



Stratham Planning Board Meeting Minutes
February 19, 2020
Municipal Center, Selectmen's Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM

Members Present: David Canada, Member
Tom House, Member
Mike Houghton, Selectmen's Representative
Colin Laverty, Member

Members Absent: Robert Baskerville, Alternate Member
Pamela Hollasch, Alternate Member
Robert Roseen, Member

Staff Present: Tavis Austin, Town Planner

1. Call to Order/Roll Call

Mr. House took roll call.

2. Review/Approval of Meeting Minutes

a. February 05, 2020

Mr. Canada made a motion to approve the February 05, 2020 Meeting Minutes and Mr. Houghton seconded the motion which passed unanimously.

3. Public Hearing(s):

- a. *Site Plan Review and Conditional Use Permit.*** Project LEGO, at One Fine Chocolate Place, Stratham NH 03885, Tax Map 03 Lot 01. Lindt Expansion (32,769 s.f.) for growth and optimization. Submitted by Joshua Fenhaus, Hunt Construction Group, Inc, 13344 Noel Road, Fourth Floor, Dallas, TX 75240. Requested Continuance to March 04, 2020 meeting.

Mr. Austin said Lindt is addressing the abutters with regard to noise and odor.

Mr. Canada made a motion to accept the request to continue to the March 04, 2020 meeting and Mr. Houghton seconded the motion which passed unanimously.

- b. *Site Plan and Conditional Use Permit for Chipotle at 20 Portsmouth Ave.***
Proposal to construct a free standing 2,325 SF Chipotle restaurant with associated

drive though, parking, utilities, and landscaping —Chipotle at 20 Portsmouth Avenue, Stratham, NH 03885; Tax Map 4, Lot 14. Application submitted by NP Stratham LLC, represented by Kenneth Knowles, 150 East 58th Street, 20th floor, New York City, NY 10155.

Mr. Austin said that Gateway projects go before the Technical Review Committee (TRC) for a streamline review process. The TRC is taking the role of a Preliminary Consultation for the Planning Board and ultimately making a determination if the project is Gateway compliant. By regulations, the project requires a Site Plan Review Permit and a Conditional Use Permit. In the Board's packet there is a detailed waiver request letter submitted by Mr. Knowles in lieu of providing individual waiver request forms for each waiver. Mr. Austin said that Staff recommended the application is complete and the Planning Board accept the waivers as presented. Mr. Austin has preliminary conditions precedent and subsequent. Mr. Austin said TRC determined the project was not Gateway compliant. He said the changes that are proposed and will be presented at tonight's meeting are more acceptable to the regulations than what was presented to the TRC.

Mr. Houghton made a motion to accept the application and Mr. Lavery seconded the motion which passed unanimously.

Kenneth Knowles represented NP Stratham LLC. He described the project. The proposed Chipotle is located in the front corner of the property, opposite side from Starbucks. There is a proposed patio and relocation of the parking lot. The drive-through is just a pickup window, so there is no ordering board. Kathy McVane from Chipotle is present to answer any operating questions.

Kathy McVane, a real-estate manager with Chipotle, explained the project with more detail. Ms. McVane said there is no speaker post and there is no money transaction through the window. Everything is ordered on the app and when it's ordered, the customer picks it up at a specific time. It will be handed out through the window.

Mr. Knowles said they reconfigured the parking lot and there is a net reduction of 12 parking spaces on the whole lot. Currently there are 338 spots and after the construction there will be 326 which is more than the required 295 spots. There will be an excess of parking according to the regulations. Construction is reducing impervious area by just under 2,000 square feet. With regards to Drainage and Utility, they are not subject to the Stratham storm water requirements, but designed it to be compliant. Similar to Starbucks, there is an infiltration trench that will connect to any gutters before it connects into the existing system. Next to the patio, there is a rain garden that will accept runoff from both the sidewalk and the patio to give time for treatment. There is a private septic system on site. The system was built in 2019 and was part of the Starbucks. It has adequate capacity and will be permitted through the Town and NH DES. Electric and gas will come from Unitil. There is a private water system that is permitted to NH DES wells and a treatment system building. Chipotle already bought a water stub to not disturb Starbucks in case there is a future expansion.

Mr. Knowles said there was discussion at TRC about the landscaping. He explained that the main difference that the Board and the Town will see is that Unitil is taking down two

78 pines in the front which is happening regardless of the Boards decision. Chipotle plans to
79 replace those with Ornamental Trees as part of the application. Unitil has a problem with
80 potential growth affecting the electric lines. Mr. Knowles said that Chipotle plans to plant
81 a few more trees along the entrance drive. There will be landscape islands and landscaping
82 around the patio. What is not shown is the proposed sidewalk from the Chipotle building
83 to the abutter. The sidewalk is to be staked with some landscaping along the frontage. At
84 the TRC meeting there was discussion about building architecture. Matt Wittmer from
85 Phase Zero is present. There are revised plans for the Board to discuss some of the TRC
86 concerns, comments and questions.

87 Matt Wittmer from Phase Zero, the architect who also did Starbucks, introduced himself.
88 He said some of the differences from Starbucks are the massing and the scale of the
89 building causing it to have more of a barn feeling along the front. The height of the bay
90 windows was increased. There will be a gutter system like Starbucks has. Where the drive-
91 through is, there is a pitched roof on it which faces the entrance. There is different banding
92 that goes around the back of the building. On the side that faces the patio, there is a side
93 board that's a Chipotle sign. The amount of glass has been increased to create a more
94 interesting look. Landscaping is similar to Starbucks.

95 Mr. Austin said that DOT is appreciative of the sidewalk that goes toward the Burger King
96 abutter side, but wondered why the sidewalk isn't extended across the 108 ingress/egress
97 intersection with a crosswalk. Similar to what the Board saw with Audi and Porsche.
98 When Starbucks was approved, the Board looked for a positive sidewalk connection
99 between Starbucks and the State ROW (right of way). The Town picked up maintenance
100 responsibility for 4 ft. of the sidewalk. The Site Plan shows where the line version is and
101 there is a number of traffic signal mechanics that DOT has placed at the entrance way to
102 the plaza. Part of the drive-through pickup lane runs through the ROW which is an issue
103 that will need to be addressed at the State level. The sidewalk isn't shown on the plan
104 because it may cost as much as the building to get a sidewalk across the intersection. Mr.
105 Austin recommended to put future sidewalk connection on the plan and then coordinate
106 with the applicant and the property owner to try and make that connection.

107 Mr. Knowles said the applicant and landlord would commit to having them design the
108 crossing. The problem is getting it permitted may take longer than building the building
109 itself. They are willing to extend the sidewalk, but from the applicant and landlord
110 perspective, they don't want to have to wait for a permit.

111 Mr. Austin suggested that conditions precedent would be related to the plan that is
112 presented. One of the conditions could be to make the sidewalk year-round accessible.
113 Then conditions subsequent could be positive sidewalk connection to the south side of the
114 driveway. To be satisfied upon issuance of the second DOT approval for that extent of
115 walk. It could be bonded separately and not restrict building permits. That way it is still on
116 record that they will do it, but when they do it is not beholden on the building.

117 Mr. Canada asked if they agree to do the sidewalk connection later.

118 Mr. Knowles said he would design it, the problem is that the driveway permit for
119 Starbucks was thousands of dollars for a signal. The owner was fine with accepting that

120 from DOT. The actual price tag was far greater than what DOT estimated. It's tough to
121 commit to constructing something that may cost more than the owner is willing to pay for.

122 Mr. Austin suggested to Mr. Knowles that if the Board moved to grant approval with
123 condition precedent on the sidewalk, condition subsequent could be the connection of the
124 sidewalk extension within the DOT ROW. Then it's ultimately up to the property owner to
125 decide if the price is unreasonable and then come back to the Planning Board to request a
126 modified Site Plan to not show the extension.

127 Mr. Knowles said that it is all speculation because he doesn't know what DOT will
128 require. It may be that if the Town passes the TIF district that they may fund a portion of
129 the sidewalk connection. Mr. Wittmer doesn't want to holdup building.

130 Mr. Canada said that it is a goal for the Town to get the sidewalk to the Town Center and
131 into Exeter. He asked if they would commit to build the sidewalk up to a certain amount of
132 money.

133 Mr. Knowles said that he doesn't know what a specified dollar amount would be without
134 speaking to the owner first.

135 Mr. Austin said that he doesn't know whether a crosswalk would be installed across the
136 intersection or if it would be a sidewalk like the State did where it ends at the driveway.

137 Mr. Austin said the ultimate goal is to have a sidewalk from one end to the other on 108.
138 That is premised on other development. Another option is to amend the application tonight
139 to request a waiver of the frontage sidewalk. Technically the sidewalk they're proposing is
140 on their property like Audi which the Board accepted with a waiver for the Gateway
141 sidewalk.

142 Mr. House asked if they are going to submit an application for the sidewalk.

143 Mr. Knowles said they would permit with DOT.

144 Mr. Austin said they could do a condition precedent for what's there and the year-round
145 maintenance. The Board can't put year-round maintenance on the other part so that would
146 be condition subsequent. The condition precedent would be the DOT permit for Change of
147 Use. The subsequent would be the DOT permit for the signal changes.

148 Mr. Houghton said they need to resolve how they properly document that. He said that he
149 understands the desire not to hold up the building, but there needs to be a revision for the
150 sidewalk that promotes the connectivity that the Town wants.

151 Mr. Knowles said that he understands completely.

152 Mr. Houghton said that it needs to be connected in some way, but he does not want to
153 holdup the decision.

154 Mr. Austin said the condition with the intersection improvement request of DOT is that
155 DOT will only accept that upon the Town's acceptance. The cost would be known and the
156 Town and the Select Board would have the option to say 'yes we will accept that sidewalk
157 understanding that there is \$80,000 of improvement'. There could be some negotiation
158 between the Town and the property owner as far as who pays what.

159 Mr. Houghton said that they know of the intersection toward 101 where there was a
160 developer who asked forgiveness on a sidewalk instead of commission and it crossed the
161 road. He asked if there are devices for signalization by CVS or signalization where there
162 are crosswalks with buttons.

163 Mr. Knowles said if he could solely count on DOT precedent he would be more
164 comfortable, the problem is he doesn't have the confidence and doesn't want to put the
165 landlord and tenant in a position where they have a building they can't open.

166 Mr. Canada suggested putting a cap on the amount so they can figure it into their deal.
167 Capping the amount allows the project to move forward.

168 Mr. Knowles said he can't commit to a cap number without speaking to the owner.

169 Mr. Austin said that he doesn't think that DOT has heard of the project yet.

170 Mr. Knowles said they have not.

171 Mr. Austin said that it might change the answer on the owner's cost on the other side of
172 the driveway because DOT's answer on that side has been predicated only on Starbucks.
173 They don't know that Chipotle is also coming. If its \$80,000 that Starbucks was told, then
174 that may turn into \$100,000 now that Chipotle is happening. The owner potentially has
175 two unknown costs.

176 Mr. Austin asked the Board if hypothetically the sidewalk is the only unknown, would the
177 Board be willing to approve understanding there will be a cap presented. The cap may be
178 determined upon DOT review with an estimate.

179 Mr. Houghton said an alternative to that would be the developer agrees to install the
180 sidewalks and exclude any requirements to address signalization.

181 Mr. Austin said that would work as an alternative, but if DOT requires signalization the
182 applicants not on the hook for any percentage.

183 Mr. Canada said that he thinks they need a number from the owner to determine a cap. He
184 said that the applicant can call the owner or come back to the March 4th, 2020 meeting.

185 Mr. Knowles said timing wise that 2-3 weeks makes a difference for construction.
186 Construction has to start early April, there is a shutdown period for the Staples in their
187 lease. Staples back to school time is there Christmas and they have provisions in their lease
188 that states other construction projects can't do certain things anywhere around their site. So
189 that factors into the construction timing. Mr. Wittmer said he knows that it isn't the
190 Planning Board's problem that their timing is limited.

191 Mr. Austin said that DOT on average is between 9 and 18 months to approve a permit
192 application.

193 Mr. Houghton asked what the cost was for the Starbucks sidewalk.

194 Mr. Knowles said that just the signaling equipment is \$30,000. If there are any signaling
195 improvements, he thinks they could fold it into one upgrade. That upgrade could cost
196 \$150,000 instead of \$30,000 or some huge number that the project can't absorb.

197 Mr. Austin said that this small Intel project was not the original type of project that was
198 envisioned to pick up the exaction of full signal vision improvements.

199 Mr. Canada said that they are only asking for a contribution.

200 Mr. Austin said that the regulations state that it all comes. Anything from that is a
201 reasonable appropriation of the exaction consistent of the scale of the project. Mr. Austin
202 asked what Mr. Wittmer would like to do, wait to discuss a cap with the property owner or
203 would you like the Planning Board to talk about something else while you call the property
204 owner.

205 Mr. Knowles said that he would try and call the owner.

206 Mr. Austin said that they still have to open the public hearing.

207 The Planning Board took a 10 minute recess.

208 Mr. Knowles said North Star, the property owner, is prepared to build that sidewalk as part
209 of the budget and if there is additional signalization required, contribute a \$15,000
210 contribution toward that. That amount came from half of what Starbucks required. He
211 doesn't expect a full cabinet to be built.

212 Mr. Austin said they will call it a \$15,000 property owner cap on signalization
213 infrastructure.

214 Mr. Houghton asked why they wouldn't just build the sidewalk.

215 Mr. Austin said that what he did based on discussion so far is turn the condition
216 subsequent into sidewalk to the ingress/egress intersection of 108 including the crosswalk
217 across the intersection under a separate DOT permit where a property owner is responsible
218 for up to \$15,000 of signalization. So build the sidewalk and up to \$15,000 of
219 signalization.

220 Mr. Canada asked if the sidewalk will start at the Northern end of the property.

221 Mr. Knowles said the sidewalk, as part of the initial construction, the site plan approval
222 shows from the Bergerman property all the way to the Chipotle front door. That's being
223 built no matter what. From there to the driveway, North Star is fine with building that
224 design permit and building that sidewalk. The only unknown is the financial part from
225 DOT. If there is signalization required for a pedestrian crossing, the property owner will
226 contribute \$15,000 toward that upgrade.

227 Mr. Austin said the Town may not want them to build a sidewalk if DOT will require
228 signalization.

229 Mr. Knowles describes the location of the DOT ROW.

230 Mr. Knowles said they are prepared to submit the driveway permit to DOT as soon as a
231 decision with the Board is made. There is no way that DOT will upgrade the signal
232 equipment before they know about the Chipotle application.

233 Mr. Austin said the \$15,000 condition does not affect anything related to the previously
234 permitted Starbucks.

235 Mr. Houghton asked about parking.

236 Mr. Knowles said there is a net loss of 12 spots.

237 Mr. Houghton said it looks like they are taking up more than 12 spots.

238 Mr. Knowles said the plaza as a whole has a known overlay, the whole plaza will have an
239 upgrade. Those will be striped at 9 by 18 which is the Town standard and engineering
240 standard. All the spots now are 10 by 18. There will only be a net loss of 12 spots.

241 Mr. Knowles explained the original design of the parking lot when Shaw's was there. The
242 'stop' sign will be replaced with a new one and the 'do not enter' sign will be removed.

243 Mr. Houghton asked what is happening with lighting.

244 Mr. Knowles described where the existing light poles are. He said there is one that they are
245 removing. They are adding some lights. The parking lot lights will match the existing. The
246 ones at the patio and the entrance are more of a traditional lantern style.

247 Mr. Austin asked if he would be opposed to a condition precedent that they provide a
248 photometric plan.

249 Mr. Knowles said he could get that.

250 Mr. House said in past projects when they put sidewalks in, they put in lights for people
251 walking at night.

252 Mr. Knowles said they did not plan to do that but they can.

253 Mr. Austin said the photometric plan would show if the parking lot lights are sufficient in
254 lighting the sidewalk.

255 Mr. Knowles said they would add them if necessary.

256 Mr. Austin said the photometric plan could be a condition subsequent. Once the lights are
257 in, they do photometrics to show compliance with what the Mylar shows a statement that
258 lighting on the property shall not exceed 0.2 foot candles. Either photometrics showing
259 they will not exceed 0.2 foot candles or a note on the plan all site lightings shall not exceed
260 0.2 foot candles. Then after it's all built they prove it.

261 Mr. Knowles said he would propose to do it before construction.

262 Mr. Houghton asked if the parking lot lighting is changing.

263 Mr. Knowles said that there is only one light pole that is in the building area of Chipotle.

264 Mr. Houghton said that there is a lot of energy around being dark sky compliant.

265 Mr. Austin said the existing light pole moving over bay is a net 0 impact as far as site
266 lighting goes. Mr. Austin asked if the patio lights would be off at close of business.

267 Ms. McVane said usually they're on timer set by the landlord.

268 Mr. Knowles said he would imagine that those would shut off at close of business and the
269 parking lot lights would stay on. Starbucks shuts off at close of business.

270 Mr. Austin said that would be another note on the Mylar. He asked if that were true for the
271 interior lights as well.

272 Victoria Martel, of Woodburn & Company Landscape Architecture said that safety lights
273 would be the only lights left on.

274 Mr. House asked about the entrances to the building. On page C6 they have a single door
275 and he thought it was a double door. He asked about the trees being taken down by Unitil.

276 Mr. Knowles showed where the trees are on the plan and where they plan to replace the
277 trees.

278 Mr. Knowles said they will be revising the site plan to incorporate the notes.

279 Mr. Austin said revise the sheets to match the new elevation and landscape.

280 Mr. House asked why they are using blacks and greys to match Starbucks.

281 Mr. Wittmer said he thought it had elegance and the black is somewhat part of the
282 branding for Chipotle.

283 Mr. Houghton asked what the siding material is.

284 Mr. Wittmer said it is a hardy blank side.

285 Mr. Houghton asked what the patio material is.

286 Mr. Wittmer said it's concrete.

287 Mr. Lavery asked if in the renderings, the ornamental grass is on the landscaping plan.

288 Mr. Wittmer said the rendering is the exact placement on the plan. It is the same style as
289 Starbucks.

290 Ms. Martel said that there will be other perennials, small shrubs and some evergreens
291 against the Chipotle buffer. Starbucks and Chipotle are the same conceptually, but not a
292 direct representation of the planting.

293 Mr. Lavery asked where they anticipate the utility meters, gas, water, and electric coming
294 into the building.

295 Mr. Knowles said that the water will be in the rear, gas and electric will come off the front
296 and wrap around to the utility space in the back.

297 Mr. Lavery asked if anything would be on the side of Portsmouth Ave.

298 Mr. Knowles said no.

299 Mr. Lavery said he noticed the meter that feeds the CT cabinet for the Starbucks is on the
300 street side. If they had the chance to do it over, he would want landscape there to cover it.
301 Mr. Lavery asked him to walk him through the septic system.

302 Mr. Knowles said the field was built in 2019 and is located in the back. It is a large septic
303 field which functionally has far more capacity, but DES does not want Chipotle to tie into
304 it. They built a separate field in the back. Chipotle will have a septic tank for the kitchen
305 waste and a septic tank treatment unit that pumps up to that field. There's a water line that

306 runs from the well to the utility around back.

307 Mr. Lavery asked if DOT would determine whether or not they need to change timings
308 with the existing signalization if they submit an application with DOT.

309 Mr. Knowles said there would be two applications, a change of use driveway access permit
310 for Chipotle then the secondary access permit for the proposed sidewalk.

311 Mr. Lavery said that he thinks the development is positive. He thinks the character of the
312 existing Starbucks fits the area.

313 Mr. Canada asked if it was too late to add something to the warrant articles.

314 Mr. Austin said it was too late.

315 Mr. House said something he'd like to change next year is in the Zoning regulations there
316 is no definition of a drive-through, but if you look up the definition, it states when
317 someone drives through the drive-through and orders for a service. He thinks because they
318 are not servicing something, it isn't a drive-through.

319 Mr. Austin said that the pharmacy at Shaw's is also just a pick-up window but was
320 approved by the Board as a drive-through. Mr. Austin said that Gateway is looking for
321 non-auto centric design model.

322 Mr. Lavery made a motion to open the public hearing and Mr. Canada seconded which
323 passed unanimously.

324 Mr. Houghton made a motion to close the public hearing and Mr. Lavery seconded which
325 passed unanimously.

326 Mr. Austin said that he has some recommendations for conditions of approvals.

327 Mr. Austin said that it would be Staff's recommendation to accept all waivers.

328 The Board reviews the waivers.

329 Mr. Lavery made a motion to accept the waivers as presented and submitted and Mr.
330 Canada seconded which passed unanimously.

331 **Waiver Requests:**

332 Applicant submitted a waiver request letter dated January 10, 2020. The Planning Board
333 accepted these waivers as presented and approved all those specified in the letter at their
334 February 19, 2020 meeting.

335 **Conditions Precedent:**

- 336 1. Applicant to ensure Mylar presents correct address, map, and lot numbers to satisfaction of
337 the Stratham Assessing Department.
- 338 2. Applicant shall submit one full size paper copy of Mylar at time of Mylar submission.
- 339 3. Applicant shall note bike rack location on the Mylar.
- 340 4. Applicant shall update all project sheets to correlate with elevation renderings as presented
341 February 19, 2020, to the Planning Board.

5. Applicant shall locate and enumerate all freestanding signs, as presented in the elevation renderings, on the site plan; enumerated signs shall include size and square foot information in plan notes.
6. Applicant shall include note on Mylar indicating ‘year round access and maintenance responsibilities of the property owner related to the proposed NH 108 parallel sidewalk depicted on site plan’.
7. Applicant shall present compliance efforts with NHDOT related to ‘change of use’ permits prior to recordation.
8. Applicant shall submit photometric analysis for the proposed project to show conformance with Site Plan Regulations.
9. Applicant shall revise site plan to include note stating ‘Patio and dining area lights shall be turned off at close of regular business hours.’ This condition does not affect required emergency lighting fixtures.
10. Applicant shall submit revised landscaping plan to remain consistent with the plan as presented to the Planning Board February 19, 2020.

Conditions Subsequent:

1. Applicant shall submit a performance surety in accordance with the Site Plan Regulations.
2. Applicant shall submit a complete as built, including an electronic copy thereof which can be utilized by Town GIS software.
3. Applicant shall install sidewalk and related infrastructure to connect the sidewalk as shown on submitted site plan, across the Parkman Brook Plaza access drive (crosswalk) to a connection point on the south side of the Plaza access drive with appropriate NHDOT permits and permissions. Applicant shall be responsible for no more than \$15,000.00 of any signalization infrastructure costs related to this effort.

Mr. Canada made a motion to approve the Site Plan and Conditional Use Permit with Conditions. Mr. Laverty seconded which passed with unanimous approval.

4. Public Meeting:

a. Staff Updates.

Mr. Austin said he plans on sending quarterly updates for the Master Plan. He plans to reach out to the Conservation Commission to see if they will provide the Planning Board a written comment on an industrial project that might be before the Board. Conservation has provided feedback to the applicant directly. Mr. Austin said that one of the things he recommends the Board review for next year’s amendment would be the removal of the 15,000 square foot maximum footprint in Gateway. It has been strongly suggested with people in other corridors in the State that the footprint has become a cumbersome hurdle.

Mr. Austin provided information about Audi. There lighting on the property is in

violation of their approved Site Plan. They came to the Planning Board showing new light poles, as a cost saving effort they tried to utilize the existing poles, but put new lights on top. Nobody told the lighting supplier that they were doing it that way. They agreed to now replace the poles.

Mr. Austin said there was discussion at the last meeting about freestanding solar panels in open space. Open space that was set aside for density bonus is not acceptable for solar panels.

Mr. Houghton said he thinks that the Conservation Commission should give input on solar panels in open space.

Mr. Austin will reach out to all department heads and committee chairs to ask for comments on all projects.

b. TIF Presentation. Staff update of February 20, 2020 TIF presentation

Mr. Houghton said there is a TIF public meeting February 20, 2020 to educate the community on what the TIF is.

5. Adjournment

Mr. Canada made a motion to adjourn the meeting at 8:46 PM. Mr. Lavery seconded which passed unanimously.

Note(s):

1. Materials related to the above meeting are available for review at the Municipal Center during normal business hours. For more information, contact the Stratham Planning Office at 603-772-7391.
2. The Planning Board reserves the right to take items out of order and to discuss and/or vote on items that are not listed on the agenda.