

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 P.M.

JANUARY 21, 2010

MEMBERS PRESENT: John Ricci, Chairman; Eric Spears, City Council Representative; Donald Coker; John Rice; Anthony Blenkinsop; Richard A. Hopley, Building Inspector; and MaryLiz Geffert, Alternate

MEMBERS EXCUSED: Paige Roberts, Vice Chairman; Cindy Hayden, Deputy City Manager; and Norman Patenaude, Alternate

ALSO PRESENT: Rick Taintor, Planning Director

.....
Chairman Ricci welcomed the Board's new City Council Representative, Eric Spears, to the Planning Board.

I. APPROVAL OF MINUTES

1. Approval of Minutes from the December 17, 2009 Planning Board Meeting – Unanimously approved.

.....
II. NEW BUSINESS

A. Election of Officers;

John Ricci was re-elected as Chairman

Paige Roberts was re-elected as Vice-Chairman

.....
III. OTHER BUSINESS

A. Presentation of **Capital Improvement Plan;**

City Manager John Bohenko was present with City staff to present the proposed Capital Improvement Plan for the fiscal years 2011 – 2016, in accordance with State and local requirements. In September, City Staff was asked to update their plan and identify any new projects or equipments needed to be included in this document. Their proposals were reviewed by a Sub-Committee, made up of three

members of the Planning Board, Chairman John Ricci, Anthony Blenkinsop and Paige Roberts, along with City staff Rick Taintor, Andrew Purgiel and City Manager Bohenko.

The plan before them was reviewed in detail by the Sub-Committee and various Department Heads. For fiscal year '11, Departments submitted requests to be appropriated in a general fund in the amount of \$2.1 million. The Committee reduced these requests to \$1.5 million, a reduction of approximately \$600,000. Over the past 2 years they have tried to maintain a general fund appropriation for capital at about \$1.5 million. In FY '10 the general fund capital improvements were funded at \$800,000 and in Fiscal '09 is was funded at \$1 million. The Committee felt it was important that they continue the level of \$1.5 million as the last two fiscal years have been below the \$1.5 million level. Total improvements for fiscal year '11 for all funds are estimated to be \$28.7 million, of which approximately \$6.4 million would come from grants, other revenues or private funds. Total projects over the six year plan are estimated at approximately \$186 million of which a large portion will come from either grants or bonding.

Mr. Bohenko explained that after the City Staff presentation they will answer any questions which the Planning Board might have. They will ask that the Planning Board take action on this plan in accordance with State and local requirements and forward it on to the City Council, which is anticipated to have a work session on this matter on February 9, 2010.

The presentation was made by the following staff members: Christopher LeClair, Fire Chief; David Fernald, Police Chief; Mary Ann List, Library Director; Steve Bartlett, School Administrator, Peter Torrey, Trustees of the Trust Funds (Prescott Park); Rick Taintor, Planning Director; David Moore, Assistant Community Development Manager; Steven Parkinson, Director, Public Works; Alan Brady, IT Coordinator; Peter Rice, Water & Sewer Engineer; David Allen, Deputy Director, Public Works.

City Manager Bohenko asked for questions prior to a motion to approve.

Mr. Coker had been reading about the upcoming budget crunch and he asked how this would affect the CIP. City Manager Bohenko explained this was not a budget yet but rather was an exercise in planning. It becomes an exercise in budget when they pass it and the Council adopts the plan and the portions of the plan that require funding go into the budget as a line item. If there is a bonded item identified for FY '11, the staff would possibly include the first debt payment in FY '11 but it is not part of the City Council budget process until a bonding resolution is brought forward, which would include a 1st and 2nd reading prior to being approved.

Ms. Geffert noted that the pool rehab talks about the study to be completed in 2009. City Manager Bohenko confirmed that the recreation study is still ongoing. They have completed the part on the fields but the study deals with an entire aquatic center. This plan identifies that the roof needs to be replaced and the liner needs to be replaced. It will be up to the City Council to decide whether they want to fund it in the budget.

Ms. Geffert had been reading about the EPA requirements on the City in terms of wastewater. She asked if they have covered all of the mandates. City Manager Bohenko stated they are under a consent decree and have certain time frames. By the summer of 2010 they have to get back to the EPA and respond when they will be ready to go to a secondary treatment facility.

Dave Allen confirmed that this plan reflects what needs to be done at this point. They are still finishing the Master Plan so they have placeholders for the Wastewater Treatment Plant Construction. All other requirements of the consent decree have been identified. Peter Rice confirmed that the Master Plan will be completed this summer but the construction will be years out.

Eric Spear asked about the radio system improvements and fingerprint identification systems which have been pushed out. He asked if this was because of fiscal constraints. Police Chief Fernald confirmed this was a direct result of the economy.

Mr. Spear asked about the library cameras and whether that was due to an existing problem with illegal activity or to forestall anticipated activity. City Manager Bohenko stated that they were asked to look at that. There is not a rampart problem but the Library Board indicated they would not be comfortable with cameras inside the building. Library Director Mary Ann List confirmed they are not to address a problem they are having. They are at the point that this could be useful in the event that something happens.

Mr. Spear asked if the Municipal storage building is being looked at in relation to the plan to look at the heating system for the complex. If that configuration changes and it becomes smaller or relocated will they have two buildings on the property? Would there be a possibility to reconfigure everything to save money? City Manager Bohenko felt that was a good idea and they can take a look at that when they look at the plant.

Mr. Spear noticed that sometimes sidewalks are made with asphalt, cement or brick and for new installation he wondered what the City's policy was. City Manager Bohenko confirmed that asphalt is no longer used anywhere except for emergency repair. It is the City Council policy, and the Planning Board when reviewing Site Review Plans, that outside of the Historic District they replace and build with concrete. Inside the Historic District they replace and build with brick. That has been the policy for 8-9 years.

Mr. Spears asked about the Ocean Road traffic calming measures. Woodbury Avenue made it challenging for bikes and he asked if Ocean Road will include the same type of bump-outs? Mr. Parkinson indicated they want to have a sidewalk the entire length of Ocean Road and do things that will preclude tractor trailers from utilizing that route. He doesn't anticipate bump-outs as it is a rural road.

Lastly, Mr. Spear asked if there is a difference in water quality between wells or surface water like Madbury? Mr. Allen confirmed there is a difference but it is just different characteristics and not difference in drinkability.

Mr. Blenkinsop made a motion to adopt the Capital Improvement Plan, Fiscal Year 2011 – 2016 and forward it on to the City Council with a favorable recommendation, as presented. Mr. Spear seconded.

The motion passed unanimously.

.....

IV. PUBLIC HEARINGS

*The Board's action in these matters 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.*

A. The application of **Seacoast Development Group, LLC, Owner, and Hodgson Brook Restoration Project**, Applicant, for property located at **505 Route One By-Pass**, wherein Site Plan Approval is requested to pave an existing gravel parking area in association with the Hodgson Brook buffer restoration project, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 234 as Lot 5 and lies within the General Business District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Candice Dolan, Coordinator of the Hodgson Brook Restoration Project, was present along with Patrick Crimmins, of Appledore Engineering. They had received Conditional Use Permit approval from the Planning Board in November of 2009 and they appeared before TAC on January 5th for Site Review and received a favorable recommendation.

Patrick Crimmins, of Appledore Engineering, explained that the plan before them is the plan that was shown at TAC on January 5th and they did not receive any stipulations. The proposed design includes a 1,200 s.f. riparian buffer plantings to improve plantings along the brook and includes a 110 s.f. bioretention system designed by the UNH Stormwater Center. The plan was stamped by a licensed engineer. There was an existing gravel area which they will be replacing with 4,400 s.f. of pavement and along the edge of pavement they will have 100 linear feet of bituminious concrete curb, with a 4' curb break. The curb is installed there to direct stormwater to the bioretention cell for stormwater treatment.

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 Site Plan Review approval, as presented. Mr. Rice seconded the motion.

The motion to approve Site Plan Review approval passed unanimously

.....

B. The application of **Catalpa Realty Trust, Owner**, for property located at **249 Islington Street**, wherein a second one year extension of Site Plan Approval received on February 21, 2008 is requested to construct a 41' x 61' three story addition to an existing building, after the demolition of the existing rear section, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 138 as Lot 43 and lies within the Central Business B district and the Historic District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Christian Smith, of Beal Associates, presented on behalf of Catalpa Realty Trust. Also present was Steve McPhee. They were present to request a second one year extension of Site Plan Review approval. They recently appeared before the HDC and TAC and received favorable recommendations with a few conditions which have been revised on the Site Plans. There have been no changes from the design of the original approval. They experienced a financial burden which created a delay in construction.

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

Mr. Rice made a motion to approve a second one year extension with the four recommended conditions. Mr. Blenkinsop seconded the motion.

The motion to grant a second one year extension of Site Plan Review approval passed unanimously with the following stipulations:

1. The site plan shall be revised to show proposed grading in the area of the doorway adjacent to Cornwall Street demonstrating a solid surface path to the sidewalk.
2. The applicant shall prepare a Construction Management and Mitigation Plan for review and approval by the City prior to the issuance of a Building Permit.
3. Parking space #5 shall be designated as a compact space, with a permanent sign saying "compact cars only" and pavement markings saying "compact."
4. If the City undertakes street and sidewalk improvements along Cornwall Street prior to completion of the applicant's project, the applicant shall be responsible for repaving the street and rebuilding the sidewalk to the City standards between Islington Street and the northerly property line.

.....

C. The application of **Summit Land Development, Applicant**, for property located at **207 International Drive**, wherein Preliminary and Final Subdivision approval is requested between two lots having the following: Map 315, Lot 1 increasing in area from 13.8 acres to 22.05 acres and the remaining land area identified as Map 315, Lot 0 being decreased by 8.25 acres and constituting a portion of the Pease International Tradeport. Said lot lies within the Airport Business and Commercial District where a minimum lot area of 5 acres is required.

D. The application of **Summit Land Development, Applicant**, for property located at **207 International Drive**, wherein Site Plan approval is requested to construct a 4-story 6,557 ± s.f. addition to the existing 4-story office building and parking lot expansion of 198 spaces, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 315 as Lot 4 and lies within the Airport Business and Commercial District.

Mr. Geffert made a motion to read Item C and Item D together. Mr. Rice seconded the motion. The motion passed unanimously.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Susan Manchester, Attorney for the applicant, from Sheehan, Phiney, Bass & Green, appeared along with Chad Kageleiry, applicant, and Phil Corbett from Hoyle Tanner. This was the property that used to be occupied by Net to Net and then by Liberty Mutual and now by the US Passport Center which is still growing and expanding. This project is expected to bring 200 new jobs to the Tradeport. The critical issue in the project is timing. This needs to be completed by October. The applicant has had many meetings with the PDA and TAC. All conditions from TAC have been satisfied. She turned the presentation over to Phil Corbett for the technical presentation.

Phil Corbett, of Hoyle Tanner, explained that the Passport Center is looking to expand their existing building out the back. It will be a 4-story 2,600 s.f. expansion. They propose 188 new parking spaces. They are somewhat constrained by the configuration of the site due to the wetlands. They worked with the PDA to make sure all construction would be outside of the wetland buffer. There will be no temporary or permanent impact. The building will displace a treatment swale which they will replicate on the north side of the building. They proposed to provide a storm tech system, which is a subsurface infiltration system to infiltrate some of the stormwater that comes off of the roof drainage which will provide the detention pond with the capacity to take more stormwater flow. They will restripe some parking spaces up front to meet ADA requirements and will add a bike rack. They have added a crosswalk with signage and striping. They operate under split shifts and stagger their start time. The proposed parking lot will have site lighting with full cut-off dark sky friendly fixtures. They propose to increase stormwater flows with a couple of bioretention areas to treat water quality. One will be in the landscape median and one on the south corner of the parking lot to help treat water quality running off the parking lot. To mitigate the water quantity increase they have proposed a detention pond just off the south end of the parking lot. They designated an area north of the parking lot for snow storage. There is a berm in between the wetlands and the parking area but there is a large area where they can

store snow that isn't going to immediately flow into treatment swales or other stormwater treatment facilities. They will landscape the median to include special landscaping for the bioretention area.

To accommodate the additional parking they are also submitting a subdivision plan.

Ms. Geffert was concerned about the parking lot and how safe it will be for someone on a very early or very late shift as it is remote from the building. Mr. Corbett confirmed that they worked with staff a lot. There is a path that crosses the wetlands. The pathway will be well lit. They have security cameras that run to the main building. Ms. Geffert could not gauge whether they could see the parking lot from the new facility or some other vantage point. Mr. Corbett added that the cameras will be trained on the lot.

Mr. Blenkinsop asked if there would be pervious pavement in new parking lot. Mr. Corbett stated it was not pervious. It is immediately adjacent to standard pavement and maintenance is different for each type of pavement. They were also concerned about the soil characteristics in the area.

Mr. Coker asked Mr. Corbett to briefly describe the stormwater control for the new parking lot. Mr. Corbett pointed out on the plan where the bio media is which filters out pollutants. It has an underdrain that goes into the proposed detention pond. They have proposed treatment swales along the edges that are vegetated. For the remaining area they created a bio retention system with an underdrain. Mr. Coker asked if they have an existing detention pond on the north side. Mr. Corbett confirmed the original project had a large detention pond which still functions and it has additional capacity that has not been used. Mr. Coker asked if the intent of the design for the new parking lot was to direct water to the bioretention area within the parking lot. Mr. Corbett confirmed that was correct. It will go into the bioretention areas or vegetated swales, water quality treatment, and from there everything flows into the detention pond to mitigate the increase in flow. Mr. Coker found that interesting because there is a mechanism to take what the earth cannot absorb and direct it towards the small area. There are also catch basins but they are getting the majority of the pollutants in the bioretention basin. Mr. Coker added that maintenance would be key to keep them functioning. He asked if they have a maintenance plan and if they will report to DPW on the maintenance. Mr. Corbett confirmed they are preparing an Operation and Maintenance plan per EPA. He felt the maintenance is less than he even expected. Plants can die, especially when they are first planted, so that will need to be addressed, but as far as the filter media itself, it is a fairly new type of system used for EPA regulations, it functions very well, even after being in use after 10 years. It will be important to keep plants healthy. They have no objection to reporting their maintenance to DPW on an annual basis.

Mr. Blenkinsop asked if the medians are at a lower grade than the parking spaces? Mr. Corbett confirmed they are slightly depressed by about 8", in a gradual semi circle swale. Mr. Blenkinsop followed up by asking if snow will get piled into those areas in the winter. Mr. Corbett explained that they are very well vegetated with plants and shrubs to prevent that.

Mr. Coker asked how that works when the ground is frozen? Mr. Corbett responded that was always an issue with stormwater facilities. They have to be maintained and things don't always function as well as they do under ideal conditions. But that would not be a time of high run off.

Chairman Ricci asked if they had done any test pits on the detention basin that serves the parking lot. Mr. Corbett stated they did not but they tried to set it as high as they could and still serve the parking lot. Chairman Ricci noted that the wetlands start at elevation 40, the bottom of the basin is 40' and the outlet in the pipe is 40'. If during construction they are in the water table, what do they do? Mr. Corbett felt there would be an opportunity to lengthen the pond and make a larger perimeter. Chairman Ricci asked when they are looking to start construction. Mr. Corbett stated they would like to begin occupancy in October and with construction to start in a few weeks. Chairman Ricci indicated he would like a stipulation that some test pits be done. He sees that as a huge problem because someone during construction may just turn a blind eye.

Chairman Ricci had a problem following the contours with the subsurface infiltration system. Mr. Corbett explained the elevations of the infiltration system are on the detail sheet. Chairman Ricci felt they can get a lot of different soils at Pease and ground water can do some funny things out there. He wants to make sure they have the proper separation in the infiltration system for the groundwater. That is his big concern for both the infiltration system and the detention basin at the southeast of the parking lot. Otherwise, he thinks this is a very nice job and they have used some new technology.

Ms. Geffert referred to the lighting plan. She sees some pockets around the perimeter of the parking lot where lighting is not very strong. Her concerns were due to the remoteness of the parking lot from the main facility and the proximity of the parking to the adjacent parking lot. Mr. Corbett stated that the foot candles do not consider the lighting coming off the other parking lot and that will help. Ms. Geffert felt it was dim at the southeast area perimeter. She has some real concerns about safety with this plan. Mr. Corbett confirmed they can reconfigure lights to fill some of the small pockets with low lights.

Chairman Ricci suggested they make a condition that they could go back and work with TAC on that.

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

Motion on Preliminary and Final Subdivision Approval.

Mr. Rice made a motion to recommend Preliminary and Final Subdivision approval with the recommended stipulation. Mr. Coker seconded the motion.

The motion to recommend Preliminary and Final Subdivision approval passed unanimously with the following stipulation:

- 1) GIS data shall be provided to the City of Portsmouth Department of Public Works in the form specified by the City.

Motion on Site Plan Review Approval:

Ms. Geffert made a motion to recommend Site Plan Review approve with stipulations. She requested that test pits be dug at the beginning of construction to determine groundwater, that they report to DPW and that they work with TAC and the PDA to assure safety measures are in place in the rear parking lot, including lighting and camera configuration.

Mr. Rice seconded the motion.

The motion to recommend Site Plan Review approval passed unanimously with the following stipulations:

- 1) The applicant shall prepare a Construction Management & Mitigation Plan (CMMP) for review and approval by the City prior to the issuance of a building permit.
- 2) The applicant shall be responsible to perform a radio-strength test with a Motorola Service Shop to ensure sufficient signal strength within any structure included in the project to support adequate radio coverage for emergency personnel. The expense for the test shall be the responsibility of the applicant, whether or not the test indicates that amplifiers are necessary to ensure this communication. If the test indicates that amplifiers are required, that cost, too, shall be the responsibility of the applicant. All testing and all installations shall be coordinated between the applicant and the police/fire communications supervisor.
- 3) The applicant shall perform test pits at the beginning of construction to determine groundwater and shall report those findings to DPW for their review and approval.
- 4) That a maintenance plan for the detention ponds and treatment swales shall be prepared by the applicant with a copy being provided to the Planning Department, DPW and the PDA, and a report shall be filed on an annual basis with DPW.

.....

E. The application of **355 Pleasant Street, LLC, Owner, and Katherine W. Kane, Applicant**, for property located at **337 Pleasant Street and 355 Pleasant Street**, wherein Preliminary and Final Subdivision approval (Lot Line Revision) is requested between two lots having the following: Lot 64 as shown on Assessor Plan 103 increasing in area from 9,245 ± s.f. to 10,001 ± s.f. and with continuous street frontage increasing from 87.57' to 99.57'; and Lot 62 as shown on Assesson Plan 103 decreasing in area from 6,555 ± s.f. to 5,799 ± s.f. and with continuous street frontage decreasing from 114.27' to 102.27'. Said lots lie in the Historic District A and the General Residence B District (GRB) where a minimum lot area of 5,000 s.f. and 80 ' of continuous street frontage is required.

The Chair read the notice into the record.

Mr. Rice recused himself from this application.

SPEAKING TO THE APPLICATION:

Tom Watson, Attorney, appeared on behalf of both applicants. Catherine Williams Kane is the principal of both lots. Anne Whitney, architect, was also present.

Attorney Watson explained this is something that is allowable under Section III. B-7 as a Lot Line Revision. These are two adjacent lots. One lot is 6,500 s.f. and has an existing structure on it. It is a single family residence and will continue as a single family. The second lot is 9,245 s.f. and they propose to transfer enough land so that there will be 10,001 s.f. The purpose is to allow the vacant lot to be developed as a two family residence. The application does not create any nonconformance. It meets the minimum lot size, frontage requirements, and the lot with the structure will be no more nonconforming in any way. Additionally, they feel comfortable they will be able to place a structure on the vacant lot without any variances. They feel this is a simple proposal and satisfies all criteria. He pointed out that the previous approvals of the lots called for two driveways off Howard Street. They will continue that but the one difference is that they intent to have one curb cut with a single driveway to minimize the amount of curb cut on Howards Street. They feel this will improve the traffic feature.

The Chair opened up the public hearing and called for speakers.

Greg Martin, 369 Pleasant Street, was a direct abutter. He met with Kathy Kane and reviewed the plans and he thought they were very nice. He pointed out that any changes made now will stay in effect forever. A 2 unit house rather than a 1 unit house is less attractive to the neighborhood. The big tree on the lot may be removed. To go from zero to three units will make the lot look like a parking lot. The multi family home will decrease the value and aesthetics of the neighborhood. When she sells or moves somewhere down the line, who knows who will move in and what will happen with the property.

Chairman Ricci asked Mr. Martin if he asked the applicant whether she plans to save the trees? Mr. Martin confirmed that he did and chances are one will have to go. Chairman Ricci asked if Mr. Martin asked Ms. Kane if she plans to rent? Mr. Martin pointed out who knows what may happen down the road when Ms. Kane leaves.

Mr. Coker advised Mr. Martin that the issue in front of the Board is a Lot Line Revision, which is a type of subdivision. The issues Mr. Martin is talking about would go before the HDC. The Planning Board does not have the purview to address those concerns.

Anne Whitney, architect for the Applicant, stated they will make their best effort to save the trees. She can't make any guarantees but they are trying to save them. This is a very valuable property and they will be doing a topnotch job which will not be conducive to rentals. This will be one of the largest lots in the neighborhood that will have a 2 unit dwelling.

Attorney Watson recognized Mr. Martin's concerns and stated they will make every effort to make this a top property. The zoning in this area allows for more than one unit and a multi unit house is completely appropriate.

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

Chairman Ricci stated that he found that in this type of application, if abutters meet with the applicant they can usually get things worked out.

Mr. Hopley made a motion to approve Preliminary and Final Subdivision approval with the 3 recommended stipulations. Mr. Blenkinsop seconded the motion.

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

- 1) The final plat and all resulting deeds shall be filed concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department;
- 2) Property monuments shall be set as required by DPW prior to the filing of the plat; and
- 3) GIS data shall be provided to DPW in the form as required by the City.

.....

F. The application of **Ronald J. Konopka, Owner**, for property located at **327 Dolphin Drive**, requesting a Conditional Use Permit under Article VI, Section 10-608(B) of the Zoning Ordinance to replace an existing shed with a smaller shed, all within an Inland Wetlands Protection District and Inland Wetlands Protection District Buffer Zone. Said property is shown on Assessor Plan 291 as Lot 7 and lies within the Garden Apartment/Mobile Home District (GA/MH).

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Ronald Konopka advised the Board that he was looking to replace a pre existing shed on his property which existed entirely within the wetland buffer. There is no alternative location for the shed outside of the wetland buffer. The shed will have the least impact to the environment. It will be placed on an existing lawn. He is downsizing the size of the shed, making it 40% smaller and moving it 3' farther from the wetland making it 38' from the closest wetland. The old shed was falling down and was an eyesore. The new shed will match the house. His entire property is within the buffer zone. The location on the side would interfere with his neighbor's property. There will be no impact to the wetlands or he will attempt to minimize the impact. The shed will be built off site and will be installed within 3 hours. It will be built in 6 pieces and hand carried from the road to the shed location. It will be placed on 8" x 8" blocks so it will be 6" – 8" above the wetlands and it will not affect the drainage of the wetlands. He appeared before the Conservation Commission and received a favorable recommendation.

Chairman Ricci complimented Mr. Konopka on his professional exhibits.

Mr. Coker asked if any heavy equipment will be brought in. Mr. Konopka confirmed they will be 62' from the shed location. They will hand carry the pieces from the truck to the site.

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

Mr. Hopley made a motion to grant conditional use approval. Mr. Blenkinsop seconded the motion.

The motion to grant conditional use approval passed unanimously.

.....

G. The application of **Eugene N. Short Revocable Trust, Owner, and Heidi N. Archibald Revocable Trust, Applicant**, for property located at **175 Gosport Road**, requesting a Conditional Use Permit under Article VI, Section 10-608(B) of the Zoning Ordinance to construct a walkout basement which requires regrading of the lawn, drainage enhancements, and temporary excavation for new water lines, all within an Inland Wetlands Protection District and Inland Wetlands Protection District Buffer Zone. Said property is shown on Assessor Plan 224 as Lot 1 and lies within the Single Residence A District (SRA).

The Chair read the notice into the record.

Mr. Coker is involved in some litigation (through his condominium association) and Attorney Macdonald is involved in the litigation so Mr. Coker recused himself.

SPEAKING TO THE APPLICATION:

Eric Weinrieb, of Altus Engineering, appeared on behalf of the applicant. Also present was Douglas Macdonald, Attorney.

Mr. Weinrieb stated there is a Purchase & Sales Agreement pending on this property and the applicants are actual abutters to the property. The site is 4.068 acres in area with frontage on Sagamore Creek and access from Gosport Road. There are two residences on the property. One is rented out and one is occupied by the owner. They propose to maintain one residence and tear one down. The one that will be maintained will be turned into a family guest home for family members to occupy for an extended stay. They propose to construct a new residence on the property to be larger than the existing structure, completely outside the buffer district. Current building coverage is 2.5% and they will be increasing that to 4.5%, where 10% is allowed. They will raze the existing home and construct a new home. The BOA asked if they could remodel the existing home but there are a lot of issues. Many items are substandard by today's regulations, there is a lot of rot and the foundation is suspect. There is a septic system and well and they will abandon the septic system but keep the well. They will put in a septic tank and pump. They are eliminating any potential for sanitary discharge into the creek or other wetlands. The sole reason for impacting the buffer area is to construct two utility lines and

eliminate the open concrete breezeway. The plan was displayed and Mr. Weinrieb reviewed the site with the Board. He pointed out the pond and the drainage system which will discharge from the pond with a vertical orifice, which runs under the driveway into a concrete sluiceway, around the house and underground into a high density polyethylene pipe that has a turn and discharges out into Sagamore Creek. At the north side of the driveway they propose to eliminate that open structure, put a yard drain in, close drainage with perforated pipe around the proposed housing between the driveway and the tennis courts, and then reconnect to the existing drainage system. That will reduce the impervious area in the buffer area and it will provide stormwater treatment where there is none today. Each yard drain will be slightly above grade which will allow all flush of runoff to settle into the soil and in a larger storm event the water will fill up and discharge into the yard drains.

They will be re-grading the area to allow a new house with a walk out basement which requires a slight grading change in the lawn area to provide positive drainage. That is the whole reason for re-grading on the Sagamore Creek side. They are providing some native plantings on the slope side to introduce plantings whereas the rest of the area will be open lawn. There is a utility easement for a transformer on the site. All other utilities will be underground.

Mr. Blenkinsop asked what the septic tank was for if they are connecting to City sewer. Mr. Weinrieb explained there are several ways to tie into the municipal collection system. One is to have a grinder pump which would collect all solids and grind them and pump it up. They are very successful and the Archibalds have a similar system now. The other type of system uses a septic tank so that you are only pumping effluents and solids, which makes for lower maintenance. He has designed both typed of systems.

Mr. Hopley felt that the Plumbing Code may require a duplex pump system instead of a simplex.

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

Mr. Taintor pointed out that in the Legal Notice there were minor errors but nothing to create a problem. This is the first time the Planning Board will be granting a Conditional Use Permit in a tidal wetland buffer. In the old Zoning Ordinance this would have gone before the BOA.

Mr. Blenkinsop made a motion to approve the Conditional Use Permit. Mr. Rice seconded the motion.

The motion to grant Conditional Use Permit approval passed unanimously.

.....

V. CITY COUNCIL REFERRALS/REQUESTS

*The Board's action in these matters has been deemed to be legislative 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.*

A. Request from John Dussi, for The Page Restaurant and Bar, for property located at 172 Hanover Street, for (1) placement and illumination of a temporary sign on the Vaughn Mall; and (2) reconsideration of the Board's recommendation for a projecting sign.

Dan Hutchins, of NH Signs, appeared. He stated he had revised drawings and information on the square footage. He distributed the same to the Board. He stated it was not an internally illuminated sign. It will be externally illuminated.

Mr. Coker was concerned as the applicant has presented something different and he feels like they have been thrown a curve ball.

Mr. Taintor did not believe it will change their position because they will be acting on the recommendation in the Memo which is for a non illuminated sign. Also, this site is now in the HDC effective January 1st where internally illuminated signs are not allowed.

Ms. Geffert noted the height is 3" higher off the ground and the separation of the edge of the sign off the building is 2" greater. However, she had no problem accepting it.

Councilor Spear did not see any fixtures to illuminate the sign. Mr. Hutchins stated the illumination will either be from above with light fixtures pointing down or possibly off the wall. Mr. Taintor clarified that the lighting would not typically be provided to the Planning Board.

As the building is now in the Historic District, Mr. Rice asked if the HDC had looked at this sign? Mr. Taintor indicated that the HDC did not review the sign. Mr. Rice indicated that if he were still sitting on the HDC and this sign came before him, he would have some heartburn with the design of the sign as it is a contemporary design on an older building which is out of place with other signs in the area. He sees many red flags and would like to see it referred to the HDC for review. Mr. Taintor indicated in the HDC Regulations it is not an exempted activity.

Mr. Rice made a motion that the application be referred to the HDC for review prior to the Planning Board action. Mr. Taintor suggested they make their referral to the City Council with a stipulation that it be subject to the HDC review.

Ms. Geffert felt the City Council will be approving a license and the City can impose conditions on that license. Maybe they could stipulate that the aesthetics be improved on the sign.

Mr. Rice withdrew his motion.

Ms. Geffert made a motion to refer this to the City Council for a license with the request that the City Council impose a condition on the license that the sign be reviewed and approved by the HDC.

Councilor Spears seconded the motion.

The motion to recommend that the City Council grant approval of a revocable municipal license for the projecting sign passed unanimously, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form.
2. The sign design shall be referred to the HDC for approval.
3. Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City.
4. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.

Mr. Taintor stated that the second item was regarding the removable monument sign. Staff recommendation is that the Board recommend approval of a revocable license. It is a very unusual situation. Stipulations are worded differently than for a projecting sign as it deals with a conduit, curbing, landscaping and lighting fixtures.

Mr. Coker felt it appeared based on the wording of the recommendation that they are not recommending approval of a sign per se. They are not approving the sign, just the location. Mr. Taintor indicated they have the ability to approve the sign as they have the application with the measurements.

Mr. Blenkinsop noted there was a flush mount sign in the packet also. Mr. Taintor confirmed that the flush mount sign was on private property so it was approved by the Inspection Department.

Ms. Geffert made a motion to recommend that the City Council grant approval of a revocable municipal license to place a removable monument sign, underground conduit, lighting fixtures, and surrounding curbing and landscaping on municipal property in Vaughan Mall, as well as a request that this go to the HDC for review in terms of aesthetic conformity with the district. Councilor Spears seconded the motion.

The motion passed unanimously with the following stipulations:

1. The license shall be approved by the Legal Department as to content and form.
2. The sign design shall be referred to the HDC for approval.
3. Any removal or relocation of the sign, conduit, lighting fixtures, curbing or landscaping, for any reason, will be done at no cost to the City.
4. At the termination of the license, any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the sign, conduit, lighting fixtures, curbing or landscaping, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.

.....

B. Request from Ed Saunders, of Fast Eddie’s Dirty Laundry, for property located at 123 Market Street, to install a projecting sign.

Mr. Taintor stated this is a simple application and meets all zoning regulations and they recommend approval.

Mr. Blenkinsop made a motion to recommend approval with the three recommended conditions.

Mr. Coker seconded the motion.

Mr. Coker noted that this sign is also in the HDC and he would like to be consistent.

Mr. Taintor stated that the previous sign was different than the other signs they review. There would be a huge uproar if they required everyone to go before the HDC for a small sign as it is a zoning issue. Mr. Coker felt it was a judgment call whether something should be sent to the HDC. Mr. Taintor responded that the monument is probably a structure and probably should go to the HDC. However, generally, items on City property do not do before the HDC.

The motion to recommend approval of an irrevocable license passed unanimously with the following stipulations:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.

.....

C. Request from Joshua Anderson, of Odyssey and Oracle, for property located at 82 Fleet Street, to install a projecting sign.

Mr. Coker recused himself as he is the Condo Association President for this site.

Mr. Blenkinsop noted that the exhibits were not the quality of what they normally receive. There were some spelling mistakes and it was hard to get a real sense of exactly what they were proposing. Mr. Taintor stated they are not generally looking at aesthetics. They are looking for dimensions, and whether they meet the zoning ordinance. Mr. Blenkinsop asked if this was possibly another situation where HDC review was appropriate? Chairman Ricci felt they could send it along to the City Council with a recommendation that an actual sign be presented to the City Council for their review.

Ms. Geffert noted they are replacing an existing sign but the new sign is smaller. Her concern is that a business owner may not contract for a sign until it gets approved. Chairman Ricci confirmed they can be drawn up fairly quickly and inexpensively.

Permission was granted to Donald Coker to speak as a public speaker.

Donald Coker, President of the McIntosh Condominium Association. He noted on the next to last page of the exhibits that the existing projecting sign being removed is nowhere near where this store is. On the final page, to the left of the Edible Arrangements sign is the location of that store. He was not sure why Edible Arrangements was included in this picture as it is no where near the location of this store. Mr. Coker did not believe there was a sign at the location where this sign is proposed to go.

Mr. Hopley made a motion to recommend approval with the three conditions. Mr. Blenkinsop seconded the motion and asked if they should recommend that the City Council get a rendering of the sign. Chairman Ricci and Mr. Taintor did not believe that was necessary.

The motion to recommend that the City Council grant approval of a revocable municipal license passed unanimously subject to the following conditions:

- 1. The license shall be approved by the Legal Department as to content and form;
- 2. Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City; and
- 3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.

.....

D. Request from Evon Cooper, of Ellie’s Oxygen Lounge and Raw Juice Bar, for property located at 146 Fleet Street, to install a projecting sign.

Mr. Rice made a motion to recommend approval with the stipulations as outlined in the Memorandum. Mr. Blenkinsop seconded the motion.

The motion to recommend that the City Council grant approval of a revocable municipal license passed unanimously subject to the following conditions:

- 1. The license shall be approved by the Legal Department as to content and form;
- 2. Any removal or relocation of the projecting sign, for any reason, will be done at no cost to the City; and
- 3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works..

.....

E. Request from Mary Griffin, Griffin Family Corporation, regarding gift of land in the Hodgdon Brook watershed to the City of Portsmouth.

Mr. Tanitor advised the Board that Peter Britz was present for questions regarding the Conservation Commission. The proposal is to donate a parcel of land which is all wetlands to the City. Staff has recommended that the City accept this and add it to its inventory.

Mr. Blenkinsop made a motion to recommend that the City accept the donation. Ms. Geffert seconded the motion.

The motion to recommend that the City Council accept the donation passed unanimously.

Chairman Ricci added that there is a ton of wildlife in the back and it was a very valuable property.

.....

F. Request from John Cronin regarding the subdivision and possible sale of approximately 3.24 acres at 56 Lois Street to the City of Portsmouth for conservation purposes.

Mr. Taintor stated this was not an offer to donate land but it is a request that the City Council consider purchasing a portion of a lot between Lois Street and the By-Pass for conservation purposes. This lot does have conservation values. It is on the other side of the brook/ditch across from the Toyota property. It has good qualities, intact buffer area, drains the stream and has extensive wetland. Looking at the Assessor information, the value of the lot is the same as the assessed value of surrounding house lots and thus there is no residual value for the land beyond the house lot. It is primarily, if not completely, undevelopable. The Department recommends only a nominal sum to cover the acquisition and transaction costs.

Mr. Rice made a motion to recommend that the City accept the land by donation, or acquire it for a nominal sum. Mr. Blenkinsop seconded the motion.

Because this land has a boundary with Portsmouth Toyota, Mr. Coker asked if that would have any impact on the issues they will be facing as a Planning Board. Mr. Taintor felt it would give them an additional interest but he is not sure what effect it would have. The argument in favor of acquiring it is that they have concerns that the Portsmouth Toyota site will not have great wetlands and having one half of the stream buffer protected would be better than having neither side protected.

Chairman Ricci asked, if the City became a direct abutter to the Toyota parcel, would it affect Rick Hopley or Cindy Hayden's position with respect to Planning Board review of the pending Toyota site plan. Mr. Taintor stated it would not.

Peter Britz, City Environmental Planner, explained that the Court ruling on the adjacent Portsmouth Toyota property allows them to develop right up to the edge of the wetland resource, which is the stream which the court ruled as a ditch. The other side of the stream would give protection in the future for the brook which runs through that land. The area adjacent which Mr. Cronin owns has value as a wetland buffer and it would be nice to keep that value.

The motion to recommend that the City accept the land by donation, or acquire it for a nominal sum, passed unanimously.

For the record, Mr. Coker noted that this is a very kind gesture on Mr. Cronin’s part.

.....

VI. PLANNING DIRECTOR’S REPORT

A. 2454 Lafayette Road – Southgate Plaza.

Mr. Taintor indicated this was nothing substantive. This includes modifications to curbing within the parking lot and to the actual specific type of lighting fixtures being used on the entrance driveway and parking lot. David Desfosses reviewed this with him and signed off on the amendments. Mr. Taintor granted this administratively and no action by the Board was necessary.

.....

VII. ADJOURNMENT

A motion to adjourn at 9:22 pm was made and seconded and passed unanimously.

.....

Respectfully submitted,

Jane M. Shouse
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on February 18, 2010.