

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

**CONFERENCE ROOM B
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 P.M.

JUNE 19, 2008

MEMBERS PRESENT: John Ricci, Chairman; M. Christine Dwyer, City Council Representative; Jerry Hejtmanek, Vice-Chairman; Donald Coker; Anthony Coviello; John Rice; Cindy Hayden, Deputy City Manager; MaryLiz Geffert, Alternate and Norman Patenaude, Alternate

MEMBERS EXCUSED: Paige Roberts and Richard A. Hopley, Building Inspector;

ALSO PRESENT: David M. Holden, Planning Director;
Peter Britz, Environmental Planner

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6:30 – 7:15 pm WORK SESSION: Draft Revised Zoning Ordinance Overview

Chairman Ricci turned the Work Session over to Rick Taintor who first went through a recap of where they are in the project and what they have done. They have done quite a bit of work on many sections, including Article VI, the Flood Plain District, quite a bit of review with the Historic District, the Downtown Overlay, the Osprey Landing District, they cleaned up the Airport District and Article VIII, the Wetland District. Mr. Britz confirmed that the Conservation Commission finished their edits tonight and they will have that soon for Mr. Taintor to review. Mr. Taintor also confirmed that they cleaned up the Earth Products Placement Section, the Site Development Standards, the Off Street Standards, Off Street loading, Landscaping and screening and outdoor lighting. Many performance standards are proposed to be moved to the City Ordinance. They are working on flexible development with different types of PUDs, the Borthwick proposal, and they are going though the definition section.

Their major effort over the next couple of months will be to look at use regulations and use tables, dimensional intensity regulations and signs. All that will be left after that is clean up. When they come back in September they will have a big chunk of this done. Mr. Taintor and City staff have done a lot more work that the Board has seen because they did not want to give the Board anything until it was really complete. He asked for questions and additional issues.

Deputy City Manager Hayden asked Mr. Taintor to explain how Site Review and zoning go together and how those will ultimately be adopted. Mr. Taintor explained that the proposed Site Review Regulations have taken some things from zoning to “beef up” the Site Review Regulations. They are closely related. It is important to make sure they get all of the zoning completed, which is a City Council action, and then they will adopt the Site Regulations. Deputy City Manager Hayden added that ultimately they will adopt them simultaneously.

Mr. Coviello felt a problem is the edge of residential districts abutting business districts and having that buffer property. For example, at the end of Dennett Street and the Holiday Inn which at one point was going to be the Children’s Museum. Further down Woodbury there is the new Rite Aid. Mr.

Taintor explained the Zoning Ordinance does address that in different places with buffers but Mr. Coviello felt it was the zoning boundaries.

Mr. Coviello's second item was that they received the Site Review portion and then they received a letter from three City Councilors asking for more LEED related items, or LEED mandatory. He asked where that stood? Deputy City Manager Hayden felt some of their issues were building code issues and staff is looking at that separately from the Zoning Ordinance. Mr. Coker recalled they talked about rather than saying "shall" they talked about using "strongly encourage". Mr. Coviello didn't believe the group liked that. Mr. Holden indicated that there is an on-going discussion and it has not been lost. They did strengthen the regulations but, as discussed at the Zoning 101 Presentation, LEEDs is more inclusive in the IBC.

Deputy City Manager Hayden confirmed they are still looking at the zoning map. That will come back in September as well. Mr. Taintor added that the historic district boundaries will be looked at on the zoning map.

Chairman Ricci felt that all of the work sessions were productive and comprehensive so he doesn't see a lot of things coming out in September. Councilor Dwyer asked about the whole overlay issues with Atlantic Heights. Mr. Taintor confirmed they did look at the whole area and went through the entire draft and looked at incentive vs. mandatory and it didn't seem to work. That took quite a bit of time and they feel they need to revisit it again as it is a tricky thing. Portsmouth is so built out that the places they want to look at those design issues are all unique. They have taken that back and they will bring it forward again either in September or as design standards after they get the whole package put together. The Zoning Ordinance is structured so that they can add on to it in the future. They will try to look at some strategic areas that have redevelopment potential and think about how design standards may affect those. Councilor Dwyer felt something like Atlantic Heights neighborhood is a very unique character and they made a good argument, especially as they are on the National Historic Register. It deserves that kind of attention. Mr. Taintor felt that that discussion was difficult because that was a historic district. Councilor Dwyer clarified that they were not the historic district but they are an historic district. Mr. Taintor felt the issue was how far do you go to protect the level of affordability and inappropriate impacts. It seems like potentially it needs its own task force.

Deputy City Manager Hayden indicated that at the City Council Housing Committee met this morning and they discussed various affordable housing issues. Mr. Rice asked if the Atlantic Heights issue was dead? Mr. Taintor confirmed it was not dead but they did not have a strong direction in the Zoning Ordinance re-write. One option was a conservation district or another option was to change the setbacks. Mr. Rice asked if the ball was in the Atlantic Heights court? Mr. Taintor felt that it was. Deputy City Manager Hayden was not sure they knew the ball was in their court but what she got out of that session was that there will be a lot of work no matter what they do out there as it will be a major task. She is not sure all of the Atlantic Heights residents will welcome being in a historic district. They may focus on this after finishing the Zoning Ordinance. She's not sure there is enough consensus in that neighborhood. Mr. Taintor added that will go back to the zoning map revision and review process. Mr. Holden also felt there was a lot of misinformation about the current HDC. Mr. Rice asked if the HDC map had been reviewed? Mr. Holden responded that they have worked up a series of recommendations and they are dealing with expanding the district.

Mr. Coviello was sensitive to the Heights but he thought there was immediacy as the entire City stands to lose by the changing character and his concern was properties along the river which are ripe for redevelopment before they protect them. He asked if they could set up a zone of protection of that area, such as an HDC, and then work through it with the neighborhood. He felt there was some urgency as the character is starting to change.

He also noticed that Ray Will was present as a resident of Atlantic Heights. Chairman Ricci agreed Mr. Will was an invaluable resource and they should let him speak.

Ray Will felt that Mr. Taintor was correct and the residents would have to go back and get a sense of what they are looking at and there is also a sense of urgency. He felt the residents need to get together and get a consensus on this. He does not want to speak for Atlantic Heights but he knows they want to get it right and they want to use this potentially as an example of preserving other neighborhoods with a distinctive character without necessarily creating a historic district but without saying that the historic district system is bad. He agrees there is a lot of misinformation. He would recommend asking for an update as the residents have been working on it. Chairman Ricci thought that staff might be able to give the Board an update on what's been going on.

Deputy City Manager Hayden indicated that the game plan was for staff to continue to work through July and August and their draft will come back to the Board in September. Then public hearings will be scheduled by the Planning Board. Then the Board will make their recommendation to the City Council and they will hold their own public hearings. Chairman Ricci asked how many additional meetings they would expect in the fall? Mr. Tanitor felt they could give the draft to the Board in September and not schedule things immediately. They might want to wait 3-4 weeks and start their meetings in October.

Deputy City Manager Hayden pointed out, on an unrelated matter, that copies of the Zoning 101 powerpoint program were available to Board members. Also, the webcast is also posted on the City website. Councilor Dwyer noted that Rick Hopley's presentation on building codes was extremely informative. She felt the whole program was an excellent presentation.

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I. APPROVAL OF MINUTES

1. Approval of Minutes from the April 24, 2008 Joint Work Session with the Planning Board and the HDC – Unanimously approved.
2. Approval of Minutes from the May 1, 2008 Joint Work Session with the Planning Board and the Conservation Commission – Unanimously approved.
3. Approval of Minutes from the May 8, 2008 Planning Board Work Session – Unanimously approved.
4. Approval of Minutes from the May 15, 2008 Planning Board Meeting – Unanimously approved.

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II. OTHER BUSINESS

- A. Presentation by the Rockingham Planning Commission on the U.S. Route One Corridor Study;

Mr. Holden advised the Board that this is a study that the City has been a partner in for several years. Deborah Finnigan, City Traffic Engineer, is on this committee and is present tonight. David Walker, of the Rockingham Planning Commission is the key author of the draft report which was provided to the Board at the last meeting.

David Walker, Senior Transportation Planner with the Rockingham Planning Commission. He is in charge of the Route One Corridor Study. He passed out an outline of his powerpoint presentation to the Board. He went through four different items being the intent of the plan, the basic recommendations coming out of the plan, the next steps they have in the process and he took comments and questions from the Board.

Mr. Holden pointed out that Mr. Walker also served on US Route One Advisory Committee for the By-Pass and he asked Mr. Walker update the Board on the remaining section to the Sarah Mildred Long Bridge.

Mr. Walker indicated that his information may not be completely up to day but on what is being funded at this point. The Sagamore Creek Bridge Project up through to the US Route One By Pass project would redesign over to the Bridge to Maine. That project went forward and it was designed as a widening of the by-pass, making changes to the traffic circle and heading north widening again and changes to connections to the Route One By Pass. A lot of the funding was pulled out and redirected to the bridges that have been red flagged, which is what the project originally was scoped as.

Chairman asked for questions.

Mr. Coker was concerned about the raised median, on page 33, which gives definition. Are they talking about concrete barriers? Mr. Walker confirmed they are talking about curbing. It ends at the Wilson Road intersection. Mr. Coker asked about turn arounds? Mr. Walker felt that needs to be looked at. The intersections are 3/10 to 4/10 apart which is ideal spacing so they do not show any jug handles as they are not necessary. The raised median was discussed at the very beginning of the study and they still feel it is desirable but it needs some breaks. Turning of trucks is a particular issue.

Mr. Rice asked if the raised median areas will be landscaped? Mr. Walker responded that ideally they would be landscaped. The median is to serve two purposes. The first purpose is to limit left turns and the second purpose is to break up the pavement with a vegetative strip that makes it look less wide than it is and it gives it a more boulevard feel. They would use low shrubs and flowers. Some medians are up to 14' wide. Mr. Rice liked to hear the word boulevard as it is badly needed to dress up the southern part of the City. He did not hear him mention that they also have some southern parts of Portsmouth where they have residential on one side and commercial on the other and the fully landscaped median strip would go a long way to iterating that concept.

Councilor Dwyer didn't see mention of bike lanes and she was curious about pedestrian controlled crossings.

Mr. Walker stated they would propose that any signalized intersection should have pedestrian controlled crossings. That would mean there would need to be a sidewalk landing on both end, per DOT regulations. The shoulders they are proposing for the corridor are at least 10'. Route One is not an ideal bike route and there are other alternatives that run parallel that are better suited. East Coast Greenway is proposing to use part of the corridor as an on line alignment as well as the railway so they have to design that into the study as well.

Mr. Coviello asked how would they explain to the residents that they are increasing flow but not speed. Mr. Walker stated that was a trick balance. The addition of a few new signals can be set to timing so that it benefits people who drive the speed limit. Also if you break up the road with a median there would be speed reductions. Route one is tough as it is a relatively high speed corridor. They are leaving the detail design to implementation. There is no date to start this project. As projects come forward for discussion or if a developer comes in, they would look to try and get their design ideas implemented into those actual roadway changes and as those go forward, there will be public input and a lot of public involvement.

Mr. Patenaude asked what percentage of cost is attributable to a community and, secondly, those communities who have heard the plan has he heard of any financing options? Mr. Walker explained that depending on a how project is funded, community matching is different. Federal funding is usually an 80/20 and State funding programs are slightly different as some are 90/10 and some are 50/50. They haven't tried to attribute any amount of money to a community. They have only made an estimate of all improvements which at this time would be \$9 million for Portsmouth. This has been a

universal concern. The Town of Seabrook had an interesting approach but they didn't use it – a developer proposed to pay for widening the bridge over 95 if the town of Seabrook would set up a system to have other developers pay them back for the cost of the bridge as they came in. Mr. Walker felt the concept was sound and other communities have used it.

Ms. Geffert asked what happens when this plan gets endorsed by a community? Mr. Holden indicated that this is the third corridor plan he is aware of. Portsmouth has been very successful in implementing many portions of a plan. The five lanes in front of DeMoulas were built by a developer. It happens more as they go through a site review process. The City Council and the Planning Board are not expected to formally accept the plan. Mr. Walker added that this is a blueprint for the corridor that can be used. Deputy City Manager Hayden also mentioned the MOU mechanism which is not a hard and fast. Mr. Holden described that they have a MOU on Market St. and they share those responsibilities. Deputy City Manager Hayden added that the MOU's are generally conceptual and there aren't any "teeth" in them. Mr. Holden gave an example of when Walmart was developed they donated \$500,000 towards the road improvements on Constitution Road.

Mr. Patenaude shared with the Board that in Phoenix, a lot of streets are five lanes and during rush hour instead of having a middle turn lane they prohibit left hand turns and open up the third lane in one direction. Was that ever discussed? Mr. Walker confirmed it was never discussed. With the close spacing of existing driveways he is not sure it would be a viable choice. Route One is actually not heavy commuter traveled but rather is used to get to the beach, access to retail. The peaks are not in the morning or afternoon. They are from 11:00 am – 2:00 pm, seven days a week.

Chairman Ricci thanked Mr. Walker and agreed it was a great concept and hoped the City continues to work with them.

Mr. Holden asked Mr. Walker if there was anything this Board could do to help facilitate this? Mr. Walker felt if the Board has comments they should forward them to him and that would be helpful. Mr. Holden suggested that the Board members forward their comments to the Department and they would forward them on.

Councilor Dwyer asked where the endorsement comes from? Mr. Holden explained that each Planning Board in each municipality would endorse it as a tool they would use. Chairman Ricci felt they could have a work session before a public hearing.

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Deputy City Manager Hayden made a motion to take Item F out of order. Vice Chairman Hejtmanek seconded the motion. The motion passed unanimously.
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F. The application of the **Commerce Way, LLC, Owner**, for property known as the private right of way entitled **Commerce Way**, wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* for the reconstruction of Commerce Way in order to meet City roadway standards, including increasing the curve radius for safety and traffic purposes, relocation of overhead utilities to underground utilities, upgrading of closed drainage systems, landscaping, guardrail construction, roadway lighting and the addition of 6,325 s.f. of sidewalk, all within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 216 as Lot 1 and lies within an Office Research District; *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived).*

The chair read the notice into the record.

Mr. Holden stated that this application came before the Conservation Commission and Mr. Britz could give an update. The Conservation Commission is looking for additional information and as a result they have postponed this. Mr. Holden recommended they postpone this to their July 17th meeting.

Mr. Britz confirmed that the Conservation Commission asked for additional information to present at the July 9th Conservation Commission meeting.

Mr. Coker made a motion to postpone to the July 17th Planning Board Meeting. Deputy City Manager Hayden seconded the motion.

The motion passed unanimously.

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III. PUBLIC HEARINGS

A. A compliance hearing shall be held to determine whether **Portsmouth Casey Home, Owner, and Heyland Development, Applicant**, for property located at **1950 Lafayette Road**, has complied with their Site Review Approval granted on November 17, 2005 and amended on March 16, 2006 to construct a 2 ½ story office building, with a 3,280 ± s.f. footprint and a 1 story 6,000 ± s.f. function hall, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 267 as Lot 7 and lies within an Office Research district; This Application was postponed at the May 15 2008 Planning Board Meeting. *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.)*

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Eric Heyland, appeared representing the Condominium Association. Since the last Planning Board meeting they have attended two TAC meetings and two Traffic & Safety. They have come up with a sketch to resolve the outstanding issue. All Committees have recommended this option to the Planning Board.

Mr. Holden confirmed that the applicant was correct. They have had staff meetings as well. They have representatives of TAC present, Deborah Finnigan, City Traffic Engineer and David Allen, Deputy Director of Public Works. Ms. Finnigan is also a representative of Traffic & Safety Committee. The issue that they had was which alternative was the best for this site. At one point a physical barrier was considered and that was discussed at both TAC and T&S. They decided that a permanent barrier of “teeth” or a bar was not an appropriate use given this particular corridor and the speeds that were there and the potential for damage to property. Also, the tire shredder will cause damage to cars entering the site if they are travelling over 5 mph. They was also were concern about the image this would give to the City. All parties preferred the sketch “D” which was provided to the Board. The applicant and the Committees all worked together on this.

Chairman Ricci indicated he would like to get input from the City representatives.

Deborah Finnigan, City Traffic Engineer, explained that she was asked to come up with alternatives to solve the problem of people exiting onto Route One. She went through and tried to create scenarios which would curb that from happening and through all of the meetings they determined that “D” was the best option because it allowed circulation to continue around the building so that people would still be able to look for parking. Last week she received an engineered plan that shows a parking space on the lower left side but they have worked it out so that they don’t loose that space, which was a BOA

requirement. She felt people would have to work very, very hard to exit from the site onto Route One with this new configuration.

Mr. Coker asked if they had any discussions with the manufacturers of the spikes? Ms. Finnigan stated that she did not. Mr. Heyland had the discussions.

Mr. Coker asked which manufacturer did he speak to about the spikes? Mr. Heyland indicated he spoke to a distributor who sells them and basically the information they got back was that tires could be damaged going the correct way. Mr. Coker "Googled" these and found that places use these all around the world. He is confused why the manufacturer claimed 5 mph is too fast. Mr. Heyland does not pretend to be an expert but he can only tell them what he was told by the manufacturer. As the Condominium owner he doesn't want to have to deal with property being damaged. The T&S Committee raised it as a safety concern and he paid attention to that as they are the experts. Mr. Coker indicated that he must have missed it in notes that the TAC and T&S Committees felt that the spikes were a safety concern. Mr. Holden indicated that he talked to Steve Parkinson, Deputy of Public Works, at length regarding this and he is not so concerned with the image but also as to what would happen. In a normal application you would approach these at a very slow speed and there may even be a speed bump to get the speed down. Even the situations Mr. Coker is mentioning are not fast exits from US Route One. They did hand out information in April about the safety problems. However, Mr. Holden confirmed that the Director of Public works raised some of the same concerns that Mr. Heyland

David Allen, Deputy Director of Public Works, indicated that when they took a look at this, and he did some internet research as well and felt that there were probably some systems that are fairly safe, but the general consensus was that the design proposed tonight is certainly less intrusive and could actually be safer with respect to vehicles going in, given the layout of the parking lot where cars could inadvertently back into that system and have to throw tires away for the sake of this configuration. The configuration that Ms. Finnigan came up with and their engineer designed is a less intrusive way to control traffic. It would be fairly evident that someone would be going the wrong way. The other part that they added to this was if there were cars coming around, there is an additional step of adding a jersey barrier if this particular configuration doesn't work. Mr. Allen was very comfortable with this. TAC was unanimous in support of this and Traffic & Safety was unanimous in support of this.

Deputy City Manager Hayden asked if the barrier would stick out? Mr. Allen pointed out that it is listed as #4 and is shown as some dots going across there. The driveway is shown as 14' and it is very narrow. With the very steep angle that sends you off in that direction, it would be very difficult to get back down the wrong direction but there is signage posted. He felt the geometry made it sufficient.

Mr. Coviello had questions about parking. He asked how does someone park in the parking space where the 18" dimension is shown on the sketch? Mr. Heyland explained they would have to go around the building. Mr. Coviello didn't believe they can park in the space. Ms. Finnigan did not get a turning radius but a one way outlet, per zoning, is 18' so they should not have a problem as it is no different than anyplace else. If he is questioning the 18' then the zoning needs to be changed. Chairman Ricci clarified he is talking about the three to the left of the handicapped spaces. Mr. Heyland confirmed that the jersey barriers were an option if the original plan doesn't work. Mr. Holden confirmed that this plan meets the zoning requirements. He felt this plan meets the intent. They may want to have turning radius provided to Ms. Finnigan so they can be sure on that. In his mind he felt this plan should work. Ms. Finnigan stated there is parking in Newington with the same maneuver and people make it. She doesn't think it's impossible but they will have to enter very slowly. Chairman Ricci felt if the jersey barrier is required they will have to address parking at that time.

Mr. Coker was looking at the 18' wide lane. If someone wants to go around the building in the opposite direction, he wonders if it might be helpful where they see the 18' wide path down to the

spaces Mr. Coviello was talking about, theoretically where the jersey barrier would go, by the "Do Not Enter" sign, if they swung that out wider to make it extraordinarily clear. He read from the minutes where Deputy Police Chief DiSesa stated that he liked option B because some people are going to push the envelop.

Chairman Ricci opened up the public hearing and called for public speakers. Seeing no one rise, he closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Chairman Ricci understood Mr. Coker's concern but his concern is they have two City engineers present tonight and they have spent a lot of time on this so he would go with their recommendation. If this doesn't work they will be back before the Board again. He will also start going out Hoover Street now just to check this out.

Mr. Coker agreed that TAC does good work. He will support the City committees and will reluctantly agree to support this as submitted.

Ms. Geffert congratulated everyone who worked to come up with this. She wondered about the mechanism if this doesn't work. Mr. Holden confirmed that the City is holding the Site Review Bond and they will continue to hold it for some time. Also, based on the US Route One report they heard earlier tonight, this is what they are supposed to do. They should not have allowed a driveway to come in that was so wide in the first place. This serves as a better model for other projects coming in.

Mr. Coker asked what costs are incurred when a developer posts a bond. Mr. Holden thought, in general, they have to pay for a bond. He indicated he would get those figures to Mr. Coker.

Deputy City Manager Hayden made a motion to approve Option D as presented. Mr. Rice seconded the motion.

Mr. Coviello stated he would extremely reluctantly agree with the motion. He is not happy with this but he doesn't know what else to do. He is uncertain they have created a safer situation.

Chairman Ricci stated the motion was to authorize an amended Site Plan to reflect the engineered plan presented tonight.

The motion passed unanimously.

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B. The application of **Aquila Chase and Marcia N. Chase, Owners**, for property located at **71 Baycliff Road** and **Stephen J. Little and Rosemarie Golini, Owners**, for property located at **82 Driftwood Lane**, wherein Preliminary and Final Subdivision approval (Lot Line Revision) is requested between two lots having the following: Lot 42 as shown on Assessor Plan 207 decreasing in area from 24,695 ± s.f. to 24,618 ± s.f., with 71.20' ± of continuous street frontage on Driftwood Lane and Lot 46 as shown on Assessor Plan 207 increasing in area from 12,203 ± s.f. to 12,280 ± s.f. and with 27.75' ± of continuous street frontage on Baycliff Road, and lying in a zone where a minimum lot area of 15,000 s.f. and 100' of street frontage is required. Said properties are located in a Single Residence B district and are shown on Assessor Plan 207 as Lots 42 and 46. (Plat plan is on file in the Planning Department Office and is identified as Plan #02-01-08). This Application was postponed at the May 15 2008 Planning Board Meeting. *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived).*

The chair read the notice into the record.

Mr. Rice made a motion to take the application off of the table. Mr. Coker seconded the motion.

The motion to take the application off of the table passed unanimously.

SPEAKING TO THE APPLICATION:

Lynn Morse indicated he was an attorney from Exeter, representing Mr. & Mrs. Chase. Also present was Attorney Bernard Pelech, representing the Littles. The property owners are joint applicants. The plan represents the resolution of a long standing unintentional encroachment on the property of Mr. and Mrs. Chase. A portion of the driveway to the Little property passes over Chase property. There is also a slight parking area encroachment. They hope to exchange deeds to establish a new lot line that recognizes and permits the driveway use to continue by Mr. Little but also it will have the benefit of increasing the sideline setback from the Chase property to the new proposed boundary line. That setback will be 8' from what it is today. This is a property and boundary line that has been an issue going back some time between the previous property owner. If they approve the plan, the Chase property will become slightly larger and more conforming and side setback will be moved to 8' from the foundation. It will also allow the Little property to remain conforming. He requested conditional approval. There were issues that the City had with property on the other side of the property of a right of way to the water. There was also some encroachment of paving stones to the adjoining property owned by Stephen Gray. They had a meeting with City Attorney Sullivan and other city staff and he presented a letter from Mr. Gray indicating he had no objection. What came out of that meeting was their intention to see this plan modified in a way that would satisfy the Planning Department by addressing issues on that side of the property. He is seeking conditional approval tonight.

Mr. Holden stated that he largely agrees with Attorney Morse. They would have a problem with the plan as it shows both transfers of property with the Little and the dispute with properties to the west, if the Board grants final approval then they have a problem. The Department recommends that all parties agree that they can use this plan to resolve all of the issues prior to a final request. No deeds can change hands until the plat is approved by the Board. He is willing to state for the record that the Department has no concerns with the property transfers between the Littles and the Chases. The concerns are with the property to the west. Once this plat gets approved it will represent that all outstanding issues have been resolved. Attorney Chase agreed with Mr. Holden.

Ms. Geffert asked if they were saying that they were approving the land transfers tonight but there are issues in terms of the right of way? Mr. Holden indicated he would phrase it differently. If they give preliminary approval subject to Department conditions it allows everyone to move forward to work out issues.

Mr. Coker asked if they should not they not be able to reach an agreement? Mr. Holden confirmed there would be no subdivision. They have to come back to this Board for final and that will be a public hearing. They have one year to get final approval after receiving preliminary approval. What they are trying to say is all parties are working together and they need more time.

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 Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Hejtmanek made a motion to grant preliminary approval subject to the Department recommendations. Deputy City Manager Hayden seconded the motion.

The motion to grant Preliminary Subdivision Approval with the following stipulations:

- 1) That all outstanding land use issues shall be resolved to the satisfaction of the Planning Director and a summary of these to be provided to the Planning Board as part of the Final Subdivision application;
- 2) That property monuments shall be placed per the requirements of the Department of Public Works before a Final Subdivision Application is filed;
- 3) That submission to DPW of electronic data, suitable for updating the City's Assessing Records; and
- 4) That when the aforementioned conditions are completed, the applicant shall file an application for Final Subdivision Approval with the Planning Department.

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C. The application of the **Francis Daddario, Owner**, for property located **1840 Woodbury Avenue**, wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to construct an infiltration basin on uplands within the 100' buffer, removal of 1,860 s.f. of pavement within the 100' buffer and construction of a 1,750 s.f. addition to an existing building partially within the 100' buffer, all within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 239 as Lot 8 and lies within a General Business District; *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.)*

The chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernard Pelech addressed the Board on behalf of the applicant, Churchill and Banks. Also present was Dennis Moulton from MSC Engineers. Attorney Pelech stated that Board members may recall on May 1st they appeared at a work session with the Conservation Commission which was very helpful. Subsequently they went before the Conservation Commission and they recommended approval and for the most part were very happy with the things they might do, including an infiltration basin, porous pavement or paver blocks, and moving areas of impervious surface that currently exists. They felt it was a neater and cleaner and less intense use of the property and they felt this would clean up existing problems. He turned the presentation over to Dennis Moulton.

Dennis Moulton, PE of MSC Engineers, stated that the site is the old Kentucky Fried Chicken restaurant on a 15 1/2 acre lot where the vast majority is wetland. The property fronts on Woodbury Avenue and Gosling Road. The Woodbury Avenue side has 200' of frontage and is zoned General Business and the remainder of the lot is zoned SRA. The site currently has a 2,500 s.f. building on the site with 35 parking spaces and a drive thru lane. Traffic circulation round the site is one way. They are proposing a 4,250 s.f. retail building with 31 parking spaces and 2 handicapped spaces. Eight of the 31 spaces will be permeable pavers produced by EC Henry, called Eco pavers. He had literature that he handed out to the Board. It was voted one of the top ten Green building products. It seems to be a good project and has been thoroughly tested. It maintains very well and in some cases the life of the eco pavers exceeds the surrounding permeable area. As a result of the configuration of the site, they are tightening some drive lanes and minimizing aisle width, they have reduced the overall impervious surfaces on site by 2,260 s.f. They feel this is a significant reduction. Regarding stormwater management, stormwater generates on two-thirds of the site, to an infiltration area. They tested the infiltration area to possibly 7 minutes per inch which allowed them to design a basin up to accommodate a 50 year storm. They would maintain 3' of soil above the seasonal high water table. They have provided a riprap for the 100 year storm. That sums up what they are proposing. It is a good improvement.

Mr. Moulton indicated that the Conservation Commission put four conditions on the approval. One is routine maintenance recommended by Best Management Practices, that there will be routine trash removal from parking area, that the sloped areas shall be vegetated with native plant materials and there shall be trash removal 200' from the edge of pavement.

Mr. Coker confirmed that Mr. Moulton said that two-thirds of the water will go into the infiltration system. He asked where does the other third go? Mr. Moulton confirmed it will go where it goes now. The south side of the building flows to the wetland area between this building and the Gerber Dental building. The treatment is just overland flow as it is now. There is not a lot of area to do anything with as it just slopes down to the wetland. They are removing a little bit of the pavement and replacing it with grass for infiltration. Mr. Coker asked how much of a swale are they talking about? Mr. Moulton said it varies from 0 to 3 – 4'. Mr. Coker asked if there was any way to treat the run off from the parking lot? Mr. Moulton felt it was such a narrow strip of land that the most they could do is provide a swale. Catch basins would require elevation change and they don't have that. If you bring the water to the street, it enters the catch basins, into the culverts across Woodbury Avenue and enters the wetlands there. He thinks they would get somewhat better treatment to allow water to flow in a sheet manner over the edge of the pavement through the grass and down the slope. The strip that goes along has about 10' or so. Mr. Coker asked if there would be any objection to reporting to DPW on an annual basis the maintenance that is performed on the infiltration? Mr. Moulton agreed that would be fine.

Deputy City Manager Hayden asked if the ECO pavers had been used in the northeast? Mr. Moulton responded that he did not research that. Deputy City Manager Hayden asked if they had been tested at the UNH site at all? Mr. Moulton responded not to his knowledge. Deputy City Manager Hayden asked, since most of the site is in the buffer, what other porous pavement features were considered for the site? Mr. Moulton felt that the technology is out there for porous pavement. They did not look at it for this site because of the cost consideration. Deputy City Manager Hayden asked if they used porous pavement could they do something less expensive in the detention area? Mr. Moulton stated that the detention area construction cost is normal. The construction of a porous pavement buffer involves the removal of approximately 3' of material from the site and replacing it with 2' of stone for the infiltration layer, a 6 – 8" of sand and then the 4" of porous pavement. That would be an extremely expensive proposition and probably to the point of being prohibitive. Deputy City Manager Hayden could see where the ECO pavers make sense in a residential type driveway but she was concerned about the plows pulling them up and how they will hold up over a couple of seasons. Mr. Moulton confirmed that the company does not use these for residential uses but rather only does commercial site. He doesn't think there would be problems with upheavals as the soil is pretty well drained out there. Deputy City Manager Hayden asked about the condition of the rest of the existing pavement on site? Mr. Moulton stated there is an area between the drive thru and the parking which will be removed and landscaped area but otherwise they will be top coating and repaving. Deputy City Manager Hayden indicated that at some point in their work session there was a discussion about removing this building and putting in a new building.

Richard Baccari, applicant, explained that after getting through the Conservation Commission and reviewing Mr. Moulton's work on the site, it is such a tight site that there is not much room to wiggle with. The building itself is going to be demolished down to the foundation, they may save one wall or two walls, but the majority of the building will be demolished and the addition will be put on. It will be a totally new building but it will just be in the same footprint, except for the footprint.

Mr. Coviello referred to the silt fence detail as he felt haybales were the most common. Mr. Moulton confirmed that they have used this detail successfully for many years and it involves trenching. At one time DES was not too enthusiastic about using haybails and they were reluctant to say they were appropriate for any situation. Mr. Coviello indicated he was having trouble reading the scale on the concrete paver detail. Mr. Moulton agreed they will probably have to update that detail and the commercial one would call for 2" of bedding layer and 6-10" of aggregate.

Mr. Coviello asked what the elevation of the seasonal high groundwater? Mr. Moulton stated they have spec'd that on another job and it is 84" or 7' down. Mr. Britz confirmed that they spec'd on another project for the City. However this note says that ECO paver or equivalent and they put in something different that didn't succeed at the site, he was going to request that they go with EC paver or an equivalent would be approved by Site Review amendment. And, he has not seen these installed. Mr. Coviello's big concern is having the capacity of the soil to take the water. Mr. Britz agreed as they would need 2' above seasonal ground water. Mr. Moulton felt it was more like 6-7'. Mr. Britz also felt that the concern about plowing should be a stipulation. Mr. Holden also indicated they could request more data to show that it works in this area.

Councilor Dwyer noted that they used the term "drive thru" and she assumes they mean as a generic as the traffic flows around the building as opposed to an actual drive thru. Mr. Moulton stated that there was no plan for a drive thru that he was aware of.

Mr. Coker noted that two thirds of the water is going into the infiltration. He asked how that is gathered up and where does that go? Mr. Moulton responded that flow wise they have two. The side facing the mattress store sheet flows towards the pond. The back of the property they created a swale that will capture the run off and divert it to the pond. For roof run off they would allow it to flow over the pavement.

Chairman Ricci had three comments. He asked if they could relocate the silt fence where the riprap apron is. They have it going right through the middle of it. Secondly, as a suggestion, he noted that the test pit between the bottom of the basin shows construction debris at 46 elevation. He asked if they would be willing to remove soils down to elevation 44 and put 2' of clean granular material for that infiltration basin. The Chairman's concern is that they are almost at the limits of the construction debris and it's not that big of an area. Also, he asked for a note indicating that the silt fence is to be removed once vegetation is established. That is a pet peeve of his. On page 3, Stormwater System and Infiltration Pond Maintenance, could they put a note saying that after a one or two year storm event that they will go out and inspect it. The way it is written, they go out once a year and look at it. Given the Mother's Day storm we had, his guess is that it is not going to fair very well. He asked for that note be added to the plans. Storms over 2" get inspected and report back to DPW. He does applaud the pervious pavers and he felt the infiltration basin is also a good idea.

Mr. Coker felt that if they could take from the bottom part of the lot and somehow push the water over to the right side of the lot and have it come down to the grassy area, it would steer it away from the wetland and give them more treatment before getting to the wetlands. Mr. Moulton felt that is a reasonable thing to explore and the Planning Board will get another shot on this at Site Review. He felt he could explore the possibility of providing stormwater treatment proposed to the south of the property.

Ray Will, 125 Preble Way. From March 1995 to 2007 he served on the Planning Board and they had an application across the street with similar issues. He looked at the plans in the Planning Department as well as the Conservation commission minutes. He wanted to direct the Board to the fourth criteria for Conditional Use Permits, which is that the site is the least impact to the wetlands. On Page 13 of the Department Memorandum, Ms. Powers had concerns about the existing use having 38 parking spaces and they reduced it to 31 however the previous use was Kentucky Fried Chicken and this use is a retail use where only 11 spaces are required. He can think of ways this could be less of an impact. He doesn't believe they need 31 parking spaces. He applauds the applicant for take the building and making it a workable business by increasing the foot print of the building and having a detention pond and removing some of the pavement. But, he can see how this can have less impact. On the existing site there is a curve that goes down to the front where there are two curbcuts that no traffic can go across. They could eliminate some parking spaces, have them all perpendicular and reduce parking to 20 spaces and eliminate some of the surface. He asks whether this fits the fourth criteria and is this the

least impact? He can see how some minor adjustments would be more loss of pavement. Porous pavement hasn't really been tested and if they don't have statistics on how this pavement works this is not the place to test it. It might be easier to tear up pavement and put in vegetation to provide some type of treatment. He would encourage the Board not to deny this but to table it and ask for more information.

Attorney Pelech, on behalf of the applicant, confirmed that the number of parking spaces is a requirement of the prospective tenant. They would rather put this tenant in rather than a restaurant with a drive thru. The porous pavers were discussed at the Conservation Commission hearing and they wanted them to use a concrete paver product which is why they went with those. They will go with any brand the Board wants. They can't reduce the number of parking spaces at this time.

Richard Baccari indicated that at the initial work session with the Conservation Commission and the Planning Board, they showed the plan to the tenant and asked if they could live with less parking but they could not as this is a regional store with 7-8 employees working at all times. The rear parking will be for employees and the side and front will be for customers. That would leave 22 spaces for customers. This is the standard and what the retailer wants. They feel they have put a good effort into this plan to have less impact.

Mr. Will indicated that he also walked the site today and he looked at the employee parking spaces also. He advised the Board that across the street there are Coast bus stops that go up to Rochester and down to Market Square and the City has donated a lot of money into that system. He does agree that they can't eliminate more pavement.

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 Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Deputy City Manager Hayden asked what the meaning was of the 4th stipulation from the Conservation Commission? She asked why wouldn't they simply say trash removal from the wetland? Mr. Britz explained that the intent is the area wetland adjacent to Woodbury Avenue. They didn't go for the whole wetland is because the lot is huge and it goes all the way back to Gosling Road. They meant to keep it limited to 200' from the site. Deputy City Manager Hayden asked if there was a better way to define that? Mr. Britz suggested saying within 300' of Woodbury Avenue or 100' from the back of the site. Deputy City Manager Hayden would like to have some "teeth" down the road should trash become an issue. Mr. Britz felt they should inspect the site at least on an annual or semi-annual basis 200' back from the edge of the pavement. Deputy City Manager Hayden asked about the Eco pavers and what if they have a motorcycle employee park on the echo pavers. Mr. Britz doesn't know a lot about the Eco pavers and he has heard good things about them so he is not as concerned about them. They are a concrete product so they should hold up better than asphalt for a motorcycle.

Ms. Geffert noticed that the applicant agreed at the Conservation Commission meeting to make sure the roof drains go into the treatment swale but she doesn't see any note on the plans showing that is going to happen.

Mr. Coviello made a motion for approval with stipulations. Mr. Rice seconded the motion.

Mr. Coviello indicated that the four Conservation Commission stipulation, with #4 being amended to request trash removal 200' from the edge of the pavement.

Mr. Coviello requested the concrete pavers detail be updated for commercial use and that the type of pavers being used on site shall be approved by the Planning Department prior to installation.

Deputy City Manager requested that soils within the 47' elevation be removed down two feet and replaced with loam, that the silt fences be removed once vegetation is established, and assess possibilities to provide additional stormwater treatment to the south of the property.

Chairman Ricci requested that they relocate the silt fence around the riprap apron leading to the infiltration basin.

Mr. Coker requested that they report stormwater maintenance to DPW on an annual basis and to explore the possibility of reducing the number of parking spaces.

Ms. Geffert requested that the drainage off of the roof gets into the swale.

Mr. Coviello felt the intent was to remove as much impervious pavement as possible and the intent isn't to have less vehicles and they are reducing the amount of pavement. The fact that they are able to be more efficient with pavement use shouldn't be a reason to punish the applicant further. He felt it was a net gain so therefore it met the 4th criteria. Mr. Coker stated that his intent was if it is possible to reduce the number of spaces then do so but if not, then that is fine. Chairman Ricci clarified that Mr. Coker's stipulation is to explore and not a requirement, just a suggestion.

The motion to grant Conditional Use approval passed unanimously with the following stipulations:

Stipulations from the May 14, 2008 Meeting of the Conservation Commission (as amended by the Planning Board):

- 1) That there shall be routine maintenance as recommended by Best Management Practices for the storm water management system;
- 2) That there shall be routine trash removal from the parking areas and general sweeping of the parking lot;
- 3) That the sloped areas shall be vegetated with native plant materials to minimize the need for mowing;
- 4) That there shall be routine trash removal 200' from edge of the pavement;

Stipulations from the June 19, 2008 Meeting of the Planning Board:

- 5) That the Site Plans shall be amended to show that the roof drains go into the treatment swale;
- 6) That the soils within the 47' elevation shall be removed down two feet and replaced with loam;
- 7) That the silt fence shall be removed once vegetation is established;
- 8) That the applicant shall assess the possibility of providing additional stormwater treatment to the south of the property;
- 9) That the silt fence shall be relocated around the riprap apron leading to the infiltration basin;
- 10) That the applicant shall report stormwater maintenance to DPW on an annual basis
- 11) That the applicant shall explore the possibility of reducing the number of parking spaces;

.....

D. The application of the **Heritage Hill Condominium Association, Owner**, for property located **1275 Maplewood Avenue**, wherein a Conditional Use Permit is requested as allowed in Article VI,

Section 10-608(B) of the *Zoning Ordinance* to dig a trench from one light pole to another to repair an underground branch circuit within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 219 as Lot 40 and lies within a Single Residence B District; *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.)*

The chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Robert Fisher, Contractor, and Dave Martin, President of the Condominium Association, were present. Mr. Fisher indicated that they met with the Conservation Commission on site and at their meeting on June 7th and the applicant concurs with all of their recommendations. Mr. Fisher referred the the Board to the photos in their packets showing where they plan to dig their trench.

Mr. Coker asked if they are bringing in a lot of heavy equipment? Mr. Fisher confirmed that they are just bringing in enough to dig their trench.

Mr. Coviello stated that he is all for keeping it simple but he asked if the level of detail in the drawings was acceptable? Mr. Britz explained that, given the limited nature of the work, he felt it represented it well enough for the work that was going to be done. He advised the applicant that Board members may not find it acceptable but Mr. Britz was trying to avoid the cost of an engineer. Mr. Holden also confirmed that this was built before the wetland ordinance.

Chairman Ricci asked how deep they would be going? Mr. Fisher felt they will dig about 18” and no wider than a foot.

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 Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Deputy City Manager Hayden made a motion to grant Conditional Use approval with the stipulations from the Conservation Commission and that the trench will be a maximum depth of 18” and one foot in width. Vice Chairman Hejtmanek seconded the motion.

The motion to grant Conditional Use approval passed unanimously with the following stipulations:

Stipulation from the May 14, 2008 Conservation Commission Meeting (as amended by the Planning Board):

- 1) That the trenching shall take place on the east side of the footpath, between the road and the footpath.

Stipulation from the June 19, 2008 Planning Board Meeting:

- 2) That the trench shall be a maximum depth of 18” and one foot in width;

.....

E. The application of **George A. Dodge, III, Revocable Trust of 2002 and Erica C. Dodge Revocable Trust of 2002, Owners**, for property located at **175 State Street and 25 Penhallow**

Street, wherein Preliminary and Final Subdivision approval (Lot Line Revision) is requested between two lots having the following: Lot 45 as shown on Assessor Plan 107 decreasing in area from 3,507 ± s.f. to 3,157 ± s.f., with 33' ± of continuous street frontage on State Street and Lot 43 as shown on Assessor Plan 107 increasing in area from 455 ± s.f. to 805 ± s.f. and street frontage on Sheafe Street increasing from 25' ± to 57' ±, and lying in a zone where a minimum lot area of 1,000 s.f. and no street frontage is required. Said properties are located in the Central Business B District and the Historic District A and are shown on Assessor Plan 107 as Lots 43 and 45. (Plat plan is on file in the Planning Department Office and is identified as Plan #06-01-08). *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived).*

The chair read the notice into the record.

Don Coker stepped down from the hearing.

SPEAKING TO THE APPLICATION:

Erika Dodge, one of the applicants, of 175 State Street, indicated that the small lot on Penhallow Street and Sheafe Street is on a separate lot from the other part of the same building. All buildings on that corner were built in 1926 - 27. Somewhere around 1900, the owners of their house was able to purchase the other small lot, which is 125 Penhallow Street. Their upstairs apartment sits on two lots and downstairs there are two commercial units, one on each lot. They would like to consolidate the lot so that the building would be on one lot. They are increasing the substandard lot considerably.

The Chair called for speakers.

Thaddeus Jankowski, of 27 Franklin Street, Portsmouth. He stated that his support is very common sense for subdivision approval and in keeping with the business district and it improves the minimum requirements of the lots.

George Dodge, co-owner of property, stated that last year they applied to Hartford Insurance for homeowners insurance and were denied as some of their property was in a business district. He felt this was a much better way to have the property separated.

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 Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Mr. Coviello made a motion to grant Preliminary and Final Subdivision approval with the three stipulations in the Planning Department Memorandum. Deputy City Manager Hayden seconded the motion.

The motion to grant Preliminary and Final Subdivision approval with the following stipulations passed unanimously:

- 1) That existing and proposed Open Space Requirements shall be added to the final plat;
- 2) That permanent boundary monuments shall be established per the requirements of DPW;
- 3) That electronic data suitable for updating the City's assessing records shall be submitted to DPW.

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G. The application of **Pike Industries, Inc., Owner**, for property located at **650 Peverly Hill Road**, wherein amended Site Review approval is requested to increase the size of a previously approved 30' x 50' Recycled Asphalt Pavement (RAP) covered storage shed to a new size of 40' x 80', with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 254 as Lot 7 and lies within the Industrial (I) District. *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.)*

Chairman Ricci stepped down from this hearing as he was a direct abutter. He turned the hearing over to Vice Chairman Hejtmanek.

The vice-chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Mr. Holden stated that the Department asked that this come before the Board. They reviewed it informally at TAC. This is a second property expansion of a structure that lacks any utilities. They recommend that the plan should be amended as DPW had no major concerns. The purpose of this is to notify any abutter that the site plan is again changing.

Dennis Moulton, of MSC Engineers, confirmed that this change to the previous site plan approval is minor. They are changing the size of the 30 X 50 building to an 80 x 40 building. The location is approximately the same. There are no utility connections and the building is a RAP shed. It meets the setback requirements and there would be no run off issues.

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

DISCUSSION AND DECISION OF THE BOARD

Ms. Geffert made a motion to grant amended site review approval for the expanded shed. Mr. Patenaude seconded the motion.

The motion to grant amended site review approval to expand the RAP shed passed unanimously.

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H. The application of **Portsmouth Housing Authority, Owner**, for property located at **175 Greenleaf Avenue**, wherein Site Review approval is requested for renovations at Wamesit Place apartments, including building alterations, resurfacing pavement and drainage improvements, with related utilities, lighting, landscaping, and associated site improvements. Said property is shown on Assessor Plan 243 as Lot 3 and lies within the Garden Apartment/Mobile Home district. *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.)*

The chair read the notice into the record.

Mr. Coker brought up the issue of City employees sitting on this application and he is expressing his concern. Mr. Holden asked if he is asking someone to step down? Deputy City Manager Hayden pointed out that the PHA owns this property, not the City. Mr. Coker withdrew his concern.

SPEAKING TO THE APPLICATION:

Dave Gates, of CLD Consulting Engineers, was present with Nathan Allison, also of CLD Consulting Engineers. The Wamesit Place Development accommodates 100 family dwelling units on 8 acres. The site of the project also includes the area encompassed on Holiday Drive. The purpose is to make improvements to the site. There are a few improvements with the principal ones being the provision for creating five handicapped accessible dwelling units which will meet the HUD requirements. Two of the five units will be accommodated within Building 5. Those two units will be handled within the existing footprint. The other three units will be provided with small additions. Building five will have new entrances for the handicapped apartments. No new dwelling units will be created. With respect to on site utilities, there will not be any changes except bringing natural gas onto the site to be used to heat the buildings and replace an electric heating system that is in place at this time. In several cases the building additions will be constructed over existing water and sewer lines serving the buildings and those details will be generated from the mechanical engineer's plans, who works for the architect. Storm drainage will be maintained identical to the existing scheme at the site, primarily on surface run off, through grassy swales. There is a system involving catch basins and pipes on site at this time. The storm drainage improvements will include the replacement of four catch basins receiving run off from the paved parking lots. They will be provided with hoods or snouts to keep oily waste water out of the drainage system. They will be cleaned as the pipes are somewhat plugged at this time. They can then review the condition of the pipes and if they need to be replaced, they will be replaced with PCV at the same flow line elevations. They will repave on site pavement and walkways, excluding Holiday Drive, with new bituminous concrete pavement on the parking areas and the walkways. That will allow them to repave the existing vertical relationships between the pavement elevations and the surrounding ground at the same time allowing the replacement and renewal of the pavement. Included in that is the replacement of the bituminous curbs around the parking areas. Handicapped spaces will be provided for tenants and visitors. Other site improvements include replacement of some concrete landings that provide access to the apartments. Upon the completion of the improvements, the parking will be re-stripped as well. At the request of TAC they have added stop bars and stop signs.

Deputy City Manager Hayden asked whether he has addressed the seven stipulations from TAC? Mr. Gates confirmed they have addressed those through the site plan. Rick Scudder, project architect, was also present and they have generated a response regarding the CMMP. Mr. Scudder indicated that document will be submitted at a later date. Mr. Gates stated that one issue dealt with proposed unmarked parking on Holiday Drive to meet the 1.5 spaces per dwelling unit which is in excess of what was required originally. The revised plans show 142 delineated spaces on the site plan. If the Planning Board decides they need 150 they can provide 7 more on Holiday Drive that would not create any problems. Mr. Holden confirmed that there are no additional units being proposed so TAC did not believe the additional parking was required. Also, the applicant will confirm that that parking was not needed.

Deputy City Manager Hayden referred to stipulation #5 says that if parking is allowed on Holiday Drive no parking sign shall be added. She asked for an interpretation of that. Mr. Holden felt the feeling was they did not need to identify the parking on Holiday Drive so that can be taken off. They are not trying to encourage parking on Holiday Drive. Deputy City Manager Hayden felt they could get rid of #4 and #5.

Councilor Dwyer noted there were questions raised at TAC about lighting at the playground areas and it appears it was decided not to light that area. Mr. Gates stated that the Housing Authority was consulted and the decision was they did not want to light the playground or back grounds except Building #3 in the rear because the adjoining use on the property. That is the only back yard the Housing Authority felt they should light and it won't shine over the property line.

Deputy City Manager Hayden assumed they prefer not to have lighting as that would encourage kids to come out at all hours of the night. Mr. Gates also added that with today's emphasis on energy conservation they felt they would need a very good reason to light the area. The principal purpose of the site lighting is to assist people from their car to their apartment.

Mr. Coviello asked if the original drawings from the site exist? Mr. Holden stated that if it exists, in those days it would only be one sheet. Mr. Coviello wondered if this would be an appropriate time to replace any dead or dying trees. Mr. Holden felt that would be appropriate. Mr. Gates does not remember any original landscape plans from 36 years ago. Mr. Coviello asked what the stamp signature "for the firm" meant? Mr. Gates confirmed that is the style that Allison uses and it is from New Jersey.

Chairman Ricci asked a board question. He has been reading up on porous pavement and he asked if they considered that for this location? He felt this would be the ideal situation. Mr. Gates felt that was a good question. They did consider it. There is not a great deal of experience with porous pavement. They are in an area with a high ground water table and it would not be a good idea. They are very close to the tidal wetlands and it is a high ground water table. If they go to the UNH and look at their experimental plots they are quite elevated. Chairman Ricci asked if they did tests pits? Mr. Gates confirmed they did not.

The Chair called for public speakers.

Tylene Jousse, of 197 Dennett Street. She indicated she was past Chairman of the Citywide Neighborhood Group. She was present speaking for the tenants of Wamesit. Many would like to speak but fear retaliation. They are in favor of these improvements. Their concerns are the relocation process and she asked if the Board has been given any plans for the relocation of the families? She requests that the Board consider tenant displacement before approving their application.

Mr. Holden confirmed that the Construction Management & Mitigation Plan will handle how traffic and the site will be handled during the construction phase. It is a requirement for most projects in the City. It has nothing to do with how tenants are handled nor is that a site related issue.

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 Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Deputy City Manager Hayden made a motion to grant Site Review Approval with stipulations, to include TAC stipulations, eliminating #4 & #5 as they have been addressed and the stipulation that they replace any dead or dying trees, for a total of six stipulations. Vice Chairman Hejtmanek seconded the motion.

The motion to grant site review approval with the following stipulations passed unanimously:

Stipulations from the June 3, 2008 Technical Advisory Committee Meeting:

- 1) That the applicant shall prepare a Construction Management & Mitigation Plan (CMMP) for review and approval by the City;
- 2) That ramps shall be added to all handicapped parking spaces;
- 3) That a stop sign and stop bar shall be added at the end of Holiday Drive and the second driveway;
- 4) That they make arrangements to protect the water and sewer services on building #1 and #2 when they install the foundation.
- 5) That the applicant shall review the lighting issues expressed by Mr. Desfosses, prepare a proposal and review it with Mr. Desfosses and Planning Staff;

Stipulation from the June 19, 2008 Planning Board Meeting:

- 6) That the applicant shall replace any dead or dying trees;

Mr. Holden clarified that one requirement of the CMMP is that the applicant is required to hold a public meeting where the abutters are notified to make sure all issues are addressed. So there is an opportunity to address the construction. He is not sure how to address the issue regarding tenants but that meeting may be an opportunity to discuss it..

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IV. CITY COUNCIL REFERRALS/REQUESTS

- A. Request of Portsmouth City Soccer Club to hang a banner at Leary Field during soccer season;

Mr. Holden stated this is a Council referral and is very similar to the one the Board had in 2005. They are suggesting it be treated in the same fashion with the same 8 conditions. In terms of the Babe Ruth League, there have been no issues and that program is going very well. They are recommending the same process be followed for this group and the seasons do not conflict.

They notified the proponents of this that this would be discussed this evening and he was surprised that no representative was present to speak.

Mr. Patenaude made a motion to recommend approval. Mr. Coker seconded the motion.

Councilor Dwyer stated that when this came up at the Council, they did have an individual raise concerns about the appropriateness given the profile of that whole area and at least one person suggested that perhaps some consideration could be given to the signs being erected before the game and removed after the game. She felt this is an increasingly attractive area of Portsmouth and visible from residential areas. The concern was raised about having advertising in that area which is otherwise clearly all municipal park area. Therefore the possibility was raised of not having them sit up there all of the time but rather string them during the games and take them down when it's over, in banner format.

Chairman Ricci indicted that his opinion is that it is part of that neighborhood. They are seeing local businesses advertising. He would like to see if they are put up, that they stay up because the reality of taking it down would mean finding more volunteers which probably just wouldn't happen. He likes to see the local advertising.

Mr. Coker agreed wholeheartedly as he puts up the banners at the State Pier and it is time consuming. He felt it was very important that Portsmouth Little League was able to do a field improvement project at the Plains Field in the amount of \$10,000 from the money raised by these signs. He would agree with Councilor Dwyer if the City were to pay for the field improvement but he doesn't see that happening. He felt these signs are just part of baseball and apple pie.

Councilor Dwyer wanted to represent that point of view that was brought to them at the Council and she also felt there was a difference between the Plains and this area and that was the point. And she added, especially as they put their next \$45 million into that area it may be something they look at.

Chairman Ricci pointed out the Leary Field had been there before the \$45 million dollars will be there.

The motion to recommend approval to the City Council was unanimously approved with the following conditions:

- 1) That this proposal should be considered as a pilot type program;
- 2) That it should be authorized or no longer than one season;

- 3) That the trial period should commence in the 2008 season;
- 4) That as part of this trial, there will be no “tagging” activities conducted by this club;
- 5) That no more than 5 sign blanks shall be erected on the outfield fence, each with the dimension of 3 feet by 5 feet and with the height and location of each sign to be determined by the City;
- 6) That the League shall place no signs earlier than July 15th and these shall be removed by the League no later than November 15th;
- 7) That all signs facings shall be in or towards the playing field; and
- 8) All sign backings shall be white I color, all lettering/logos shall be of a dark green color, and any lettering shall share the same style and font.

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B. Request of New Adventure Entertainment, LLC, to install outdoor lighting and awnings on building located at 172 Hanover Street;

Mr. Holden indicated that this is very similar to 75 Congress Street. Those were treated as easements and it went through the HDC as an additional review process. In this case, this property is not in the HDC and the Department felt that the materials that were received needed to be improved for a better understanding of what is being requested. The applicant hired a firm to prepare exhibits which the department has not seen and will be handed out tonight to the Board. The trees have been removed and they are just looking at lights and awnings. The awnings are up and in violation but they are working through the process.

John Dussi, of New Adventure Entertainment, LLC, indicated that the building is owned by Northern Tier Real Estate Acquisition. New Adventure is the owner of the restaurant called The Page and he is a principal in that. There is a long contentious history of this building. It used to be the NE Telephone Company building in the 1800’s. Luka’s Restaurant took this over, which became Bananas and then became the Sports Page. Luca’s built the atrium. They made a conscious decision to approach the City about removing the atrium in keeping with the area and in light of the fact that a whole new development is coming in across the street. A license agreement allowed that atrium to be constructed. Attorney Sullivan worked with them and indicated that a water bill was outstanding from the predecessor. They entered into a promissory note to pay for the water bill. They submitted a proposal to Roger Clum, of the Inspection Department, showing the atrium off of the building, replacing the brick and lights, and that is what was signed off by the Inspection Department. He assumed they could go forward with the awnings and lights and was not doing anything intentionally wrong. His drawings showed how the building exists today without the lights on it. Underneath the atrium there were lights so there is some precedent that there was lighting

They have expended a lot of money to improve the building. He looks for retroactive approval for the awnings and approval for the lighting they have selected.

Mr. Coker assumed for the record that the licenses or easement agreements with the City are in place and approved? Mr. Dussi confirmed they have a license agreement that pertains to the other atrium and these items will fall into that licensing agreement.

Mr. Holden indicated that what is being requested is whether or not the Board is going to recommend to the City Council that they are part of the license.

Mr. Coker clarified that they are instructing the City Council to go to the City Attorney to draw up whatever document is needed for the awnings and lighting.

Deputy City Manager Hayden asked, for the record, whether the building faces the property line. Mr. Holden indicated that was correct.

Mr. Coviello liked that the awnings are up so they can see what they look like. He has to work a lot of late hours and leaves Fleet Street and walks home. There is a lot of activity in that area and it is a dark area and the lighting is needed.

Lisa Destefano, of DeStefano Architects, clarified that not all of the awnings on the rendering are on the building. They added an awning. Lastly, she noted for zoning review that what they are presenting exceeds the minimum height requirements for projections into the public way.

Deputy City Manager Hayden made a motion to recommend to the City Council in the name of Northern Tier Real Estate Acquisition and Development, LLC.

Mr. Coker wanted to make sure the City Council is instructed that the proper licenses are procured. Deputy City Manager Hayden clarified her motion. She recommends they endorse their request for a license agreement as presented to the City Council.

Councilor Dwyer clarified that the Planning Board does not have the authority to approve anything. Deputy City Manager Hayden clarified the motion to take care of that.

Mr. Rice pointed out that the property is not in the historic district so they would not have reviewed the awnings.

The motion passed unanimously.

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V. NEW BUSINESS

A. Request of the Foundation for Seacoast Health for a One Year Extension of Site Review Approval granted on June 28, 2007 for property located at 100 Campus Drive;

Mr. Holden confirmed that this was a first request. The City is working with them to get projects underway but the year is running out. The Department recommends it should be granted.

Mr. Rice made a motion to grant a one year extension of Site Review Approval. Ms. Geffert seconded the motion.

The motion to grant a one year extension of Site Review Approval passed unanimously.

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B. Request of Michael Del La Cruz for a One Year Extension of Site Review Approval granted on June 21, 2007 for property located at 75 Congress Street;

Mr. Holden explained this is the same as the above item.

Mr. Rice made a motion to grant a one year extension of Site Review Approval. Mr. Coviello seconded the motion.

The motion to grant a one year extension of Site Review Approval passed unanimously.

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Mr. Holden reminded the Board that they are not meeting next week and there will only be one meeting in July and one meeting in August. Chairman Ricci thanked all of the Board members for all of the time they have put in over the past months.

VI. ADJOURNMENT

A motion to adjourn at 10:45pm 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 by the Planning Board on July 19, 2008.