

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

7:00 P.M.

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

JUNE 22, 2006

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

MEMBERS EXCUSED: John Ricci, Chairman and Alternate Timothy Fortier

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

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I. APPROVAL OF MINUTES

A. Minutes from the May 25, 2006 Planning Board Meeting – Minutes were unanimously approved.

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II. WORK SESSION

A. Work Session regarding Re-Write of Zoning Ordinance. As part of the Master Plan, the Board is redrafting the current Zoning Ordinance. This Work Session is one part of the on-going process.

Rick Taintor, of Taintor & Associates, indicated that what he planned to do that evening was review a preliminary status report of the Zoning Ordinance project re-write. He stated this is being done in conjunction with the Master Plan, including the strategies of the Master Plan. They go through the same order: Land Use, housing, transportation, natural resources, facilities and services. He has made some notes regarding actions that have been started. There was a very public participation process with the Master Plan so they will not be doing that this time. They will be working with City Staff, the Planning Board and City Officials. A full draft should be complete at the end of 2006.

Mr. Taintor identified four major themes: Usability, flexibility, smart growth and sustainability.

Usability: should be clear and understandable for the general public. It should be streamlined.

Flexibility: looking at new ways to regulate land use by being more flexible.

Smart Growth & Sustainability: Portsmouth epitomizes smart growth. Mr. Taintor identified 10 tools for the City and Portsmouth already does most of them. The commercial strips need work. Creating work force housing is a big issue but there is a limited amount that zoning can do to help that. Stormwater management will be looked at closely. Bicycle transportation came up with the Master Plan and zoning can work with that. Sustainability was also included in the Master Plan.

Mr. Taintor discussed a Zoning Ordinance Audit: He indicated it was a huge project to look at the structure of the Zoning Ordinance and propose a reorganization. They reviewed zoning ordinances from other towns. A zoning ordinance must be flexible to accommodate changes. They wanted to put overlay districts and supplementary regulations together, to make the ordinance easier to use.

It will be necessary to identify specific ordinance issues with meetings and interviews.

They will review focus areas in the City and identify strategies: downtown, Northern Tier, Islington Street, Lafayette Road (Route 1) and Residential Zoning Districts. A lot of residential lots are non conforming now and dimensional regulations need to be reviewed.

They will provide sample standards and provisions from other communities, including the downtown commercial district design standards, commercial/mixed use design standards and the shared parking ordinance.

Mr. Taintor opened the work session up for discussion with the Board members.

Mr. Savramis stated there was prior discussion of adopting a smaller lot size. He felt that most lots in Elwyn Park and Maple Haven were all around 10,000 s.f. Mr. Will shared his thoughts with Atlantic Heights where they have smaller lots. He felt maybe they should back off the smaller lot idea and concentration on the PUD. Mr. Taintor stated they were looking at current substandard lots and whether they are causing a problem for the City.

Mr. Coviello brought up the fringe properties in the City that they are trying to develop but have failed. He asked if they could zone perimeter properties? Mr. Will felt that would help screen the neighborhood. On Dennett Street, the idea of a dentist office, which would be low impact, might be okay. Mr. Taintor suggested when commercial and residential abut, they could allow a certain type of professional office with stricter requirements.

Deputy City Manager Hayden asked about zoning incentives for sustainability which were not specifically in the Master Plan but they could consider for the zoning ordinance. Mr. Taintor asked if he should meet with that committee? Deputy City Manager Hayden felt that was a great idea.

Mr. Will asked about perpendicular lots and applicants being "creative" with subdivision requests and felt they should be clear on what is acceptable. Mr. Will asked about providing more graphs? Mr. Taintor indicated that the current Zoning Ordinance has some illustrations but clearer depictions and illustrations would be helpful. Mr. Will thought that some illustrations to demonstrate why they have the regulations to educate people would be helpful.

Mr. Coker referred to page 8 where it referred to sections could be moved to non zoning ordinances. He was interested in the noise ordinance. Mr. Taintor stated that there is a separate City noise ordinance. Zoning regulates land use and noise may be more of an operational issue and might be more appropriate under a general City Ordinance. Mr. Coker asked procedurally how would that happen? Attorney Robert Sullivan explained that only the City Council can adopt ordinances. A Zoning Ordinance is required by State Law to follow the Master Plan. The Planning Board makes a recommendation to the City Council. That recommendation will also be put into the form of a series of Ordinances intended to add up to a Zoning Ordinance. They may decide, because of enforcement issues and restrictions of the Zoning Ordinance, to take some of those out and put them in another ordinance book. So, the Planning Board would recommend to the City Council and they would act on it.

Chairman Hejtmanek asked about the provision prohibiting the clear cutting of forests. He thought the language should be changed so it is clearer.

Councilor Dwyer asked if design review and site design standards were the same? Mr. Taintor stated that Site Design Standards had to do with the flat plane and where the building sits on the lot. The second level would be the design standards which would be equivalent to what the HDC does, dealing with store fronts, building materials, and sign standards. Form based zoning becomes more descriptive and indicates what has to be done. It's very detailed and gives much less flexibility. Mr. Taintor indicated that form based zoning is a new term which is coming into this area. It is really strong in Florida, D.C., and Colorado.

Mr. Coviello asked about height regulations. The public is realizing the heights of some of the new buildings. Mr. Coviello was concerned that the buildings are too high, especially downtown. Some of the interior downtown properties should be re-zoned. Mr. Will stated there have not been a lot of tall buildings in the last 10 years downtown. It's always been in the ordinance but it wasn't been a problem before. Mr. Will felt that might be something they should look at. Mr. Holden felt that quite a few buildings have pushed it – 55 Congress Street, Market Street at Hanover, former Daniel Street power station.

Chairman Hejtmanek asked if there was a question of affordability vs. higher prices? Deputy City Manager Hayden asked what is typical for an urban core? She's not convinced that height is the issue and it may be the mass issue. Mr. Coviello was also interested in the economic impact of shorter buildings. They could also deal with it architecturally, like 100 Market St. Mr. Will stated that a lot of people like the heights downtown but not as you get further out of town, on Islington Street and the Northern Tier. Mr. Taintor indicated that you can get taller buildings by compromising the upper floors. Or maybe they should have lower building heights along the water.

Councilor Dwyer felt that their discussion suggests that design review standards would be appropriate for the downtown. Mr. Taintor asked how they would handle the historic district overlay? He felt that would have to be careful not to layer too many things together. Mr. Coker stated they already have design standards in the Historic District with the Commission.

Mr. Hopley stated that the CBB have the highest buildings and they may want to look at how far the district extends down Islington Street.

Mr. Taintor indicated that he will complete his zoning audit with recommendations. Then he will take the existing ordinance and reshuffle it into detailed sections. There will be new sections on lighting, landscaping, etc. They will conduct several work sessions, starting in two months, which will go through the fall. He should have the first draft by the end of the year.

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III. OLD BUSINESS

A. The application of **Portsmouth Farms, LLC, Owner, and Starbucks Coffee Company, Applicant**, for property located at **1855 Woodbury Avenue** wherein Site Review approval is requested to construct a 1,815± s.f. 1-story building with a drive through facility after the demolition of an existing structure, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 215 as Lot 11 and lies within a General Business District. (This application was tabled at the June 15, 2006 Planning Board Meeting);

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.

Mr. Will withdrew his motion to amend the motion to approve by adding a stipulation for a right hand turn only.

Mr. Holden indicated that, after speaking with the City Attorney, if the Board members were in agreement, the motions are all withdrawn for purposes of allowing expert testimony from the City's Traffic Engineer. They can then start up the process again. A vote is not required if that is the consensus of the Board. Mr. Holden confirmed for the record that there was a consensus. Therefore, all motion were withdrawn and they are starting with a clean slate.

Mr. Coker stated for the record that although he was not in attendance at last week's meeting he had spent considerable time reviewing the tape of the meeting and he felt comfortable sitting this evening.

SPEAKING TO THE APPLICATION

Deborah Finnigan, the City's Traffic Engineer, reviewed her traffic evaluation. She stated that today on Woodbury Avenue the average traffic per day is 23,000 on a week day and 21,000 on a weekend. That is about 8.2 million cars per year (vehicle trips). She researched accident history in this area. She indicated that there are two lanes going north and two lanes going south and two lanes in the middle of the road for left turns. She reviewed the accident data and concentrated on the angle accidents (left turn and right turns coming out of driveways. That number from 2000 to now was 38 accidents. 32 of those accidents were from the west side of the road, which is the Dunkin Donut and KFC side of the road. She also added up all accidents and there were 62 total accidents, or 11.6 accidents per year and 7.3 angled accidents per year. She looked at how many accidents there were coming out of Pizza Hut turning left since 2000 and there were none. This is not a large amount of accidents at all. There were 80 accidents at the intersection of Woodbury and Gosling Road. Ms. Finnigan stated that a left hand turn coming out of this site is not a hardship and she believed it was acceptable. She did not feel that there was any reason to prohibit this turn.

Mr. Coviello asked if a right turn only would create problems? Ms. Finnigan expressed concern that it would force people to make that turn somewhere else. She was concerned they would do U-turns at the intersection. As that intersection is not designed to handle that and there is no protection, they are now causing another potential accident that would potentially cause a more serious accident. She also checked fatalities on this section of road and there were a couple of people who needed to go to the hospital but no fatalities.

Councilor Dwyer asked if it was possible that the preponderance of accidents on the other side of the road are due to the drive throughs? Ms. Finnigan stated it was her opinion that it did not have to do with the drive throughs. There is a lot more southbound traffic than northbound traffic.

Mr. Coker asked where the 23,000 weekday count came from? Ms. Finnigan indicated that was from a 2006 report and it is current data. Mr. Coker indicated that it averaged out to roughly 1 accident per month. He asked if there was any time of year that seemed to be heavier than other times? Ms. Finnigan indicated that she did not note that data. Mr. Coker asked if she spent any actual time at the site, observing traffic? Ms. Finnigan indicated that she went out 5-6 times, at different times of the day.

Mr. Will asked if there was any other area in the City where they average one accident per month? Ms. Finnigan did not have that data.

Deputy City Manager Hayden felt it sounded like there was a quite low accident rate at this location and that Ms. Finnigan's professional opinion is that forcing a right hand turn will just create more serious problems at the intersection? Ms. Finnigan confirmed that was correct.

Mr. Coker asked if someone was to stop at the light at the Gosling Road intersection and turn left, was the intersection currently marked No U Turn or is it a legal turn right now? Ms. Finnigan was unsure but she did not believe it is marked. Mr. Coker asked why is a U turn a problem? Ms. Finnigan stated that the right turn on red coming the other way aren't expecting them to make the U turn. Mr. Coker felt it would help to add a No U Turn sign. Mr. Holden added that the intersection is not designed for a U Turn. Ms. Finnigan indicated that at the Traffic & Safety Committee meeting, Mr. Grey indicated that he was uncomfortable with left turns in general on Woodbury Avenue and he made a motion for no left turns and there was no second on that motion. Therefore, when the Traffic & Safety Committee made their recommendation there was no restriction on the left turn.

Deputy City Manager Hayden added that just because No U-Turn signs are there, it doesn't mean people will follow them. She asked if the closest place to turn around would be the entrance to the mobile home park? Ms. Finnigan confirmed that was correct.

David Allen, Deputy Director of Public Works, addressed the Board and indicated that he reviewed the issues and the information with Deb Finnigan and he feels strongly that forcing the right turn only and having anticipated U-turns would be a problem.

Mr. Will had previously asked about 11 accidents per year and he asked Mr. Allen how does that compare with the rest of the City? Mr. Allen pointed out that Ms. Finnigan was actually looking at a stretch of road so that is 11 accidents over 6-8 driveways. You are actually saying one per driveway per year which Mr. Allen felt was very low. He guessed that Lafayette Road is a similar type situation and there are numerous areas that have left hand turns but he doesn't know what the accident numbers are.

Mr. Coker asked if the Traffic & Safety Committee is an advisory committee to this Board? Mr. Holden indicated that it is actually advisory to the City Council and they are an aid to the Board. Mr. Coker asked when the Traffic & Safety Committee provides an opinion, this Board is not obligated to take their advice? Mr. Holden confirmed they are advisory but they also have some authority that the Planning Board doesn't have. Mr. Coker asked in this instance, is their opinion advisory? Mr. Holden confirmed that it was. Mr. Will added that he takes their advice quite seriously, however in this case, he disagrees with them.

Giles Ham, of Vanasse & Associates, addressed the Board on behalf of the applicant. In terms of accidents, he pointed out that they were talking about a section of roadway, rather than any one intersection. There were no accidents at this site. This site only has one curbcut whereas most other sites have two curbcuts and no limitations on their movements. The applicant has changed the site to make circulation better and they have worked with TAC to make the site safe. With regard to restricting a left turn, they need to consider the consequences of that action. There are three choices. People will either make an illegal turn, a U-turn or they will turn into the mobile home park. Mr. Ham stated that Starbucks is a low intensity use and is primarily a morning use. It doesn't peak when the traffic peaks. Mr. Ham's conclusion was that a left hand turn is a safe movement and that is also Deborah Finnigan's opinion.

Mr. Will asked if Pizza Hut had a drive through? Mr. Ham did not feel that drive throughs caused accidents. However Pizza Hut did not have a drive through. He stated that this drive through does not generate a lot of cars and they are a low volume use.

Mr. Coviello asked if their client was agreeable to stipulate where if they allowed a left turn exit, after six months they would be reviewed by the City's Traffic Engineer and if it was found to be unsafe they would change it at that time. Attorney Pelech stated that Starbucks would not make a capitol investment with that condition. Last Friday he got a phone call from someone that lives in the trailer park who was concerned that all cars would turn around in their trailer park and that is what the experts have said would happen.

Deputy City Manager Hayden made a motion to approve with the 17 TAC stipulations, with some modifications, to include snow removal if there is not adequate storage on site, the applicant shall meet with TAC to reassess street sweeping, elevations that were submitted at the last Planning Board meeting shall be a condition of approval, and modify #14 so that sound levels readings shall be approved prior to a building permit being issued. Deputy City Manager further stated that the reason she is making the motion is that something is going to go on this site, Starbucks has worked with the City for quite a while and she believed they had a good project before them.

Mr. Coviello seconded the motion.

Mr. Will indicated that he will vote against the motion. He feels having a drive through makes this a problematic project. He's less likely to approve it after hearing there has been one accident per month from Ms. Finnigan.

Mr. Coker indicated that he will vote against the motion. He stated that when Rotary used to let out at Yoken's, cars had to cross multiple lanes and it was not a good thing. With all due respect to City staff and the applicant, he has gone to the site and watched the traffic and he doesn't see it as a safe intersection any way you slice it. He believes accidents will increase. He can't support the motion.

Mr. Savramis indicated that he could not support motion. He would only support the project with a right hand turn only.

Councilor Dwyer was going to support the motion but after Mr. Coviello's question, it seems that there must be a compromise position. If they do run into troubles, she felt that a business should be willing to reconsider at that point.

Mr. Coviello stated that he was disappointed with their answer but he would still vote for the motion. If the applicant trusts their traffic engineer then they should trust that in six months there would not be any change. Mr. Coviello does not believe there will be a problem and that is why he is supporting the motion, but he is still disappointed in their answer.

Deputy City Manager Hayden interpreted their answer to mean that they have made a large capitol investment and if they have specific criteria to meet, they could agree to meet that criteria. However, by this discussion, they have no certainty of how this Board will act. It is a very broad discussion that has come up at the final hour. She has a lot of faith and credibility in the City's Traffic Engineer who carefully studied this. This is a low accident rate for this section of the corridor and Pizza Hut had no accidents from 2000 until they closed. Deputy City Manager Hayden believes people have concerns about the corridor but not about this site. Something is going to go in this location and if the Board makes it difficult, someone will eventually go in and they will have to make right hand only turns, the result is that they will have a very unhappy residential neighborhood.

Mr. Will felt they should get away from whether it's good for the applicant's business. He understands that something else will go in there and he feels something else can go in without a drive through.

Mr. Hopley mentioned the drive through concept and indicated that any vehicle that pulls into any business at this location has to leave and if they want to take a left, they are going to do it. A drive through is immaterial. It's the vehicles that come to do business, whether it's a drive through or isn't a drive through.

Chairman Hejtmanek felt that any business will create a problem. How is this a better solution when all other locations allow left hand turns.

Mr. Coker was not willing to trade public safety for the profitability of a business.

Mr. Will indicated that he has used all of the information provided by the experts to make his conclusions.

Mr. Holden pointed out that as the building now is it could be occupied and used as an existing configuration without coming back before this Board so they need to decide whether this new situation is better than the existing.

Attorney Pelech wanted to clarify an issue as it was further discussed. The applicant would consider coming back at a future date if there was some criteria established on how the decision would be made. Six months would be far too early to come back. If there were some criteria that could be established by Deborah Finnigan, his clients would consider something on that idea.

Mr. Coviello made a motion to amend the motion to include a stipulation that the applicant meet with the City Traffic Engineer to agree on a set of criteria to be agreed upon and meet again in 2 years to verify compliance. They should meet soon to come up with the criteria.

Deputy City Manager Hayden indicated that was agreeable to the maker of the motion.

Councilor Dwyer seconded the amendment.

Mr. Will felt maybe a year would be better so that it would still be fresh in their minds.

Mr. Coker asked the maker of the amendment if it might be more useful and things would move more quickly if the details were worked out and brought back to the Board before approval. Again, he would want to see the criteria before he would vote for the project.

Deputy City Manager Hayden stated that the Board often refers to City technicians and City staff to review issues. She did not believe that anything would be gained and she was not agreeable to make Mr. Coker's amendment.

A roll call vote was conducted:

Mr. Coviello – Yes
Councilor Dwyer – Yes
Mr. Coker – No
Mr. Will – No
Mr. Savramis – No
Mr. Hopley – Yes
Deputy City Manager Hayden – Yes
Chairman Hejtmanek – Yes

The motion passed with a vote of 5 - 3, with Mr. Coker, Mr. Will and Mr. Savramis voting in the negative, with the following stipulations:

Stipulations from the May 30, 2006 Technical Advisory Committee Meeting:

- 1) That the stop bar shall be from curb line to curb line;
- 2) That the site egress shall have a stop sign, stop bar and double yellow center line added to the site plan;

- 3) That the front parking spaces shall be designated employee parking and “Do Not Enter” signs shall be added near the front of the building to keep all traffic circulating one way (counter clockwise) around the building, and shall be added to the Site Plans;
- 4) That on Sheet 4 of the Site Plans, Notes 24 – 29 shall require review and approval by the City Legal Department;
- 5) That the applicant shall advise the Planning Department on the status of the 4x6 elliptical culvert so that a decision can be made regarding the necessity of an easement and that the applicant shall review this matter with DPW after cleaning the culvert to determine whether any changes are necessary;
- 6) That the applicant shall determine the status of the water line shown along the south property line and determine whether it needs to be cut and capped and also to determine whether an easement will be required;
- 7) That the applicant shall televise the existing sewer lateral and provide DPW with the tape for their review to determine whether the lateral is adequate or has to be replaced;
- 8) That the lighting plan shall be revised to show poles no higher than 16’ with no more than 5 foot candle average, with full cutoff over the property lines and all lights must be Dark Sky Friendly;
- 9) That NH Soil Consultants shall stamp the Site Plan;
- 10) That the honey locust tree in the southeast corner shall have a minimum canopy height of 6” to assure visibility for people entering and exiting the site;
- 11) That all pavement markings shall be shown on the site plans and the detail sheets as solid lines or symbols rather than hollow lines or symbols;
- 12) That the applicant shall work with the City Trees & Greenery Committee to relocate any trees on the site;
- 13) That the applicant shall work with the Planning Department, Deborah Finnigan and the State of New Hampshire in an attempt to have landscaping in the front of the lot;
- 14) That the applicant shall provide the City the sound levels of the speaker system and they shall comply with Article V of the Zoning Ordinance;
- 15) That a detail be added to the Site Plans for a City standard concrete sidewalk, to be reviewed and approved by David Desfosses prior to the Planning Board Meeting;
- 16) That a Construction Management Plan shall be prepared for review and approval by the City Manager, City Attorney, Planning Director, Chief Building Inspector, and the Director of the Department of Public Works, prior to the issuance of a building permit;
- 17) That after final Planning Board approval, an annotated set of Site Plans shall be prepared for the Planning Department, highlighting all stipulations on the Site Plans with corresponding stipulation number and description;

Stipulations from the June 23, 2006 Planning Board Meeting:

- 18) That if the snow storage areas on the site are not adequate then the remaining snow shall be trucked off the site;
- 19) That the applicant shall meet with representatives of DPW to reassess the frequency of the street sweeping;
- 20) That the elevations which were submitted by Starbucks to the Planning Board at the June 15, 2006 meeting shall be a condition of approval;

- 21) That Stipulation #14 above shall be amended so that the sound levels must be in compliance prior to the issuance of a building permit and that the applicant shall provide the City with noise level readings on demand thereafter; and
- 22) That the applicant shall meet with the City Traffic Engineer to agree on a list of criteria to be monitored and another meeting shall be held in 2 years to verify compliance.

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B. The application of **Frank Perrone and John Giacalone, Owners** for property located **off Falkland Place** and the **City of Portsmouth, Owners** for property located **off Ranger Way** and City property identified as **“Alley #1 and Alley #2”**, wherein Site Review approval is requested to construct one 44’ x 30’, 2 ½ story, 1,320± s.f 2-unit. townhouse and one 88’ x 30’, 2 ½ story, 2,640± s.f. 4-unit townhouse, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 212 as Lots 26-1 and 27 and lie within General Residential B and Mixed Residential Business Districts. (This application was tabled at the June 15, 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. Savramis seconded the motion.

Mr. Will recused himself as he is a member of the neighborhood association.
 Mr. Coker stepped down as he was not present last week.

SPEAKING TO THE APPLICATION

Attorney Pelech indicated this was tabled last week to give the Board additional time to review the City Council recommendations. As he previously indicated, they are willing to work with anyone that the Board wishes to designate to come up with an agreeable situation with regards to the windows and door overhangs. It is not so much the size but the location of the windows and that is not an impediment to improving the project. He drove through the Heights and there are numerous types of door overhangs. They will do whatever is requested of them. They will also do all brick buildings except for the dormers. They will be happy to bring all comments back to the table for review by the designee. They would be happy to resolve these matters before getting a building permit.

Deputy City Manager Hayden indicated that since this issue was before the City Council, Attorney Sullivan will comment on that. It is her understanding that the Planning Board made recommendations to the City Council which will be okay from the City Council’s perspective.

Robert Sullivan, City Attorney, stated that the Planning Board attached conditions to the City Council, some of which were a little vague, and the City Council accepted them verbatim. As long as the Planning Board makes the recommendation, any action they take would be consistent with the City Council approval.

Councilor Dwyer stated that she also asked Council members what their recollection was of their intent. She believed that the renderings that were attached were what the City Council approved and the applicant was not sure it was appropriate to change them. No one on the Council though that was what they were approving. She also appreciates what Attorney Pelech was saying that it was old history now. Her concern is that it would not be difficult for an architect to provide renderings that would be appropriate and she would like to see the actual architectural plans.

Deputy City Manager Hayden felt they can give the applicant guidance regarding brick type, windows, doors, overhangs, and architectural design details, and they can consult with the Historic Preservation Office and the Neighborhood Association, as well as the Kilham Hopkins books, who were the original designers of the Heights, and just have the Planning Director review their final submission. The neighborhood is clear on what they are looking for. Her question to the applicant is whether they would be making final elevations as part of the bond process.

Attorney Pelech indicated that would be no problem. Also, the final elevations being approved by someone is fine.

Deputy City Manager Hayden requested that anything that is conditioned upon Site Review approval must be complied with prior to the issuance of a Certificate of Occupancy.

Mr. Coviello asked if the Board should give input on design suggestions?

Deputy City Manager Hayden didn't think that was necessary. She felt the State Historic Preservation Office would be very helpful to help with the design, and also the Kilham Hopkins books. She felt they should just make it look like the other ones. And the applicant has indicating that they are willing to make that a bonded item prior to the issuance of a C.O.

Mr. Coviello asked what if they can't come to an agreement? Mr. Holden answered that they would come back to the Board.

Mr. Chagnon felt that things are moving along very well. When they first went to TAC, one of the neighborhood association members who was present was an architect and that person has agreed to work with them to design their buildings.

Ken Westin, an architect with Oakwood Associates, stated that he was on the Atlantic Heights Historic Preservation Committee. He collected comments from the neighborhood and has a letter which was reviewed with Mr. Chagnon and he provided copy to the Board. They were concerned the most recent elevations were a departure from the 2004 elevations. He distributed his letter and agreed that a designated architect should be able to come up with appropriate plans.

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

Deputy City Manager Hayden made a motion to approve with the 21 TAC stipulations plus that approval by the Planning Department of the final elevations be required and that the design shall be covered under the Site Review Bond. One other change to #17 is that Falkway Place should be Falkland Place. She asked for a further stipulation, that in the Planning Department's consideration of approving the final elevations, they take into account Ken Westin's letter of June 23rd.

Councilor Dwyer asked for an additional stipulation for lighting of the parking lot. Mr. Chagnon stated that the Board can decide whether the Applicant needs to provide a cobra light on the proposed pole in the parking lot. Mr. Holden will have DPW review the area for lighting. Deputy City Manager Hayden indicated that was acceptable to her motion.

Mr. Hopley noted on the submittal from tonight there will need to be some enforcement guidelines as there are no rails on the stairs.

Mr. Coviello noted that there was no tribute to dormers shown on the elevations and he felt that was a main feature of the existing buildings.

The Motion to approve passed unanimously with the following stipulations:

Stipulations from the May 30, 2006 Technical Advisory Committee Meeting:

- 1) That the Technical Advisory Committee is recommending a waiver of Site Review Regulations for the above overhead transmission line to remain above ground however all service connections for this project shall be underground;
- 2) That a note shall be added to the Site Plans that all snow shall be trucked off of the site as there are no snow storage areas;
- 3) That the applicant shall apply for pole licenses as soon as possible
- 4) That a Site Lighting Plan shall be prepared, showing lighting in the back parking lot, all lights shall be Dark Sky Friendly and there shall be no spillage off of the lot
- 5) That either catch basins down to the proposed leaching basins shall be tested to confirm that they will work properly or they shall be hard piped to the nearest drainage system;
- 6) That the sidewalks shall be swept around the corner, behind the hydrant and that the sidewalks shall also terminate back out to the street near the proposed parking spaces;
- 7) That the applicant shall work with the City to determine whether a license or an easement is required for the sidewalk which is located on City property, and said document shall be prepared by the applicant for review and approval by the City Attorney;
- 8) That the Technical Advisory Committee recommends to the Planning Board that they approve vertical curbing to match the rest of Atlantic Heights;
- 9) That curbing shall be added to the frontage along the 4-unit building;
- 10) That the applicant shall work with Steve Parkinson and Deborah Finnigan to determine which parking plan shall be reflected on the Site Plans;
- 11) That the zoning district shall be corrected on the Site Plan;
- 12) That the applicant shall prepare a request for re-zoning and the Planning Department shall include said request in the current on-going Zoning Ordinance Re-Write project;
- 13) That a note shall be added to the Site Plan that the BOA did not approve backing into the street from the public parking spaces;
- 14) That the water line should be tapped at the 10" line, with one service for the entire lot and sized accordingly to accommodate both buildings;
- 15) That all outstanding conditions of the City Council shall be clarified prior to the Planning Board meeting;
- 16) That the following language shall be added to the Site Plan;
"Landscaping is a critical component of site plan approval. It is one of the key reasons why a project fits into a neighborhood in a positive and aesthetically pleasing manner. This plan would not have been approved without the landscaping shown on the plan. All landscaping shown on this plan is to be maintained in a healthy state and replaced if it dies or is damaged. No landscaping shown on this plan shall be removed or altered without the prior approval of the Portsmouth Planning Department. Failure to maintain the landscaping may result in revocation of site plan approval.";
- 17) That the curbing that runs along Falkland Place shall continue straight and tie into the existing curb;
- 18) That additional information on the exterior elevations of the buildings shall be provided prior to the Planning Board meeting;
- 19) That the row of maple trees in the parking lot area shall be protected by a snow fence;

- 20) That a knock box and automatic notification of emergency services shall be added to the Site Plans;
- 21) That after final Planning Board approval, an annotated set of Site Plans shall be prepared for the Planning Department, highlighting all stipulations on the Site Plans with corresponding stipulation number and description;

Stipulations from the June 22, 2006 Planning Board Meeting:

- 22) That the Planning Department shall approve the final elevations and that the design shall be covered under the Site Review Bond;
- 23) That in the Planning Department's consideration of approval of the final elevations, they shall include Kenneth Weston's letter of June 21, 2006 in their considerations; and
- 24) That DPW will review the parking lot area for lighting.

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V. ADJOURNMENT

A motion to adjourn at 9:20 pm was made and 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 Planning Board Meeting on September 21, 2006.