

**Minutes of the November 12, 2003 Conservation Commission Meeting
CITY OF PORTSMOUTH**

3:30 P.M.

CONFERENCE ROOM "A" November 12, 2003

PRESENT: Chairman Alanson Sturgis; Members, Charles Cormier; J. Lyn Walters; Donald Green; Allison Tanner, Brian Wazlaw; and, Stephen Miller

MEMBERS EXCUSED:

ALSO PRESENT: Peter Britz, Environmental Planner, and David Holden, Planning Director

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Chairman Sturgis called the meeting to order at 3:30 p.m.

1) Acceptance of minutes from meeting of October 8, 2003

Mr. Walters made a motion to accept the minutes of October 8, 2003; Ms. Tanner seconded and was approved with a 7 – 0 vote.

2) Conditional Use Permit

a) HCA Health Services of America – 333 Borthwick Avenue

Mr. Moulton from Dick Millette's office and representing the HCA Health Services, stated this application is an add on to a previous approval where it was discovered after the project started to move along that the conversion of a small portion (127 s.f.) of permeable surface needed to become impermeable surface. The hospital would like to construct a concrete sidewalk and paved handicapped parking loading zone. The work will require 127 s.f. of additional impervious surface within the 100' wetland buffer and 100 s.f. of temporary disturbance for the construction of drainage structures. The application is pretty straight forward.

Ms. Tanner asked why the handicap parking space was not configured in previously? Mr. Moulton replied that it was not realized that this parking spot will be needed in the future and since the contractors are in place at this time, the work should be done.

Mr. Miller asked where the water would drain. Mr. Moulton replied that currently there is a curb that runs along the side of parking that directs the water into a swale and then into a catch basin.

Mr. Green recommended approval to the Planning Board; Mr. Walters seconded.

The positive recommendation to the Planning Board passed with a 7 – 0 vote.

3) Suggestion from Commission member that Aranco Oil Company application be re-examined

Chairman Sturgis stated at the suggestion of a Commission member, we should re-examine the application for a Conditional Use Permit. It would be necessary for someone who voted in favor of the application previously to make the motion to re-consider.

Mr. Wazlaw made a motion to re-consider the vote and was seconded with a 6 – 1 vote with Mr. Cormier voting in the negative.

Chairman Sturgis stated that when the application went to the Planning Board there was a certain amount of information that was brought up that he was not aware of at the original application with the Commission or during the site walk. The application to the Planning Board indicated that possibly a new septic system will be constructed and there was no mention of this earlier; another thing was that the application to the Planning Board indicated a car wash and he had the impression at the site walk that a truck wash would be considered and there would be a considerable difference with the amount of pollution that would be put in.

Mr. Green stated he was not at the original Conservation Commission meeting that approved the conditional use permit; however, he did attend the joint meeting with the Planning Board. A large amount of money has been spent putting a sewer line right past the Aranco location and was surprised that no options were mentioned about tying into the sewer. He wondered if any tests had been done on what the amount of waste that would come out of that and whether or not the swale that is being planned has the capacity to handle it particularly in respect to soluble items like salt. He feels that the person doing the analysis had no idea where this area drains into which is the Great Bog and then into the Great Bay. His feeling is that if there are other options we should know exactly what will be washed and the capacity it has and whether you would agree to that it should be a fixed capacity of some sort. He disagrees to the fact that all car washes in the City dump their water into the sewer system. The proposal for Aranco would be the only one that does not and it would be bad for the environment and also give Aranco an unfair competition which we would ultimately pay for. It is a simple matter to tie in the sewer line and added he feels it is a great idea; however, he does not want to see the waste dumped into the Great Bog. He would like the area to remain as a conservation area.

Attorney McNeill stated that he reviewed the minutes of the September 10, 2003 meeting where the Commission voted 5 – 1 to recommend approval to the Planning Board. A Site Walk to the site that the Commission members attended preceded that meeting. An independent scientist was also present at the site walk. After the Conservation Commission hearing, the same evidence to the Planning Board. Attorney McNeill quoted Chairman Sturgis from the minutes of September 10, 2003 as saying *he will vote in the affirmative on the grounds that he felt that the potential benefits outweigh the invasion or the impact on the buffer zone. It was not an easy decision to make and added that he is putting a great deal of faith on Aranco Oil sticking to what they said they would do in spite of their past record that is not good; however, in recent years it has been better. Chairman Sturgis added he trusts that his faith in them would not be misplaced.*

Attorney McNeill stated that he wished Mr. Cuomo was present for this hearing. The bottom line of the vote is that what Aranco is doing was clearly an improvement over what was there and as such, should receive the endorsement of this Committee because what is there will stay there and Aranco has a legal right to continue operating as they have been in the past. Attorney McNeill stated the proposal is not for a truck wash and it has never been indicated

that it would be. He presented a photograph of the proposed car wash that illustrated that trucks could not fit into the car wash opening. When we appeared before you previously, it was presented that Aranco would explore tying into the sewer line or other alternatives. The sewer line that services these premises is privately owned to facilitate the move of effluent from the truck stop that is in Greenland. In addition, the City exercises final authority for access into that private sewer line. We do not believe that the City will allow us to tie in. In reference to the terms phrased by Mr. Green that the car wash should be treated like all other car washes – we agree.

Mr. Moulton, an Engineer from Millette's office stated it was also indicated at the Planning Board meeting that in the absence of being able to tie in with the sewer line, we would have to make other arrangements for the car wash because it has become a focus point. The proposed berm will stretch the entire length of the site to prevent the encroachment of vehicles parking to the edge of the pavement. Ten tractor trailer parking spaces will be created. The trucks will be required to park in the designated spaces and will be a controlled situation.

Mr. Moulton stated the State and DES have indicated that whether the site is improved or not it will be cleaned up. There will be an impact to the shallow water table. There is ground water flowing off the site. Currently the water flow off the site is not controlled and there is a pond of water near the site that eventually flows into the Great Bog. To control the contaminants in the surface water it will be controlled.

Attorney McNeill presented an aerial photograph of the area for the Commission members to view. He indicated where the truck stop was located, the pond area, and showed an area was a lot lower and there is a swale that crosses under the railroad tracks. The photograph was taken some time ago. The bottom line is that that with the treatment being planned, there will be no threat to the Great Bog or it will be significantly diminished.

Attorney McNeill asked the relationship between Pickering Brook and Great Bog? Mr. Moulton replied that Pickering Brook drains toward Great Bay and follows the East Side of the railroad tracks. He stated that at the Planning Board hearing, one of the members made a statement that the proposal will not be any better with regard to the trucks. The ten truck parking spaces clearly reduce the potential for additional parking.

Mr. Miller asked about the snow plan removal and how the current conditions at the site are allowed to exist. He asked how the condition of the lot can be continued when it is in such a state of disrepair and so unkempt.

Chairman Sturgis stated he has his own thoughts on this subject but he is not sure it should come up at this table. He would be willing to recommend approval to Planning Board with the stipulation that the water treatment system for the car wash allows absolutely no water to flow off the site. The close system has to work 100% of the time. He added he has to agree with Mike Cuomo that this is an improvement to the sit since it couldn't get any worse. The buffer zone is certainly not functioning as a buffer zone now but as a truck park. The plan for snow storage is that snow will have to be trucked off the site and this is usually a TAC issue.

Mr. Green stated the septic system or the reclamation system for the car wash is a brand new thought at the last meeting with the Planning Department and added he wanted to make sure we are talking about the same thing and liked the reclamation system.

Mr. Holden the Planning Director stated the Commission could make a motion that this vote will replace the original system and will be disposed of. Chairman Sturgis stated he agreed.

Ms. Tanner stated when plans are presented, they are pretty final and raised a few issues that she felt this application is incomplete.

- Will the applicant be allowed to put in the septic system in they are talking about;
- Will they be able to expand a nonconforming use to include a car wash;
- Will the Commission be able to do something about the road they are impinging upon with this driveway;
- If we had this additional information, we might be able to consider a recommendation.

Chairman Sturgis stated that whether or not the car wash allowed is a zoning issue and added that his vote would be based on too many what ifs. We are being asked to vote on the plan presented. We are being asked to reconsider the vote because this is the first we have heard of the septic system or the closed recycling closed system for the car wash. We should consider this as a new proposal.

Attorney McNeill stated he agreed with the Commission on voting on what you have in front of you. If not then we will come back. We are proposing is the septic system, the utilization of the site as it is, if through the process there are substantial changes that affect the Commission's jurisdiction, then we will return.

Chairman Sturgis agreed and added if the zoning issue changes the plans, then a new plan will be drawn and this will require a new application; therefore, we will see the application again.

Mr. Green made the motion to re-affirm our previous vote in recommending approval to the Planning Board with the following stipulations: Mr. Walters seconded.

- That no water from the car wash leave the site.

Mr. Green stated he would rather have the recommendation read as follows:

- Recycle the water 100% and it not leave the site.

Chairman Sturgis stated that we re-affirm the previous vote with the stipulation that the water from the car wash be 100% cleaned and recycled. The septic system be incorporated for other drainage wastes and that the runoff be controlled through the oil separators and treatment swale system as proposed.

The motion passed with a 6 – 1 vote with Ms. Tanner voting in the negative.

4) Discussion of questions raised at work session with Planning Board:

- a) Change the meeting date

Chairman Sturgis stated that since the Planning Board members are concerned with our recommendations, he feels that a member should be present at our meetings. The meetings are taped and can be listened to at any time if the Planning Department is contacted. The

Planning Board members felt that the meeting date should be changed since at times the Conservation Commission meeting does conflict with the Planning Board meetings.

5) Other Business;

Chairman Sturgis stated that Eva Powers will be nominated at the next Council Meeting as an alternate to the Commission and added that Ms. Powers knows Portsmouth as well as anybody and knows the regulatory system. This will be a godsend for the Commission.

6) Next scheduled Meeting: December 10, 2003;

7) Adjournment.

There being no further business to come before the Commission members, at 5:00 p.m. a motion was made to adjourn and was seconded to the next scheduled meeting and passed with a 7 – 0 vote.

Respectfully submitted,

Joan M. Long
Secretary

/jml