

**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 19, 2005**

**MEMBERS PRESENT:** Kenneth Smith, Chairman; John Ricci, Vice-Chairman; Cindy Hayden, Deputy City Manager; Richard A. Hopley, Building Inspector; John Sullivan; George Savramis; and Donald Coker

**MEMBERS EXCUSED:** Thomas Ferrini, City Council Representative; Raymond Will and Alternate Jerry Hejtmanek

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

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Chair Smith started off by congratulating the Board on receiving the Mayor's award last month for their work on the Master Plan and on a job well done.

**I. APPROVAL OF MINUTES**

1. Minutes from April 21, 2005 Planning Board Meeting – Unanimously approved.

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**II. PUBLIC HEARINGS**

A. 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 **General Services Administration, New England Region, Applicant**, for property located at **254 Corporate Drive** wherein Preliminary and Final Subdivision approval is requested with the following: Lot 0000 having an area of 30.18 ± acres and with continuous street frontage off Corporate Drive; and the remaining land area being decreased by 30.18 ± acres and constituting a portion of the Tradeport; and, lying in a zone where a minimum lot area of 5.0 acres and 200' of continuous street frontage is required. Said properties are located in an Airport Business Commercial district and are shown on Assessor Plan 315, as Lot 0004. (Plat plans are on file in the Planning Department Office and are identified as #02-01-05) (This application was tabled at the April 21, 2005 Planning Board Meeting)

Mr. Sullivan made a motion to take the application off of the table; Deputy City Manager Hayden seconded. The motion passed unanimously

Mr. Holden indicated that the applicant had made a request to table this matter.

Deputy City Manager Hayden made a motion to table; Mr. Sullivan seconded. The motion to table passed unanimously.

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B. The application of **Philip J. and Marie E. Beaupre, Owners**, for property located at **297 Peverly Hill Road**, wherein an Amendment to a previously approved subdivision is requested to move a driveway from the northerly side of the lot to the southerly side of the lot, said proposed driveway to be located off of Peverly Hill Road. Said property is shown on Assessor Plan 255 as Lot 7 and lies within a Single Residence B district. (This application was tabled at the April 21, 2005 Planning Board Meeting)

The Chair read the notice into the record.

Deputy City Manager Hayden made a motion to take the application off of the table; Mr. Sullivan seconded. The motion passed unanimously.

**SPEAKING TO THE APPLICATION:**

Mr. Holden stated that this issue has been referred to the Traffic & Safety Committee. Ms. Tillman reported that the Traffic & Safety Committee approved a relocation of the driveway and indicated that it would improve the site distance and would be safer for this lot. There is no change in the actual lots and they are only asking the Board to change the location of the driveway. Therefore, it is not a re-subdivision and no new plat plan is required.

Marie and Phillip Beaupre were present and had nothing to add.

Mr. Coker asked what would happen to the old drive way?

Mr. Beaupre stated it is owned by back residents who will continue to use it.

Mr. Coker stated that the sketches show the new driveway as west going in and south to the property line.

Mr. Beaupre explained that they will have a turn around so that they don't back out onto Peverly Hill Road. They have 50' on that side of the house.

Mr. Coker asked for a stipulation that states that the driveway will end at the property line.

Mr. Beaupre indicated he will have the property surveyed and he doesn't think he will come anywhere near the property line.

Mr. Coker was concerned about the future when this driveway starts to grow and becomes a shared drive with next door.

Mr. Sullivan asked Mr. Holden what the City regulation was regarding driveways.

Mr. Holden indicated there is no set back but Mr. Coker's proposal would be acceptable. He suggested the Board might want to say that it should be off of the property line by 10'.

Mr. Sullivan thought they might want to look into these in the future.

Chairman Smith indicated they can tighten up driveway regulations when they look at the regulations this summer.

The Chair asked if there was anyone else present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

**DISCUSSION AND DECISION:**

Mr. Coker made a motion to grant with stipulations. Deputy City Manager Hayden seconded.

Mr. Holden clarified that this was not really a subdivision approval. He suggested that the Board acknowledge that the driveway will be relocated with recommended stipulations, including Mr. Coker's stipulation of having the driveway 5' off the property line.

The motion passed unanimously with the following stipulations.

- 1) That the proposed driveway location shall be as approved by the Traffic & Safety Committee at their May 12, 2005 meeting;
- 2) That the proposed driveway shall be no closer than 5' from the property lines;

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C. The application of **Michael Power, Owner**, for property located at **105 Saratoga Way** and **Thomas and Lisa Conrad, Owners**, for property located **off Saratoga Way**, wherein Final Subdivision approval (Lot Line Change) is requested between two lots having the following: Lot 36-1 as shown on Assessor Plan 212 increasing in area from 3,939 ± s.f. to 4 349 ± s.f. and with continuous street frontage off Saratoga Way and Lot 37 as shown on Assessor Plan 212 decreasing in area from 43,888 ± s.f. to 43,479 ± s.f. and with continuous street frontage off Saratoga Way, and lying in a zone where a minimum lot area of 5,000 s.f. and 80' of continuous street frontage is required. Said properties are located in a General Residence B district and are shown on Assessor Plan 212 as Lots 36-1 and 37. (Plat plan is on file in the Planning Department Office and is identified as Plan #03-01-05).

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Attorney Charles Griffin addressed the Board as representing Michael Powers. Last month they received preliminary approval with stipulations that they have taken care of. They have up-dated the property owners on the plan, the location of the shed has been shown on the plan, the boundary monuments have been set, the electronic data has been submitted to the City, an affidavit has been submitted indicating that the shed has been there since 1986, and the back side of the shed has been painted. He felt they have addressed all conditions of the preliminary approval.

The Chair asked if there was anyone else present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

**DISCUSSION AND DECISION:**

Mr. Sullivan made a motion to approve final subdivision approval with the recommended stipulations. Deputy City Manager Hayden seconded. Mr. Sullivan thanked Attorney Griffin for taking care of the area in back of the shed.

The motion passed unanimously with the following stipulations:

- 1. Receipt of an updated/amended Plat plan;
- 2. Placement of permanent boundary monuments as per requirements of DPW;

3. Submission to DPW of conforming GIS data for updating City records;

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D. The application of **2859 Lafayette Road Ventures, LLC, Owner**, for property located at **2859 Lafayette Road** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to allow the addition of four bays to an existing car wash with associated accessways and parking within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 286 as Lots 19 and 20 and lies within a General Business district.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Attorney Bernard Pelech appeared on behalf of the applicant and requested that this application be tabled. They are in the process of revising their plans as they did not receive a favorable recommendation from the Conservation Commission.

Mr. Ricci will reclude himself as he is a direct abutter.

Attorney Pelech indicated revised plans will be submitted.

**DISCUSSION AND DECISION**

Mr. Savramis made a motion to table this application. Mr. Hopley seconded. The motion passed unanimously.

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E. The application of **April Weeks, Owner**, for property located at **115 Pinehurst Road and adjacent vacant lot**, wherein Preliminary and Final Subdivision approval (Lot Line Change) is requested between two lots having the following: Lot 75 as shown on Assessor Plan 221 decreasing in area from 17,011 ± s.f. to 14,836 ± s.f. and with 115.49 ‘ of continuous street frontage off Pinehurst Road and Lot 95 as shown on Assessor Plan 221 increasing in area from 13,049 ± s.f. to 15,224 ± s.f. and with 115.49 ‘ of continuous street frontage off Pinehurst Road. Said properties are located in a General Residence A District and are shown on Assessor Plan 221 as Lots 75 and 95. (Plat plan is on file in the Planning Department Office and is identified as Plan #07-01-05)

The Chair read the notice into the record.

Mr. Coker stepped down from the hearing.

**SPEAKING TO THE APPLICATION:**

Attorney Bernard Pelech appeared on behalf of the applicant, April Weeks. He indicated this was a pretty straight forward lot line relocation. Last year a subdivision was approved for this lot however the lot that is for sale has a potential buyer who would like the lot line changed. It meets all requirements of the Zoning Ordinance.

The Chair asked if there was anyone else present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

**DISCUSSION AND DECISION:**

Deputy City Manager Hayden made a motion to grant preliminary and final subdivision approval with stipulations. Mr. Sullivan second. The motion passed unanimously with the following stipulations:

- 1. Placement of permanent boundary monuments as per requirements of DPW;
- 2. Submission to DPW of conforming GIS data for updating City records; and,

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F. The application of **Wal-Mart Real Estate Business Trust and Joker’s Realty One, LLC, Owners, Wal-Mart Stores, Inc., Applicant**, for property located at **2460 Lafayette Road**, wherein site plan approval is requested for the expansion of an existing 124,852 ± s.f. Wal-Mart Store to a 190,800 ± s.f. s.f. Wal-Mart Supercenter, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 285 as Lots 16-1 & 2 and lies within a General Business district.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Attorney Bernard Pelech appeared on behalf of the applicant. He did a brief introduction and reminded the Board of their work session a few months ago. This has been a long project and has gone through severe scrutiny with the Technical Advisory Committee. The cooperation between the Planning Department, the Department of Public Works and NHDOT has been exemplary. In 2004, traffic was identified as the primary issue. Numerous meetings were held with all parties to come up with a plan of action. Early on it was determined by the City and DOT District 6 that this corridor has been studied extensively over the past 5 years. It was decided not to spend additional money on traffic studies but rather spend the money on roadway improvements. The parties felt that the way to get traffic off of the back roads was to make Route One flow better. The big obstacle now is the narrow section by the red brick building and the cemetery. Early on they committed to working with the City and the State to solve the problem. Wal-Mart recognized the need to have this area improved for their own best interest. They did do some traffic studies to help determine what improvements should be considered. Their expansion was going to have a minimal impact on traffic, however, they determined that Wal-Mart would make a substantial contribution to get this back on the State’s Agenda and they are now working on a Road Agreement with the City. They have worked on this project for 9 months and the Technical Advisory Committee was very difficult on them. Mr. Desfosses and the Department of Public Works wanted to look at permeable pavement in the parking lot. After consulting with DOT and talking to consultants, they came up with an alternative that is just as acceptable. They will install catch basins that will flow under the parking lot and all parties concur on this proposal. The Coast bus stop was changed at the request of Coast and was moved to the front of the store. Walkways are to go through the entire parking lot with curbs, crosswalks and signage. This is a very pedestrian safe corridor. They have agreed to widen the turning radius on Constitution Avenue. They have the 19 loading berths as required even though they won’t need them. He felt this is a very approveable plan and the only detail that needs to be worked out is the method that the State and City will use to take the funds and utilize them.

Attorney Pelech indicted that someone may ask if their impact fee on this project would be around \$50,000, why is Wal-Mart contributing \$500,000? If they did not make this contribution, the improvements to Route One and Constitution Avenue would not be done for quite a while. Wal-Mart decided that this would allow the improvements to be done on a more timely basis and the intersection could be upgraded. Attorney Pelech is currently meeting with the City and DOT to put the Roadway Agreement together that will address how the work will be done and how the funds will be managed. Wal-Mart did a study of the right of way on both sides of the street and they did two conceptual plans regarding the expansion, all at an expense of approximately \$50,000.00. They appeared before the

Traffic & Safety Committee and received unanimous approval. At the most recent Technical Advisory Committee hearing they received a favorable recommendation. Attorney Pelech also mentioned that although the City has no jurisdiction over this, they have worked with the City on elevations and architectural features.

Mr. Sullivan asked if there was any consideration of moving the brick building on Route One?

Attorney Pelech indicated there was considerable consideration and it will probably happen. Mr. Siegel was present and he is working with the State on that. The right of way would actually fit but the snowplows would be putting snow right up against the building.

Paul Hayner, of Hayner/Swanson, Inc., Civil Engineer consultant for Wal-Mart, addressed the Board. As he presented this plan in April he only did a recap of that presentation. They are creating a Wal-Mart Super Center that will include food, a gardening center, and miscellaneous services. A lot of Supercenters have a gas station but this one will not. The building will increase from 124,000 s.f. to 191,000 s.f. They are demolishing the Joker's building so the net expansion on the site is only 40,000 s.f. Access to the site is mainly through Route One. They are surrounded by commercial and industrial uses. There is a second access onto Constitution Avenue that they have revised to accommodate truck traffic. In the front of the building, there are 793 parking spaces, including handicapped and motorcycle spaces. They have 4.2 parking spaces per 1,000 s.f. of retail space which is above the city requirement. The City water tower is connected to the city water system. Drainage is pretty much the same with new catch basins and lines. In the back of the building the drainage runs into a swale and into a level spreader. There is a sidewalk that runs down the center of the parking lot. They met all of the dimensional and coverage requirements. They are increasing impervious space by 6%. Regarding site lighting, the Technical Advisory Committee asked them to look at reduced pole heights and they looked at several alternatives. Wal-Mart usually looks at 39' poles. The scheme they ended up was 28' mounting height and 58 poles, 156 light fixtures at 400 watts. Wal-Mart's original design was for 39' poles that were a lot higher.

Mr. Hayner indicated that the on site work is simply expanding the building and redoing some of the parking lot. It is essentially a 40,000 s.f. addition to the site. Most of the issues have been regarding off site traffic.

Mr. Coker indicated that an enormous amount of work had been done on this application. He asked about drainage and ground water discharge. He asked what was the pre-treatment of that water before it is discharged into the ground?

Mr. Hayner stated that there is basically no treatment except sumps and catch basins.

Mr. Coker asked about oil/water separators?

Mr. Hayner indicated that oil/water separators did not come up but they could put them on.

Mr. Coker was concerned about the first flush that would probably consist of oil, antifreeze, etc. and whether that will get into the catch basin. If they are recharging with polluted water, what is the value of that?

Mr. Hayner indicated they could put hoods on the catch basins.

Mr. Coker was expressing his concerns for the record.

Mr. Ricci also had some concerns. He felt recharging the ground water was a good idea. He also felt that hoods were a very good idea. He mentioned that it sounds great to have perforated pipe but if the catch basins are not maintained, they will fill up. He asked what their maintenance plan was?

Mr. Hayner indicated there are maintenance programs but he could not say exactly what this one would be. They could come up with a maintenance plan and schedule.

Mr. Ricci felt the snow storage areas seem inadequate and asked how they will handle that?

Mr. Hayner indicated they try to use remote areas of the parking lots. If the storm is too big then the snow is trucked off the site.

Mr. Ricci didn't think even a 1' storm would have enough storage.

Mr. Ricci referred to Sheet C-2,A, Inland Protections, and stated they had a great detail. He would like to see all existing catch basins have proposed protections as well. They should all be covered and he didn't believe that would be a "big ticket item".

Mr. Savramis asked that the handicapped parking spaces be integrated with a carriage corral.

Mr. Hayner stated there were cart corrals throughout the parking lot.

Mr. Savramis pointed out that the corral is 4 parking spaces away from the handicapped spaces.

Mr. Hayner indicated he could move the corral.

Chairman Smith stated that the spreader in the rear had failed and they will be doing considerable work to make that function again. He would like to see that as part of a maintenance plan for review by the Department of Public Works every 6 months.

Mr. Hayner indicated it was a stipulation of the Technical Advisory Committee that they would see how it worked for two years. He felt that the solution they proposed should be permanent and there shouldn't be a problem, but they will put it on their maintenance schedule.

Chairman Smith noted that there is a lot of trash and debris behind the building which he would like to see cleaned up. He indicated that he likes the pole heights and confirmed that they are Dark Sky Friendly. He asked if there were any bicycle racks?

Mr. Hayner confirmed he would show some on the plans.

Mr. Ricci asked about on Sheet C-3 BR -7, in the rear there was some sort of diamond configuration.

Mr. Hayder indicated it was an erosion control feature.

Giles Ham, of Vanesse & Associates, traffic engineer, addressed the Board. He indicated this area is currently under the control of the State of New Hampshire. They have been working with both the City and the State and have provided a survey of this area and also recommended roadway improvement plans. The first plan refers to the Route One and Heritage Ave intersection where they extended the turn lane to about 270' at a cost of \$45,000.00. The focus of their efforts was where they provided two plans along Route One to the Southgate Plaza. The first plan was to keep the road in the right of way. The second plan was to widen the right of way and was the preferred plan. Route One was just too tight so their preferred plan would relocate the red brick building to allow for a five-lane road at Lafayette Plaza. The cost of that plan is about \$1.2 million. Wal-Mart is committed to contributing \$500,000 towards these road improvements. NHDOT has allocated \$360,000 to this project. With those funds several things could be done immediately – the right hand turn lane at Constitution could be extended and they could relocate the red brick building. From a traffic aspect, there will not be a considerable increase in traffic from this expansion.

Mr. Coker indicated that they had a ton of information that has gone through the Technical Advisory Committee. He asked about their traffic figures, considering Jokers is going to be gone, which show that the traffic increase will be negligible above the prior levels. He was concerned about the under estimation of the Joker's traffic as he felt that was never a successful business.

Mr. Ham felt that Jokers was a pretty busy place. But, he also felt that Mr. Coker's point was very valid. They have done traffic counts at the driveways and also at the Wal-Mart Supercenter in Epping which show that the traffic will not increase dramatically. The Super Center will work off of a current customer base. The customers will stay longer and purchase more. They are very confident in their numbers.

Mr. Coker asked if his impression of Joker's is incorrect?

Chairman Smith confirmed that on a weekend you cannot even get a parking space at Jokers so it usually is a very busy place.

Attorney Pelech stated that the owners of Jokers indicated that their business is very profitable.

Mr. Holden confirmed that they did not base their figures on Jokers but based their IT trips on the incoming business.

Chairman Smith asked for more detail on the southern end from the driveway down Route One.

Mr. Ham stated that the five lanes taper down but they are extending the right turn lane at Constitution.

Mr. Coker asked about the numbers showing 1,029 cars per hour on weekends. He asked how Mr. Ham saw the impact of this for people who are currently staying off of Route One and using Banfield?

Mr. Ham stated that in terms of Banfield Road, based on their counts, 20% of the traffic goes out the back. Their thought process is that by improving Route One there will be more traffic on Route One and less on Banfield Road.

Mr. Sullivan indicated that he felt the plans look very nice. He asked, when they stripe the end of Heritage Road that they put the stop line back a little bit so when fire trucks come out on Route One they have more room to swing around the corner.

Mr. Ham indicated that the City will probably engage a consultant to design that but it is a good idea.

Jeremy Gosdin, of PBA Architects, from Rogers, Arkansas, discussed the architectural features. He indicated that the City had no architectural guidelines but they did work cooperatively with the City to redesign the building elevations. He showed their renditions and how they developed. The first drawing showed what Mr. Holden called "the Great Wall of China". Their second drawing improved that by breaking up the back elevations. With the next set they improved the building even further by improving the east elevations by adding glass and tried to tie it into the rest of the building. The material used on the building are a type of quick brick.

Mr. Sullivan indicated he felt they did an excellent job going as far as they have gone. He recommended breaking up the massive amount of brick and cement with shrubbery, ivy and trees close to the building. With the proper landscape architect it would take away the "Great Wall of China" and would turn the building into a show place.

Deputy City Manager Hayden asked what was going on in the front windows and the awnings?

Mr. Gosdin indicated the windows were a type of plexiglass material and it is reflective with the appearance of an actual window. The material of the overhang is a royal blue awning.



Deputy City Manager Hayden noted that some windows are divided with four lights but others just have one division line down the center. She asked if there was any reason for that?

Mr. Gosdin stated the reason was to break it up so that it is not one big long storefront image.

Mr. Hopley felt they did a nice job trying to break this long building up. He noted that there are exterior doors all along the perimeter of the building, including along the side and the back to satisfy egress requirements. He indicated that the Inspection office was having difficulty getting exit doors going to maintainable sidewalks to a public right of way. He would like the site plans to be amended to reflect the sidewalks from all ingress and egress doors.

Mr. Hayner felt the site plans show all doors, including side doors, going to a maintainable sidewalk..

Mr. Hopley felt they would be needing more doors around the building and those need to have maintainable sidewalks without landscaping.

Chairmna Smith asked if a sidewalk surrounds this building?

Mr. Hayner indicated that there was either sidewalks or pavement all around the building.

Mr. Hopley asked if that was different from what is there today?

Mr. Hayner confirmed that it was.

Chairman Smith felt they had done a great job with the elevations however he was wondering, on the peaks, was it possible to get that brick to bring down some of the mass.

Mr. Gosdin indicated that structurally it becomes an issue because of the long span of the entry. They can take the two quick brick columns on both sides.

Chairman Smith asked if they could at least get brick going up to the pillars?

Deputy City Manager Hayden asked if it could just be a facade or facing of brick on the outside with structural materials behind it?

Mr. Gosdin indicated it then became an issue of it disconnecting and coming off the building. He would have the same structural issues. He indicated he would have to get back to them on that.

Chairman Smith asked if all exit doors have the single awnings over them surrounding the building?

Mr. Gosdin believed that they did.

And Chairman Smith asked if all of those doors were lit?

Mr. Gosdin confirmed that they were all lit.

Attorney Pelech indicated that that concluded their presentation.

The Chair asked if there was anyone else present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

Attorney Sharon Somers, of Donahue, Tucker & Ciandella, representing Lafayette Plaza LLC, aka Southgate Plaza, addressed the Board. She distributed a written copy of her comments to the Board. Her purpose was to present comments on an on-going basis. She spoke at several Technical Advisory

Committee meetings with her concerns about the nature of the \$500,000 contribution being made by Wal-Mart. At the 5/5 Technical Advisory Committee meeting a number of her concerns were clarified, in particular, the nature of the \$500,000 contribution. As a result of this meeting, it became clear that this is in fact a contribution except for a small amount being used for improvements at Constitution Avenue. It was also confirmed that NHDOT has expressed their preference for the plan to widen the road. She felt that this Board needs to be mindful on a few points. The contribution is merely a portion of the overall cost of this conceptual plan, which includes signalization and improvements that are estimated to cost \$1.2 million. There is a shortfall of \$340,000 so there is no certainty of when this can be implemented. Secondly, the characterization of these funds being considered a contribution is significant. If there are other potential developments along Route One, including potentially her client, they would expect the same standard be imposed by the City. Any required money would have to be tied to the off-site improvements. Thirdly, if this plan were approved she would ask that the Board consider imposing the following conditions: If all funds are procured for these road improvements, there are a number of design issues that would have to be addressed as part of the design review. As this is a City managed project, they would want a mechanism in place that their issues regarding design components get addressed so that they don't somehow detrimentally impact their site.

She also indicated that the plan includes 19 loading berths however Wal-Mart received a variance to reduce them. She asked that the variance be relinquished.

Mr. Hopley asked what the purpose would be for relinquishing the variance?

Attorney Somers responded that the Site Plan should not be inconsistent with approvals and there could be an enforcement problem. They want to make sure that the required number of loading areas are in use.

Mr. Coker asked how they would relinquish the variance?

Attorney Somers indicated that they could simply write a letter.

Attorney Pelech stated for the record that they would write a letter relinquishing the variance for loading berths and notify the City that they do not plan to use it if this plan is approved. He also commented on the issue of, in the future, the City is only going to require payment of future applicants. He did not believe that was relevant to this Board. Wal-Mart has volunteered to make a contribution and the improvements will mitigate the impact from the Supercenter and Constitution is above and beyond that. They have their driveway permit from DOT. The Planning Board has never had to utilize their impact fee ordinance where they have required a developer to pay a certain number of dollars. They have always negotiated or agreed to a certain amount of dollars which both parties agreed was approximate. He did not want Attorney Somers' comments to be construed that the Board would be required to do anything differently in the future. They felt it was not in their best interest to wait for DOT to move forward with this improvement plan or for it to be included in a future Master Plan. This will be a City managed project and they have no desire to be involved in the plan at all.

Attorney Somers clarified her comments on the design review process. During several Technical Advisory Committee meeting discussions regarding Constitution Avenue improvements and signalization, they were assured that their comments would be reviewed and considered in a conscious manner.

Steve Parkinson, Director of Public Works, reviewed the project and has met with NHDOT. He confirmed that what has been discussed at this meeting was exactly what is going on. He stated that the project would be a municipally managed project. They are currently handling other State projects and they will follow the same process as with those other projects.

Mr. Ricci asked if Wal-Mart was giving a contribution of \$500,000 to the City or to the State?

Mr. Parkinson confirmed that the money would be under the control of the City of Portsmouth.

Mr. Ricci asked what prevents the money from going to other projects?

Mr. Parkinson confirmed that the money is set up for that specific project.

Mr. Holden also confirmed that this project is in the City's CIP project.

Chairman Smith asked if the assessment of \$1.2 million would be enough?

Mr. Parkinson felt that, based on a conceptual design, it's hard to say what it will actually cost.

Chairman Smith asked if they can they use some of the money to start some of the improvements without doing the whole project together?

Mr. Parkinson stated they would probably start moving the brick building to clear the right of way.

The Chair asked if there was anyone else present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

#### **DISCUSSION AND DECISION:**

Holden – recommendation that they have enough information to render a decision on everything except the draft Road Agreement with the State, the City and Wal-Mart. They could make a motion to approve subject to conditions and then table until the Road Agreement is in a suitable form to give it some structure.

Chairman Smith asked if the Road Agreement would be completed by June 16<sup>th</sup>?

Mr. Holden felt it should be done by then.

Attorney Pelech felt they should be able to finalize the agreement between Wal-Mart and the City by then but he was not sure they could come to an agreement with the City and the State by then.

Deputy City Manager Hayden asked if this would be a three way agreement?

Mr. Holden felt there would be two agreements with one between Wal-Mart and City and one between the City and the State but they are not completely sure of that at this point.

Chairman Smith asked the Board and applicant if a motion to approve was made on this, were they agreeable that the stipulations that have previously been discussed could be picked up from the minutes?

Attorney Pelech indicated that was acceptable to him.

Mr. Coker expressed his concerned about run off and ground water discharge. He asked for a stipulation that all catch basins must have oil/water separators. He doesn't want all of the first flush groundwater to go right into the ground. Also, he asked if the City Attorney had given his opinion on this contribution? He would like to see the attorney review the Wal-Mart letter and give his opinion.

Mr. Holden confirmed that all material that Attorney Somers has submitted would be reviewed by Attorney Sullivan. All communications have been reviewed by Attorney Sullivan up to this date. That was why Mr. Holden was being sensitive to the Board to make sure that all issues are reflected in the Road Agreement.

Attorney Pelech stated that it has always been this way with the City and all roadway improvements have always been considered a contribution.

Mr. Holden agreed with that. The Impact Fee Ordinance was adopted in case an issue came up, they could rely on it. The issue in this project, coming from the Department of Public Works and John Burke, was that the City shared a concern that as Route One traffic increased they had to make improvements. It made good sense to Wal-Mart to improve the roadway that comes into their facility and the State was able to move this project into their 10 year plan.

Deputy City Manager Hayden made a motion to approve with the 5 TAC stipulations and those discussed this evening. Mr. Savramis seconded.

Mr. Holden asked for clarification on the brick façade. He asked that they issue new renderings for the Department to review for the entire face as well as making sure there is a sidewalk around the entire building.

Mr. Sullivan would like to see greenery added up close to the front of the building that will grow up the front of the building, such as ivy.

Attorney Pelech indicated that the police don't like shrubbery.

Mr. Sullivan suggested they may want to look at vines.

Chairman Smith would like to see a maintenance plan for the Department of Public Works.

Deputy City Manager Hayden asked for a sample of the brick façade material at next meeting.

Mr. Hopley made a motion to table this application pending completion of the roadway agreement. Mr. Sullivan seconded.

The motion to table passed unanimously.

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**III. CITY COUNCIL REFERRALS/REQUESTS**

- 1. Request for Amendment to Zoning Ordinance to Permit Financial Institutions in the Office/Research Zone;

Mr. Holden explained that the City has met several times with Attorney Alec McEachern to re-zone this district. In discussions for the Master Plan they indicated there should be consideration given to this and what may or may not be appropriate across from a residential area. The Department will draft something for the Board's review however he asked for the Board's input on this matter.

Ms. Tillman listed the components that constitutes a bank: Business office space, loan department, retail lobby area, ATM's with drive up or pedestrian access, tellers in the bank or lobby area or drive thru, and impound areas for vehicles that have been repossessed.

Mr. Holden indicated that this became a hot issue with the Technical Advisory Committee with a bank that was looking to relocate downtown. Drive- thrus are not pedestrian friendly.

Mr. Ricci asked if this was just for the office research zone only?

Mr. Holden felt it could be applicable to wider areas.

Mr. Ricci asked about the area off of Borthwick Avenue that they may be seeing, which abuts a residential area. Would this have a negative impact on that?

Chairman Smith felt the same way with drive-thrus with speakers. Banks have to be constantly lit for safety purposes which is not good for residential areas. If they were to re-zone, there may be certain things that they would not allow, such as a drive up.

Attorney Alec McEachern addressed the Board. His client owns property on Lafayette Road and they wish to develop their property. Provident Bank was denied a variance to put a bank on their property. He referred to the Master Plan where it said it may be important for the City to review the Office Research district and it specifically mentioned financial institutions. He pointed out that his client's property is not currently under agreement but they would like to develop the site. By allowing financial institutions to locate in a space like this, it would help them develop it. This area has been vacate for quite some time. He indicated that the residents of Elwyn Park would prefer this rather than dust blowing into their neighborhood all of the time. Other banks are located in Office Research districts and have been compatible with the other uses in the district.

Mr. Coker asked if this would this fall under the zoning administrative checklist? He felt it would be very helpful.

Chairman Smith indicated that they have discussed it within working on the Master Plan so they feel they have covered all areas that a matrix would cover.

Mr. Holden clarified that the matrix is geared for issues that are addressed in the Master Plan. If the Board wishes to do that, it could be done. He felt the Board should discuss their concerns.

Deputy City Manager Hayden felt that Ms. Tillman's issues need to be addressed. She felt most financial institutions would require a drive thru in this day and age and extra lighting.

Chairman Smith pointed out that most drive-thrus tend to have multiple windows and they keep getting bigger.

Deputy City Manager Hayden felt downtown is a completely different issue.

Chairman Smith agreed that lighting is an issue as bank lights are on all night.

Mr. Sullivan stated that people use ATM's day and night. The residents on the other side of Lafayette Road would have lights in their bedrooms all night long. He would rather see a 9:00 – 5:00 business. He felt that neighborhood has gone through a lot. He would look for a limitation on a drive thru and he would not want to see an impound area.

Mr. Coker indicated that those issues would only be on a side that faces a residential area.

Mr. Holden estimated that Lafayette Road was about 60' wide. He asked if that was a big enough buffer and also, if this were to the rear of the building, would it be different?

Mr. Sullivan indicated that if it doesn't have access on Lafayette Road and there were no lights at night and there was landscaping it would be different.

Mr. Holden thought other components to consider were lot area and location. There is an existing 105' right of way on Lafayette Road to protect for road widening.

Mr. Holden indicated that the Department would draft something and they will run a matrix on it. The Department will work with Attorney McEachern.

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**IV. NEW BUSINESS**

- A. Request for One Year Extension of Site Plan Approval for Property located at 58 State Street, granted on May 20, 2004;

Mr. Coker made a motion to grant; Deputy City Manager Hayden seconded. The motion passed unanimously.

- .....
- B. Subdivision request for **244 - 246 Concord Way**;

Mr. Holden advised that Board that this is another property that shows on the original 1919 subdivision plan. As required by the Zoning Ordinance, they are simply notifying the Board of this action. The Department is working with the property owners. No action was required by the Board.

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Mr. Holden advised the Board that the Department has been working with other departments on the Griffin/Stokel Property off of Griffin Road. There has been some interest on the part of the owners to create some public/private benefit where they secure some development rights with land that would have to be bridged to get to and looking at how wetland areas could be preserved. There are a lot of policy issues that need to be evaluated. They are suggesting a joint work session with the Conservation Commission, the Planning Board and the Technical Advisory Committee and owners of the property to explore potential approaches to this and whether any approaches are worthy of further consideration. This will give the applicant a better understanding of the City's concerns and whether they want to proceed. He would like to schedule a work session to begin at 6:15 at the next Planning Board meeting.

Deputy City Manager Hayden felt they might need more than 45minutes.

It was agreed to start the work session at 6:30 and delay the regular meeting to 7:30 pm.

**V. ADJOURNMENT**

A motion to adjourn at 9:15 pm was made and seconded and passed unanimously.

Respectfully submitted,

Jane M. Shouse  
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on June 16, 2005