

**REGULAR MEETING
CONSERVATION COMMISSION
PORTSMOUTH, NEW HAMPSHIRE
1 JUNKINS AVENUE**

Conference Room "A"

3:30 p.m.

April 12, 2006

MEMBERS PRESENT: Chairman, Charles Cormier; Vice Chairman Steve Miller; Members, Brian Wazlaw, Allison Tanner, Eva Powers, Barbara McMillan and Skye Maher and Alternate, James Horrigan

MEMBERS EXCUSED: N/A

ALSO PRESENT: Peter Britz, Environmental Planner

Chairman Cormier called the meeting to order at 3:31 p.m.

I. NEW BUSINESS

Chairman Cormier announced to the Commission that Sky Maher and Barbara McMillan have moved up from alternates to members and James Horrigan is the new alternate.

II. APPROVAL OF MINUTES

Minutes from the February 8, 2006 Conservation Commission Meeting:

Ms. Powers indicated that she had made revisions in regards to typo's. Ms. Tanner made a motion to approve the minutes and Ms. Maher seconded the motion. The motion to approve passed unanimously.

Minutes from the March 8, 2006 Conservation Commission Meeting:

Ms. Powers indicated that she had made revisions in regards to typo's. Ms. Tanner made a motion to approve the minutes and Ms. Maher seconded the motion. The motion to approve passed unanimously.

III. STATE WETLANDS BUREAU PERMIT

- A) Standard Dredge and Fill Application
Sagamore Avenue, Portsmouth, NH
Assessor Map 206, Lot 37**

Ruth L. Griffin, Owner

John Chagnon, Engineer, for Ambit Engineering speaking on behalf of the application; with Tim Griffin from Harmony Grove Cemetery. He stated they had met with the Commission back in November. He stated that it was recommended to reduce the size and asked if they had an opportunity to look at the information.

Vice-Chairman Miller went to the site and was concerned that the tree line would not be disturbed and the buffer would not involve any removal of the tree line on the forested edge.

Mr. Chagnon indicated that it would change the tree line. The tree line goes through the last 2 rows of lots.

Vice-Chairman Miller said that was fine.

Mr. Chagnon indicated there was a rectangular protrusion into where they would have the outward drainage.

Chairman Cormier asked if Mr. Chagnon could give a quick overview and asked if this was just an expansion for burial plots.

Mr. Chagnon stated they were filling land that slopes off. They would be bringing in fill in order to grade it to the same level as the existing sites. By bringing in the fill, it allows the cemetery to expand.

Chairman Cormier asked if it was just an infringement in the buffer zone.

Mr. Chagnon indicated yes, they kept the project out of the 50' set back line except for the intersection on the southwest side of the proposed area where a lot of water was ponding, so they wanted to put in a catch basin to alleviate that problem. They also put in a pipe with a cover and in order to put the cover over the pipe at the catch basin they had to go back until they got the daylight and that caused them to push back the pipe into the 50' buffer. That was the only penetration of the buffer to improve drainage. Other than that, the cemetery would be kept out of the 50' buffer.

Vice-Chairman Miller asked if there was still going to be a trail on the outer edge and would there be any landscaping along the trail that would now be the edge of the buffer.

Mr. Chagnon indicated that the trail goes further away and was closer to the shore, and they had talked about putting a bench or two out there but there was no proposal for it yet. There was really no change to the trail.

Vice-Chairman Miller stated there was a little trail there now.

Mr. Chagnon indicated that it fades into the lawn area but as it goes into the tree line and into the buffer zone it has to be crossed with a swale. It would have to reinvent itself with the crossing.

Ms. Powers stated that it looks like it is already filled possibly with some dumping.

Mr. Chagnon believed the proprietors had been using the area when they dug out a site.

Ms. Powers felt it was a considerable amount. She asked if it would require Board of Adjustment permission in looking at the Portsmouth zoning.

Mr. Chagnon asked if she was talking about it being 100 cubic yards of fill. He stated they would put approximately 2 yards of fill for each digging, and that is the source of the fill she was referring to.

Ms. Powers felt that part of the degradation of that area that it had been used for dumping.

Mr. Chagnon felt it was filling and stated she was right however, this was the last available spot; so they would need to find another way to get rid of the material.

Ms. Powers asked what the relationship was between the City and the Griffins for the maintenance of the cemetery.

Mr. Griffin said there was no maintenance done by the City; it is a private entity.

Ms. Powers was concerned about the wildlife corridor and that it would continue uninterrupted. She was concerned about interface of humans and the wildlife. The more that corridor is interrupted the less it would be able to support the diversity of wildlife. Not only does it impact the buffer value the lawn is the least sustainable cover there is and it has to be maintained. She was very concerned about removing it. She felt the whole area is in very bad shape.

Mr. Chagnon asked if she was talking about human created rubbish. He felt that the proprietors of this area were generous in their allowance of the use of the cemetery as a public park. People run, walk dogs, and utilize the area and the by-product of being a good neighbor was that people leave their trash behind.

Ms. Powers stated she was aware of the proprietor's concern for that area; but felt there would be even more with the expanded sites and more people and that was why she would like that not to happen. She referenced other areas nationally and internationally with the same problems. She stated people would continue to die in Portsmouth and felt this would not be a forever solution and once that corridor is taken away it is forever gone.

Chairman Cormier asked for a motion.

Mr. Wazlaw made a motion to recommend approval and the motion was seconded by Vice-Chairman Miller.

Ms. Maher and Ms. McMillan abstained from the vote.

Vice-Chairman Miller wanted to add a condition to the approval that the provisions of the comprehensive Shoreland Protection Act were reviewed and abided by in terms of fertilizer use, pesticide use prohibited and they were within 25' of the shoreline and using low phosphates, and slow release fertilizer only from 25' to 250'.

Ms. Power stated that if it passes she would like the condition to leave the trees.

Mr. Chagnon stated that there was no plan to cut within the buffer only what was needed for the additional sites. He stated that he had no problem with the conditions.

Ms. Maher clarified that they would be cutting within the 100' buffer and not within the 50' buffer and there were a substantial amount of trees where they were planning to put the grave sites.

Mr. Chagnon indicated she was correct.

Mr. Miller believed that the Shoreland Protection Act addressed that as tree cutting was limited in the basil area trees within 150' of the reference line. He said that if his interpretation of the plan was correct then it would be less than that. He stated that he would like to make sure that anything that did not need to be cut was not cut.

Mr. Chagnon noted that there were stakes placed at the reference line on the site and the cutting does not go all the way to that line. He felt certain that it would be a lot less than 50 percent of the area.

Mr. Britz wanted to add that they were proposing to bring in fill but it was a cemetery and did get a lot of use. He felt it was a benefit in that they were not putting a building in or changing the use of the cemetery. This was a viable open space area used by the City and as long as they work to reduce the impact from the edge they would be cleaning up the customary use of the fill that was continually disturbed with a more intact area.

The motion was passed with the conditions of the Shoreland Protection Act being abided by and limiting the cutting of trees with Ms. Powers voting in the negative.

IV. CONDITIONAL USE PERMIT

- A. Off Durgin Lane
Assessor Map 239, Lot 16
Home Depot USA, Inc.**

Attorney Malcolm McNeill appeared on behalf of the applicant. Also present were Gregg Mikolaities and Derek Wyse from Appledore Engineering, Art Scarneo of Greenman-Pedersen, their Traffic Engineer, and Jim Gove from Gove Environmental .

Attorney McNeill stated that they had been before the Commission back in February for a Conditional Use Permit for the buffer impacts with regard to the plan he had on display. They received endorsements with a 7 to 1 vote with various conditions including sweeping the parking lot 5 times a week, the installation of a down stream defender with regard to the drainage system they were proposing and utilization of the Portsmouth internal drainage system for drains within the garden center. They also gave a general outline of the positive effects of the reduction of impervious surfaces with regard to that plan. The next step was to go before the Planning Board and they started that process after meeting with the Conservation Commission. When they came to the Commission in January and February it was their intent that access to the site would be off of Arthur Brady Drive and there would be internal movement within the site relating to the past site and the proposed Home Depot; but there would not be a connection to adjoining property, in the initial proposal.

Attorney McNeill pointed out the overview plan which showed the present relationship between the proposed Home Depot considered previously, the existing Home Depot and the Hampton Inn and the Durgin Lane area where there is presently a shopping center. Attorney McNeill stated that when they started the process with the Planning Department various department heads within the City and other professional people on the City of Portsmouth staff recommended modifying the plan to establish a connector road between the present Home Depot parking lot and the site they were proposing to develop. In this case Home Depot, the proposed tenant on the Flatley Company premises is the owner of contiguous property. He indicated they had various discussions with the City as they started the review with department heads, which is customary, both at the traffic level and at TAC which basically endorsed the general planning with regard to this site, which he referenced as the Flatley Site, but there was significant concern about the impacts of the project in the absence of a connector road. He indicated that on Gosling Road there is a connector road by the Saturn automobile dealership and a hotel which provides a serpentine type of path into Home Depot. They were tasked with trying to find a different way to keep traffic off of Woodbury Avenue. He stated they did two things. Their traffic consultant worked with the City traffic engineer in terms of amending their traffic study to consider whether this would have a positive effect on traffic, which their traffic expert will indicate it will and the City's engineer will agree as well. Then they had to consider the various environmental and other issues that related to the site.

Attorney McNeill explained that in terms of making this connection, the goals were to provide connectivity off of the existing roadways between the retail facilities that are there to reduce traffic on Woodbury Avenue and also to establish a connector road that was analogous to the other connector road that was on the other end of this site. The considerations they looked at were safety, what would be the alignment with the existing Durgin Lane area and the parking area that existed in the vicinity of the Home Depot site and how would that work with the roadway system on Durgin Lane and other components of the existing roadway system. He stated that they were also concerned

about the environmental constraints. He indicated that they were coming to the Commission for a Conditional Use Permit not a Wetlands Permit. Attorney McNeill felt they had designed this site so that the impacts were limited entirely to buffer areas and not wetland crossings. He stated that the proposed path at the rear of the parking lot with reasonable alignment with the intersection that presently exists over an area that works from an engineering perspective that the engineers will explain and has, what he felt, were limited impacts with regard to the buffer. He stated that all of this had to be considered in the context of an effective interface with the Home Depot project itself. Attorney McNeill stated that when the traffic came through the parking would work with this proposed roadway in terms of the loading and operational components.

Attorney McNeill stated that they went to TAC last week with this proposal and they received their endorsement for this roadway. He indicated that it was their desire now to go before the Planning Board on April 20th and indicate the relief received from the Commission previously as to the majority of the Flatley Site; but in the context of what has happened with TAC, he felt that this was a healthy thing. The City indicated they wanted the connector road and they said they could do it; however, in order to do it they were seeking a favorable recommendation with regard to the roadway as it effects the buffers.

Attorney McNeill noted that the road would be 750' long and 24' wide which is analogous to the road on the other side of the site over by the Saturn area and is a rather serpentine type of connection, however, less serpentine than the roadway on the other side of this site. He believed it makes an effective connection into the site which works from a safety prospective in terms of circulation on the site. This would be a private road and not a public road which they agreed to maintain. He stated that they also agreed to sweep the road which was an issue with TAC, in the same fashion as the parking lot. He then asked Gregg Mikolaities to indicate why the road is where it is and why it works and Art Scarneo to speak about the traffic impacts with regard to the roadway and then Jim Gove would explain the environmental impacts to the site and he will explain how it applied to the Commission's criteria.

Attorney McNeill also stated that the Vice Chairman was at the TAC meeting and this matter was discussed at length at that meeting and are bringing this matter forward at the request of the City.

Mr. Britz announced that David Holden, Planning Director, Deb Finnegan, City Traffic Engineer and member of TAC, and Bob Sullivan, City Attorney were there from the City to answer any questions and to speak in the City's interest after Attorney McNeill's team was done.

Mr. Mikolaities stated that last time he came before the Commission drainage was an issue. He noted on the plan that the proposed roadway was curved and taking all the drainage with the downstream defender and were collecting except for the first 125'. There would be a couple of cross culverts going underneath the road so they needed to ramp up the first 125' to get the proper cover. He noted the green arrows on the plan which were the two 12" culverts underneath the road so it would not constrict any flow

and be kept all natural. He pointed out the break in the road they were putting in where there was a red arrow and stated that the first 125' would be coming back to the existing catch basins and they were taking the remainder of the road which was 625' and also bringing that back to catch basins which tie into the Home Depot drainage system which would go into the Downstream Defender and be treated. He stated that they lined up the intersection with the connection road and they would be putting curve in the road to slow down traffic. He noted that there was an 8' to 10' slope in the road and stated that the way to make up road grades was to lengthen the road. He also indicated that they would be putting guardrails on both sides so there was no concern for traffic going off the road and there was no plan to light that area however, there was some spillage from other areas. He stated that they touched on the high points from last time in that they avoided some wetlands and still had a net decrease in impervious surfaces which was 14000 square feet less in the buffer zone.

Mr. Miller asked how the traffic would interact with this.

Mr. Mikolaities stated that the intersection that used to go left to right was going to be revised so it would encourage people to use it and to slow traffic down and wanted to keep it away from the area.

Mr. Horrigan stated that there was a road that came in on the right hand side but he did not know whether it was on the Home Depot property or the Shaw's property which ends up where they were bringing in this proposed connector road.

Mr. Mikolaities indicated that it was on the other property.

Mr. Horrigan asked why the City did not pursue that road.

Attorney McNeill stated they did not control that property.

David Holden stated that it was not appropriate for the City to use that property because it was a loading area to Shaw's. It does not go through so it would not work to the benefit of this property.

Mr. Gove stated that he drove down the road they were talking about and there were flagged wetlands there. In order to utilize the road they would have to do some direct wetland impact so they wanted to avoid that. He stated that in order to make that happen there would be site impacts and direct cutting across wetland areas. He also stated that you can't really use someone else's property.

Mr. Horrigan asked what road was being removed which was stated in the TAC minutes.

Mr. Mikolaities stated that there was a section of the old Durgin Lane being removed.

Mr. Horrigan asked about the remainder of that road that went out to the Spaulding Turnpike.

Mr. Mikolaities stated that they were taking out the whole road on the Flatley property.

Mr. Holden stated that that was not a public street but only driveways for serving former residence in that area.

Ms. Powers asked what it would be replaced with once it was removed.

Mr. Mikolaities answered loam and seed.

Mr. Holden indicated that it would be restored which was the way it was put in the TAC meeting.

Art Scarneo showed an aerial view and noted Woodbury Avenue, Durgin Lane and Arthur Brady Drive on it. He stated that they had done a very comprehensive traffic impact and access study consistent with the guidelines comparing traffic study from a local perspective as well as a state perspective. In both studies they did not incorporate the cross connection and found that certain mitigation was going to be required as a result of reoccupying that space and moving the existing Home Depot to the new site. In looking at the cross connection from a traffic perspective there was a substantial improvement in operation because there was very good planning in allowing people to go from one facility to another and not have to go out on to Woodbury Avenue. Because of the traffic delays at midday and on Saturdays, allowing a connector road was quite desirable. He then noted the other connector road, which people use, from Gosling Road into the Saturn dealership, Home Depot and then into Shaw's Plaza. He stated that the ability to create this internal connector to reduce delays on Woodbury Avenue would be substantial. They had recommended mitigation without the connector road and were still committed to providing that mitigation along the corridor so they would mitigate impacts and with the cross connection you would see some substantial benefits. He felt that from a traffic perspective it was a great idea and planning wise any time a cross connection was provided it was desirable.

Attorney McNeill stated that when doing similar projects this issue invariably comes up when trying to keep traffic off of the main roadways.

Mr. Jim Gove noted that these were not pristine wetlands. He pointed out on the aerial plan that things had already been done in that area that were creating an impact on the wetlands. There were also other impacts including culverts which was on a drainage divide. These smaller water sheds go in 2 different directions. He stated that in looking at the buffer impacts the runoff and noted on the plan where they would curve into the site. They were looking at its function and value and recognize that it is forested wetlands and there would be some areas of shallow standing water so it would not provide any type of vernal pool activity. The presence of an interconnector road coming across this area with all of its pavement being swept and with all of the runoff being deflected into the downstream defender would not impact the wetlands.

Chairman Cormier asked what the cover would be.

Mr. Gove indicated that it would primarily be wooded shrub with an open air area which would be a shrub habitat and the canopy would be a little bit less.

Chairman Cormier asked if there would be some sensitivity to minimal cutting within the plan.

Mr. Mikolaities stated that they did put retaining walls to minimized road profile going width wise.

Chairman Cormier asked if this would be a good place to try the pervious paving.

Mr. Mikolaities answered not really. He explained that pervious pavement does not work in this climate or in this application. You need such a large cross section and you do not want it on the roadway. A more applicable would be boating docks or something to that effect.

Attorney McNeill stated that they would only effect the environment to the extent it was necessary to build the road. He stated in terms of the issues that the City brought to them regarding this connector they tried to address safety, reasonable alignment with existing conditions, environmental constraints in terms of the functions and values of the wetlands and how to appropriately address those. To provide appropriate treatment for the water that will be on the roadway system and utilize the drainage system previously approved with the down stream defender and appropriate guard railing and other use of the site, retention of the natural features except where they are necessary to build the roadway and to provide the logical traffic control that has been recommended by their expert and the City's engineer. The land in terms of the Commission's criteria is reasonably suited to the use and the wetland values are not adversely impacted as indicated by Mr. Gove's testimony. He stated that there are no wetland crossings that exist with regard to this area or the main site as well. The applicant would demonstrate that alterations of the natural vegetative state would occur only to achieve the construction goals. He felt that the criteria exists and they were back before the Commission because of the City's recommendation.

Ms. Powers asked where the connector roads come in on the master plan. She asked if they could reduce parking spaces which are still about 10 over.

Attorney McNeill stated that they had already been reduced.

David Holden stated that the recommendation from TAC to the Planning Board was to have a connector road. He said that after they added the connector road there would be a reassessment of the application. As Ms. Powers indicated, the last 2 Master Plans in the transportation and highway section called for a reduction of parking lots and this was in conformance with that. Mr. Holden compared Market Street opened in 1982 and had to wait 20 years for Verizon. With that in mind the Planning Board has consistently sought improvements to highway infrastructure to wit they would have Commerce Way and the Green Pages project which made \$600,000.00 in offsite improvements. Also part of the same process PSNH contributed over \$500,000.00 to the improvement related including

Gosling Road and Woodbury Avenue. The City was looking to see how this could also be improved and this connecting road was important to that. He indicated that in the balance of public interest there was a lot of discussion with Mr. Miller who participated in the TAC meeting and TAC did not encourage the street be any wider than as proposed, and they did not agree that there should be sidewalks or lighting. Mr. Miller brought up that the former driveway which serviced the old road should be removed and that area should be restored. He stated that the other important factor over the existing condition with all this work there was still a net reduction in impervious surface. For those reasons TAC thought that there would be an appropriate balance for public benefit and environmental constraints.

Chairman Cormier asked if this idea was conceived by the Planning Board or TAC.

Mr. Holden indicated that it was conceived by Planning staff and it was included in the Master Plan as a goal and a recommendation and this site was viewed as an appropriate site for further connections. He referenced other connection sites.

Chairman Cormier asked if the Planning Board was holding off on approval of this project.

Mr. Holden stated that they had not yet received it. It was going through the process. The Board had received a favorable recommendation from TAC. They would do 4 applications at the April Planning Board meeting, 2 Conditional Use Applications and 2 Site Review Applications, one for the site where the structure will be located and one for the access road.

Deb Finnegan, City Transportation Engineer, stated that the foreman on the project did his due diligence with regard to the City's request to build a cross connection between the two parcels. She stated that currently on Woodbury Avenue there was not enough City or State owned property right of way in order to add more lanes to improve this situation. The current growth in the area is 1.5% per year. The City needs to find good ways to alleviate traffic congestion. She indicated that the NHDOT, the City and other communities were moving toward access management. Access management as defined by the Transportation Research Board seeks to limit and consolidate access along major roadways while providing and supporting street systems, access and circulation systems for the road. The result is a road that functions safely and efficiently for its useful life and creates a more attractive formula. She stated that this proposed cross connection would take vehicles off Woodbury Avenue and would help reduce vehicular and queues, traffic congestion and delay, traffic emissions and fuel consumption. The cross connection would also improve the overall safety and efficiency of Woodbury Avenue. She noted that currently the 2003 ADT was 25,000 vehicles and back in 1998 it was 21,000 vehicles which was a 90% increase in 5 years and there would continue to be more use on Woodbury Avenue because it is a good route for travel. She indicated that current reports for access management to alleviate congestion were the Route 1 corridor which goes from the Massachusetts State border to Portsmouth and they are looking at a lot of the cross connections of how to consolidate intersections and have fewer driveways, so that a congestion is taken off the roadway.

Mr. Wazlaw asked what the average daily traffic count going down Gosling Road through the hotel and into the current Home Depot.

Ms. Finnegan answered that she was not aware of that.

Mr. Wazlaw asked what the expectations were with the access road to the new Home Depot.

Ms. Finnegan felt whatever the current use, there is a plus expected for Home Depot.

Mr. Art Scarneo felt that the nice thing about that was that the Home Depot is currently there so people were coming in off Gosling Road and would imagine that would continue on. He stated that they left the existing use there and something will re-occupy it but did not know the number off the top of his head.

Ms. Finnegan stated that there was a lot during the peak time. The concern was that currently you could get off the Spaulding Turnpike and take the access road down to Home Depot; while in the future you don't have the access road. There was a lot of traffic generated by Home Depot so where will those people end up. They may be on Woodbury Avenue or Durgin Lane or turn on to Arthur Brady. There would be a whole lot more traffic on Woodbury Avenue where there was already large congestion on Woodbury Avenue and they would like to get people moving rather than sitting. That was part of the reason they wanted to pull people off Woodbury Avenue and down to the site. She stated that the NHDOT had a meeting about a week ago talking about this exact issue with developments and cul de sacs off the main routes and everyone trying to get on the Spaulding Turnpike and I-95 from all those access points and they are trying to alleviate some of that congestion. She noted that in doing this it has to go through Planning and TAC. The fact that the State has a comprehensive study which includes this and how to build projects the fact that there was not enough land to keep adding lanes to roadways and it gets to a point of whether you want impact people's homes, waterways, the wetlands etc. If there is land that has less of an impact, then the City felt they should pursue it.

Attorney McNeill concluded that they seek no variance with regard to this site. He said there was no relief necessary from any other boards other than site review approval. This property was rezoned by the City approximately a year ago to permit these types of uses. The original use of the site was a shopping mall then it was converted into an office building. The structures are approximately 20,000 square feet less than previous occupation. The impacts to wetlands, buffers and amount of impervious surfaces were less than what had been there. The matter to consider was based on the master plan and other traffic type concerns to provide this alternative route to service this permitted use. He felt they had done everything possible to effectuate the result of the City's request.

Ms. Maher felt it was a good presentation but was puzzled about the information received from the City. She indicated to Mr. Holden that she did not understand why there was no attempt to negotiate using the existing road that was already there. She felt that the City

was causing the applicant to build a new road on property had been undisturbed for approximately 15 years.

Mr. Holden stated that the existing road she was talking about was a driveway to service the homes that were taken down when the area was developed. The driveway extended the public road which ended in a cul de sac. It was used to service Shaw's and was never intended to extend those driveways. When the other buildings were put in the first connecting road was deliberately placed so it would bisect this lot. They would not continue this road because it would be wetland crossing. It was viewed that this proposed connector would be the more viable one. This site plan deliberately avoids interference with the loading areas so that the people using it can traverse the area safely.

Ms. Maher felt that they were talking about two different parcels of paved area. She understands about the paved area behind Shaw's however there was another road which has a dump on it currently. That road was lined with Hickory's and is about 20 ft wide. She felt that if they were making an effort not to disturb places why were they asking this applicant to go through all this expense when there was another option there.

Mr. Britz explained how he felt that way when this process first got brought up with TAC. He thought that there was a road there that could have been used but discovered there were 3 problems that stopped him from asking about it. First, the road was about 12 feet wide so it would need to be doubled so you're still talking about an impact. The biggest problem was alignment of it. It comes out in the wrong place to line up with that existing access road. It comes out at the middle of the parking lot instead of where the access road comes in from the back way. The biggest environmental problem is the direct wetland impact going around the corner at the bottom of this site. The wetlands would be impacted on one side and a conservation easement on the other side which can't be impacted. He agreed that it was a great idea which was not dismissed by City, but it would have more impact than what the new proposed road would have.

Ms. Maher stated that when they were proposing a change that comes from the City she would like to be informed of that information and why they have or have not pursued other options. She felt it unfortunate asking the applicant to build a new road when the existing serpentine road does not really work all that well but goes through the existing parking lot of Home Depot. She felt that it could be improved by the City if they had other thoughts of redirecting into that intersection.

Mr. Britz agreed that was a valid point and they should have been informed but the way the process worked the applicant had an idea in mind which the City responded to so it went to the Conservation Commission first; however, it would have been better if it had gone to TAC first to consider what was going to happen next. Unfortunately that happens with two different boards that have two different concerns. However, he felt that the road was a smart measure.

Ms. Maher stated she had no complaint about that process but does not see this road as a huge improvement. She asked why not take the connector out and around the parking lot. Maybe there was a benefit she was not seeing as to having driving trucks through a

parking lot. She asked why cross the travel lane when they could be redirecting it through and still have the traffic flow from Gosling into Brady.

Art Scarneo stated he understood her concern and felt that it was not good to have the lot split and not did not like pedestrians crossing a connector road. He noted on the plan that where the road laid out was more appropriate from a travel perspective of a new connector road than trying to bring it down Durgin and closer to the Shaw's driveway going to the rear of the access. The traffic at a peak hour could range from 20 to 45 vehicles they would divert; whether they come off Gosling or Durgin Lane and not have to go through the commercial use. He noted that it was more of a 24 ft driveway which comes into the primary field. He felt that people would not use the back of it. This would divert people as people would go with the least resistance. He would like the like to see proper pedestrian crossings if that is redeveloped.

Mr. Wazlaw asked how many cars would be using the connector road.

Mr. Scarneo indicated there would be 20 to 35 peak hour trips.

Mr. Wazlaw asked what peak hour was.

Mr. Scarneo answered it was a specific peak hour or as high as 35 vehicle trips on a Saturday.

Mr. Wazlaw asked how many over an 8 hour period.

Mr. Scarneo stated that would be hard and indicated that the road would carry a few hundred vehicle trips because it is not consistent. Anytime they could divert traffic off a main route would help out in the corridor.

Jim Horrigan asked if a trip is doubled.

Mr. Scarneo answered one vehicle is one in and one out.

Ms. McMillan asked how often the cross connector behind the animal center was used.

Mr. Scarneo stated that it was heavily used. He stated that the City had plans for a coordination system that is supposed to be implemented this spring. They were trying to get better progression along the corridor because the signals don't work right now so people are taking that cross connection. The traffic coming out onto Arthur Brady with a left from the Durgin Square Shopping Center during Saturday midday there was 127 lefts and 62 rights.

Ms. McMillan felt that it was not congested there. She asked does this process have to be done now; could it be tabled.

Mr. Scarneo reiterated that in knowing this area and traveling the area, any time that a cross connection could be provided it was going to be a benefit. He indicated that

because of the capacity constraint you would not have a free flowing everything was going to be great because the road is not wide enough. This cross connection provides people with a secondary means of access. He felt that it was proper planning and it did not matter where it was done. The interconnections help reduce curb cuts and access points which have safety implications.

Attorney McNeill stated that when he went before TAC the Public Works director indicated to him that it was the last chance he had to significantly impact this area. He stated that they had attempted to obtain discretionary permits in case they needed a variance. They had initially planned the project with no connector road. He felt that it cost more money and it was not initially planned but it would make the traffic better. He felt that it would not have significant wetlands impact and he believed that an Planning Board in the southeast State of New Hampshire would suggest they have this done. He felt that the City was in a better position because the proposed user of the Flatley site happens to own the land next door and under the circumstance he felt that this connection could be viable and timely. He stated that from the this road would be a condition of approval from the Planning Board and said that the old Home Depot would be used for retail purposes. He felt that they were doing the right thing and it would make their customers happy. He stated that this was their 3rd trip before the Conservation Board and every occasion he felt they were trying to make it better.

Chairman Cormier summed it up by stating they got a plan as presented with a classic trade off where the traffic situation was going to be improved but there would be impact of buffer zone.

Ms. Maher asked what the maintenance agreement with the new owners on the roadway would be.

Attorney McNeil stated that their would be an agreement with Attorney Sullivan to maintain the roadway with the new owners.

Ms. Powers asked if they could discuss this amongst themselves.

Chairman Cormier asked for a motion.

Attorney Pelech stated that he had been involved with the development of Durgin Square and as part of their approval they were required to purchase an easement from the Flatley Company for a wildlife corridor and assumed that this wildlife corridor and conservation easement was not effected by this at all.

Mr. Britz answered no it would not be effected.

Attorney McNeil stated that they would honor their easement.

Attorney Pelech said fine that was all he asked.

Mr. Wazlaw made a motion to recommend approval and the motion was seconded by Ms. Tanner.

Mr. Miller stated that he was at the TAC meeting and he shared a lot of concerns discussed today. He was surprised that they were before the Conservation Commission again today. However, what he heard made sense even though he did not like the road in the buffer but found no alternative. He stated at the TAC meeting there was a suggestion for a sidewalk and wider roadways but he was pleased they were not forwarded. He was pleased with the willingness to work with concerns. He took solace in the fact that the roadway would have curbing, the roadway was going to be swept and the drainage would be into the Home Depot site and they were going to gain the advantage of the stormwater treatment through that. He felt it made sense in knowing the area and using the roadway it would be an advantage to the public interest, so he voted yes.

Chairman Cormier asked Mr. Miller if he felt there was some benefit in the trade off as proposed.

Mr. Miller stated yes even though he did not want to impact the buffer. He could not see a better way and the public interest outweighed that. He felt they did work to get as much environmental benefit as possible.

Ms. McMillan asked if there was cutting of trees on either side of the roadway because of the slope.

Mr. Mikolaities stated that on the side of the wetlands there was a retaining wall. They tried to keep it as compact as possible.

Ms. McMillan asked if the berm area road that is going to be restored, crosses the wetland.

Mr. Mikolaities stated that it did not and that it sits up about 8 ft.

Ms. McMillan stated it seemed like those 2 wetlands were originally connected with a pipe underneath.

Mr. Mikolaities stated that there was a pipe underneath but he was not sure they were connected.

Mr. Gove explained that the wetlands he pointed out on the plans were connected and there was a culvert that drains and he also pointed out a road that comes over the top but it did not appear that the ones she was speaking of were connected.

Ms. McMillan asked if the wetland could be restored instead of removing the pavement and grassing it over.

Mr. Gove stated that the problem was you could not go over the property line and the edge is the road. He was concerned as to what has developed over time. He pointed out

wetlands on the plan that have expanded because the culvert does not flow all the time. He felt that it was not good wetland management but when the road was put through with a substandard culvert the wetland expanded. He felt that if too much of the road was taken out it would drain the wetland.

Ms. Maher abstained from the vote.

The motion was approved with a 7-0 vote with the following stipulation:

- 1) That the concrete and pavement from the old roadway surface and subgrade located in the wetland buffer area shall be removed and restored to a natural vegetative state.

**B. 1800 Woodbury Avenue
Assessor Map 239, Lot 7-3
SGB & RGB Ventures LLC, Owner**

Attorney Pelech appeared on behalf of the applicant. He explained the existing conditions plan which he had handed out; which showed the impervious area of the parking lot. He noted that when they were there last month suggestions were made; one being could they turn the building 90 degrees. He stated it could not because they were now at the front setback of Woodbury Avenue. If they had to move the building closer to Woodbury Avenue they would require variances. The second issue was could they remove parking spaces, which they reconfigured the parking lot and removed 3 parking spaces which brought them down to the minimum required for retail use. He stated that they changed the walkway to pervious and were prepared to correct the roof drainage from the existing building. He stated that they were proposing to put a gutter system in and redirect that drainage from the back of the building to drain into a grassy area and not directly on the slope leading down to the wetlands. He explained that the roof drains for the new proposed building were going to go into the groundwater recharge area to make it pervious. The total reduction in impervious area was 1900 square feet. He felt the impact on the wetland area would be beneficial. He stated that with him was Adelle Fiorello from New Hampshire Soil Consultants who did an analysis of the wetlands and could answer any questions.

Ms. Fiorello stated that last time she went over her findings and stated that essentially nothing had changed. She did find that the wetlands would continue to function as they do currently.

Mr. Wazlaw stated he had an original plan from April 2004; which exists now and he had an updated August 2004 plan.

Attorney Pelech stated that the August 2004 plan was the one that was approved for a conditional use permit previously.

Mr. Wazlaw asked him to explain the exact changes from last month.

Attorney Pelech reiterated the changes.

Mr. Britz elaborated on recommendations made. His concern with the project was, although there was some benefit to reducing the impervious surface and parking space, there would still be as much traffic or more traffic effecting the wetlands and the proximity to the wetlands in the back. He asked how they were going to build that building without impacting the wetlands. He wanted assurance that it would be a carefully maintained site and they would maintain the silt fence that was there and he recommended a daily inspection of the site to insure that the erosion control measures were still intact. He recommended a site management plan and a stormwater management plan because it was so close to the wetlands.

Attorney Pelech stated that they still had to go to TAC for site plan approval and to the Planning Board twice for conditional use.

Mr. Britz stated that their site plan was still valid.

Attorney Pelech stated he was correct and he did not have a problem with those conditions.

Chairman Cormier asked what Mr. Britz conditions were.

Mr. Britz recommended that a Stormwater Management Plan for the construction that includes a daily inspection of the Best Management Practice proposed plan that shall be reviewed by Public Works.

Ms. Maher stated that Mr. Britz' Memo also mentioned that he wanted a catch basin to remove oil.

Mr. Britz asked Attorney Pelech if there was a catch basin in the middle of the parking lot.

Attorney Pelech believed there was one and it was hooded, however if it was not hooded they would put one on.

Ms. Powers stated that Mr. Britz' Memo suggested the oil water separator be cleaned annually or semi annually.

Mr. Britz stated that maybe it could be incorporated into their application.

Mr. Miller asked how they were going to keep trash out of the wetland area.

Ms. Fiorello stated that an extension of the fence to the north was added; which was part of the original conditions of approval.

Ms. McMillan asked what they had for drainage in front of the second building.

Attorney Pelech pointed out the area on the plan that they were attempting to have ground water recharge and the landscaped area which had crushed stone where the roof drains are going to empty into. He also noted on the plans the landscaped area in the front of the building.

Ms. McMillan asked if it was just going to be a grassy area.

Ms. Fiorello stated that there was a landscaping key which showed the plantings where the roof drain would empty into the landscaped area and where it would ultimately drain into the existing catch basin.

Ms. McMillan asked if there was any special drainage in the landscaping area.

Ms. Fiorello stated that there was just the roof drainage.

Ms. McMillan asked if they could put something underneath that area because it seemed like that piece of land looked higher up.

Ms. Fiorello stated that it was pretty flat and she did not know if they would be building it up.

Ms. McMillan stated that there would be a grassy area that was not that pervious it would just drain off into catch basin. She felt there should be some sort of substance underneath for more drainage.

Chairman Cormier asked for a motion.

Ms. Tanner made a motion to recommend approval and was seconded by Ms. Maher.

The motion was approved with a 7-0 vote with the following stipulations:

- 1) That extra care be taken to install appropriate erosion control measures and that the site be inspected at the start of each work day to insure that erosion control measures are still intact;
- 2) If the catch basin does not already contain a hood to remove oil then the catch basin shown on the plans shall have an oil water separator installed; and
- 3) That the oil water separator shall be inspected quarterly and cleaned, at a minimum, annually or semi-annually, if the inspection warrants.

**C) 140 Edmond Avenue
Assessor Map 220, Lot 81
Bacman Enterprises, Inc., Owner**

Attorney Bernie Pelech appeared on behalf of the applicant. He stated that this was Dr. Bacman's Chiropractic Clinic owned by Bacman Enterprises. He explained the

background of this project. He stated that Dr. Bacman's practice had been there over 30 years. He noted that 2 years ago Dr. Bacman expanded his practice from ½ of the basement to the entire basement with 2 residential units above. Because of this he was given a cease and desist order and needed a variance and eventually the variance was granted to allow the chiropractic office to occupy the entire basement and allowed vehicles to back out onto Edmond Avenue. After they were prepared to go to Site Review it was discovered that they were within 100' of the wetlands across the street. He stated that they were told to go before the Planning Board for a Conditional Use Permit to establish the parking area. He stated that there is presently a paved parking area and what they are proposing to do is take out the pavement and leave the gravel and pitch everything so it runs into an infiltration basin so that there is no runoff across the roadway into the wetlands. He stated that Alex Ross, the site engineer was with them and Lenny Lords, the wetlands expert that has worked with Alex to delineate the wetlands and design the project.

Chairman Cormier asked where the City property was.

Attorney Pelech pointed to where the City property was on the plans.

Vice-Chairman Miller asked Attorney Pelech to explain the easement.

Attorney Pelech explained that there was a common driveway that he and his neighbor, Mr. Toussaint, have shared for 30 years and in order to allow a handicapped parking space he needed an easement from Mr. Toussaint to use a part of Mr. Toussaint's driveway. Attorney Pelech felt that this project would not have any wetland impact.

Chairman Cormier asked if he was going to do some planting.

Mr. Ross indicated that there would be new landscaping.

Mr. Britz referenced his memorandum which recommended that the City property, where people have been parking, should be restored with buffer vegetation.

Attorney Pelech suggested putting a fence there so that it won't occur again.

Mr. Britz stated that would be helpful because there is a wetland there.

Attorney Pelech stated that it made sense.

Vice-Chairman Miller asked if the wetland across the street went underneath the street and drained to the other wetland.

Mr. Lords showed on the plan where the wetland went and it eventually trickled into a stream. He stated that the wetland had been fragmented and built in with a catch basin flowing into it. He felt it was not a valuable area because it was developed all around it.

Mr. Wazlaw asked what Mr. Britz thought.

Mr. Britz felt there would not be a lot of wetland impact because of the separation of the road. The road's drainage goes away from site toward the wetland. He suggested an improvement would be to remove the City property from parking and put in an adjacent wetland.

Ms. Powers stated that Mr. Britz also recommended addition of an infiltration basin for storm water for the parking strip or maybe that was already done.

Mr. Ross stated that was already done.

Mr. Britz told Ms. Powers that he felt that was a good thing.

Mr. Horrigan asked if there was a technical problem because Mr. Britz' memorandum said the applicant was able to remove existing parking area and put in vegetation.

Mr. Britz stated that there may have been a sewer under it.

Attorney Pelech stated that it was just to let people know where the parking lot ends and they could put up a fence and loam and seed it.

Mr. Horrigan was concerned about the loam and seed and he suggested putting boulders in.

Mr. Britz suggested they get some literature about wetlands.

Attorney Pelech indicated that they could put wetland shrubs along the area.

Mr. Britz suggested that Mr. Lords come up with a planting list and suggested using something that did not need landscaping or watering.

Mr. Lords indicated it was upland area.

Mr. Britz suggested a good buffer for bird habitat.

Chairman Cormier asked for a motion.

Ms. McMillan made a motion to recommend approval and was seconded by Mr. Miller.

The motion was approved with a 7-0 vote with the following stipulations:

- 1) That wetland vegetation be put in along the City property to deter people from parking on that area.
-

**D) Nathaniel Drive
Assessor Map 292, Lot 221
City of Portsmouth, Owner**

Peter Britz, Environmental Planner for the City, spoke on behalf of the application. He stated that this was a Conservation Commission project using the Moose Plate Grant. He indicated that Nathaniel Drive was in a south part of the City and this was talked about before. They were using the Moose Plate Grant to do an enhancement wetland buffer. He stated that there was no wetland impact and they may not require a conditional use permit but wanted to go through the process to document the restoration work. He stated they were doing work in the buffer zone. He stated that the most impacting thing they were doing was cutting down pine trees that were growing there that were not suited to the site. He pointed out the area on the plans that they would be working on. He stated that it was all the way to the south end of Lafayette Road, almost to the Rye line. He explained that in the older part of the subdivision there was a curve with a nice wetland adjacent to it. This wetland had weedy stuff around it so they were recommending over-seeding the area with a wetland seed mix and plant different varieties of plants and trees. The trees were supposed to be Hemlocks, however, they planted pine trees which would grow to overlap each other and there would be no visual buffer to the pond. He recommended they put in some rhododendrons, peach plums, surges berry and evergreen type screening for the pond. He indicated they spoke with the neighbors and they wanted cedar trees to go along the property line to create a better screen for them.

Vice-Chairman Miller stated that they scoured the City looking for a good site to restore and what they liked about this site as a restoration site and a demonstration site for the future was it did have a neighborhood above it. There were nice wetlands behind the forested wet area and ponds further behind that. He noted on the plans where the pine trees were already growing into the road. He said they did talk with the neighbors about the pines and made sure they were comfortable with their removal. He noted the slope from the roadway which was sparsely covered with a lot of brambles. He stated that people were starting to dump in the area. Their plan was to enhance the buffer from a function stand point but also enhance it for the neighbor's use and prevent more dumping in the area. He indicated they wanted to come to the Board and ask for approval to go through the process and when done with the project they planned to send model plans of the area to everyone in the City who had wetland buffers as part of their property to encourage people to create more functional buffers.

Chairman Cormier asked if they needed a formal vote.

Vice-Chairman Miller stated they would like one.

Mr. Horrigan stated he did visit the site and was concerned with the removal of all of the brambles which were mostly blackberries. He felt that blackberries were not an evasive species and wondered if it could be done more selectively. He said that the blackberries around the pond could discourage people from falling into the detention pond.

Ms. Powers stated that they were good for nesting.

Mr. Horrigan agreed they were good for wildlife.

Chairman Cormier asked who was doing the work.

Vice-Chairman Miller stated they were working with Rockingham County Conservation District and their wetland planner was out there delineating the wetland. The Landscaper Depot helped them with the plans.

Chairman Cormier asked if Vice-Chairman Miller would be working with them.

Vice-Chairman Miller stated he was.

Chairman Cormier asked if Vice-Chairman Miller could tweak it then.

Vice-Chairman Miller stated that the neighbors were concerned with the brambles' thorns because they had young children. He indicated that they thought they would re-seed the area with the wetland seed mix but they could leave some blackberry.

Chairman Cormier asked if they would be doing more of these with the Moose Plate money in the future.

Vice-Chairman Miller stated that they hoped to do plantings this spring and do the restoration in the fall and use it as a buffer restoration site for their outreach education and they will have money left to mail an outreach component to the 1600 plus residences in Town that have buffer as part of their property.

Chairman Cormier asked if there could potentially be other projects.

Vice-Chairman Miller stated that was one of the reasons that they wanted to go before the Boards. Their hope was that in the future homeowners would come to them with plans like this so all the Board would have already seen this. He stated they were trying to set precedent.

Mr. Britz stated that there was very gravelly soil in that area and they were going to work with what was there instead of bringing in loam. He indicated that some people may not want to do this and there may be impacts in projects like this however, they happened to avoid them at this site.

Ms. Powers asked what he meant by there may be some impacts.

Mr. Britz stated that depending on the site they may want to move a high spot, bring in fill, or plant differently. He stated that this project would be an option for people planting within a wetland buffer.

Ms. McMillan asked if there would be access to the detention pond for maintenance.

Vice-Chairman Miller said that there is a culvert that comes into it. The pond has water in it now with a lot of cattails around it and the access is not too far from the road.

Mr. Britz stated access would be a good idea.

Chairman Cormier asked for a motion.

Mr. Horrigan made a motion to recommend approval and was seconded by Ms. Powers.

The motion was approved with a 7-0 vote with the following stipulations:

- 1) That there be selective removal of blackberry bushes.

V. OTHER BUSINESS

Ms. Powers asked about the dump behind Shaw's when looking at the road next to Shaw's.

Mr. Britz said he knew it was bad but did not know whose it was or where it came from but will get to the bottom of it.

Ms. Powers felt that because they talk about improvements and compromise this should be taken care of.

Mr. Horrigan wondered if this was the property they were just talking about.

Ms. Powers stated it was and left a picture with Mr. Britz.

VI. ADJOURNMENT

At 5:41 p.m., a motion was made and seconded to adjourn to the next regularly scheduled meeting.

Respectfully submitted,

Linda A. Corless
Conservation Commission Secretary

Minutes approved at the Conservation Commission Meeting on May 10, 2006