

**SOMERSWORTH PLANNING BOARD
MINUTES OF MEETING
NOVEMBER 16, 2011**

MEMBERS PRESENT: William Sweeney, Chairman, Dave Witham, City Council Representative, Bob Belmore, City Manager, Ron LeHoullier, Erwin Grant, Paul Robidas and Paul Maskwa, Alternate.

MEMBERS ABSENT: Anthony Delyani, Vice Chairman, Dan Proulx and Matthew Durkee.

STAFF PRESENT: Dave Sharples, City Planner and Tracy Gora, Planning Secretary.

The meeting was called to order at 6:30 p.m.

1) APPROVAL OF MINUTES.

Motion: LeHoullier moved to accept the minutes of the meeting of October 19, 2011.

Seconded by Grant. Motion carried with a 5-0-2 vote with Robidas and Maskwa abstained.

2) COMMITTEE REPORTS

A) ZBA Report

See attached.

B) City Council Report

See agenda item 6-Communication and Miscellaneous.

C) Site Review Technical Committee Report

Sharples stated that there was no meeting held.

D) Minor Field Modification Report

Sharples referred to the attached report and stated that a modification request for Contitech Thermopol, LLC was approved to construct three concrete pads for utility units. Stated that there was a condition of the approval that noise regulations shall be met.

E) Strafford Regional Planning Commission Update

None.

F) Vision 2020 Report

None.

3) OLD BUSINESS

A) Label Tech, Inc. is seeking site plan approval and a conditional use permit to construct a new building with associated site improvements on property located at 24 Interstate Drive, in the Industrial (I) District, Assessor's Map 58, Lot 6H, SITE #02-2011 and CUP #01-2011.

Sharpley reviewed his memo (see attached) and stated that the application is for site plan approval and a conditional use permit to expand the existing label facility. Stated that the property is at the end of Interstate Drive and that there are two curb cuts. Stated that the applicant went before the SRTC and has addressed all of the comments. Stated that CLD Engineers and staff have finished their review and that all comments have been addressed. Stated that the applicant is requesting three waivers from the Site Plan Regulations. Stated that they are requesting a waiver from the landscaping requirements and that the property is well manicured already. Stated that they are requesting a waiver from the appearance standards and that the building will not be visible from any right of way. Stated that the use of the building is exclusively for commercial/industrial uses so there is no issue. Stated that they are requesting a waiver from the traffic analysis requirement, which the SRTC had no objection to since it is unlikely that off-site improvements will be needed. Stated that the applicant is also requesting a conditional use permit for the portion of the development in the wetland buffer. Stated that the applicant went before the Conservation Commission and a site walk was conducted. Stated that they are requesting a waiver from the tree point system, which is in the Zoning Ordinance but can be approved by the Planning Board if it is found that the one criteria is met. Stated that the Conservation Commission reviewed the application and recommended approval with the condition that an Alteration of Terrain permit is received before a building permit is issued. Stated that the applicant is eager to start the project. Stated that there was a fire protection issue, which has been agreed upon that in lieu of bringing a water line down, there will be a 20-foot easement over the property for potential future expansion of the line. Passed out suggested conditions of approval.

Geoff Aleva with Civil Consultants represented the applicant and addressed the Board. Stated that the proposal is for an addition to an existing thriving business so that operations can become more streamlined. Stated that they would like deliveries to enter on one side and exit the site farther down. Stated that there are two driveways on Interstate Drive and two fire hydrants. Stated that it will be a steel building with two loading docks. Stated that there will be a paved area for trucks to turn around. Stated that there will be some additional parking. Stated that there is good drainage. Stated that an Alteration of Terrain permit has been submitted to the NHDES and that they just got review comments back.

Public hearing opened 6:43 pm.

Pat Brady, business owner, addressed the Board. Stated that his business has been there for 20 years and that this is a win-win situation for Somersworth. Stated that they are trying to expand their manufacturing. Stated that it will create additional tax revenue and jobs for the City.

Public hearing closed 6:44 pm.

Sweeney stated that the water line was mentioned and asked that if needed, a line can be put in.

Sharpley read suggested condition of approval number five and stated that it is for a potential future water line to loop the system. Stated that loop systems are good and that this would be a big leg in the loop. Stated that there is one other lot that they would need an easement from.

Sweeney asked what kind of costs are associated with installing a water line and who picks up that cost.

Sharpley stated that it would be determined on an as needed basis. Stated that there are different options but that the biggest thing is to secure the easement for the future potential.

Sweeney asked if the applicant is agreeable to that.

Aleva replied yes.

Sweeney asked how many additional employees there will be.

Aleva stated that they are not sure but that it will be five to six employees. Stated that they have existing parking that isn't always full.

LeHoullier asked, regarding the waiver requests, if this would be considered new construction.

Sharples stated that a traffic impact analysis is generally triggered for an expansion but that they can take into account what is there. Stated that the SRTC reviewed all three waiver requests and didn't object to them.

Witham stated that this project seems pretty straightforward. Stated that regarding the landscaping, this property is hard to see and has mature trees and existing landscaping. Stated that regarding appearance standards, this Board pays attention to the appearance of a building but are willing to work with an applicant. Stated that this seems to make sense. Stated that the traffic is minimal and that there won't be much additional traffic. Stated that these types of businesses don't typically generate traffic. Asked the Planning for direction on the tree point system waiver.

Sharples stated that the Board can waive this requirement if they feel it meets the one criteria. Explained the tree point systems requirement from the Zoning Ordinance and stated that the Conservation Commission didn't expect it to be used much.

Aleva stated that the regulation came from the NHDES with respect to shoreland protection. Stated that it is for control of what people can cut.

Witham stated that the area seems to be far from a large body of water and that there is room.

Aleva stated that is mostly for the area around lakes and ponds with direct flow into a water body.

Sharples stated that the existing buffer is in fine condition now.

Belmore mentioned that the notes on the plans talk about an escrow account in an amount agreeable to the City Engineer.

Aleva stated that he can take out the word engineer and just put City.

Landscaping waiver motion: Witham moved that the request of Label Tech, Inc. for a waiver from Section 11.6.e of the Site Plan Regulations be **APPROVED**.

Seconded by Robidas. Motion carried with a 7-0 vote.

Architectural Elevations waiver motion: Robidas moved that the request of Label Tech, Inc. for a waiver from Section 13.7 of the Site Plan Regulations be **APPROVED**.

Seconded by Maskwa. Motion carried with a 7-0 vote.

Traffic waiver motion: Maskwa moved that the request of Label Tech, Inc. for a waiver from Section 11.4.d of the Site Plan Regulations be **APPROVED**.

Seconded by Witham. Motion carried with a 7-0 vote.

Tree Point Analysis waiver motion: Witham moved that the request of Label Tech, Inc. for a waiver from Section 13.6.C.3.e of the Zoning Ordinance be **APPROVED**.

Seconded by Robidas. Motion carried with a 7-0 vote.

Conditional Use Permit motion: Robidas moved that the request of Label Tech, Inc. for a conditional use permit be **APPROVED**.

Seconded by Maskwa. Motion carried with a 7-0 vote.

Site Plan motion: LeHoullier moved that the request of Label Tech, Inc. for site plan approval to construct a new building with associated site improvements be **APPROVED WITH THE FOLLOWING CONDITIONS:**

1. An escrow account, in an amount agreeable to the City, will be established for site and building construction inspections prior to any site work;
2. A pre-construction meeting with the City is initiated and scheduled by the applicant and held prior to any site work;
3. An electronic As-Built Plan of the entire property with details acceptable to the City shall be provided prior to the issuance of a Certificate of Occupancy (C/O). This Certification must be in a dwg or dxf file format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates;
4. A copy of the completed Maintenance Log and Inspection & Maintenance Checklist on pages 5 and 6 of the Stormwater Management Plan shall be provided to the City annually on or before January 1st. This requirement shall be an ongoing condition of approval and noted on the final plans;
5. The final plans shall show a twenty (20) foot utility easement in favor of the City of Somersworth along the entire length of the eastern property line. The intent of this easement is for a potential future water line to connect the water line on Interstate Drive to the water line on Gator Rock Road to loop the system. The easement shall be reviewed and approved by the City and recorded at the Strafford Registry of Deeds at the applicant's expense; and,
6. Replace "City Engineer" with "City" on the plans wherever it occurs

Seconded by Robidas. Motion carried with a 7-0 vote.

B) Any other old business that may come before the Board.

LeHoullier asked for an update to the South Street Car Wash code concerns.

Sharples stated that he passed on the concerns to the Code Enforcement Officer but that he doesn't have an update. Stated that Assistant Code Officer Kenyon talked with the owner about cleaning it up.

4) **NEW BUSINESS**

A) Proposed Zoning Ordinance amendment to Table 5.A.1 regarding the temporary placement of handicap ramps and similar structures within the required minimum setbacks.

Sharples stated that he was requested to draft a proposed amendment to the Zoning Ordinance to allow the placement of handicap ramps or similar structures on residential building without having to meet setbacks. Stated that he recommends a note be placed in Table 5.A.1 and read the suggested language. Stated that there would be a note that it would be an exempt activity in the Historic District as long as it doesn't involve the modification or removal of any existing

structure. Stated that this has come up twice lately. Stated that it can be time consuming to go through the variance process and it isn't always fair under certain circumstances.

LeHoullier asked what would determine how long the structure is there. Stated that someone could have an ailment for a long time.

Sharples stated that the language of the regulation indicates that it shall be temporary and when the person it was built for no longer needs it, it shall be removed. Stated that if it is needed for a long time, then the structure could stay. Stated that it would still be considered a temporary structure and could stay up for as long as the use is needed.

Witham stated that there are people that have a serious injury that limits mobility. Stated that it would be for a temporary use and that by the time they went through the variance process the injury may be gone and a moot point. Stated that a drawn out process doesn't support the goal and that a streamlined process makes it easier. Stated that he feels this makes a ton of sense and that the supports moving it forward.

Robidas stated that he agrees with Witham but asked who is going to police it and make sure the structure gets removed.

Sweeney asked who would police it even if it went through the existing process.

Robidas asked about the safety of the structure and asked if Code Enforcement would check it.

Sharples replied yes and stated that it would still need a building permit and inspection would be required.

Robidas stated that he thinks it is the right thing to do but that he wants to see the process tightened up. Stated that they may be necessary but not always pretty to look at.

Sharples stated that that can be one of the advantages because it can be enforced. Stated that variances run with the land but this proposal would make it temporary.

LeHoullier asked if there is anything in the approval process that indicates it must be removed when no longer needed.

Sharples stated that it would say that in the Zoning Ordinance.

Sweeney suggested having a note put on the permit.

Maskwa asked if there could be a regulation that it has to be maintained and kept safe.

Sharples stated that that is already part of the Property Maintenance Code. Stated that regardless of the structure type, that is already covered.

Belmore asked why it is temporary but built like a permanent structure.

Sharples stated that it shall be removed.

Belmore asked why it has to be removed.

LeHoullier stated that a new owner could make the case that it is still needed.

Belmore stated that it is not how it is written. Stated that he is concerned with the policing of it. Stated that not everyone lives in harmony and that this gives an open door to people with no parameters. Stated that he is concerned with policing and giving approval carte blanche.

Witham stated that he thinks these are all valid points. Stated that if he needed to put a ramp on his house all he would need is a building permit and that this wouldn't apply to him. Stated that if his property was in the Historic District then he would need to go before the HDC and it would need to be constructed with detail. Stated that this proposal tried to exempt that. Stated that there are also commercially constructed structures like this so there are different things to consider. Stated that this is trying to eliminate an administrative hurdle for people who need to use these. Asked if there could be a tool similar to how the Sign Committee works.

Sweeney suggested a waiting period for notification of abutters.

Robidas asked if that just starts the whole process anyway. Stated that they are looking to eliminate the process. Stated that he thinks they are over thinking this. Stated that he feels that the structure needs to be checked for safety.

Belmore stated that he would like this proposal reworked before sending it for a public hearing. Stated that he would like to check with other local communities.

Sharples stated that he took this language from other communities.

Witham stated that he would like to kick this back to City staff to be reworked.

General agreement from the Board.

Belmore suggested check with the State.

Sharples stated that that was his first call.

Grant stated that it looks like Sharples has done his homework and asked if the Board is making someone way.

Sharples replied not that he knows of.

Witham stated that there was a request recently from someone in the Historic District and someone in his ward. Stated that he is concerned that there is an arduous process during a tough time in people's lives.

Belmore asked if there is something in the Historic District regulations for an administrative approval.

Sharples replied yes but that it is for very specific projects. Suggested having an administrative review for the ramp instead of sending it to the Zoning Board. Stated that he will work on the proposal.

B) Any other new business that may come before the Board.

None.

5) WORKSHOP BUSINESS

A) Low Impact Development (LID) Stormwater ordinance review and discussion.

Sharples stated that the Board discussed a draft regulation at the last meeting and recommended changes. Stated that the engineer Brad Mezquita, who has been working on the regulations, is here to talk about proposed changes.

Brad Mezquita with Appledore Engineering addressed the Board and stated that they are on their third or fourth draft and that he has incorporated changes from the last meeting. Stated that the applicability section of the proposed regulations was removed because the Board wanted to make them part of the Site Plan Regulations rather than a stand-alone regulation. Stated that these regulations are not too far off from what the State has for Alteration of Terrain Regulations, but has a lower threshold. Stated that they are trying to stay synonymous with the State regulations. Stated that he thinks they are at the finish line unless the Board has more changes.

Witham stated that the Willand Pond watershed is referenced on page four of the proposed regulations and that the Board discussed other water bodies in the City. Asked the Planner to describe what a watershed is.

Sharples stated that the Willand Pond watershed is the area around the pond where when a drop of rain falls, it would end up going to Willand Pond. Stated that a watershed is defined by the water body it ends up in.

Witham asked if a brook or stream would have a watershed.

Sharples replied yes and stated that the watershed would be the area where everything flows into that particular brook or stream.

Witham asked why the proposed regulations focus on Willand Pond.

Sharples stated that Willand Pond has a known impairment. Stated that there has been a bacteria bloom and that there is high phosphorous. Stated that it is a known concern.

Witham asked if the regulations could be amended if in the future another water body, like Lily Pond, gets a known issue.

Sharples stated that he doesn't think there will be an issue but that it could be added. Stated that phosphorus comes from a lot of different sources and that it is a naturally occurring element.

Sweeney asked if it comes from typical pollutants like roads.

Mezquita stated that some can come from roads but that it comes in many different forms.

Sweeney stated that phosphorous could happen anywhere.

Maskwa asked if the highly fertilized golf course next to Lily Pond has been looked at.

Sharples stated that he think that the golf course is in the Lily Pond watershed and that the golf course has best management practices anyway.

Sweeney asked about subsurface flow into Lily Pond from the golf course.

Sharples stated that he is more comfortable with commercial applications of fertilizer because they are professionals.

Belmore asked for clarification on where the proposed regulations are going to be found.

Sharples stated that they will be in the stormwater section of the Site Plan and Subdivision Regulations.

Belmore asked for clarification on the section that gives the City Planner authority for administrative relief.

Sharples stated that he is not sure where that section came from.

Mezquita stated that it came about at the workshop meeting.

Sharples stated that that section can be removed.

Robidas stated that if that section was in there, everyone would ask for relief.

Sharples stated that the section gives the City Planner waiver authority and that it can be taken out.

Mezquita stated that he hasn't seen a lot of waivers being asked for. Stated that the proposed regulations mimic the State regulations. Stated that you may only see waivers with a really small project. Stated that these regulations will be used when site plan review is required but is not big enough to trigger the State regulations to kick in.

Witham stated that he thinks that the Board has a mechanism that works and that they should use the waiver process.

Sweeney stated that they will strike that section from the proposed regulations.

Belmore asked for clarification on off-site disposal talked about on page two.

Sharples stated that, for example, if someone wants to build downtown and dispose into the City's drainage system but the system is inadequate, then it would be like an off-site improvement. Stated that the applicant would need to pay for upgrades if the system is inadequate for what they want to do.

Belmore asked if that would be flushed out during the site plan review process and doesn't understand why it is in these proposed regulations.

Sharples stated that it offers clarity, similar to having conditions of approval for things that are already in the regulations.

Belmore stated that he doesn't like the wording.

Witham suggested just referring to the City instead of a particular person or department.

Belmore read from page five of the proposed regulations regarding third party review of annual reports. Mentioned concern with having another review of the report.

Sharples stated that the City has been getting annual reports that have been inadequate and unsure if the maintenance was actually done.

Belmore stated that he doesn't like the language.

Mezquita stated that they had a big discussion on this. Stated that they didn't want to handcuff anyone because it may not always be needed. Stated that some projects are more in depth. Stated that the Board wanted a mechanism.

Witham talked about who is filling out the report. Stated that some property owners are diligent and some are not. Stated that they just wanted a mechanism to check on it.

Sharples stated that he does want to rework the section at the top of page two to make it clearer.

Robidas stated that they can supply a clean copy for the next meeting.

B) Any workshop business that may come before the Board.

None.

6) COMMUNICATION AND MISCELLANEOUS

Sharples read the letter from the Planning Board to the City Council outlining the CIP meeting from the night before (see attached).

Witham mentioned that the TE grant has reached a phase to move forward.

Sharples stated that the City received a municipal agreement from the NHDOT and that there is a resolution currently before the City Council to execute the documents. Stated that there would need to then be a scope meeting with the NHDOT and then get a notice to proceed. After the notice to proceed, the City is good to start the project and can be reimbursed. Stated that this would all happen in early winter and send out a request for qualifications. Stated that it will all be a public process. Stated that project design will be over the summer. Stated that the City will want to match up this project with potential High Street improvements. Stated that they are looking to be shovel ready in two summers.

Witham stated that at the last Council meeting they had a first reading of a resolution that would establish a partnership with the Friends of Somersworth regarding the Hilltop School.

Belmore stated that regarding downtown improvements, the City will want to look at the utilities under the road before they do improvements to the surface. Stated that the Somersworth-Berwick bridge project is being let by the MEDOT and the NHDOT. Stated that a firm has been hired and that there will be a meeting at the end of this month. Stated that there will be a public hearing.

Sharples mentioned the aesthetics of the bridge and that the City will do their best to be conscious of that.

Witham suggested having a letter from the Planning Board or the City Council regarding that.

Belmore stated that it would be a great idea for a letter from both the Planning Board and the City Council.

Witham stated that when the City's Master Plan was re-looked at, there was a discussion regarding image and branding and the bridge is truly a gateway into the City. Stated that it is an important mark for the City. Stated that he often hears from citizens about fixing up High Street and that process has started. Stated that the City is moving in the right direction.

LeHoullier asked if the Council is going to revisit and try to put more teeth into the regulation for multi unit building inspections.

Witham stated that the Council looked at the proposed Housing Code Ordinance and that it did not pass for several reasons.

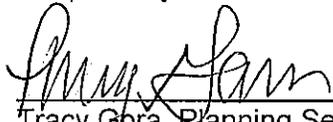
Belmore stated that a notice has gone out for the Land Use Board Dinner and that he hopes to see everyone there.

Motion: Robidas moved to adjourn the meeting.

Seconded by LeHoullier. Motion carried with a 7-0 vote.

Meeting adjourned at 8:01 pm.

Respectfully submitted:



Tracy Gora, Planning Secretary
Somersworth Planning Board