Hampshire Avenue** wherein Preliminary and Final Approval is requested for the creation of a 4.96 acre \pm lot. Said property is shown on Assessor Plan 302 as Lots 7, 8, 9 and 10 and lies within the Airport Business Commercial district. Plat plans are recorded in the Planning Department Office as 6.1-03.

E. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 400 of the Pease Development Authority Site Review Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **Two International Group** for property located **at Manchester Square** wherein site plan approval is requested for the creation of a retail center including the construction of an 80' x 75' irregularly shaped two-story building with a 5,324 s.f. footprint and a 280' x 60' irregularly shaped two-story building with a 19,800 s.f. footprint with related paving, utilities, landscaping, drainage and associated site improvements. The proposal includes the demolition of the former gas station and two existing free-standing structures. Said property is shown on Assessor Plan 302 as Lots 4, 7, 8, 9 and 10 and lies within an Airport Business Commercial district.

The Chair opened Public Hearings D and E at the same time pointing out that the actual vote would be taken separately. The Chair asked who would like to address the Board.

SPEAKING TO THE APPLICATION:

Attorney Bernard W. Pelech addressed the Board and stated that he was present on behalf of Two International Drive. Attorney Pelech explained that the Pease Development Authority (PDA) had recognized the need for some retail services at Pease given the vast amount of development and growth that has occurred there with very few service providers. The PDA solicited Requests for Proposals for the development of Manchester Square area. As a result, Two International Group was selected. The PDA has voted to approve the concept based on favorable recommendations from the Zoning and Planning Boards. The necessary Variances have been received and a favorable recommendation was received from the Technical Advisory Committee as well as the Traffic/Safety Committee.

The proposal involves the creation of an "L" lot as shown on the plans by consolidating lots 7, 8, 9 and 10. The building occupied by HCA will be retained. The gas station and two outbuildings will be demolished. The proposal calls for the construction of an "L" shaped building and an outbuilding using the same footprint as the gas station. He spoke to extensively landscaped areas and the reconfiguration of the main access.

At this point in the proceedings, Attorney Pelech introduced Bradlee Mesquita of Appledore Engineering. Attorney Pelech stated that Mr. Mesquita had met on several occasions with representatives of the Technical Advisory Committee attempting to develop a plan to everybody's satisfaction. The plan complies, where possible, with the more stringent City of Portsmouth requirements.

Mr. Mesquita spoke to the three curb cuts and stated that the one on New Hampshire Avenue would remain in the same location but would be restricted to right in/right out movements. The main

entrance to the facility will be relocated further away from the intersection. The curb cut will be adjusted for the last entrance.

Mr. Mesquita spoke to an internal connector road to One New Hampshire and Two International properties so that there would be an interconnection to the parking lots. He stated that all regulations had been met.

The Chair inquired as to dumpster locations. Mr. Mesquita pointed to the location of three dumpsters on the plan. The Chair asked if they were all enclosed. Mr. Mesquita replied, "that is correct" however, he did comment that one side is open and is used as an active loading area. To that statement, the Chair offered, "Get it closed". The Chair then spoke to the recycling efforts in the area and asked if recycling barrels would be available with Mr. Mesquita responding that they could look into that as tenants are established. The Chair asked that another bicycle rack be provided – more to the left.

Discussion then ensued on the lighting plan with the response being that the standard high pole lighting would be used. The question was asked if lower lighting could be considered. The point was made that a lot of the areas are not open at night and the lighting could be turned off. Mr. Mesquita explained that Appledore did not work on the lighting plan. Dan Batting, architect, stated that they would certainly look at low pole lighting consistent with Two International and One New Hampshire.

The Chair thanked Mr. Mesquita for putting the snow storage areas on the plan.

Mr. Will spoke to the proposed mandatory recycling program in Portsmouth suggesting that the tenants be informed about the program and that, perhaps, Silke Psula from the Public Works Department could be invited to give a presentation on how to recycle more efficiently. Maria Stowell from the Pease Development Authority, who was seated in the audience, stated that the PDA would be happy to assist and happy to pass along material to the tenants; however, she added that they don't mandate.

Mr. Coker inquired if a note is on a plan such as the one concerning the annual cleaning of the oil/water separators, then he doesn't need to include it as a stipulation. Mr. Holden felt that such a stipulation would be appropriate to encourage annual maintenance. In that way Mr. Coker's concern would be highlighted. Mr. Coker responded that he has a general concern that oil/water separators be maintained. The Chair commented that he felt that the PDA was starting to pay attention to the Board's concerns and those concerns are being incorporated into the plans adding "great job".

Councilor Lown wondered if it would be feasible to have the lights activated by motion and wondered if such technology existed. Mr. Mesquita replied that he had never seen one on a motion sensor. Councilor Lown felt that such would certainly limit the amount of lighting going on at all hours. Ms. Roberts interjected that such an issue had been talked about and needed to be discussed in more detail. Mr. Holden stated that he could sense a Master Plan issue approaching.

Ms. Roberts stated that she had a traffic issue question and wondered about the internal connector road going out to other parking lots and expressed her concern about more and more cars going back and forth. It was her feeling that the road didn't look substantial enough to handle many cars. Mr. Holden stated that John Burke, the City's Parking and Transportation Director, had some concerns with the particular site. Mr. Holden pointed out that the PDA requirements are a little different than the City's. However, his (John Burke's) concern was with the right-of-way.

Mr. Mesquita stated that the 22' width does meet PDA regulations adding that a narrower road is used as a traffic calming measure. He did not see the road as being largely traveled upon as it would be used by the occupants of two office buildings zipping over at lunch to grab something or at the end of the day.

The Chair made three calls for anyone else in the public who wished to speak to, for or against both applications. Seeing no one rise, the Chair declared both public hearings closed and asked the pleasure of the board.

DISCUSSION AND DECISION OF THE BOARD:

With regard to the subdivision application, Councilor Lown moved to recommend approval of the request to the PDA subject to the placement of boundary monuments. Mr. Will seconded the motion. The motion passed unanimously.

Discussion then ensued on the site review application. Mr. Holden asked that a stipulation be added to the recommendation regarding the Transportation Master Plan.

Councilor Lown moved to recommend approval of the site plan subject to stipulations. Mr. Will seconded the motion. The motion passed unanimously with the following stipulations:

From the Technical Advisory Committee:

1. That the island width be increased (the present plan reflects that);
2. That additional sidewalks be provided (the present plan reflects that);
3. That additional signage be provided (the present plan reflects that);
4. That the plan be reviewed and approved by the Traffic/Safety Committee with a report back to the Planning Board;
5. That a dumpster pad be made a little bit longer to make it work;
6. That all interior site lighting will not overflow onto adjacent properties;
7. That the proposed street lighting be indicated on the plan;
8. That a mechanism be worked out by the Pease Development Authority to ensure the timely switch over from overground electric to underground electric;
9. That the applicant be responsible for a proportionate share of off-site improvements as proposed in the VHB study;
10. That John Burke and the Planning Department work with the Pease Development Authority to create a funding mechanism to ensure the inclusion of the off-site improvements;
11. That the future owner not use the intersection as a truck entrance; and,
12. That it was recommended that the intersection be upgraded or that a plan be in place with associated costs to be assigned.

From the Planning Board:

1. That all dumpsters be completely enclosed/screened and that the dumpsters be large enough to include recyclable bins;
2. That the applicant contact the Public Works Department regarding recycling options;
3. That the site plan indicate an additional bicycle rack (more to the left);
4. That the lighting plan be included on the detail sheet and that consideration be given to providing low pole lighting;

- 5. That the Pease Development Authority is encouraged to reserve sufficient land from this lot as may be necessary to implement/construct the necessary improvements as contained in the recently approved Transportation Master Plan;
- 6. That special attention be given to the annual cleaning of the oil/water separators with a report submitted to the Public Works Department; and,
- 7. That the sidewalks be Portland Concrete cement sidewalks.

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Item not on the Agenda:

Master Plan Planning Process

The Chair stated that before he called for adjournment, he wanted to go over one issue; that being the public hearings/public meetings on the Master Plan to be held at the local elementary schools. He stated that he was asking that the full Board make themselves available. Discussion ensued on possible dates for holding public meetings at the individual elementary schools. The dates mentioned were June 10th at Dondero; June 12th at New Franklin; and June 17th at Little Harbor School. Information on the meetings will be conveyed to the newspapers and placed on the web page. The Chair stated that it would be the Board's chance to hear directly from concerned citizens.

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IV. ADJOURNMENT was had at approximately 8:10 p.m.

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Respectfully submitted,

Barbara B. Driscoll
Acting Secretary for the Planning Board

The Planning Board approved these minutes at its June 19, 2003, meeting