

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

7:00 P.M.

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

MARCH 16, 2006

MEMBERS PRESENT: John Ricci, Chairman; M. Christine Dwyer, City Council Representative; Jerry Hejtmanek, Vice-Chairman; Cindy Hayden, Deputy City Manager; Richard A. Hopley, Building Inspector; Raymond Will; Donald Coker; George Savramis; and Alternates Anthony Coviello and Paige Roberts

MEMBERS EXCUSED:

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

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A work session was held with the Planning Board and the Conservation Commission regarding wetland issues. Present were: Tony Coviello, Planning Board; Councilor Christine Dwyer, Planning Board; George Savarmis, Planning Board; Jerry Hejtmanek, Vice Chairman, Planning Board; Barbara McMillan, Alternate, Conservation Commission; Brian Warzlaw, Conservation Commission; Steve Miller, Vice-Chairman, Conservation Commission; Allison Tanner, Conservation Commission; Charles Cormier, Chairman, Conservation Commission; Peter Britz, Environmental Planner; Cindy Hayden, Planning Board and Deputy City Manager; Richard Hopley, Planning Board and Chief Building Inspector; Lucy Tillman, Chief Planner; Donald Coker, Planning Board; John Ricci, Chairman, Planning Board; Paige Roberts, Alternate, Planning Board; and Raymond Will, Planning Board.

Peter Britz advised everyone that a letter had been received from the Newington Conservation Commission. They asked to get together as a group to discuss wetlands at the PDA. He felt it would be better for the Conservation Commission and the Planning Board to work together as a group. He indicated that the PDA has hired a wetland consultant, Jim Gove, for wetland projects, and they inventoried all of their wetlands and then came up with recommendations for buffers. Mr. Gove recommended a tiered system through a function evaluation assessment, which is a New Hampshire method for evaluating with a point system. 100' is the maximum buffer for six high value intact wetlands, then down to a 50' buffer for five wetlands that have had some impacts but are in pretty good shape, then down to 25' for twelve wetlands that are mid-sized isolated, fragmented or impacted by past practice wetlands and finally there are thirty four non-buffered wetlands such as drainage swales and man made wetlands.

Mr. Britz felt that the PDA approach has a lot of merit with pros and cons. He felt that the best approach is to talk to the PDA about wetland protection on the PDA. Portsmouth can't tell the PDA what to do but he felt they could work together.

Vice-Chairman Hejtmanek asked if the PDA is accepting Mr. Gove's recommendation?

Mr. Britz believed that they are. They are using Mr. Gove's recommendations but they have not revised any of their regulations. There have been requests for the PDA to work with the City to fine tune it, which is why they are looking for direction and input on how to proceed.

Mr. Ricci asked why they are they dividing the wetlands the way they are?

Mr. Britz explained that went back to the point system they are using. Mr. Britz felt this was a very good question.

Mr. Savramis stated that he liked the tiered approach, depending on the value of the wetland itself.

Mr. Coker felt this system virtually condemns wetlands to a life of no improvements. There is no room to improve poor wetlands and some areas have no buffers at all.

Ms. Tanner indicated that some wetlands were very large but they were labeled as being isolated.

Mr. Will was concerned because they have a lot of wetlands with no buffers. They must let the PDA know that 75 acres of no improvement wetlands needs to be dealt with.

Mr. Will asked if the PDA is served by City water and sewer and if there was any chance of someone putting in any wells?

Mr. Holden said that it was in an aqua area.

Mr. Will was concerned that they might say they didn't want a big wetlands buffer because it would impede development and then 10-15 years later, now that they are sinking a well, it's poison because they didn't have enough wetland buffer. He felt it was a lose/lose situation for any developer who is leasing land that they don't own.

Mr. Holden stated that, at the risk of not getting bogged down with details, the PDA is saying that they are willing to look at a system for grading wetlands and this is a big step.

Mr. Will felt this raises more questions than it answers and it would be helpful to have the PDA present.

Mr. Cormier stated that Newington would like to strengthen the PDA proposal. They also have identified 6 prime wetlands in their town that has the PDA oversight. They are looking for some backup from Portsmouth to get a stronger buffer, especially for prime.

Mr. Coviello would like to see a 100' buffer over all with the evaluation being a tool.

Deputy City Manager Hayden asked how many people were present at the meeting held by the PDA and it appeared that approximately one half of the Board members were present. Deputy City Manager Hayden felt it was clear, in order to further the discussion, it would be great to have that presentation again. She felt it was a very critical issue and she asked whether it was better to be an adversary of Pease or is it better to work in partnership with them, and she was pro-partnership.

Mr. Will indicated that the same PDA Regulations have been used for the past 10-15 years. He would like to see some sort of Master Planning process. Now that the PDA is filled, there is a completely different agenda.

Mr. Coker agreed that the PDA doesn't have to do anything they don't want to do. The question was how can they make them change? He agrees with Deputy City Manager Hayden to have Mr. Gove come again so everyone can review it.

Mr. Miller stated that he liked the PDA's scientific method, called the "New Hampshire method". 13 of their D category wetlands are over ½ acre. He agrees with Mr. Coker that if you don't have a good buffer, you are never going to have good water quality and all of the wetlands play a role in our water quality.

Councilor Dwyer felt that the acreage should come into the mix. Most of the acreage falls into the A & B categories. She felt there was some compromise positions to offer back for a different set of tiers.

Mr. Britz explained that the way the function & value assessment works is they review all categories and they get a score. A wetland that is a drainage ditch will have a very low score. Their "D" wetlands are probably very similar to Portsmouth's man-made drainage ditches which are exempt from a setback. Maybe they could look at their 25' wetland buffers and look at how they can intergrate a master plan theme to improve them.

Mr. Coviello asked if wetland acreage is part of the consideration?

Mr. Miller stated that the New Hampshire method looks at wetland functions and values are the ecological integrity, wetland wildlife habitat, fish habitat, aesthetics, water recreation, bug control, sediment trapping, groundwater potential, nutrients, shoreline anchoring, improving quality of life and historic site potential. This was originally a tool for conservationists to evaluate where to put wetland dollars. He did not believe it was ever intended to be used in this way.

Chairman Cormier asked if they would like to have the Conservation Commission meet with Newington to see what their concerns are?

Chairman Ricci felt the first step would be to have Mr. Gove come back in and meet with them.

Mr. Holden felt they needed to get their act together and have a better understanding. The PDA has 7 criteria to evaluate where Portsmouth is whether there is vegetation, soil and a half acre. This would be a good discussion to have as there are different ways to look at the same element.

Mr. Coker was concerned that Mr. Gove's comment to Portsmouth was always "More buffer is better".

Mr. Ricci reiterated that it would be best to meet with Mr. Gove and ask him that question.

Deputy City Manager Hayden indicated that Newington was invited to Mr. Gove's presentation also but she felt this group should come to an agreement on how to best work with Pease.

Mr. Holden felt it would be best to send a letter out from Chairman Cormier and Chairman Ricci to have Mr. Gove come and address the two Boards and the PDA, and then Portsmouth will respond to Newington.

Mr. Holden stated that the PDA is trying to work with the City because of the number of applications that Portsmouth does with them. The Board of Directors is very interested because other wise they wouldn't be having their administrative staff work on this.

I. APPROVAL OF MINUTES

- A. Approval of Minutes from the December 15, 2005 Planning Board Meeting - Unanimously approved.
- B. Approval of Minutes from the January 19, 2006 Planning Board Meeting - Unanimously approved.

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II. PUBLIC HEARINGS

A. The Portsmouth Planning Board is conducting a public hearing to take public comment on proposed amendments to the City’s 1995 Zoning Ordinance, as amended. The amendments include changes to the following sections: 1) Article I, Section 10-102, Definitions, by adding certain definitions; 2) Article II, Section 10-207, Table 3, Uses in Mixed Residential Districts; Article II, Section 10-208, Table 4, Uses in Business Districts; Article II, Section 10-209, Uses in Airport Districts; Article II, Section 10-209, Table 5, Uses in Industrial Districts, by adding and expanding Financial Institutions; 3) Article III, Section 10-305 (A) Industrial, Table 11 Dimensional Requirements, by changing dimensional requirements; and 4) Article IV, Section 400, Supplementary Regulations, by adding a new Section 10-405 Standards for Drive-Through Facilities. Copies of the proposed amendments are on file in the Planning Department Office and available for public inspection. (This hearing was tabled at the February 16, 2006 Planning Board Meeting.)

Chairman Ricci read the notice into the record.

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

Mr. Holden indicated that at their last meeting there was a discussion on impacts on other districts. The Planning staff has further refined that and will treat Financial Institutions as a citywide use. The districts were listed out with what type of Financial Institutions would be allowed.

Mr. Holden reviewed the differences in the various districts.

Ms Tillman indicated that she is still working with Deborah Finnigan, the City Traffic Engineer, on traffic and parking standards.

Mr. Holden suggested tabling this matter to evaluate moving the drive through regulations to the Site Review regulations and making sure they are properly referenced in the Zoning Ordinance, but to try to get a regulation that is specific to the use out of the land use permissive part which basically deals with the use, and get it into the Site Review Regulations.

Mr. Hopley asked why 29 was blank rather than indicating “N”.

Mr. Holden indicated they generally don’t list out what they are so if it’s not there then it’s not permitted. The blank is basically the same as an “N”. Maybe inserting an “N” would be clearer.

Mr. Will asked if this would be coming back as an agenda item or a public hearing? He would like it to be an agenda item.

Mr. Holden confirmed they will do it that way.

Mr. Will made a motion to table this matter to the April 20, 2006 meeting. Mr. Coviello seconded the motion.

The motion passed unanimously.

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Chairman Ricci welcomed Paige Roberts back as an alternate to the Planning Board.

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B. The application of **Thomas J. Flatley, Owner and Home Depot, Applicant**, for property located at 500 Spaulding Turnpike wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to allow the demolition of the existing building, the construction of a 145,193 ± s.f. retail store and a 19,200 ± s.f. pad building and corresponding parking within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 238 as Lot 20 and lies within a General Business District. (This application was tabled at the February 16, 2006 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. Will seconded the motion. The motion passed unanimously.

SPEAKING TO THE APPLICATION:

Mr. Holden stated that the applicant and the Planning Department concur that this be tabled to the April 20th meeting. They are working on issues of interest that may effect the Conditional Use recommendation that has been granted.

Mr. Will made a motion to table to the April 20, 2006 meeting. Deputy City Manager Hayden seconded the motion.

The motion to table passed unanimously.

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Mr. Will stepped down from sitting on this application. Ms. Roberts became a voting member.

C. The application of **Cicero A. and Ruth Lewis, Owners, and Changing Places, LLC, Applicant**, for property located **off Falkland Way** wherein site review approval is requested for the creation of 24 new town home units on a proposed 8 lot subdivision, with all of the proposed lots having access off of a proposed extension of Crescent Way extending through to Saratoga Way, with related paving, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor Plan 212 as Lot 123 and lies within a General Residence B District; (This application was tabled at the February 16, 2006 Planning Board Meeting)

D. The application of **Cicero A. and Ruth Lewis, Owners and Changing Places, LLC, Applicant**, for property located **off Falkland Way** wherein Final Subdivision approval is requested for the creation of an eight lot subdivision ranging in lot size from 10,029 s.f. to 27,454 s.f. with all of the proposed lots having access off of a proposed extension of Crescent Way extending through to Saratoga Way. Said property is lying in a zone where a minimum lot size of 5,000 s.f. and 80' of continuous street frontage is required. Said property is located in a General Residence B district and is shown on Assessor Plan 212 as Lot 123. (Plat plan is on file in the Planning Department Office and is identified as Plan # 17-01-05); (This application was tabled at the February 16, 2006 Planning Board Meeting.)

The Chair read the two notices into the record.

Mr. Hopley made a motion to take the applications off of the table. Deputy City Manager Hayden seconded the motion. The motion passed unanimously.

SPEAKING TO THE APPLICATION:

Attorney Pelech appeared on behalf of the owner & applicant. Also present were Dennis Moulton and Corey Colwell, both of AMES MSC, John O'Neil and Michael Brigham, of Changing Places and Mr. & Mrs. Lewis. This matter was tabled in February and sent back to TAC. After review, TAC again made a favorable recommendation and did not make any changes.

Attorney Pelech indicated that they began this process in August, they have worked with City staff, they have appeared before TAC and they complimented Mr. Holden for working diligently with Department Heads to answer questions from the neighborhood. He believes that all questions have finally been answered and they look for approval.

Dennis Moulton, of AMES MSC, addressed the Board. He reviewed what had occurred since the last meeting. John Tetreault, their Traffic Engineer, came and spoke and reviewed the traffic study. He showed the level of service would be unaffected at the three intersections. Mr. Moulton was available for any questions.

Corey Colwell, of AMES MSC, reviewed the subdivision plan. In October of 2005 they received preliminary approval. They made three changes. They added three easements for utilities, drainage improvements and stormwater drainage retention. The second change was the access easement across Lot 5, to give access to the rear of the lot to facilitate maintenance. Thirdly, a landscape easement across the front of Lot 7 & 8, which was a requirement of TAC. They will submit GIS data to the City and will certify placement of the monuments.

The Chair asked if anyone was present from the public, wishing to speak to, for, or against the petition.

Raymond Will, of 125 Preble Way, Atlantic Heights, is also a member of the Planning Board. He asked about a Memorandum the Board received from the Planning Department/Legal Department indicating that they had come to agreement regarding paper street on Raleigh Way and he asked for clarification that.

Mr. Holden indicated that the Board members have a Memorandum from the City Attorney regarding this issue. Mr. Holden read the Memorandum. It was felt that the Board should not hold up approval of this application pending a resolution of this matter. They recommended that the Planning Board grant a condition of approval on the resolution of the paper street issue. Mr. Holden indicated it was his interpretation that the eventual conclusion is that the land would revert to the abutters but that cannot be determined at this point.

Mr. Will asked about whether it was ever a viable option that Raleigh Way be one way.

Mr. Holden indicated that would be considered in the future.

Mr. Will felt that the homes should be a certain size and façade. At the last Planning Board meeting they presented elevations and he did not believe they blended into the neighborhood. He would like to see buildings reflect a historic character and not just a sense in how it looks but also in the sense that it was built as affordable housing. He did not believe it should impede the project but it should be a stipulation of criteria H.

The Chair asked if anyone else was 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. Holden reviewed the minutes and indicated that there had been a fair amount of representation and he would like to determine that all items have been incorporated in the final plans.

Mr. Holden asked if the plans reflect a 1" water service now?

Mr. Moulton confirmed they were specified as 1" on the plans.

Mr. Holden stated that they had asked that all loam on the site be 6" as it was better for the roots and less water is required.

Mr. Moulton stated they were putting in an irrigation system so the 6" of loam didn't seem to be an issue. Therefore, that should be brought forward as a stipulation.

Mr. Holden asked if the retaining wall was put in that Mr. Allen requested?

Mr. Moulton confirmed that was done.

Mr. Holden indicated that the Planning Board has a standard of granite curbing on the street and there was an issue as they had vertical rather than sloped and they were going with the vertical? That would require a waiver of their recommendations but the Board would be waiving that with a favorable vote.

Mr. Moulton confirmed that was correct and the change was made on the plans.

Mr. Holden asked if all plantings were at least 5' from any underground water, sewer and gas utilities?

Mr. Moulton confirmed that was correct.

Mr. Holden indicated that the swale and level spreader were an issue. He asked if they included the diagrams on the final plans?

Mr. Moulton indicated that the resolution of that was a significant change in the drainage system. There is just a swale now.

Mr. Holden asked if the water service across Lot 1 was changed?

Mr. Moulton confirmed that was done.

Mr. Holden stated that in the absence of test pits, Mr. Desfosses was looking for a detail in case they did not run into good soil?

Mr. Moulton indicated that was done.

Mr. Holden asked if there was a fill detail for the roadway cross section?

Mr. Moulton confirmed that was done.

Mr. Holden asked if Attorney Pelech was putting language in the deed about the care and maintenance of the sensitive areas?

Attorney Pelech indicated he had corresponded with Peter Britz and asked him to provide him with that language but he had not heard back from him yet.

Mr. Holden indicated that if this is approved, the Planning Department and the Legal Department will work on the 10' vegetative buffer. That language is fairly standard as they have done it on other projects but that would still be outstanding.

Attorney Pelech confirmed that was correct.

Mr. Holden indicated that they would recommend as a condition that a Construction Management Plan should be prepared and approved by the Departments of Public Works, Legal and Planning and that plan shall include any blasting related issues.

Mr. Moulton agreed with that.

Mr. Holden stated that this is a vary rare project that spent four months in TAC and the applicant has worked very closely with staff but there are a lot of details that have gone into this and Mr. Holden felt this is what makes this project very approachable at this point by the Board. He applauded the applicant for working with the Board to get some of the finer details done.

Chairman Ricci called for a vote on the Site Review application

Mr. Savramis made a motion to approve with the associated stipulations, plus the legal issue on paper streets. Mr. Coviello seconded the motion.

Mr. Savramis felt that with any development there are a lot of pluses and minuses. In this project, he felt that the pluses outnumber the minuses.

Councilor Dwyer was not present at the last meting but she listened on the web archives to the Board's lengthy deliberation on the traffic study. She would like to hear the satisfaction of members who were very intent on the traffic question as to which aspects from the recommendation from TAC to the Council satisfy the concerns they had.

Mr. Holden stated that this is a limited project with limited traffic. The City, through the CIP and the Community Development program, has and continues to put a significant amount of money into the infrastructure improvements that the City is properly responsible for. TAC found that there was no rational nexus that could be extended to any other street for further improvements. In recognition to particular problems out at the Heights, TAC took recognition of the Wilbur Smith study and suggested that it be considered for updating. Mr. Holden suggested that when they work with the neighborhood, they may want to assess what the needs are. It comes down to either expanding the street so they can have parking or maybe looking at traffic patterns. However, in either fashion, those improvements exceed what this developer is responsible for.

Councilor Dywer asked if the remedy was the acceleration of looking at a variety of ways to improve traffic conditions around that area.

Mr. Holden stated that the Council, as a policy setting body, has the ability to accelerate and they were pleasantly pleased to find that the planning processes of the Council and the City have addressed these needs and they are being addressed as that process continues.

Mr. Coviello felt the thing he narrowed in on was one vehicle every five minutes should not be a big concern for the neighborhood. Also, the Raleigh Way width is a problem that will be addressed by the City down the road.

Mr. Holden stated that the Traffic Report showed a level of service A both before and after.

Deputy City Manager Hayden asked for clarification in the stipulations: The Plans and details should show 6' of loam, there shall be a Construction Management plan, and also the specific condition that final approval is based on the Legal Department resolving the paper street issue.

Mr. Savramis was agreeable to those stipulations.

Mr. Coker stated that he felt all along that the traffic study was more than adequate and Mr. Coviello's point about one car every five minutes doesn't have any impact at all on the neighborhood. Speaking for himself, he felt that the City Council set an extraordinarily bad precedent to ask the Planning Board to reconsider a specific application.

Councilor Dwyer stated that she was not sure that was what the City Council did.

Mr. Coker felt it had the same net effect. He felt that the application should have been approved last month. He felt that TAC addressed all issues adequately and that the Planning Board did their job and they did it well.

The motion to approve passed unanimously with the following stipulations:

Stipulations from the March 16, 2006 Planning Board Meeting:

- 1) That all loam on the site should be at least 6" as it is better for the roots and requires less water, and should be so noted on the Site Plans;
- 2) That the Planning Board waives the requirement to use sloped granite curbing, as it does not match what is being used in Atlantic Heights, so that the applicant can use vertical granite curbing;
- 3) That language shall be added to the deeds of the two lots that border the wetland buffer, relative to the prohibition of dumping debris in the wetland buffer zone, and said language shall be approved by the Planning Department and the City Attorney;
- 4) That a 10' vegetative buffer easement shall be prepared by the Applicant and reviewed and approved by the City Attorney;
- 5) That a Construction Management Plan should be prepared and approved by the Departments of Public Works, Legal and Planning and that plan shall include any blasting related issues; and
- 6) That final approval is conditioned upon the determination by the City's Legal Department that no municipal interest exists in the paper street Falkland Way. If it is concluded that there was never any dedication or acceptance, then the condition shall be satisfied. In the event that there was dedication and acceptance, then the City Council will be requested to discontinue the municipal interest in order to satisfy this condition.

Stipulations from the January 19, 2006 Planning Board Meeting:

- 7) That a traffic study be provided to the Planning Board;
- 8) That City Staff be present at the next Planning Board meeting to address the infrastructure;
- 9) That the drainage concerns of PSNH be more adequately addressed;
- 10) That building elevations be provided to the Planning Board.

Stipulations from the January 3, 2006 Technical Advisory Committee Meeting:

- 11) That prior to approval by the Planning Board a report shall be provided to DPW and the Planning Board either that there is approval by the adjacent property owners to the increased drainage flow or that some Agreement is in place to allow such drainage flow;

- 12) That the two outfall structures (one swale and one level spreader) shall be fully constructed and stabilized before use;
- 13) That a detail be added to the Site Plans showing an armored slope from both the outlet of the treatment swale and the bypass culvert to the toe of slope or the stone wall;
- 14) That Saratoga Way be widened to 24' for approximately 100' near the intersection with Raleigh Way where there is no parking and that the hydrant be relocated as required;
- 15) That the applicant shall meet with Debbie Finnigan, City Traffic Engineer, to review the revised Site Plans to make sure that Saratoga Way meets all requirements;
- 16) That the water line should be 10" CLDI connecting to the 8" main in the Raleigh Way intersection and to the future 10" on Crescent, with a 10" diameter stub to the Portsmouth Housing Authority property line so that the City could extend the line for a looped feed;
- 17) That a meeting be scheduled with the applicant and Tom Cravens and David Allen of DPW to discuss off-site improvements on the water mains;
- 18) That the Planning Department will review the "cut through" that is being used on private property and provide a report at the Planning Board meeting;
- 19) That a 10' vegetative buffer easement shall be prepared by the Applicant and reviewed and approved by the City Attorney;
- 20) That a stop line and stop sign shall be added to the Site Plans at the intersection of Saratoga and Raleigh Way;
- 21) That there shall be an independent inspector for the proposed roadway as this will eventually be a city street;
- 22) That the water service as shown crossing the lot line on Lot #1 shall be amended on the Site Plans;
- 23) That on the road profile, the sewer is shown very steep and a drop manhole should be added uphill to relieve the slope;
- 24) That a detail showing well drained material 2' below the treatment swale shall be added to the Site Plans so that the Field Contractor will be aware of it;
- 25) That it is recommended that the wooden guardrail detail be upgraded to a 6 x 8 post and 3 x 8 horizontal section;
- 26) That a full detail of the roadway cross section where it crosses the large existing ditch showing well graded fill under the road be added to the Site Plans; and
- 27) That language shall be added to the deeds of the two lots that border the wetland buffer, relative to the prohibition of dumping debris in the wetland buffer zone, and said language shall be approved by the Planning Department and the City Attorney;

Chairman Ricci called for a vote on the Final Subdivision application.

Deputy City Manager Hayden made a motion to approve with the previous stipulations and the stipulation on paper street issue pending with the Legal Department. The motion was seconded.

The motion to grant Final Subdivision approval passed unanimously with the following stipulations:.

Stipulations from the March 16, 2006 Planning Board Meeting:

- 1) That the application is subject to Site Review Approval;
- 2) Site Review shall consider, though, is not limited to consideration of those concerns as presented in this Memorandum and as supplemented by this Board;
- 3) That the disposition of the paper street portion of the Falkland Way right-of-way shall be considered as part of the TAC process and a recommendation on this matter shall be provided to the City Council as soon as appropriate;
- 4) That the Final Subdivision Plan shall represent the final disposition of the paper street portion of the Falkland Way right-of-way as it relates to adjacent properties;

- 5) That digitized GIS data shall be provided to Department of Public Works as per the City’s requirements for updating relevant land records;
- 6) Placement of permanent boundary monuments as required by the department of Public Works;
- 7) That the paper streets be properly labeled on the Subdivision Plan;
- 8) That traffic and drainage reports be prepared;
- 9) That when all the aforementioned stipulations are in place that the applicant shall submit an application requesting Final Subdivision Approval from this Board;
- 10) That final approval is conditioned upon the determination by the City’s Legal Department that no municipal interest exists in the paper street Falkland Way. If it is concluded that there was never any dedication or acceptance, then the condition shall be satisfied. In the event that there was dedication and acceptance, than the City Council will be requested to discontinue the municipal interest in order to satisfy this condition.

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E. The application of **SGB & RGB Ventures, LLC, Owner**, for property located at **1800 Woodbury Avenue** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to remove 3, 191 ± s.f. of asphalt pavement and construct a 2,292 ± building and add 899 ± of landscaped area within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 239 as Lot 7-3 and lies within a General Business district.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Mr. Holden indicated that this application was tabled at the Conservation Commission meeting as they are looking for more information.

Mr. Will made a motion to table this application to the April 20, 2006 Planning Board meeting. Deputy City Manager Hayden seconded the motion.

The motion to table to the April 20, 2006 Planning Board meeting passed unanimously.

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Donald Coker stepped down from this application. Paige Roberts became a voting member.

F. The application of the **Porter Street Townhouse Homeowners Association, Applicant**, for property located at **12 – 32 Porter Street** wherein Amended Subdivision Approval is requested to install an automatic parking gate on the sides of Lots 46 and 57 on Assessor Plan 117, effecting access to the rear of Lots 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, and 57. Said properties are shown on Assessor Plan 117 as Lots 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, and 57 and lie within the Central Business B, Historic District A and Downtown Overlay Districts.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Mr. Holden indicated that this was an unusual request. He has worked with the applicant to treat this as a modification of the subdivision plan.

Corey Colwell, of AMES MSC, appeared on behalf of the applicants. Ellen Bullard, of CP Management and members of the Porter Street Homeowners Association were also present. They are looking for an amendment to the previously approved 11 unit subdivision. The owners would like to

install two controlled access gates, one on Fleet Street and one on Church Street. The gates would be installed to prevent the public from driving into the access drive. The gates are automatic and can be opened with telephone entry, card readers, push buttons and remote controls in each vehicle. The gates can be opened from a distance which is a nice feature to prevent any stacking on adjacent streets and it will prevent any safety hazard. Mr. Colwell indicated that they had included a technical specification sheet in the Board packets. There is a battery back up in case of a power failure. They are seeking approval for the installation of the two gates.

Deputy City Manager Hayden asked how far back the gates can be opened from?

Mr. Corey called the manufacturer but he was unable to get that information.

Deputy City Manager Hayden stated that, realistically, that needs to be taken into consideration.

Mr. Coviello asked how emergency vehicles would open the gate?

Mr. Colwell stated that in case of emergency, they would break through it as it was not a rugged structure.

Mr. Coviello asked if they make gates with a capacity for emergency vehicles to get through?

Mr. Colwell stated that they can be opened via telephone and they could provide a telephone entry to the Fire and Police Departments.

Councilor Dwyer asked what alternatives were considered to accomplish the same purpose?

Mr. Colwell indicated that there were no other alternatives. There was some talk about putting a swinging gate in and it would look nice but they would have to open it manually. Their proposed gates open quickly and close automatically.

Mr. Coviello asked if this would require HDC review?

Mr. Holden confirmed that would follow Planning Board approval.

Mr. Will asked, because the Planning Board doesn't have any purview on how something looks, and it seems to be a reasonable addition to the property, everything seems to hinge on how effectively it can be opened and that information is unknown. He asked how does the City work with emergency personnel on issues like this?

Chairman Ricci suggested sending this to the Traffic & Safety Committee for review. And he also reiterated the need for information from the manufacturer on timing.

Mr. Will made a motion to table this matter for review by the Traffic & Safety Committee. Mr. Coviello seconded the motion.

Deputy City Manager Hayden asked for a condition that the City Traffic Engineer review it.

The motion to table passed unanimously.

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G. The application of **Nash Family Investment Properties, Owner, and Smuttynose Brewing Company, Applicant**, for property located at **225 Heritage Avenue**, wherein site plan approval is requested to construct a one-story 16'4" x 43'8" building addition, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 284 as Lot 1 and lies within an Industrial district.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernard Pelech, appeared on behalf of Smuttynose Brewing. John Chagnon, of Ambit Engineering and Peter Eggleston of Smuttynose were also present. Attorney Pelech stated that they worked with TAC, went to Traffic & Safety, filed an application with a third Committee to remove a tree in the City right of way. Attorney Loughlin and Everett Kern have advised that it would not be a problem but it will not occur until April. They are asking that Site Plan review be approved, conditioned upon approval from the beautification committee to remove the tree which is on City property. This is a small proposal and a small addition. They meet all criteria and they received favorable recommendations from the Traffic & Safety Committee and TAC.

John Chagnon, Ambit Engineering, addressed the Board and stated that John Stefano, Project Manger, and David Yarrington, Chief Brewmaster were also present. He indicated this was a small addition on the south side of the building. Inside there will be three tanks holding brewing material. They are also adding an additional silo on the outside of the building. The plan is to do this in increments, one tank at a time, as business increases. Also, they will take all outside materials and store them inside. They are taking over the north half of the building which was previously leased to someone else. They will be striping parking spaces and will enclose the dumpster.

Mr. Chagnon stated that TAC recommended approval of this matter. It was tabled in January so they could go to the BOA for variances and they received approval for a 19' aisle on the north side of the building. They are not changing the pavement at all. The plan was approved in 1982 and the width met the rules at that time. A second variance was required for parking within 100' of a residential property and the site backs up to Patriot's Park.

Traffic & Safety looked at the site and approved it on February 9th. They asked for a portion of the island to be removed for better exit flow. The tree in that space needs to be removed.

Mr. Chagnon indicated that TAC approved the plan with 7 stipulations and Mr. Chagnon addressed those stipulations.

1. Tree removal: They have made that application.
2. Signage: Do Not Enter signs have been so noted on the plans.
3. Concern about an area in the back: They have shown some regrading and have addressed that issue. Also they are showing a note about removing debris that is clogging the drainage system.
4. Sprinkler: they have added a note to the plans.
5. Knox box: they have added a note to the plans.
6. & 7. Site bond: They talked about the responsibilities of the leasee and the property owner. The owner will be repaving the entire lot as general maintenance. As the back lot has to be regraded as part of this approval, they have discussed how to bond that work. The Applicant will be responsible for the back and the side. The stipulation no longer applies as the Bond Agreement will address all work.

Mr. Will noted that Mr. Allen asked about the swale. Mr. Will asked what "the fix was" and where it was noted on the plans.

Mr. Chagnon referred to the note on Sheet C-1 about removing debris in front of the culvert. At the first TAC meeting, there wasn't any mention of puddles in the back. The landlord had promised to fix it and repave. TAC felt the applicant should address it. They were trying to figure out how to have the landlord do it but the applicant has now agreed to take care of it for expediency.

Mr. Coviello asked what shimmering was?

Mr. Chagnon explained when you have pavement that has a big groove where tires go and get more pressure. Before the paving is done, the shimming is done. The Minutes should say shimming.

Chairman Ricci indicated he would like to see details for the dumpster pad and the enclosure.

Mr. Chagnon stated that would have to be done according to ordinance.

Chairman Ricci asked if any erosion control methods were shown on the north side? Also, on the south side, there is a new door, canopy and ramp, and he asked if that was handicapped access?

Mr. Chagnon confirmed that it was not. The accessible access is in front along the sidewalk. The new door is because when they put the 3rd tank in and they will then close in an existing door.

Chairman Ricci asked for a detail for the solid wood fence around the barbeque pit.

Mr. Chagnon felt that was unusual. It would just be a regular fence.

The Chair asked if anyone else was 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

Vice Chairman Hejtmanek made a motion to approve with stipulations. Deputy City Manager Hayden seconded the motion.

The motion to approve passed unanimously with the following stipulations:

Stipulations from the February 28, 2006 Technical Advisory Committee Meeting:

1. That the applicant is responsible for the tree removal;
2. That the "Exit Only" signs be replaced with "Do Not Enter" signs on both sides of the drive;
3. That the back parking lot shall be reshaped, regraded and repaved and pavement cross section details shall be added to the Site Plans;
4. That the inverts need to be repaired with Site Plan details explaining how to fix the problem;
5. That a sprinkler system shall be installed to cover 100% of the building;
6. That a Knox Box shall be installed and attached to the building;
7. That the Planning Department shall work with the applicant to assign responsibilities on Site Plan issues, with particular attention to pavement and drainage concerns, prior to the Planning Board meeting on March 16, 2006.

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H. 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 **Lonza Biologics, Inc., Applicant**, for property located at **101 International Drive**, wherein site plan approval is requested for the construction of a 3-story, 299,000 ± s.f. addition to an existing building, and temporary construction facilities, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 305 as Lots 1, 2 and 6 and lies within the Airport Business

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Greg Mikolaities, of Appledore Engineering, handed out a color plan to the Board members.

John Machulski, of Lonza, addressed the Board. Also present were Greg Mikolaities of Appledore, Paul Flemming, Lonza and Maria Stowell from the PDA. Mr. Machulski indicated that they were present before the Board in 2004 with a very similar plan. They have invested \$250 million in the PDA over the past five years. This is the next phase for them. It is very similar to what they previously had approved. They have worked very closely with the PDA and the City for the past 6 months. The project will be built in 2 phases. The production and administration space will start in May of this year and they expect to have that in operation in 2008. The remainder would be an empty shell space for manufacturing. They expect to bring 200 jobs to the site. They have 600 presently. Their request this evening was for Planning Board approval for an expansion of approximately 300,000 sf across three floors along with a temporary lay down space.

Greg Mikolaities, of Appledore Engineering, referred to the miniature color plan he handed out. He described the plan and pointed out the addition. They will continue the utilities around the building and will add 18 parking spaces along the side. When they built the original detention pond they planned for it to cover this addition. There is a water quality unit that has been installed for treatment. Lonza put in a parking deck which also was anticipated this for expansion. The flat iron parcel is across the street which will have 13 trailers, a cafeteria and a large gravel parking lot for construction workers. That is a large lay down area. The temporary stormwater detention pond will be removed at the conclusion and the area will be returned to its natural state.

Mr. Mikolaities reviewed the March 2nd TAC stipulations and confirmed that all stipulations are noted on the Site Plans and will be complied with.

Mr. Hopley asked if the PDA wanted none of the construction traffic leaving off of Corporate? He felt that would be a huge impact at the Corporate/Goosebay intersection. If there was a directional exit sending people east, out the back gate, would that alleviate things?

Mr. Mikolaities indicated that came from the Portsmouth TAC. They are willing to discuss that. They want to control the tracking of materials and if they are all going one way they can control it better.

Mr. Coviello asked in the wetland area in the laydown area, they have a silt fence and a haybale area that stops at storage area but the silt fence continues. Why does one stop and one continue on?

Mr. Mikolaities stated that they use the silt fence to define the limits of construction. There is a detail and the contractor is required to put in additional hay bales if necessary. Their drawing is a starting point. The erosion control bond will be built right into construction contract.

Mr. Coviello applauded them for using Gove's study for their setback.

Deputy City Manager Hayden asked if there was any temporary lighting in the lay down parking area?

Mr. Mikolaities stated there was no lighting.

Deputy City Manager Hayden asked if they saw that as a safety issue?

Paul Fleming, of Lonza, indicated there will be lighting around the trailers so he did not anticipate a problem.

Deputy City Manager Hayden asked if any new lighting proposed at the sight would be Dark Sky Friendly?

Mr. Mikolaities indicated they will match the current lighting. Also, the landscaping is being redone. Mr. Mikolaities stated it was mostly shoebox fixtures, pointing down.

Mr. Holden confirmed that what they have is not dark sky friendly. The Board would like to have anything new be Dark Sky Friendly.

The Chair asked if anyone else was 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. Will moved to approve as presented with the 10 new stipulations and the 7 from the prior Planning Board approval, along with additional Dark Sky Friendly lights requirement.

Mr. Savramis seconded the motion.

Mr. Will stated that it was his personal history that he does not vote for projects that are within the wetland buffer. He was very impressed with Lonza for their setbacks. This is a good step in the right direction and sets an example of what should be done on Pease. He felt if everyone works together they can get projects like this constructed. Mr. Will was enthusiastically voting for this project.

The motion to approve passed unanimously with the following stipulations:

Stipulations from the March 16, 2006 Planning Board Meeting:

1. That all proposed lighting shall be Dark Sky Friendly and so noted on the Site Plans;

Stipulations from the February 28, 2006 TAC Meeting:

1. All stipulations from the previous Planning Board approval received on September 23, 2004 shall remain in full force and effect (enumerated below);
2. That the sidewalk shall extend along the entire rear frontage of the property (Goosebay Drive);
3. That a meeting shall be held between the Planning Department, the Department of Public Works and the applicant to discover the facts of the rear treatment swale and what can be done to remedy the situation;
4. That this Committee recommends to the Planning Board that the bonding for this project be structured so as to insure the contractors compliance with the erosion control practices shown on the Site Plans and the Stormwater Management Master Plan;
5. That the applicant prepare an outline for review by David Allen relative to the waste water and water issues, which shall be provided to the Planning Board prior to the March 16, 2006 meeting;

- 6. That clarification on trip generations and the traffic study be provided to Deb Finnigan prior to the Planning Board Meeting on March 16, 2006; and
- 7. That an appropriate contribution be made as per the requirements of the PDA with regards to the TIF program.

From the Technical Advisory Committee Meeting on September 7, 2004:

- 1) *That a semi permanent barrier shall be installed between the end of the parking lot and Corporate Drive (so called "flat iron" paved);*
- 2) *That the application shall include both lots for application purposes;*
- 3) *That the flat iron site shall be returned to it's pre-existing condition, or better, at the conclusion of the project;*
- 4) *That all fire alarms shall terminate at the single control panel;*
- 5) *That the applicant shall work with DPW in updating the sewer discharge permit to reflect the new construction;*
- 6) *That Goosebay Drive shall be rebuilt from the existing rear entrance to the corner at Goosebay Drive, at the conclusion of construction;*
- 7) *That DPW will continue to look at Goosebay Drive and make a recommendation prior to the Planning Board meeting;*
- 8) *That the site shall be built to Best Management Practices on the flat iron piece and a report will be prepared by David Allen with any other concerns prior to the Planning Board meeting;*
- 9) *That a warrant analysis shall be completed on the intersection of Corporate Drive and International Drive;*

From the Planning Board Meeting of September 23, 2004:

- 10) *That hay bales shall be placed along the swale area in the temporary parking area during construction;*

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I. The Portsmouth Planning Board is conducting a public hearing to take public comment on proposed amendments to the City's Subdivision Rules and Regulations as amended. The amendment coordinates expiration language. Copies of the proposed amendments are on file in the Planning Department Office and available for public inspection.

Ms. Tillman confirmed that they are attempting to up-date the regulations. She was attempting to coordinate the language in both the Site Review Regulations and Subdivision Regulations to mirror what is in the Zoning Ordinance. The key change is that they receive a request and act on it in a year from the time an application was approved. In the case of the Subdivision Regulations, a one year extension would be allowed and no other extensions would be allowed. She also took out the brief reference to what was required for final plat because that is in Section V of the Subdivision Rules and Regulations.

Mr. Coker asked about Site Review. There will be one one-year extension or can an applicant get multiple extensions?

Ms. Tillman indicated that under the Site Review Regulations there is criteria in Paragraph 2 where, if you ask for additional one-year extensions, there is criteria for which the Board weighs whether to grant an extension. The first one is usually automatic.

Mr. Coker asked about Subdivision Rules and whether there is an equivalent to a variance?

Ms. Tillman believed that would be a waiver.

Mr. Coker suggested that they make a revision in the first paragraph, where it ends with “no other extensions may be requested or granted”. There was an application a year back and they actually asked for a variance based on the one year lapsed variance.

Mr. Holden indicated that issue would still come to the Board to act on it.

Mr. Will stated that in the 11 years that he has been on the Board, he does not remember ever granting a waiver of Subdivision Regulations. A 2/3 vote is required and he feels that is fairly restrictive.

Deputy City Manager Hayden believes they are covered as they never have to accept someone’s request.

Chairman Ricci recommended leaving the language the way it is.

The Chairman opened up the hearing to public comment.

Seeing no speakers, he closed the public hearing.

Mr. Will moved to approve as presented. Mr. Coviello seconded the motion.

The motion to approve passed unanimously.

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J. The Portsmouth Planning Board is conducting a public hearing to take public comment on proposed amendments to the City’s Site Review Regulations as amended. The amendment coordinates expiration language. Copies of the proposed amendments are on file in the Planning Department Office and available for public inspection.

Ms. Tillman indicated that the key language was that the request must be received and acted on in one year. This will be the same as the other regulations. This will coordinate the expiration language for all regulations.

The Chair called for public speakers. Seeing no one rise, he closed the public hearing.

Mr. Will moved to approve as written. Deputy City Manager Hayden seconded the motion.

The motion passed unanimously.

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III. CITY COUNCIL REFERRALS/REQUESTS

A. Letter from Attorney Douglas Macdonald regarding Driveway Permit Application for property located at 62 Deer Street.

Mr. Holden confirmed that the Department was still compiling information.

Mr. Will made a motion to table. Deputy City Manager Hayden seconded.

The motion to table passed unanimously.

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B. Request to purchase “Unnamed Lane” abutting Pleasant Street;

Mr. Holden talked to Mr. Thoresen who indicated that they are continuing their legal work. They have agreed to table to a time uncertain. Mr. Holden did not expect to see this before June.

Mr. Will made a motion to table to a time uncertain. Deputy City Manager Hayden seconded the motion.

The motion passed unanimously.
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IV. AMENDED SITE PLAN REVIEW

A. 1950 Lafayette Road – Request for additional utility pole;

Mr. Holden stated that the Department had reviewed these changes with the applicant and PSNH and they feel this works. There were problems relocating utilities and a compromise was arrived at. The applicant was present for any questions.

Mr. Coviello stepped down from the hearing..

Mr. Will made a motion to approve the amendments to the plans. Mr. Hopley seconded the motion.

The motion to approve passed unanimously.
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V. ADJOURNMENT

A motion to adjourn at 8:40 pm was made and seconded and passed unanimously.
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Respectfully submitted,

Jane M. Shouse
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on April 20, 2006.