

CBL:

152-B-1

FOLDER NAME:

PB Memo

file name: 6-8-04 Contract Zone

PROJECT:

Morrill's Crossing

ADDRESS:

33 Allen Avenue

Memorandum
Department of Planning and Development
Planning Division



To: Chair Delogu and Members of the Portland Planning Board
From: Sarah Hopkins, Development Review Services Manager
Date: June 4, 2004
Re: Planning Board Workshop June 8, 2004
Packard Proposed Contract Zone

Packard Development is returning to the Planning Board to present updated traffic data generated in the past few weeks. The updated traffic study was delivered to City staff on Friday, June 4, and will be distributed to the Planning Board on Tuesday. Given the timing, there has been no time for staff review or comment.

Likewise, staff has met with the applicant to discuss other issues related to the proposed uses and circulation throughout the site. The applicant is working on a draft contract that will reflect these discussions related to the revised plans. We will need at least one more subsequent workshop with the Board to present the contract language.

Attachments

Letters from Neighbors

To: Members of the Planning Board
cc: Members of the Portland City Council
Fr: Eleanor Mann
Re: Packard Development's Application for a Contract Zone/Purchase of Publicly Owned Land
Date: June 4, 2004

Packard Development representatives have dubbed their revised proposal "Morrill's Crossing" and are touting the proposal as a "bold and innovative" mixed-use project. Packard made their pitch to the Planning Board at the May 11 workshop; although requested by Planning to submit their plans three weeks before that workshop, they did not submit their "schematic plan" until the Thursday afternoon before the meeting. Neither the public nor the Planning Department had the opportunity to scrutinize the plan before Packard made their presentation.

A closer look at this "innovative" proposal reveals that it is basically the original proposal with two PRUDs added to its perimeter. The proposed new housing is not integrated into – or adequately buffered from – the dominant retail use. The highly-touted "mixed-use" component of this proposal is limited to one building: the former Retail B, on the access road. The uses in even this building remain chiefly retail: the "mixed use" is limited to 2500 square feet of office space and some possible third-story apartments.

Packard's main objective has not changed. They are still trying to push through a large, traffic-intensive retail development on an inappropriate site with inadequate access, a site that was deliberately zoned to prohibit retail use. Their own traffic figures show that, because they have reduced the retail square footage only minimally, their revised proposal would still bring overwhelming traffic congestion (8500 - 11,000 trips per day, over 750 trips per hour on a weekday evening and over 1000 trips per hour on a Saturday midday) to their sole access point, next to the busiest intersection in Maine and an active railroad track.

Packard states that their retail square footage has been decreased from about 150,000 square feet to about 130,000 square feet. As Packard's traffic study figures illustrate, this is not enough of a reduction to significantly reduce traffic impact. Moreover, Packard's new figure includes only "ground floor area" retail square footage. The footprint of the three-story so-called "mixed-use building" is 11,000 square feet. The proposed office space in this building comprises only 2,500 square feet. Even if the third story were devoted entirely to apartments (which is unclear at this point), an additional 8500 square feet of retail would be housed in the second story of this building, bringing the total retail area to about 140,000 square feet - a reduction of a mere 10,000 square feet from the former proposal.

The size of the boxing building has been reduced, but if, as a Packard representative indicated at the neighborhood meeting, seating would be increased to 500-1000 seats, significant parking and traffic issues would be generated by this building (and because it is a non-retail use, traffic that would be generated by this facility is not included in Packard's traffic figures.)

The development remains out of scale with the abutting neighborhood, as well as with the proposed new housing. The main building, now 83,000 square feet, remains a big box. It is about the size of the entire Westgate Plaza building. The strip mall behind Bruno's, now about 26,000 square feet, has been

reduced by only about 1,500 square feet. The three-story “mixed use” building would dwarf the Allen Avenue Apartment complex, the proposed housing bordering Princeton Street, and the western end of the abutting neighborhood.

The development is no more pedestrian-friendly than it was before. The layout of the retail remains the same. The only added pedestrian amenity is a sidewalk leading from Allen Avenue to the supermarket, wedged between two rows of parking spaces. Pedestrians would have to cross additional lanes of heavy traffic in order to get to that parking lot sidewalk. Any crosswalk improvements to Morrill’s Corner would not negate the effect of those extra lanes and thousands of extra cars on pedestrian movement.

The neighborhood would lose, not gain, open space. The 3.2 acre publically-owned Cambridge Street parcel, currently open space, would be diminished by the addition of Packard’s detention basin (which appears to have been counted as part of the project’s “open space”). The “walking trails” still offer views of the development’s parking lot and proposed detention basin, as well as the rear of the supermarket. As before, most of the existing woodlands on the site would be razed, as would the 130-foot of publicly-owned green buffer that currently shields the western end of the neighborhood and the Allen Avenue Apartments from the impact of Morrill’s Corner (this residentially-zoned buffer would be used for the development’s access road).

Packard claims that their revised proposal has eight acres of open space (40% of the site). Is Packard including their parking lots in their calculation of open space?

Residents of both the proposed new housing and the existing neighborhood would be subjected to the adverse impacts generated by this automobile-oriented development. Please see the attached excerpt from a *Cape Cod Chronicle* article that illustrates the “traffic, noise, and light pollution” neighbors of a currently existing Stop and Shop in East Harwich, MA have experienced. Specific problems in their neighborhood have included noise from refrigerator trucks and the roof refrigeration system, noise from trucks backing into the loading docks, litter blowing into yards, and dead buffer trees that were planted to serve as noise abatement.

The proposed “affordable housing” is located next to the supermarket loading docks, where the backup signals of trucks headed in or out of the docks would be a continual disturbance to both current and future residents. The proposed Princeton Street housing is close to the access road, and it has only its own parking lot to buffer it from the mall parking lot and the supermarket building.

Packard’s revised proposal remains in clear violation of the Comprehensive Plan:

A. Comprehensive Plan: “Existing arterials carrying through-traffic cut through transportation districts with established neighborhoods, disrupting life in the neighborhoods and putting pressure on the street system that, *if expanded in response to the traffic, will further chip away at the integrity of neighborhoods.*” (Transportation & Resources/Arterials in Neighborhoods/p. 14)

B. Comprehensive Plan: “Creation of new street capacity should not be considered *unless it meets other important public goals besides relief of the congestion.*” (*A Time of Change: Portland Transportation Plan* July 1993, print version, p. 8.)

One of the overarching goals of the Transportation Plan is to improve the quality of life in Portland's neighborhoods by decreasing traffic and mitigating the impacts of traffic. It specifically recommends AGAINST widening arterials that cut through residential neighborhoods. Widening of Allen Avenue would not be necessary for development (residential, low-impact industrial) that was compliant with the current zoning of the site. The widening of Allen Avenue would bring it within only a few feet of abutting homes and the 28-unit Allen Avenue Apartment complex. It would create a traffic hazard at Woodlawn Avenue, where the four lanes would merge back into two lanes at an unsignalized intersection.

The Plan also advises against creating new street capacity as a means of relieving congestion. In this case, the new street capacity would be created solely to accommodate the *new* traffic congestion that the development would cause.

C. Comprehensive Plan: "New development shall be *pedestrian oriented* and accessible." (Introduction/A Community Vision for Portland: Future directions for Portland, p. 10)

This proposal clearly remains an **automobile**-oriented development. The appalling traffic impact remains about the same as in the former proposal because the retail use that would generate the impact has been reduced only minimally. Adding a bus stop and a sidewalk would not mitigate this traffic impact. Only a tiny percentage of customers would arrive by bicycle or bus, or on foot. That tiny percentage would be struggling against those thousands of cars.

D. Comprehensive Plan: "Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through *careful land use regulation, design, and public participation that respects neighborhood integrity*. Policy: While accommodating needed services and facilities, *protect the stability of Portland residential neighborhoods from excessive encroachment by inappropriately scaled and obtrusive commercial, institutional, governmental, and other nonresidential uses*". (Goals and Policies for the Future, p. 26)

The impacts (noise, air pollution, lights) of the proposed development would greatly worsen the quality of life for residents of the adjacent neighborhood (including residents of the proposed new perimeter housing); these impacts are in clear conflict with the goal of maintaining and enhancing the livability of Portland's neighborhoods.

The proposal remains "inappropriately scaled" and "obtrusive."

E. Comprehensive Plan: "Vibrant neighborhoods include nearby, *small-scale* commercial areas that provide both convenient service and natural meeting places. Provide routine, daily services within walking distance of residents of all neighborhoods, *as long as the businesses providing the services are small-scale, are designed compatibly with residences, and fit into the fabric of the neighborhood*." (Goals and Policies for the Future/Transportation Policies p. 5.

Packard's proposed 83,000+ square-foot main building with its adjacent 26,000 square foot strip mall is not "small scale." (Compare the size of Packard's proposed supermarket with Hannaford's proposed 35,000-square-foot supermarket at Riverside Street and Forest Avenue.) As discussed earlier, the proposed three-story "mixed use" building is inappropriately scaled to nearby structures.

The projected traffic volume shows, as before, that this proposal is intended to be a **regional**, not neighborhood, shopping center. Traffic estimates indicate that the equivalent of about 10% of the entire population of Portland would be visiting the center each Saturday. It is highly unlikely that this volume of shoppers would be coming solely from nearby neighborhoods.

With the exception of Stop and Shop, Packard still has not disclosed its tenants.

It is ironic that as justification for their massive building, Stop & Shop's lawyer points to the "adjacent industrial developments" on Canco Road (shown on an aerial photo during the May 11 Planning Board presentation). The buildings she refers to are located on the extreme eastern fringe of the neighborhood and have zero impact on the neighborhood: they are barely visible and generate no noise or traffic that affects the neighborhood. They are exactly what ICPAC had in mind when the current low impact zoning of most of the site in question was created.

F. The proposed development still violates both the letter and the intent of the current IL zoning developed by The Industry and Commerce Advisory Committee (ICPAC) and adopted as part of the Comprehensive Plan:

City of Portland Land Use Ordinance, Sec. 14-231 (Purpose of the I-L zone): "The low impact zone is intended to provide areas in which *low impact industrial uses will be compatible with adjacent residential uses*, will provide a buffer between residential neighborhoods and the I-M or I-H industrial zones, or will stand alone as a smaller scale industrial district. *The I-L zone is located adjacent to residential neighborhoods*, business uses and other industrial uses where *the low intensity nature of the uses*, as well as their strict performance standards, *will ensure the compatibility of the uses with other adjacent industrial and nonindustrial uses.*"

Packard's proposed development is a high-intensity use that would have a high impact on nearby neighborhoods. It is a prohibited use in an IL zone.

By state statute, zoning ordinances may include provisions for conditional or contract zoning, with the condition that "all rezoning under this subsection must... establish rezoned areas that are consistent with the existing and *permitted* uses within the original zones..." (30-A.M.R.S.A. Section 4352; quoted from the memo included in the 7/22/03 PB packet. Italics mine)

To repeat: Retail is a PROHIBITED use in the current IL zone. It was prohibited because it is a high impact use.

Finally, please consider the following points:

1. Housing built on land zoned R 5 does not require a contract zone. Residential land should not be included in possible contract zoning on the site. Housing built on residential land should meet current PRUD standards for the existing zoning.

2. The “blight” on the site in question does not justify this development. We should not have to worsen traffic conditions at Morrill’s Corner and compromise a neighborhood in order to have this site “cleaned up.” Any safety hazards are the responsibility of the current owner, who bought the land fully aware of those hazards. The “blight” on this site could be eliminated in a few days if the current owner chose to have the few flimsy buildings on the site demolished and the debris removed.

Moreover, much of this site is NOT blighted: it is covered with mature trees and shrubs that shield the neighborhood and beautify Morrill’s Corner.

The problem with occasional “partying” at this site is also no reason to approve this proposal. The “partying” problem in Portland is not confined to this site and to eliminate this problem we would have to eliminate every park, parking lot, and cemetery in the city. In fact, there is no guarantee that if this development were built, this problem would be eliminated: teens frequently gather at the Northgate Plaza parking lot.

3. It is questionable if this development would truly be an economic asset to the city. Loss of school funding, long-term costs of considerable additional traffic at Morrill’s Corner, and maintenance of roadway “improvements ” must be considered. Unemployment is low in Portland, and there is already an abundance of retail jobs; most retail jobs do not pay a living wage (please see attached article). New retail development could hurt existing retailers, diminishing net gain to the city. As of this writing, there is empty retail space at Northgate and empty office space at Northport and Rainbow Mall.

4. The site in question is attractive to the developers precisely because of its high traffic count. Their goal of attracting as much traffic as possible to the site is in conflict with the best interests of the city. It is also in conflict with the current zoning and the Comprehensive Plan.

Once again, thank you for your time and consideration. Please do not be pressured by the developers’ desire to push this highly problematic proposal through as quickly as possible. We owe them nothing. They have very considerable resources to defend their best interests. We rely upon you to defend ours. I hope that you will take as long as necessary and use as many resources as necessary to carefully scrutinize this proposal and to consider its long-term implications for the residents of Portland.

Attachments:

1. Excerpt from article in 11/27/03 *Cape Cod Chronicle* <<http://www.capecodchronicle.com>>
2. “A look at why Maine incomes are losing ground,” Charles Lawton, *Maine Sunday Telegram*, 2/15/04.

(Unless otherwise indicated, all Comprehensive Plan quotations above are from the online version of the Comprehensive Plan at <<http://www.ci.portland.me.us/planning/complanbook.htm> > The appropriate links on that page are underlined in my citations, and my page numbers refer to the Adobe reader pagination of the electronic version. All italics in the quotations are mine.)

Neighbors Seek Assurances Before Stop & Shop Get Expansion

by William F. Galvin

EAST HARWICH — Residents to the rear and side of the Stop & Shop at the intersection of Routes 137 and 39 made it clear this week they hope to use the latest development proposal to resolve longstanding annoyances in their neighborhood.

A Cape Cod Commission subcommittee met last Wednesday to hear the latest version of a proposal by WJG Realty Trust to expand the grocery store and add a 9,000 square foot retail building to the northwest corner of the property.

The latest proposal seeks to add more than 22,000 square feet to the Stop & Shop, primarily to the front and north side of the building. The majority of that footage would come in the form of 14,696 square feet of building and 4,709 square feet of front mezzanine. The receiving platforms to the rear would also be enclosed.

Stop & Shop officials met with residents of two neighborhood associations the week before the hearing, absent the news media, in an effort to allay concerns of the neighbors. But about 25 residents were at town hall on Wednesday and spoke to the need to address ongoing issues before expansion is approved.

The neighbors were not the only people present who had issues with the latest presentation. Commission staff had several concerns about architectural designs for the new façade; identified open space issues; and, given the location in a public wellhead protection zone, the need to seek a groundwater discharge permit from the state department of environmental protection to ensure a higher standard of nitrogen treatment.

The expanded store would provide aisles and fixture space for Toys R Us and Office Depot departments, and expanded natural foods and produce/perishable products. The new retail building as yet has no tenant commitments, but will contain between one and four retail outlets.

It was not the interior the neighbors were concerned about, but exterior noise and physical conditions. Pleasant Bay Homeowners Association President Greta Tyson, representing 57 property owners, told the subcommittee they have had a longstanding interest in this development.

“The quality of our daily lives is impacted by traffic, noise and light pollution,”

Tyson said.

Erika Boerger of Continental Drive cited noise from two refrigerator trucks located to the rear of the store and used to hold turkeys and frozen foods. She stated the need for improved noise abatement, including roof-refrigeration systems.

Tyson said the association has an agreement from the initial project registered in the Barnstable County Registry of Deeds and Stop & Shop has not met the terms of that document.

"It's a disagreeable, unpleasant reality for the homeowners living close to Stop & Shop," Tyson told the committee.

Residents also complained about litter blowing from Stop & Shop beneath fences into yards. They also complained about the condition of trees planted along the perimeter to serve as noise abatement, pointing out many are dead, or close to it because of lack of a maintenance plan.

THE BOTTOM LINE

A look at why Maine incomes are losing ground

A generation ago, one in three Maine workers was employed in the manufacturing sector. On average - including both full and part-time jobs - these workers earned \$6,700 per year. This figure was only 75 percent of the national average earnings in manufacturing of \$8,900, but was critical to Maine's overall economic health because it exceeded the \$4,700 earned in the service sector and the \$6,000 earned in the "other" sector.

This manufacturing "premium" was particularly important in Maine because our one in three ratio of manufacturing jobs to all private, non-farm jobs far exceeded the national rate of one in four. Compared to the national average, Maine was a manufacturing state, and this higher relative concentration explained why Maine's overall average earnings for all workers was nearly \$6,000, approximately 80 percent of the U.S. average of \$7,400.

In 2000, the average earnings of manufacturing jobs in Maine had risen to \$37,400. This was still about three quarters of the national aver-

age of \$50,600, so in relative terms, our manufacturing earnings had held their own. In addition, average earnings in manufacturing still exceeded the averages of both the service sector and the "other" sector, both of which were about \$25,000.

The problem was that in 2000, only one in seven Maine workers was employed in manufacturing, the same proportion as was true for the U.S. as a whole. In fact by 2000, the distribution of employment by major sector in Maine was virtually identical to the national average - 14 percent in manufacturing, 37 percent in services and 49 percent in the "other" sector.

Maine had ceased to be a state specializing in manufacturing. And this helps explain why our average earnings for all workers - approximately \$26,500 - had fallen to 73 percent of the national average of \$36,000.

Describing Maine's economic destiny over the past 30 years rests

largely in answering the question, "What replaced those manufacturing jobs?"

The easy answer is "services." Service-sector employment - everything from auto mechanics and accountants to veterinarians - grew from 77,000 in 1970 to over 250,000 in 2000, an increase from 23 percent to 37 percent of all

jobs in the state. But this change simply mirrors the same change occurring at the national level.

Average earnings in the service sector in Maine in 1970 were 77 percent of the national average. In 2000, they were 75 percent of the national average, a small drop, but not sufficient to explain Maine's overall drop in average earnings.

The real change is in Maine's "other" sector. In 1970, average earnings in this sector in Maine were just over \$6,000, fully 84 percent of the national average. By 2000, this sector's average earnings had increased to \$24,700, but this was only 72 percent

of the national average.

Why the drop? The simple answer is retail trade. Between 1970 and 2000, Maine's "other" sector added nearly 155,000 jobs. Fully 42 percent of these jobs were in retail trade.

Maine's growth in retail trade employment was 24 percent above the national rate over this period. Why is this a problem? In 2000, the average earnings per worker in Maine's retail sector was \$17,400, 30 percent below the overall average earnings for all workers.

In short, we have been trading manufacturing jobs paying above-average earnings for retail jobs paying below-average earnings. We have gone from a state making stuff to sell outside Maine to a state selling each other stuff made somewhere else. To the extent that this includes a movement from locally owned "Mom and Pop" retail stores to national, big box chains, the earnings trend is exacerbated by the loss of owners' profits as well.

For all the talk about "saving" manufacturing jobs, the real challenge facing Maine's economy is how to "replace" its lost manufacturing

jobs with trade and service jobs of equivalent levels of skill and thus earnings. While Maine's overall employment structure has come to mirror that of the U.S., its distribution within each major sector tends to be more highly concentrated in the lower-paying segments.

Just as Maine is overrepresented in the lower-paying retail sector, it is equivalently underrepresented in the higher-paying transportation, wholesale trade and finance sectors. This imbalance can be corrected only by a combination of education and training that is the modern-day version of the skill development that occurred within Maine's mills in past generations.

Charles Lawton, a York resident, is a Ph.D. economist with extensive experience in education, government and business. He is former director of the Economic Development Division of the Maine State Planning Office and works as senior economist for Planning Decisions, a public policy research firm in South Portland. He can be reached at clawton@maine.rr.com.



Charles Lawton

Dear Planning Board Members and City Council,

June 3, 2004

Packard's Morrill's Corner development is the largest contract zone that the City has ever considered. The size, type, and impact of this project, if approved, will change the face and direction of our City permanently. It will have a negative financial impact on all taxpayers. Its impact goes beyond our borders. People at my workplace 15 miles away, who often commute through Morrill's Corner, think this is the wrong place for the wrong use with the wrong impact, and so do those of us closer. This isn't parochialism, but those closest to the site will bear the brunt of the impact. Others think we're nuts to be considering this, but consider it we must.

Your job as Portland Planning Board Members is to uphold the zoning, apply the CompPlan, and to ensure compliance with site plan standards. The existing zone, the CompPlan, and site standards have been well established over the years with hours, months, years of input from many (staff, citizens, business people, elected and appointed officials, and other experts).

Zones are established to meet the needs of THIS community. They are not supposed to be changed at the request or whim of an applicant, nor to meet their personal needs, unless those changes ALSO meet the established needs of THIS community. Established zoning is reviewed periodically and systematically, through a thorough and lengthy PUBLIC process with an established and appointed review team made up of business people, citizens, staff, and other experts to ensure that existing zoning still meets our needs or to examine whether revisions are needed.

The land involved in this proposed rezoning had that thorough systematic review through ICPAC (Industrial Commercial Policy Advisory Committee). ICPAC's findings were implemented in early 1997. This proposed land was designated as Low Impact Industrial at that time, for a number of reasons, but most particularly out of respect for and sensitivity to the integrity of the neighborhood next door. The I-L zone was specifically established to contain site standards (traffic, noise, lighting, etc) that would BE compatible with residential neighborhoods. ICPAC determined which types of uses should be permitted and which would be compatible with the needs of residential neighborhoods next door. Anticipating the future temptation to encroach into industrial land and negatively impact nearby residential uses, ICPAC specifically designated retail use as a NON-PERMITTED use. ICPAC's composers anticipated this Packard-like intrusion and sought to prevent it, proactively. To disregard ICPAC's concerns would be a clear violation of the CompPlan. If someone, other than the applicant, believes that the Industrial and Commercial Zones or any of the other zones are inadequate and are in need of review, then that needs to be done within the established method of doing so through a Policy Advisory Committee with an objective fact-based analysis of inventory of needs, in a public process. To do otherwise would be spot zoning to accommodate an individual's need at the expense of the community and that is illegal. It would take zone creep to another level--- zone leap.

My preliminary drive by of similar uses in the nearby neighborhoods found empty storefronts at Northgate Shaw's (1 empty), Northport Plaza-LLBean (at least 3 empty for a total of at least 40,000 sf, empty) and West Falmouth Crossing-new Hannaford (at least 1 empty), suggesting there is NO established need for additional retail or office use at the present time, other than the desire of the applicant...

For the most part no one has a problem with minor changes in zoning, especially when there is little or no impact, such as establishing a small home business in residential zone. That is not the case here. 90% of the 20 acres of land would need to be rezoned to accommodate this applicant's proposed use. 75% of it is designated I-L., where the crafters said, this type of RETAIL USE IS NOT PERMITTED!!!

Zoning provides stability, certainty, and security for everyone. It ensures different uses are

are located properly. It ensures that auto dependent and large delivery uses are close to the highway for easy access to high volume traffic and to minimize the impact thru our neighborhoods. It ensures that marine uses are on the waterfront. It established residential zones with peace quiet and safety in mind. It establishes Neighborhood Business zones near those residential areas , such as exist at Woodfords Corners, Rosemont Corner, Nason's Corner and Deering Center to serve the needs of the neighborhood.

These Neighborhood Businesses are all small scaled and compatible with the near by neighborhoods and serve neighborhood needs. They are usually locally owned and grown. These are the places we go to TO meet, greet, and talk with our neighbors.--like Moran's Market, the Quality Shop, Pat's Meat Market., where the owners and the clerks know you and you know them. None of these are 200,000 sf with a need for a 1,000 car parking lot. And these other Neighborhood Businesses are walkable. Meaning grown ups and children alike can actually walk or bike TO them safely----not that they are walkable or bikeable internally once you get there in a car! Please carefully note the wording of Packard's packet.. When they talk about walkable or bikeable they are only referring to access by the immediate abutting neighborhood on Woodlawn. Their site is surrounded by other neighborhoods and walkers and bikers, whose ability to continue to walk or bike will be obstructed and made more difficult by the added travel lanes for cars. Past Warren Ave on Forest Ave there is a housing complex for the disabled many of whom walk, one with a seeing eye dog. There are two subsidized housing complexes near by, with residents and their children walking or in strollers.

Zoning is established for a reason, to control and ensure proper land usage.. Those buying in the nearby neighborhood knew what was permitted in their backyard when they bought . Packard knew what was and was not permitted when they bought. They took a risk that they could convince you to rezone this property. There was never any guarantee or obligation that you would do so. They knew that. They could have minimized their risk by choosing an already appropriately zoned piece of land for their venture. They did that with their Pine Tree proposal. They choose this piece of land for one reason and one reason only. It's the busiest intersection in Maine They want to exploit and benefit from that opportunity. There is other available suitably zoned land that is not as well positioned for maximizing profits, nor for negatively impacting established neighborhoods. Other appropriately zoned land could still be highly profitable none the less , without the impact.. They looked at that other land , they turned it down. Why?

Packard's Plan has not changed significantly. If you were to superimpose their past plan over their current plan, it becomes obvious. Their current "concept" plan hides many of the facts/details behind barely readable numbers . At best, the footprint of the retail , the impact and traffic producer, is reduced by 10%.. But space has been added to the 2nd and third story of retail B making the developed retail space EXACTLY the same ,as before.!! It's no more pedestrian friendly on or off site. The distance between buildings is EXACTLY the same .The amount of retail is EXACTLY the same. Eliminating the existing trails and woodlands on the property and replacing them with pavement and sidewalks doesn't make for more green space or more pedestrian friendly..

The ONLY significant change has been the added housing. If they added the housing by removing an equal amount of retail that might have made sense. But that is NOT what they have done. They have kept ALL of the retail and simply added the housing.. Making what was already TOO BIG----simply BIGGER.. The total developed space is NOW BIGGER than before. They just keep moving in the wrong direction BIGGER. I know you know how to add even though the numbers are hard to read. Adding 2,500 sf of office space does not make the project "MIXED" use

. That's less than 2% of the retail use and 1% of all the new developed space!!

MIXED USE?

I think it is important for us to define "Mixed Use" and have a discussion about it.. I think in theory it's a good goal. But in my computer search I see no references to Sprawl malls as meeting any Mixed Use goal. What I do see is "increased density mixed use" as terms often used together. The purpose seems to be to use land more efficiently and to return to the days of traditional neighborhoods like those that used to exist in Bayside, when I was a child.

Earlier Portland Planners eagerly embraced another then new idea called Urban Renewal. Locals called it Urban Removal. It ended up destroying our City economically and otherwise. This decision, I am convinced will do the same. In the last year myself and others have spent hundreds of hours of our own time and money on this project. In that same time there were at least a hundred other proposals before you, none of which we opposed. Why this one? Because it will change the face of our City. It will change the direction of our City permanently. There will be no going back once this is done. This out of state firm wants to move into Maine and change our way of life . They have 5 projects going in Maine. This is just one of them. They will change the economic base of our City and state. Retail jobs are not a good replacement for paper mill jobs. We can't match their teams money or expertise. Why then are we still here? The facts are still with us. And I have faith that when day is done , you love our City as much as I do.

40 years later, we never fully recovered from Urban Renewal. The idea was to build up by tearing down. They tore down Bayside (and other Portland neighborhoods), leaving rubble behind. You can still see the result today. It took 10 years to clean up the rubble left behind. Where you now see parking lots, vital and vibrant mixed use neighborhoods used to exist. 40 years later we are still planning to rebuild Bayside and move the junkyards.! Talk of both started 40 years ago. I've seen the result of past bad Planning decisions. I saw the City that I love suffer the consequences of it. And I don't want that to happen again. The only part of Bayside they rebuilt was Kennedy Park. The only part of Munjoy Hill they rebuilt, after tearing down that neighborhood too, was Munjoy South. In the West End the rubble was replaced by Reiche school. They divided neighborhoods by building Franklin and Spring St. Arterials and split the heart of our City in half. Our population decreased by 20,000 . Those not relocated to Kennedy Park or Munjoy South were relocated to the suburbs to await the rebuilding of Bayside, that never came. With 20,000 fewer consumers, downtown became a ghost town. In 10 years we eliminated over 5,000 units of housing(and their residents) as well as hundreds of small Businesses, and downtown Portland. The opening of The Maine Mall in 1971 put the final nail in the coffin for Downtown Portland. Many have worked very hard to rebuild downtown, but she's not the same elegant lady she once was.

Bayside was the epitome of mixed use. Portland prior to urban renewal was the epitome of mixed use. Downtown Portland and some other neighborhoods still are. Portland and Bayside were walkable. No one had a car. All services were purchased and provided within walking distance. Barber, Butcher , Baker, Tailor, Doctor. Grocer,. all were in the storefronts within blocks of every home. Apartments were upstairs, with the family of the business downstairs living upstairs and renting other apartments to others. I know mixed use and so do those of you living in our peninsula neighborhoods now and in the past. Packard's proposal is not mixed use .It's a sprawl mall with some housing thrown in to get your vote.

The whole idea of "increased density/ mixed use" is to best utilize what's becoming a rare resource -land.. The idea is to build up instead of out in order to "save" open space/land. Packard does both. It sprawls out and then to meet some of your requirement builds up, in one of their

buildings.. The whole idea of returning to the traditional walkable neighborhood with less dependence upon our cars is to become less anonymous, not more so. It's purpose is to build communities, where people know their neighbors, .where they can support the local economy by patronizing small scaled locally owned neighborhood businesses who provide needed services within walking distance. .Pat's Meat Market , Moran's Market , the Quality shop all meet those needs.-- So does Shaw's and Hannaford---I've said it before --We don't NEED yet another grocery store!! If the goal is to build traditional neighborhoods with services within walkable distance-- building a sustainable economy. Packardization and Walmartization is taking us in the opposite direction. The money we'll spend there goes directly out of state, building someone else's economy. Their added lanes will further divide neighborhoods on both sides of Forest / Allen / Stevens creating a commuter expressway slicing thru our neighborhoods(can you say. "Payne Rd") It will force those who now walk back into their cars, not out of them. .Connectivity would imply this is somewhere the neighbors want to go to. The road goes both ways and 10,000 cars shouldn't be buzzing/speeding thru a neighborhood.

This proposal still violates the COMPPLAN. It still violates ICPAC.. It still violates the transportation plan. It still violates state law governing contract zoning which says that even under a contract zone the proposal still needs to meet the conditions of the established underlying zoning, It violates the purpose for establishing the existing I-L zone in the first place- compatibility with the nearby neighborhood.. It still will result in higher taxes for the rest of us. It still creates low paying. part time no benefit jobs. And blight??? The current owner kept it blighted. Neglecting their responsibility shouldn't be allowed to be used as a selling point..

And to think I actually thought I might get to other important issues such as Housing, Taxes, Jobs, blight , Comp Plan, traffic, stormwater ,etc, etc etc. Another day.....

Deb Keenan
28 Dorothy Street
Portland, Maine
June 4th, 2004

From: <Debkeen2@cs.com>
To: Portland.CityHall(JEG,LDU,AQJ,SH,jduson),Portland....
Date: Thu, Jun 3, 2004 9:07 AM
Subject: Packard --Morrille's Corner

Dear Planning Board Members and Councilors:

Residents promoted a referenda to expand, protect and preserve the "PUBLIC" part of Planning Process. We tried to create a process that took the politics out and put the public participation back into the process. We wanted to put an end to any concern of "DONE DEALS" --smoke filled rooms with closed doors deals. In order for the public to participate in any rational or meaningful way they need access to information and the time to review, analyze and comment upon the submissions. We've made some progress in creating a fairer more transparent and public friendly process. But apparently that was only temporary. Those who opposed those changes seem determined to try to turn back the clock.

Regarding the Packard Morrill's Corner Development May 11th Planning Board Meeting : We were told by Planning staff that they would need 3 weeks before the May 11th meeting to review Packard's revised plan.. It was not available 3 weeks before. We were told it would be available 2 weeks before the May 11th meeting. It was Not available.. We were told it would be available Monday, May 3rd., it was not available. .It was not available on May 4th (a week before the meeting) or 5th. It was finally available late on Thursday May 6th.. The public did not have adequate time to access the plan, review it or to make any well informed comments on it.(written comments needed to be submitted by the next day to be included in the Planning Board packet giving them any relevance and the Board time to read and digest them.)

We were told given the lateness of the plans arrival and since planning staff had not had the chance to review the plan, they would not be able to write up a summary of the plan for the Planning Board, and that Packard would be given 5 minutes to do a brief presentation on May 11th. on their "concept" plan.. We were not told they would be having 45 minutes to present the plan(with all the bells and whistles) nor that they would present information on the Comp plan. Or that there was any written information available from their new Shop and Stop lawyers regarding the Comp Plan Review.. In fact their letter dated May 4th to Sarah Hopkins in which Packard determined their future schedule stated that " Packard is also scheduled for a second workshop with the Planning Board on May 25th. At that time, we will be prepared to present the traffic, Comprehensive Plan analysis and Contract language and will submit the appropriate materials to you prior to the workshop". I asked for any additional information On Friday May 7th as well as, as soon as 2 hours BEFORE the meeting on May 11th. No additional information was available.

Their lawyers written summary of the Comp Plan was NEVER mentioned nor provided to the public. The first access we had to that info was AT the May 11th meeting. . Another resident presnt "found" it purely by accident. It was on the BOTTOM shelf on the counter regularly used for handouts to the public, usually where debris and leftovers are placed in Room 209 . Clearly not something any one wanted us to see, have access to nor have the opportunity to respond to. It was clearly information intentionally withheld. The public was blindsided. and the process was hijacked. .

The CompPlan IS KEY to the decision making. It is the basis for decision making. We were intentionally shutout of a KEY part of discussion. By who?

who knows? why was it allowed? who knows? Well we do. If their proposal can't win in the light of day based upon its merits, let's try cutting off the discussion entirely.

AS Early as the week of April 10th the revised plan was available and was being presented privately to a number of individuals and organizations. The following week we were called by the neighborhood newspaper "Neighbors" for a comment on their revised plan. They were surprised we hadn't yet seen the plan and therefore couldn't comment on it. My point is it wasn't a matter of their revised plan NOT being complete. It was complete and being shared, just being withheld from the public part of the Planning process. It would appear from some of the comments made by Planning Board members that either the Board or members of the board have either met privately with or talked privately with the developer some time before the May 11th meeting. It's my understanding that that is prohibited.

One of the pieces of information that WAS available were the land options, which revealed that Packard does not have right title or interest to all of the land, a requirement for going forward to the Planning Board agenda AND the source of a great deal of discussion thruout recent months relating to the City land issue They DO NOT have right title and interest in OTHER than City land on the designated parcels. Some land (Boxing Club and prospective City land) is "retained" by the current (non Packard) owner. I brought this issue to the attention to Planning staff the week of April 16th and requested a meeting with corporation Counsel Penney Littel, who was on vacation at the time. As of May 7th Corp Counsel had not reviewed the options. Either Packard needs right, title and interest to all of the land or the two segments of the proposal need two separate Planning reviews. And we would still like to meet with Corp counsel Office to fully understand the options.

Chair Delogu, the day before the May 11th meeting made comments to the press specific to this proposal which places his ability to be "objective" and to respect and protect the public's role in the process, into question. His prior comments to the press, as Board Member on January 2nd showed clear disdain for his fellow Board members, the public as well as the public process. "The role of the Planning Board is to apply the ordinance in a way that facilitates good development. We need to look at the best interest of the City as a whole, we can't be swayed by neighborhood opposition that is ill informed and unfounded" Apparently Mr Delogue doesn't understand the difference between the economic development dept (which promotes development(good or bad) and the Planning dept.(which ensures it meets the zoning, the comp plan, and site standards) Or the fact that neighbors ARE our city and that he has a public process that includes public participation that he is required to respect and enforce, { not sabotage}. The Planning Board chair should not be engaged in name calling, especially with the public or in the press. We ignored it the first time, now it's becoming a trend. He's entitled to his personal opinion but NOT while in the role of Board chair. He's abusing his power and using his position as Board Chair not to further an objective process but to try to politicize it. AND the public cannot participate in an informed way if information is WITHHELD!

Compare his statements, to the Forecaster's coverage of the recent LNG discussion in Cumberland:

Beth Howe, a member of the Cumberland Planning Board said:... " the zoning ordinance change necessary to move the project forward did not fit the image of the community as described in the town's comp plan, " ZONING ordinances are a promise to residents and developers that allow for stable expectation", said Howe, who previously taught urban planning at the University of Wisconsin.. "This proposal breaks that promise and is inconsistent with the land uses already in place." ...

She was joined by councilor Michael Savasuk who said:

"I think the people of Cumberland have already spoken, through the zoning ordinances. Those ordinances indicate what the forefathers of this town saw for its future development."

Packard Development recorded, transcribed, and videotaped private (touted as public. Hey the invitation said "The public process continues...") and public meetings with out the consent (or knowledge) of those present and with tacit approval of Planning Staff., for private purposes. And they are likely to try to do it again this Tuesday at the "official neighborhood meeting.. Their later submitted transcript of one of the meetings they recorded was incomplete, as to the explanation for purpose and use of their recordings.

At the Planning board meeting on May 11th and another meeting I attended on May 7th, Packard said that they had held "neighborhood meeting/s" and their plan was "well received" by the neighborhood. Not all in the neighborhood or neighbors were invited. It took 2 days to find anyone in the neighborhood who was invited. These so called "neighborhood meetings" they often refer to have limited invitations and sparse attendance , as few as 1 as many as perhaps 5. If they are going to use these meetings to promote their cause they need to document the event by submitting a list of attendees and minutes for those meetings.

The public part of the planning process is being hijacked and privatized. We need to reclaim it.

Because of their complexity: Rezoning and contract zones need to return to having a 14 day notice to the public. So that the public has access to info and the TIME to review them and provide "informed" comments.

The public needs to have access to all relevant material BEFORE the meeting . This is THE issue that brought us to referenda in the first place. Timely notice, access to information and an opportunity to participate in the process in a meaningful (non token) way is essential . The neighborhoods should be the first to know not the last. The Best way to END Nimbyism is Neighborhood Based Planning (ground up). The best way to have an informed process is to actually ensure that information is provided , NOT withheld, as happened May 11th..

The public was totally completely and intentionally blindsided for the May 11th meeting. The referenda set up a system in which that should NOT have been able to happened. What happened? Who blinded sided and hijacked the process? The developer didn't do that on his own. He had help from those who are supposed to be representing the best interest of Portland and her citizens, not the developer. Who put the needs of the developer above the need for a

transparent and public process? We tried to take the politics out of it, apparently we did not succeed. Who decided to turn the clock back on the public process?

Land options need to be available and examined and verified for right title and interest BY Corp Counsel office BEFORE an applicant is placed on the planning agenda.

The privatization of "neighborhood meeting " needs to end. It establishes a confusing two tiered system --one public and documented and one private and undocumented. .It takes the "public" out of a public process and is intended to. It legitimizes ,what we were trying to end, closed door meetings and deals. If a project cannot hold up under public scrutiny, then perhaps there's a reason why .

It appears that there was a intentional effort to withhold information from the public, to change the schedule without the public's knowledge, and to discourage/ eliminate "informed" public participation.

I thought that the public could count on public officials to protect the integrity of the public process, and the public's ability to participate in it freely and with the information needed to participate productively. The process was hijacked, the public was blindsided, but sadly the developer did not do that on his own. I didn't think the day would come that I felt that I would seriously need to consider hiring a lawyer to protect my rights to participate in the Planning Process. Sadly, that day has come. My willingness to "fight" all the annoying and petty violations of the process in vain, without representation, has come to an end.

This proposal STILL violates the zoning, It STILL violates the CompPlan, It's STILL too big and so is it's impact. It STILL violate state law re Contract zoning. Simply adding housing to A BIG BOX , without taking away the BIG BOX, doesn't make it mixed use and certainly doesn't make it smaller scaled or more neighborhood friendly. IT'S BIGGER, yet again ! It's still super-sized and incompatible .And sidewalks, with trees imbedded in pavement, do not a pedestrian trail (or open space) make. I can't believe Portland Trails would fall for THAT one or that their advise would be sought to promote such a sham. There are existing woodlands with natural trails there, that Portland Trails should be advocating preserving, not eliminating and replacing with pavement.. They are eliminating existing natural trails and green space (mature woodlands) not adding any. In my estimation from their aerial photographs, there is currently 10 acres of green space on the proposed site. They are reducing it and the quality of the green space..

Debra A. Keenan
28 Dorothy Street
Portland, Maine 04103
May 15, 2004

From: "Connie Gemmer" <connie@bartongingold.com>
To: Portland.CityHall(SH)
Date: Fri, May 14, 2004 11:58 AM
Subject: FW: Packard Development A/A Project

Sarah: I am not sure you ever got a copy of David Roy's email. I noticed it was not in the Planning Board Packet. Can you include it for the next meeting?

Connie

-----Original Message-----

From: David Roy [mailto:leroi@gwi.net]
Sent: Monday, May 03, 2004 1:40 PM
To: jcloutier@ci.portland.me.us; nsmith@ci.portland.me.us;
nmm@ci.portland.me.us; jduson@ci.portland.me.us;
wgorham@ci.portland.me.us; podonnell@ci.portland.me.us;
cl@ci.portland.me.us; kgeraghty@ci.portland.me.us;
jcohen@ci.portland.me.us; jeg@ci.portland.me.us;
pcincotta@packarddevelopment.com; Connie Gemmer
Subject: Packard Development A/A Project

To All Concerned:

Re: Packard Development Allen Ave. Project

As one of many impacted by the potential development of the property adjacent to Bruno's Restaurant I'd like to offer my take on the project.

While I may be considered a newcomer to the neighborhood, I've only been here four years, the most talked about issue here is the traffic. Last year the state made improvements, which during the construction the overall opinion was that it won't make any difference. Well, I can attest to the fact that it has made a huge difference. Traffic is flowing through this intersection more smoothly then ever before. That being said and after watching closely and attending as many meetings as I could, I am convinced that the traffic situation will not worsen with the new development proposed by Packard Development. In fact, I see that it does have potential to further improve.

Looking beyond the traffic issue the improvements made to the neighborhood will benefit many. The new design which includes apartments and condominiums, the additional retail space, the added tax revenue, and even the proposed "green space" seems to offer something for everybody. The work that Packard Development has done on this project is to be commended. I believe most companies would have pulled

out a long
time ago and left it up to us to solve our own problem of dealing with
this unsightly piece
of real estate.

My hat goes off to Packard, in particular Paul Cincotta for all his
efforts.

Respectfully;
David Roy
Portland Dry Cleaners
28 Allen Ave
878-3830