



PEMBROKE PLANNING BOARD MINUTES

MONDAY, JANUARY 22, 2018

PRESENT: Rebecca Coletta (Board Chairman), Andrew Wandell (Board Vice-Chairman), Thomas Irving (Board Clerk), Paul Whitman (Board Member), Matthew Heins (Planning Board Assistant), Peter Palmieri (Merrill Associates), Russell Field, Steven Wry (Land Planning, Inc.), John F. Danehey (Attorney), Russell Field, II, Ashley Balsis, Diane Balsis, Bruce Nichols, Daniel Smith, Jennifer Smith, Robert Galvin (Attorney), Charles Maccaferri, Cheryl Smith, Daniel Smith, Sr., Kevin Grady (Grady Consulting), Maria Karas, Matthew Watsky (Attorney), Paula DeMelo, Sinead Scheppard, Anthony DelPozzo, Arthur Rubin, Leisa Norton, John Norkaitis, Kevin Murrin, Cheryl Kenney, Kevin Crowley, Maureen Robinson, David Nash, James Bridgewater, Robert Bruce, Richard Grady (Grady Consulting), Gerry Dutson, David Norman, Danielle Markol, Donald Markol, and others.

Chairman Rebecca Coletta opened the meeting by reading the Chairman's statement.

PUBLIC HEARING FOR PROPOSED SITE PLAN #SP5-17 AT 240 AND 258 OAK STREET

Ms. Coletta opened the public hearing for proposed site plan #SP5-17 at 240 and 258 Oak Street. The Planning Board gave notice on January 3, 2018, that the Planning Board will hold a public hearing on Monday, January 22, 2018, at 7:00 pm in Town Hall, 100 Center St., Pembroke, MA 02359, on the application of 290 Oak Street Realty Trust (Russell Field, Trustee), 25 James Way, Scituate, MA 02066, requesting Site Plan Approval under the Zoning Bylaws of the Town of Pembroke Section V.7. (Site Plan Approval). The applicant proposes to construct a new curb cut and gravel access drive, to provide access to the site's two properties through the site's frontage on Oak Street. This access is to serve the current business operations on the site, the storage of empty dumpster containers. The properties are located in the Industrial A zoning district, at 240 and 258 Oak Street, Pembroke, MA 02359, as shown on Assessors' Map G14 Lot 25D and G14 Lot 25E. A copy of the application is available in the Office of the Planning Board.

Russell Field was present, along with the project engineer Steven Wry of Land Planning, Inc., and Mr. Field's attorney John F. Danehey. Ms. Coletta noted that the board received a letter from the law firm of Baker, Braverman & Barbadoro (representing an abutter), objecting to the site plan application. The letter is available to members of the public, and has been placed in the project file.

Mr. Danehey spoke briefly, and then Mr. Wry described the project's design in detail. The site plan is meant to provide improved access to the site. The site consists of two properties, each about two acres in size, and is used for the storage of empty dumpster containers. The current access to the site is through the adjacent property of Daley & Wanzer, and the new proposed access is directly through

the street frontage, and would consist of a gravel driveway and curb cut. The proposed driveway, 24 feet wide, is located so as to minimize the number of trees to be cleared, and to give access to where the dumpster containers are stored. No building or structure is proposed in this site plan. They are requesting several waivers.

Mr. Wry, Mr. Field and Mr. Wandell discussed the location of the proposed curb cut. Mr. Wry explained that the dumpster containers will be moved slightly, but still kept in the existing open area at the rear of the site. The only trees that will be cleared are those in the path of the proposed driveway.

The board members discussed the location of the dumpster containers and the required zoning setbacks. The board also talked about the issue of fencing and/or vegetation along the property lines. Mr. Irving asked if the road could be shifted slightly, to be ten or fifteen feet off the property line instead of right along the edge. A discussion followed. Mr. Danehey suggested that moving the road ten feet over would allow the existing vegetation along the property line to function as a buffer. Further back, around the dumpster containers, some new vegetation would be planted to help screen the containers.

Ms. Coletta went over the issues raised in the letter from Baker, Braverman & Barbadoro. The letter argues that outdoor storage is not an allowed use in the Industrial A zone, and that used dumpster containers would constitute the processing of trash. Mr. Heins explained that Brian Murphy, the head of a company that owns adjacent property (and on whose behalf the Baker, Braverman & Barbadoro letter was issued), had verbally requested that the hearing be continued to a later date to give him the chance to address the board.

Mr. Heins also said that the Pembroke building inspector, George Verry, believes the Zoning Board of Appeals (ZBA) should have the opportunity to decide whether or not a special permit is needed in this case for the outdoor storage of goods. Thus Mr. Verry felt the Planning Board shouldn't grant site plan approval without first giving the ZBA the option to consider the special permit issue. The board discussed this question, and considered the verbiage "outdoor storage, display, and sale of goods" from the zoning bylaws. The board members were of the opinion that this does not apply to this situation, since the dumpster containers are not merchandise being offered for sale. Ms. Coletta stated that the bylaw is not intended to mean that any large equipment being stored outside qualifies as the outdoor storage or display of goods and thus requires a special permit.

The board did not feel the hearing should be continued solely in order to give Mr. Murphy a chance to address the board. Ms. Coletta noted that the Baker, Braverman & Barbadoro letter points to a zoning bylaw prohibiting the storage of discarded or abandoned equipment visible from the way. The board did not believe that applies to this case, especially since the dumpster containers are not discarded or abandoned. She asked Mr. Field how often the containers are pulled into or out of the site for actual use, and he replied that most of them go in and out on a regular basis. Mr. Danehey, Mr. Field and the board discussed the history of the site, and the longstanding presence of the containers.

The board members discussed the conditions to be created for the site plan approval. The board felt that a paved apron, ramp and curb cut, along with granite curbing, were necessary, and therefore a gravel entrance (as proposed in the drawings) would not be allowed. Mr. Whitman suggested the paving extend back ten or twelve feet, and Mr. Irving recommended it extend about 30 feet. The

board members were amenable to the rest of the driveway being gravel, and it was clarified that a waiver for the requirement of paving should be requested in writing. The board decided the requirement for arborvitaes to be planted as a buffer and for screening would be one of the conditions.

The board members stressed that the waiver of the requirement that the driveway be paved was unique to this site plan, due to this being an existing business, no building being proposed, and other reasons. Ms. Coletta emphasized that if there are modifications to the site plan in the future, the board will revisit the issue and could require that the driveway be paved.

The board members decided the application and drawings, with the conditions to be set and changes to be made as discussed, were acceptable.

Mr. Wandell made a motion that the board approve Site Plan #SP5-17 for 240 and 258 Oak Street, with the conditions that the site plan be modified in order to be acceptable to the board, there be an addition of arborvitaes and buffering, the required granite curbing, apron and paved entrance 30 feet long be shown, and a written waiver be submitted for the driveway to be gravel instead of pavement, along with other conditions to be set by the board. Mr. Irving seconded the motion, and the board voted unanimously in favor.

Mr. Wandell made a motion that the board close the hearing for Site Plan #SP5-17, Mr. Irving seconded the motion, and the board voted unanimously in favor.

REVIEW OF ROUTINE ADMINISTRATIVE MATTERS

Ms. Coletta said that receiving engineering drawings in 11"x17" size, and also in PDF format, would be helpful. The board members and Mr. Heins discussed this, and it was agreed that in the future the engineering drawings would be required to be submitted in 11"x17" size and in PDF format (in addition to the full-size 24"x26" size) for site plan and subdivision applications.

Mr. Wandell made a motion to approve the minutes for January 8, 2018, Mr. Irving seconded the motion, and the board voted unanimously in favor.

Ms. Coletta noted that each board member must complete the state-mandated online conflict-of-interest training (unless it was done the previous year).

Ms. Coletta explained that Mr. Heins had completed a draft of the 2017 annual report, which is due January 31. The board members agreed that Ms. Coletta could approve the final version of this without a board vote.

Ms. Coletta said that the revised, updated version of the zoning bylaws, reflecting the changes that took effect January 1, are now on the town's website, and hard-copy binders of them are available.

Ms. Coletta mentioned that the Community Compact, a state program, possibly could provide funding support for zoning updates or a new master plan, and the board discussed this briefly.

DISCUSSION ABOUT PROPOSED FORM A (APPROVAL NOT REQUIRED SUBDIVISION) FOR TWO PROPERTIES AT 364 OLDHAM STREET AND 30 SHORE'S EDGE

Ashley Balsis and Diane Balsis came before the board with a proposed Form A (Approval Not Required Subdivision) for two properties at 364 Oldham Street and 30 Shore's Edge. The board

examined the drawings, and Diane and Ashley Balsis described the intent of the Form A. The property at 364 Oldham Street is owned by Ashley Balsis, and the Form A would divide off a portion of this property and transfer it to a neighbor who lives at 30 Shore's Edge and whose property is adjacent.

The board members were satisfied that the Form A was acceptable. Mr. Whitman made a motion that the board's clerk sign the drawings, Mr. Wandell seconded the motion, and the board voted unanimously in favor. The Planning Board Clerk, Mr. Irving, signed the drawings, thereby endorsing (i.e., approving) the Form A.

REVIEW OF ROUTINE ADMINISTRATIVE MATTERS

Ms. Coletta said that Mr. Heins's quarterly pay report has been issued to the board.

Ms. Coletta explained that the temporary permission the board granted for the expanded parking area at the Wolves' Den Field House on Oak Street expires March 9, 2018. The board members discussed this situation. Ms. Coletta said that for Wolves' Den Field House to get another extension for the expanded parking area, they would need to submit a site plan application.

Ms. Coletta raised the issue of whether the board should require site inspections, an as-built inspection, and/or as-built drawings for the completion of the mixed-use project at 204 Center Street. The board discussed the complexities of this, especially inasmuch as the original site plan was approved by the ZBA. The board members felt that since the project is still under the ZBA-approved site plan, it would be inappropriate to impose any of these requirements at this point in time.

Ms. Coletta said that Mr. Palmieri had identified some issues with the as-built project and drawings for the recently completed Bridges at Pembroke site plan located on Church Street. In particular, the drainage retention basin is constantly holding water, which should not be the case. Mr. Palmieri speculated that the water level measurements may be off, and noted the as-built drawings are missing key information. Ms. Coletta suggested that the applicant be asked to reply to Mr. Palmieri's letter regarding the as-builts, and to correct the remaining problems.

PUBLIC HEARING FOR PROPOSED SITE PLAN #SP3-17 AT 346 WASHINGTON STREET

Ms. Coletta reopened the public hearing (continued from December 18, 2017) for proposed site plan #SP3-17 at 346 Washington Street, from the application of Smith & Sons, 43 Mattakeesett Street, Pembroke, MA 02359, requesting Site Plan Approval under the Zoning Bylaws of the Town of Pembroke Section V.7. (Site Plan Approval). Smith & Sons proposes to relocate to the property at 346 Washington Street. The company engages in the business of construction excavating, and also of mulch processing and sales. The property would be used for the storage of equipment and trucks, and for other purposes associated with excavating operations, and for the processing, storage and sale of mulch. Two buildings, consisting of a total of 22,800 square feet, and one accessory furnace building would be constructed on the property. The property is located in the Business B zoning district, the Residential-Commercial zoning district, the Residence A zoning district, and the Historic District, at 346 Washington Street, Pembroke, MA 02359, as shown on Assessors' Map E12 Lot 12 and E12 Lot 14. A copy of the application is available in the Office of the Planning Board.

Ms. Coletta explained that since the previous public hearing, the Planning Board had received a letter (dated January 8, 2018) from attorney Matthew Watsky on behalf of Maria Karas, the owner and

resident of 400 Washington Street, an abutting property. The letter is available to the public and is stored in the project file.

Ms. Coletta said that the applicant was preparing further modifications to the site plan, and so the public hearing would probably be continued, but that this session of the public hearing would serve a valuable role in the overall process.

Attorney Robert Galvin, representing the applicant Daniel Smith (who owns and runs Smith & Sons), described where the project is located in relation to the zoning districts. He explained that the design has been changed to add a forestry area, which will be a planted area of trees that will be harvested periodically to generate biomass material. The mulch processing area was moved from the Residential A District portion of the site to the Residential-Commercial District portion of the site. 30 feet of this mulch area extends into the Residential A District, in a manner consistent with the zoning bylaws.

Kevin Grady (of Grady Consulting), the project engineer, summarized some changes he made in response to Mr. Palmieri's review letter. He stated that most of the issues raised by Mr. Palmieri had been resolved in the new design, and the few remaining items could be easily addressed. The general layout of the project had not changed. Another layer of pre-treatment was added to the stormwater system, and Mr. Grady described the stormwater design briefly. He showed where a six-foot-high berm, with vegetation to be planted on it, was added to provide buffering for a nearby residential abutter, to act as visual screening and a sound barrier.

Mr. Galvin said that in the front of the property the project would be a light industrial use, which is allowable by right subject to site plan approval. The new design moves the processing operations outside the Residential A District area, with only harvesting operations (i.e., the trees) placed in that area. Mr. Galvin stated that this harvesting would be a use by right, and that the applicant will submit that portion of the property for forestry use and apply for a Chapter 61B tax classification. This would involve submitting a forestry plan to the state forester which would detail the harvesting and growing procedures. The board and Mr. Galvin discussed how the taxation system works for Chapter 61B properties.

Mr. Galvin went over some of the items mentioned in Mr. Watsky's letter. Mr. Galvin said that adequate notice was given for all the abutters of both properties involved in the site plan. With regard to the rear property lacking frontage, he said that while the lot is two tax parcels, it still counts as one lot in single ownership, and thus is one lot for zoning purposes. As one lot, Mr. Galvin said that it has adequate frontage. Mr. Galvin explained that the lot does meet the required lot perimeter ratio. Regarding the issue of a common driveway, Mr. Galvin stated that since this is only one lot, there would not be a common driveway.

Mr. Galvin addressed the issues of use. He said that Mr. Watsky's letter contends that outdoor activities associated with processing or manufacture create a violation of the bylaw. Mr. Galvin stated that the zoning bylaws' definition of light industry is very broad, and contains no verbiage as to indoor or outdoor activities. He said that a bylaw which is broad and unlimited should not be read narrowly, but be read plainly and in accordance with the words' ordinary meaning. When there is no language prohibiting a use from being inside or outside, Mr. Galvin said, both are permissible provided they are light industrial.

Mr. Galvin added that this type of manufacturing use is already happening at another location on Washington Street, taking place outside, and evidently the town's building inspector has already determined it to be allowable. A member of the public asked where this was, and Mr. Galvin said it was across the street from That Blooming Place. The member of the public stated that no mulching or grinding takes place at this business.

Mr. Galvin noted that Mr. Watsky's letter mentions the zoning bylaws' special permit requirement for the outdoor storage, display and sale of goods as evidence that certain uses must be conducted indoors. Mr. Galvin stated that the applicant is not seeking this type of special permit at this time. Mr. Galvin said that, regarding the issue of the agricultural use, he intends to bring an expert from the Massachusetts Forestry Alliance to describe this use in detail.

Mr. Galvin noted that Mr. Watsky's letter references the case of *Cotton Tree Service, Inc. vs. The Zoning Board of Appeals of Westhampton*. Mr. Galvin stated that the difference between that case and this situation is that on this property the applicant will grow materials used to generate biomass in the areas of the property where it is necessary. In the *Cotton Tree Service* case, the business was essentially a landscaper bringing tree waste to his site and chipping it, and making a claim of an agricultural use even though no material was actually being grown on the site. Mr. Galvin added that state law controls in this respect, and requires that a certain percentage of the annual revenue be generated as the product of the agriculture, a condition the applicant will easily meet.

Ms. Coletta asked if off-site tree waste will be brought onto the site for chipping. Mr. Galvin answered in the affirmative, and stated this would be permissible in the Residential-Commercial District and the Business B District portions of the property as light industry. He also stated it would be permissible in a certain other portion of the property provided less than 50% of the materials were from off-site. He said that 25% of the agricultural product of the site during its growing season of four months has to be an agricultural product of the site, another 50% can be taken from other properties in agricultural use either in Pembroke or other places in Massachusetts, and the remainder can come from elsewhere. Ms. Coletta asked if Mr. Galvin could provide statutory reference, and he said it is Chapter 40A, Section 3.

Mr. Whitman asked how long it will take to grow the tree stock that would be processed, and how many acres it would cover. Mr. Galvin estimated six or seven acres, and up to three years to grow trees that could be cut. Mr. Whitman noted that thus it will take a few years before on-site growth is being mulched. Mr. Galvin said the applicant would also use some of the wood that currently exists on the site. Daniel Smith confirmed that the tree growth takes three years for poplar trees. In reply to a question from Mr. Whitman, Mr. Galvin said that Mr. Smith can take product from other agricultural uses anywhere in the state to make up his appropriate percentage.

Mr. Whitman asked who from the state monitors this, and Mr. Galvin said it's the Massachusetts Department of Agriculture, but that typically the Tax Collector and/or Assessor monitors it, and the building inspector can request proof of annual revenue. Mr. Whitman asked who monitors the permit, and Mr. Galvin said it's the state that issues an order of conditions since no local permit is involved in forestry. He added that the farm plan and forest-cutting plan to be filed under Chapter 132 will be entirely approved by the state forester for this region. Mr. Galvin also said that the state forester can determine what work is allowed in a resource area, buffer zone to a resource area, or wetlands area.

Mr. Galvin emphasized that Daniel Smith is a conscientious businessperson, and would be a much more responsible occupant than the previous user of the property, Chip-Tech, which caused so many problems. He noted that the Copeland Lumber site in Marshfield where Mr. Smith does some activities currently is not under Mr. Smith's control. He added that Mr. Smith is willing to accept reasonable accommodations regarding his hours of his operation.

Ms. Coletta stated that the board must keep in mind that a site plan approval runs with the property (and thus could eventually go to a different owner). She added that any site plan approval, if it were granted, would have conditions which would be enforceable. Ms. Coletta also explained that the public hearing would probably be continued.

Mr. Galvin mentioned that the applicant had obtained a Historic District Commission Approval on the previous Thursday, and would receive a certificate of appropriateness from the Historic District Commission soon.

Attorney Matthew Watsky, representing abutter Maria Karas, spoke. He said that what is being presented now is dramatically different from the original application, and so the board can decide whether it's appropriate to change a proposal so significantly under the same site plan application. Mr. Watsky said that the public notice correctly identifies both parcels, but the original site plan application only identifies one parcel, leaving out E12-14.

Mr. Watsky explained that the project creates very serious concerns about noise, and nothing that has been submitted or explained verbally has addressed this in any substantive way. He stated that a six-foot-high berm with vegetation on top is entirely inadequate, given the likely noise to be generated by multiple large, heavy machines, including a grinder of 1,200 horsepower. He said that there are ways to analyze noise impacts and how they can be attenuated, but the applicant so far has not done so. He added that professional noise experts can design noise barriers to reduce specific noises coming from particular locations and heights, but so far this hasn't been considered.

Mr. Watsky said that the actual grinding, the processing of wood waste by heavy equipment, is not a permissible use in either the Residential-Commercial District or the Business B District. He stated that the meaning of terms in the zoning bylaws should follow their meaning in common usage. He noted that his letter identifies the difference between light industrial and heavy industrial uses. The town's zoning bylaws, he explained, permit light industrial uses in some parts of town, but do not permit heavy industrial uses. Mr. Watsky stated that the proposed use, in terms of the equipment to be used and the nature of the business, is a heavy industrial use.

Mr. Watsky said that examples of light industrial use would be assembling clothing or electronic equipment inside a factory, primarily to be sold for retail. A heavy industrial use typically uses heavy equipment, is capital-intensive and uses comparatively little labor, and produces bulk products or bulk materials. Mr. Watsky said that the original application stated that most of the project's wood waste would actually go to a wood waste to energy incinerator in Maine. This is a typical example of heavy industry, Mr. Watsky said, and he added that wood processing in large quantities for sale would also qualify as heavy industry. In summary, he opined that the zoning bylaws do not permit this type of use in Pembroke.

Mr. Watsky stated that this is not an agricultural use, as per the *Cotton Tree Service* case and the town's own bylaws. He quoted from the zoning bylaws, that an agricultural use is "...a farm, garden,

nursery or greenhouse, which may sell produce the major portion of which is raised on the premises; but excluding any use which is injurious or offensive to the neighborhood.” He said that the project would bring in wood material grown elsewhere and process it on the site, which does not qualify as an agricultural use. He added that he will prepare and submit a new letter to the board soon.

Daniel Smith explained that the project would mainly obtain material from the South Shore and sell it to the general public in the South Shore. A very small portion would go farther away.

Ms. Coletta apologized to the members of the public for the crowded conditions in the room, as a large number of people were present.

Ms. Karas showed a video consisting of several short videos she said were mainly taken from the Smith & Sons website, in order to demonstrate the amount of noise the business generates. Most or all of the videos were of the wood-waste processing operations in Marshfield, though some may have been of the excavating business facility in Pembroke.

Mr. Watsky stated that the neighbors have reason to be concerned about the noise the project would generate, along with the possible odors, steam, exhaust and other impacts.

Ms. Coletta opened the meeting to comments from the public. Arthur Rubin, a resident at Pleasant Street, said that when Chip-Tech was operating at the site, the noise and smell were serious problems, and large trucks traveled through Pleasant Street. He also expressed his concerns about the project’s impact on Pudding Brook. Ms. Coletta clarified that wetlands protection is generally not within the Planning Board’s jurisdiction. Mr. Rubin said that he wished those living farther away than 300 feet had been notified, and Ms. Coletta expressed sympathy for this issue but stated that the applicable regulations specify the 300-foot distance.

Danielle Markol, a resident at 416 Washington Street, spoke. She said that she has a special needs child who is extremely sensitive to noise, and who is agitated by noise. She noted that several years ago John Deere sought to build a facility at 408 Washington Street, and the town decided it was not allowed as a heavy industrial use. She added that a few years ago, Gardener’s Choice began storing tree trunks [or trucks], and engaging in chipping and grinding, and the town’s building inspector George Verry informed them this was not allowed. She stated that the business which Mr. Galvin previously referred to, Letourneau Tree & Landscape Supply, does not do any chipping because it’s not allowed, but only stores piles of mulch. Ms. Markol emphasized that Chip-Tech caused horrible smells and noise, and also mentioned that a fire took place on the site. She said that she believes these problems are inherent to chipping and grinding operations. She stated that mulch has an unpleasant smell, and another member of the public mentioned that diesel fumes were also a problem.

Ms. Karas noted that since these factors were a problem for those living farther from the property, they would be an even larger issue for her, given how close her house is to the property. She mentioned that traffic is already a problem in the vicinity, and a new facility with large trucks going in and out would exacerbate it. She said that the police record shows there have been over 60 accidents during the past 12 months on Washington Street.

Cheryl Smith, a member of the public, said that the business at its current location does not affect anyone, and at the proposed new site the impact would be even less.

David Nash, a member of the public, stated that he is a next-door neighbor to Smith & Sons' current facility on Mattakeesett Street in Pembroke [i.e., their excavating business], and their operations do not cause any problems for him.

Paula DeMelo, who lives at 400 Washington Street, said that the facility at Mattakeesett Street does not do grinding or mulching, and thus differs from the proposed project in its impacts.

A member of the public who resides at Edgewater Drive asked about receiving abutter notifications, and Ms. Coletta explained again that the regulations specify the 300-foot distance. He stated that when Chip-Tech was operating, the noise and smells had an effect on their quality of life.

Daniel Smith explained that the videos (shown by Ms. Karas previously) were taken from a very close distance, and thus aren't comparable to what a neighbor would hear. He also said that his company's trucks go past 400 Washington Street every day, and if Smith & Sons moves to the proposed new location then there actually might be less traffic there.

Maria Karas said that in the documents submitted with the site plan application, one study estimated 328 trips per day associated with the project. This led to a discussion, as several people present doubted this figure, and Ms. Coletta asked Mr. Heins to produce the traffic report portion of the application. Ms. Karas explained that the study was done by a comparison to landscaping businesses. She also noted that the town intends to move the fire station to a site on Washington Street across from the proposed project, which will add even more traffic to the area.

Kevin Crowley, a resident of Fairway Lane, spoke. He said that he has known Mr. Smith for a long time, and that he runs his business in an ethical way which is entirely different from Chip-Tech. He added that the site historically has been used for this purpose.

Maureen Robinson, a resident of 31 Pleasant Street, asked about the trucks that are currently coming and going at the site. Mr. Smith said they are bringing sand to the site. Ms. Robinson said the trucks are waking her up at 7 am in the morning, and these trucks are probably less noisy than the ones that would be in use if the project is built. She said that trees or other buffers would not make much of a difference in the noise impact.

Mr. Heins stated that the original application for site plan review gave figures, for anticipated traffic per day, of 30 trucks, 30 automobiles and 6 employee automobiles. He added that a traffic impact study had not been submitted.

Mr. Galvin said that a traffic impact study had been done. Mr. Galvin stated that if the business had 13 employees, there would be a total of 294 truck trips in and out during a typical weekday. He stressed that this figure includes both trucks both going in and out, so in a sense it is double the number of truck visits. During a weekday morning peak hour, he said there would be 9 trips per hour. During a weekday evening peak hour, he said there would be 25 trips per hour. During a Saturday mid-day peak hour, he said there would be 74 trips per hour; Mr. Galvin clarified that this figure for Saturday mid-day peak hour is probably an over-estimate. He said these figures include all vehicles, i.e., trucks, cars, customers and employees. Mr. Galvin said that the traffic impact study concludes that the project represents a relatively minor increase in traffic to the Washington Street corridor, of less than 2% on the average weekday, and would not result in any significant increase in motorist delays or vehicle queuing over existing conditions. Mr. Galvin said the traffic impact study would be submitted.

Matthew Watsky said that if the applicant is bringing piles of sandy material to the site, that is a commencement of use before the application is approved. Ms. Karas showed the board members and Daniel Smith some photographs of the sand piles on the site.

Charles Maccaferri addressed the board. He explained that he is representing the owner of the property, who lives in Concord, New Hampshire. Mr. Maccaferri explained that the property owner solicited several proposals for the property, and decided Mr. Smith's proposal was best suited. He said that about 6 weeks ago Mr. Smith requested permission to dump fill on the site, and the property owner agreed in writing. Mr. Maccaferri stated that this activity is not related to the proposed site plan, and that it was not done illegally or without the owner's knowledge.

Mr. Smith explained that the fill is a clean, sandy fill, and it will be needed for the site eventually no matter how it is developed. Ms. Karas asked where the fill is coming from, and whether it could be contaminated or inappropriate. Mr. Smith stated it is coming from an excavating project in Duxbury.

David Norman, a resident at 15 Pleasant Street, spoke. He expressed his agreement with the abutters' previous statements about noise, odors, and other impacts. He said that these issues are not merely personal objections, but relate to the actual legal regulations that are given in the zoning bylaws. He also suggested that, although Mr. Smith seems like a good person and a conscientious businessperson, the board should pay more attention to the abutters' comments, as they are the ones likely to be impacted, than to the comments of those who support Mr. Smith.

Leisa Norton, a resident at 67 Pleasant Street, stated her agreement with the concerns already expressed by many abutters, and said that while Chip-Tech was operating, her children sometimes were unable to sleep. She asked what route the trucks of Smith & Sons would take, and also whether there would be a gas-pumping facility on site for the trucks. Ms. Coletta asked whether Chip-Tech was running machines at night, and Ms. Norton clarified that the noise was waking her children during daytime naps and early in the morning.

A member of the public asked if there is another facility in Pembroke that makes this level of noise, and the board members were not aware of any.

Mr. Smith said that he is proposing a diesel pumping tank, as is currently in place at his facility on Mattakeesett Street, which is permitted and approved. He stated that the truck routes would be similar to the current routes his company uses, and that he seeks to avoid using minor streets like Pleasant Street, though occasionally he needs to. He said that Pleasant Street is allowed for trucks, but Oak Street is not.

Maureen Robinson said that other trucks coming to the facility, and not under Smith & Sons' operation, might use Pleasant Street. She stated that previously during Chip-Tech's existence there were trucks using Pleasant Street, coming and going to Chip-Tech. Mr. Galvin said that traffic could be restricted, and several people discussed the issue.

Anthony DelPozzo, a resident of 105 Chapel Street, asked whether deliveries, which can be noisy, would be made at night or early in the morning. Ms. Coletta explained that the board, in its approvals for projects, generally imposes conditions restricting the time of day for deliveries and other truck-related or noise-related activities.

Mr. Smith emphasized that he runs his business in an entirely different way from Chip-Tech. He noted that he intends to keep his Marshfield location, and most of the wood-waste processing will continue to take place there, but he wants to have the option of doing this at his new site also. In reply to a question from Ms. Coletta, he restated that the Marshfield operation will stay in place.

Ms. Coletta asked if the board could do a site visit of the Marshfield operation. Mr. Smith explained that the site is not entirely under his control, and so there is some clutter he can't control. He said the board was welcome to make a site visit. Mr. Whitman expressed particular concern about the grinding activity, and Mr. Smith and a few board members discussed the problems of noise. Mr. Irving suggested the board conduct two site visits. Mr. Wandell said that the board would need to take the possible noise and odors into consideration, and still needed to determine whether this use was light or heavy industry, which was still in question for him.

Mr. Whitman asked how the site in Marshfield is zoned, and Mr. Watsky said it is zoned industrial. Mr. Galvin added that it was zoned industrial in 1972, after the site was already in use as a sawmill. He said that there are some residential neighbors nearby.

Mr. Norman said that he read the zoning bylaws for Marshfield, and they specifically allow for this type of operation. Mr. Galvin stated his disagreement with this. Mr. Watsky said the facility is in the Industrial 1 Zone in Marshfield, and he quoted the zoning bylaw as allowing by special permit in this zone the "processing and treating of raw materials including operations pertinent to the taking, such as drying, sorting, crushing, grinding and milling operations."

Mr. Watsky stated, in reply to Ms. Coletta's questions, that Pembroke does not have a zone which specifically allows this, and thus such a use is prohibited anywhere in Pembroke. He added that Pembroke chose to create various zones, including one for light industry, and did not establish one for heavy industry. He said that in the Pembroke site plan approval section, V., there is a standard for the protection of abutting properties, the neighborhood and community, to minimize detrimental or offensive uses, and paragraph 6 prohibits any use that will emit "noise, vibration, or flashing light that is normally perceptible without instruments above street noise at any point more than 350 feet from the premises." Mr. Watsky said that the kind of equipment the facility would operate would inevitably violate this standard, and added that trucks backing up make a loud noise through their beeping warning.

Ms. Coletta noted that this would seem to prohibit even light industrial uses, since they also involve trucks backing up. He replied that OSHA regulations do not require this on private property unless someone is walking around nearby and at risk. Ms. Coletta said that banning backup alarms in town is probably not feasible.

Mr. Whitman talked about the project, and noted that the heavy grinding use might be the crucial question to be decided. Mr. Smith said that the site has a lot of abandoned materials and debris, and it would take one or two years to clean up to allow anything at all to be built there. Ms. Robinson said she had heard the site was toxic, and expressed concern about whether it would be properly cleaned up. Ms. Coletta noted that banks often impose standards regarding environmental issues before they lend to avoid liability.

Kevin Murrin, living at 319 Edgewater Drive, asked why the property owner isn't responsible for cleaning up the property. Ms. Coletta said this is an issue for the state Department of Environmental

Protection. She said that banks have standards to ensure properties are clean before they make loans, and Mr. Galvin stated banks typically require a 21E.

Ms. Karas asked what a 21E is, and Mr. Galvin said it's an environmental assessment of the property for hazardous waste disposal. Ms. Karas asked if bringing in the fill was allowable, and Mr. Galvin said a permit is required for taking soil out, but not for bringing it in. Ms. Karas asked about the possible growth of the business. She also asked whether a road would be built from the Residential-Commercial area to the Residential A area. A discussion ensued, referring to the site plan drawings, but Mr. Wandell suggested this be addressed later. Ms. Karas asked again about potential growth of the business, and also said that putting limits on the times of operation would not help those who are retired or work at home.

The board discussed when to do a site walk, i.e., site visit. Mr. Galvin said that members of the public could not come onto private property in these site walks, especially given the safety concerns at the grinding operation, but that attorney Matthew Watsky could come. A further conversation took place between board members, some members of the public, and the two attorneys about who could come to the site walks, and it was decided that members of the public would not be allowed. Mr. Watsky stated that he would come.

The board decided to do the site walks on Monday, January 29, 2018, at 11:00 am, and to visit the property at 346 Washington Street first, and then the grinding operation in Marshfield.

Mr. Wandell made a motion to continue the public hearing at 7:00 pm on Monday, February 5, 2018, Mr. Whitman seconded the motion, and the board voted unanimously in favor.

Ms. Coletta clarified that the meeting on February 5 might take place in the Veterans Hall, a different room at town hall. A member of the public asked about the Conservation Commission's meeting that night for the same project, and it was agreed that everyone could work around this.

Mr. Irving made a motion to adjourn the meeting, Mr. Whitman seconded the motion, and the board voted unanimously in favor.

The next regular meeting of the Planning Board will be on Monday, February 5, 2018, at 7:00 pm.

Respectfully submitted,

Matthew Heins, Planning Board Assistant