

# Town of Newington, NH

## PLANNING BOARD

Meeting Minutes, Monday, June 17, 2019

- Call to Order:** Chair Denis Hebert called the June 17, 2019 meeting at 6:00 p.m., followed by the pledge of allegiance.
- Present:** Chair Denis Hebert; Vice-Chair Erika Mantz Board Members: Russ Cooke; Christopher Cross; Ben Johnson; and Peter Welch; Board of Selectmen's Representative, Mike Marconi; Town Planner, Gerald Coogan and Jane Kendall, Recorder
- Absent:** Alternate Board member, Rick Stern and Jim Weiner
- Public Guests:** Attorney Bernie Pelech; John Lorden, P.E. with Tighe and Bond; Samil Patel and Shailesh Patel with Doloma Investment of Portsmouth, Inc.; Aleisha Busconi, VP for KeyPoint Property Management for Crossings Mall; Steve Glowacki with RJ O'Connell Associates; Attorney Christopher Mulligan, Alex Ross, P.E. with Ross Engineering; Bill Marple; Mark Jacobs; Town Engineering consultant, Eric Weinrieb, P.E. with Altus Engineering

### I) Public Hearings:

A) Site Review for a 4-story, 83-room hotel proposed by **Doloma Investment of Portsmouth, Inc.** to be located at **141 Shattuck Way, Tax Map 20, Lot 4.**

Attorney Bernie Pelech, the applicant's legal counsel and John Lorden, P.E. with Tighe and Bond appeared before the Board. Mr. Lorden passed out a rendering of a revised hotel proposal for the lot.

Attorney Pelech said the hotel that they proposed two months earlier had been within the 100-foot wetland setback. He said beaver activity and precipitation had changed the wetlands, and the old driveway depression had become new wetlands. Attorney Pelech went on to say that Town wetlands consultant, Mark West had reviewed the wetlands flagging that Brandon Quigley with Gove Environmental had since updated, and he believed that they agreed on the wetlands delineations. Attorney

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Pelech pointed out that they had since moved the site away from the 100-foot setback of Paul's Brook on their new plan.

Attorney Pelech stated Doloma Investments of Portsmouth had changed their brand from Comfort Inn to Hilton Home2 Suites, with a focus on traveling business patrons, and had changed the hotel from 83 to 98 smaller rooms in a longer, more narrow building with no meeting room.

Attorney Pelech said that the building height would be under 45 feet, lower than their initial proposal, but the roof parapet and a four-foot glazed glass tower concealing mechanicals would bring the roof a little higher in the center.

Chair Hebert noted that the Board had reviewed another hotel proposal previously and stated that a condition of approval would be that there would be no long-term lodging beyond 30 days. Attorney Pelech stated that he would obtain a terms sheet regarding length of stay.

Chair Hebert asked how they proposed to meet the parking requirements for more rooms, and if they thought this proposal would have more or less impact than the previous proposal. Mr. Lorden replied that the Hilton Home2 Suites called for 108 rooms, but they were willing to go with less for a narrower, longer building with more parking that would have a similar amount of impact as the previous proposal.

Attorney Pelech stated that the access would be from Shattuck Way, with frontage on Woodbury Avenue, and although they shifted the building away from the wetlands, they were now encroaching the 75-foot setback from Woodbury Avenue. Attorney Pelech said the building itself was not within the setback, but the setbacks for the curbing, pavement, transformer and drainage would require variances. He added that they were told they wouldn't need a Conditional Use Permit (CUP), but they might still need a variance for encroachment in 100-foot wetlands buffer. Attorney Pelech said would need a letter of denial from Mr. Coogan stating that a variance was required.

Town Planner, Gerald Coogan noted they might still need a CUP for access through wetlands.

Board member, Russ Cooke asked how far the building site was from Woodbury Avenue, and Mr. Lorden replied that it would be 42 feet from the edge of the pavement and 25 feet from the property line.

Mr. Coogan also read a letter from Mr. West recommending that the applicant provide an evaluation of the wetland functions, and to show an analysis that the new proposal was an improvement. Attorney Pelech replied that Gove Environmental could provide that report, and that they would also go before the Conservation Commission for recommendations on their wetlands permits, and landscaping plans.

Town engineering consultant, Eric Weinrieb, P.E. with Altus Engineering noted that structures in buffers required variances, and storm water management device placement would be required.

Mr. Cooke asked if there would be more runoff to the wetlands. Attorney Pelech added that the Ordinance did not allow them to increase the amount or rate of flow from

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a development, so they had to mitigate any impacts. Mr. Lorden replied that they would need to meet the Town drainage requirements, and stricter State stormwater management requirements.

Chair Hebert stated that the Board had received a letter requesting that they waive deciding on the approval within 65 days. Chair Hebert recommended that they consider denying the application without prejudice, and starting a new application without charging a new application fee for the new proposal because working on the wetlands issues might take more time. Chair Hebert suggested that this discussion be for informational purposes only.

Board member, Chris Cross said other applicants had received recommendations from the Department of Environmental Services (DES), and wondered if the applicant could mitigate some of the wetlands encroachment by consolidating some of the wetlands to make the site more attractive for hotel guests. Hebert added that he had observed nicely manicured surrounding wetlands at other hotels instead of marsh and thickets.

Mr. Cross commented that Paul's Brook had a deep ravine with fish, so he thought it could be protected with enhanced ponding elsewhere for runoff. Mr. Lorden replied that they would need to address runoff anyhow. Attorney Pelech noted that they would need dredge and fill wetland permits. Chair Hebert replied that there was no way to know yet if Mr. Cross' and his suggestions would work, but the Planning Board was willing to work them.

Board member, Peter Welch commented that he thought mitigation improvements were a good idea. Mr. Lorden responded that the purpose of DES was to review wetlands and make recommendations. Board member, Ben Johnson noted that a lot of the wetlands also came from offsite drainage.

Mr. Lorden stated that they would talk with DES before going to the Newington Conservation Commission on Thursday, July 11, 2019.

*Chris Cross moved to deny the proposal for a 4-story, 83-room hotel proposed by Doloma Investment of Portsmouth, Inc. to be located at 141 Shattuck Way, Tax Map 20, Lot 4 without prejudice and accept a new application for another hotel without fees. Peter Welch seconded the motion and all in favor with Chair Hebert also voting.*

B) Site Review for an **Aldi's Market** presented by KeyPoint Partners property managers of the Crossings to be located at **45 Gosling Road, Tax Map 34, Lot 3.**

Mr. Coogan passed out a new site plan to the Board that he had received from the applicant earlier in the day.

Mr. Coogan stated that there had been questions regarding accessory buildings and subdivisions, so he did some research of the Crossings since 1970, and beyond, and discovered that the Planning Board had created plan created the Zoning Ordinance

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amendment for one primary building on one lot in 1997, but the buildings at the Crossings Mall were a pre-existing condition. Mr. Coogan said he also consulted with Town counsel, and Attorney John Ratigan regarding the plan that showed separate parcels, but the note above the surveyor's signature said that the plan did not create lawful subdivided lots despite lot lines shown on the plan.

Mr. Coogan said that the Bugaboo Creek and Longhorn restaurant buildings were on separate parcels for tax assessment only. Chair Hebert replied that the owner of the lot should pay taxes, but somehow the Town started taxing based on property leases.

Mr. Weinrieb responded that he believed the leases were set up through RSA's as a mechanism to tax the building owners because the Crossings didn't own the buildings. Aleisha Busconi, VP with KeyPoint Partners, property managers for Crossing Mall responded that SBF, Inc. owners of the Crossing Mall owned the entire parcel and received the property tax bill. She said individual building taxes went to certain tenants.

Mr. Cross commented that he didn't think the Planning Board needed to get involved with taxes, but the sentiment for one principle building went back to the creation of the malls even though the ordinance didn't go on the books until 1997. Mr. Cross said the Board always looked at each proposal and considered whether the buildings were appropriate, and there was no guarantee that would be approved.

Steve Glowacki with RJ Donnelly Associates said they had considered Mr. Weinrieb's comments and provided changes. Mr. Weinrieb stated that he had only received a revised plan, along with a lighting plan and stormwater management via FedEx earlier in the day so he hadn't prepared a full report.

Ms. Busconi stated that they received a letter from the City of Portsmouth Water Department confirming their line installation approval, as well as a letter from Denis Messier, manager of Newington Waste Water that the sewer line had been reviewed.

Ms. Busconi stated that they checked with the police chief and he had no issues either.

Mr. Glowacki stated that they followed-up with the fire department as there was a 12-inch water line to the site, and a 6-inch line to the fire. Chair Hebert asked Mr. Weinrieb why there was a 12-inch line, and Mr. Weinrieb said it was probably for better flow for fire suppression.

Mr. Weinrieb noted that the proposed telephone connection between iHop and Woodbury Avenue was on National Battery and Tire's property, so they would need a document of permission for connection.

Discussion ensued regarding handicapped parking. Mr. Glowacki stated that there was an ADA mandate to have handicapped parking closest to the entrance, and that signage could be mounted on bollard posts to prevent accidental driving into the building.

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Mr. Weinrieb said he was concerned with the proposal for handicapped parking to back into the travel way, and that he would prefer that they move the handicapped spaces closer to cart storage rather than have them back out into the travel lane, and

Mr. Cross pointed out that it would not be possible to back out of two end parking spots, and that three parking spots would back into the access area. He suggested that they consider that area for handicapped only to eliminate backing into the travel lane and cut down congestion in the front so that it could remain a fire lane.

Mr. Weinrieb agreed that no one could maneuver the first space easily, and that removing it would improve site distance. Mr. Weinrieb stated that he was also troubled that they were proposing 2,600 parking spaces on the site when only 2068 were required, and suggested that there were opportunities for more green space with the elimination of 30-36 spaces and increased radius for trucks to improve traffic flow, and make the site safer for patrons and pedestrians.

Chair Hebert commented that he would also like to see larger parking spaces than the Ordinance required. Mr. Weinrieb noted that parking spaces in front of iHop would not need to be as large as Aldi's where patrons would unload shopping carts.

Mr. Weinrieb commented that the iHop pedestrian access was isolated and suggested adding a green island to improve access, but Chair Hebert pointed out that the fire chief said he didn't want a bump there.

Ms. Busconi responded that the Crossings appreciated an interest in green space, but they also needed to weigh parking for peak times, as well as snow removal and storage. Mr. Cross agreed.

Discussion ensued regarding safety in and out of the site for emergency vehicles and traffic. Mr. Glowacki presented a sketch with a sharper angle for improved visibility exiting the site.

Mr. Weinrieb stated that it was critical that there be a plan and signage showing how that the building inspector and the fire department would get in and out to iHop day to day during the demolition phase. Mr. Glowacki replied that there would be temporary access for iHop during construction. Ms. Busconi said they projected that there would be six to eight weeks of sitework, with three to four weeks of work in the iHop area, before they paved around the Aldi pad. Mr. Weinrieb responded that this would be an opportunity to remove encroachment of parking on abutting lots.

Mr. Weinrieb noted that the right turning radius from Woodbury Avenue created a blockage for traffic traveling straight through to the mall. Ms. Busconi stated that most of traffic came from the Gosling Road side. Mr. Cross responded that the two lanes turning in and out at Gosling Road caused a lot of cutoffs, so he wondered about another 4-way entrance from Woodbury Avenue, or a speed bump to slow traffic entering.

Mr. Glowacki stated that there would be grading pushed behind the building to eliminate a retaining wall and prevent a valley that would be detrimental for fire department travel.

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Chair Hebert asked if would be landscaping. Mr. Glowacki said there would be, and they would still leave an underdrain to prevent hydrostatic pressure against the building.

Mr. Busconi said they would obtain an Alteration of Terrain Permit (AoT) that would include PetSmart and Eversource.

Mr. Glowacki said there was pre-existing condition with iHop closer to wetlands, so they were retaining the pavement line. Mr. Glowacki said the fire chief was concerned with obstructing their outriggers, so they would also eliminate the pedestrian connector from the plan.

Discussion ensued regarding pedestrian crosswalks and sidewalks. Mr. Glowacki said they were asked to provide a link to the Woodbury Avenue sidewalk, but they were within the 25-foot wetlands buffer setback. Mr. Cross said the Board would consider the connection desirable and would support approval.

Mr. Weinrieb pointed out that there was an existing hydrant in the middle of newly proposed sidewalk going around iHop. Mr. Glowacki responded that they could probably widen the sidewalk to get clearance.

Angling the crosswalk to Barnes and Noble was discussed, and Mr. Glowacki said he thought there was an issue with the down grade.

Discussion continued regarding access and traffic flow. Mr. Glowacki said liked back feeding, but people tend to return to front of building when looking for parking

Mr. Cross said he liked the sidewalk from Woodbury Avenue in front of Aldi's, but was concerned with traffic turning to go to the back of the cinema. He asked if they would consider creating a 5-foot sidewalk with sloped granite curbing for drainage as an improvement to the pavement that currently drops down to wetlands. Mr. Glowacki said he was not sure because the wetland buffers went right up to the property edge in some areas).

Mr. Weinrieb said he noticed that the wetland was not contiguous on that side and there was a gravel path up to National Tire Warehouse that looked as if it had been filled because there was a natural grade change, so he also wondered if that access could be improved. Mr. Glowacki replied they were also a concern with security issue for walkers because it was surrounded by trees. Chair Hebert commented that people would cut through anyhow. Mr. Weinrieb agreed that was a good reason to formalize the path. Ms. Busconi agreed, adding that there was a collection of non-shoppers hanging out in the area, and the police chief said he would prefer people move through open sidewalks rather than secluded areas in back because it was difficult to monitor. Ms. Busconi said there was a collection of non-shoppers in this area and concern for police, so safety of patrons was important to safety.

Chair Hebert said he thought additional developments would eventually occur on the other side of the Fox Run Mall, so it would be good to plan connectivity between two malls.

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Ms. Busconi asked if the Board wanted them to attend a formal Technical Review Committee (TRC) meeting since they already received response from fire, sewer and water. Chair Hebert said he did, and the meeting would be held on Thursday, June 27, 2019 at 2 p.m.

Chair Hebert continued the public hearing to Monday, July 8, 2019.

C) Proposal by Bill Marple for parking lot, drainage and site improvements at property located at **117 Gosling Road, Tax Map 28, Lot 2**

Attorney Christopher Mulligan returned with the applicant, Bill Marple, and his engineer, Alex Ross, P.E. with Ross Engineering. Attorney Mulligan said the building received site approval in the 1980's, and they were before the Board in February 2019, then went before the Zoning Board of Adjustment (ZBA) in April 2019 for a variance to allow an expansion of the parking lot, and a retaining wall within the setbacks. Attorney Mulligan said a condition of approval was that the Town's easement to the Newington Wastewater Treatment Plant not be adversely impacted.

Attorney Mulligan stated that the Marple family granted the easement to benefit the Town for access to the Newington Wastewater Treatment Plant (WWTP) prior to the 1980's, but the agreement with responsibility and maintenance was never signed or recorded at Rockingham Registry of Deeds for some reason, and maintenance was never adhered. Attorney Mulligan said he drafted a new agreement clarifying rights and responsibility for Town counsel to review.

Chair Hebert said they needed to be clear that the variance was only for the wall and not for building out.

Chair Hebert said he thought there was a sewer line along easement also, and wanted to be sure that clarification on that as well. Attorney Mulligan said he thought that would be on a separate easement agreement.

Attorney Mulligan said the existing right-of-way was in bad shape, and Denis Messier, manager of the plant was in favor of the agreement because it would help with their access. Mr. Cross commented that he thought the Newington Sewer Commission should have been involved in the conversation.

Mr. Cross asked if the agreement included access rights for the KeyAuto Dealership as well, and Attorney Mulligan replied that he didn't believe so.

Attorney Mulligan said the applicant had already begun improvements by painting the façade and replacing the roof.

Alex Ross with Ross Engineering passed out survey and engineering plans for parking and drainage. Mr. Ross said the plan involved lowering the grade and installing a new retaining wall on the west side to increase parking spaces.

Mr. Ross said they would install an underground storm tech drainage in the front, and replace a large area of pavement in the back with pervious pavement to add protection to wetlands.

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Chair Hebert commented that pervious pavement broke down faster than regular pavement from regular use and plowing over time, so they would need to address maintenance.

Mr. Cross expressed concern for the safety of patrons parking in the back and walking in the roadway to get to the front of the building. Mr. Ross replied that the parking in the back was for employee parking. Mr. Cross said he thought it would be better for people to walk along the side of the building.

Mr. Cross said he was also concerned that parking would occur on top of the storm tech units with no continuation of granite curbing on Gosling Road like other parcels.

Mr. Cross asked about drainage treatment from flow on westside. Mr. Ross said would be installing a swale to provide some protection.

Chair Hebert said notice some drainage that seemed to bypass the retaining area in front. Mr. Ross said there were catch basins for the parking lot, but roof runoff was clean, so it was not necessary if flowed to the wetlands.

Chair Hebert asked how parking lot runoff goes to catch basins, and Mr. Ross said water hit the vertical granite curb. Mr. Weinrieb said would review. Chair Hebert said they would also need a maintenance plan for drainage tech.

Mr. Cross asked about coverage over sewer line with the reduced grade. Mr. Ross said there was no public sewer line in the stretch by the retaining wall, and there would be a pump along the easement?). Mr. Weinrieb noted that the public sewer started behind the Children's Orchard and then went to the WWTP.

Chair Hebert asked about parking lot lighting and if they were using LED lighting. Mr. Ross said they were, and it was included in the plan set. Chair Hebert warned that WalPaks could create a lot of light pollution.

Discussion ensued regarding snow storage, and dumpster locations. Chair Hebert noted that owners usually required each tenant to have their own dumpsters, but they could be in the same location. Mr. Marple said he would review the possibility.

Chair Hebert asked that they provide an emergency vehicle traffic flow plan.

*Chris Cross moved to accept the proposal by Bill Marple for parking lot, drainage and site improvements at property located at 117 Gosling Road, Tax Map 28, Lot 2 as substantially complete. Peter Welch seconded, and all were in favor.*

Mr. Coogan informed the applicant that the next TRC meeting was scheduled for Thursday, June 27, 2019 at 3 p.m. Chair Hebert asked Mr. Ross to provide plans to Mr. Weinrieb a week prior to the meeting.

Chair Hebert continued the public hearing to Monday, July 8, 2019.



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### II) Other Business:

Chair Hebert said the Board of Selectmen had sent the Planning Board a letter regarding properties with neglected buildings and abandoned vehicles. Chair Hebert said the Board of Selectmen had established an Ordinance on neglected buildings and abandoned vehicles years ago, and had recently sent the Planning Board a letter on the subject. Chair Hebert said that there were safety concerns with falling down barns, and there were agencies that were willing to pick up older vehicles. He suggested that code enforcement make a soft phone call first, followed by a letter giving them time to clean things up, noting that

Chair Hebert said the Town was also planning on removing the fire practice tower at the transfer station.

#### A) Master Plan Update

Mr. Coogan announced that the next Master Plan meeting would be held on Thursday, July 11, 2019, with the time to be announced

### III) Additional Discussions:

Chair Hebert stated that Board of Selectmen's representative, Mike Marconi had questioned the practice of one alternate Board member nominating another Board member, and said that the Board needed to be more cognizant in the future.

Mr. Marconi said that the Board of Selectmen had made a motion recently to add trees in front of the cemetery and Town Hall, to mitigate the impact of Eversource's tree cutting through town.

**Minutes:** *Chris Cross moved to approve the Master Plan Minutes for the June 3, 2019 and June 13, 2019 meeting with corrections as noted. Erika Mantz seconded, and all were in favor with Mike Marconi abstaining.*

**Adjournment:** *Peter Welch moved to adjourn the meeting. Russ Cooke seconded the motion and the meeting adjourned at 8:49 p.m.*

**Next Meeting:** Monday, July 8, 2019 at 6:00 p.m.

**Respectfully**

**Submitted by:** Jane K. Kendall, Recording Secretary

*These Minutes were approved and adopted at the July 8, 2019 Planning Board Meeting.*