

**MINUTES OF MEETING
REGULAR MEETING
PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

**CITY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

APRIL 20, 2006

MEMBERS PRESENT: John Ricci, Chairman; M. Christine Dwyer, City Council Representative; Jerry Hejtmanek, Vice-Chairman; Cindy Hayden, Deputy City Manager; Richard A. Hopley, Building Inspector; Raymond Will; Donald Coker; George Savramis; and Alternates Anthony Coviello and Paige Roberts

MEMBERS EXCUSED:

ALSO PRESENT: David M. Holden, Planning Director; and, Lucy E. Tillman, Planner I
Peter Britz, Environmental Planner

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6:00 – 7:00 PM WORK SESSION on Zoning Ordinance Re-Write

Mr. Holden indicated that Rick Taintor, of Taintor & Associates, has been working for the last couple of weeks by meeting with city staff and working very closely with Cindy Hayden.

Rick Taintor introduced himself and provided handouts to the Planning Board members. The first handout provided a time table for their list of tasks through next April. Once they decide on exactly what their approach will be, they will start on their first draft of the revised Zoning Ordinance. In October they will start on their second draft and in January of 2007 they will begin their public review with Public meeting. The Project Team consists of Mr. Taintor's staff and the Planning Department staff. Two weeks ago they had their kick off meeting and he has been meeting with people since then. He was looking for ideas from the Planning Board at tonight's meeting on items they would like to see changed.

Mr. Taintor was looking for feed back on the following issues: General Zoning Ordinance issues such as structure and organization and the use of use, the districts and how they are set up, whether the uses are clearly defined or are there problems interpreting it, and are there issues with the dimensional and intensity standards. He asked if there were problems with either the permitting process or variances, are there concepts or techniques that could be included, such as urban design, environmental management or impact fees. He asked if there were any zoning map issues and finally the relationship of this project to specific areas, such as the northern tier, Islington Street and Islington Woods.

Mr. Savramis felt there had been a lot of discussion during the Master Plan process about design review for shopping centers and asked whether that would be looked at. Mr. Taintor indicated one of the later phases of the project will look at design standards. The Historic District Commission covers some of that. Landscaping, lighting standards and signs are a huge issue.

Mr. Coviello asked about mobile home parks. There are currently three in the city and Oriental Gardens wasn't even zoned residential. Mr. Taintor indicated they did a study of OR districts and that came up and they made a recommendation on that park. Mr. Holden indicated they should really look at all three parks for re-zoning.

Mr. Savramis asked about changes to SR zones. There was talk about single SR districts may allow in-law apartments. Mr. Taintor indicated they would review that. One of the issues is the fact that

many lots are well below the current zoning criteria. They will look at the existing zoning districts to determine whether they reflect the existing character of the City. Mr. Savramis felt they should insist on off street parking or they will destroy the neighborhood.

Mr. Will mentioned small neighborhoods, such as Maple Haven and Atlantic Heights and asked if there was a way to allow smaller houses on smaller lots. He felt that the City has to provide more opportunity for home ownership. Mr. Taintor stated that one of the things that is different about Portsmouth, and about a lot of other communities, is that zoning needs to address redevelopment and reuse.

Ms. Roberts indicated that it seemed clear in the Master Plan that there was concern about affordable housing so a lot of emphasis should be put on that. They need a variety of ideas to address that. Mr. Taintor indicated that more affordable housing would mean more density. Councilor Dwyer felt that looking at the zoning districts for character would mean all districts. Density is very related to a character issue.

Mr. Holden felt that the GA/MH district should be looked at separately.

Mr. Coviello addressed high density and he referred to an area at the Cape where they described problems in their Industrial areas where people were putting condos in above their businesses. If done right, he felt this could be a good idea. Mr. Taintor confirmed that there had been a lot of talk about live/work buildings.

Mr. Hopley indicated that mixing commercial and residential, they end up with opposing building code requirements so it can be a challenge. What it would require would cost more and may not be affordable as a result.

Mr. Taintor mentioned the downtown issue of signs as an issue.

Chairman Ricci mentioned the design standards for stormwater management could use some work. Mr. Taintor indicated another consultant would be looking at that issue. Deputy City Manger Hayden confirmed they will be advised of what goes on with that group.

Mr. Holden asked how the Board felt about signs? Chairman Ricci felt that Route One needed more control. Deputy City Manager Hayden indicated that temporary signs are becoming popular. Mr. Will stated that balloons on cars are temporary but hazardous because they move and draw attention from drivers. Mr. Holden asked if internally illuminated signs should be addressed. Mr. Hopley indicated that the issue of signs inside windows are popular. Mr. Holden felt that moving signs should be reviewed. He asked if the Board believed moving signs should be prohibited.

Mr. Savramis stated that Route one was becoming heavily traveled and they need to insure anyone pulling out should be right turns only. Mr. Holden felt that would be good to look at for the Site Review Regulations.

Ms. Roberts felt it would be helpful to look at stipulations from prior approvals so they don't have to bring them up every single time.

Mr. Holden indicated some of the standard stipulations deal with stormwater management, dark sky friendly lights, sidewalks and snow storage.

Mr. Coviello asked about sustainability items such as recycling. They currently only address dumpsters. Mr. Will felt that the recycling of materials from the demolition of buildings should be considered. Deputy City Manager Hayden indicated they have discussed sustainability and incentive based sustainability programs. She also agreed that items like snow storage are always being made stipulations so that could be made part of the Site Review Regulations.

Vice-Chairman Hejtmanek Jerry asked about wetlands and large paved areas being swept on a regular basis. Mr. Taintor stated that those issues may go in another City ordinance. Also, he mentioned that noise is in two City ordinances and they don't coincide.

Mr. Coviello asked about the white roof concept, to reflect light rather than absorb.

Mr. Holden mentioned the comparison of open space and building coverage as well as off street parking.

Mr. Taintor asked about other issues of the commercial districts. There was talk about upgrading areas of redevelopment. He asked about the uses.

Mr. Savramis felt that apartments would be more reasonable in a commercial district rather than Industrial, or possibly work force housing. He mentioned the Southgate Plaza as an example where, on the right, there is a huge lot of land that is vacant and could be potentially used for affordable housing.

Councilor Dwyer mentioned the issue about overall concerns about economic incentives and the office research district. Mr. Taintor referred to the office research district, opposite Elwyn Park, and mentioned the idea of promoting mixed uses.

Mr. Coviello asked if they currently credit land owners for commercial/residential parking that is shared? Mr. Holden indicated that they City did not. Mr. Taintor felt there was a big difference between the downtown area and other areas of the City. Chairman Ricci indicated that was an issue for the recent Knights of Columbus project.

Mr. Coviello asked if they will be following up on the drive throughs? Mr. Holden confirmed that the Zoning Ordinance and Site Review Regulations will have to be coordinated.

Mr. Will felt that work sessions should be made available to abutters regarding projects that are specifically being discussed. Abutters often have excellent ideas that should be considered from the beginning of the review. Mr. Taintor indicated they could possibly have neighborhood meetings.

Mr. Savramis asked, regarding the function hall and parking site, would a valet parking requirement be of any assistance? Mr. Holden indicated that they use parking credits downtown and maybe they should look at this process in other areas.

Mr. Coviello asked if the public hearing process was for soliciting further ideas? Mr. Taintor indicated that it was the concept that the Master Plan has already addressed many issues so they have already had a public hearing session. They will now capitalize on that. Deputy City Manager Hayden added that they did the same with Portsmouth Listens so they have a lot of input. Also, the City Council will ultimately adopt the revision. The City Council will also work along with them so that they are aware of how it is progressing. Mr. Taintor indicated that the schedule that he handed out is only Phase I. Public hearings will be held in May & June of 2007.

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John Ricci welcomed Paige Roberts as an alternate to the Board.

I. APPROVAL OF MINUTES

1. Approval of Minutes from the February 16, 2006 Planning Board Meeting – Unanimously Approved.

2. Approval of Minutes from the February 22, 2006 Planning Board Meeting – Unanimously approved.
3. Approval of Minutes from the March 16, 2006 Planning Board Meeting – Unanimously approved.

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II. NEW BUSINESS

A Annual Update on Progress Towards Implementing Master Plan

Deputy City Manager Cindy Hayden, Public Works Director Steve Parkinson and Assistant Public Works Director David Allen made a powerpoint presentation to the Board showing key initiatives that the City is carrying out.

Strategies:

- Master Plan Implementation: Annually assess and report to community on progress on major City initiatives;
- Revise Zoning Ordinance, Site Review Regulations and Subdivision Regulations;
 - Issues: Sustainability Development, Workforce Housing, Resource Protection, Signage & Parking Standards, Design Review Regulations and Improve user friendliness;
- Promote pedestrian oriented uses at street level in Central Business District (CBD overlay district developed & adopted);
- Share information on City policies and projects related to sustainability(4 workshops have been conducted for City Staff, City Council and Land Use Boards, Mayor’s Sustainability Committee and the Community);
- Provide community information on regular basis in variety of formats (Annual Report, Electronic Newsletter);
- Support ongoing implementation of Peirce Island Master Plan (Boat ramp/dock funded & under construction);
- Upgrade and enhance neighborhood parks;
- Facilitate open space acquisition (27 acres purchased for conservation);
- Revise/update City’s wetland regulations (Designate prime wetlands);
- Retain AffordableHousing (CDBG) (Housing Rehab Program, Residential Accessibility Program, Betty’s Dream Renovations);
- Create Affordable Housing (Housing Challenge Grant);
- Assist 1st Time Homebuyers (HomeTown program);
- Participate in regional partnerhips (PNH, NHHFA, WHC, RPC);
- Research/assess innovative zoning techniques;
- Strengthen protection of historic resources (Developed informational brochure);
- Increase public art through a local Percent for the Arts Program (Ordinance drafter, City Council, August 2006);
- Carry out corridor studies for Woodbury Avenue, Lafayette Road, Route 1 and Route 1 ByPass;
- Update City’s Street Standards to reflect current design practices and conditions;
- Continue the systematic upgrade of traffic signal systems;
- Create a system of multimodal transportation centers that will facilitate use of public transit and other modes;
- Improve efficiency of recycling collection methods;
- Identify, acquire, permit and implement additional water sources to ensure adequate supply for current and future needs;
- Promote water conservation and increase public awareness of best management practices in watershed management near the Bellamy Reservoir;
- Implement recommendations made in Phases 1 and 2 of the Water System Master Plan;
- Continue to implement Phase II and Phase III of the Sewerage Improvement programs;

- Implement the Combined Sewer Overflow Long Term Control Plan (LTCP);

(7:30 pm)

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III. PUBLIC HEARINGS

Chairman Ricci recused himself from the first four public hearings

Vice Chairman Hetjmanek took the gavel and indicated all four Home Depot applications would be heard together.

A. The application of **Thomas J. Flatley, Owner and Home Depot, Applicant**, for property located at **500 Spaulding Turnpike** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to allow the demolition of the existing building, the construction of a 145,193 ± s.f. retail store and a 19,200 ± s.f. pad building and corresponding parking within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 238 as Lot 20 and lies within a General Business District. (This application was tabled at the March 16, 2006 Planning Board Meeting.)

The Chair read the notice into the record.

Deputy City Manager Hayden made a motion to take the application off of the table. Mr. Hopley seconded the motion. The motion passed unanimously.

B. The application of **Home Depot USA, Inc., Owner**, for property located **off Durgin Lane**, wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to allow the construction of a 24' wide access drive within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 239 as Lot 16 and lies within a General Business District.

The Chair read the notice into the record.

C. The application of **Thomas J. Flatley, Owner, and Home Depot, Applicant**, for property located at **500 Spaulding Turnpike** wherein site plan approval is requested to construct a 1-story 117,193 ± s.f. proposed Home Depot retail store, a 1-story 28,000 ± s.f. garden center and a 19,200 ± s.f. building pad, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 238 as Lot 20 and lies within a General Business District.

The Chair read the notice into the record.

D. The application of **Home Depot USA, Inc., Owner and Applicant**, for property located **off Durgin Lane** wherein Site Review approval is requested to create an access drive, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 239 as Lot 16 and lies within a General Business District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Malcolm McNeill addressed the Board on behalf of Home Depot and the Flatley Company. He indicated that there were two requests for Site Review and two requests for Conditional Use and they brought their development team to address all issues: Thomas Flatley, Ian McCarthy from McCarthy Kerekes, Architects, Greg Mikolaities and Derek Wyse, from Appledore Engineering, Jim Gove, of Gove Environmental and Art Scarneo of GPI, traffic specialist.

Attorney McNeill indicated that they are not requesting any relief for variances or the Zoning Ordinance and there are no wetland crossings on the site or DES permitting required. For a project of this size, they are left with wetland buffer impacts and normal site review. But for the fact that the site was being re-graded and a building pad was being added, there would be no relief for wetland buffers at all. Their impervious surfaces are grandfathered and every component of this project are less than the existing condition.

The present Home Depot is a reuse of a Cosco site. This proposal is consistent with Home Depot's most recent model. Attorney McNeill displayed renderings of the proposed building. The existing condition of the site has the skeleton of the old Omni Mall. The Omni Mall opened in 1985 with a building much larger than the proposed building and was non-conforming. The Omni mall lasted for one year and went into bankruptcy. The Flatley Company bought the property and it was zoned GB and it was converted to office space. Liberty Mutual rented a good portion of the site until Pease was developed which effected the occupancy of the building. In 1985 it was rezoned to OR, in 2003 Liberty Mutual left for Pease, in 2004 the occupancy was only at 7% and in 2004 the property was rezoned back to GB.

Conditional Use was enacted in 1995 and at that time this site had 920 parking spaces and occupied the majority of the site which were grandfathered in the buffer. The Site was without an effective drainage system and found its way into the surrounding wetlands. The proposed building will be 126,000 s.f. with a garden center which is a significant reduction. The site is off of Brady Drive and the driveway leads into the main building and the pad site. All calculations were based on maximum use.

They originally came before the City Boards for only approval of the building on the Flatley land with exit and entrance from Brady Drive. They appeared before the Conservation Commission three times, they appeared before the Technical Advisory Committee two times, they appeared before the Traffic & Safety Committee once and attended many department meetings. Their initial Site Review and Conservation Commission approvals were only for impacts to the main lot. After the 2nd Conservation Commission hearing, they received a favorable recommendation for Conditional Use with stipulations: The applicant has volunteered to sweep the parking lot 5 days a week; any spillage in the garden center was a concern so drainage to the City drainage system was arranged; they agreed to use brine rather than salt in the winter; they will use a downstream defender system to treat the parking lots and other areas that were never treated before.

They then went to TAC and that Committee was very pleased with the manner in which they were treating the site. They did make it very clear that there should be a connection between the new site and the old Home Depot site. Home Depot owned the adjoining property so they engaged in meaningful discussions with the City and the proposed roadway was developed. It is 24' in width and 750' long. It was designed to consider the environment of the area and to provide a safe entrance into the site. They went back to the Conservation Commission, who were pleased that there were no other off site wetland impacts. At the hearing the City was present to help present the roadway to the Conservation Commission. Attorney McNeill stated that the suggestion of the interconnection came completely from the City however Home Depot recognizes it as an improvement.

Attorney McNeill summarized that the site was rezoned less than two year ago for this type of use. They have complied with all City requests and no one has come forward to oppose this project at any public hearing. This will bring tax revenue to the City and the traffic consultant considered the continuous utilization of the existing Home Depot building. All impacts that the Board is normally concerned about are all being reduced.

Greg Mikolaities, of Appledore Engineering, displayed the plans for the Board which he had also handed out to the Board members at the beginning of the meeting. He referred to the existing conditions plan and indicated that they had to design around the PSNH easement that runs right through the site. Also the red line on the plan is the wetland buffer. The untreated drainage now runs

directly into the wetlands. The Site Plan showed the existing curbcuts on Brady Drive being consolidated into one along with the proposed connector road and the road was designed to line up with the connector. There is a 16' grade difference so they came up with a road design that has a 2% grade change. They needed to avoid wetlands, which they accomplished, and they wanted to keep the loading traffic away from the vehicular traffic.

They are adding extensive landscaping and all new light poles at 16'. The stormwater from the entire site will be treated in several ways. Roof water will be separated and brought around the front to the underground stormwater detention system, a trench with stone. There is ledge relatively close to the surface but they have some permeability so they will take advantage of that. The remainder of the site and the accessroad will go to catch basins and to the downstream defender unit which separates the sediments and trash. They are now taking all 18 acres and treating or recharging it.

Sidewalks are on the front of the building and extend out to Brady Drive and between the buildings.

The Conditional Use plan showed what was being changed from pavement to green space. They have a 14,000 s.f. reduction in impervious area in the buffer zone. The color plan does a good job of showing that.

Addressing truck circulation, they have included additional turning template plans of truck radius. All trucks will circle around for loading and back out to Brady Drive. Secondly, they have a couple of loading bays where smaller vehicles can load up.

Mr. Will referred to the Conditional Use hearing before the Conservation Commission where is refers to the old road vs. the new road. There was a stipulation about concrete from the old roadway being removed. Mr. Will asked where was the old road? Mr. Mikolaities indicated it was green on the color plan and it is an old driveway that comes out.

Deputy City Manager Hayden asked about the chain link fence on site and whether a new fence was proposed? Mr. Mikolaities pointed the fence out on the plan, indicating it was out back and it was better than a chain link fence. Deputy City Manager Hayden indicated that the site is very visible so she wanted to know what it looks like. Mr. Mikolaities stated is was a vinyl coated fence.

Mr. Coker asked if it was fair to say that all of the runoff, including roof runoff, the proposed road and the parking lot is being treated or ground discharged? And the downstream defender unit is sized accordingly? Mr. Mikolaities confirmed that was correct. There are two 12" culverts being added to the roadway. The first 125' of roadway is going to existing catch basins or else they can't get the grade to work.

Jim Gove, of Gove Environmental Services, addressed the Board. He flagged the wetlands and did the assessments. Prior to the Omni Mall, the permitting documents refer to a functioning assessment from 1975 aerals. The wetlands on site drain in two different directions. When the developments were built, there was an area with three houses which were taken down, the wetlands were expanded and the wetland was increased. The wetland discharges into another wetland which was dug out to provide more stormwater management on the site. The volumes were addressed but quality management was not addressed. This resulted in run off into the two wetlands with a fair amount of sediments, heavy metals, etc. and salts. The wetlands have some wildlife habitat functions and have developed into better wetlands than the original farm field that was there. The other wetlands are relatively low functioning wetlands.

Mr. Gove explained what was going to happen functionally was that the wetlands will improve the quality of the runoff and will be helped by the stormwater management. There will be reduced salt, there will be deep sumps, a downstream defender system and the primary help will be the sweeping which may reduce 60% of the pollutants. The impact of the roadway will not have any impact on the hydrology of the wetlands. Impacts to the wetlands will be a functional improvement to the wetlands.

Mr. Will asked if they will tear up the old roadway so it would drain? Mr. Gove confirmed that there is about a 6' difference between the wetland and the ditch where it drains. It is a great idea to remove the pavement and replace it with grass, but they shouldn't do anything else and they shouldn't dig too deep.

Mr. Holden asked Mr. Gove to explain the easement area that Attorney Pelech mentioned. Mr. Gove stated that the easement areas were primarily to make certain that any type of movement of wildlife would be maintained in the corridor.

Art Scarneo, of Greenman and Pedersen, stated that traffic studies were done comprised of two comprehensive studies. The first incorporated the existing use that was on the site which was the office component. They were asked to look at removing that office component and see what the impacts would be as a result of this project. It's important to go through the critical components. The existing Home Depot was left in both traffic studies and they provided a worse case analysis. Secondly they identified mitigation along the corridor prior to the connector road being implemented. They looked at how to mitigate the site impacts. At the intersection of Arthur Brady and Woodbury Avenue, they are recommending changes to the physical signal and they would change out the signal heads for a doghouse configuration. That allows you to change the phasing along the corridor for an overlapping right turn and that increases the capacity of the corridor. Woodbury Avenue at Market Street does not currently have a proper green time so the timings need to be changed. They would also coordinate the signals. There is a project starting soon by the State to coordinate the signals. Home Depot will work with them so the improvements go hand in hand.

Regarding driveway mitigation, the current configuration of Arthur Brady needs to be realigned for a more standardized driveway, providing for a left hand turn coming off Arthur Brady. This driveway will work at an acceptable level of service with ample storage for vehicles turning left. They have recommended crossings and sidewalks. The real benefits which are consistent with proper planning are cross connections. There is no room to add lanes to Woodbury Avenue. Cross connections give people the ability to get from one destination to another without crossing major cross sections. A connector road is very desirable from a traffic perspective. The traffic study has been reviewed by TAC and the City Traffic Engineer.

Deputy City Manager Hayden asked if the proposed Woodbury Avenue signal time changes would effect the pedestrian crossing time? Mr. Scarneo confirmed that they would not and also noted that pedestrians have a minimum crossing standard.

Mr. Coker asked about Attorney McNeill's mention of discussions with the City. Given the fact this is part of the application, the general goal is to lessen the traffic load on Woodbury Avenue. He asked about signage and how will people know to use the accessway? He also asked about the impact of this road and asked if they measured the impact of the connector road and how much traffic it takes off Woodbury. Mr. Scarneo indicated that during the peak hours they anticipate 35 – 50 vehicle trips per hour to go to any of the destinations off of the connector road. The Home Depot traffic is already there and they are just redirecting it. Mr. Coker asked if this was a number that they estimated or was it based on a reasonable traffic study? Mr. Scarneo stated that they took it from where the traffic was coming from and they did a very comprehensive travel run and did times for each route and applied the trip generations to that.

Attorney McNeill indicated that from the outset, this was a permissible site without the connector road. The roadway improvements would take care of their burden for traffic mitigation. The City approached them and indicated it was their last chance to create a connector road and the City indicated it was very important that this occur. In the end, it is a far better result and this project works much better with it. His point was that at every stage of the administrative review hearings, which included three Conservation Commission meetings, there was a reduction of impacts in the wetland buffer. Similarly, all TAC considerations regarding the entryway, changes to Brady Drive or

improvements to Woodbury Avenue or their being told, or asked, to construct the connector road, he felt it needed to be emphasized that the City assumes no responsibility for the road. The developer constructs it and maintains it, they will have to produce a document to maintain the road for the City Attorney's review. The on site impervious areas are reduced by 2%, building reduced by a significant amount, and wetland intrusion was reduced. The applicant has agreed to all 19 stipulations from TAC approval and they are in agreement with the 22 page extract that the Board was provided and agrees with all Conservation Commission conditions of approval. The sweeping will be with a zamboni type machine and this will be the most swept parking lot and access road in the city. In totality of the project, with very thorough review, conditional use criteria, the land is reasonably suited to this purpose and the wetlands are not impacted unnecessarily. There is no adverse impact on the wetland values of surrounding properties and they have reduced pavement. They feel they have met all of the criteria for the granting of a Conditional Use Permit.

Mr. Coviello asked about the street sweeping and whether the vacuum was a vacuum assisted dry sweeper or a wet sweeper? Mr. Gove indicated that the type of sweepers that are suggested now by the EPA are set up to be vacuum assisted dry sweepers with a number of very fine filters in them, as opposed to the ones that blow all over the place, these move slowly and do a terrific job of removing the very fine sediments.

Mr. Coviello did his own research and found a study with six different types of sweepers. Their cut sheet describes it as a wet sweeper. Mr. Gove indicated that they could easily use a dry sweeper and that could be a condition.

Mr. Coviello read that some of the stormwater on the site will be sent to the sewer system? Mr. Mikolaities indicated that they had a lengthy discussion with the Conservation Commission regarding the sewers in the garden center, which is about 50% covered and 50% open. They have worked out with Dave Allen that the areas in the covered garden center portion will go to the building drainage and everything in the 50% of open space would go into the storm drainage system.

Mr. Coviello asked if there was a net reduction in water that is going into the wetland? Mr. Gove pointed out exactly what wetland they were talking about at the bottom of the site. The area of the watershed travels around the site and drains into a huge watershed. The percentage that will be removed is so small that there will be no measurable reductions.

Mr. Coviello asked if it would be miniscule? Mr. Gove agreed that it would be miniscule and the wetland would not shrink.

Mr. Coviello asked if they could point to the areas where people will not really be parking. Mr. Mikolaities indicated that Home Depot feels that the entire parking lot will always be full. Mr. Coviello asked where the major entrances are and he will make his own assumptions. Mr. Mikolaities pointed out three major entrances to the building. Mr. Coviello imagined that the 40 parking spaces in the upper right, in the 100' buffer, will never be filled. Attorney McNeill stated that this is a modestly parked project within the guidelines of the city regulations.

Mr. Coviello asked about trucks turning off Arthur Brady Drive. It seemed to him that the truck turning clips seem to clip the cars that are coming out of the site. Mr. Mikolaities referred to Sheet C-13 B, Truck Entrance Plan. He explained that that is a computer program and is based on the biggest truck possible. He feels that there is ample room and that is why they placed the stop bar back. He is comfortable that it will work. Also, trucks will be delivering at off-peak hours.

Mr. Coviello referred to the Illumination Plan, Sheet C-6. The lights seem very close to the property line and there would have to be a very quick reduction in light. Mr. Mikolaities indicated that they did not prepare those plans but the intent is to have the cut off shields point straight down. Also, these are the 16' poles, rather than the 30' poles. He will have the designer fill in that blank for the record.

Mr. Hopley was looking for a cross section of the access road. Mr. Mikolaities stated it would be a 24' wide road with no sidewalks. Mr. Hopley felt there should be a cross section on the plans for someone to be able to build it. Mr. Holden confirmed that there is a requirement for a cross section.

Mr. Mikolaities referred to Deputy City Manager Hayden's previous question and indicated that it is black vinyl coated and is just around the transformer.

Mr. Will asked about the sweepers and dry vs. wet? Would they be different for wet and dry conditions? Mr. Gove stated that they have to make an assumption that when there is a rainstorm or a snowstorm, they will not be sweeping. Because of the salt reduction program that they will also have in effect, they will have relatively dry pavement after a storm event so they can still bring in a dry sweeper to clean up. Mr. Will asked about in the spring when snow piles are melting? Will that impede a dry sweeper? Mr. Gove stated that these sweepers are not easily clogged up. The sweeper has to deal with fine sediment, along with gum wrappers and Coke cans. They are designed to go through almost everything.

Deputy City Manager Hayden asked about the use of the parking lot for potentially other than retail customers parking in the spaces, for instance, springtime loads of flowers for sale, ice cream and hot dog stands. Would they agree to a stipulation that parking be used for customer retail parking only. Mr. Mikolaities referred to a note on Sheet C-2 regarding seasonal sales. Mr. McCarthy, from Home Depot, asked to clarify the question. Does this refer to permitting other vendors to come on the property? Deputy City Manager Hayden asked for confirmation that none of the customer parking spaces will be used for anything other than customer parking. Mr. McCarthy indicated that the seasonal sales area is usually during growing season, and is contiguous to the garden center. They will have temporary fencing which will come down at the end of the season. Also, they may display particular items along the front of the parking lot. The primary front parking field is exclusively for parking. The seasonal sales section will accommodate that activity. Deputy City Manager Hayden indicated that outside vendors seem to become permanent vendors. Mr. McCarthy stated that was not usually authorized by Home Depot. The current sausage vendor goes back to their original opening but that is not typically allowed any more. Mr. Holden asked if that would not be allowed at the new site? Mr. McCarthy did not anticipate it. Deputy City Manager Hayden followed up by explaining that she is concerned about the pedestrian safety issue. She will make that a stipulation.

Deputy City Manager Hayden asked them to talk about the look of the building and some elevations because this building is a very visible site from many directions. Mr. McCarthy displayed elevation drawings. He explained that the building is more pleasing and aesthetic than the existing building, which is 25-30 years of age. This will be a concrete building, two predominant tones with a texture of a brick scale and a heavier block. The signage will have a wood appearance. The Garden Center also will have a black vinyl coating on the chain link fence.

Mr. Coker asked about snow storage? Mr. Mikolaities indicated that snow storage will be around the parking lot perimeter. Per discussions with PSNH, it is not allowed to be stored in their easement. After that it will be trucked off the site. Mr. Coker noticed that one area is in a swale, on part of the access road. Mr. Mikolaities confirmed that there was no snow storage in that area.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Peter Britz, City Environmental Planner, was available to answer questions. Mr. Coker asked, in his professional opinion, are the wetlands adequately protected with this design as presented.

Mr. Britz felt that yes, overall it is an improvement to the site. The downstream defender is a big improvement. The first time they came to the Conservation Commission they were denied and the

Garden Center was a big concern. He felt overall it is an improvement as someone could have come in and used the site as it is now. Removal of the driveway offsets any impact to the wetlands.

Deborah Finnigan, City Transportation Engineer, indicated that this project came before TAC several times. As Woodbury Avenue has no more room to add lanes, one way to improve the site is with access management, which basically is to find lanes for people to access places, which lessens the curbcuts on the main street. There is heavy traffic on Woodbury Avenue. The LCD will be doing counts to help with coordination of the lights on Woodbury to help the traffic situation. Home Depot has done a good job with this project and have taken a lot of the City's thoughts and ideas into action.

Mr. Coviello asked if the LCD study includes the intersection at Granite Street which seems to have a big delay. Ms. Finnigan indicated she would look into that. But, it would not effect this project.

Ms. Roberts asked about the traffic from the Spaulding Turnpike to Brady Drive. She was concerned about stacking from the Spaulding as it turns into the new driveway. Ms. Finnigan felt that may be a problem in 20 – 30 years but there is a left hand lane and a through lane so she does not anticipate a problem. As people become more accustomed to the lane being there, they will slow down. Lane definition signs will also help and they are on the plans.

5 MINUTE BREAK CALLED

Attorney McNeill indicated that they will address the additional stipulations: Filling in the detail on the Lighting Plan, providing a cross section of the roadway, and agreeing to no vendors in the parking area.

Mr. Coviello stated, for the record, that his wife works for Appledore Marine Engineering, which is not associated with Appledore Engineering. Also, Derek Wyse went to UNH with him.

Mr. Coker made a motion to approve the first conditional use permit application for property located at 500 Spaulding Turnpike, with the stipulations as noted. He felt it was important to note that Attorney McNeill did an outstanding representation of his client, he felt the improvements are great and he complimented the Department on their powers of persuasion.

Mr. Will seconded the motion.

Mr. Coviello added the stipulation that they have a dry vacuum assisted sweeper.

The motion passed unanimously with the following stipulation:

- 1) That the sweeper used on the parking lot and driveways shall be a dry vacuum assisted sweeper;

Mr. Will made a motion to approve the second conditional use permit application, for the accessdrive, with the Conservation Commission stipulations to remove the existing road and not to alter the elevation.

Mr. Coker seconded the motion.

The motion passed unanimously with the following stipulation:

- 1) That the concrete and pavement from the old roadway surface and subgrade located in the wetland buffer area shall be removed and restored to a natural vegetative state and the elevation shall not be altered.

Mr. Will made a motion to approve site review for property located at 500 Spaulding Turnpike, for the building, with all stipulations presented by the Department. Also, the three mentioned by Attorney McNeill, and also to add snow storage areas on the plan and if they exceed the area, the snow will be trucked off site.

Mr. Savramis seconded the motion.

Mr. Hopley felt that what is on the plans is only as good as what gets constructed and he feels a project with this magnitude should have a Site Inspector, approved by DPW, and funded by the applicant.

Deputy City Manager Hayden asked that no additional temporary structures or product displays be placed in parking or travel areas. She also mentioned some of the TAC stipulations. She asked that Dark Sky Friendly lights should be marked on the plans, their biggest concern with the landscape plan was that they want shrubs and trees that will survive salt, snow, plows, trucks, etc.

Mr. Coker felt there were a lot of stipulations and he wants to make sure one stipulation is to report the maintenance of the stormwater management system, sweeping and treatment swale. Mr. Holden stated that was covered by DPW.

The motion passed unanimously with the following stipulations:

Stipulations from the April 20, 2006 Planning Board Meeting:

- 1) That the Lighting Plan shall be revised to move the information box so that it does not block a portion of the plan;
- 2) That the applicant shall provide a cross section of the roadway;
- 3) That no private vendors shall be allowed to set up and/or operate in the parking lot area;
- 4) That snow storage areas shall be added to the Site Plans, with a note that if those areas are not adequate, snow shall be trucked off of the site;
- 5) That an independent Site Inspector, paid for by the applicant and approved by DPW, shall be retained for the duration of the project;
- 6) That no additional temporary structures for product displays shall be placed in the parking areas or travelways;
- 7) That a revised Lighting Plan shall be prepared to note "Dark Sky Friendly" lighting;
- 8) That the trees and shrubs that are planted should be carefully considered so they shall survive in their environment;
- 9) That the line of site shall be a consideration when planting trees and shrubs so that it doesn't have to be re-visited at a later date;

Stipulations from the April 4, 2006 Technical Advisory Committee Meeting:

- 10) That the domestic water service shall be sized by the applicant's mechanical engineer and submitted for review and approval by the City Water Division;
- 11) That the fire loop that goes around the back of the building, as well as the fire service that goes to the concrete pad, shall have a gate valve on either side;
- 12) That the Stormwater Management Plan shall include the submission of a yearly cleaning report of all catch basins to DPW to assure that the site is being maintained;
- 13) That sidewalks and crosswalks shall be added to the Site Plans, and said Site Plans shall be reviewed by David Desfosses prior to the Planning Board meeting;
- 14) That the existing driveway, that is being dissected by the new accessroad, shall be removed;
- 15) That a proposal for off-site traffic mitigation measures shall be added to the Site Plans and reviewed and approved by Deborah Finnigan, Traffic Engineer, prior to the Planning Board meeting;
- 16) That a detail shall be added to the Site Plans for the island at Arthur Brady Drive, showing curbing and cut throughs;

- 17) That truck turning maneuvers shall be provided to Deborah Finnigan, Traffic Engineer, prior to the Planning Board meeting;
- 18) That the applicant shall include the connector drive in their street sweeping schedule;
- 19) That the concrete and pavement from the old driveway located in the wetland buffer area shall be removed from the site;
- 20) That all lighting shall be Dark Sky Friendly;
- 21) That a landscape Plan shall be reviewed and approved by the Planning Department;
- 22) That a street sweeping schedule shall be provided for approval by the Planning Department;
- 23) That the road profile for the vacant lot shall be provided;
- 24) That cross easements shall be reviewed and approved for content and form by the City Attorney’s Office;
- 25) That the issue of lot consolidation shall be addressed by the applicant, per the City’s determination;
- 26) That the bonding on this project be designed so that the City has secured the right for access to funds as appropriate for either lot;
- 27) That Durgin Lane is labeled incorrectly on the Site Plans and should be revised;
- 28) That the landscape details shall be revised to specify 6” of loam and seed in all locations.

Mr. Will made a motion to approve Site Review approval for the accessdrive, with all stipulations.

Deputy City Manager Hayden seconded the motion.

Mr. Will wanted to give credit to the department for stepping up to the plate to help create a better project.

Mr. Hopley asked for another stipulation that they have an inspector reviewing the road as well.

The motion passed unanimously with the following stipulations:

Stipulations from the April 20, 2006 Planning Board Meeting:

- 1) That an independent Site Inspector, paid for by the applicant and approved by DPW, shall be retained for the duration of the project;
- 2) That a Roadway Management Agreement be prepared by the Applicant for review and approval by the Planning Department and the City Legal Department;

Stipulations from the April 4, 2006 Technical Advisory Committee Meeting:

- 3) That the conditions and stipulations from the Site Review approval for 500 Spaulding Turnpike for the new Home Depot building be reviewed and addressed simultaneously with this approval;
- 4) That a Photometrix Plan shall be provided to David Desfosses for his review and approval, showing in particular sufficient light at each end of the access drive;

.....

E. The application of **Three Hundred Sixty Constitution Avenue, LLC, Owner**, for property located at **360 Constitution Avenue** wherein Preliminary and Final Subdivision approval is requested to subdivide one lot into two lots with the following: Lot 1 having 4.71 ± acres and 250’ ± of continuous street frontage on Constitution Avenue and Lot 2 having 4.73 ± acres and 396’ ± of continuous street frontage on Constitution Avenue, and lying in a zone where a minimum lot area of 2 acres and 200’ of continuous street frontage is required. Said property is shown on Assessor Plan 274 as Lot 1-C and lies within an Industrial district. (Plat plan is on file in the Planning Department Office and is identified as Plan #01-02-06).

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernard Pelech appeared on behalf of the applicant, David Brombria, who was present along with Corey Colwell of AMES MSC. He indicated this was a simple subdivision request. The fact that one of the lots is 396' should not effect their deliberation because the memo infers it should be 400' to be subdivided. They will place on the plan that there shall be no further subdivision of the lot. They went to the City Council to change the zoning to industrial as they have someone who wants to use the site for industrial. The plan is clear and shows the 396' of frontage and the fact that it is 4' sort of 400' has no bearing as they will stipulate that the lot shall not be further subdivided. They have a single user who plans for an industrial use on the entire parcel.

Corey Colwell, of AMES MSC, explained that the property in question is 9 acres with 600' of frontage. The applicant is proposing to cut the lot into 2 lots. The first lot would house the Quality Insulation business on it, with two buidlings and one access to Constitution Avenue. The rest of the site is mostly uplands. Lot 2 is proposed to be primarily 85% uplands with a pocket to the rear of inland wetlands. A year back Lot 2 was before the Board for an excavation permit. Once they started to dig they found the material was not as good as they had hoped. No other site improvements exist on Lot 2. They have a buyer with a right of refusal to purchase Lot 1. It is a straight forward subdivision.

Mr. Coker asked why he would put a stipulation that the property would not be subdivided. Attorney Pelech indicated that it was requested by Mr. Holden as he was concerned that in the future someone would attempt to subdivide the lot again. Mr. Coker asked Mr. Holden why he was concerned. Mr. Holden stated that it was a large lot in the industrial district and he is trying to prevent someone coming back and subdividing it. Mr. Coker felt that the normal process allows for variances so he didn't understand the request as it is limiting the future of a piece of property. Mr. Holden felt this will make it clear on the record and will show a lengthy discussion on it.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Will made a motion to approve preliminary and final subdivision with stipulations. Deputy City Manager Hayden seconded the motion.

The motion passed unanimously with the following stipulations:

- 1) That the street frontage for Lot 2 shall be more directly labeled on the plat for purposes of comparison to the Industrial district requirements;
- 2) That appropriate documentation, as determined by the Planning and Legal Departments, shall be added to the Plat and Deed noting that this lot is not able to be subdivided further under the City's present *Zoning Ordinance*;
- 3) That boundary monuments shall be placed in accord with the requirements of the Department of Public Works; and
- 4) That appropriate GIS information shall be provided to the City's Department of Public Works for the purpose of updating the Tax Maps.

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F. The application of **SGB & RGB Ventures, LLC, Owner**, for property located at **1800 Woodbury Avenue** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to remove 3,191 ± s.f. of asphalt pavement and construct a 2,292 ± building and add 899 ± of landscaped area within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 239 as Lot 7-3 and lies within a General Business district. . (This application was tabled at the March 16, 2006 Planning Board Meeting.)

Mr. Coviello secluded himself from this hearing.

The Chair read the notice into the record.

Mr. Will made a motion to take the application off of the table. Deputy City Manager Hayden seconded the motion. The motion passed unanimously.

SPEAKING TO THE APPLICATION:

Attorney Bernard Pelech, representing the owner, addressed the Board. He stated that this Conditional Use permit has been granted previously and has lapsed, first because of a death in the family and secondly simply due to neglect.

They appeared before the Conservation Commission on two occasions. The first time they had concerns about minimizing the impact in the buffer zone. The entire structure is within the 100' buffer zone but was constructed prior to 1995. It was part of the Durgin Square development. They are proposing to construct a similar style building in the impervious area which is a hot top parking lot. They propose to reduce the impervious area by 1,900 s.f. The Conservation Commission asked them to eliminate unnecessary parking spaces which they did. The Conservation Commission also asked if they would look at the stormwater runoff from the existing building, which was creating some erosion. They have agreed to change the roof drainage by adding roof gutters and redirecting it. The new building will have an infiltration area and they will direct roof run off into the infiltration and newly landscaped areas. They have agreed to take out the pavement between the 2 buildings and make it a permeable walkway. In April they received a unanimous recommendation from the Conservation Commission. Attorney Pelech indicated that Adele Fiordello and Corey Colwell were also present.

Mr. Will asked about the Department Memorandum talking about the Site Review still being valid. Mr. Holden indicated that as the dates fell with the renewals, it is still valid.

Mr. Will was concerned about the City of Portsmouth sign which was on the corner of their property and noted that there was a stipulation as part of Site Review that would still be valid.

Mr. Coker asked about the drainage in the parking lot as proposed and where does the parking lot run off go? Attorney Pelech stated that it was a closed system which is part of the Durgin Square system. There was a drainage master plan when Durkin Square was developed which included a big detention basin. There is a Master Drainage system. This parking lot is below the level of the Durgin Square system so it runs into the wetland behind the building.

Mr. Corey further explained that there is one catch basin located in an island which carries it under the road and back to the detention basin at Pet Quarters. It was designed at the time of Circuit City and Shaw's Plaza. There was a treatment swale for all water leaving the facility, prior to entering the detention basin.

Mr. Coker if there was currently no treatment of run off whatsoever. Mr. Colwell explained that it is treated before being discharged as it is all part of one system. There is a series of treatment swales that carries it to the detention basin.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Coker made a motion to table the application. He did not believe that they had enough information on the overall treatment on the site. They must be satisfied that what is being proposed

meets the conditions of the Conditional Use Permit requirements because they do not have information on the run off.

Mr. Will indicated that he would like to allow the Board Members to ask questions.

Chairman Ricci called for a second on the motion. There was no second to Mr. Coker's motion.

Deputy City Manager Hayden made a motion to approve. Mr. Will seconded for the purposes of discussion.

Chairman Ricci felt that the wetland system is well established. He worked for Millette's office when that system was developed. He was more than comfortable with the wetland system that exists currently.

Deputy City Manager Hayden referred to the Conservation Commission March 8th meeting that that mentioned three conditions that were attached from the Planning Board that should be retained. Attorney Pelech confirmed those were Site Plan conditions from the first approval so they were not relevant to the Conditional Use Permit.

Mr. Will asked about Chairman Cormier's question about the parking spaces and their request to remove more pavement. Peter Britz clarified that when the existing building was built, there was more parking than was required for the lot, which was before the buffer zone was established. They grandfathered it as a pre-existing condition. Now they want to put in something that is an improvement to the surface.

The motion to approve passed unanimously with the following stipulations:

- 1) That extra care be taken to install appropriate erosion control measures and that the site be inspected at the start of each work day to insure that erosion control measures are still intact;
- 2) If the catch basin does not already contain a hood to remove oil then the catch basin shown on the plans shall have an oil water separator installed; and
- 3) That the oil water separator shall be inspected quarterly and cleaned, at a minimum, annual or semi-annually, if the inspection warrants.

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H. The application of **Bacman Enterprises, Inc., Owner**, for property located at **140 Edmund Avenue**, wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to improve on site parking spaces, retaining walls and landscaping within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 220 as Lot 81 and lies within a Single Residence B district.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Mr. Holden indicated that the applicant is still preparing their plans so he recommended that the matter be tabled.

Mr. Will made a motion to table to the next regularly scheduled meeting. Deputy City Manager Hayden seconded the motion.

The motion to table passed unanimously.

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I. The application of **Stephen Kelm, Owner**, for property located at **46 State Street**, where in Preliminary and Final Subdivision approval is requested to subdivide one lot into two lots with the following: Proposed Lot A having 1,570 ± s.f. and 22.41' of continuous street frontage on State Street and Proposed Lot B having 2,720 ± s.f. and 38.10' of continuous street frontage on State Street, and lying in a zone where a minimum lot area of 1,000 s.f. and no street frontage is required. Said property is shown on Assessor Plan 105 as Lot 11 and lie within the Central Business B District, Downtown Overlay District and Historic District A. (Plat plan is on file in the Planning Department Office and is identified as Plan #06-01-06).

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Mr. Holden indicated that the applicant requested that this matter be tabled to the May 18th meeting.

Mr. Will made a motion to table until the May 18th meeting. Deputy City Manger Hayden seconded themotion.

The motion to table passed unanimously.

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G. The application of the **Porter Street Townhouse Homeowners Association, Applicant**, for property located at **12 – 32 Porter Street** wherein Amended Subdivision Approval is requested to install an automatic parking gate on the sides of Lots 46 and 57 on Assessor Plan 117, affecting access to the rear of Lots 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, and 57. Said properties are shown on Assessor Plan 117 as Lots 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, and 57 and lie within the Central Business B, Historic District A and Downtown Overlay Districts. (This application was tabled at the March 16, 2006 Planning Board Meeting.)

The Chair read the notice into the record.

Deputy City Manager Hayden made a motion to take the application off the table. Mr. Hopley seconded the motion.

The motion passed unanimously.

Mr. Coker reclused himself as he is an abutter.

SPEAKING TO THE APPLICATION:

Corey Colwell of AMES MSC appeared. Also present was Jay Horn, Property Manager. Mr. Colwell indicated that the Board had two concerns. What distance can the gate be operated at and how would emergency vehicles access the gate. They met with Steve Parkinson & Deb Finnigan to review those issues. The gates are operated via remote control which can automatically operate gates from 75'. Once the gate is open, it remains open until the vehicle passes through. The time for the gate to go from a closed to an open position is 2.5 seconds. The Porter Street homeowners are having a problem with people cutting through their back driveway with cars, skateboarders and pedestrian. They feel this is a safety hazard and a liability for the homeowners. Mr. Parkinson & Ms. Finnigan agree that the gate speed is adequate and they had some conditions for approval. The gates will be equipped with a knox box, which gives emergency forces a key to access the gates. As a last resort the gates could be broken as they are not made of a rugged material. They are seeking approval tonight. Deputy City Manager Hayden was in agreement with the three stipulations that were in the Department Memorandum. She felt it would be advisable to add a stipulation that in the event of a public safety hazard the City would reserve the right to remove the gate.

Mr. Corey indicated that he would like to think any problem could be resolved rather than having to remove the gate. He would prefer a stipulation that they would address a problem rather than remove the gate. Deputy City Manager Hayden added that would be to the satisfaction of DPW and the Traffic & Safety Committee.

Councilor Dwyer asked if all of the homeowners agree? Mr. Colwell confirmed that the gates can be accessed from their homes to allow access for guests.

Mr. Coviello asked why not just one gate? Mr. Colwell explained that then someone would have to back out. Also, vendors are pulling into the driveway and unloading.

The Chair called for public speakers.

Donald Coker, of 80 Fleet Street, was opposed as this would result in a gated community in the downtown. His windows look right over the driveway. He felt the Board was getting a grossly exaggerated view of what the problem is. It's almost impossible for someone to turn into their driveway from Church Street due to a lift. There is also another pathway between the church and the Stonewall Kitchen store and the gates would block that entire walk area for pedestrians. He urged the Board to deny it.

Mr. Hopley asked Mr. Coker if he is saying that people should be allowed to walk across the Porter Street private property?

Jay Horn, of CP Management, stated that people were very sensitive about a gated community. Theoretically people can go through the gates. The vehicular problem is a safety problem. They park on the right of way and are gone before they can get the vehicle towed and owners are unable to get into their parking spaces. People who park there are often rude to the residents. The residents did not want to do this but it is the last straw.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Will did not believe this has anything to do with a class issues but rather has to do with access to private property. The issue of guests coming to visit the residents has not been addressed to his satisfaction. He would like to have DPW step in at a moments notice with immediate results. His greater concern is with queuing of cars and pedestrians.

Mr. Holden felt they could have a stipulation that the use of the gates gets revisited in 6 months and a report be submitted to this Board.

Deputy City Manager Hayden suggested if in the judgment of the Public Works Director, Transportation Engineer, Police Chief and/or Traffic & Safety Committee, the gate creates a public safety or traffic hazard, the Homeowners Association shall work with the City to resolve the matter and failing resolution of the traffic or safety hazard, the City reserves the right to remove the gate at any time. Mr. Will asked to add that the Fire Department can lift the gate at any time. Maybe the Public Works Director could also have access to lift the gate at any time to alleviate an immediate problem. Deputy City Manager Hayden suggested rather than remove the gate, they can change to leave it in an open position.

Mr. Coviello was uncomfortable with this. He asked if on the Fleet Street side, could they bring the proposed gate in one parking bay. That would leave one queue for a guest to drive in. Chairman Ricci

felt that would create another issue and would create a three minute parking space for the public. Deputy City Manager Hayden’s stipulation makes sense to him. Mr. Will felt they would be addressing it in 6 months and could possibly reconsider Mr. Coviello’s idea.

Mr. Colwell had no problem with the stipulation they are discussing however traffic is meant to flow one way. It is difficult to enter from Church Street.

Deputy City Manger Hayden made a motion to approve with four stipulations. Mr. Hopley seconded the motion.

The motion passed unanimously with the following stipulations:

- 1) If the device is not functioning, the arm shall either be removed or placed in an open position, until such time as the device can be repaired;
- 2) The arm shall be reflectorized with either yellow or orange stripes;
- 3) Vehicles accessing the Fleet Street gate shall minimize waiting time by activating the gate while they are waiting at the signals at the Congress Street at Fleet Street and Fleet Street at State Street intersections to turn green or as they pass through the signal; and
- 4) If in the judgment of the Public Works Director, Transportation Engineer, Police Chief and/or Traffic & Safety Committee they determine that there is a public safety or traffic hazard, the Homeowner’s Association shall work with the City to resolve the matter and failing resolution of the public safety or traffic hazard, the City reserves the right leave the gate in the open position;

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J. The application of **Michael LeCroix, Owner**, for property located at **151 High Street** wherein Preliminary and Final Subdivision approval (Lot Line Revision) is requested between two lots having the following: Lot 18 as shown on Assessor Plan 118 decreasing in area from 6,800 ± s.f. to 4,583 ± s.f. and decreasing continuous street frontage off of High Street from 57.2’ to 42.8’ and Lot 19 as shown on Assessor Plan 118 increasing in area from 626 ± s.f. to 2,843± s.f. and increasing continuous street frontage off of High Street from 13’ to 27.4’, and lying in a zone where a minimum lot area of 1,000 s.f. and no continuous street frontage is required. Said properties are shown on Assessor Plan 118 as Lots 18 & 19 and lie within a General Business B District, Downtown Overlay District and Historic District A.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Michael LeCroix, the owner, indicated that he would like to increase the size of Lot 19 to make it a conforming lot size for the district.

Mr. Will asked if any building code issues would evolve from this? Mr. Hopley did not know as he did not view the site before hand. He asked Mr. LeCroix about the garage.

Mr. LeCroix stated there were two sets of garages. There was a 5 unit garage in the back. The front garage was formally a barn but is now used as a garage. The property line would go through the garage.

Mr. Hopley asked if there was any way to subdivide the garage and how would he treat it?

Mr. LeCroix indicated it was his plan to take the five car garage in back and take two bays off and turn that into on site parking for Lot 18. The structure would remain on Lot 19 and there would be no structure on Lot 18.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Will made a motion to grant preliminary subdivision approval with five stipulations. Mr. Hopley seconded and asked that the applicant apply to demolish a portion of this building and after that it carried out, he could then come back for final subdivision approval.

Mr. Holden confirmed that the applicant will have to appear before the Board of Adjustment and the Historic District Commission also.

Mr. Coviello seconded the motion.

The motion passed unanimously with the following stipulations:

- 1) That a favorable recommendation on this application shall be made by the Inspection Department or if demolition of this structure is planned, then, the plat should so identify that intent so it can be recognized and conditioned by the applicant receiving the required approval from the Historic District Commission;
- 2) Parking credits need to be evaluated as to how these would apply if/when a subdivision plan is finalized;
- 3) That boundary monuments shall be placed in accord with the requirements of the Department of Public Works;
- 4) That appropriate GIS information shall be provided to the City's Department of Public Works for the purpose of updating the Tax Maps; and,
- 5) That when all the aforementioned stipulations are complete that an application for Final Subdivision Approval shall be submitted to this Board in conformance with the Board's *Subdivision Rules and Regulations*.

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K. The application of **Joseph D. & Joyce W. Ciancarelli, Trustees, Owners**, for property located at **45 Gardner Street** and **Steven Webb & Karen Butz-Webb, Owners**, for property located at **51 Gardner Street** wherein Preliminary and Final Subdivision approval (Lot Line Revision) is requested between two lots having the following: Lot 21 as shown on Assessor Plan 103 increasing in area from 1,107 ± s.f. to 1,203 ± s.f. and increasing continuous street frontage off of Gardner Street from 31.42' to 37.27' and Lot 22 as shown on Assessor Plan 103 decreasing in area from 1,442 ± s.f. and decreasing continuous street frontage off of Gardner Street from 40' to 34.15', and lying in a zone where a minimum lot area of 5,000 s.f. and 80' of continuous street frontage is required. Said properties shown on Assessor Plan 103 as Lots 21 & 22 and lie within a General Residence B District and Historic District A.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Thomas Watson appeared on behalf of both applicants. There was a section of property which one set of owners thought that they owned but after having a survey done, they found that it actually was part of Lot 22. He was asking for preliminary approval tonight as they will have to appear before the BOA for a number of variances and they have already submitted their applications for those variances. This will simply recognize the historic use of the property and will not impact anything. He reviewed the memorandum by the department and they are in agreement with the stipulations.

The Chair asked if anyone was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Holden noted thiis should be for preliminary approval as it has to go to BOA.

Mr. Savramis made a motion to approve with four stipulations. Deputy City Manager Hayden seconded the motion.

The motion to grant preliminary subdivision approval passed unanimously with the following stipulations:

- 1) That the Board of Adjustment approval shall be secured for the creation of a more non-conforming lot, Lot 22, and for Lot 21, if required (may not be needed);
- 2) That boundary monuments shall be placed in accord with the requirements of the Department of Public Works;
- 3) That appropriate GIS information shall be provided to the City’s Department of Public Works for the purpose of updating the Tax Maps; and,
- 4) That when all the aforementioned stipulations are complete that an application for Final Subdivision Approval shall be submitted to this Board in conformance with the Board’s *Subdivision Rules and Regulations* [Note - some requirements need to be added/amended in this application – please refer to Final Plat requirements.].

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V. ADJOURNMENT

A motion to adjourn and reconvene on Thursday, May 27, 2006 was made at 10:30 pm, was seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse
Acting Secretary for the Planning Board

These minutes were approved at the July 20, 2006 Planning Board Minutes.