

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

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 P.M.

SEPTEMBER 6, 2007

PLANNING BOARD

MEMBERS PRESENT:

John Ricci, Chairman; M. Christine Dwyer, City Council Representative; Jerry Hejtmanek, Vice-Chairman; Donald Coker; Anthony Coviello; Paige Roberts; Cindy Hayden, Deputy City Manager; Richard A. Hopley, Building Inspector; and Timothy Fortier and MaryLiz Geffert, Alternates;

MEMBERS EXCUSED:

n/a

CONSERVATION

COMMISSION MEMBERS:

Steven Miller, Chairman; Jim Horrigan, Vice-Chairman; Eva Powers; Allison Tanner; Brian Wazlaw; Skye Maher; Barbara McMillan; and Richard Adams, Alternate;

ALSO PRESENT:

David M. Holden, Planning Director;
Lucy E. Tillman, Planner I;
Peter Britz

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Vice Chairman Hejtmanek introduced the Planning Board members. Chairman Steven Miller introduced the Conservation Commission members.

I. JOINT WORK SESSION & MEETING WITH CONSERVATION COMMISSION

A. The application of **Key Auto Group, Inc., Owner**, for property located at **549 U.S. Route One By-Pass (Traffic Circle)**, wherein a Conditional Use Permit is requested as allowed in Article IV, Section 10-608(B) of the *Zoning Ordinance* to develop the site to include a new hotel, two retail building, three restaurants and an accessway to Coakley Road, within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 234 as Lot 51 and lies within a General Business District. This item was postponed from the July 19, 2007 Planning Board Meeting for further consideration by the Planning Board and Conservation Commission.

David Holden explained that this work session arose from the Planning Board working with the applicant about how this project would be considered as part of the Conditional Use process. The Conservation Commission made a favorable recommendation and he hopes they can work on a newer proposal. This avoids having to send it back to the Conservation Commission for their consideration as this is not the plan that they reviewed. There also may be questions about the process. There are members of the public present although this is not a public hearing and he will encourage the Chair to allow public comment. It is also a meeting so that the Planning Board can act on this.

Vice Chairman Hejtmanek asked the applicant to present their revised plan.

Attorney Malcolm McNeill indicated the presentation will give them a chronology and overview of the process to this point. Also present were Gordan Leedy, of VHB, Bill Arcieri, VHB Water Quality Scientist, and Mike Leo, Project Engineer. Attorney McNeil reviewed the minutes of the last two

meetings so that he can answer questions that have come up. He handed out a time line. They started in September 2005 on this project with meetings with the Hodgdon Brook Restoration Project. He pointed out all proposed uses on the site are permitted. Peter Britz requested an independent wetland scientist report and that report is part of the evening's handouts. The report satisfied that they will adequately treat the water going into the wetlands. Richard Bonds' conclusion was that the plans were appropriate and would continue to provide significant wildlife habitat. They appeared before the Conservation Commission and at the second hearing they unanimously recommended approval. The gas station was in the plans at the time of that vote. They then proceeded to the Planning Board. After their second hearing they removed the gas station from their plans as it appeared to be of great concern to a number of Planning Board members. It was also clear that the Planning Board did not feel that all of their questions were answered. They met with Planning Department staff and recognized that Planning Board members continued to have issues with buildings within the buffer. Their most recent plan removed the largest retail building and the restaurants. The only building that remains in the buffer is already there. A minor section of the hotel remains in the setback however the other two areas of sensitivity have been removed. They felt it was appropriate to show the evolution of the plans, to bring a specialist to address concerns and at the end of tonight's meeting they will ask the Planning Board to approve this Conditional Use permit.

Gordan Leedy, Landscape Architect and Planner from VHB, displayed the original plan which included more intensive uses including the gas station, bank building, hotel building and 3 restaurants. They then moved the gas station over but there was still great impact to the buffer. The proximity to the brook was of great concern. The plan which was recommended for approval by the Conservation Commission moved the gravel wetland to within a 50' buffer. The gas station remained but a couple of uses were eliminated. Because of the circulation on the site they went from permeable pavement to infiltration chambers. The last plan modified the area and removed the gas station. They had significant discussion about that plan and finally developed the plan that is before them today. He pointed out the blue line which is the 100 buffer. All buildings except the hotel have been moved out of the buffer. As part of the redevelopment they need to use the existing grade that goes to the brook and they are proposing to fill the area, allowing an infiltration facility to get the water from the prior site toward the back for treatment, to retain it and infiltrate it. They are replacing the large buffer area with a large infiltration area. The other drainage goes though the gravel wetland. They are proposing treatment of water on the site. What they are proposing is to install a large quality inlet. The first inch of water, which is 92% of all water that ever falls on the site, will go through the gravel wetland treatment. In addition to that through an additional 2" of rainfall, or 3" of rainfall in any storm event, equivalent to a 2 year storm, will be sent through the water quality system. Therefore, 99.7% of all rainfall that ever hits this site will be sent through this treatment system.

Mr. Leedy reviewed buffer impact diagrams. There are about 33,000 s.f. of current buffer impact and they are proposing in that area to reduce the impact to 28,000 s.f. They talked about changes for safe and adequate access to the site, which accounts for 30,100 s.f. The total which they are now proposing is 92,900 s.f. In addition, they need to think about improvements to the remaining buffer. They are proposing to re-vegetate about 54,000 s.f. of existing buffer area with transition zone species and other plants that will serve as good wildlife habitat. There are areas of wetland vegetation and upland. The total restoration area is 68,000 s.f.

Mr. Leedy turned the presentation over to Bill Arcieri, Senior Water Quality Scientist at VHB and who was responsible for the pollutant loading analysis.

Mr. Arcieri, Senior Water Quality Scientist at VHB, indicated that he was asked to do a pollutant loading analysis for the site. He tried a new procedure that DES is proposing to require next spring of all major projects subject to altering planning regulations. This method compiles all of the sampling data that has been done, 100s of samples from studies, taking samples during rainfall events from various land uses, to find out what the water quality of the samples of the run off, and then categorize that data into various categories and to come up with a typical average pollutant loading from various land use. You then add your site specific conditions and your proposed treatment and that efficiency is based on sampling data. You can then determine what treatment a site should have for no net increase

in pollutant load. On April 27, 2007 a memo was provided by him to the Board. He estimated the existing load under existing conditions and plugged in the new impervious area they propose, the rainfall amount, the treatment BMP's (gravel wetland, 2 infiltration chambers, and the storm sector treatment.) The water quality provides pre treatment to the gravel wetland. Using UNH's data, the total suspended solids come to a little over 3,500 lbs total for the site down to 728 lbs, or an 82% reduction with the treatment proposed. The existing total phosphorus was 15 lbs on an annual basis to 8 lbs with the proposed treatment. The total existing nitrogen went from 137 lbs to 40 lb for a 74% reduction. They are providing extensive treatment and they show a net reduction from the pollutant load.

Mr. Coviello asked about his analysis and the baseline. He shows an 8/10 increase of impervious area but no consideration was given for the frequency of use of the area and one acre of gas station is equal to one acre of funeral home. Mr. Arcieri felt that was a good point but there is a difference between a commercial facility or a residential facility and it is driven by impervious area rather than by use. Their uses may generate more traffic but their treatment more than handles it.

Vice Chairman Hejtmanek asked about pollutants and heavy metals. Mr. Arcieri stated that he looked at that and the gravel wetlands are just as effective with metals. More than 50% of the metals are coming from the atmosphere. Vice Chairman Hejtmanek asked if he expected the same amount of reduction? Mr. Arcieri felt even more. For phosphorus he only used a 50% reduction and they are now using a 65% reduction. Zinc shows a 90% reduction.

Councilor Dwyer asked what type of standard calculation was used around the baseline? Mr. Arcieri felt there was quite a bit of variability. It is hard to get good pollutant loading data.

Chairman Miller asked if the characterization of the land use would take into account vehicle traffic? Mr. Arcieri indicated that in the commercial categories there are a wide range of sample sites. Mr. Miller asked if this was a tool to compare different types of development for land use at a site and was not a method to calculate the amount coming off the site. It is an apples to apples comparison tool. Mr. Arcieri agreed with that.

Mr. Leedy felt that they are fortunate to have the stormwater center at UNH as they are collecting data that is "reproduceable" and is extremely helpful. The question that was asked initially was whether they are having a net increase in overall pollutants and, based on Mr. Arcieri's data, the answer is no. They are improving the situation and that is all the analysis is meant to show.

Ms. McMillan noted that there would be no net increase in the pollutants except choride. She also asked about roofs that are designed to not have any runoff. Mr. Leedy confirmed they are not proposing a green roof. There are roof systems that are better and the white roofs that don't absorb heat are an example.

Mr. Coviello went back to their intensity use of the site and felt it was like trying to measure two people's cholesterol levels. Chairman Miller was having trouble with the relevancy of this issue.

Vice Chairman Hejtmanek felt that because something is better, that doesn't mean it's good. It's a relative measure and better than nothing.

Ms. Geffert stated that the alternative is the proposal with the least adverse impact and not to compare what was there before.

Deputy City Manager Hayden agreed with Chairman Miller and felt that in the grand scheme of things, it is not all that relevant. Something is going to get developed on that site and it is the job of the Boards to ask if they have done a good job presenting their case. She felt they have made huge progress and she would like to raise the discussion up a level.

Councilor Dwyer added that they have made great progress because of their discussions.

Mr. Horrigan indicated that it was the standpoint of the Conservation Commission when they originally voted that four voted against it. He voted against it because of the fourth criteria as the department recommended denial on that ground. When the plan came back it was changed and the department was no longer opposing it. They were then in the position of evaluating what was there currently and if they came back with a project outside of the buffer. They evaluated and decided that the current buffer was not productive so they considered this a good compromise as they would get good drainage and buffering for the site. It was not an ideal solution but it was a pretty good one.

Ms. Geffert asked the applicant about the longevity of the surface treatments that they are proposing. Mr. Arcieri indicated that several things enhance the longevity of the gravel wetland. What really effects maintenance is treatment. They are putting water quality inlets on each side of the site. The splitter works by directing any flow that is less than 1" an hour to the gravel wetland and the rest will bypass to the wetland. They also have hoods on them. Those are what need to be maintained to create longevity. Mr. Leedy added that they have also prepared a maintenance plan. They believe their system will last a long time with little maintenance.

Deputy City Manager Hayden added to Mr. Horrigan's comments that criteria #4 says "areas of jurisdiction" which is the buffer and they will make this much more functional.

Mr. Horrigan felt it was an interesting gamble and if it works they will really be on the map for using a gravel wetland treatment system.

Peter Britz introduced Dick Bond, Certified Wetland Scientist, from the Rockingham County Conservation District. Mr. Holden asked Mr. Bond to summarize his feelings on the latest plan.

Mr. Bond stated he reviewed this site in March of 2006 and he would favor the use of the gravel wetland system. The run off is being collected and sent through the system where further treatment is received before being returned to the nearby area. These systems are in use elsewhere and work quite well. He reviewed their plan with considerable care. The applicant provided a long list of plants to be used in the treatment system and they would be likely to grow in the proposed area so plants should thrive. This treatment is way ahead of what is at the site now where there is almost no treatment. This would be a significant improvement.

Mr. Holden indicated that he was compelled, in Mr. Coker's absence, to ask for help in understanding something. The treatment will handle the first 1" and they were looking for some assurance about the rainfall over the first inch.

Mr. Leedy indicated that they have included additional treatment chambers rather than by-passing in its entirety, the first inch of rain goes through the gravel wetland and at that grade, continues to go through the gravel wetland in any given rain event. The next 2" go through the treatment chambers, which is not the same efficiency as the gravel wetland but is treatment of virtually 99.7% of all rain that will ever fall on the site.

Mr. Holden asked regarding the chambers, what is the data and is it something that has been studied by UNH? Mr. Arcieri assumed they are concrete vaults but it is the same concept. This is a round 60" plastic pipe that traps sediment and roughly the suspended sediment removal is about 35%.

Mr. Holden asked how UNH would rate this system? Mr. Arcieri stated it is a great treatment for pre-treatment. It is not a great stand alone system. Mr. Leedy added that the water quality inlets up to now have been at the standard. They are also using deep sumps and they will be sweeping the site and that removes material that could be going to the stormwater flow.

Mr. Bond felt that to achieve the maximum degree of purification, it would have to be installed correctly. The more features they have the better. Sweeping the parking lot is good. Mr. Leedy noted

they are proposing to provide additional treatment for the 2nd flush or the additional 2" of rain. Mr. Bond confirmed he would agree that is a good idea.

Mike Parsont from New Hampshire Soil Consultants was present to explain the monitoring program. He passed out a plan. He indicated that they did sampling of the stream for baseline conditions. They did two baseline and two post build out, one during the wet season and one during the dry season. The two build outs are after the first full year and then after the second year after 100% build out. He showed the locations where the sampling would be done. Measurements would include temperature, PH, specific conductants. The laboratory analysis will include chloride, sodium, polynuclear aromatic hydrocarbons (PAHs), copper, lead and zinc. Appendix B explains the detail of that analysis. The site is located at the lower end of the water shed. Monitoring on site should be done for what is coming on the site to see if there is any change preconstruction and after they are done.

Vice Chairman Hejtmanek called for public speakers.

Colleen Romano, Coakley Road. She asked about the sewerage and where it would go if there was a backup. They keep talking about maintaining the site but who will police that on a daily basis. During the winter with snow and ice and salt, it is going to sink in and eventually go to the brook.

Mr. Leedy commented on the maintenance of the site and felt it was typical to have an owners association or joint use common maintenance agreement with centralized responsibility. They have agreed to submit and follow an operation and maintenance plan and to submit logs to the City. With respect to the sewer, they have not designed the system yet and the sewer department will be interested in finding a solution. During winter conditions, they have made a commitment to limit salt use with the notion they do have to provide a safe situation in the site.

Mr. Holden encouraged discussion between the two boards.

Mr. Coviello was confused about how the Conservation Commission used the four criteria. Mr. Miller stated that they use the same criteria. Mr. Holden felt the confusion may have been with the zoning ordinance as they only use the section that deals with conditional use. Malcolm confirmed they applied the same criteria with the Conservation Commission as the Planning Board.

Mr. Horrigan confirmed that they had trouble with the fourth criteria, just like the Planning Board. It is hard to figure out where to get a handle on that particular criteria.

Mr. Holden felt that the key has been an applicant who was willing to work with the City and the parties. Each plan that came back, the Planning Board has to make the final decision, and the applicant was willing to explore various options.

Councilor Dwyer felt it was the problem of the City and not the applicant to wrestle with the fourth criteria. They weren't questioning the gravel wetland approach, their questions were about other things and their long term wrestling were about things that were addressed in the fourth criteria. There are multiple variables and you can win all of them. Mr. Horrigan pointed out that the gas station was outside the buffer zone. Mr. Miller clarified that the gas station was outside of the buffer so it was not part of their purview. Mr. Wazlaw stated that they sometimes have a debate among the Commission over the criteria. They follow the four criteria for the buffer zone. Ms. Tanner stated that they were looking at this as a gateway to the City and it was important to reflect the values of the City.

Mr. Adams felt that the system appears to be acceptable but asked if there is there a longer term maintenance schedule that can be imposed. Mr. Holden felt that the City has some responsibility to make sure these systems are working. The City is currently looking at how they will monitor all of these systems.

Chairman Miller asked for a motion from the Conservation Commission. Ms. Tanner made a motion to recommend approval. Ms. McMillan seconded the motion.

The Conservation Commission’s motion to recommend approval passed unanimously.

Mr. Coviello made a motion to approve with the three stipulations from the May 9, 2007 Conservation Commission Memorandum. Deputy City Manager Hayden seconded the motion.

Mr. Hopley felt that the applicant had done an admirable job in approving the site. He sees two areas that will be of vital importance. There has been a lot of discussion that is technical jargon and those things are going to have to be represented in the construction documents and they will have to be put in the ground. He will recommend that a special inspector be retained to oversee the installation of the system.

The Planning Board’s motion to approve passed unanimously with the following stipulations:

- 1) That the vegetation in the buffer zone be left in its natural state and not be subject to mowing.
- 2) That the applicant conform to the conceptual vegetation scheme submitted and that a minimum of sixty trees be planted, with the replacement of those that die.
- 3) Eliminate a minimum of eight parking spaces on the northwest corner of the property and replace with native vegetation.

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III. ADJOURNMENT

A motion to adjourn at 8:35 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 October 18, 2007.