

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

August 30, 2005

A meeting of the Planning and Economic Development Committee was held on Tuesday, August 30, 2005 at 7:00 p.m. in the Aldermanic Chamber.

Chairman David Rootovich presided.

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

Members Not in Attendance:

Also in Attendance: Alderman David D. Lozeau
Christopher Hodgdon, President, Chamber of Commerce
Mark Frucier, Frucier Planning
Roger Houston, Manager, Planning Director
Jay Minkarah, Director, Economic Development
Ms. Kerrie Diers, Asst. Dir., Nashua Reg. Planning Commission
Bette Lasky, Nashua City Planning Board

A DISCUSSION

A discussion ensued regarding the land use ordinance concerning wetlands (tape is on file in the Legislative Office).

COMMUNICATIONS

From: Denis G. and Deborah A. Gleeson, The Nature of Things
Re: R-05-270

MOTION BY ALDERMAN LAROSE TO ACCEPT AND PLACE ON FILE
MOTION CARRIED

Chairman Rootovich

It is my intention to keep R-05-270 in committee. I know the Gleeson's are meeting with the Mayor tomorrow at 2:30 p.m. I will be there along with Kathy Hersh and Alderman McCarthy with respect to a discussion. Hopefully when we come out of there we can proceed with R-05-270. It has been sent

on to the Planning Board, and we are still waiting for a recommendation from them as well. I would ask that be held in committee.

UNFINISHED BUSINESS - None

NEW BUSINESS - None

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 Vitale

I mentioned at the last meeting when this ordinance was discussed, I do not believe that this property is landlocked. I believe that the owner of the Lavoie property is able to develop his property. Modifying the restriction that was put in place – I believe at the time for all of those that live in the area the understanding was that it was an emergency access road only. I do not believe that we are doing the right thing for the residents that live there to modify it. My understanding is that the people that live on the Majestic Heights side maybe even paid a premium for their properties because they were under the understanding that it was an emergency access road, and, therefore, would not be opened up.

I won't support this. I don't believe it is doing the right thing for the people that live there. I have heard people, I have heard Alderman Tollner state that the intent was only to protect the people that live in Cathedral Circle. I wasn't on the Board then, but I did listen to a number of people that live in the area. I just don't think it is the right thing to do. I think it has been implied that it is an emergency access road. We're talking about the road now it is coming down to just the gate. I don't see where the need is to open this up. I don't think there is a need to modify it with this ordinance.

Alderman LaRose

I have been there twice. The first time that I went up there I just walked up the emergency access road. I went there again yesterday. This time I walked probably $\frac{3}{4}$ of Mr. Lavoie's property and I started from the access road going towards Broad Street. My position is I believe that a mistake was made to start with. I believe that it should have never been an emergency access road – that road should have been a full city road to go from one neighborhood to the other. I firmly believe – I don't think we should be closing neighborhoods off from one another. I think people should have the right

to go from one neighborhood to another. However, that was done with previous Boards. That is the situation. I think that Mr. Lavoie does have access to the whole property. It is probably a little more difficult than if it were flat land obviously, but I think he does have access from Broad Street to the back of his piece of property. It is an odd shaped piece of land. There is a big hill that goes down. It is not a cliff as I envisioned it a couple of weeks ago.

I think that if he had access from the emergency access road to the back portion he could put in more units. I think he may lose a couple of units because of the topography of the land, but I am not sure that it is our duty to give him the means to fully develop his piece of property to the maximum extent. I think that he can develop his property. I think that he can make full use of this property as much as the topography allows it to happen, but I also believe that no matter how it is done – if we allow that road to be opened so that he can built I would suspect the Fire Department is going to make him have an emergency access to the front part of the land. If we

don't allow the access road to be widened so that he can build a road with a cul-de-sac I still think he is going to have to build – I assume that the Fire Department is going to make him built an emergency access road so that the Fire Department has two accesses to the piece of property.

This is a tough situation. People in the area believe that they had an emergency road. Things go back and forth – some people say well it wasn't really an emergency road it was really what was passed was a gated road, and we use the word emergency road, but what was passed was that there would be a gated portion of the road. I don't know what the answer is. I know that there are people here that bought some property and they thought that they were buying a piece of property that was abutting an emergency access road that really gave them a corner lot. What do we do? Do we allow the developer to be able to widen the road so that he can have a regular street so that he can access the back portion of his lot or do we deny it because he does have access to the whole lot that he owns? Granted it isn't what he would like to have happen, but he does have access to that whole piece of property. I would like to hear what other people have to say. Thank you Mr. Chairman.

Alderman MacLaughlin

I am not sure whether my colleague from Ward 2 just sort of put himself in a quandary here. It seems to me that we have the potential of a similar issue over in Ward 8 – over where the Huntington has opened up and has not been developed. That property has a similar type of road, which is at the moment an emergency access road. It used to be dirt and now it is paved. Now comes the questions from the residents of those streets – is this road destined to be opened to through traffic and what will happen to the integrity of our neighborhood as a result if this were to happen? Right now it is a well kept secret – only the folks at the Huntington and perhaps those that abut it happen to know that it exists. Should Kent Lane become more traveled there is a curved road that goes around the perimeter of the property and you could easily find your way up the hill into the top of the ward. I am thinking that if we approve the removal of this restriction on this particular road we are opening the door to doing it in other similar areas as well. In order to be consistent, I don't look at it as by maintaining the integrity of this designation that we are closing one neighborhood off from another, but rather we are simply protecting the neighborhood really from opening itself up to more through traffic. I think traffic is an issue all over the city, and unfortunately that introduces new problems; speed control, pedestrian safety, all of those things – noise, all of that. I would want my vote on this particular ordinance to reflect the preservation of its current status as an emergency access road. I

think really that seems to me to make the most sense. We look at the pressures being placed on our neighborhoods especially now that the city is nearing its build out phase. Thank you.

Alderman Shaw

I previously voted against this, and am still inclined to vote against it. In the previous discussion and presentation of this, it did and still does appear to me that the property is developable as is and whether or not there is a requirement for a further emergency access off the back of the property to the existing emergency access road that certainly would seem like a reasonable stipulation from the Fire Department. I guess the thing that troubles me the most is that if you kind of rewind the clock everything that was done with Majestic Heights and the plan to have an emergency access road into Cathedral Circle was done with that as the way it was put forward. I am sure that the residents in Cathedral Circle would have been much more vocal and much more against a plan that basically defines a through road there and would have changed the whole context of that development. I think to Alderman MacLaughlin's point it does actually I think potentially open up the question of why do any of the gated roads/emergency access why would they have to remain that way. There are concerns about through traffic.

There are many issues with traffic in general, and we already know that there are certain times a day that the roundabout area on Broad Street does tend to want to make people find alternatives. This would be an issue that I think would very much potentially fall victim to that. I guess I don't see the – it is not like the property is completely landlocked. Further, based on what Alderman LaRose just related, it seems to validate the fact that the entire property could be developed with access to Broad Street – I am not going to support the legislation.

Alderman LaRose

The point that Alderman MacLaughlin made about Huntington – that is private property. There is a difference. We are talking about two areas that are public streets. I have the same thing in Ward 2 with Kessler Farms. That is private property. It is gated at the bottom on Tinker Road. It is just a point I want to make that there is a difference between a piece of private property that has an emergency access road versus two areas that are city streets.

Alderman MacLaughlin

I would simply respond that – exactly you are probably right considering the private versus public, but there is also a public versus public example in Ward 8 right near my home on Heritage Village Drive and that is on Casco, Rene, and Brook Village Drive. There is a closed access road leading from one to the other. I appreciate the technical point, it is just the principle would seem to me that we would want to be consistent in how we are going to handle this issue because once we do one we will see several others pop up. I need to know that what we do here at the committee level and at the full Board level is to do whatever is necessary at a time that intense pressure is being placed on our infrastructure as well as our neighborhoods, we are doing all we can to protect the integrity and the safety of the residents who live in those neighborhoods.

Alderman Vitale

I would agree with everything that has been said. One thing that Alderman LaRose said that I do believe going forward – I don't like to go back and change something that is in place as it is now, but going forward I do believe this is a circumstance where you can do best planning practices and you can connect neighborhoods where you connect them in such a way that they don't encourage using that connection as a cut through to make it shorter distances. You can use it so there could be free travel between one neighborhood to another more to visit a person versus trying to rush through the whole area to get to another spot. Those practices are in place elsewhere and they do help the Fire Department. I would encourage our planners when they do look at neighborhoods and they are planning anything that is remaining in the city that they can do it in such a way that the situation does not come up in the future.

Alderman Lozeau

I did as Alderman LaRose did – walk the property. My concern was what is the alternative if they are not allowed the emergency access road – is the alternative ...

Chairman Rootovich

They would have to have a road built from Broad Street.

Alderman Lozeau

That was my concern is another access road so close to two other access roads. There is a little bit of a radius on that road so the line of site coming out of that development – everybody has the right to develop their land and should be able to develop it with as little impact to others as possible. My concern would be the alternative – the safety on the radius with being very close to two other accesses on Broad Street. I would just like the committee to consider that.

Alderman Shaw

I can appreciate that point. The only thing is even in the plan that they will forward apparently with using the emergency access road there would still be an entrance onto Broad Street that at least would support 7 new residences. It certainly would potentially be more if there is only a single access point, but I think we are not going to be away from the issue of having the additional entrance onto Broad Street.

Alderman Vitale

I would agree with that, and I think that is something that as they bring definitive plans forward for what they would end up doing with that property that is something that any special exceptions would be taken before Zoning and any development plans would be hashed out with the Planning Board.

Chairman Rootovich

Is there anything further? I guess the process for a developer is frustrating. They meet with the

planning staff, they have planning reviews prior to anything being put on paper – they go in there and the planning staff gives them their guidelines and guides they would like to see. The developer takes the information and spends a ton of money having a site plan made up. The site plan is made up after spending tons of money and something like this happens and we have to spend more money to revise a site plan – I think maybe we should reverse and get these things squared away prior to them spending all of that money. I can assure you it is a ton of money to have those things done. I think it is totally unnecessary.

Alderman Shaw

Are you saying that it was actually through the guidance of the Planning Department that this was ...

Chairman Rootovich

- Any developer that comes that wants to develop a piece of property sits down with the Planning staff; Mr. Houston, Jay, Deputy Planners, and they give input with respect to how they would like to see that development built. A member of the Fire Department is there and gives their input as to where the access road should go – they agree or disagree and may come back a second time for technical review – sometimes they come back three times for technical reviews. Once that is all hashed out then he goes and has a site plan developed by a surveyor and it costs a lot of money. Then that site plan goes to the Planning Board for approval. He has to pay an attorney to go to the Planning Board to state his case. All of that involves money. I am saying if something like this is going to happen that should be ironed out prior to him going and spending that type of money.

Alderman Shaw

- I would agree. I guess what I am trying to get at is if there weren't multiple options presented to the developer and this was essentially the only real guideline that was proposed I understand the problem. I guess one of the things that – I don't think it has to be a requirement of the process, one thing that might help quite frankly is if the Ward Alderman at least is involved early on with anything like this because often times it is something that can be championed by the Ward Alderman and we'll try to typically be sensitive to the other residents. I don't know if Alderman Vitale was ever approached about this through the course of that or only came to know about it after it got a lot of investment. I am not saying that has to be a requirement of the process because we are not really required to be in there, but there is something to be said for that I think and it might be especially when there is something that is not straightforward. Clearly this is a change of use type of thing in terms of the proposal. I don't know if that would be something worthwhile to take back to the Planning Department.

Chairman Rootovich

Every member of the Board of Aldermen gets a Technical Review schedule in their box. I go through it. If there is anything there that I find that peaks my interest not only in Ward 9, but in other parts of the city I assure you I attend those Technical Review meetings and give my opinion and comments based on feedback I have gotten prior from constituents or things that I normally develop being on the Board as long as I have, and I give my input. I use that technical review schedule to plan what I am

going to attend if there are any issues. Every member of the Board gets that every month.

Alderman Vitale

In this case, I had talked to the Planning Board regarding this issue when it first came up and as was stated on the night that the Planning Board reviewed it, their statement was if this property had access off of Broad Street. I was not at the Technical Review meeting, but before that meeting with the Planning Board, I was told the same thing when I went into the offices when I knew it was on the agenda. That was what I was told. I was also approached by the lawyer for the Lavoie property to see if I would support this ordinance, and I said I would not. He indicated that he would find someone else that would. I told him that I would not support that ordinance. My feeling is as evidenced today that the property is accessed off of Broad Street and to change it is not the right thing to do.

Chairman Rootovich

Is there anything further? The motion before you is for final passage of O-05-104.

MOTION FAILED

MOTION BY ALDERMAN SHAW TO RECOMMEND INDEFINITE POSTPONEMENT

MOTION CARRIED

HELD IN COMMITTEE

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

DISCUSSION

Alderman MacLaughlin

It has come to my attention in the press and the communication we placed on file earlier this evening that throughout this issue we are actually putting some speculation out there where one of our own has felt his integrity to be put on the line in some degree. I just want to say as a colleague of Alderman Lozeau I have nothing but the highest regard for his service to this Board and to the fact

that he is very in touch with the constituents he represents in Ward 5. Anyone who would cast dispersion on his motivation for bringing this or any other type of legislation forward to me should be dismissed out of hand because anyone who knows Alderman Lozeau knows him to be a man of great integrity and good standing. I just wanted him to know that although it seems like it got a little rough there with people and accusations as to why we are dealing with this issue and what relationship may or may not exist with the people who are bringing this forward – to me it is the issue that I debate not the personalities. However this ends up turning out – I know how I am going to stand on it myself – it just seems as though when we allow a debate to get off of the issue and onto motivation and questioning character and those types of things that is when it is out of control and we need to re-focus. Alderman Lozeau I hope that you know at least this is one of your colleagues who values your input in our public policy.

Chairman Rootovich

I would like to remind the committee that we have been given the task of going through the Comcast contract, which will be before us at the next meeting. There will be some proposed language changes based on the comments from many of the speakers. Hopefully we can ratify that as quickly as possible and send it back to the full Board. I would encourage all of the committee members to read the minutes very carefully before we come to the next meeting.

Alderman Shaw

Mt. Auburn Associates – I thought that I saw the final recommendation is done or is available. Are we subject to receive any sort of ...

Chairman Rootovich

Tomorrow I am meeting with Roger and will put that on my list to set up a meeting with this committee to go over that.

ADJOURNMENT

MOTION BY ALDERMAN LAROSE TO ADJOURN

MOTION CARRIED

The meeting was declared adjourned at 7:45 p.m.

Alderman Kathryn D. Vitale
Committee Clerk