

**REGULAR MEETING OF THE
HISTORIC DISTRICT COMMISSION
PORTSMOUTH, NEW HAMPSHIRE
1 JUNKINS AVENUE
City Council Chambers**

7:00 p.m.

January 4, 2006

MEMBERS PRESENT: Chairman John Rice, Vice Chairman David Adams, Members, Ellen Fineberg, John Golumb and Richard Katz, Alternates Sandra Dika and John Wyckoff

MEMBERS ABSENT:

ALSO PRESENT: Roger Clum, Building Inspector

I. NEW BUSINESS

A) Election of Officers

Ms. Dika nominated John Rice as Chairman; seconded by Ms. Fineberg, Mr. Rice accepted the nomination and the nomination passed with a 7 – 0 vote.

Ms. Fineberg nominated David Adams as Vice-Chairman; seconded by Ms. Dika, Mr. Adams accepted the nomination and the nomination passed with a 7 – 0 vote.

Congratulations to both Chairman Rice and Vice-Chairman Adams.

II. OLD BUSINESS

A) **Work Session/Public Hearing for RRJ Properties Limited Partnership, owner, and Martingale Wharf, LLC, applicant,** for property located at 99 Bow Street wherein permission is requested to allow new construction to an existing structure (two additions creating a mixed use building of restaurants, street level retail and offices) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 106 as Lot 54 and lies within the Central Business A and Historic A Districts. *This petition was tabled at the December 7, 2005 meeting*

Vice-Chairman Adams made a motion to take the application off the table, Mr. Golumb seconded the motion and the motion was approved with a 7 – 0 vote.

SPEAKING IN FAVOR OF THE PETITION

Attorney Malcolm McNeill spoke on behalf of the petition. He indicated that since the December meeting they have reviewed all the minutes and tapes of previous meetings on this matter. He stated that his clients are committed to the community. He stated that their purpose for this meeting is to show the evolution of the plan in coordination with the Commission's comments at every stage of the plan as reflected in the minutes, and, their attempt to respond to

Minutes approved February 1, 2006

the concerns that the Commission has raised. He noted that, as a result of the December meeting, they have made some changes to the plan that relate to the Bow Street side of the building, because, they presume that to be the only side of the building that is in question at this point. He responded to the comments of legitimate objecting parties, those that have signed their names to letters or have appeared before the Commission. He stated that, as a result of the last meeting, it became apparent to them that scale and rhythm were the primary issues and major concerns so they have attempted to show the scale and rhythm of the street as it compares to other projects approved near this site. Attorney McNeill noted that the property is located in the CBA zone. There are no front, side or setback requirements from a zoning perspective with regard to this zone. He stated that the other side of Bow street is in the CBB zone, which has similar characteristics, except that in the CBA zone the height requirement is 50 feet, however, directly across the street the height requirement is 60 feet. These inconsistencies exist all around the HDC along the waterfront. For instance, the Portsmouth Sheraton has a 60 foot height requirement and a variance was obtained to be at 76 feet, but, the Westin Hotel that is being proposed behind that site, has a 50 foot height limitation. He noted that the Hilton Hotel is in the CBB zone and was built to its height maximum. Also, 100 Market Street is part of the rhythm and flow related to this project. He stated that the issues, aside from fenestration and some of the other initial issues as it relates to the water side appearance, have not been historically based per se. He noted that there has not been significant discussion of architecture. He stated that they feel they have resolved most of these issues. He stated that, at the beginning of the process, they felt that the primary focus was on the water side and what the impact would be to other properties along the waterfront. He noted that the Commission members took a boat ride to get a better perspective of the water side of the project. He stated that there was a great deal of concern about the windows on the water side of the project and how it would all fit together. He stated that there may have been a feeling of too many windows and too much glare. In the beginning there was not as much discussion about the Bow Street side, but, there were some concerns about some of the roof structures early in the process.

Attorney McNeill stated that in July a work session took place and some outside architects came in to speak to the Commission. Some modifications to both the water side and the Bow Street side of the building were made in response to some of the concerns that were expressed.

In September they came back with significant modifications. On the water side of the building they had reduced the mass of the building, reduced the glass to brick ratio, reduced the connector glass type connections and used vertical metal to reduce the brick patio. On the Bow Street side they reduced the height in mass, reduced the glass area, revised the large window on the second floor and revised the window on the other side of the building. Attorney McNeill read several comments that were made by Commission members at the September meeting. He noted that Mr. Wycoff stated that the modifications were a big improvement, he liked the fenestration better and it was more traditional on the front and he liked the plan a lot better. He stated that Ms. Fineberg agreed with Mr. Wycoff and felt that the scale of the windows on the Bow Street side relates to the other buildings. Mr. Smith commented that it looked nice and was glad that they kept the detail of the original building. He noted that Mr. Adams stated that there are a variety of buildings along the waterfront that bump and jog with each other, that not all were built at the same time, that some are far more contemporary than the addition to the Martingale and there is a lot of bumping and very few soft connectors. He quoted Mr. Katz as stating that he would support the proposal enthusiastically. He was making reference to the HDC meeting that took

place with the architects speaking to the issue of flexibility. Mr. Katz made note that there is a plain ranch house on the top of the Bow Street theatre, lodging and federal building, but, there is latitude of historical influences in the waterfront. He noted that Ms. Dika stated she had issues with two new roof sections.

Attorney McNeill noted that when they came back in October there was not a great deal of change with regard to Bow Street. Some of the comments from the October meeting from the Commission included Ms. Fineberg stating that she was pleased to see on the Bow Street side a lot less glass and it was much more comfortable than the previous proposal. Chairman Rice indicated that the northern tier two steeple signature of the skylight should be preserved. There was concern about height. Chairman Rice also stated that the design fit very nicely. Ms. Dika stated she was still concerned about large windows on the water side. Mr. Golumb agreed, but, thought the new plan was much improved. Mr. Ricci indicated they would like to make a formal application. Chairman Rice indicated there was only one element that seems to be in contention, which is the glass on the water side. Mr. Golumb indicated he would find it helpful to get a streetscape of Bow Street, something with buildings so he could see the heights.

Attorney McNeill indicated that they came back in December with additional changes to the water side, which included reducing the mass and height and removing the railing that was high up on the building. He stated that, at that time, they assumed that the issues on the water side were resolved. In addition, they removed a large window on the Bow Street side, created three to four bay rhythms and removed a large window on the top in the center. He stated that at the December meeting they received objections from third parties and some parties actually appeared, but, they felt that they had both listened and was attentive to the concerns of the Commission. He made note of some of the comments made at the December meeting from some of the Commission members. Ms. Dika had indicated that the plan was modified in a way that is much more attractive than the original plan. She also stated that the rhythm to the old section was a concern to her as she felt it was too massive. She also stated that the new building doesn't fit into the rhythm because it is abutting the old section and she said she could not vote in favor of it. Mr. Smith stated that everything doesn't have to be 1700's to 1900's, that the Martingale is preserved nicely, that the additions are done tastefully and it is good for the growing city. As Mr. Smith was the Chairman of the Planning Board and the Master Plan stressed the vibrant, active downtown, a vibrant active waterfront, commercial uses along the waterfront and uses along those lines, they incorporated all these in this plan. Mr. Katz stated he would support the application although he had some concern about continuity of flow, but, would listen and take all the objections he had heard to heart. Mr. Adams indicated that they nailed down everything the Commission had asked for, if only they could give them one half of the building, that would do it. Ms. Fineberg stated that more time should have been spent on Bow Street and she is not comfortable with it because of the street level and front elevation. She noted that it works on the water side but doesn't work on the Bow Street side. Mr. Golumb stated that he feels the size of Bow Street has problems.

Attorney McNeill stated that, as a result of the December meeting, the original issues related to the water side seemed to be resolved. He noted that the issues on the Bow Street side were related to discussion about rhythm and mass. What is the rhythm and what is massive and what has been done in the past regarding these issues in other parts of the Historic District? His clients presented a plan to scale of the Hilton hotel that was recently approved, which is in the

Historic District, which is in the CBB Zone. Running along Hanover and High Street he showed intervening buildings and, in addition, 100 Market Street, which was approved recently, regarding the massing issues in that particular area and the relative relationships of these buildings. He noted that the Hilton is 60 feet high. Their building requires no height variances and no other dimensional variances. He stated that the Hilton is in a similar category in terms of its characteristics and as you come to Ceres Street and proceed up along Bow Street. The buildings up to Harpoon Willies are joined, but, if you look at the heights they are not dissimilar to what they are proposing. Their building contains separation between structures, which is not legally required, but, does require minor views to the river and access that was discussed before. The anomaly regarding height is their neighbor, the Georgeopoulos building. He noted the Sawtelle Building, the theatre and Harbor Place in terms of height. He noted that, in terms of rhythm and mass, after looking at all the properties in the Historic District, they believe those issues have been addressed as it relates to their project.

Attorney McNeill discussed the objections that have come forward by some citizens. He stated that he is not going to include the unsigned document that was submitted, as he feels that this is inappropriate. He noted a letter submitted by St John's Episcopal Church dated October 2005 where it addresses two issues. One is related to parking and states that the parking pressure imposed by this project, even if a space per unit is mandated, would be the straw that breaks the camel's back. The second issue is related to view and states that these projects will further compromise Portsmouth's beauty even if they blend flawlessly into the façade of Bow Street. The letter states that the end result will be to deprive citizens and visitors of the last remaining Bow Street view of the port and the river. Attorney McNeill noted that neither parking nor view are HDC issues. He stated that the Ricci Family is committed to the community and noted that when they came forward they knew there would be concerns. He stated that they have been cooperative and collaborative and brought forward a plan that was in good taste and a continuation of the Master Plan into the Historic District. Attorney McNeill noted that there comes a point where one cannot go any further. He stated that they have made some changes to the streetscape. Attorney McNeill noted that, if the view is what this case is all about that would be inappropriate. Chairman Rice indicated that this was not the case and that the issues they are dealing with are about mass and design, that this is a design review process and that everyone wants to come up with something that relates well to the area.

Mr. Ricci explained what alterations were done to the streetscape. He stated that not much was changed. He noted that some of the comments indicated that the rhythm was monotonous. He noted that they eliminated some dormers completely and added more pedestrian areas. They also centered the windows within the bay. These are the changes that were made on the façade itself. Mr. Ricci noted that they feel the spirit of rhythm and scale is consistent with what would be appropriate to do in this area and provided a diagram that showed this. He stated that, in reality, the buildings along Market Street are four stories tall before the roof starts and that the buildings on Bow Street are three stories tall before the roof starts. There is the context where there are variations in buildings in the downtown area. Photographs were presented that were related to the streetscapes so that they can be made a part of the record.

Ms. Dika stated that this is a very complicated project, that the applicants worked hard and listened carefully, and, they have taken all the suggestions and tried to incorporate them but, it is a complicated process. She noted that the original project was very complicated with lots of

changes, lots of dimensions and lots of glass and that the group worked very hard on the river side of the building to try to get the different elements together that were acceptable. She stated that she was so focused on the river side that she did not pay attention to the Bow Street side until the end of the process. When she did pay close attention to the Bow Street side, she realized that their building has made itself more important than the other buildings along that stretch, and, feels that it detracts from the old federal streetscape. She also stated that, unless the height to the left side of the building is pared down, she is not sure she can vote for the project. She stated that if that side is torn down to comply with the older part of the street, they will have to go back to the river side and change that, plus interiors. She stated that this is troubling to her and the parking and the views are not entering into how she feels about this.

Chairman Rice noted that, when talking about height and mass as it relates to other buildings and other areas of the city but within the district, that is a different thinking. He stated that the building at 100 Market Street was an anchor building, it was on a corner, it was a big lot and it called for a massive building. He stated that the Hotel was in a much different context than these buildings. These buildings are in a context of very familiar low standing, low houses on the water, and, that is the dilemma, and, there is a lot of new construction filling in that area. He stated he is not saying that this cannot be done, but, it does makes it difficult to work with them to strike the pitch that says this can work.

Mr. Adams stated that there is no question about the efforts that have been put forward. However, he indicated that he had some concerns at the outset of the possibility of this being a jarring construction from the water side, and, it was the thing that most everyone spent an inordinate amount of time talking about, and, did not talk about the other side of the building and he apologizes for that. He stated that when this came to a motion on the floor for a vote at the last meeting, he was surprised that Mr. Golumb voiced concerns about the building that he did not know, and, was surprised that there was so much opposition. Mr. Adams stated that the view on the end with a couple of extra dormers could be a mistake and could be too massive for that side of the street. The two portions of the original Martingale has much more vaulted roofs and much of the scale of the three story on the side of Bow Street gets lost. He stated that if the roofline is blocked out and the buildings are flat, the brick portion seems in place between the modern scale. When the roofs are included the buildings seem to grow and dormers on the roof accentuate the roof area even more. He reiterated that they have done a remarkable job of breaking the buildings into pieces that make some sort of sense on the street. Mr. Adams stated that when he blocks off the roof section and brings it down to the brick section, it doesn't have the height to it, which, is accentuated by the uniformity of the roofing material. He stated that he is not sure how much of the view is going to come through from the pedestrians walking by. We are dealing with the drawings in full elevation. All of the other buildings are seen in the same manner. The biggest problem is the two story wooden structure next to the right of these buildings that makes the buildings look big.

Chairman Rice noted that the new massive construction has the same roofing material throughout, which adds a gray element to the project.

It was noted that the roofing material does not help.

Mr. Ricci stated that the roofing material selected is much better quality than if they had chosen

asphalt and asked if the Commission wanted the roofing material to be asphalt instead of metal.

Chairman Rice suggested that breaking up the roofing material may help break up the building and its grayness. One thing that is clear to him is that this is the biggest problem.

Mr. Golumb stated that this is an exciting project for Bow Street and feels that they are very close to getting the project approved. He did note that the penthouse or doghouse dormers are the issue and that they are 10 feet higher than the highest point on the lowest point on Bow Street. He stated that this building is going to be the highest point on the street and Bow Street on the lower end is on a slant. He stated that the dormers seem to jump out to him. It seems to detract from what they are trying to do and doesn't improve the project. He stated that, if the roofing material is changed or broken up and the three dormers were removed, it may help to resolve some of the issues.

Mr. Ricci indicated that asphalt roofing is repaired constantly and indicated that there are different products that can be used.

Mr. Wycoff noted that the penthouse dormer on the right side of the front of the building bothers him and indicated that this should be flat, but, noted that everything else that was done is very good. He did note that by dividing the facades on the front it looks much better. He noted that the streetscape is very good, but, agrees with everyone else about the roof and stated that the roofs need to be changed so that they are not all the same material. He agrees with Mr. Golumb that they are very close to approval of the project.

Mr. Ricci stated that the actual roof planes are occurring at certain intervals, and, it is not one continuous roof plane.

Mr. Wycoff indicated that the view that is being shown on the drawing is impossible to see. What is being looked at is a very flat drawing, front elevation from about 400 to 500 feet away looking directly at a building, and, usually one does not look directly at a building. He indicated that, in a way, that has let that bother the Commission.

Ms. Fineberg noted that no one knows what will be constructed in place of the Post Office building once it is torn down and what view will be there. Some of the Commission members expressed surprise about this, and, it was noted that this is what is being planned.

Ms. Dika expressed her concerns about the jump in elevation between the old section and jumping to the new building and showing that it is so much higher.

Mr. Ricci stated that if one looks at it on the streetscape, to get a true perspective, it is not actually the way it is and it is a much smoother flow.

Mr Katz stated that the Martingale is by no means the tallest building compared to the Hilton and Harbour Place. He noted that there are two things that jump out at him. The first is the roof of the Riveredge Condominiums which is above a parking area, but, it cannot be seen from the streetscape and the second is the red clapboard building, which is out of scale with the rest of the street. He wondered if the Commission is saying that this building can't be higher because you

have very low buildings out of character with the rest of this. He recommended that the street be looked at as a whole context taken from 100 Market Street to Harbor Place. He noted that everyone is distracted by mass and shape rather than the streetscape and that the proposed building does not look out of place.

Ms. Dika stated that she does not agree with Mr. Katz' assessment and stated that she is talking in context of the whole street and looking at the federal streetscape. This is a very old stretch and what happened on the corner of 100 Market Street or any other place has no impact on how she sees this project. She is looking at the federal buildings going up the hill and seeing how this building will impact her view of these other buildings. She noted that she is reluctant to fail on the side of permitting something that may not work.

Mr. Katz asked if anything built since those federal buildings Ms. Dika is concerned with, does not enter into her equation of the appropriateness of this building, i.e. the Sawtelle building and Harbor Place.

Ms. Dika stated that on this stretch of street they do not.

Mr. Wycoff stated that you cannot build a structure with a six foot ceiling on the third floor of a federal building. He noted that one of the defining elements of a federal building is reducing the ceiling height of every floor. A building like this can't be built on Federal property.

Chairman Rice noted that the major objection discussed this evening has been on the front of the building and asked if anyone had any concerns about the river side of the building. If not, then Chairman Rice suggested that this be tabled until next week at the January 11, 2006 reconvened meeting.

Ms. Fineberg stated that, if the applicant is interested in looking at roofing materials, the most appropriate section to alter the roofing materials would be the Martingale. She noted that it should look like it once did.

Mr. Adams noted that the waterside of the building would be the appropriate place to allow the applicant flexibility in terms of portions of the building being glass and portions having modern elements, and, based on this he has no objection to the proposed rear elevation of the building in its fenestration on the plan. He did note that the roofline of the rear of the building does have a relationship to the roofline of the front of the building. He stated he is willing to accept the back of the building, but, not the front. Mr. Adams stated that originally he had the most problem with the rear of the building. He has never been comfortable with the scale of the building on the Bow Street side. He is not satisfied with the massing on the front of the building.

Ms. Fineberg stated that the right side of the building on the front is difficult, but, everything else seems to be better to scale. She noted that part of the problem is that the width of the dormer does not relate to anything else, and, it is a lot wider.

Ms. Dika noted that she is more concerned with the left hand side of the front of the building.

Chairman Rice asked if there were anyone from the public that wished to speak.

John Grossman from the Portsmouth Advocates indicated that they are concerned with the extensive use of metal on the roof on both sides and would like to see other material. He stated that they are also concerned about the massiveness on the right hand side of the building, which seems to be rather high compared to the rest of the building.

Attorney Tom Watson spoke on behalf of his clients Hazel and Robert Hall who live in the Georgeopolous building. He stated that their issue is a question of mass and rhythm. He noted that the focus should be on this property as the district in which it exists, and, indicated that it is going too far when this project is compared to the Hilton Hotel and 100 Market Street. He stated that the row of brick warehouses that separate Market Street from Ceres Street is the boundary that sets a new tone in this district. He noted that the Bow Street area is significantly different as an earlier period district than Market Street, Ceres Street and Hanover Street. He stated that when one discusses large structures they may have something consistent with altitude because Bow Street goes up on a hill. He stated that if you look at the drawing, the buildings from the sidewalk level are higher buildings than they are by the time they get to Harpoon Willys. When looking at the photograph, the building where Izzy's sits is taller from the actual sidewalk, not altitude wise, but, the height of the building, than by the time you reach the clothing shop. In his opinion, the discussion regarding the Hilton and 100 Market Street is a totally different district. He encouraged the Commission to look at Bow Street as two separate settings with the Martingale property being the boundary of those. He noted that the building his clients live in is the oldest building on the street. He noted that when Mr. Sawtelle developed the back of the building, he was not permitted to go higher because it was a two story wooden structure and he had to conform to what he did to the back of the building, and, these structures need to be taken into consideration as well. He indicated that it is important that the Commission think of this set of buildings as a transition. He noted that the height, particularly on either end, is very important for the Commission to take into consideration. He noted that the other thing that makes the building out of place is the width of the last section that sits to the right of the Martingale. He noted that, unlike the other sections that are further down toward the Ceres Street intersection, this is a much wider space. He stated that this is where the transition will occur to what is an uninterrupted solid wall of buildings to free standing structures. He encouraged the Commission to consider making one of the buildings narrower. He suggested that taking off the extra set of windows would accomplish this purpose.

Chairman Rice asked if there were any further questions for the applicant, hearing none, Chairman Rice asked if there was anyone in the public that wished to speak to, for or against the petition.

Seeing no one rise, the Chairman declared the public hearing closed.

DECISION OF THE BOARD

Mr. Golumb moved to table this for a work session/public hearing at the January 11, 2006 reconvened meeting and Mr. Adams seconded.

Chairman Rice asked for all those in favor and the motion passed via a unanimous vote.

III. PUBLIC HEARINGS

1. Petition of **Kevin McDevitt, owner (Riveredge Owners Association)** for property located at **117 Bow Street** wherein an amendment is requested to a design previously approved by the HDC (move the proposed new exit door on the north elevation back to the location labelled 'masonry infill' and replace the proposed 'Type 4' window and door with a 'Type C' window) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 106 as Lot 57A-0001 and lies within the Central Business A and Historic A Districts. *This petition was tabled at the December 7, 2005 meeting.*

Vice-Chairman Adams made a motion to take the application off the table, Mr. Golumb seconded the motion and the motion was approved with a 7 – 0 vote.

SPEAKING IN FAVOR OF THE PETITION

Steve McHenry of McHenry Architects spoke on behalf of the petition. Mr. McHenry noted that there is a minor change to a previously approved project. He noted that the first two pages are photographs of the existing building. He stated that on the third page it shows the long elevation that was approved. The last time they were before the Commission they were discussing the replacement windows on the upper level, which is a partial north elevation view. They would like to move the door back to its original location along the emergency stairway. He noted that this was approved the last time, and, that the reason for the amendment is due to the Rules and Regulations of the Condominium Association as to where doors are allowed.

Chairman Rice asked if there were any further questions for the applicant, hearing none, Chairman Rice asked if there was anyone in the public that wished to speak to, for or against the petition.

Seeing no one rise, the Chairman declared the public hearing closed.

DECISION OF THE BOARD

Ms. Fineberg made the motion to approve as amended and Ms. Dika seconded.

Chairman Rice asked for all those in favor and the motion passed via a unanimous vote.

2. Petition of **Ana Maria Ferro and Ferdinand T. Preller, owner** for property located at **514 Middle Street** wherein permission is requested to allow exterior renovations to an existing structure (remove existing decks, porches and stairways and replace with 14' 10" x 14' deck with egress decks and stairways) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 135 as Lot 19 and lies within the Mixed Residential Office and Historic A Districts.

SPEAKING IN FAVOR OF THE PETITION

Gary Anderson, the contractor for Mr. Preller, spoke on behalf of the petition. He indicated that the owners want to remove the existing decks and stairways, which are too steep and do not meet

code. They would like to reconstruct the existing stairway to a similar size to suit the space needs in order to give the proper distances for the stairway. Everything will be similar to the pictures submitted with the exception of the frame only, which would be pressure treated. They would use Trex material. He stated that this project is nothing more than an improvement on safety and the appearance of the existing stairways and decks.

Chairman Rice indicated that he went to the site and noted that there was some framing around the slider. He inquired as to whether or not a new slider was recently installed.

Mr. Anderson stated not to his knowledge, and, as far as he knows the slider has been there awhile.

Ms. Fineberg asked if they are proposing to rebuild the entire structure. She asked if everything will be removed and replaced.

Mr. Anderson indicated that it would, and, currently, it is very steep and not very accessible.

Mr. Anderson noted that this is a two-family dwelling.

Mr. Wycoff asked about the detail on the railings on the stairs and asked if the balusters would be nailed to the sides of the 2 x 4 railings.

Mr. Anderson noted that the fasteners will be screws, that they will be fastened to the side of the rails and will be similar to what is there now. He also stated that the stairway railings that are there now are nailed onto the sides of the actual deck railings.

Ms. Dika stated that she is having a hard time visualizing what it looks like from the drawings.

Mr. Anderson stated that he did not go into detail because there are not a lot of changes involved.

Chairman Rice reiterated that they are replacing in kind what is there and expanding the lower decks.

Mr. Anderson said that is correct.

Mr. Adams noted that the stairs are going in different directions instead of running up straight to the building from the 14 foot square deck and jogs to the right and then goes up about 3 feet, and, he assumes they are trying to make room for a staircase from the third floor. Mr. Adams noted this all deals with being on top of the roof of the shed on the back. Mr. Adams noted that there is some square footage change to the deck but there is a small impact as to what will change. He asked if there were a simpler way to do this.

Chairman Rice noted that there is a lot of decking and stairs, but, looking around the neighborhood it is venicular as to what happens in the back of the buildings. He also noted that the drawing is missing the railing detail.

Ms. Fineberg stated that she would like to see some sort of lattice on the bottom. She indicated that this request is not something the Commission would usually approve. She noted that this is not a design that is particularly sensitive to the era.

Mr. Katz stated that this could possibly be expedited if it were agreed that the stairs, railings and balusters must resemble the rails and ballisters that are on the deck, which means the balusters must be centered, and, it be stipulated that they resemble what is on the photograph. He is not able to tell if they are nailed onto the side of the stairs, but, he will take the contractor's word that they are.

Ms. Fineberg stated that the lattice should be wood and be part of the approval.

Mr. Golumb asked about the sono tubes and how high they are going to be above the ground.

Mr. Anderson stated that the sono tubes would be 30 to 24 inches above the ground.

Mr. Adams asked if they have to be that high above the ground or could a post be set.

Mr. Anderson stated that the sono tubes will be even with the grade, and, adding the lattice would be agreeable with the owner.

Ms. Fineberg questioned whether there was enough information to move ahead, or, does the Commission need more detailed drawings.

Ms. Dika stated that she does not have enough information, and, would like to go back out to the site and take a look at the way it is currently constructed. She does not think this plan is very attractive.

Chairman Rice asked if there were any further questions for the applicant, hearing none, Chairman Rice asked if there was anyone in the public that wished to speak to, for or against the petition.

Seeing no one rise, the Chairman declared the public hearing closed.

DECISION OF THE BOARD

Mr. Adams made the motion to table this until the reconvened January 11, 2006 meeting in order to give the applicant an opportunity to come up with an additional drawing that shows a lattice work section and adding detail to the drawing of the hand rail, and, to give Ms. Dika and Mr. Adams an opportunity to do a site walk and Mr. Golumb seconded.

Chairman Rice asked for all those in favor and the motion passed via a unanimous vote.

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3. Petition of **Fifty-Five Gates Street Trust, owner and Marya Danihel, Trustee, applicant,** for property located at **55 Gates Street** wherein permission is requested to allow exterior renovations to an existing structure (installation of aluminum gutter and downspout along front

of house) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 103 as Lot 90 and lies within the General Residence B and Historic A Districts.

SPEAKING IN FAVOR OF THE PETITION

Marya Danihel spoke on behalf of the petition. She indicated that she wants to put up an aluminum gutter to reduce the hazard from the sidewalk in front of the house. She stated that the house faces south and on sunny days water melts from the roof and drips onto the sidewalk by the house and freezes.

Mr. Adams asked if there would be any changes or modifications to the existing building and materials as a result of the addition to the gutter.

Ms. Danihel stated that the only change is the addition of the gutter.

Chairman Rice asked if there were any further questions for the applicant, hearing none, Chairman Rice asked if there was anyone in the public that wished to speak to, for or against the petition.

Seeing no one rise, the Chairman declared the public hearing closed.

DECISION OF THE BOARD

Ms. Fineberg made the motion to approve as presented and Ms. Dika seconded.

Chairman Rice asked for all those in favor and the motion passed via a unanimous vote.

4. Petition of **Martha M. Eckman 1991 Trust, owner** for property located at **326 Marcy Street** wherein permission is requested to allow exterior renovations to an existing structure (remove existing aluminum combination storm windows and single pane double hung sash and replace with insulating glass simulated divided light window sash and remove existing exterior door and re-clapboard over opening) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 102 as Lot 74 and lies within the General Residence B and Historic A Districts.

SPEAKING IN FAVOR OF THE PETITION

Gerry Eckman spoke on behalf of the petition. He stated that there was one slight change to the petition. He indicated that the photograph that depicts the north elevation shows a door that goes into the kitchen. They would like to remove the door going into the vestibule and leave the north elevation door as is.

Mr. Adams indicated that it is his understanding that they want to swap the door to the other side.

Mr. Eckman indicated that they wish to remove the door and clapboard over the opening.

It was noted that the east elevation will lose a door.

Mr. Eckman indicated that they would also like to remove the existing windows and replace them with insulating glass simulated divided light window sashes.

Ms. Fineberg asked if any of the other Commission members are aware of any other structures that have a shed that has no door.

Chairman Rice noted that he thought the shed would look awkward with no door and asked if they would be putting clapboard over the shed door.

Mr. Eckman noted that they would be clapboarding over the shed door. He stated that the clapboards would be horizontal which is consistent with the clapboard that is on the house.

Chairman Rice stated that, from a design standpoint, removing the door and replacing it with a window may make more sense.

Mr. Eckman stated that clapboarding over the door would accommodate or minimize the effect of the box and will blend in with the adjacent portion of the building.

Ms. Fineberg stated that she thinks this would look very odd without the door.

Mr. Adams noted that if someone came forward and asked the Commission for permission to build this vestibule, it would be an odd occurrence and he would vote against it. However, he stated that, in this case, it makes sense because it is small and this is not the right place for privvy. He suggested that maybe a window could be put there instead. He stated that some structures that demand doorways and applicants that have interior requirements are in conflict. He suggested leaving the door frame there and getting four tongue-in-groove boards and using them as siding and filling the opening with something that looks like a storm door.

Ms. Fineberg suggested leaving the door there and putting a façade inside.

Mr. Adams stated that would not be feasible because the door is on the inside of the wall and it would leave a dead wall with no insulation and no opportunity to run wires.

Mr. Eckman stated that there is a storm door there now.

Mr. Adams noted that the way it currently looks on the plan is too awkward.

Ms. Fineberg suggested that the applicant come up with a design with a closed door that satisfies the Commission and that they could agree on.

Mr. Katz stated that since there is a wood storm door there now, which is on the outside of the frame, obscured glass may look alright.

Mr. Eckman indicated that obscure glass is inconsistent with the other glazing on the house and other windows in the neighborhood, and, would not meet with the objectives of the Commission.

He stated that putting the clapboard on will minimize the box and suggested that they can put some landscaping around it which would be consistent with the other parts of the house.

Ms. Dika stated that she is uncomfortable with the replacement of the doors.

Mr. Katz indicated he would support this petition.

Moving on to the request regarding the windows, Mr. Adams asked what the window frames will look like.

Mr. Eckman indicated that they want to replace only the sash. He noted that everything above the windows are staying the same. He stated that the sashes are single glazed, that the storm panels will come off, that only the sash will be removed from the inside and a new sash replaced. He noted that on the first floor the windows are a nine over six pattern layout with muntins, and, on the second floor the size of the opening is six over six. He stated that everything on the exterior of the building is staying as is and there is no diminuation in size.

Mr. Adams noted that there are some sashes that come in a frame. He asked if these were the type of sashes that were going to be used.

Mr. Eckman indicated that the sashes will be individually installed on each window.

Chairman Rice asked if there were any further questions for the applicant, hearing none, Chairman Rice asked if there was anyone in the public that wished to speak to, for or against the petition.

Seeing no one rise, the Chairman declared the public hearing closed.

DECISION OF THE BOARD

Mr. Katz moved to approve, as amended by the applicant, not removing the door on the east elevation and removing the door to the shed and clapboarding the opening and Ms. Dika seconded. Discussion followed.

Ms. Fineberg and Mr. Golumb indicated that they do not support the shed being clapboarded,

The applicant withdrew the door part of the application and requested that the Commission vote on the approval of the window sashes only.

Ms. Fineberg made the motion to approve the window sashes only and Mr. Golumb seconded.

Chairman Rice asked for all those in favor and the motion passed via a unanimous vote.

Mr. Adams stated that the door portion of the application will be tabled to a time uncertain.

5. Petition of **Folsom-Salter House, LLC, owner** for property located at **105 Court Street** wherein permission is requested to allow new construction to an existing structure (build an exterior deck/egress for second floor) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 116 as Lot 22 and lies within the Mixed Residential Office and Historic A Districts.

SPEAKING IN FAVOR OF THE PETITION

Paul Jambor of Abenaki Contracting, representing the owner of the property, spoke on behalf of the petition. He indicated that this is a two-family dwelling with a second floor deck egress. He stated that, as it is right now, the second floor egress has a very narrow stairway and they would like to provide a doorway from the outside. He stated that the door will be fiberglass and consistent with the door below, that the paneling will be consistent with the paneling below and the deck will be pressure treated.

Mr. Wycoff asked if the railing will be 1 x 1 spindles fastened to the side of the stairs and asked if there is a railing system.

Mr. Jambor stated that there is. Mr. Jambor also stated that the pressure treated composite boards would be 2 x 6.

Mr. Katz asked if it will look like painted wood.

Mr. Jambor stated that it will look like painted wood and it will be gray.

Mr. Katz asked if they are going to frame the deck with pressure treated wood and trim the deck and side of garages with certainteed board. He also asked if the railings are going to be made out of solid material that looks like painted wood.

Mr. Jambor indicated that the frame of the deck will be made out of pressure treated wood and the deck and side of garages would be trimmed with certainteed board. He also stated that the railings will be made out of solid material that looks like painted wood. He stated that this is consistent with abutting properties.

Ms. Fineberg asked if the downstairs door is made of wood.

Mr. Jambor stated that it is wood.

Ms. Fineberg asked if the windows that are existing on the back side of the structure will remain there.

Ms. Jambor indicated the windows will remain there and will not be affected by the structure.

Chairman Rice asked if there were any further questions for the applicant, hearing none, Chairman Rice asked if there was anyone in the public that wished to speak to, for or against the petition.

Seeing no one rise, the Chairman declared the public hearing closed.

DECISION OF THE BOARD

Ms. Fineberg moved to approve this application as presented for purposes of discussion and Mr. Golumb seconded.

Ms. Fineberg stated that she is struggling with this petition as she did with an earlier petition for a deck presented this evening and stated it is uncharacteristic for the district. She stated she understands there is a life safety requirement that needs to be met and asked Mr. Clum about that.

Mr. Clum stated that, because this is a two family building, the building code would recognize only one means of egress. However, in this case, he would guess that the insurance company is requiring something above and beyond what the building code requires.

Ms. Fineberg asked if there was another design that could be used as this design takes up the entire back of the building. She stated that there are several buildings that have stairs that fold into the wall that are aligned down the side. She also noted that the window is used as an egress and that there is ample opportunity to do this on this building and it would be far less intrusive.

Mr. Jambor indicated that it was the applicant's intent to minimize the new construction as much as possible. He noted that the length of the building is 76 feet and the deck is only about 16 feet by 6 feet 4 inches with the remaining being the steps going down. This is less than half of the width of the building. He stated that there is more of an access or egress for traditional deck space. He stated that the problem is that currently the only access to the 2nd floor is very narrow and non functional.

Mr. Golumb asked if they considered a spiral staircase.

Mr. Jambor stated a spiral staircase would create the same problem that already exists. Mr. Jambor also clarified that there are no regulations being put forward by the owner's insurance company.

Mr. Katz noted that exterior staircases are not unknown on Court Street.

Mr. Jambor noted that the owners would like to build this deck to have a second floor egress for living purposes and to be able to move furniture in and out, which, they are unable to do as it is now because of how narrow the egress is.

Mr. Adams stated that he does not find the primary entrance to the second floor attractive and doesn't see how they would fit into the historic nature to the rest of the neighborhood, although it is a common utilized technique to get to the second floor. He stated that this does not contribute to the architecture of the building or the neighborhood. He stated he feels awkward about the proposal.

Ms. Fineberg stated that the deck should look like it is used as an outside porch that has stairs coming down or a roof over it.

Chairman Rice indicated that there is nothing historic about the fenestration and that a non contributing element is being added to a non contributing base where these elements do exist.

Mr. Adams asked if the Commission wants more of these.

Chairman Rice recommended tabling this matter to a work session at the reconvened January 11, 2006 meeting to look at more creative ways to meet the applicant's needs and to make it a contributing element to a non contributing face to the back of the neighborhood.

Mr. Wycoff asked about the height of the back and how many steps there are to get downstairs. His concern is lacking of detail on the railing systems. He stated that, if you are building on a building that has some modern elements to it and build something on the back, you should stick to the historic ways of construction. He stated that these types of railings always have top and bottom rails with ballisters in between and going up the stairs. This plan shows the ballisters individually being nailed onto the threads themselves, which, he states will not work.

Mr. Jambor noted that the door will be insulated with fiberglass. He stated that the visual intent is to cover the post from the ground level, and, the post will be painted as well and screwed to the outside.

Mr. Wycoff stated that the ballisters should not come on the outside.

Mr. Jambor noted that his client is not locked into that façade.

Mr. Golumb moved to table this to a work session at the January 11, 2006 reconvened meeting and Mr. Adams seconded. The motion passed unanimously.

Mr. Adams stated that there are some design detailing issues that have been appropriately raised. He is uncomfortable with the overall plan and would like more opportunity to do a site walk and have the contractor bring forth a more appropriate plan.

Chairman Rice asked for all those in favor and the motion passed unanimously.

6. Petition of **Sean M. Tracey and Lina Tracey, owner**, for property located at **24 Johnson Court** wherein permission is requested to allow exterior renovations to an existing structure (a. allow existing windows to remain with permanent, but, not exterior grills; and b. fabricate and attach permanent sills to the exterior trim of the existing 44 windows) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 102 as Lot 47 and lies within the General Residential B and Historic A Districts.

SPEAKING IN FAVOR OF THE PETITION

Sean Tracey spoke on behalf of the petition. Mr. Clum stated that at the November meeting Mr. Tracey got approval from the Commission for a new shed, and, at that time Mr. Adams noted that the window sills that were approved by the Commission had never been affixed to the building. They also came to the realization that the windows that were approved were not the windows that were installed by the previous owner. Therefore, the current owner has 44 existing

windows that do not have the exterior applied muntins that exist on the structure. Mr. Tracey did not feel right applying for the window sills when the windows installed by the previous owner were not the windows that were approved by the Commission. Mr. Tracey indicated that in the process of designing the sills that were requested, he discovered that the windows were not the ones that were approved. The intent was permanent interior grills, although, the language that is part of the approval, say permanent grills. There are permanent grills, but, they are inside the glass and not on the exterior. He is asking that he be allowed to keep the windows that were installed by the previous owner, and, he has hired an architect to install the sills that will improve the view of the windows, and, he is requesting that the sills be installed as requested.

Chairman Rice stated that these kind of windows were approved at one time on Market Street, which was a special exception, and, indicated that, from time to time, there are special situations that arise that the Commission might consider approving something that is not normally approved.

Ms. Fineberg asked if the applicant has any plans, in the future, to apply grills to the windows.

Mr. Tracey stated that would add a more unsightly look and indicated that one would be hard pressed to be able to tell there are no grills.

Mr. Wycoff asked how an applicant could get approval of installation of a certain kind of window and go ahead and install something else.

Mr. Clum suggested that there was a miscommunication between the applicant and the contractor and hopes that nothing was intentionally done to subvert what the Commission approved.

Mr. Wycoff indicated that there is a major difference in cost from about \$400 per window and \$200 per window.

Mr. Wycoff asked if the flat casing will be the color of the trim.

Mr. Tracey indicated that it would all be the same.

Chairman Rice asked if there were any further questions for the applicant, hearing none, Chairman Rice asked if there was anyone in the public that wished to speak to, for or against the petition.

Seeing no one rise, the Chairman declared the public hearing closed.

DECISION OF THE BOARD

Mr. Adams made the motion to approve the application as presented and Mr. Golumb seconded. The motion passed by a 6-1 vote.

Mr. Adams stated that it is neither the contractor nor applicant that got approvals and did something else. It is a good faith effort on the part of the applicant to do this.

Chairman Rice asked for all those in favor and the motion passed via a unanimous vote.

7. Petition of **March Twenty Two, LLC, owner**, for property located at **58 State Street** wherein an permission is requested for demolition (complete removal of the structure) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 105 as Lot 12 and lies within the Central Business B and Historic A Districts.

SPEAKING IN FAVOR OF THE PETITION

Steve McHenry of McHenry Architects spoke on behalf of the petition. He submitted additional photographs to the Commission members. Mr. McHenry addressed the technical aspects of the condition of the building. Attorney McEachern, representing the owners of the building was also present. Mr. McHenry noted that the application presented has letters from two separate engineering firms suggesting that the building be demolished. He noted that one of the letters went into detail about the steps that were taken to come to the determination that the building should be demolished. One of the letters states that the building is a safety hazard. He stated that, in order to keep the building from collapsing, several things were done. A steel C channel beam was installed on the third floor on the gable end side of the building, and, a series of channels were installed connecting to the wood beams across the building. He stated that on the right hand side of the gable end the C channel beam is curved. He noted that it was put in straight and now it is curving. He emphasized that there is enormous pressure on the beam and it is still moving. He noted that on the left hand side of the building the fence is leaning over the foundation line, and, between the second and third floor it is leaning out 8 inches. He stated that there is a C channel that is bolted through the floor framing to try to keep it rigid, and, is connected to the masonry wall on the underside of the supporting beams between the second and third floors. The beam used to be into the socket that is boarded up and is six inches from the wall. The wall is bowed out about 10 inches or so.

He stressed that the beam has pulled out of the wall and that on the left side the masonry is tilted, the crack is exposed and it has pulled apart. He noted that tie rods were put in, but, the building is leaning to the left. He noted that it was the intent of the owner to do the renovations necessary to rehab the building and use it and keep the shell. However, they found that it was too unsafe to work in the building and the building was worse than they thought.

He stated that part of the renovations was to install new steel and new framing which would require taking off the roof. However, if the roof was removed, the building would fall down.

Chairman Rice asked if there was a fire at one time?

Mr. McHenry noted that, at one time, there was a fire on the third floor.

Ms. Fineberg indicated that there is an existing plan to renovate the structure and add on to it. What is the owner of the building considering doing?

Mr. McHenry stated that he does not know at this point. The inside of the building is completely stripped out and there are no features on the inside worthy of saving, except for some interesting fireplace remnants.

Chairman Rice indicated that he would be respectfully abstaining from this application as he was involved in a real estate transaction with an abutting property and feels this is a conflict of interest.

Vice Chairman Adams took over the chair and heard the remainder of this hearing.

Attorney McEachern, who represents the owner, came forward to speak on behalf of this petition. Attorney McEachern stated that this building is going to come down. He noted that the snow on the roof is an added problem. He stated that he is not comfortable being inside of the building and looking at the steel eyebeam coming into the fireplace. There are no guidelines in the state statutes that he could find, but, there is guidance in the local ordinance on demolition of buildings. He noted that in the ordinance under Section 14-105 it talks about a dangerous building, and, this is considered a dangerous building. He stated that the owner of the building started to sand blast inside of the brick, but, he gave up because it was too unsafe. The owner will come before the Commission with a new application and a new plan. He stated that the Commission has no discretion but to order the building to be demolished.

Ms. Dika asked what the excavation is behind the building.

Attorney McEachern indicated that it is a one story add-on shed that is being taken down.

Mr. Golumb indicated that he would be more comfortable knowing that there will be a building put there if the Commission approves the demolition of this building.

Attorney McEachern reassured the Commission that the owner is a builder and he wants to build on this site.

Vice-Chairman Adams asked if there were any further questions for the applicant, hearing none, Vice-Chairman Adams asked if there was anyone in the public that wished to speak to, for or against the petition.

Seeing no one rise, the Chairman declared the public hearing closed.

Mr. Clum indicated that the owner came to the Building Inspector's office requesting that the building be declared dangerous and they be allowed to demolish it without review by the HDC. Mr. Clum indicated that he was ready to do that, but, it was decided that the HDC review the demolition of the building. Mr. Clum indicated that, after doing a site walk and going inside the building, he strongly agrees that this is a very dangerous building, and, he will not go back inside. He also indicated that the Fire Department contacted him and are in full support of this application to demolish this building. The Fire Department has issued memos to all fire stations outlining the issues with this building and recommending all firefighting activities take place outside the building.

DECISION OF THE BOARD

Ms. Fineberg moved to approve the application of the demolition of the building with the stipulation that the Commission have measured drawings and photographs before it is demolished and, second, that the building that replaces it look just like the building that is being demolished and Mr. Golumb seconded.

Mr. Adams stated there are no applications for replacement of the building before the Commission, and, they are simply voting on whether or not the building should be demolished without any waiting period. He can't see how they can stipulate how they can replace the building, and, he feels that the Commission is overstepping their bounds.

Ms. Fineberg stated that they can stipulate that they photograph the building and measure it before they take it down, because, the Commission will have no way of knowing whether a replacement is an authentic replacement if the Commission does not have those photographs and measurements.

Ms. Fineberg stated that, if the building is being demolished for safety reasons and not because there is an objection to the design of the structure, then there is no reason why this structure should not be replaced. Even though there are no plans in front of the Commission at this point, it is her assumption that, at the time the applicant does come before the Commission, that would be something they would use as measuring stick. The only way they could do that would be if the Commission has something to measure it by.

Mr. Adams stressed that, because of the emergent nature of the condition of the building, before anything else is reviewed he does not think it is an unreasonable reaction to have a record of the building.

Attorney McEachern stated that the base of the building was already measured on a site plan. He stated the owner would be willing to do that before the building is taken down.

Mr. Clum indicated that the building code will not allow exterior openings on the sides of the building, which are the property lines.

Mr. Adams asked if there are unblocked window openings there now.

Mr. Clum noted that there appears to be one on the left hand side and noted that with the zero lot line, the building code would not allow replication of those openings in a new building today.

Ms. Fineberg noted that the only other time the demolition of a structure was approved without anything replacing it was when the comfort station was demolished. She has never voted to demolish anything without understanding what would be there to replace it, but, because of the emergency nature of this, the Commission is being asked to do something that is not characteristic for them, and, the Commission needs to take steps to record what is before them before they lose the evidence.

Ms. Fineberg withdrew her motion and Mr. Golumb withdrew his second.

Ms. Fineberg moved to approve the application as presented to demolish the building with the stipulation that there be a set of measured drawings and photographs recording the exterior of the building and Mr. Golumb seconded.

Mr. Wycoff noted for the record, that the Commission strongly urges the applicant to reproduce the building that is there now.

Mr. Wycoff amended Ms. Fineberg's motion to include that the Commission strongly urges the building be reproduced as closely as possible and seconded by Ms. Fineberg.

The motion passed unanimously.

Ms. Dika noted that she heard a rumor that these three parcels of land would be combined to build a luxury condominium.

Mr. Katz asked whether or not the Commission is raging far afield from their duties as a design review board.

Mr. Adams noted that it is appropriate for someone to have a conversation that has certain knowledge.

Ms. Dika feels that Ms. Fineberg's suggestion of getting the measurements is appropriate because the Commission does not know what the plan for the lot is in the future, and, due diligence should be done now.

Mr. Golumb feels it is an appropriate discussion to have.

III. ADJOURNMENT

At 10:15 PM, a motion was made and seconded that the meeting be adjourned to the following month's meeting. The motion passed unanimously.

Respectfully submitted,

Gail McDowell
Acting HDC Secretary

/gm