



larger picture. The TAC Committee did not look at the larger picture and in regards to this project they were project specific. He also encouraged the Board to allow the applicant to present the information that the Board was looking for and City staff if also available to respond.

Mr. Coker asked Mr. Holden if he felt they have the purview to look at the larger purview?

Mr. Holden indicated that the application in front of them had been dealt with but there could be larger Planning issues that should be considered to see whether or not they have merit or whether they lack merit. Part of that concern is that there is additional land in the area that could be developed and how would that be handled.

Mr. Coker asked where in the Site Review Regulations or Subdivision Rules and Regulations Mr. Holden felt it was applicable that they have the purview to look at the broader picture?

Mr. Holden referred to the Site Review Evaluation Criteria, a. "The application is incomplete as submitted and does not provide adequate information for revaluation of the proposed site development". In this instance, in this development, the Board would be looking at the larger traffic impact. On the narrow point of view for this project, there might be downstream effects that must be considered.

Deputy City Manager Hayden felt there were two reasons this was referred by the City Council back to TAC. One was to look at the larger issue but the second issue is a very specific traffic issue.

Mr. Coker agreed with the traffic on this application but he was unclear on the broadening of the scope of the view of this application. He was not clear on the additional concerns of the other developments.

Mr. Holden also referred Mr. Coker to evaluation criteria j., which read "The proposed volume and arrangement of vehicular and pedestrian traffic flow, including but not limited to parking areas, intersection, roads or driveways, and traffic controls will create an unacceptable increase in safety hazards and traffic congestion."

### **SPEAKING TO THE APPLICATION:**

Attorney Bernard Pelech appeared on behalf of the applicant. He indicated that they began with their application in August of 2005, beginning with meetings with City staff. It was acknowledged immediately that this project met all requirements of the Zoning Ordinance and all of the requirements of Site Plan review and subdivision. They attended a Pre-TAC meeting on August 30<sup>th</sup> where they met with City Staff to discuss issues such as traffic and drainage. They then proceeded with the normal TAC procedure in October, November, December and January. They made whatever changes were requested by TAC, including roadway configuration, the drainage structure, they appeared before the Traffic & Safety Committee and received a favorable recommendation, they provided a Traffic Study that was requested by TAC and reviewed by the City Traffic Engineer. He was glad that at least one Planning Board member was a little "fuzzy" about this procedure because he was "a lot fuzzy". He feels they are breaking new ground this evening and they are changing the rules. The rules now appear to be that they are not going to consider projects as they have in the past, but they are now going to consider some future project that have not even been applied for yet, and they are being asked to put the brakes on this proposal to wait for an unknown project to come forward. Attorney Pelech submitted to the Board that they have done everything that has been asked of them and have followed the past process of all TAC projects and received favorable recommendations. The last time the Planning Board voted against a project after getting a favorable recommendation from TAC was Market Basket and Attorney Pelech represented the applicant and it went to both the Superior Court and the Supreme Court. The issue was traffic. Without a change in the rules, there are no grounds for a delay. If there are criteria that are applicable, he asked why weren't they told in October, November, December or January? The drainage was designed in concert with David Desfosses and he was satisfied with the system. It reduces run off to abutting properties. The other issue is that they now want more information on traffic. Attorney Pelech stated that Ms. Finnigan suggested changes and

they made all of those changes. Questions were raised about the water and the City Water Department came up with a plan that mitigated the problem and enhanced the future water service in the area. Then, elevations came up and those are available this evening. Attorney Pelech felt they were entering in to some very merky waters about what is being asked tonight. Attorney Pelech reminded the Board that the residents have indicated that they don't object to this project but are concerned about future projects that are not even in the pipeline yet. Because of concerns from Atlantic Heights residents that they have a problem primarily with Raleigh Way, they are asking this Board to look at it in a larger scope.

Attorney Pelech addressed the projects that are supposedly forthcoming. He represents the Avanti project and he can assure the Board that it is not forthcoming in the immediate future and it will not have any impact on this project or on Raleigh Way. The Hotel project will also not have any effect on Atlantic Heights. The third project is the affordable housing project from the Housing Partnership that has not filed anything yet with the City. The residents seem to feel that project is going to create an accessway to their project but that will not effect them. Even if these projects were going forward, he doesn't see how they would have any bearing on this project.

Attorney Pelech felt this project should be acted on by the Board this evening. There is nothing left for this Board to do except take action. Because the City Council sent a letter to them, they should not put this project on hold. It should be handled the same way as all other applications. He would suggest that the Board take an action on this project – either deny or approve - but don't delay it any further as the applicant is entitled to a vote. Mr. Lewis should be afforded the opportunity to use his property for a project that it is zoned for and is allowed.

Dennis Moulton, of AMES MSC, went over the technical aspects asked for at the last meeting. They provided a traffic study to the Board. It was prepared by their traffic engineer based on traffic counts at the corner of Raleigh and Saratoga Way. It shows that the traffic volumes at this intersection are very low, and are a service level A, which is the highest possible level of service. Adding in the effect of their development based on peak hour traffic, which translates to one car every six minutes in the morning and one car every five minutes in the evening. That level of service remains at service level A. The delays deal with the time it takes for a car to get through an intersection. All delays are around 7 seconds and level A allows up to 10 seconds. Traffic counts at the intersection are 45 cars moving through the intersection at peak hour, which again is level A. Mr. Moulton was confident that the effects of the project are minimal.

Mr. Moulton stated that the second issue was drainage. At the last meeting he presented that they had had a consultation with David Desfosses, they had redesigned the plan for additional retention on site. Those plans show that there is a decrease in storm water flow rates in each of the storm events they modeled. Also, the water line extension was requested by City Staff due to concerns of Atlantic Heights residents. The applicant volunteered to do their part and agreed to extend the water main for a future connection by the City to the Osprey Landing area. They worked with the City to help make a fair contribution.

Mr. Moulton displayed the elevations and indicated that they are similar to town houses that were built in York. He stated they are attractive and fit in the site.

John O'Neil, represented he was partners with Michael Brigham in Changing Places. He stated they have been in the land developing business for sometime. They have looked at the big picture and the effect on the community. They are very sensitive to the concerns of their abutters. They met twice with the neighborhood and discussed traffic, water, drainage and future developments. Mr. O'Neil felt they had gone to great lengths to address all of their concerns. Changes were made by creating the new road and widening the existing road, improving drainage and run off. He felt they have gone the extra mile to help improve the neighborhood.

Deputy City Manager Hayden indicated she has heard from the neighborhood about cars from the development going on Raleigh Way. She asked how do you get from 23 units with two cars to only 10 peak trips in the morning? She asked Mr. Moulton to explain that.

Mr. Moulton stated that the traffic numbers are based on actual traffic counts in various locations throughout the United States. In the real world, there will be different types of people living there – singles, married, empty nesters, some with morning jobs and some with evening jobs, so there will be a wide variety of times that people will be coming and going. Many variances are considered.

Deputy City Manager Hayden asked about trip generations and whether they look at the type of housing?

Mr. Moulton indicated that IT breaks it down into very specific categories. Townhouse units have special counts and it is a very thorough reference.

Deputy City Manger Hayden asked him to walk her through the Traffic Study Figure 1 with turning movements. Does the diagram show someone leaving through the existing streets?

Mr. Moulton stated that the diagram only shows that one intersection and it shows the existing condition. Figure 2 shows the intersection with the development.

Deputy City Manager Hayden asked if the model is complex enough to assume that some cars might take a different route?

Mr. Moulton indicated that it shows all traffic coming from the development.

Deputy City Manager Hayden asked about the level of service and how long someone might wait at a stop sign. Does it look at other factors like cars parked on the streets?

Mr. Moulton wasn't aware of a way to model in other factors.

Deputy City Manager Hayden asked if their Traffic Engineer looked at the actual street?

Mr. Moulton confirmed that he did not.

Mr. Coker asked about on Page 2, there was a Table entitled "Unsignalized Intersection of Raleigh Way and Saratoga Way", for build and no build conditions, and then there is A/6.5. He asked if that meant the level of service was A and the average delay was 6.5 seconds.

Mr. Moulton indicated that was correct.

Mr. Coker asked if the average number was based on the average of the four numbers above it, because if so, the math is wrong.

Mr. Moulton indicated that the software generates that number, based on formulas that are used for this type of analysis. It is weighted according to how many cars are coming from the intersection.

Mr. Coker stated that the weekday am peak is lower after the build. How can that happen? He understands this is not the corner of Lafayette and Middle Road and there is not all that much difference.

Mr. Moulton explained how the figures were arrived at and that the bottom line was that they were looking at a 7 second delay.

Mr. Coviello asked if he consider Raleigh Way a good road?

Mr. Moulton felt it was not in very good condition.

Mr. Coviello stated that they had Raleigh Way that was a narrow road with little that the City could do to improve it without taking lawns. He asked if Mr. Moulton agreed with that.

Chairman Ricci asked Mr. Coviello to ask a more specific question.

Mr. Coviello asked if the road could be improved or were they stuck with it?

Mr. Moulton indicated that his gut feeling was that it could be improved but he would defer to City staff. Raleigh Way is on the list for improvements.

Deputy City Manager Hayden asked if there were tipdowns at the sidewalks?

Mr. Moulton confirmed that there were.

Chairman Ricci had a concern about the drawings. He did not see any erosion control shown anywhere.

Mr. Moulton was sure they had silt fence shown on plans but he will check that.

Chairman Ricci felt that hay bales were important and his big concern. There is also a reference to clay shown on the plans for one of the detention areas and a specification for the clay would be better.

Mr. Moulton stated he would add that to the plans.

Chairman Ricci asked Peter Rice, City Water/Sewer Engineer to address water and drainage.

Peter Rice, City Engineer for Water & Sewer, addressed the Board. He indicated they had looked at the water and sewer as part of the Master Plan. They were looking at added access redundancy service in the area. They did testing and determined that they could improve pressure and flow to the area by adding another line, which is what the developer is showing. The modeling showed adequate flow to address the new homes. They do not have any concerns overall. They did want to add that they saw an opportunity to get an additional source of water out there.

Chairman Ricci asked what happens if the tie in goes into Osprey?

Mr. Rice indicated that would give them a more direct line to the Seacrest water tank to improve the flow. The City has looked at this area for awhile and by looping the system as shown on these plans it benefits people at the ends of those streets. The city likes to create a loop whenever possible and this is a benefit to the neighborhood.

Deputy City Manager Hayden asked if he saw any possible way that these additional units could make the water pressure worse?

Mr. Rice did not see a worsening condition. They can improve water flow at the ends of the streets by creating a loop and they will have improved pressure.

Mr. Coker asked Mr. Rice to describe the modeling procedure that he referred to.

Mr. Rice indicated that they have a computer model which takes all of the water pipes which are at least 6" or larger and creates a system that interconnects and shows flow and pressure. It models hydraulics and how water flows. It creates a pressure model as well as a flow model. It will show residual pressure in different situations. They go out and actually test it and open up the hydrant and the check flow and pressure and show if it is predicting what the model is predicting.

Chairman Ricci asked if the model does a peak analysis?

Mr. Rice stated that level of complexity is something they haven't gotten to yet. They do more of a static condition, around the area. They do worse case scenario however.

David Desfosses, Engineering Technician with DPW, addressed the Board. He indicated that he worked with the applicant quite a bit. The overriding problem was that there was a large bowl on site that works as a detention basin. There is a lot of water from the back yard and the water goes into that basin. The plan for this development goes right through that basin and requires filling it. He indicated that they went through a lot of ideas and actually walked the entire basin in early December. They could easily handle large amounts of water but it was not on the applicants' property and the law does not allow you to increase flow rate off of your own property. Therefore, he asked the developer to create drainage easements or to find some way of dealing with the increased flow rate. They came back with many questions and it was a whole dynamic thought process. Underground won't work on the site because of the ledge. The property is used for building so there is no room for a detention pond. It came down to creating a detention basin underground. Because there would be so much blasting on site, why not over blast an area, create a giant holding pit underground, let the water hold and seep out naturally. Mr. Moulton's design has 8" pipe orifice draining out of that basin. He also asked Mr. Moulton to pack clay on the bottom so that it wouldn't just run out and do nothing. From there it goes into a treatment swale and then to the wetland complex that it goes into now.

Deputy City Manager Hayden asked if the PSNH issues have all been addressed?

Mr. Desfosses confirmed that was correct and added that this design addresses that.

Mr. Coker asked Mr. Desfosses if it was his opinion that this was an improvement over existing conditions?

Mr. Desfosses stated that it was not an improvement. It's a change but it's not a bad thing. It is simply different. They are simply moving the water around differently and it's going to the same place with little or no maintenance to the catch basin. They should make sure the sediment doesn't get into the crushed stone but that would become evident and would not go unnoticed. It requires low maintenance and it should also be noted that it will be a city owned system. The developers are giving the City a drainage easement and the City will take charge, like they do with any other City sewer.

Mr. Coker asked if it is fair to say there would be no net change?

Mr. Desfosses indicated there would be more volume as there always is with new development. The wetland complex can easily handle it. There is nothing downstream except one culvert which is a back road to PSNH. He personally looked at that culvert and it can handle any increase and it then goes into the ocean.

Deborah Finnigan, City Traffic Engineer, addressed traffic. She indicated that they did a standard engineering traffic study. Minimal traffic goes through the intersection now. The traffic will not impact the intersection to the detriment of any changes. However, that being said, they did not ask them to look at the impact to Raleigh Way. In her opinion, there probably will not be any impact. Regarding the question concerning the traffic model which they used, you can put all kinds of different elements into it, change all sorts of scenarios, change the roadway widths, change how people drive, and there are multiple of ways to change the model. It was her opinion that there were probably things that she should have asked but she felt they did due diligence with what she asked them to do.

Chairman Ricci asked if she was satisfied with the traffic report that they provided?

Ms. Finnigan indicated that for the most part she was satisfied. She would have asked them to do things a little differently but she is satisfied.

Ms. Coviello asked if she felt the roadway was improveable?

Ms. Finnigan stated that it was.

Mr. Coviello asked if that would be done by the City as it's owner?

Ms. Finnigan indicated that was her understanding.

Chairman Ricci called for speakers.

Raymond Will, of 125 Preble Way, thanked the City for looking at this area as a whole. He disagrees with Attorney Pelech that other projects are not in the works. Avanti is purchasing City property and a hotel is in the works. He would like to see developers talking to each other. He felt this project was "doable" and Raleigh Way was improveable but he felt a big picture approach was best for all. The traffic study seemed to concentrate on the intersection of Raleigh and Saratoga and some of the neighborhood may use the other intersections. He felt that coordination was needed for all four projects.

Andrew \_\_\_\_\_, of 199 Concord Way, felt there was a lot of beating around the bush about Raleigh Way and the issues. He felt that the traffic study misses that the road is not wide enough for two way traffic.

Ted Blood, Jr., of Portsmouth, had a question about Raleigh Way and Kearsarge Way and how many seconds to get through the intersection. He felt the new development will take a different route and Raleigh will not be able to get out. There is a problem on parking and there will be more pollution.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

## **DISCUSSION AND DECISION**

Chairman Ricci asked Mr. Moulton if in the traffic study if Raleigh Way was modeled as a 2-way street and was on street parking considered in their analysis.

Mr. Moulton indicated that Raleigh Way was not modeled, only the intersection. He reminded the Board that they are talking about traffic and one car every five minutes at the most, on average.

Mr. Holden asked what improvements are being done at the intersection?

Mr. Moulton stated that the improvements on Saratoga are the widening of Saratoga. Currently the intersection of Raleigh Way is only 20' and they are widening it to 24' at the request of City staff. They are providing stop signs and stop lines and it will go from a three way to four way stop. Those improvements will mitigate the very small impact they will have.

Chairman Ricci asked about the elevations as this was the first he had seen of them. He asked if any thought had gone into colors or textures for the front of the buildings to help integrate them into the existing neighborhood?

Mr. O'Neil stated they have taken into account colors and they are pretty happy with the way they look right now. They will be fairly separate to the neighborhood. It doesn't have to tie into the neighborhood. They feel that they do a very nice job and will look at it again.

Mr. Holden stated that one of the concerns in the Master Plan is that the Board should be looking at design review. This area of the Heights does have a historic component. He asked them to elaborate further on the particular design they are considering.

Mr. O'Neil stated that one of the reasons why they picked the elevation is because of the terrain on side. This way the first floor would align with the road and the lower level would be hidden behind. Looking at the front elevation it would look like a modest two-story building. They are trying to keep the units affordable so they are not looking at brick.

Mr. Holden echoed Attorney Pelech and felt that the applicant was entitled to an answer. There is no rush to judgment if the Board felt that they need additional information. He encouraged the Board to publicly discuss whether they are satisfied with the issues that were the basis for the tabling at the last meeting, specifically the drainage, the water and the traffic. As the City Traffic Engineer indicated, there was a more narrow review of the traffic issue when this project came through. If the Board feels that, after reading Criteria J in the Site Review Regulations, more information is needed, they are entitled to table the matter and have a report back from TAC. However, if they feel that they have enough information available at this time to make an informed decision and take an action then that is what they should do.

Deputy City Manager Hayden indicated that she is satisfied and thinks the applicant has worked with the City except on everything except for traffic conditions on Raleigh Way. She does not think that was looked at and perhaps the applicant was not asked to look at it but she would like to go back to TAC to look at the functionality of Raleigh Way. She would like to see how that functions or doesn't function, she could like to consider whether the City need to consider making it one way, and if this is going to be the breaking point. She feels the matter needs to go back to TAC specifically for that issue. She suggested that they table the matter.

Deputy City Manager Hayden made a motion to table until they hear back from TAC on traffic conditions on Raleigh Way specifically.

Mr. Coker indicated that he found himself agreeing with Attorney Pelech. He indicated that "No site plan shall be approved unless it complies in every perspective all pertinent ordinances and regulations." He felt for the following reasons that it does: Peter Rice agreed that the water flow will be improved, there will be no net degradation from David Desfosses, Deborah Finnigan indicated minimal traffic and no degradation of Raleigh and she is satisfied for the most part and Raleigh is improveable. As a statement of fact, Raleigh Way is what it is now and not because of this development. If the Planning Board disapproves a site plan, it must make one or more findings per Site Review criteria. He does not believe the Board has the jurisdiction to consider applications that don't even exist.

Mr. Hejtmanek seconded the motion.

Mr. Coviello indicated that he would be voting against the tabling motion. He felt the applicant had jumped through enough hoops. Raleigh Way is a problem but it is a problem created by the City.

The motion to table passed with Mr. Coker and Mr. Coviello voting in the negative.

This matter will be tabled to the March 16<sup>th</sup> Planning Board meeting.

Attorney Pelech asked for clarification on the purpose of the tabling motion and what is expected of the applicant as they have completed all traffic requests.

Mr. Holden attempted to clarify. He asked the Chair if the intent was to have the letter which was provided to him on this application provided to the TAC for a report back with a recommendation at the next meeting.

Attorney Pelech indicated that that was not part of the motion at any time and that was never mentioned.

Mr. Holden indicated that what he heard was traffic.



Attorney Pelech indicated that if it was traffic, they could respond to that.

Mr. Holden indicated that the letter would be provided by the Department to the Technical Advisory Committee.

Attorney Pelech asked which letter he was referring to?

Mr. Holden indicated that letter that had been provided to the Board from the neighborhood.

Attorney Pelech acknowledged the letter that Mr. Holden was talking about. He did not believe that was the reason for the tabling motion.

Mr. Holden stated the tabling was to send this application back for traffic and that TAC has had a referral on the neighborhood letter and the two items will be taken up together.

Attorney Pelech asked if the applicant was expected to do anything?

Mr. Holden was confident that Attorney Pelech would be contacting him to see if anything was needed.

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**II. CITY COUNCIL REFERRALS/REQUESTS**

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

Mr. Will made a motion to take this matter off of the table. Mr. Coker seconded the motion.

Mr. Holden indicated that this has been on the Agenda for some time now. They have been told that the applicant is providing additional information which has not been received to date. He recommended tabling this to the meeting and to direct the Department to write a letter to the applicant to see if any further information is forthcoming.

Mr. Coviello made a motion to table. Mr. Will seconded the motion.

The motion passed unanimously.

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**III. OLD BUSINESS**

A. Report back from DPW on current standard for monuments;

Mr. Holden stated that DPW has their standards which are contained in the City’s Subdivision Regulations, which basically says that you will put monuments at arcs and at property lines a set number of distance back from the right-of-way and as DPW would require. In talking to other surveyors and the system, although this system is dated, it seems to work. They will update to their GSI system and also their mapping system. They currently have an RFP out for a consultant to help them with Subdivision Rules and Regulations along with Zoning and Site Review, that would be a good topic to update at that point. Therefore, they have system that works, that needs to be updated and this is just a report on the matter.

Mr. Will felt that Mr. Sullivan was concerned that some monuments are iron and he was concerned they may rust or sink and there was no reference to that concern. He felt that Mr. Sullivan made a good point and is there some way to a policy on the markers that exist that may deteriorate?

Mr. Holden stated that once the Board has approved the property, the property owner is responsible, not the City.

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B. Project of potential regional interest.

Mr. Holden indicated that the City was made aware of a large residential development at Breakfast Hill Road on the boundary of Rye & Greenland with potential impact on water, sewer and traffic. The Department, in anticipation of a public hearing, raised the issue of regional interest with the Town of Rye and Greenland. He believes the project is now on a slower tract and they are doing an internal review. He would like the Board to be aware of project and to direct staff to maintain an awareness of the project, in particular in terms of sewer, water and traffic.

Mr. Coker asked if there was a school impact?

Mr. Holden felt that was a good point. The project may be over 55 but it's good to keep an eye on it.

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**Item Not On Agenda: 131-133 Porpoise Way, Atlantic Heights Subdivision**

Mr. Holden advised the Board that, pursuant to Article III, Section 10-301-A(4)(d) of the Zoning Ordinance, they have received an Atlantic Heights subdivision request for 131-133 Porpoise Way. This request is based on the old subdivision plan of 1919 and they are re-establishing an old lot line. They need to make the Board aware of this at a public meeting.

**VII. ADJOURNMENT**

A motion to recess to February 22, 2006 at 8:30 pm was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse  
Acting Secretary for the Planning Board

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