

**PLANNING AND ZONING COMMISSION  
MINUTES OF A REGULAR MEETING AND PUBLIC HEARING  
JULY 15, 2010  
PORTLAND PUBLIC LIBRARY  
20 FREESTONE AVENUE**

Members Present: Mike Woronoff, Bruce Tyler, Alan Kenney, Carl Fitzgibbons

Members Absent: Bette Jenak, Peder Samuelson (Alternate)

Staff: Deanna Rhodes

1. Call Meeting to Order

Mike Woronoff, Vice Chairman, called the meeting to order at 7:03 p.m.

2. Introduction of Members and Seating of Alternates

Members introduced themselves.

3. Accept Agenda

**MOTION** by Mr. Tyler, **SECONDED** by Mr. Fitzgibbons to accept the agenda as read.  
**VOTE UNANIMOUS. MOTION CARRIED.**

4. Application #09-31: Airline Avenue. (Property is located adjacent to and east of property known as 254-256 Airline Avenue.) Special Permit request for a soil recycling and transfer facility. Application of RED Technologies LLC, Property of D&T Investments, LLC. Assessor's Map 10, Lots 7, 8 & 9. Zone I (Industrial).

**MOTION** by Mr. Tyler, **SECONDED** by Mr. Fitzgibbons to open the public hearing for Application #09-31. **VOTE UNANIMOUS. MOTION CARRIED.**

- Chris Bell, Professional Engineer, spoke.
- The property is located across from Tilcon and is 2.25 acres (consisting of a gravel/asphalt mix).
- There's a small garage on the east side of the property and a small tree buffer and 6 foot stockade fence on the west side.
- There have been some property line transfers.
- There were some issues as to whether the block walls are actual structures or not. They're located at the setback.
- Presently the site is composed of a storage area for many 8' X 40' steel containers. The containers are owned by customers of RED Technologies. As the bins are constructed, the steel containers will go off site and not come back.

- They have proposed a Phase I and Phase II for this application.
- The concrete bins are 3 blocks high (each block is 28" high). The blocks are being stored at Tilcon. They almost have enough to construct the entire site. The bins will total 63' wide. This will get an even amount across. Five bays in Phase I and five bays in Phase II.
- The bins for the first four are not intended to be covered. They will be sand and gravel type soils. The soils will not be contaminated. They will be mixed and taken off the site.
- There will be a covered structure in each phase consisting of fabric that will be enclosed on all four sides. They're anchored to withstand wind.
- They submitted their application to the National Diversity Database to check for endangered species. They received a letter back from the State indicating that this lot has no concerns.
- The operation of the site will be Monday – Saturday from 7:00AM – 5:00PM for both phases.
- The entrance and exits will not be through any residential zones.
- Mr. Fitzgibbons is concerned about little league games and high school softball practice across the street with regards to the truck traffic.
- There will be signs posted saying no left turn.
- They are requesting to use the existing buffer.
- Site drainage – It is mostly impervious. They have designed a channel in the back to dispatch water into the ground. Two thirds of the site empties into a catch basin. The other third empties into a low area. This area doesn't seem to flood. By adding the channel, they have actually reduced the water that drains into this low area.
- Mr. Bell went through and discussed Ms. Rhodes comments on her memo. They will make sure the properties are merged.
- Each bin can hold 500 cubic yards.
- There is no proposed exterior lighting.
- Mr. Bell is requesting that the 6' privacy fence be installed during Phase II instead of Phase I. Ms. Rhodes said since there is an existing 6' stockade fence that she will remove the comment to have it installed during Phase I.
- They will include landscaping in front of the existing chain link fence if the Commission requests it.
- They did not show the existing containers, because they will be moved to the Phase II area as soon as they start Phase I. Ms. Rhodes would like the containers shown on the plans.
- Mr. Fitzgibbons complimented the applicant on how on the site currently looks. He said it's a big improvement.
- Ms. Rhodes would like the approximate number of containers that will be on the property.
- There are asking for a waiver of the architectural foundations.
- Ms. Rhodes stated that the Commission could have this use set up as a renewal for every 2 years.
- Mr. Bell addressed and discussed Geoff Jacobson's comments.

- The contaminated soil will not be on site for more than 30 days. Any material that comes into a new bin will be tested.
- Mr. Bell stated that this is a controlled site and it has been approved by DEP.
- All the stockpiles will be covered with a tarp.
- A channel will be installed and the water will be directed to the catch basins. The area towards the west is also a concern, but since the channels were installed, there is less water in this area.
- Mr. Mitchell has not been able to address the septic system issue yet.
- Mr. Jacobson feels that unless the drainage is addressed, the last 3 bins on the site should be eliminated and Mr. Mitchell agrees. The other proposal is to raise the grade and push the water the other way.
- Site line distance – The truck’s site line is good, and they can see in each direction.
- The silt fence will be installed a little further to the north.
- They are willing to address all the comments from the Town and Mr. Jacobson.
- Ms. Rhodes submitted the following into the record:
  - Waiver request from Adam Westhaver.
  - National Diversity Database – no comment.
  - Don Mitchell’s comments.
  - Geoff Jacobson’s memo. The soil isn’t tested until it comes to the site. The Town has some concerns. The applicant explained the procedures to the Commission.
  - OK with the existing fence.
  - Maximum lot coverage for outside storage (25% in this zone). This cannot be exceeded.
  - The Town is comfortable with the waiver request.
  - The affidavit for signage was done correctly and in a timely manner.
  - The State Archeologist took a look at this area.
  - Note from TRC.
  - Ms. Rhodes is adding that all bins must be covered.
  - Building official comments.
  - Drawing of hoop structure.
  - The proposed truck route needs to be included on the revised plans.
  - The landscaping plan must be submitted to the Planning Department so it can be reviewed and approved.
  - Approval for anything in the public right of way must be submitted to the Public Works Department.

**Public Comment**

- Gary Colby supports the application and has no objections to it.

**MOTION** by Mr. Tyler, **SECONDED** by Mr. Fitzgibbons to close the public hearing for Application #09-31. **VOTE UNANIMOUS. MOTION CARRIED.**

**MOTION** by Mr. Fitzgibbons to approve waiver of ZR Section 10.5.2.D, which requires submission of architectural plans for any proposed building, for App. #09-31: Airline Avenue. (Property is located adjacent to and east of property known as 254-256 Airline Avenue.) Special Permit request for a soil recycling & transfer facility. Application of RED Technologies LLC, Property of D&T Investments, LLC. Assessor's Map 10, Lots 7, 8 & 9. Zone I (Industrial).

Reasons: The applicant submitted a copy of a photograph which depicts the style and appearance of the proposed hoop-style building. Structural drawings and/or more detailed information will be provided to the Building Official and Fire Marshal during the permitting process.

**SECONDED** by Mr. Kenney. **VOTE UNANIMOUS. MOTION CARRIED.**

**MOTION** by Mr. Tyler to Approve Application #09-31: Airline Avenue. (Property is located adjacent to and east of property known as 254-256 Airline Avenue.) Special Permit request for a soil recycling & transfer facility. Application of RED Technologies LLC, Property of D&T Investments, LLC. Assessor's Map 10, Lots 7, 8 & 9. Zone I (Industrial), as shown on plans entitled "Soil Transfer Facility", prepared by Christopher G. Bell, PE, dated 06/15/10, and based on testimony and subject to the following instructions and conditions integral to this application:

1. That this approval will expire in 5 years.
2. That the applicant address, to the Sanitarian's satisfaction, issues relative to Items 1 through 3 of the Chatham Health District memo dated 07/08/10.
3. That the applicant resolve, to both the Sanitarian's and Town Engineer's satisfaction, drainage concerns noted in Item 2 of the Town Engineer's memo dated 07/13/10.
4. That the above two items must be addressed prior to filing the mylar.
5. That the Certified Letter of Approval be placed on the site plan and the mylar be filed on the land records within 180 days, per ZR Section 10.5.2.F.2.a, and that 3 paper copies of the complete set of plans be submitted. These requirements must be met prior to the issuance of a zoning permit.
6. That the Town recognizes that approval of this use requires a General Permit from the Connecticut Department of Environmental Protection for Contaminated Soil and/or Sediment Management. A copy of this permit and any other required State or Federal approval must be submitted to the Town prior to receiving a zoning permit and conducting any activities or improvements associated with this use.
7. That the plan be revised to address Items 3 and 5 of the Town Engineer's memo dated 07/13/10.
8. That the plan be revised to address Items 1 through 5 of the Planning Department memo dated 07/06/10.
9. That an E&S bond, to be determined by the Town Engineer, be submitted prior to filing the mylar.

10. That the E&S controls be installed by the applicant and inspected by Town Staff prior to any land disturbance activities being initiated.
11. That all the site improvements are to be completed according to the approved plan prior to the issuance of a the required Certificate of Zoning Compliance and Certificate of Occupancy, or a performance bond will be required in accordance with ZR Section 11.2.2.
12. That the proposed truck route presented at the 07/15/10 hearing be included on the revised plan.
13. That a landscape plan be presented to the Planning Dept. for their review and approval. Approval from the Public Works Dept. will be required for any improvements in the right-of-way.
14. That all bins are covered with tarps, except for the two hoop structures.

Reasons: The proposal conforms to Section 6.1, 8, 9.11, 10.4, 10.5 of the Zoning Regulations.

SECONDED by Mr. Kenney. **VOTE UNANIMOUS. MOTION CARRIED.**

### **REGULAR MEETING**

5. Application #09-29: Freestone & High Street (Property is located at the southeast corner of the intersection) Site Plan Review for Medical Office Building. Application of Walter J. Smith, Property of Walter J. Smith & Lenore M. Smith. Assessor's Map 20, Lot 183. Zone B-2.
  - Frank Magnotta spoke.
  - He passed out at copy of the site plan to the Commission.
  - This property is located on the corner of High St. and Freestone Ave.
  - The property is fenced and paved and was a former DOT facility. Right now a contractor has equipment on the property.
  - The proposal is to construct an 11,836 square foot medical office building.
  - 48 parking spaces are proposed.
  - The entire site with the exception of a small triangular corner all drains to a large double catch basin located on the corner of the property. There is an 18" pipe that takes that water out to the pipe on High Street.
  - There are some non-impervious areas on the site plan which will be landscaped and have grass planted.
  - Residential properties abut the property and there is a commercial property across the street.
  - The property is slightly over 1 acre and there are four proposed handicapped parking spaces (2 are required).
  - Sidewalks will be installed on 2 sides of the building.
  - The site is relatively flat and graded.
  - There are wetlands adjacent to the property on the south corner. A wetlands permit was required and approved.

- The installation of a storm water infiltration trench is located behind the building.
- Utility connections (both water and sewer) are located on both Freestone Ave. and High St.
- Mr. Magnotta just received two short letters from Town staff today.
- The discharge from the site should be less than it is now.
- Mr. Tyler asked about the concrete sidewalk that is just on Freestone Ave. and not High St. Mr. Magnotta said that the sidewalk exists on Freestone, but there are no sidewalks on High St.
- The existing chain link fence will be removed.
- Mr. Magnotta described the flow of water into the wetlands.
- The picture submitted of the building is close to the design of the actual building proposed for this site.
- The Commission encouraged the use of some brownstone in the construction. Mr. Magnotta said that there are no architectural standards in the regulations, but the applicant will look into incorporating some brownstone.
- They will install security cameras on the exterior of the building.
- Ms. Rhodes asked the Commission how they want to deal with resolving the outstanding drainage issues for Geoff Jacobson. Mr. Magnotta feels the Wetlands Commission approved it a certain way; however, Mr. Jacobson has some drainage concerns and how it will affect abutting neighbors. Mr. Magnotta said that this is something he must calculate. Ms. Rhodes said that there was a lack of sending information on to the Town Engineer. When an application comes into the PZC and Wetlands, it goes to Mr. Jacobson for his review. When revisions came in, they weren't forwarded to Mr. Jacobson to comment and review. So, Wetlands approved a revised plan that Mr. Jacobson did not review. So when he recently reviewed it, he has concerns with it and it was approved without hearing from Mr. Jacobson. These modifications can potentially be made with Lincoln White as an agent instead of going back to the Commission.
- Mr. Kenney asked Mr. Magnotta if this office building could be for other businesses other than medical offices. Mr. Magnotta said it could be. Ms. Rhodes said that if it's the same intensity or less, and it meets the parking, they could do an administrative change of use.
- Ms. Rhodes read the following into the record:
  - The Building Official had a comment about the location of the propane tank. Mr. Magnotta changed it and Mr. White told Ms. Rhodes the new location is fine. Mr. Kenney said that this property is on the list for Incentive Housing.
  - Geoff Jacobson's memo dated 7/12/10. Items have been addressed.
  - The Fire Chief issues can be addressed at a later date but they asked that a security box be installed so they can get into the building in case of fire.
  - A cost construction/occupancy for the Fire Marshall will come at a later date.
  - Mr. Magnotta's letter dated 6/23/10 to Mr. Wiltsie (the Assistant Fire Marshall) saying that he will address his comments later.

- Withdrawal of buffer waiver because it has been addressed.

**MOTION** by Mr. Kenney to Approve waiver of ZR Section 10.5.2.D, which requires submission of architectural plans, separate floor plans and elevation views of the proposed building, for App. #09-29: 13 High Street. Site Plan Review for Medical Office Building. Application of Walter J. Smith. Property of Walter J. Smith & Lenore M. Smith. Assessor's Map 20, Lot 183. Zone B-2.

Reasons: The applicant provided sufficient information which was prepared by an architect to show the floor plan layout, and also submitted a copy of a photograph of a building which depicts the style and appearance for the proposed medical office building.

**SECONDED** by Mr. Tyler. **VOTE UNANIMOUS. MOTION CARRIED.**

**MOTION** by Mr. Tyler to approve Application #09-29: 13 High Street. (Property is located at the southeast corner of the intersection of Freestone Avenue and High Street) Site Plan Review for Medical Office Building. Application of Walter J. Smith, Property of Walter J. Smith & Lenore M. Smith. Assessor's Map 20, Lot 183. Zone B-2, as shown on plan submitted, based on testimony and subject to the following instructions:

1. That this approval will expire in 5 years.
2. That the Certified Letter of Approval be placed on the final plans.
3. That the plans be revised to incorporate comments from the Planning Department memo, dated 07/15/10.
4. That the applicant address the drainage concerns, noted in Town Engineer's memo dated 07/15/10, with the Wetlands Agent and then submit for review by the Town Engineer for approval.
5. That 3 paper copies of the final plan be submitted to the Planning Department and that the mylar(s) be filed on the Land Records within 180 days, as per ZR Section 10.5.2.F.2.a.
6. That E&S controls be installed by the applicant and inspected by the Town Staff prior to any land disturbance activities.
7. That an E&S bond in an amount to be determined by the Town Engineer be submitted prior to construction, as per ZR section 11.2.1.
8. That a Zoning Permit be issued for this use.
9. That a pre-construction meeting be held on site with the contractor, Town Engineer and Town Staff prior to any activity.
10. That all site improvements be completed according to the approved plan prior to the issuance of a Certificate of Zoning Compliance and Certificate of Occupancy, or a performance bond will be required in accordance with ZR Section 11.2.2.
11. That a landscape maintenance bond be posted prior to issuance of a Certificate of Occupancy, as per ZR Section 11.2.4.
12. That the applicant provide an EAS Security Box for building access by the Fire Department as requested by the Fire Chief in a letter dated 06/17/10.

Reasons: The proposal conforms to Section 5.1, 8 and Section 10.5 of the Zoning Regulations.

SECONDED by Mr. Kenney. **VOTE UNANIMOUS. MOTION CARRIED.**

6. Application #09-30: Portland-Cobalt Road (Property is Lot #2 of the Global-Portland Re-subdivision and is located approximately 160 ft. east of the intersection of Payne Blvd. & Conn. Route 66). Site Plan Review for Retail Motor Fuel Filling Station/Convenience Store with Drive-thru Window Service for Future Food Service Establishment. Application and Property of Global-Portland, LLC. Assessor's Map 15, Lot 50-2. Zone B-2.
- Atty. Timothy Fury spoke.
  - Improvements to Route 66 and Payne Blvd. have been completed, so the applicant is now moving forward with this project.
  - They are proposing a convenience store with a drive-thru and a 12 pump fueling station.
  - They will use the common access drive so there will be a unified traffic pattern.
  - The drainage of water will go into the detention basin.
  - There is a construction sequencing schedule on the plans which Atty. Fury discussed.
  - The Town Engineer's comments were received today by Atty. Fury. They were reviewed and discussed.
  - Mr. Fitzgibbons asked about the drainage regarding the first resident on Payne Blvd. and the water accumulating in their backyard. Atty. Fury said that through the design of the engineering this should be resolved and addressed. Mr. Fitzgibbons asked the applicant about using natural gas instead of propane if it's available in this area. The applicant will check to see if it's available.
  - Ms. Rhodes' memo was received by Atty. Fury. They outstanding comments were reviewed and discussed. The hours of operation will be 5:00AM to 11:00PM. The lighting will be full cut off and the lights should be turned off except for the security lights through timing devices or motion detectors. Security cameras will be installed and are regulated by the State.
  - An Environmental Safety Feature document was passed out to the Commission by Atty. Fury.
  - The Commission would like the applicant to consider incorporating some brownstone into their development.
  - David Erlandson and Don Mitchell discussed Mr. Mitchell's memo dated 7/13/10. It was suggested that the applicant should drill for a well before the buildings are built to ensure that water is available.
  - Atty. Fury said that they will comply with all the standards.
  - Ms. Rhodes said that the plantings near the southeast corner should be done now and to also include the back right corner. She would like the trees planted now so it gives them time to grow.

- Mr. Tyler asked about traffic flow. He would like to discourage left hand turns out of the site and direct them to Payne Blvd. where there is a traffic light. He suggests doing signage to direct people to Payne Blvd.
- Ms. Rhodes submitted the following into the record:
  - Fire Marshall memo received on 7/8/10. Ms. Rhodes needs responses back.
  - Fire Chief – needs all comments addressed.
  - Accessible van space is shown on the site plan.
  - Asst. Fire Marshall comments.
  - Instructions – If there is domestic natural gas, the applicant will connect in lieu of petroleum. The Commission doesn't feel this needs to be a listed as condition.

**MOTION** by Mr. Tyler to Approve Application #09-30: Portland-Cobalt Road (Property is Lot #2 of the Global-Portland Re-subdivision and is located approx. 160 ft. east of the intersection of Payne Blvd. & Conn. Route 66). Site Plan Review for Retail Motor Fuel Filling Station/Convenience Store with Drive-thru Window Service for Future Food Service Establishment. Application and Property of Global-Portland, LLC. Assessor's Map 15, Lot 50-2. Zone B-2 as shown on plan entitled " Site Plan for Lot #2 Global-Portland Re-subdivision, Prepared for Global-Portland LLC by Chatham Engineering, Inc., dated 04/26/10, revised to 07/09/10", and based on testimony and subject to the following instructions:

1. That this approval will expire in 5 years.
2. That the Certified Letter of Approval be placed on the final plans.
3. That the applicant address, to the Sanitarian's satisfaction, Items 1 through 7 of the Chatham Health District memo dated 07/13/10. Sanitarian items include issues relative to the requirement for siting a community well.
4. That the plans be revised to incorporate comments from the Planning Department memos, dated 07/07/10 & 07/15/10.
5. That the applicant address and/or revise the plans relative items on the Town Engineer's memo, dated 07/15/10.
6. That the applicant confirm that all items noted by the Building Official, Fire Marshal's Office and Fire Chief in their memos were addressed to their satisfaction by the resolutions and responses provided in the Chatham Engineering, Inc. letter dated 07/14/10.
7. That the applicant submit copies of any approvals or permits issued by the State of Connecticut. These include, but are not limited to the Department of Public Health, Department of Consumer Protection, Department of Transportation and Department of Environmental Protection.
8. That 3 paper copies of the final plan be submitted to the Planning Department and that the mylar(s) be filed on the Land Records within 180 days, as per ZR Section 10.5.2.F.2.a.
9. That E&S controls be installed by the applicant and inspected by the Town Staff prior to any land disturbance activities.

10. That an E&S bond in an amount to be determined by the Town Engineer be submitted prior to construction, as per ZR section 11.2.1.
11. That a Zoning Permit be issued for this use.
12. That a pre-construction meeting be held on site with the contractor, Town Engineer and Town Staff prior to any activity.
13. That all improvements included in this proposal are to be completed according to the approved plan prior to the issuance of a Certificate of Zoning Compliance and Certificate of Occupancy, or a performance bond will be required in accordance with ZR Section 11.2.2.
14. That a landscape maintenance bond be posted prior to issuance of a Certificate of Occupancy, as per ZR Section 11.2.4.
15. That the puffer plantings required by the Subdivision located in the southeast corner by the drainage outlet be planted at the same time as the buffer on Lot #1 & 2.

Reasons: The proposal conforms to Section 5.1, 8 and Section 10.5 of the Zoning Regulations.

**SECONDED** by Mr. Kenney. **VOTE UNANIMOUS. MOTION CARRIED.**

**MOTION** by Mr. Kenney to grant a Certificate of Location Approval for the retail sale of gasoline to Global-Portland LLC for the business: “Super Value Mini-Shop” which is to be constructed on a property known as Lot #2 of the Global-Portland Re-Subdivision and located approx. 160 ft. east of the intersection of Payne Blvd. & Conn. Route 66.

Reasons: Acting as an Agent of the State of CT as required by General Statute Title 14, Chapter 250, Sec. 14-321, and in accordance with Zoning Regulation Section 9.10.5.B, the Commission deemed the location suitable for the retail sale of gasoline based on the considerations found in Zoning Regulation Section 9.10.6.

**SECONDED** by Mr. Fitzgibbons. **VOTE UNANIMOUS. MOTION CARRIED.**

7. Staff Report:

- Enforcement/Administrative – There’s someone who wants to open a place on Main Street to buy and sell products. It’s not a pawn shop. Is the Commission comfortable with this use? It’s retail, but they’re also buying items. The Commission is OK with this use.
- TCVD Reviews – Liberty Bank ripped out their landscape and did some new plantings. The Village District Consultant was very pleased with it.
- Incentive Housing Zone Updated – We received the extension request to June 2011.
- Public Notice Registry – No one new.

- Bond Reductions & Extension Requests – None.
- 8/19/10 PZC Meeting – Does the Commission want to hold a meeting to discuss just the POCD & expiration of approvals that are 5 years or older? The Commission decided to discuss the POCD only on 8/19/10.

8. Approval of Minutes: 7/1/10

- Page 242 – 6<sup>th</sup> bullet – 4<sup>th</sup> sentence – the word ferrell is spelled feral.

**MOTION** by Mr. Fitzgibbons, **SECONDED** by Mr. Kenney to approve the minutes for 7/1/10 as amended. **VOTE UNANIMOUS. MOTION CARRIED.**

9. Adjourn

**MOTION** by Mr. Tyler, **SECONDED** by Mr. Fitzgibbons to adjourn the meeting at 9:50 p.m. **VOTE UNANIMOUS. MOTION CARRIED.**

Respectfully Submitted,

Debra D. Pozzetti, Board Clerk

TC, FS, BOS, PZC, Clerk, Planning, ZEO, Book, Library, CC Chair