

MINUTES OF MEETING
SITE REVIEW TECHNICAL ADVISORY COMMITTEE

2:00 P.M.

CITY COUNCIL CHAMBERS
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE

MAY 2, 2006

MEMBERS PRESENT: David Holden, Director, Planning Department, Chairman; David Allen, Deputy Public Works Director; Steven Miller, Vice-Chairman, Conservation Commission; David Desfosses, Engineering Technician; Tom Cravens, Engineering Technician; Debbie Finnigan, Traffic Engineer; Steve Griswold, Deputy Fire Chief; and Len DiSesa, Deputy Police Chief

ALSO PRESENT: Lucy Tillman, Chief Planner

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I. NEW BUSINESS

1. 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.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernard Pelech addressed the committee on behalf of Starbucks Coffee Company. He indicated that although this was their first appearance before the Technical Advisory Committee, this had been in the pipeline since September of 2005. They have been before the Conservation Commission on three occasions and the Planning Board for Conditional Use and also before the BOA for the required variances. This is the former Pizza Hut site on Woodbury Avenue. There are quite a few constraints on the lot due to the wetlands in the back and the residential uses to the north. They have worked with the City Planning Staff long and hard and they have gone from re-use of the existing building to a demolition and construction of a smaller building and they are adding considerable stormwater management treatment. He introduced Luke DiStefano, of Bohler Engineering, the site engineer, Kevin Patruie of Starbucks, and Giles Ham from Vanesse Associates, their traffic engineer. Attorney Pelech stated that, based on their conversations with staff at Pre-TAC earlier that day, they are prepared to make some suggested changes that were discussed.

Luke DiStefano touched on some of the major design improvements. He stated this is a complete raze and rebuild of the existing facility. They attempted to reuse the existing building but with the wetland constraints it was determined that it was best to start over. They are proposing an 1850 s.f. Starbucks facility with a drive through in the center portion of the lot. They are also proposing a drive through lane on the northern side. They are attempting to maintain a strong buffer so the building was shifted to the south. They will have one way traffic through the site and also a pass by lane next to the drive

through as the City felt it was more beneficial to have a pass by lane. They are providing 25 parking spaces and 25 are required. They eliminated one parking spot in the southeast corner on Woodbury Avenue due to concern about safe egress from the lot. They are proposing major improvements to stormwater quality, landscaping and lighting. The site currently has no on site stormwater management. It currently goes into catch basins, discharging into an existing culvert, and drains untreated stormwater into the wetland buffer. They are proposing to maintain a series of catch basins with oil/water hoods, collect all run off on the paved surfaces, which will be collected into a Vortech unit before ultimately being discharged back into the wetlands. Roof run off will go through a stormwater detention facility. This will result in a slightly larger impervious area calculation. A drainage report was provided to the Committee and under all design storms, the 2-100 year event, they have been able to come up with a minimum 29% reduction and maximum of 35% of stormwater run off rates. Therefore improvements are not only stormwater quantity but quality as well. They provided a lighting plan and they are proposing four cut off yard fixtures with light shields on all lights and there will be very little light trespasses on abutting properties and zero light trespass onto Woodbury Avenue. They are averaging a rough average of 10 –12' candle range throughout the site. They are proposing major landscaping improvements and the proposed site will be a major improvement in every design element. They have worked with City staff as well as the neighbors on this proposed plan.

Giles Ham, of Vanesse & Associates, indicated that traffic is a very critical issue and they have done a very detailed analysis, focusing on the drive through and they looked at different conditions, as well as the different driveways. They had information from other Starbuck sites that were similar and they did traffic counts there. There is a similar site in Dover at the old Weeks Traffic Circle so they did traffic counts there to get a feel of the volume of traffic and the volume of drive through use. Typically during early morning peak hours the facility will accommodate approximately 90 customers, 60% of their business is before noontime. In terms of the drive through, they do about 30-35 customers an hour, or one every two minutes, which is part of the 90 customer count. The average queue is about one customer and the maximum was four vehicles. They have room for four cars in the queue but storage for up to nine vehicles and 13 before getting out to Woodbury Avenue and the driveway width is 30'. The City is planning a right turn lane at Circuit City and they would contribute towards that. They will extend the stop line on site and will modify the handicapped parking. They will look at cars not being able to turn left. It is felt that most customers will park and enter the site and leave.

The Chair asked if there was anyone else wishing to speak to, for or against the application. Seeing no one rise, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE COMMITTEE:

Ms. Finnigan referred to the queuing on the plan and the stop bar with a double yellow that was not shown on the Site Plan. She would like a solid white from the window with a solid stop bar.

Mr. Desfosses made a motion to approve with stipulations. Mr. Cravens seconded the motion.

Ms. Finnigan indicated she would like a solid white lane line with a stop line to the point where it starts to curve around the back of the building. Currently the plan shows it going left and she asked if that would be eliminated? Attorney Pelech indicated they would designate that as employee parking with do not enter signs. Also, it was discussed that they will reverse the wording and the drive through arrows so that Drive Through precedes the arrows. Ms. Finnigan indicated they would do the same with the exit. Attorney Pelech stated there was no pre-order board planned for the site. Ms. Finnigan

asked, going into the site, the plans state “approximate location of proposed ID sign” and she asked where that was? Attorney Pelech confirmed that was a separate sign application and it will require a variance due to its proximity to Woodbury Avenue. Ms. Finnigan asked if that also applied to the drive-through directional signs? Ms. Tillman clarified that if it does not say Starbucks on it, it would be allowed if it is under 1.5 s.f.

Ms. Finnigan requested that Notes 24 – 29 on the Site Plan would require legal review. Mr. Holden was concerned because the Site Plan is what they assume is a construction document so the addition of the notes must be reviewed.

Mr. Desfosses asked that the Layout Plan get revised and reviewed by Deborah Finnigan prior to the Planning Board meeting. He asked if there was an easement where the 4 x 6 elliptical culvert was going through the property? Attorney Pelech did not believe there was one. Mr. Desfosses asked for an easement. Attorney Pelech did not know if it was a City culvert or DOT but they would be willing to grant an easement. Mr. Holden requested that Attorney Pelech report back to them on the status of who owns it so that they can determine whether an easement is required.

Mr. Cravens asked about a water line going down the south end of the property and he asked what it was for. Mr. Distefano indicated that there were some utilities shown on the survey that no one knows where they go or what purpose they serve. He can have their engineer look into it. It might be live or not. If not, they will cut and cap it according to City standards. Mr. Cravens asked that a stipulation be that the applicant determine the status of the water line along the south property line and determine whether it should be cut and capped or an easement is needed.

Mr. Desfosses referred to the existing culvert that they were tying into and whether the pipe already exists? Mr. Distefano confirmed that they were looking to tie into the existing drain manhole that currently sits right above the culvert now. Their connection point would be the same connection point that is there today. Mr. Desfosses indicated that the pipe was not there yet and they were tying a new pipe into an existing manhole, at the invert of the existing culvert, which according to the survey has a foot of sediment in it. Mr. Distefano believed that the invert of the culvert is much lower than where they are tying in. The actual outlet elevation is 42 and they are coming in a little bit higher. They are looking into the culvert to look at the sediment and they will clean it out. Mr. Desfosses was concerned based on the topography, they are constantly going to have tail water even if they clean the pipe out. It looks like the elevation of the swamp out back has grown higher over the years. Mr. Distefano indicated he would take a look at it. Mr. Desfosses requested that they tie in their new stormwater system at elevation 43 or above. Mr. Desfosses asked if they are going to clean that pipe? Mr. Distefano indicated they will look at the two connections and clean them out to the best of their ability. He was not sure whose culvert it was but they have made representations that they will clean it out. Mr. Holden felt this could be clarified once they get a better understanding of that structure. Mr. Desfosses felt it would behoove them to revisit the culvert situation.

Mr. Desfosses noted that the dumpster area is being drained to the sewer line. There should be a note on the plans that no part of the asphalt shall pitch that way so that the only thing that goes into that drain is the actual concrete. Mr. Desfosses moved on to the sewer on the south side of the building, there was a double 45 jog in the line. He asked if there was any reason why they couldn't put a manhole upstream? Or, they could come across the island and go through the light and put it south of the corner of the building.

Mr. Allen addressed the sewer and indicated he would like to have the existing lateral televised and a copy of the tape brought to DPW to review to determine if it is adequate or has to be replaced.

Mr. Desfosses felt that the lighting seemed excessive. He asked for a revised lighting plan, showing no more than 16' high light poles and no more than 5' candle average, with full cutoff over the property lines and all lights must be Dark Sky Friendly. He asked that they replace the sidewalk along the front

from property line to property line and they should contact him for the specs. They will require a standard drawing. Attorney Pelech indicated that was in the City right-of-way. Mr. Distefano stated that they were not proposing any changes for the sidewalk however Mr. Desfosses confirmed that he would like them to upgrade the sidewalks. Mr. Holden stated that the City would speak to NHDOT.

Mr. Cravens asked if an irrigation system was going to be installed now or in the future? Mr. Distefano stated they were not proposing a system at the present time. Mr. Cravens requested that, if an irrigation system is installed, that they shall only irrigate between 10:00 pm – 5:00 am and there will be a rain sensor on the irrigation controls. Also, all areas that will be irrigated will have 6” of loam, not 4”. Also, all water line work shall be done in accordance with Portsmouth Water Division standards.

Deputy Fire Chief Griswold stipulated that they install a knock box, in the vicinity of the main entrance.

Mr. Britz asked why the location of the wetland was shown as approximate? Mr. Distefano stated that the wetlands were determined by NH Soil Consultants 2-3 years ago. Starbucks’ surveyor did not go out and pick up the flags that were previously placed throughout the entire permitting process and it has always been listed as approximate. Mr. Holden felt this posed a problem as they were assuming it was an accurate representation of where the wetlands line was. Mr. Distefano explained that the reason they did it that way was based on conversations they have had. NH Soil Consultants had an approved plan as part of the mobile home development behind their property with an approved surveyed wetland line. They superimposed it on their plans. Because they didn’t have their surveyors pick it up in the field, they call it approximate. Mr. Britz stated it was his understanding that it was the 2002 line from Millette’s survey that NH Soil re-verified. He asked why that was approximate? Mr. Distefano explained that because the flags were already there and not actually surveyed, they cannot put that in as a definite line. They used an approximate line based on a previously approved plan. The plans from Day One have always shown it as approximate. Mr. Holden stated that since day one the City has been saying it would be helpful if they went out and prepared their own survey of the property. Mr. Distefano stated they did their own survey but based on existing flags. Attorney Pelech stated that he had the initial conversations with Mr. Holden and Mr. Britz about using previous lines, subject to having NH Soils re-verify them. Mr. Holden was concerned that they couldn’t get this “accurate line” on this “accurate Plan”. Attorney Pelech indicated that the Conditional Use Plan was stamped by NH Soils and was approved by both the Planning Board and the Conservation Commission so they could also get them to stamp this plan. Mr. Holden thought that sounded good.

Mr. Britz asked to have the wetland boundary in the field signed somehow with wetland tape so when doing construction the workers know exactly where the wetland line is.

Mr. Britz asked for a clean out schedule for the catch basins. Mr. Distefano indicated that was included as part of the drainage report. Mr. Britz asked about existing tree maintenance. That was a stipulation from the Conservation Commission. Mr. Britz indicated that a condition of the Planning Board could be that existing trees are to be maintained and if they die they shall be replaced. Mr. Holden asked about the other side of the lot? Attorney Pelech indicated they are narrowing the green strip and removing some trees. They will make an effort to relocate the trees if possible and there will be plantings. There was also a question of raising the berm around the dumpster enclosure. Mr. Desfosses indicated that was taken care of.

Ms. Finnigan asked about the tree in the southeast corner. Attorney Pelech indicated it was a honey locust, a shade master, 2-3” caliber. Ms. Finnigan indicated she was very concerned about visibility. Mr. Distefano stated it would be high enough to maintain a 6 – 8’ window below and it is far enough off the street edge not to pose a visibility issue as far as entering and exiting the property. Ms. Finnigan felt it did pose a problem for people turning and asked for a minimum canopy height of 5-6’.

Ms. Finnigan asked about the directional signs and if they have Starbuck logos on them, they would require a variance. Attorney Pelech stated either they would need a variance or they would remove the logo.

Ms. Finnigan referred to the lighting plan and pointed out that there was no height. Attorney Pelech indicated they were 42'. Ms. Finnigan asked that be added to the plan. Also, on the detail sheet, the pavement markings are hollow and she requested that those be solid. She asked that the free standing pre order menu board be removed from the plan. On Sheet 13, the exit pavement marking detail, using solid lines and symbols, should be added to the plans.

Ms. Tillman indicated that the landscaping on the right side where parking is expanded, the trees will be saved or relocated, and they should work with the Trees and Greenery Committee on that. That committee also has language that they want on the plans, which Ms. Tillman indicated she would provide to the applicant. She read it into the record.

Mr. Holden felt this was a much better site plan than what they started with. He asked why a variance was granted on the planting of landscaping in the front of the building. Mr. Holden was not sure why they didn't have any vegetation in the front. Attorney Pelech stated they did not have any room as it was State property. They have about 1'. Mr. Holden asked if they would agree to work with the City and State to plant plantings in the right of way, not to conflict with Deb Finnigan. Mr. Holden also was amazed that with all of the developments in the area and all of the trees along Woodbury Avenue that this was the one site without any. Mr. Holden asked what the sound levels are at the ordering station? Attorney Pelech did not have actual decibels but the speaker location has a solid fence behind it. Mr. Holden asked for a stipulation that they be provided with the sound level decibels and that they comply with Article V. To the rear of the property is a residential area.

Mr. Holden asked Mr. Ham to explain why a deceleration or acceleration lane was not required at this site? Mr. Ham stated that the amount of turning volume was 35 vehicles turning in an hour and that did not warrant a turning lane. Mr. Holden asked how would a vehicle make a left turn at peak hour? Mr. Ham stated that there is more traffic at the morning peak. During the busier hours, people turn left and use the middle lanes. Mr. Holden asked if he felt that was a safe turning movement? Mr. Ham did believe it was safe and it was similar to any other driveway in this corridor.

Mr. Holden asked if this had gone to the Traffic & Safety Committee and Ms. Finnigan confirmed that it had not but recommended that it should. Mr. Holden asked for a report back from the Traffic & Safety Committee to the Planning Board. Mr. Holden was familiar with the traffic study that they did but his experience with drive throughs was not all that good. He asked Mr. Ham what they would do if the queues are out to the street. Mr. Ham was unsure what to do in that situation however they have done studies of other Starbucks and they are expecting a much lower drive through volume than other shops. He indicated that if he didn't believe this would work, he would tell them.

Mr. Holden asked, if this was tabled, that they come up with a management plan to address the problem. Mr. Ham indicated he could work with city staff during the approval process.

Mr. Holden asked if the Committee would be more comfortable tabling?

Mr. Allen made a motion to table as he felt there were enough issues pending that he would like to review this again. Deputy Fire Chief Griswold seconded the motion. .

Mr. Holden assumed that if all stipulations were addressed satisfactorily, at the next meeting they would take the motion to approve off of the table and act on it.

Ms. Finnigan asked for four copies of the traffic report for herself and the planning staff.

Mr. Holden indicated the motion would be to table to May 30th and this would also table the application to the May Planning Board Meeting.

The motion to table to the May 30th meeting passed unanimously with the following stipulations:

- 1) That a solid white lane line from stop bar to the point where the lane starts to turn around the back of the building shall be added to the Site Plans;
- 2) That the stop bar shall be from curb line to curb line;
- 3) That the site egress shall have a stop sign, stop bar and double yellow center line added to the site plan;
- 4) 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;
- 5) That the wording on the Site Plans shall be changed so that at the drive through and the pass-by lane shall have the painted symbols shown shall be reversed and the words "Drive Thru" and "Exit" shall precede the directional arrows;
- 6) That the handicapped parking stall shall be relocated closer to the southerly curb line;
- 7) That the lighted bollard height shall be shown on the detail sheet;
- 8) That on Sheet 4 of the Site Plans, Notes 24 – 29 shall require review and approval by the City Legal Department;
- 9) 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;
- 10) 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;
- 11) That the new stormwater system shall be tied in at elevation 43 or above and shall be noted on the Site Plans;
- 12) That a note shall be added to the Site Plans that the drain in the dumpster area for the sewer line stating that no part of the asphalt shall pitch in that direction so that the only thing that goes into the drain is the rain that falls in the actual concrete areas;
- 13) That the sewer service be revised where there is a double 45 jog, so that from the existing manhole, it comes across the island near the proposed light pole and into a new manhole just south of the building corner;
- 14) 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;
- 15) 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;
- 16) That City standard concrete sidewalks shall be added to the Site Plans with a detail along the Woodbury Avenue frontage from property line to property line (the City will assist the applicant in obtaining NHDOT approval);
- 17) That a note shall be added to the plans that if an irrigation system is installed on the site, it shall only be permitted to irrigate between 10:00 pm and 5:00 am and that a rain sensor shall be installed on the irrigation control so that it will shut off during a rainstorm, and all areas that will be irrigated shall have 6" of loam;

- 18) That all water line work shall be done in accordance with the City Water Division standards and so noted on the Site Plans;
- 19) That a Knox box shall be installed in the vicinity of the main entrance, to be approved by the Fire Department;
- 20) That NH Soil Consultants shall stamp the Site Plan;
- 21) That the wetland boundary shall be delineated at the site by flagging tape so that the construction workers will be aware of its exact location and shall be noted on the plans;
- 22) That a clean-out plan and maintenance schedule shall be part of the Stormwater Management Plan;
- 23) That any trees that are removed to construct the "green strip" shall be relocated, if possible;
- 24) 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;
- 25) 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;
- 26) That the free standing pre-menu board shall be removed from the Site Plans;
- 27) That an exit pavement marking detail, using solid lines and symbols, shall be added to the Site Plan and detail sheet;
- 28) That the applicant shall work with the City Trees & Greenery Committee to relocate any trees on the site;
- 29) 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."
- 30) 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;
- 31) 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;
- 32) That this application is subject to a review by the Traffic & Safety Committee with a report back to TAC and Planning Board;

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2. The application of **Rye Corner Gas, LLC, Owner**, for property located at **1150 Sagamore Avenue** wherein Site Review approval is requested to construct a 4,000 ± s.f. building containing a 1,500± s.f. convenience store, 2,500±s.f. of storage, and a gas station after the demolition of an existing structure, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 201 as Lot 22 and lies within a Mixed Residential Business District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Mr. Holden stated that the Planning Department recommended that this be tabled. They expected the owner or a representative to give an indication they were withdrawing because they need to go to the BOA but nothing was received.

The Chair asked if there was anyone else wishing to speak to, for or against the application. There was no one from the public.

Mr. Desfosses made a motion to table to the May 20th meeting. Ms. Finnigan seconded the motion.

The motion to table to the May 30th meeting passed unanimously.

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3. The application of **Kearsarge Mill Condominium Association, Owner**, for property located at **361 Hanover Street** wherein Amended Site Review approval is requested 1) to amend easements regarding access between the this lot and abutting lot owned by Hill Hanover Group shown on Assessor Plan 138 as Lot 64; 2) to allow a parking easement from the City of Portsmouth for abutting property shown on Assessor Plan 138 as Lot 60; and 3) to grant an access easement to the City of Portsmouth to allow them to maintain and repair a building located on abutting property shown on Assessor Plan 138 as Lot 60, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 138 as Lot 63 and lies within a Central Business B District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Sharon Somers of Donahue, Tucker & Ciandella appeared on behalf of the Kearsarge Mill Condominium Association. She stated that their purpose was to reflect the operations that are currently on the grounds and to clarify the original approval. In 1985 the Site Plan was approved with two right of ways. One was from Hill Street and another came out on Hanover Street. This approval contemplated six parking spaces situated in the middle of the parking easement and the plan was approved. In subsequent years, traffic has driven around those parking spaces and traffic now flows across the parking area out Hanover Street. They are looking for a release of the rights of way, noted as Notes 1 & 2 on the amended Site Plan. They would like to obtain a release from Hill-Hanover and in exchange they will grant Hill-Hanover a blanket release to access their property, across the Kearsarge Mill parking area and on to Hanover and also onto Hill. There are no changes on the ground, no impact to drainage and no additional paving.

Attorney Somers explained that the second piece of their proposal was done in 1985, when there was some arrangement that the rear area parking spaces located on City property were done with City knowledge and for the benefit of the condominium.

The applicant proposed to request that the City grant a parking easement and in exchange the City building may have need for maintenance and repair and they will need access so the applicant would grant an easement to the City. The city now enters via Rock Street. Again, there would be no changes

in paving, drainage or lighting. They are just trying to clean things up. Jim Warner, Condominium President, met with Steve Griswold, of the Portsmouth Fire Department, who had no concerns with this proposal. Attorney Somers indicated that Mike Malynowski from Kimball Chase was also present.

Mr. Allen asked about the city allowed access to the back section and pointed out a fence which was currently in that area.

Attorney Somers indicated that hadn't been explored yet. Whether the fence comes off or not, the idea was to make it a little easier for the City to access their building. These are just preliminary plans for the project and they will have to go to the City Council for their approval.

The Chair asked if there was anyone else wishing to speak to, for or against the application. Seeing no one rise, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE COMMITTEE:

Mr. Holden asked why the prior approved site plan not done as approved?

Attorney Somers believed it was done as approved as it also referenced the right of way to benefit the property. This whole issue came to light because the Hill Hanover Group recently purchased the property, decided to convert the property into a condominium and wanted to reconfigure the property. They decided that they were going to need access to their property through the parking spaces. In meetings with the City and the owners of Hill Hanover Group, it was decided that this would make the most sense.

Mr. Holden asked if the residential development to the right has any claim to parking on this lot and Attorney Somers explained that they have a claim to access and that right of way will be released and in return they will be granted a new blanket easement. Mr. Holden asked if theoretically they would come in an existing driveway and be able to access Hill Street. Attorney Somers clarified that they will come out their property and come on to Hill Street. Mr. Holden asked if they have the right to use the easement now? Attorney Somers explained that as a practical matter, that portion of the plan is not going to change. Mr. Allen asked if the easement was just between the two parties? Attorney Somers confirmed that was correct. It was not a public easement.

Mr. Holden's understanding was that originally the easement was there so emergency vehicles could use it. Attorney Somers disagreed and stated that the easement stems from the 1920's and 1930's, simply to benefit the property. There will be no change in how emergency vehicles will come and go. Deputy Fire Chief Griswold confirmed they can get in okay.

Mr. Holden asked about the parking in the rear and basically he asked if city property has been used for parking on another lot for some time and this plan now documents this more thoroughly? Attorney Somers agreed with that.

Mr. Holden indicated that his only concern was that this committee does not have the authority to approve this. He asked if she would be agreeable to getting a mechanism in place to recognize that so they can move forward? Attorney Somers agreed and felt a condition of approval could be that it was subject to City Council Approval for the parking easement arrangement. Mr. Holden was thinking of

recommending tabling this matter. Attorney Somers indicated she would like to go forward on a conditional basis to get some resolution. They could then have the matter proceed through the City Council.

Mr. Allen felt this was more of an issue between two property owners, and other than the parking issue in the back, the two parties could handle this on their own. Mr. Holden pointed out that it was shown on the approved Site Plan so that was the problem. Attorney Somers stated they were just trying to clean up the paper trails. Mr. Holden was uncomfortable approving a plan showing the unauthorized use of City property. He also doesn't know if it will be an easement or a license. He believed the Public Works Director preferred to see this as a license that was revocable as the City may do something with the shed. Attorney Somers indicated they were willing to discuss what format this might take with the City.

Attorney Somers was concerned that if this matter was tabled to May 30th, she doesn't know if that will get them where they want to go for City Council approval. If he was suggesting that it be tabled to determine whether this was going to be an easement or a license, she felt that was one question, but if they went beyond that and clarified that point, she would like to be able to move forward with a conditional approval recommendation subject to City Council approval. Mr. Holden suggested that they move this on to the Planning Board, while working on a vehicle for the easement. He didn't want to make a big rukus but it was disturbing that they didn't know about all of this. Attorney Somers indicated that the parking had been going on for a number of years.

Mr. Allen made a motion to approve with stipulations. Deputy Fire Chief Griswold seconded the motion. The motion to recommend approval passed unanimously with the following stipulations:

- 1) That the City Legal Department and the Planning Department shall determine the appropriate vehicle to be used in this application (licensing or easement);
- 2) That the Planning Board is put on notice that this Committee is concerned about the use of the City property and that the Planning Board may wish to have this issue clarified further before acting on the application;
- 3) That the paragraph labeled "References for Easements" shall be changed to "Easement Notes" so that it matches what is on the plan;
- 4) That the Site Plan Notes reference Map 138, Lot 64 but no where on the plan does it identify that lot so that should be clarified;
- 5) That Plan Note #1 appears to be missing some words and should be corrected.

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Mr. Allen excused himself from the meeting at 3:15 p.m.

4. 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 1/2 story, 1,320± s.f 2-unit. townhouse and one 88' x 30', 2 1/2 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.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Bernard Pelech, Esq., appeared on behalf of the owners. This is a project which has been around for 5 years. The City Council has voted on three occasions to convey property to his clients. Most recently, last year, they voted not to convey based upon concerns of Atlantic Heights neighbors who wanted the City to make a municipal parking lot for snow emergencies. Attorney Pelech filed a request with the City Council showing a plan with 10 spaces on the lot as designed by Steve Parkinson, which will be turned back over to the City for their maintenance. The City Council voted to sell it to his clients based on that plan. They went to BOA and received 2 variances, one to build residences in the district and another to allow six units on the lot. They are now at the Site Review process.

Mr. Holden asked about the fact that the City Council has authorized the sale of land but they have a municipal zone. His question was if it was their position that a re-zoning was not necessary? Attorney Pelech indicated that the issue came up before the BOA and they were told to get a variance to build in a municipal district. Once the property is conveyed the zoning would be changed by the City Council. To his knowledge that has not been done and it was not his understanding that it was the applicants responsibility to get it rezoned.

Mr. Holden asked if the BOA acted on vehicles backing out onto the street. Attorney Pelech indicated that they did not as it was to be a rarely used municipal parking lot. This plan was dictated once the City Council voted on this. He felt that DPW input would be very appropriate. If utilized as only emergency parking during snow bans, this would be the better configuration as it would be easy to plow. He would leave that up to Everett Kerns and Steve Parkinson for the best configuration and the applicant will build it.

John Chagnon, of Ambit Engineering, reviewed the plan set. He pointed out the standard boundary survey showing land conveyed to the applicants, with a note saying the parcel will be rezoned to GRB upon transfer. Mr. Holden added that it had not been transferred yet.

Mr. Chagnon continued with the Existing Conditions Plan that he will correct to show the current zoning. Sheet C-2 is the Landscaping Plan, showing street trees proposed along Ranger Way and Falkland Place. He will revise the plan to show screening along the parking area. He pointed out landscaping, sidewalk along Ranger Way and the existing sidewalk on Falkway Place with a curb cut. The corner will be configured due to the proximity to the fire hydrant. They will need an easement and license to bring the sidewalk right to their property. There are nine parking spaces on Falkland Place being reduced to five spaces to allow for the curb cut and 11 parking spaces which Attorney Pelech discussed. They will add to the plans a change to vertical curb. They also show the relocation of an overhead electrical line. They will put a new pole in and run the line down a new corridor so that the electric line will have proper clearance. The water service is shown and will be consolidated for one lot. The sewer system is a pump tank that pumps out to Raleigh Way. The underground electric is fed off of a loop pole with transformer and services the two buildings. They located some leaching catch basins to deal with surface water run off.

Deputy Police Chief DiSesa asked if there was parking in the rear of the two-unit townhouse so that people will have to walk around to the front of the building to enter? Mr. Chagnon indicated that there are doors in back as well as the front, with a sidewalk around the edge of the parking lot. Deputy

Police Chief DiSesa asked what kind of lighting they would have in the rear of the unit? Mr. Chagnon felt they would probably have to look into the lighting a little more. He felt they could light from the building. Deputy Fire Chief DiSesa also requested that they light the back portion where they are leaving their cars.

The Chair asked if there was anyone else wishing to speak to, for or against the application.

Ken Western, Architect and property owner in Atlantic Heights, addressed the Committee and also indicated that he was on the Atlantic Heights Historic Restoration Committee. At previous meetings they spoke about the developer increasing the quality of the construction to present an improvement to the gateway to their neighborhood and wanted to know where they were with that. Mr. Holden indicated he would have the applicant address that.

Stephanie Krenn, Chairman of the Atlantic Heights Neighborhood Association, indicated she was not for or against the project. She advised the Committee that they submitted their application today to the National List of Historic Places and they will know by the end of the summer if they are accepted. This will be a highly visible neighborhood and any new construction needs to be mindful of the existing structures.

Attorney Pelech confirmed that as a condition of the City Council vote to sell the property the applicant was required to conduct a voluntary review process with the Planning Board. Elevations were presented to the City Council and the BOA which showed a brick façade similar to Atlantic Heights architecture. Attorney Pelech indicated that the elevations and hand drawn site plan were attached to his April 21, 2005 letter to the City Council, which show landscape plantings to create a buffer. They will be added to the Site Plan as soon as the parking lot configuration is confirmed. Ms. Tillman asked if all sides would be brick faced? Attorney Pelech confirmed that they will all be brick facade. Mr. Holden stated that they normally get a more formal presentation on the building elevations. Attorney Pelech indicated they would have architectural renderings at the Planning Board level however Mr. Holden indicated he would like them for the TAC Committee as the Site Review regulations do require elevations. Attorney Pelech felt it said voluntary design review process with the Planning Board, however this was not a problem and he will bring them at the next meeting.

Mr. Holden kept the public hearing open.

Ms. Finnigan was concerned the spaces that are proposed on Ranger Way are back out spaces and not appropriate. She felt they were dangerous and she would like something else in a different configuration. Mr. Holden agreed it was important to have safe parking. He asked if more of the lot could be used for parking? If Attorney Pelech could prevail upon the City Council to amend their condition, the entire light green area on the plans can be used for a parking lot. Attorney Pelech did not have a position on it and would deed it back to the City however they wanted it done. Mr. Desfosses asked how the spaces get configured like this as the original spaces were inside the parcel? Attorney Pelech had not realized that Mr. Chagnon had moved them back out. As shown on the plan that Bernie had approved, they would be off the property line. If depicted as approved by the City Council, they would be inside the property line. Mr. Desfosses felt it was better for snow parking.

Mr. Holden asked about the relocating the relocate power line. He asked why they were not putting it underground? Mr. Desfosses confirmed it was a transmission line and it can't go underground as the cost would prohibitive. Attorney Pelech also confirmed that the line doesn't service their property.

Mr. Holden asked the committee whether they felt that this complied with the Site Review Regulations? Mr. Desfosses indicated that it was their usual nature to put utility service underground and new subdivisions go underground. This is an overhead transmission line that is already in service. The applicant's connections are underground. Mr. Holden asked the Committee if they agree this is appropriate? Mr. Desfosses felt it would be financially unfeasible to put it underground. Mr. Holden requested that they include a recommendation that they agree this connection can be overground but the service connections shall be underground.

Deputy Police Chief DiSesa asked, when they move the spots back for parking, what is the street lighting. People will be parking after dark and he would like lighting for safe egress. Mr. Desfosses suggested putting a light on the pole they are moving. Mr. Chagnon indicated they could put a standard cobra that the City would pay for.

DISCUSSION AND DECISION OF THE COMMITTEE:

Mr. Desfosses made a motion to approve with stipulations. Mr. Cravens seconded the motion.

Stipulations:

- 1) That the Technical Advisory Committee is recommending that the above overhead transmission line shall 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 apply for a license for the sidewalk which is located on City property;
- 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 plan shall be amended to reflect the parking plan as approved by the City Council;
- 11) That the applicant shall work with Deborah Finnigan, DPW and the Planning Department to consider parking alternatives that maximize parking and safety;
- 12) That the zoning district shall be corrected on the Site Plan;
- 13) That the applicant and the Planning Department shall work with the City Legal Department to commence working on the zoning issue;
- 14) 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;

- 15) 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;
- 16) That the applicant shall research the sewer line and report back at the next TAC meeting;
- 17) 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.”;

Mr. Desfosses made a motion to table this application until the next regularly scheduled TAC meeting on May 30, 2006. Ms. Finnigan seconded the motion.

The motion to table passed unanimously.

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A 5- minute break was taken.

5. Review of Site Plans for property located off **Mill Pond Way**, owned by **Olde Port Development Group, LLC**, for the construction of two 4-unit condominium buildings, with two optional garage buildings, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 143 as Lot 8 and Assessor Plan 140 as Lots 21, 22, 23 and 24 and lie within a General Residence A District.

The Chair read the notice into the record.

Mr. Holden indicated that this application finds its way to TAC through a court settlement and they are voluntarily appearing before TAC. They will not appear before the Planning Board. They are only before TAC for site review issues. The action will be forwarded to the City Attorney’s Office to be added to the Court record.

SPEAKING TO THE APPLICATION:

John Chagnon, of Ambit Engineering, appeared for the owner. Also present was Attorney Paul McEachern, representing Olde Port Development, LLC and Steve Kelm, principal. The proposal was for Map 140, Lots 21, 22 and 23 on the north side and Map 140, Lot 24 on the south side to construct two separate 4-unit condominiums with associated parking and utilities. Lot 8 is going to be deeded to the City for use as a public park, with some parking and a turn around for snow plows, which was part of the Court order. Other things that occurred as a result of the Court order were that the paper streets were reverted. When the development of this area began in 1919, there was a plan of North Mill Park that was developed. There were streets planned and many lots were created. People bought various combinations of lots and those purchases outlined the way the properties are owned today. Mill Pond Way was only constructed to a certain point. Their plan shows the property plan as a result of the reverted streets.

Mr. Chagon stated that the Court order also required that they submit for approval to the TAC Committee:

- a. A landscaping plan which protects existing trees to the maximum reasonable extent;
- b. A plan to maintain the existing natural wooded buffer which includes a prohibition against the use of phosphate fertilizers in said buffer; and
- c. A lighting plan which is dark sky friendly.

The order then goes on to speak about the applicant obtaining water and sewer permits. There is a proposed deed in draft format for review for the conveyance of the land for a public park to the City. They propose to make some changes to the deed, some slight changes to the description, to insure that the deed is clear that the boundary goes to the high water mark of the pond, and also, to affirm in whatever way the City believes is reasonable, the parking spaces which the developer will build in the turnaround area are "allowed uses" on this public park.

Mr. Chagon reviewed the plan set. Sheet C-1 is the Existing Conditions Plan, showing the tree lines and topography. They are showing the highest observable tide-line and a small area fresh water wetland. Sheet C-2 is a Layout and Landscaping Plan, showing the layout of the buildings, setbacks, paving, sidewalks, access to the buildings, and exact building dimensions for the structures. He handed out a revised plan which he handed out (Sheet C-2). It included some minor corrections to address the stipulations in the Court Order. They added notes 5, 6 & 7. Note 5 reads "Existing trees will be protected to the maximum reasonable extent"; Note 6 reads "The existing natural wooded buffer will be maintained in accordance with the Shoreland protection act. The use of phosphate fertilizers in the buffer is prohibited". And Note 7 reads "All lighting shall be dark sky friendly." In the Legend on the left, there is now a bollard light designation and they are showing bollard lighting running from the 7 car parking along the north side along the sidewalk up to the building. The bollard lighting is 6" and that is the only exterior lighting being proposed. There will be light on the building to light the entrances and they will be dark sky friendly. They added a landscape schedule on the bottom, showing some plantings along the foundation of the south side of the building and they are also showing annual flower beds to the walkways and along the sidewalk. That is the extent of the landscaping they intend to plant. They do specify trees that are intended to remain and be saved, including a large pine tree, a small pine tree, hard woods and maples. They are also showing a proposed tree line, showing the cutting of trees, to provide for the construction, and there is left a significant wooded buffer which addresses the stipulation of the order. He also referred to a color aerial photograph of the buffer, showing the superimposed building and driveway locations. This is very useful as you can see quite clearly the existing buffer around the three sides of the buffer on the Mill Pond. The plan shows that the project is not going to significantly impact the edge of the Mill Pond, subject to some minor trimmings that will be done in accordance with the Shoreline Protection Act.

Mr. Chagon continued on with Sheet C-3, which shows that the sewer will be hooked up at the end of the street. They will construct some additional manholes, just north of the pump station. The plan shows water lines with one coming onto the site but they have to revise the plan to show a water service into each of the buildings with appropriate shut offs into City Streets. The site will be serviced by underground electric. The proposal is to remove above ground wires on Mill Pond Way and putting them underground along the corridor. The plan shows grading and surface water run off, and they are

providing treatment of surface water runoff through some swales, pitching of the paved area, and a swale that is directed to a filter strip. On the south building they are proposing curb to bring the water to a treatment swale and provide treatment before discharging into the wetland. They have incorporated drainage into the plan which does not add any run off to the property in the middle which is owned by another party and it addresses water quality issues at the same time.

Sheet C-4 is the Erosion Control Plan. There will be a silt fence at construction entrances, details for the treatment swale and their temporary wetland impact. In order to provide underground service to the buildings they are proposing to bring utilities across the lot and the wetland does go right up to the abutting property so they will have to cross some wetlands and they have made application to DES for the impact.

Mr. Chagnon indicated that the rest of the plan sheets are details sheets.

Mr. Holden called for public speakers.

Warren Ross, of Hampstead, NH, husband of Ethel Ross, indicated that his objections were put in a letter that was distributed to the Committee. He noticed that the plan he was sent by the Planning Department shows the tidal buffer areas shaded and the new plan has no such shading. The original plan has a legend that shows how to identify and the new plan does not. He believes that is misleading. Mr. Warren read his letter of opposition, which was dated April 25, 2006, which was distributed to members of the TAC Committee and is on file with the Planning Department.

Mr. Ross stated that their entire project comprises 2 ½ acres. Invasion of the buffer zone is 1 acre and the tidal buffer impact isn't even shown on their plan. They propose to put 8 dwelling units and 10 parking spaces in the buffer zone. They asked to build utility lines closer to the lot line which Ethel Ross denied and they then turned around and indicated she would be responsible for a greater impact on the wetlands. They knew about the restrictions of the land prior to purchasing the property.

Nick Ciotti, of 160 Mill Pond Way, is an abutter to the property. He stated that Steve Kelm has been forthcoming with his development work. These drawings don't reflect the 4-unit that he has already built which he took great care to maintain the tree buffer. He recognizes there is a mutual benefit to work together to work out the neighborhood issues. He is not going to belabor the 50' setback. Instead, his objective is to table concerns and work with Mr. Kelm to resolve them for a mutual benefit. His three concerns and that of the advocate group are 1) about nutrient run off associated with this development which in this natural habitat could result in algae bloom. 2) about the development addressing potential problems with sediment run off pre and post construction, and 3) the obvious concern for tree preservation. No one wants to look at a parking lot. The settlement is finalized and maybe their rights were violated but there should be an overriding consideration of the neighbors for a preservation of the environment. He wants to see them mitigate a minimal environmental impact just as if they were honoring the 100' setback.

Jennifer Meade, of 130 Dennett Street, is the Condo President for that address. She reiterated the comments of Mr. Ciotti and her past history of working with Steve Kelm. The impact to their condo is not being adequately portrayed on the plans. They will have a view of parking and butane gas tanks. Mr. Kelm supports the environment and wants to take into account the neighbor concerns. Their

condo did not have an opportunity to review the 4-unit that is already built. One of their concerns is that they want to maintain their property value.

George Dempsey, 42 Dennett Street, was an abutter to the project. He asked what was the relationship of the City of Portsmouth and the Army Corps of Engineers.

Mr. Holden stated they were not responsible for enforcing the Army Corps of Engineers or State regulations. There is a separate process for both State and Federal and the applicant was responsible for those.

Mr. Dempsey asked if the Army Corps of Engineers was notified of this proceeding? Mr. Holden indicated that they normally were not however there is a separate process for State and Federal.

Mr. Dempsey indicated he may be late but someone had asked what happens when you go forward with this and other areas of the Mill Pond may be affected. He asked if the public park was 50' or 100' off the high water mark? He asked when going underground, is there a transformer on the site or tombstone on the site? He asked about playground lighting and security?

Mr. Holden was unaware of a playground and asked where that information came from. Mr. Desfosses clarified that the applicant was giving land to be developed by the City as a park in the future. Mr. Holden stated that they are not asking the applicant to develop the park.

Phillippe Favet, of 152 Dennett Street, asked about the wetland buffer. Mr. Holden confirmed that the City has a regulation for 100 ' and indicated that he will have the applicant address the 50'. He will have Attorney McEachern address that but essentially as part of the Settlement, the Zoning Ordinance does not apply to this property.

Mr. Favet was concerned about glare from headlights going onto his property as the Mill Pond Way property is much higher. He was concerned about construction vehicles going into the 50' buffer.

Patty O'Neil, 98 Dennett Street, felt that the trees are just spectacular. She saw a bald eagle this summer and many herons. They probably won't be there next year because of the construction as it is so aggressive.

Ann Smith, representing The Advocates of the North Mill Pond, which was formed 10 years ago. They have a good relation with the City who encouraged them in their goals to protect and enhance the North Mill Pond. The developer has, as #3, erosion control measures in accordance with the Stormwater Management and Erosion Sediment Handbook. Also, Best Management Practices for stormwater runoff. She encourages them to follow that plan to the best of their ability and preserve as much as they can.

Nancy Joseph, daughter of the Rosses, indicated that she will inherit their property. Her plea is sentimental. She is a realtor and is aware of zoning laws. She has planned on retiring here. She is asking them to deny this project as it is a huge project on a very small portion of land.

Mr. Holden stated that it is not within the power of this Committee to deny this plan.

Attorney Paul McEachern, addressed the Committee as counsel for Stephen Kelm and also as an abutter who lives at 70 Dennett Street. He answered the question regarding how far does the park extend. The park extends right to the shore of the North Mill Pond. On the other side of the Maplewood Avenue Bridge there was a similar park, which is not lighted and very few people know about it. Future plans are up to the City for development.

Attorney McEachern addressed the 50 & 100' setback. Shortly after Mr. Kelm bought the land, the City passed a zoning regulation that created a 100' setback for the north side of the North Mill Pond. The Court case considered whether this was spot zoning. Through a resolution of the Court case, that didn't have to be decided. As far as this property is concerned, the 100' setback does not prevail. Mr. Ciotti suggested silting of the pond. Attorney McEachern knows the pond and grew up with it. They used to cross it on ice but there no longer is any ice because the silt has risen above the old low tide line and someday the pond is going to be a marsh. At low tide he sees little mounds and they will join together and eventually it will be a marsh. He urged the City to open the Maplewood Avenue causeway to flush the pond.

Mr. Holden asked him to address any State and Federal permits. Attorney McEachern stated they have applied for a State Wetland Permit (minor impact) and the City has a copy. Mr. Holden asked if they were subject to any federal permits? Attorney McEachern indicated that they are not.

Mr. Ross asked if the 100' buffer was changed to a 50' buffer?

Mr. Holden indicated that as this project was going forward, the City was also going forward with an amendment request a 100' buffer on this side of the North Mill Pond. Part of the Court Settlement was that the 50' buffer would be used for this project. Therefore, the 50' buffer applies in this case. The State process is also being pursued by the applicant. The City cannot regulate or enforce the State Regulations.

Peter Britz, City Environmental Planner, attempted to help clarify the inland wetland process for Mr. Ross. He stated that the Inland Wetland Protection District within the City does regulate fresh water wetland however it does not regulate tidal wetland. The only fresh water wetland that are regulated have to be over ½ acre. In this project, there is a buffer zone of 100' with the City from certain tidal areas, which was recently added. It is the Court Settlement that says the 50' buffer will be effective for this project. The 100' setback that Mr. Ross is speaking of is still regulatory and applies. The State Wetland Permit will be before the Conservation Commission on May 10th for a recommendation and then will go to the State for their decision. That is how the coordination between the City and the State works.

Mr. Dempsey asked about the State/Federal process. Mr. Britz explained that the authority for a State Wetland Permit is granted under a general permit at the State level. Therefore, it is actually a corps of engineers permit. Every permit in the New Hampshire is reviewed by Corps of Engineers.

Mr. Dempsey asked how does an abutter interact with them? Mr. Britz indicated that the applicant had to sent notice to all direct abutters for the State Wetland permit. Mr. Chagnon would have the list of abutters notified and that is at the State level.

Mr. Holden indicated that the City tends to notify more abutters than the State does. Mr. Dempsey asked for a show of hands of all abutters who had been notified. Mr. Holden pointed out that in Condos the Association President is the only person who is notified.

Additional discussion continued to clarify the difference between the State and City wetland regulations.

Mr. Chagnon pointed out where the fresh and tidal areas were.

Mr. Britz confirmed that the City had an independent wetland scientist verify that the wetland was just under ½ acre.

The Chair asked if there was anyone else wishing to speak to, for or against the application. Seeing no one rise, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE COMMITTEE:

Mr. Holden asked if they were going to put up a snow fence and felt it would be a good idea to protect vegetation from construction equipment.

Mr. Chagnon stated that the plans show a silt fence along the entire disturbed perimeter. Mr. Holden assumed that at the end of the project, they can put a silt fence overlay on to check for any damage to vegetation and they will replace all species that were damaged. Mr. Holden asked if the vegetation was thriving and will grow taller? Mr. Chagnon stated that at the edge there are mature trees and an area that is more of a busy growth. It varies. Mr. Holden asked Mr. Chagnon to work with Lucy Tillman to increase trees in that area. The visibility issue will go away and eventually neighbors will complain that they can't see the Mill Pond. Mr. Chagnon felt there is significant vegetation but he will work with them.

Mr. Holden asked if there were any view easements across the property? Attorney McEachern confirmed that there were none. Mr. Holden confirmed that view is not protected. Attorney McEachern confirmed that was correct. Mr. Holden asked if there were any easements along any side of the property that are controlled by any abutting property? Attorney McEachern confirmed that was correct. Mr. Holden asked if they were not constructing a 4-unit building on this lot they would not be going before this Committee and these issues would not be coming up? Attorney McEachern indicated that was his understanding. Mr. Holden asked, with that understanding, if they would be opposed to adding that in terms of the permanent vegetation in the buffer, they could work with the Conservation Commission as the need may arise to use good Silvi Culture Practices. Attorney McEachern felt that sounded sensible. Mr. Holden felt that way they could maintain the woods so that they are healthy and in a sense they can be pruned to meet various needs that may be competing. Attorney McEachern agreed that the time to do it is now, before people are living in the condominiums complaining about not being able to see the pond.

Ann Smith asked about the responsibility to the white area on the plans? Mr. Holden indicated there was no requirement.

Mr. Britz felt it would help to locate all trees over 6" in diameter which will help in complying with the requirement of the State Shoreline Protection Act.

Mr. Cravens asked about the water line. The extension of the existing water main would be the same 8" size and the hydrant will still be put in? Mr. Chagnon indicated they will work with the City Water Division on an appropriate end treatment of the extension of water line. Mr. Cravens was concerned about flushing on both dead ends. Mr. Chagnon confirmed they will go back and tap in front of that. Mr. Cravens agreed that would work.

Deputy Fire Chief Griswold requested emergency notification of emergency forces and a Knox Box.

Mr. Cravens noted they were replacing the overhead wires on the main road with underground. The City has a sewer lift station with no back up power. The change over has to be coordinated very carefully with the City wastewater treatment plant personnel. They may have to provide back up power. Mr. Chagnon indicated they can rent a generator and hook it up.

Mr. Desfosses asked where the hydrant was going? Mr. Chagnon stated they would bring the main down to the end of the property. They will work with DPW on where to place it.

Mr. Desfosses stated that the proposed transformer is shown on the City park lot rather than in the right of way. He asked if there was a reason for that? Mr. Chagnon stated there was only 4' from the edge of the right of way. Mr. Desfosses felt that may be a discussion for another time. They might need to get an easement for the electric line from PSNH or the City Council will have to give an easement before moving the transformer.

Mr. Desfosses asked if the turn around could be coordinated with the driveway across the street so trash trucks can turn around. Mr. Chagnon will work out the location with Steve Parkinson.

Mr. Holden asked about the deed to the City? Mr. Desfosses confirmed that the deed must allow parking and a turn around on it.

Mr. Dempsey asked about the capacity of the sewerage lift station? Mr. Cravens did not know. Mr. Desfosses indicated it was probably far undersized. The holding tank is underneath the pump station. Mr. Chagnon discussed this with Peter Rice. This pump station is scheduled for an upgrade in the next five years. Mr. Holden confirmed that David Allen and Peter Rice will review the adequacy of the pump station. Mr. Dempsey felt they might be able to put a generator in at that time.

Mr. Favet stated that the sewer and water builds up on his property and this project will put more pressure on the system.

Mr. Holden confirmed that the Committee is favorably saying these are the things to comply with the court order so that a building permit can be issued. It will be provided to the Legal Dept. and will be made available to the public.

Motion passed unanimously with the following recommendations:

- 1) That a snow fence shall be installed to protect vegetation from the impact of construction equipment;
- 2) That at the end of the project, the silt fence overlay will be used to determine whether there was any damage to the vegetation and if so, the applicant shall replace the damaged species in kind;
- 3) That the applicant shall work with the Planning Department to increase the trees in some areas to assure that the trees will not grow so tall that the neighbors have no visibility;
- 4) That a note shall be added to the plans that the applicant shall work with the Conservation Commission as the need may arise to use good Silviculture Practices regarding the permanent vegetation in the wetland buffer;
- 5) That the applicant shall locate on the Site Plan all trees with a 6" diameter or greater so that they are identified from the beginning;
- 6) That the extension of the existing 8" water main shall be the same size and the applicant shall work with the City Water Division on an appropriate end treatment to the extension of the water line;
- 7) That automatic notification of emergency forces and a knox box shall be installed;
- 8) That when the applicant installs the underground utilities, they shall coordinate with the City as there is an underground sewer lift station with no back up power;
- 9) That the applicant may be required to apply to the City Council for an easement before moving transformer;
- 10) That the location of the turn around shall be reviewed by DPW to consider lining it up with the abutter's driveway;
- 11) That the deed to the City for the park shall include approval for parking and a turn around; and
- 12) That David Allen and Peter Rice, of DPW, shall review the adequacy of the pump station.

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II. ADJOURNMENT was had at approximately 5:35 p.m.

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These minutes were taken and transcribed by Jane M. Shouse, Administrative Assistant in the Planning Department.