

**MINUTES
OF THE
SITE REVIEW TECHNICAL ADVISORY COMMITTEE**

2:00 P.M.

**CITY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

APRIL 5, 2005

MEMBERS PRESENT: David Holden, Director, Planning Department, Chairman; Peter Britz, Environmental Planner; David Desfosses, Engineering Technician; David Allen, Deputy Director of DPW; Thomas Cravens, Engineering Technician; Steve Griswold, Deputy Fire Chief; and David Young, Deputy Police Chief

ALSO PRESENT: Lucy Tillman, Planner

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I. PUBLIC HEARINGS

1. The application of **Saco Avenue Professional Building, Inc., Owner**, for property located at **125 Brewery Lane**, wherein site plan approval is requested to construct a 4-story, 64' x 240', 15,500 ± s.f., 48-unit residential building, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 154 as Lot 2 and lies within a Business district. (This application was tabled at the March 1, 2005 TAC meeting.)

The Chair read the notice into the record.

Mr. Desfosses made a motion to take the application off of the table. Deputy Fire Chief Griswold seconded. The motion passed unanimously.

SPEAKING TO THE APPLICATION:

No one was present to speak to the application.

The Chair closed the Public Hearing.

DISCUSSION AND DECISION OF THE COMMITTEE:

Mr. Allen made a motion to table this matter. Mr. Britz seconded. The motion passed unanimously. It was further agreed that this application would not be placed back on the Agenda until a written request was received, with the cost of the Legal Notice and abutters notices to be paid by the applicant.

Issues raised at the November 2, 2004 TAC meeting:

- 1) A crosswalk at the back entrance of Chevrolet Avenue is shown 20' – 30' off of the street and it is unclear why that was done;
- 2) There are interior stairways shown on the layout and it is not clear where they go;
- 3) The loading area by Building C is oversized and it should be reduced;
- 4) The City of Portsmouth normally requires one single handicapped ramp rather than one at each corner (3 shown on the plans);
- 5) There is a 4' sidewalk shown heading towards Plaza 800 that needs to lead somewhere;

- 6) That a meeting should be set up with DPW to address sewerage and drainage issues;
- 7) More information is required about the proposed pond;
- 8) Details are required on the plans on the water feed, keeping in mind that the City only allows one meter per lot;
- 9) Lighting needs to be shown on the plans;
- 10) The sprinkler system needs to be shown on the plans;
- 11) Hydrants need to be added to the plans;
- 12) A revised traffic study should be submitted, including the Bartlett/Islington intersection and the Middle/Cass Street intersection;
- 13) A meeting should be set up with the applicant, the Planning Department and the City Attorney to address the conservation land, easements with Chevrolet and Brewery Lane, as well as parking;
- 14) The sidewalk on Chevrolet Avenue should be the City standard of 5' concrete;
- 15) Concern was expressed over the shortcut through Jewell Court;
- 16) It was felt that the sidewalk should be extended to encompass Building B and a detail should be provided showing the general conditions on both sides of the right-of-way;
- 17) The elevations and slope of the retaining walls should be noted on the plans;
- 18) That the City address their contribution to off site improvements.

Issues raised at the January 4, 2005 TAC meeting:

- 19) That the applicant meet with the Public Works Department regarding sewerage and drainage issues;
- 20) That a determination be made regarding who maintains the upper half of Chevrolet Avenue and Brewery Lane from the intersection of Jewell Court;
- 21) That the traffic study should address the entire build out of the project;

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2. 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. (This application was tabled at the March 1, 2005 TAC meeting.)

The Chair read the notice into the record.

Mr. Desfosses made a motion to take the application off of the table. Mr. Cravens seconded. The motion passed unanimously.

SPEAKING TO THE APPLICATION:

Attorney Bernard Pelech spoke on behalf of applicant, Wal Mart. At the last meeting there were some requests for some fine tuning to the plans which were made. David Desfosses and Mr. Hayner have agreed to modifications to the level spreader. On the traffic front, there is no news from Doug DePorter, of NHDOT District 6. They have a letter indicating that a proposed payment of \$5000,00 is more than sufficient to mitigate the impact on the site. They have gone before the Planning Board for

a work session, outlining the project and they received a little feedback from them but there did not appear to be any major concerns. He would hopefully like to see a favorable recommendation today, conditioned upon NHDOT and the City as the applicant is pretty much out of the picture regarding which conception plan to implement and the time frame for improvements. They don't want the project held up because NHDOT doesn't have sufficient funds to undertake the project immediately. There is a slight glitch as Mr. Burke is leaving the City but it is Attorney Pelech's understanding that Mr. Parkinson is up to speed on the matter. Mr. Holden has also been involved since Day One. Attorney Pelech turned the presentation over to Paul Hayner.

Mr. Hayner could only add a new plan submitted to the Committee addressing the level spreader and increasing the radius of the truck entrance onto Constitutional Avenue.

Mr. Desfosses asked about the ballards out there and whether they were being removed? They were not there for any reason.

Mr. Hayner indicated they will remove them.

The Chair asked if there was anyone else present to speak to, for or against the application.

Sharon Somers, of Donahue, Tucker & Ciandella, representing Lafayette Plaza Inc., spoke. Since the March meeting, the Traffic & Safety Committee approved this matter. Doug Prentiss, of Judith Nitsch Engineering, Inc., would be presenting from a traffic engineering perspective potential problems with the conceptual plans. She has sent two letters to the Committee addressing her concerns. They feel that a portion of the funding from Wal-Mart should be for off site improvements and a design review team should sign off on the design conceptual plan. With the approval of off site improvements, timing should be specifically addressed. Attorney Somers turned their presentation over to Doug Prentiss.

Mr. Prentiss iterated a few concerns relative to the concept plan. There were some design issues, such as access to the Kia Dealership, the turn radius at the cemetery, blockage of driveways at Constitution Avenue and the timing of these improvements. They looked at the signal equipment which is 15-20 years old and he is concerned that those are not included in the cost estimate. Timing of the Wal-Mart implementation schedule and the improvements are important. Mr. Prentiss stated that other concerns are that there was no traffic analysis done and there are two concepts and it is unknown at this time which plan will be chosen. He asked if the project would be done in phases? The concept plan was done by standard practice and concept plans are only their best bet of what will happen. NHDOT is uncertain when this will happen.

Giles Ham, of Vanesse Associates, indicated that he understands that this project needs to move forward. When Water Country is open, the traffic is much worse. The access to the Kia Dealership will be addressed as the project moves forward. The signal equipment at Walmart is less than 10 years old and the signal equipment at Constitution Avenue will be brand new. In the 1994 study done by Wal-Mart they overstated the impacts of the project at that time. There will be less than a 1% increase of traffic at Constitution Avenue. There should not be a problem with funding considering there is \$360,000 from NHDOT and \$500,000 from Wal-Mart.

In light of the "dueling engineers", Mr. Holden asked Attorney Cuddy if she felt the \$500,000 contribution was equivalent to an assessment or an impact fee?

Attorney Cuddy stated that she felt this was not an impact fee assessment but rather was something that has been negotiated between the City and Wal-Mart.

Mr. Holden asked if she felt it was a voluntary offer on behalf of Wal-Mart?

Attorney Cuddy stated that was her understanding.

Attorney Pelech felt it was important that the record reflect that this was not an attempt by Wal-Mart to avoid doing a full traffic study. At numerous meetings with NHDOT, John Burke, and David Holden, a number of previous studies were referenced as being appropriate for the applicant to rely upon. The issue of the conceptual plan and survey was also a request that came from DOT because they were unsure where the limits of the right of way were. It was agreed that the final design would not be the responsibility of Wal-Mart but rather by NHDOT or the City. The \$500,000 was an offer that was made and was agreed to be more than sufficient to offset the impact on the corridor. He does not want to see this project held up while NHDOT decides what they want to do. They are simply asking that Wal-Mart be treated like everyone else and this be a condition of approval.

Mr. Holden asked Attorney Pelech if he felt any mitigation that may be required is satisfied by the work that they have already done in preparing the plans for the use by the State and the City and by the offer of \$500,000 for the betterment of the corridor?

Attorney Pelech agreed with that and did not feel that had every been disputed.

Mr. Holden felt one problem that this Committee continued to have is that the State has a very complex system for reviewing projects such it was very difficult to formally present a specific date in a timely fashion. At this point he did not believe Attorney Pelech had any correspondence at this point from State moving this forward?

Attorney Pelech stated they have correspondence from the last meeting from Mr. DePorter saying the contribution is sufficient and that a traffic study is not needed.

Mr. Holden indicated that the City was looking for how that money will be best utilized, what the time frame might or might not be, and what it is tied to and they do not have that info yet.

Attorney Pelech indicated they have discussed since Day One that it is their intent that those funds be utilized for those improvements, with a small amount to be used at Heritage Avenue. They have taken the position to offer those funds but let the City and the State decide how to utilize the funds. There is no dispute that a majority of the funds would be available and it would be a wasted opportunity to see the funds be held up by not getting approvals. They will make the money available but do not have control over the State or the City. Everyone agrees it is a big problem.

Attorney Somers clarified a couple of her points. Her suggestions in her correspondence is that if this Committee recommends approval to the Planning Board, that they impose a condition that final approval not be given until NHDOT signs off on the conceptual plan. The offer of the \$500,000 effectively will not be able to be used unless NHDOT does their own internal design process. She wants a final definitive answer from NHDOT before final approval is granted. She also thinks a possible phase approach to this would work best for NHDOT.

The Chair asked if there was anyone else present to speak to, for or against the application. There being none, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE COMMITTEE:

Mr. Holden felt they have moved this project along but still lack a formal statement from NHDOT. Division 6 has weighed in on it but nothing has been received from the Commissioners office with regard to a process. They have money being offered, not as an assessment, but being offered by the applicant in lieu of off site traffic mitigation, and the applicant is meeting their obligations and he feels this Committee has an obligation to move this application on. But, they have maintained that they need a communication from the State. There are no Site issues that remain outstanding.

Deputy Fire Chief Griswold indicated that an Engineer from Wal-Mart contacted him a long time ago and he later received another call from another professional and he wants to make sure that they understand all plans must be in compliance with the sprinkler and fire alarm system. He felt there were questions and he didn't believe they were complying with Code and he just wanted to make that clear.

Mr. Holden felt two items remain. They need a formal agreement on how the security will be received, secured and expended, which they can work out in next month in the site review process. He also needs to know what form will it take. He would like to table this application to May for the applicant and the City to meet with NHDOT to get the formal response that is necessary. They will then be ready to move forward to the Planning board. If acceptable, all conditions would be reviewed at the May meeting and will be disposed of.

Mr. Allen made a motion to table to the May meeting. Mr. Defosses seconded.

Mr. Holden asked if this was acceptable to the applicant?

Attorney Pelech indicated that they would like a conditional recommendation of approval as there is nothing else for this Committee to review.

Mr. Holden disagreed. They do not know what the money will be tied to and they need that confirmed.

Attorney Pelech stated this was heard by Traffic & Safety and they favorably voted on it.

The motion to table to the May meeting passed unanimously.

Mr. Holden asked Attorney Pelech to coordinate a meeting with NHDOT for all confirmed parties. They would also like an annotated set of Site Plans with all stipulations highlighted. He asked about the water line easement?

Attorney Pelech confirmed that Mr. Salema is willing to sign that easement. The City has an easement from Post to Constitution.

Mr. Allen indicated that those should be in place prior to the next TAC meeting.

Stipulations from the April 5, 2005 TAC Meeting:

- 1) That Attorney Pelech will set up a meeting with NHDOT for the parties;
- 2) That a letter from NHDOT must be received acknowledging acceptance of this project;
- 3) That an annotated set of Site Plans be filed with the Planning Department by April 18, 2005, highlighting all previous Stipulations;
- 4) That the Sewer Line Easement be prepared and reviewed by the City Attorney prior to the next TAC meeting;

Stipulations from the March 1, 2005 TAC Meeting:

- 5) That the applicant appear before the Traffic & Safety Committee;
- 6) That an Easement Deed and Easement Plan be prepared for review and approval by the Planning and Legal Departments;
- 7) That a level spreader detail be added to the Site Plans;
- 8) That a letter from NHDOT, indicating that no further traffic studies are required, be provided to John Burke;

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3. The application of **150 Greenleaf Avenue Realty Trust, James G. Boyle, Trustee**, for property located at **150 Greenleaf Avenue**, wherein amended site plan approval is requested for new lighting fixtures on existing light poles, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 243 as Lots 67 and lies within a General Business district.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Pelech spoke on behalf of the applicant. This arose from the Applicant having PSNH change the existing light fixtures on the existing poles. What happened was there were a couple of fender benders in the parking lot and the previous sodium lights were inadequate. The lighting was changed from sodium to mercury. Attorney Pelech had the work order form PSNH along with a FAX cover sheet which he distributed to the Committee. Attorney Pelech distributed pictures of the existing light fixtures.

Mr. Holden asked if the prior approved site plan was changed by changing the light fixtures on the existing poles?

Attorney Pelech stated that was correct. After the lights were installed, a call was received from Jason Page stating that approval was required to change the lights. On two occasions PSNH came out and readjusted all of the light fixtures. It is the understanding of Attorney Pelech that the adjusting of the lights has corrected the problems for the neighbors. To the best of his knowledge, there have been no further complaints since they were adjusted.

Mr. Holden asked when the first site plan was done?

Attorney Pelech indicated that Millette, Sprague & Colwell prepared it for a previous owner in 1995 or 1994 when they expanded their parking lot. Prior to that time there was no approved site plan.

Mr. Holden asked, since that time, does the plan reflect any new lighting poles?

Attorney Pelech indicated no, that they were using existing poles. Actually there is one less pole because one was knocked down and the light was moved to a wooden pole.

Mr. Holden asked if they pull this service directly from a source of power in the right of way, is it PSNH's responsibility for that one?

Attorney Pelech asked PSNH about the control over these poles. It goes back to when this was a Voc Tech school. He doesn't even know if the applicant pays for the electricity on these poles. The poles are rented from PSNH and to change them they have to contact PSNH. Another unrelated problem was whether PSNH needed to pull an electrical permit and that still isn't resolved. However, they are currently seeking to get the Boards' recommendation to get the lights changed.

Mr. Holden indicated it was his understanding that some poles were private.

Attorney Pelech was unsure about that.

Deputy Police Chief Young felt it would make sense to get something in writing from Portsmouth Housing that the lights are angled properly.

Attorney Pelech does not believe they have any problems with it any more.

The Chair asked if there was anyone present to speak to, for or against the application

Cynthia Arsenault, of 233 Hillside Drive, stated that Toyota installed high power lights which causes lighting pollution in their neighborhood. There are many other solutions to improve the light pollution. She felt this was a good place for the City to start getting lighting under control.

Mr. Holden asked where her house was in relationship to the project.

Ms. Arsenault indicated that one side of her house receives pollution from Toyota. They are like huge fireballs facing them.

Mr. Desfosses indicated that they normally approve down-facing lights so there is no glare. He asked her if she was getting glare in her house?

Ms. Arsenault confirmed that she was. She has spoken with Jason Page and PSNH. She stopped calling Mr. Page when she saw this meeting was scheduled.

Mr. Arsenault, of 233 Hillside Drive, also spoke. During the variance request, the Board had a stipulation that the height of poles be no higher than 16'.

Attorney Pelech believes they are 30'. If there is a glare problem that would be different than a glow problem. A glare problem could be taken care of with shielding. He was under the impression that the problems were rectified.

Mr. Holden indicated there is a need to provide some illumination on the site to protect the property however there should not be any light pollution on the neighbor's property.

Mr. Desfosses stated that the type of lighting on the site is not where the City is going.

Attorney Pelech provided cut sheets from PSNH.

Mr. Desfosses was not sure how far the buffer was to the residential area. He felt this style of light would have to face strictly west or north. He was not sure they can shield them and face in that direction. At the very least, a plan showing which lights are going in which direction is required to identify which lights need to be removed or redirected.

Attorney Pelech indicated he would speak to Mr. Clum to find out about the status of the electrical permit.

Mr. Desfosses asked what the BOA height stipulation was.

Ms Tillman indicated that at the October 19, 2004 BOA meeting, the following stipulations were part of the approval:

1. If lot lighting is provided, it shall be designed in such a manner as to not create a hazard on public ways or be objectionable to adjacent properties;
2. The lightpole shall not exceed 16 feet, which is the height that Planning Board has been looking at;

Mr. Holden indicated that these are existing poles and the BOA only addressed new poles.

DISCUSSION AND DECISION OF THE COMMITTEE:

Mr. Holden recommended tabling this application to the May meeting. A motion was made and seconded.

Mr. Allen had an issue with the sewer line going through the property. He asked if that was ever resolved? The City needs an easement on that as it is a public sewer.

Mr. Holden asked that a condition be added that they be updated on the sewer easement.

The motion to table passed unanimously.

Stipulations from the April 5, 2005 TAC Meeting:

- 1) That a report on the sewer easement be provided at the May 3, 2005 TAC meeting;
- 2) That a Site Plan showing the existing conditions be provided prior to the next TAC meeting;
- 3) That a status report on the Electrical Permit be provided at the May 3, 2005 TAC meeting;

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II. ADJOURNMENT was had at approximately 3:05 p.m.

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These minutes were taken and transcribed by Jane M. Shouse, Administrative Assistant in the Planning Department.