

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

2:00 PM

OCTOBER 4, 2011

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE**

MEMBERS PRESENT: Rick Taintor, Chairman; Dave Allen, Deputy Director of Public Works; David Desfosses, Engineering Technician; Jared Sheehan, Engineering Technician; Peter Britz, Environmental Planner; Stephen Dubois, Police Chief; Chris LeClair, Fire Chief; and Jon Frederick, Director of Parking & Transportation

I. NEW BUSINESS

A. The application of **Elder Family Portland Associates, Owners**, for property located at **218 Griffin Road**, for Conditional Use Permit Approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer, including reshaping and cleaning existing grass lined drainage swale, installation of 40' of drainage pipe, excavation and removal of 150' x 50' of paved parking lot to 12" depth and replacement with stabilizing mat, crushed gravel and 3" of pavement. Said property is shown on Assessor Map 263, as Lot 1-5 and lies within the Industrial (I) District. (This application was referred to TAC by the Planning Board at their September 15, 2011 meeting)

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Marc Jacobs, Wetland Scientist, addressed the Committee on behalf of the Elder Family Trust and FedEx. On September 15th the Planning Board requested that several items be added to their site plans, which they have done. They added a pavement detail to the site plan, they provided details on erosion controls and information on how the stone check dams will be constructed, they added information on the pipe sizing inverts and identified the seed mix that will be applied in the ditches upon their reshaping. After this morning's TAC Work Session, there was concern about the pavement detail and the engineer has spoken to the paving contractor who indicated he meant to change that to a 2" base and a 1 1/2" top coat for a total of 3 1/2". He is going to talk to the people at Fed Ex to see if they would like to go to a 4" total depth on that.

Mr. Taintor asked about removing the check dams after the work is completed. Mr. Jacobs confirmed they will add that to the plans as well.

The Chair asked if there was anyone wishing to speak to, for or against the application. Seeing no one rise, the Chair closed the public hearing for this matter.

DISCUSSION AND DECISION OF THE COMMITTEE:

Mr. Taintor explained that this was unusual where TAC was not making a recommendation or voting whether to approve because that is how the Planning Board referred it to them. He felt that the motion should be to approve the amended plan with the change to a 3 ½” or 4” pavement and with the addition of the note regarding the removal of the check dams at the end of the project.

Mr. Allen asked that the note on the check dams says that the check dams are to be removed following establishment of the turf.

Mr. Desfosses requested a minimum of 3 ½” of asphalt.

Mr. Desfosses made the motion to approve the amended plan with stipulations. Mr. Britz seconded the motion. The motion passed unanimously with the following stipulations:

1. The site plan pavement detail be revised to specify a minimum of 3 ½” of asphalt.
2. A note shall be added to the site plan stated that the check dams are to be removed following establishment of the turf.

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B. The application of the **Baroni Family, LLC, Owners, and Joseph R. Baroni, Applicant**, for property located off Constitution Avenue, for earth product removal under Sections 10.1022, 10.1023 and 10.1024 of the Zoning Ordinance. Said property is shown on Assessor Map 274 as Lot 5 and lies within the Industrial (I) District. (This application was referred to TAC by the Planning Board at their September 15, 2011 meeting)

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Eric Weinrieb, of Altus Engineering, appeared for the applicant. Mr. Weinrieb indicated that they were referred to TAC by the Planning Board for an excavation permit. This is advance site work for a larger project that will be coming soon. The owners are currently working with the City to acquire some land in front of their lot for which they will also have to go through a zoning change.

They are attempting to remove some of the blast rock in the rear of the site, which will allow them to generate some money. The rock is significant size and perfect for seawalls. There is a project at Straw’s Point in Rye that would be beneficiary of the rock removal.

They have completed a detailed Existing Conditions and Boundary Plan of the site, they have done wetland mapping and are working on purchasing the land in front. They have also done a conceptual design for the overall project which is a 40,000 s.f. office/warehouse building. They will probably be back before the City this winter with the full design.

They are proposing to minimize the disturbance so they will not need a conditional use permit. They will only be removing the rock from the area. Mr. Weinrieb provided a computation that the excavation shall be less than 10,000 yards.

They have permission from the abutter, Quality Insulation, for access across their property. There are no residential properties at risk as this is the Industrial zone. They are not creating large holes so no permanent fencing or barriers are required around the site. They will loam and seed the disturbed areas. They will remove the material with an excavator on either a flat bed or a dump truck. Their routing plan will go up Constitution, Lafayette to Lang Road and they have no objection to continue down to Washington Road to directly access Rye through Route One versus another City street.

Mr. Britz asked about the location of the silt fence and why it was not at the buffer. Mr. Weinrieb pointed out the location which was more of an open spot rather than trying to run it through the rock pile and they left it out a little ways so that if a rock rolls it will not crush the silt fence. Mr. Britz asked if they will be working between the limited excavation area and the silt fence. Mr. Weinrieb anticipates that they will go out and flag the 100' buffer so they know where it is and won't work beyond it. Mr. Britz indicated he would make a stipulation that the wetland buffer be marked in the field and no work happen on the wetland side of the wetland buffer. Mr. Weinrieb felt that was a very reasonable request.

The Chair asked if there was anyone wishing to speak to, for or against the application. Seeing no one rise, the Chair closed the public hearing for this matter.

DISCUSSION AND DECISION OF THE COMMITTEE:

Mr. Allen made a motion to approve with stipulations. Mr. Britz seconded the motion with the stipulation that the buffer is marked and no work will be done inside the wetland buffer.

Mr. Allen noted that the plan indicates work on Saturday which would not be allowed without special approval so that needs to be removed.

Mr. Taintor stated that they had a discussion about the travel route to Washington Road, having a survey of the condition of Constitution Avenue and they talked about security in an amount that can be determined later but before the Planning Board meeting.

The motion to recommend approval with the following stipulations passed unanimously:

1. The wetland buffer shall be marked on the Site Plan with a note that no work shall be done inside the wetland buffer.
 2. The note regarding work on Saturdays will be removed from the Site Plan.
 3. The travel route to Washington Road shall be finalized prior to the Planning Board meeting.
 4. A survey of the condition of Constitution Avenue shall be prepared by the applicant and submitted to DPW prior to the commencement of any work.
 5. A bond shall be posted with the City in an amount to be determined by DPW prior to the commencement of any work.
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C. The application of **HarborCorp, LLC, Owner**, for property located **off Deer Street, Green Street, Russell Street, Market Street and Maplewood Avenue**, for a third one year extension of Site Review Approval which was granted (amended) on October 16, 2008 for the construction of an 83,118 ± s.f. 6/7 story structure consisting of a hotel, convention center, parking garage and 21 residential condominiums, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 118 as Lot 28, Assessor Plan 119 as Lot 1-1A, Lot 1-1C and Lot 4, Assessor Plan 124 as Lot 12 and Assessor Plan 125 as Lot 21 and lie within the Central Business A (CBA) District, the Central Business B (CBB) District, the Downtown Overlay District (DOD) and the Historic District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Malcolm McNeill, attorney for the project, was present along with Chris Thompson, of Harborcorp, LLC and Corey Colwell, of MSC Civil Engineers and Land Surveyors.

Attorney McNeill displayed renderings of their \$80 million project. It includes a conference center, Westin hotel, condominiums and a private parking garage. Every component of the project was reviewed very carefully. He explained that the applicant still wants to do the project. This project had the misfortune of being involved in various stages of litigation brought by third parties and there was a significant exchange of give and take between the City and the applicant, especially in the beginning when the City was going to be a participant. Due to the delays, the developer has been unable to go forward and the project is not readily divisible. The developer is asking the City to cooperate with them to help get this done. Attorney McNeill felt that the City should embrace this project and there should be cooperation.

Attorney McNeill indicated that the capital markets are not amenable to the financing that is necessary for the project. They have been through an elongated review process including traffic review. As part of last year's extension they did an updated traffic report. He stated it was usual and customary for succeeding projects to respond to approved projects. They believe, just as they were required to accommodate existing projects when they went forward, they feel other projects should be required to do the same if and when they go forward.

Attorney McNeill was referring to the draft stipulation that the Planning Director was recommending. The approval of this project left many items undone that were usually required to be done sooner, such as landscaping, drainage, and sidewalk designs. They discussed at the morning Work Session that unless those studies were done within a time certain, the developer could not come forward next year to request another extension, absent unusual circumstance, and they agree to that. Their difficulty is with the discussion regarding traffic. Attorney McNeill indicated that anyone who comes behind them for further development would have to consider this project. They believe that what they did in terms of traffic reasonably accommodates the traffic. There was reference this morning to a common study, which he is unclear on. He would suggest that consistent with the requirement to upgrade and complete the studies that haven't been completed within a time certain (he proposed September 2012), that the same be done for traffic. Attorney McNeill indicated it is difficult for them to agree to an open

ended study. They are willing to do their own report on their own effects on the overall upgrade that would be necessary for the project. They suggest the idea of a Northern Tier impact study and improvement plan may be appropriate but it has no bearing on this request for extension.

Attorney McNeill stated that the applicant has not ignored any of its responsibilities, the soft costs are extraordinary and the long term benefit to City is unquestioned. There needs to be facilitation, not frustration, to go forward. For them to go back to square one with traffic is opposite of what should occur and they believe the people that came behind them should conform to what they have had approved.

They appreciate that this is a request for a third extension. They don't want to be here but they want to go forward with the project. They don't want to start from scratch again as they will get sued and delayed again.

Chris Thompson, of Harborcorp, reiterated what Attorney McNeill presented. He understood that everyone has a lot on their plate, including them, and they would not be here if they did not want to go forward with the project. He indicated it was a great project and they would love to make it happen. He hopes to continue to work with the City.

Mr. Taintor asked if they were agreeable to all other recommended conditions, aside from the issue of being involved in a comprehensive traffic study. Attorney McNeill stated that he has only had a chance to look them over quickly but they are willing to comply with areas where plans need to be upgraded, including consultations with DPW, and those incomplete items that require City administrative approval.

The Chair asked if there was anyone wishing to speak to, for or against the application. Seeing no one rise, the Chair closed the public hearing for this matter.

DISCUSSION AND DECISION OF THE COMMITTEE:

For the purposes of discussion, Mr. Allen made a motion to recommend a one year extension. Mr. Desfosses seconded the motion. He would like to have a discussion on the traffic study and he mentioned that #13 on the recommended conditions has been completed by the City, at the intersection of Deer and Market Streets.

Mr. Desfosses confirmed that the motion included the draft stipulations from Mr. Taintor. Mr. Allen felt they should continue on with the Northern Tier traffic study. He felt they were being held hostage by this project and he asked how long the City has to remain committed to something that was approved that many years ago with all of the changes to the area. He did not believe it was out of line to have the study done, to update the area and make sure this plan fits into the area.

Mr. Taintor confirmed that his idea was to look at this comprehensively. The applicant has indicated that they would like to update their own traffic study to incorporate new information and he asked if there was any discussion about that. Mr. Allen was suggesting that just doing this one lot alone would not serve the City's purpose. Mr. Taintor felt they would receive three separate traffic studies to work with and it would be much better to do a single traffic study.

Mr. Taintor confirmed that the motion is to recommend the extension with the proposed stipulations. Mr. Britz understood their concern about not knowing the cost and he asked if there was a way to estimate that. Mr. Taintor indicated, before going to the Planning Board, they would have to pin that down.

Attorney McNeill asked if they reach a consensus on this, that would result in their recommendation for the approval of the extension. Mr. Taintor confirmed the motion was to recommend an additional one year extension, but he added that one thing that is not within TAC's area of responsibility is that in this particular situation a waiver is required that has never been granted before. There is a lot of concern about precedent with this. Attorney McNeill felt that every waiver situation need to be considered on its own merits.

Mr. Desfosses felt that condition #13 needs to be revised as the intersection is complete. Mr. Taintor explained that he felt this was a very odd approval as so many things were left up in the air and he was trying to consolidate items. Mr. Fredericks felt they should change #13 to read "on Deer Street between Russell Street and Market Street".

Mr. Thompson brought up the Northern Tier traffic study. He stated that one of the reasons the project isn't already built is because they had several years worth of legal challenges from a third party. He was concerned about the potential finding from the group study, looking at the orientation of the site and whether it would leave them open to more legal challenges. Mr. Taintor did not know the answer to that but because so much is incomplete in plan, he is not sure they don't have a lot of exposure now. There have been lawsuits on all sides and it is not a one-sided situation. He would like to leave lawsuits out of it and just look at it from the point of view of City planning and good land use management. Mr. Thompson's concern was that the stipulations appear to anticipate staff level review which would require going back to the Planning Board for a redesign of the site. Mr. Taintor agreed it may be appropriate to have a redesign of the site. Maplewood Avenue is changing and the two driveways onto Maplewood may need to be changed. The issue is not site specific as much as traffic specific. The area is completely different from the situation that was analyzed in their previous traffic analysis. They need a report that is good for the City to determine what types of changes need to be done. Mr. Taintor concluded that they wouldn't probably be having these questions if they had come in last month, before their approval expired. Mr. Taintor felt they are trying to give more control back to the City on this. Mr. Thompson again stated that if the concern is mostly traffic then that makes good sense and they would not want to have a project that did not work from the traffic and pedestrian flow perspective. To that end, participating in that study is fine but their concern is with how broad the study would be.

Mr. Britz asked about the recommendation to the Planning Board. They are asking the applicant to contribute to a traffic study and he assumes the extension would be granted by their agreement to contribute to that. Mr. Taintor disagreed and stated that the recommendation is to grant the extension subject to the stipulations and performance milestones. His reason for having an early deadline for contracting the traffic study is to have the traffic study available for all of the developers. It is his assumption that this project will come back for another extension in eleven months from now because he does not see the capital markets improving enough between now and then to fund this project. So

they would have plenty of time to incorporate the results of the traffic study in their revised site plan. Mr. Britz stated that he supports the motion.

The motion to recommend approval of an additional one year extension of Site Plan Review approval passed unanimously with the following conditions:

Condition Precedent – to be completed prior to December 1, 2011:

1. The applicant shall make a fair-share contribution to the City to fund a Northern Tier Traffic Impact Study and Improvement Plan, to be managed by the City. The cost of the study shall be allocated among the three major development projects currently under review by the City's land use boards: the Westin Hotel and Conference Center, "Lot 3" of the Portwalk development (hotel, apartments, retail), and Phase 3 of the 30 Maplewood Avenue development (condominiums, retail).

Conditions Precedent – to be completed prior to [May/August] 1, 2012:

2. The applicant shall submit a revised Site Plan set reflecting current existing conditions and conforming to current Site Plan Review Regulations. Without limiting the foregoing, the revised Site Plan shall include the following information as required by prior stipulations of approval:
 - (a) Final drainage design as approved by the Department of Public Works;
 - (b) Lighting plan;
 - (c) Landscape plan;
 - (d) Signage plan.
3. The revised Site Plan set shall incorporate the following stipulations of prior approvals:
 - (a) Sidewalks shall be installed along the perimeter of the property in accordance with current City construction standards and the City Council's policy on brick sidewalks.
 - (b) The proposed 1,000 gallon grease trap shall require approval by the Department of Public Works to ensure that it is adequately sized for the planned cooking facilities.
 - (c) The applicant shall provide anticipated water demand for the project and include references of where that demand came from, i.e., a similar type of store in another area or industry standard, and said report shall be stamped by a licensed engineer.
 - (d) A sign shall be added to the Site Plans for the service road at its intersection with Maplewood saying "no right turn for large trucks" or other language that is agreeable to DPW.
 - (e) A note shall be added to the Site Plan as follows:

The applicant shall be responsible to perform a radio-strength test with a Motorola Service Shop to ensure sufficient signal strength within any structure included in the project to support adequate radio coverage for emergency personnel. The expense for the test shall be the responsibility of the applicant, whether or not the test indicates that amplifiers are necessary to ensure this communication. If the test indicates that amplifiers are required, that cost, too, shall be the responsibility of the applicant. All

testing and installations shall be coordinated between the applicant and the police/fire communications supervisor.

- 4. The applicant shall revise the plans for traffic and parking modifications to incorporate recommendations of the Northern Tier Traffic Impact Study and Improvement Plan.
- 5. This project shall be reviewed by the Parking and Traffic Safety Committee.

Conditions Precedent (to be completed prior to issuance of a building permit):

- 6. All changes to traffic patterns and parking on public streets shall require approval by the City Council.
- 7. All construction shall be in accordance with current City construction standards. Final construction details shall require approval by the Department of Public Works.
- 8. Final street geometry, paving and crosswalks shall require approval by the Department of Public Works.
- 9. Automatic notification of emergency services and a knox box shall be installed.
- 10. All easements and licenses shown on the "Easement and License Plan" dated July 12, 2007, shall be executed (and easements recorded) prior to the issuance of a building permit.
- 11. The applicant shall prepare a Construction Management and Mitigation Plan for approval by the City Legal Department, Planning Department, Department of Public Works and City Manager.

Conditions Subsequent (to be completed prior to Certificate of Occupancy):

- 12. The applicant shall provide a traffic signal at the intersection of Market Street and Russell Street, subject to design approval by the Department of Public Works.
- 13. The applicant shall provide additional traffic calming measures on Deer Street between Russell Street and Market Street, subject to approval by the Department of Public Works.
- 14. The applicant shall review and work with the Department of Public Works to coordinate the signal timing at the intersection of Maplewood and Deer Street.
- 15. The applicant shall arrange to have the USGS monument off the ledge at Russell Street relocated during construction.
- 16. The additional 2" water service to the parking garage shall not be activated until the subdivision is recorded.

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D. The application of **180 International, LLC, Applicant**, for property located at **180 International Drive**, requesting amended Site Plan approval for parking lot expansion to add 31 new parking spaces, with related paving, utilities, lighting, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 312 as Lot 3 and lies within the PDA Industrial District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

William Davidson, of Hoyle Tanner and Associates, addressed the Committee on behalf of the applicant. He stated that Salient Technologies occupies this site. They are proposing 31 parking spaces. There is existing drainage on site that they will not need to modify from a detention standpoint. There are no drainage modifications except on the northern portion of the site adding a catch basin and revising the treatment swale. It was brought up that they need one additional handicapped van accessible space which they will add. Otherwise, he felt it was a basic plan.

Mr. Taintor indicated that the Pease Development staff submitted a list of items that they requested be included in the approval recommendation and he read those items into the record.

Mr. Taintor mentioned that another question had to do with the construction of the new catch basin at the corner of the proposed addition and connecting it to the large parking lot with a connection to the detention basin.

Mr. Frederick requested a stipulation that five regular handicapped spaces and one van space are required.

The Chair asked if there was anyone wishing to speak to, for or against the application. Seeing no one rise, the Chair closed the public hearing for this matter.

DISCUSSION AND DECISION OF THE COMMITTEE:

Chief LeClair made a motion to approve with stipulations. Mr. Desfosses seconded the motion.

Mr. Allen agreed that this was a fairly small project in scope but it changes other significant items so it is important that DPW received the revised plan for their review, prior to the Planning Board.

Mr. Frederick requested the stipulation that there be a total of five regular handicapped spaces and one van space.

Mr. Taintor indicated that the outstanding items provided by the PDA staff shall be included as stipulations.

The motion to recommend approval passed unanimously with the following stipulations:

1. Landscaping throughout the site does not conform with the approved plans. The applicant should prepare an as built landscape plan so it can be compared to the approved plan. After review, the applicant may be required to install additional landscaping to meet the intent of the approved plan.
2. Install detectable warning panels in the handicap ramps and the sidewalks connecting to 200 International Drive.
3. A variance is required to allow the parking along International Drive within the 50' parking setback.

4. Reflag and survey wetland adjacent to 16 parking stall addition.
5. Call out the size of the wetland adjacent to 16 parking stall addition in square feet.
6. Show limits of Industrial/Business Commercial Zones.
7. Correct the numbering of Landscape Notes on Sheet C2.
8. Specify check dams in the proposed swale and provide a construction detail.
9. Provide traffic generation statement.
10. Provide erosion control at yard drain near 12 parking stall addition.
11. Eliminate the boardwalk between 180 and 200 International Drive or replace with a 5' wide concrete sidewalk.
12. Eliminate parking stall at 200 International Drive where boardwalk meets parking stall by crosshatch striping.
13. Revised plans shall be provided to DPW for their review and approval prior to the Planning Board meeting.
14. A total of five regular handicapped spaces and one van space are required on the plan.
15. The sixteen space parking area shall be reconfigured with a new catch basin at the southwest corner, connected to the large parking lot with a connection to the detention basin.

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II. ADJOURNMENT was had at approximately 2:55pm.

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Respectfully submitted,

Jane M. Shouse
Administrative Assistant