

Planning Board**Town of Newington****June 9, 2003**

Present: Chairman Sandy Hislop, Chris Cross, Robert Simms, Jack Pare, John Frink, Planner Tom Morgan.

Cosmos Iocovozzi and Dennis Hebert arrived late.

Absent: Barbara Hill, Peggy Lamson

Meeting was opened at 7:02 p.m.

Minutes: minutes of the meeting of May 28th were corrected and accepted as corrected.

Correspondence:

- Letter from Guilford Transportation Industries (5/20/03) in regard to proposed land use abutting railroad property.
- Two memo's (5/20/03) from Building Inspector Charlie Smart in regards to Septic Test Pits. Full report is later on the evening's agenda.
- Letter from Newington Energy (5/12/03) in regards to alternative parking on their property. Preliminary discussion is later on the evening's agenda.
- Letter from Sea-3 (5/8/03) addressing concerns with traffic routing on Shattuck Way for propane tankers leaving their facility. The letter suggests an alternative traffic flow. Preliminary discussion is later on the evening's agenda.
- Letter from Outback Steakhouse (4/14/03) requesting permission to serve alcoholic beverages on their front porch. Preliminary discussion is later on the evening's agenda.
- Draft copy of joint letter from the Board of Selectmen, Planning Board, and Conservation Commission in regards to SB70.
- Report from Rockingham County Conservation District (5/13/03) for two test pits witnessed for a proposed subdivision at Little Bay Rd and Captains Landing.
- Email between Barbara Hill and Linda Wilson of the NH Division of Historic Resources (5/22/03) in regards to the lease for the Old Town Forest.
- Letter from Linda Khalsa (6/9/03) stating three concerns about possible code changes for septic requirements.
- Email from Tom Morgan to Senator Burt Cohen (5/29/03) on behalf of the Selectmen and Planning Board requesting amendments to SB70. Requested wording changes are: delete 'further offshore' and replace with 'Atlantic Ocean' in two sections and remove the words 'the Piscataqua River' from a further section.
- Invitation from Rockingham Planning Commission, Rockingham County Conservation District, UNH Cooperative Extension, and Rockingham County (5/29/03) to attend the 2003 Municipal Board Training Series.
- Invitation from the Rockingham Planning Commission (5/27/03) to attend their annual meeting on June 11, 2003.
- Notice of Meeting from the Pease Development Authority (6/9/03). Next meeting of the Pease Airport Noise Compatibility Committee will be June 19, 2003 at 7pm in the PDA Board Room. Subject of meeting is to review the status of the Pease Noise Compatibility Program.

Public Hearing

A. & B. Proposals from Tyco delayed until later in meeting since Legal Council to the Planning Board was not yet present to meet with the Board.

C. Proposal by the Crossings at Fox Run to replace Midas Muffler with a Longhorn Steakhouse.

Brett Mashchak from Longhorn Steakhouse presented new plans. The Crossings at Fox Run and the Longhorn Steakhouse have agreed to an adjusted lot line creating a larger lot for the Longhorn Steakhouse and allowing proper setbacks.

John Frink inquired if the new lot line included the access road and if the building setback was from the lot line or from the access road. Additionally John Frink asked if there would be any easements. Brett Mashchak replied that the building would be 35 feet from the pre-existing lot line and there would not be a need for easements. Chris Cross inquired if the current access easement would remain as indicated in the plan and Brett Mashchak also confirmed that. In addition the sidewalk outside of the easement would be the property of the Longhorn Steakhouse. As both properties are owned by The Crossings at Fox Run there is no issue with the property owner as to the access easement.

Discussion then moved to site plans that included abutting properties. Tom Morgan advised that he has accurate plans of the mall property. Normally these would be required. It was agreed that the board would formally waive the requirement for a full abutting site plan.

Chris Cross then brought up several questions in regards to the sidewalk standards. The site plans needed to include an updated sidewalk detail to match the town specifications. Additionally, Chris Cross questioned the location of the sidewalk tapering into the intersection in the north corner of the site plan. Chris Cross requested that the sidewalk be extended for pedestrian safety. The sidewalk was depicted as tapering to grade so there are no handicapped accessibility issues. Chris Cross then further noted that crosswalks were indicated in the plans and that two painted crosswalks would be appreciated.

Brett Mashchak remarked that there is curbing in the area and some of it is missing. They can fill in the missing curbing to make the sidewalks and curbing contiguous. Cement curbing will be replaced by granite curbing. **Representative from the Crossings at Fox Run** remarked that if the curbs are all in place it may affect the drainage and that will need to be looked into.

Tom Morgan inquired if the Conservation Commission had reviewed the plans and voted. Brett Mashchak advised that the plans would be going to the next meeting of the Conservation Commission.

The discussion then moved to refuse storage on the plan. Brett Mashchak advised that there would be one dumpster in an enclosure that would be emptied twice a week and one grease dumpster that would be emptied once a week. Both dumpsters would be shielded behind a large gate. Tom Morgan then noted that the Outback Steakhouse has a drain under their dumpsters. Brett Mashchak advised that a drain was not in their plans although many municipalities prefer that a drain in this area connect to the public sewer. Tom Morgan replied that that is not allowed in Newington.

Cosmos locovozzi then arrived at the meeting and opened a dialogue on drains in the dumpster area and the cleaning of these areas. Specifically would weatherproofing the area and providing a drain keep environmental runoff from entering the drainage system.

Any runoff under the current plans would sheet into the spillover area and would be handled through cleaning and natural mitigation. A weatherproof structure would need to be able to handle a snow load. Berms in the area would keep any grease in the immediate dumpster area, but Chris Cross pointed out that the dumpsters are sealed and the contents of the regular dumpster are mostly grease-free. Chris Cross expressed concern that a precedent could be set if a sewer connection was allowed.

There being no other discussion, the public hearing was closed at 7:36 p.m.

Chris Cross made a motion, seconded by Jack Pare to approve the subdivision as presented.

Discussion then continued with John Frink inquiring if there was any reason to provide an easement with the access road, will there be any case of future hardship. Tom Morgan answered that there shouldn't be and in the case of any future sale the attorneys will ensure that all the details are taken care of. Chris Cross pointed out that the subdivision plans provide for an easement for the roadway and not the sidewalk.

The access easement is new on this site plan. Unanimous vote to approve the plan when the following conditions are met:

1. Conservation Commission approves the landscaping plan
2. Meet all sidewalk specifications
3. Extend sidewalk to provide for additional pedestrian safety
4. Granite curbing
5. Any other requirements that the Conservation Commission may require.

Motion made by Chris Cross and seconded by Sandy Hislop to hold a public hearing on July 14th.

Legal council now being present. Motion made by Jack Pare and seconded by Chris Cross to go to executive session. Board stepped out to Executive Session at 7:45 p.m.

Planning Board returned to public session at 8:24 p.m.

A. Proposal by Tyco for a subdivision that would create five lots from two existing lots.

David Latullipe and Art Nicholas of Richmond Corp, Steve Bolduc of Norway Plains and Attorney Steven Tober presented two sets of plans. David Latullipe began the discussion stating that when the ICR was approved the four lots owned by Tyco became a subdivision of two lots; one 19.5 acre section fronting Woodbury Ave and one 59 acre section adjacent to the Tyco main facility. The subdivision was done, but not to the tax map level. There are now five lots of land:

- A1 - Lot closest to the intersection of Piscataqua Rd and Woodbury Ave.
- A2 - Lot with frontage on Woodbury Ave
- L-shaped - Lot fronting the ICR and continuing along the sewer easement
- Lot with running between Woodbury Ave and the ICR.
- Remaining lot was formerly two lots, includes landing with waterfront and Tyco main facility.

Tyco will be retaining all the land between the ICR and the Piscataqua River. Tyco is only interested in selling the land between the ICR and Woodbury Ave.

Chris Cross then asked on the main lot, is Tyco merging the DeRochemont house with the main factory? Tom Morgan replied that was not the case. Historically the DeRochemont house has been an accessory use to the cable factory.

Dennis Hebert then inquired if there is no intended uses for the L shaped lot, then why is there a need to determine that lot at this present time and are the plans moving ahead to quickly. David Latullipe replied that Tyco wants to sell the land and the lot line was determined by the sewer and wetlands. Dennis Hebert then questioned if the board should grant a subdivision if there is no known use for the land at the time of the request. Tom Morgan replied that there is no reason for the board not to grant the subdivision as residential subdivision do not need to state a usage for the land up front. Chris Cross concurred.

Tom Morgan then inquired on the setbacks to wetland and David Latullipe advised they would be 75 feet.

John Frink then inquired about the contour lines on the plans, which did not seem complete. David Latullipe advised that he only brought the first page. There are three pages showing all the contour lines for the property. Dennis Hebert noted a jog in the property line along Woodbury Ave. David Latullipe replied that the state owns the property in the cut out section, it may have been for a turning or merging lane.

David Latullipe will provide the remaining topographical maps at John Frink's request as well as the wetlands maps. Dennis Hebert and Tom Morgan then inquired on the drainage plans for the parking lots and Tom Morgan specifically inquired what storm event was the drainage designed for. Art Nicholas advised that it was designed for up to 25 a year.

John Frink then stated that there was enough information for a three-lot subdivision. David Latullipe will provide further information for the next meeting, however he does not have a detailed plan for the 59-acre portion on the other side of Shattuck Way. Jack Pare inquired if that would be on file. Sandy Hislop and Dennis Hebert stated that it has not changed and it is not needed.

Public hearing opened at 8:37 p.m.

Sandy Hislop stated a summary of the executive session. There are a few issues that the board will need to discuss next month in regards to the subdivision, but the ancillary use of restaurants in the office zone, are not an issue. Dennis Hebert added as a caution that each Planning Board member has a vote and will vote what they feel is the best choice for the town.

Public hearing closed at 8:40 p.m.

Dennis Hebert made a motion to continue the public hearing on this plan to the next month's meeting and to consult with legal council.

Sandy Hislop requested additional information on Lot C. David Latullipe was asked to provide four copies at least one week in advance, review parcel B, include information on the proposed buildings, and include the abutters on all sides of the property.

B. Proposal by Tyco for the construction of two restaurants at 2077-2101 Woodbury Ave.

David Latullipe of Richmond Corp continued with the plans for two restaurants. Updates to the Pizzeria Uno building included moving the building forward and the entrance placed closer to the handicapped parking area. The building was also raised two feet to allow for natural gravity slope drainage. The curb cut closest to the Woodbury Ave intersection could be an exit only. David Latullipe added that the plan met zoning requirements for setbacks, buffers and the number of parking spaces. In addition 50% of the trees in the plan would be existing to the site. The landscape plan will be presented to the Conservation Commission at their Thursday night meeting.

Dennis Hebert then stated he would like to discuss the curb cut closest to Woodbury Ave. Jack Pare inquired if there would be center curbing and Sandy Hislop noted that center curbing would make it difficult to plow. David Latullipe replied that the design was to have a raised curbing island. Dennis Hebert then noted that while the plan was for this curb cut to be an exit only, the public would probably be making illegal left turns to access the property. Dennis Hebert requested a larger detail of this curb cut on the next set of plans. David Latullipe stated that a Do Not Enter sign would be erected on the island. Chris Cross then stated that he liked the idea of a second entrance but suggest that the curb cut and island have a sharper angle to make it difficult for motorist to make the illegal left turn.

Dennis Hebert then stated the discussion should move on. **Isometrics** of the plan meet town requirements. Dennis Hebert inquired if the power lines would be underground. David Latullipe replied that was not in the plans and that the cost would be prohibitive. Dennis Hebert then stated that part of the plan for the area was underground electric and telecom and that he was looking for that in these plans. David Latullipe replied that right now they are not prepared to do that, it would be a major undertaking both legally and financially. Chris Cross asked if the utilities were the same as Tyco, and if there was an alternative location to service these lots. Dennis Hebert remarked that the power lines were relocated a few years ago when a man was electrocuted at Great Bay Services.

Chris Cross then inquired on what was proposed for pedestrian access. David Latullipe advised that they were evaluating where pedestrians would go from these restaurants and where the next sidewalk was located. Dennis Hebert replied that there should be a sidewalk to the abutting lot in the office area and that can be finished when that lot is developed. Tom Morgan stated that Tyco employees would walk to the Mall Food Court for meals. David Latullipe then suggested the sidewalk go to the Woodbury Ave intersection. Chris Cross then suggested that there was a curb on Shattuck Way. The town owns seventy feet of roadside along the Great Bay Services property. A crosswalk could be located at the upper entrance to the restaurant property and place a sidewalk on the opposite side of the road. Dennis Hebert stated that while he liked Chris Cross's idea, he would prefer the sidewalk remain on the same side of the road as the restaurants.

David Latullipe advised he had spoken with Fire Chief Roy Greenleaf who advised him that he would comment on the plans after site approval. Tom Morgan will contact the Fire Chief to solicit comments before the board votes on the site plan. David Latullipe will also provide plans with pictures of the buildings prior to site approval.

Public hearing was then opened. There being no comments from the public, the public hearing was closed.

Dennis Hebert stated his concern with the power lines and would like some further information on the financial difficulty of underground electricity. David Latullipe replied that their electrical engineer had looked into it before.

Motion made by Dennis Hebert and seconded by Sandy Hislop to hold a public hearing on July 14th.

D. Proposal by Joseph Mitchell to expand the Exxon store off Nimble Hill Rd.

Joseph Mitchell presented plans to add an exterior cooler off the rear the building. Access to the cooler would be from the interior of the existing cooler in the building. Dennis Hebert inquired if the Fire Chief needed to review the plan. Joseph Mitchell advised that the Fire Chief had seen the plan and had expressed no concerns with the expanded cooler.

Public hearing opened for discussion. There being no questions from the audience the public hearing was closed.

Motion made by Dennis Hebert to accept the plan as presented, seconded by Cosmos locovozzi. Site plan unanimously approved.

E. Proposal by Peter Drinkwater for a lot line adjustment off of Fabyan Point Road.

Peter Drinkwater presented plans requesting to move the lot line of the small lot currently occupied by the Navelski residence and removing the center lot. Both small lots, 47/7 and 47/9 are non-conforming lots. This lot line adjustment and removing of the center lot will allow the two remaining lot to be conforming.

Dennis Hebert stated that was in favor of approving this proposal, although he questioned if this proposal to make the lots conforming should be going before the Zoning Board of Adjustment. Tom Morgan advised that this was a good proposal and there was no need to go to the ZBA.

Public hearing was opened. Jill Newick and Alan Thomas, both abutters to the property were present. Jill Newick and Alan Thomas were individually in favor of the proposal. There being no further comments, the public hearing was closed.

Cosmos locovozzi made a motion to accept the lot line adjustment to create two lots from the current three lots. John Frink seconded the motion. Proposal passed unanimously.

5. Preliminary discussions

A. Test pit inspections procedures: report by the Building Inspector.

Delayed to later in the meeting.

B. Proposal by ConEd for parking realignment

Richard Staines from ConEd provided maps of the parking area in question. ConEd employees have been parking inside the plant. However due to the increased need for security and additional parking, ConEd has realized that they need to create a real

parking lot. They have cleared a section of land outside of their perimeter fence and would like to stripe it for employee parking. Access to this parking area would be from the Sea-3 tanker overflow area. There would be room for approximately 40 vehicles. Currently ConEd is paying nearly \$1,000/wk for a security guard to monitor parking and entrance to the facility. ConEd would be installing a security gate and would not have to continue to incur the costs of a security guard.

Dennis Hebert inquired what controls access to the tanker overflow parking area. Richard Staines replied that there are supposed to be gates at the end of the section. They would leave the gates open. Dennis Hebert then observed that if the gates would remain open, then why have gates at all. Richard Staines replied that he could place twenty jersey barricades there to keep other people from parking in that area and he would prefer to barricade the upper entrance. Dennis Hebert inquired if there was pavement in this area and Richard Staines advised that there was.

Discussion then ensued if a preliminary hearing had previously been held for a future parking lot. Dennis Hebert stated that a public hearing would need to be held. Tom Morgan concurred. Previous discussion had been in regards to storage trailers. This proposal is for a different intent. Jack Pare inquired if the next set of plans would include parking lot striping and Richard Staines replied that they would.

Public hearing to be held on July 14th.

C. Request by Sea-3 re: truck routes

Delayed until later in the meeting.

D. Request by Outback to serve alcoholic beverages on their porch

Amy Barron from the Outback Steakhouse spoke to the board in regards to the Outback Steakhouse's request to serve alcoholic beverages on their porch. Amy Barron advised that she had spoken with Assistant Fire Chief Dennis Cote and that all patrons on the porch would be monitored and proper ID would be checked prior to serving. Cosmos Iocovozzi advised that the Board of Selectmen had deferred any decision on this to the Planning Board in case there were any covenants on the property that they may be unaware of.

Jack Pare inquired if there would be appropriate signs posted and John Frink asked if this was an extension of the serving area. Amy Barron replied that signs would be posted and they did not feel it was an extension of their serving area.

Cosmos Iocovozzi said that the Selectmen needed the Boards okay before they could proceed. Chris Cross made a motion to state that the Planning Board has no objections to this request. There are no known covenant conditions to prohibit serving alcoholic beverages in an area limited by appropriate signs. Seconded by Dennis Hebert. Motion voted on and approved by Sandy Hislop, Chris Cross, Robert Simms, Jack Pare, Cosmos Iocovozzi and Dennis Hebert. John Frink opposed stating that this was an extension of their serving area.

Discussion then ensued on dumpster area of the Outback Steakhouse. A complaint had been lodged the previous week in regards to strong odors coming from the dumpsters. Selectman Iocovozzi had gone to investigate the complaint, as the Health officer was

unavailable. The day of the complaint the dumpsters had been emptied and powerwashed. Drains in the area drain to the lawn. Cosmos locovozzi inquired if the drain could be piped into a grease trap. Dennis Hebert stated that it currently drains into the grass. If it becomes a problem then the board should deal with it. Tom Morgan brought up that it is a problem now. Cosmos locovozzi stated that food related waste on the lawn is a health concern and against DES rules as it contains a mixture of soap and grease. The question now become how do we deal with it. Cosmos locovozzi stated he had two questions: 1. Should the board require the Outback Steakhouse to weathertight this area to permit sewer drainage or 2. Should the board wait for the neighbors to complain again. John Frink asked if it was illegal to drain to the storm drain system and Dennis Hebert replied that it was. Chris Cross expressed concern that if a procedure is made, will all of the restaurants in town be required to change as well. John Frink stated that this was a unique situation with a very close abutter. Charlie Smart, Building Inspector, was in the audience and advised that board that RSA 147 states that obnoxious odors are a health issue. Cosmos locovozzi stated that there needs to be a way to expedite this problem. Chris Cross observed that the Outback Steakhouse cleans the area frequently and they are doing the best that they can. Sandy Hislop inquired if the dumpster could be emptied at a different time. Amy Barron replied that they have done all that they could do to accommodate the Heart Health Institute and had changed a number of procedures to do this. Chris Cross noted that the property owner at Newington Park had put two different used together and that this is a landlord issue. The landlord should be resolving this, as it is a tenant issue. Cosmos locovozzi remarked that this is a health issue. Chris Cross replied that the building owner and landlord need to make a requirement for grease traps or whatever would resolve this problem. Building Inspector Charlie Smart observed that the Planning Board approved the location of the dumpster. Dennis Hebert replied that the owner had stated they would control the odor. Dennis Hebert further stated that the tenants and landlord should deal with this issue. Cosmos locovozzi remarked that it when a physician at the Heart Health Institute says it is a health hazard it is hard to dispute. Tom Morgan then asked Amy Barron if there was another location to put the dumpster and Amy Barron replied that this was the best location for it. The dumpster is cleaned daily, it is power washed and they have a frequent schedule empty it. The property owner installed a vent for the Heart Health Institute. Cosmos locovozzi noted that there is a history of other complaints in the past and previous problems with bad air quality in these buildings. Air and odors are trapped and don't dissipate.