

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

August 16, 2005

A meeting of the Planning and Economic Development Committee was held on Tuesday, August 16, 2005 at 7:02 p.m. in the Aldermanic Chamber.

Chairman David Rootovich presided.

Members of the Committee present: Alderman Richard LaRose, Vice Chair
Alderman Kathryn D. Vitale
Alderman Rob Shaw

Members Not in Attendance: Alderman David MacLaughlin

Also in Attendance: Alderman-at-Large Brian S. McCarthy
Alderman-at-Large Steven A. Bolton
Alderman-at-Large Paula I. Johnson
Alderman Lori Cardin
Alderman Robert A. Dion
Roger Houston, Manager/Planning Dir., Planning Dept.
Jay Minkarah, Director, Economic Development
Ms. Kerrie Diers, Assistant Director, N.R.P.C.

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Chairman Rootovich

Just a quick note for members of the public who wish to see the meeting after this one, we are setting up a television in the auditorium in the third floor. There is plenty of seating there.

DISCUSSION

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A discussion ensued regarding the land use ordinance with respect to the downtown district. A copy of the discussion is on file in the legislative offices (a copy of the provided handout is attached hereto and made a part hereof).

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COMMUNICATIONS – None

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UNFINISHED BUSINESS – None

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NEW BUSINESS - RESOLUTIONS

R-05-270

Endorser: Alderman-at-Large Brian S. McCarthy
Alderman Kevin E. Gage

Alderman David D. Lozeau

Alderman-at-Large James R. Tollner

Authorizing CLarification and CONVEYANCE OF A conservation easement upon certain lands owned by the city of nashua to An appropriate agency; AND AUTHORIZING THE SALE OR LONG-TERM LEASE OF AN APPROXIMATELY FOUR-ACRE PARCEL OF SAID LAND TO THE NATURE OF THINGS, LLC D/B/A SECOND NATURE ACADEMY, SUBJECT TO THE CONSERVATION EASEMENT, In keeping with the provisions for an educational use within the conservation easement, FOR USE AS A PRIVATE ELEMENTARY SCHOOL, PRE-SCHOOL, DAYCARE, AND SUMMER CAMP, ALL WITH AN EMPHASIS ON THE ENVIRONMENT

MOTION BY ALDERMAN LAROSE TO HOLD IN COMMITTEE PENDING A RECOMMENDATION FROM THE NASHUA CITY PLANNING BOARD
MOTION CARRIED

Alderman LaRose

On O-05-104, the Planning Board has given a recommendation, but it has not been forwarded to our agenda that says which way they voted. I can make a verbal report on what the Planning Board did.

Chairman Rootovich

Alderman LaRose being the liaison to the Planning Board if you want to give an oral report – I know that they did in fact give a favorable recommendation, but by all means if you wish to give an oral report so that we can vote on it. That letter will be forthcoming before it goes back to the full Board for ratification.

MOTION BY ALDERMAN LAROSE TO TAKE FROM THE TABLE O-05-104
MOTION CARRIED

O-05-104

Endorser: Alderman-at-Large David Rootovich

Alderman-at-Large James R. Tollner

MODIFYING THE RESTRICTION ON USE OF A CERTAIN WAY BETWEEN CATHEDRAL CIRCLE AND PROPERTY IDENTIFIED AS SHEET F, LOT 21

MOTION BY ALDERMAN LAROSE TO RECOMMEND FINAL PASSAGE

ON THE QUESTION

Alderman LaRose

At the last Planning Board meeting, which was last Thursday, this was under discussion. There were many people from the area that were there. They were given a chance to speak to the Planning

Board even though there was a discussion item. The discussion lasted pretty near an hour. The members of the Planning Board, after hearing what the neighbors had to say and reviewing then past history of the previous Ordinance and the location and typography and everything else, it was decided to send a favorable recommendation.

Alderman Vitale

I listened to the Planning Board's discussion, I have listened to the residents in the area, I have looked at the property, and I have listened to what the intent was of the previous legislation. I always thought that this emergency access road was just that. What I have come to learn is that it is basically considered, supposedly the intent of the legislation is only an emergency access gate, which meant that it protected the residents of Cathedral Circle and anybody traveling on that road and going through their neighborhood. Although I believe that has always been called an emergency access road and the people that have purchased their homes in Majestic Heights were told I don't think with any ill intent that it was an emergency access road, and nobody would be traveling on the road except for emergency purposes only.

I listened to the Planning Board. They went back and forth over that. The only legislation in place before them was to reconsider and amend the previous legislation. I represent the citizens in Ward 1 not only those on Cathedral Circle but those in Majestic Heights, and I have to go with the fact that it was intended to be an emergency access road and it should – the people in Majestic Heights need to be protected as much as the people in Cathedral Circle. I think there is an error in the way the Planning Board does things in the city. I do think it should be more inner developmental access between developments. It should be done in such a way that our residential areas don't become cut throughs from one major road to another to bypass certain things.

I won't support it for the reasons I have given and especially for the residents in Majestic Heights. One gentleman has already said that he paid a \$20,000 premium for his lot because he was told that the access road would never be traveled on.

Alderman LaRose

I would also like to point out that it appears, and I wasn't around when all of this stuff was done so I am not privy to everything, but it appears that the Fire Department actually wanted a 60 foot wide roadway that went from Majestic to Cathedral Circle. The neighbors from what I understand, the people who lived in the Cathedral Circle area at that time, did not want this roadway to be 60 feet wide and they wanted a gated road. Legislation came in from what I understand to designate it as an emergency access or designate a gate on the road. This is one of those damned if you do damned if you don't things I guess. The piece of land that they are talking about, the word landlocked is used all the time. It is not necessarily landlocked, but the upper part is up so high that it is almost impossible to get to it from Broad Street. It is almost like two different lots - an upper lot and a lower lot. It just happens that one person happens to own the whole thing. If two different individuals owned it we would probably still be here discussing the same issue anyway, but there seems to be a hardship on the land because apparently it is about a 20 foot drop – I am not going to say that it is vertical, but I guess it is quite a drop. I have walked the access road – the topography on the access road is an incline of about 5%. It is not any steeper than a lot of our streets. The empty lot that is developable

apparently has a very, very steep drop. The access to the upper part can only be accessed from that roadway – the so called emergency roadway.

Alderman Vitale

As Alderman LaRose says this property is being referenced as being landlocked. The property is not landlocked it happens to have the challenge of the fact that the way the property is set up is that it is deemed expensive probably to do grading between the upper and lower part of the property. The lower part is scheduled to be developed from what I understand, therefore, it is one piece of property setting precedent as a city that we have to completely allow every citizen to develop 100% of their property because they happen to own a property that has different topography issues.

We know that the city has gone under intense development. The properties being developed right now are those properties that are probably coming up for development because all the easy properties have been developed. It doesn't matter whether you have wetlands on your property, if you live in an area that has a well system that you don't have access to city water such as the development that I live in. I can't put my house anywhere on my lot because of the distance that you need between your well and the septic for example. Therefore, I just can't develop my property any way that I want. I think that would hold true in this property. This property is not subdivided into two lots right now. He can't develop this. This means that he can't develop it with as many houses as he wants to put on it. That is the way I look at it. This emergency access was voted on, it was 100% for the previous piece of legislation by the people that were sitting on this Board at this time. I think it would be doing a disservice to the people that maybe weren't living in the house at that time, but knew they were going to be moving in. It was talked about as an emergency access road and I think that is the way it should stay. I don't think we are denying the landowner ... tape inaudible – speaker away from microphone...

Chairman Rootovich

Is there any further discussion? I am going to allow one individual to speak. She had contacted me and had put together a map, and I had said I would allow her to speak briefly this evening.

Dorothy Oden, 16 Cathedral Circle

Thank you Alderman Rootovich. I will be very brief. Mr. LaRose is right; the Planning Board last Thursday did hand this a favorable rating. What he didn't say is that they wanted to pass this through to the Board of Aldermen with no recommendation, but they didn't think that had ever been done before. When Mr. Derosier, who is one of the abutters and is on vacation this week, got up and finally asked the Planning Board is this land landlocked the entire Planning Board looked at each other, looked around, not one said yes. Mrs. Lasky asked the members from the Planning Department who were there is this land landlocked. Their answer was it has access to Broad Street. I think the map I am showing you tonight shows you it has access to Broad Street. The plans that I have on the second page show you the trickery involved in how these plans are put together. They have two cul-de-sacs. The cul-de-sac closest to Broad Street would land lock the back property so if they can open the access road they can say that lot is not landlocked. Why would they do this is because they will lose some lots in that narrow portion of the land that you see on your map.

When the gate was put up when Majestic Heights was approved all of the abutters were notified. I said why wasn't Mr. Lavoie speaking then that his interests were being violated? Why didn't he speak up when the access road was closed and saying it would land lock his land? The answer is simple it didn't. It didn't then and it doesn't now. His son told me after the last meeting the reason his father did not speak up was because he took everything to his lawyers and they said it would not affect your land. What is happening now it will cost him more money to develop that land. There are going to be fewer lots. But, is he entitled to have the law overturned so he can make more money in the City of Nashua? I can understand that he would want more money. I can understand that Mr. Prunier representing him would want you to believe the land is landlocked. I can believe Mr. Maynard wanting you to believe it was landlocked. As a matter of fact the other night he told the Planning Board it was impossible to get to the front part of the lot to the back. I have a picture here of a trailer that owner Mr. Lavoie brought up to the back of his lot. It is not impossible to get up there. Tim Lavoie told me his father towed that trailer up there. It is not impossible, it is not too steep, it has the same contour as Majestic Heights, and if you remember Majestic Heights had a lot of fill. It cost money, but should the neighbors sacrifice their safety so that he can make some extra money? I can understand the owner's point of view, wanting to make more money. I can understand Mr. Prunier. I can understand Richard Maynard. I can't understand Alderman Tollner and Alderman Rootovich putting this through saying it is landlocked. It is not landlocked. I am not a lawyer, I am not a professional engineer, but I do know right from wrong. This is wrong. Thank You.

Chairman Rootovich

Thank you Mrs. Oden. Is there any further discussion or comments? Again the motion before you is to recommend final passage of O-05-104.

MOTION FAILED

MOTION BY ALDERMAN ROOTOVICH TO HOLD O-05-104 IN COMMITTEE

MOTION CARRIED

ADJOURNMENT

MOTION BY ALDERMAN LAROSE TO ADJOURN

MOTION CARRIED

The meeting was declared adjourned at 7:30 p.m.

Alderman Rob Shaw
Committee Clerk, Pro Tem