

**MINUTES**

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

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

**7:00 P.M.**

**FEBRUARY 18, 2010**

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

**MEMBERS EXCUSED:** Cindy Hayden, Deputy City Manager; and Norman Patenaude, Alternate

**ALSO PRESENT:** Rick Taintor, Planning Director

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**I. APPROVAL OF MINUTES**

1. Approval of Minutes from the January 21, 2010 Planning Board Meeting – Unanimously approved.

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**II. PUBLIC HEARINGS**

A. The application of **Parade Residence Hotel, LLC, Owner**, for property located at **100 Deer Street (formerly a portion of 195 Hanover Street)**, wherein Amended Site Plan Review Approval is requested for sidewalk changes in connection with a 11,437 s.f. conference center to be established in space previously approved for retail use, with related paving, utilities, landscaping, lighting, drainage and associated site improvements. Said property is shown on Assessor Plan 125 as Lot 1 and lies within the General Business B and the Historic District.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Gregg Mikolaities, of Appledore Engineering, appeared on behalf of the applicant. Also present was Patrick Crimmins of Appledore Engineering, Tim Levine and Attorney Alec McEachern. They were present for amended Site Plan Review approval for Lot #1 which was well under construction. They received approval on April 20, 2009, construction started in June 2009 and the project should be

completed in June 2010. They received a favorable recommendation from TAC on February 2, 2010 with 10 stipulations. They submitted two sets of plans to the Planning Board. One set was revised sheets 6-A and 7-A from the original approval set. They also blew up the details so that they could walk through the changes.

The plans consisted of pairs of details comparing the approved site plan and the proposed changes: the top plan was what was previously approved and the bottom was the proposed amendment.

- Change #1 is the relocation of the accessible parking sign, to be mounted on the light fixture at the rear of the ADA space to avoid the hotel doorway.
- Change #2 is the relocation of the light pole and also the “hotel drop off only” sign to avoid the entrance to the hotel doorway.
- Change #3 is the replacement of the brick sidewalk with granite pavers below the hotel awning, and realignment of two granite bands along the edge of the proposed pavers.
- Change #4 is the relocation of a planter to be centered between two parking stalls to avoid conflicts with car doors.
- Change #5 is the relocation of three doorways to match the conference center floor plan.
- Change #6 is the relocation of the bench and trash can by pushing them up against the building to avoid the conference center entrances.
- Change #7 is the replacement of three flush planters with one larger planter to avoid the conference center entrances. The planter will be placed in line with the center of the space and the flush drop-off spot will only be in front of the conference center awning.
- Change #8 is the relocation of the previously approved 645 s.f. seating area to a 480 s.f. seating area in front of one of the conference center doorways. The brick sidewalk in this area will be replaced with granite pavers.
- Change #9 is the relocation of the light fixture to avoid the conference center doorway.
- Change 10 is a proposed conference center awning with a flush drop-off area to define the area. (The awning is not part of this approval). An additional granite band has been added to trim the pavers, and two flower pots are added on either side of the awning poles to provide protection to pedestrians.
- Change #11 is a proposal that the last three spaces will be valet only spaces with a “valet only” sign and a detail of that sign is part of the exhibit.

Chairman Ricci asked for the dimension on the seating area from the edge of the seating to the edge of the curbing. Mr. Mikolaities responded it will remain 7 ½’.

On the second sheet:

- Change #12 concerned the previously approved retaining wall extending the entire length of the building. Some stairs have been eliminated, and a portion of the retaining wall can be replaced with a granite curb.
- Change #13 is a replacement of a portion of sidewalk between The Hill and the hotel to eliminate hardscape and a duplicate sidewalk.
- Change #14 is an effort to reduce hardscape by reducing the width of the sidewalk that connects from the rear hotel parking area to the emergency access from 7’ to 5’. Per the request of City staff the triangle striping at the hydrant has been replaced with a painted island.

Item D on the same sheet included parking requirements. This property had parking credits and because of the new use it used up more parking credits.

On Sheet 6-A and 7-A, all of these changes are clouded.

There were 10 stipulations from TAC. He referred to the spread sheet they had submitted addressing how the stipulations were resolved.

- 1) On Sheets C-6A and L-1A, show the new sidewalk on Deer Street extending to meet the newly constructed City sidewalk, at the intersection of The Hill sidewalk (approximately 8'-9').

New sidewalk on Deer Street has been revised on Sheet C-6A and L-1A to extend to the intersection of the Hill sidewalk.

- 2) On Sheets C-6A and L-1A, reconfigure the sidewalk near the building entrance on the east side of the building (facing The Hill) to eliminate the jog.

The sidewalk on the east side of the building facing The Hill has been revised to eliminate the job on Sheet C-6A and L-1A.

- 3) On Sheet C-6A, show the curb transition area in front of the proposed awning.

Sheet C-6A has been revised to show the curb transition area in front of the proposed awning.

- 4) On Sheet C-6A, show chains connecting the bollards along two sides of the relocated seating area.

Sheet C-6A has been revised to show chains connected to the bollards along the perimeter of the seating area.

- 5) On Sheet C-7A, revise the contours in the planter area between Lot 1 and Lot 2 to reflect a 6" curb reveal (rather than a 3' retaining wall) along the sidewalk between the stairs and the sidewalk on Portwalk Place.

Upon further review, they decided to keep the previously approved retaining wall along the stairs and sidewalk as shown on C-6A. The proposed contours shown on Sheet C-7A will remain unchanged from the previously approved contours.

- 6) On the sheet entitled "Deer Street Sidewalk Section Sketch," revise the sheet name and detail caption to read "City Street Sidewalk Section," as this detail shall apply to all sidewalks along City streets; and show the asphalt stretcher course extending to the face of the building.

The proposed detail title has been revised to “City Street Sidewalk Section”. The asphalt has been revised to extend to the building. The City Street Sidewalk Section will be constructed below City sidewalks and Portwalk Place.

- 7) Add a note to the plans stating that all sidewalks along City streets shall be constructed to the City Street Sidewalk Section detail.

A note has been added to Sheet C-6A and the detail indicating that the City Street Sidewalk Section shall be constructed along all City Streets and Portwalk Place.

- 8) Add a note to the plans stating that any sidewalk not constructed to City standards shall be maintained by the owner, and that the City will not take over maintenance of any such sidewalk in the future unless it is reconstructed to City standards.

The applicant has elected to construct the City Street Sidewalk Section along Portwalk Place. A note has been added to Sheet C-6A and the detail indicating that the City Street Sidewalk Section shall be constructed along all City streets and Portwalk Place.

- 9) Include all changes reflected in the documents entitled “Lot 1 – Summary of Proposed Revisions” dated February 2, 2010 (2 sheets) in the revised plan set provided to the Planning Board.

All of these changes have been included in the revised plan set and are indicated with revision clouds.

- 10) The applicant shall document that the egress route through the relocated seating area will support the proposed occupancy of the Conference Center.

A letter from the applicant’s architect was provided with a detailed sketch of the seating area.

Mr. Mikolaities passed out two letters of support from abutters.

Ms. Geffert asked what was revised on today’s plan and whether it was just the special note. Mr. Mikolaities confirmed that was correct.

Mr. Taintor was not sure that all of the Board members were clear on the seating area and how that was laid out with the grade differential. He also mentioned that the awning is not part of this application so that will be coming back for a future site plan change. Mr. Mikolaities confirmed that it was what was approved with the awning just against the building and it will not come all the way out. There were structural issues with that.

Mr. Mikolaities reviewed the seating area, the entrances, pavers, access ways, and bollards with chains. The area is flat and the challenge was the grade coming down the sidewalk which was 2%. At one point they had put a step in but the concern was people wouldn’t pay attention so they removed the step and put a chain between the bollards. There will be a 1’ – 2’ retaining wall on the side. Mr. Taintor requested that they remove the cloud note about the awning from plans.

Ms. Roberts asked about ADA accessibility with the grade and sidewalks. Mr. Mikolaities confirmed it will meet ADA requirements.

Councilor Spear asked if there would be any water problems with the seating area with the little wall. Mr. Mikolaities explained there is a drain. Councilor Spear referred to the existing parking credits but decided it probably wasn't the time to get into it.

Chairman Ricci asked that the triangle shape for the doors be added to the legend.

Mr. Rice stated this will be in a very visible spot unless it will be enclosed with structures surrounding it. It seemed like a lot of impervious surface not broken up with some sort of vegetation. Mr. Mikolaities referred to their Landscape Plan which shows trees and plants. Chairman Ricci felt that addressed the issue.

Councilor Spear asked whether Planning Board approval is required for the change of use. Mr. Taintor stated it is an allowed use so no approval is required and because of the old parking credit system they have the required parking spaces. He added that TAC requested an updated traffic study.

Ms. Roberts was concerned about maintaining the pedestrian-friendly feel of the design of the building and the site. She wondered if there were any changes to the doors and access to the building. She wondered if the changes will create a wall along the streetscape. Mr. Mikolaities explained that the granite pavers were to break up the sidewalk so that you see something physically different.

Councilor Spear felt that retail would have created a welcoming first level access to the facility. Even though there area doors on the street, they will be closed for the conference center and not used. Trying to avoid the canon effect, his big problem was with the conference center use. Mr. Mikolaities explained that this was the original seating area and it is less square feet. They are down to 4 doors from 5 doors.

The Chair asked if anyone was present from the public wishing to speak to, for or against the petition.

Jonathan Springer, Attorney for the Sheraton, who is an abutter, addressed the Board. He had a few questions regarding parking and he wanted to follow up on Councilor Spears' question. He did not understand the parking credit and asked for an explanation of how it was calculated. He was told that the only person who ever understood the parking credit in the City of Portsmouth was Lucy Tillman and she is gone. Also, if they are changing the use, how can they go under the old Zoning Ordinance.

Rick Taintor didn't want to go through the details of the parking credit calculations and would look to the applicant for that. He did explain that the reason they got rid of the parking credit is because it is convoluted. It goes back to what you had on the lot in 1997 and because this particular lot had an expansive area they had a much larger parking credit than any other lot in the downtown. They listed 334 spaces as their credit and they are just chipping away at that. This was permitted under the previous Zoning Ordinance and the practice has been that as long as something is in construction and before it receives it's Certificate of Occupancy, and as long as it is something allowable in the district, then the City allows those uses to shift. Once the building is signed off as complete from then on the

changes will go under the new Zoning Ordinance. As long as there is no abandonment of the permit, they work under the zoning that it was approved under.

Attorney Springer asked for an explanation of the actual parking credit numbers. Mr. Taintor confirmed the numbers came from the Planning Department when this project was originally permitted. The parking credit is based on what was there in 1997 and that number does not change. It is the parking credit required that will change with the uses in the building. Attorney Springer asked if there is something in the Planning Department that gives the historical background of that? Mr. Taintor confirmed that there is. Attorney Springer heard someone refer to a Traffic and Parking Study. He had seen a Traffic Study by VHB but had not seen a parking study. He asked if that was the same report? The applicant confirmed it was just a Traffic Study.

Don Peterson, of the Sheraton Harborside. If they are using old calculation, under the old Zoning Ordinance, is it accurate that the calculation for conference space includes input from the IBC in terms of the amount of people that can go into the facility, and not based on a number of seats provided? If they have 11,000 s.f. of conference, you have to look at IBC occupancy load requirement in that area and that is what gives you your requirement of seats. Mr. Hopley stated that the clouded areas on the plans are parking requirements strictly based on zoning requirements and not on Building Code. Mr. Peterson felt that the old Zoning Ordinance references IBC, the capacity based on the building code requirement. Mr. Hopley agreed with that. Mr. Peterson felt the calculations need to be refigured. Mr. Hopley stated that may be the case but he could not do that calculation now but he did offer further information. This facility is a hotel and now a proposed conference center is being build under IBC 2006. The design team was very astute at knowing areas of the current building code that allows the building of this occupancy and height to be constructed in the type of construction that it is, being unprotected frame or combustible construction. With that allowance comes some restrictions on what can happen on the ground floor and one is that assembly areas are limited to an occupancy load of 300 people. Because of the uniqueness of the design of this building, there is a real cap of 300. The Inspection Office is going under the assumption that this conference area has a limited occupancy limit of 300 and that is what they are basing all of their means of egress requirements on.

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. Rice made a motion to grant Amended Site Plan review plan with stipulations. Councilor Spear seconded the motion.

Mr. Taintor requested a stipulation regarding the removal of the note concerning the proposed awning, Chairman Ricci requested a stipulation that they add the triangles on the legend and Staff had recommended a stipulation regarding documenting the egress route supporting the proposed occupancy.

The motion for Amended Site Plan Review passed unanimously with the following stipulations:

1. The note on Sheet C-6A regarding the proposed awning shall be removed.
2. The legend shall include the triangle shapes for the doors.
3. The applicant shall document that the egress route through the relocated seating area will support the proposed occupancy of the Conference Center.

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B. The application of **Maplewood and Vaughan Holding Company, LLC, Owner**, for property located at **111 Maplewood Avenue**, wherein Site Plan Review Approval is requested for renovations to an existing office building, with related paving, utilities, landscaping, lighting, drainage and associated site improvements. Said property is shown on Assessor Plan 124 as Lot 8 and lies within the Central Business B and Historic District.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Patrick Crimmins, of Appledore Engineering, was present on behalf of the applicant. They are proposing minor site improvements to the existing parcel, formerly the Portsmouth Herald Building. There is an office renovation currently in process on the ground floor and they are proposing minor changes. Mr. Crimmins indicated he would walk them through the improvements.

Site lighting and building lighting:

- Bollard lighting around the perimeter sidewalk of the building.
- 16 bollard lights.
- 3 parking lot lights, dark sky friendly. One triple fixture and two single fixtures.
- Lighting for the pylon sign and the flagpoles.
- Lighting for the building, building signage and a proposed security light above the maintenance door in the rear.

Miscellaneous items:

- Removal of the section that jutted out from the building. The building is now one straight wall.
- Reconstruct sidewalk and create new parking spaces. There will now be 12 spaces along the east side of the building.
- Provide an ADA tipdown ramp to access the ADA space that has been provided.
- Appropriate signage and directional sign have been provided as they will have to enter through the front of the building.
- Construction of a sidewalk along the rear with 3 doorways. There will be 3 new tenant spaces.
- Associated signage and lighting.
- Sidewalk to be connected to existing sidewalk on Vaughan.
- Provide a stairway connection up to the new sidewalk that is being constructed along the east side of the building.
- There is no accessible route down to the ground level to Vaughan Street so they added a note that states that lower lever occupancy shall not be granted until accessible access has been provided and approved by the City of Portsmouth.

Mr. Crimmins stated they met with TAC and received a favorable recommendation, with eight stipulations.

- 1) On Sheet C-2, remove the “Proposed Gooseneck Light” on the west side of the building.

On C-2 there is a cloud on the west side of the building indicating that the gooseneck lighting is no longer being provided there.

- 2) On Sheet C-2, restripe the parking spaces between the painted islands.

They will re-stripe all along the newly constructed sidewalk so that there will be 12 spaces, including the two ADA spaces.

- 3) On Sheet C-2, show a tip-down for the handicapped spaces.

They are providing a tipdown and the appropriate signage for those accessible spaces.

- 4) On Sheet C-2, show provision of a Knox Box.

They added a note to the site plan to provide a Knox Box.

- 5) On Sheet C-2, show existing and proposed water service locations.

The building will use the existing water service and they are not proposing a new service. That has been shown on Sheet C-1 and C-2. They also added a note that if during construction they find the water line is not in the place shown, they will notify the engineer so that it is accurately reflected in the plan.

- 6) On Sheet C-2, Note 9, change “Town of Rye” to “City of Portsmouth.”

This was done.

- 7) On Sheet C-2, the notes included on the revised plans submitted at the TAC meeting shall included on the revised plans submitted to the Planning Board. These notes address dark-sky lighting and van accessible spaces, and, most importantly, state that the lower level cannot be occupied until handicapped accessible access has been provided.

Those notes are on Sheet C-2 as Note 15, 16 and 17.

Note 15 pertains to the security light located above the mechanical door and whether that was dark sky compliant. They added a note that says that the lighting designer shall confirm that the light is dark sky compliant and if it is not they will submit another fixture to the City. They also submitted all cut sheets for the fixtures and have confirmed that is a dark sky compliant light fixture.



Note 16 is regarding accessible route to the Vaughan ground level which he discussed earlier. They cannot occupy those three tenant spaces until an accessible route has been provided, whether it is through future development or whether they have to come back and amend this plan.

Note 17 is with regard to the van accessible spaces which are shown on Sheet C-2. It shows the reserved sign and the van accessible signs.

8) On Sheet C-6, show a specific proposed stair detail rather than several alternative details.

They have revised that detail to only show the details required to construct the stairs on Sheet C-5 and to highlight what the stairs are going to look like.

Ms. Roberts asked if there currently was a flagpole? Mr. Crimmins confirmed there is.

Mr. Rice asked if a Landscape Plan was previously submitted as he did not see one in his packet. Mr. Crimmins stated they are not proposing any changes to the landscaping. Mr. Rice felt the parking lot to the right of the building is a large impervious space and it seems it could be broken up and made to look softer with landscaping of some kind. Mr. Crimmins explained the intent is to keep the limit of pavement the same. Chairman Ricci felt Mr. Rice made a great point. He felt they should make a stipulation that they work with staff on additional landscaping. Ms. Roberts indicated that she would like to see landscaping also and something related to snow storage.

Mr. Hopley asked about on Sheet C-5, the stair detail does not show any type of handrail. Mr. Crimmins confirmed they will add a handrail and will have the architect confirm the dimensions.

Chairman Ricci felt on Note 4, Sheet C-2, they should say that the contractor shall employ a licensed engineer/surveyor in the State of NH.

Mr. Taintor made a note to the Board, regarding the lower level handicapped accessibility, that it sounded like they may come back with a revised site plan. He felt they should all be aware that, regardless, it would be an amendment to this site plan. They would have to create spaces on the west side of the building and create a connection to those doorways so there will be another Site Plan amendment coming in the not too distant future. Chairman Ricci asked why they were not seeing that now? Mr. Taintor understood that they had a tenant coming in who was ready to come in on the first floor level. They are not ready to create an occupy-able space in the basement.

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. Blenkinsop made a motion to grant with additional conditions as discussed. Mr. Coker seconded the motion. Mr. Rice stipulated that the Landscaping Plan be included, introducing some deciduous plant matter in the parking lot with a snow storage area. Mr. Hopley asked to have Sheet C-5 show the handrail details. Chairman Ricci asked they add "State of NH" for licensing.

Chairman Ricci felt Mr. Rice’s point is right on point. He would like to see the Applicant work with Staff and provide this Board with a final plan. If anyone on the Board wanted to work with staff they could.

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

1. A Landscape Plan shall be included in the Plan Set, to include deciduous plants and snow storage, to be reviewed and approved by the Planning Department.
2. A handrail detail shall be added to Sheet C-5.
3. On Sheet C-2, Note 4 shall include “licensed in the State of New Hampshire” after ‘The contractor shall employ a licensed engineer/surveyor’.

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C. The application of **Sureya M. Ennebe Revocable Trust, Owner**, for property located at **800 Lafayette Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance to remove all structures and pavement within 50’ of the highest observable tide line, within the tidal wetland buffer. Said property is shown on Assessor Plan 244 as Lot 5 and lies within the Gateway District.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Attorney Peter Loughlin appeared on behalf of the applicants, and was present with Tom Saucier, of SDC Design Consultants, and Kevin Moore, of CM Brown, seeking Conditional Use Approval.

Attorney Loughlin had already had four hearing on this matter, having been before the Conservation Commission three times, the Board of Adjustment, and Pre-TAC, however, the Planning Board has not heard it yet.

Attorney Loughlin gave the Board a history of the property. Going back to the late 1950’s, all of the property between what is now Bournivals and the Dinnerhorn was owned by the Seybolt family and they began to subdivide this property. They subdivided off the piece which holds the Sunoco station and then subdivided off a 4-5 acre piece to the Pic N Pay Supermarket. The NH Supreme Court rendered an opinion that the property was worthless but if it could be filled it would have value. The court went on to quote a marine biologist who said it was doubtful there could be any marine value for land that is above two City dumps. That was in 1968. In the 1960’s, Jerry Waldron purchased this lot and installed the first car wash in the City’s history, and later the four-bay car wash was reduced in size and a convenience store was put in and there was always fuel at that location. CM Brown has had a long term lease on the property. The facility is “tired” and in 2008 CM Brown developed a proposal to upgrade the property.

Attorney Loughlin handed out to the Board exhibits showing the site from different aerial photos. In 1978 the site was almost completely paved. It has been 2 years since a load of fuel has been delivered to this property. Their position has been they have a non conforming use that has never been

abandoned. In May of 2008 they came to the Planning Department with a plan and were told it was an intense use and suggested they reduce the intensity by getting rid of the car wash and pull the pavement back from the tidal edge of the property line. CM Brown came back with the present proposal which was submitted to the Board, which does everything that the Planning Department suggested. All pavement between the building and rear property line is removed and replaced with vegetation. They also suggested bringing the building back further to the 50' setback line so they would then be more in compliance with the 50' setback. They filed this plan with the City and received BOA relief in November 2009 for the canopy, a special exception because they were tearing down the convenience store, a variance for a side setback and for work within the 100' tidal wetland. At that point, Lee Jay Feldman advised him the new Zoning Ordinance would require that they now need a Conditional Use permit. They went to the Conservation Commission in January and they made a number of recommendations. They went back to the Conservation Commission in February and implemented all recommendations except putting clover in the 15' section which they are asking to keep mowed for security purposes. They received a recommendation of approval from the Conservation Commission last week and he felt this was an incredible improvement on the site and tonight they are respectfully asking this Board for Conditional Use approval.

Mr. Blenkinsop asked if the snow storage area is on State land? Attorney Loughlin explained that land was the 50' entrance to the supermarket site and CM Brown has the only right of way to use that and the only purpose of the 50' right of way for the State is to get to their tidal lands. The reason the snow storage is in that location is that it gets the snow the furthest from the marsh. Mr. Blenkinsop wondered if the right of way allows for snow storage and whether it was a permitted use. Attorney Loughlin responded it probably was not a permitted use. It was just to be an access easement. They are suggesting it be used for snow storage rather than putting the snow closer to the marsh. Mr. Blenkinsop asked if he planned to communicate with DOT and get permission to use it for snow storage? Mr. Taintor reminded the Board that this is not Site Review so they shouldn't concentrate on the snow storage. Mr. Coker pointed out one of the criteria for approval was that this was the alternative with the least adverse impact areas under the jurisdiction of this section. He felt Mr. Blenkinsop was correct in questioning the snow storage as it is part of the plan and it is germane to a Conditional Use Permit.

Mr. Rice asked what a conservation wildlife seed mix was? Tom Saucier, of Site Design Consultants, pointed out under site Note 4 they list the specs for the vegetated area and for the low maintenance area.

Mr. Coker noted that the criteria for approval state "there is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use". The location of the fueling area is set back a distance from the property line, maybe 30'. He asked if there is any chance this whole thing can be shifted closer to Lafayette Road to allow for more buffer area. Attorney Loughlin noted that they have pavement up to the back property line and most of the impervious material from 75' – 80' out will be the roof of the building where clean water will run off. They had a discussion with the Conservation Commission about filtering that water and having it head back into the marsh. Considering the depth of the parking spaces and the turning movements, they are not going to get any closer to the road.

Mr. Coker mentioned that when they see this in Site Review it will be extraordinarily important to see how fuel spillage will be handled.

Councilor Spear followed up on pushing the building back towards the wetlands and he understands the justification for it but to minimize the impact of the runoff from the building itself, he asked if they had considered putting a vegetative roof on to absorb rainwater. Chairman Ricci agreed that was appropriate to ask for this application. Councilor Spear felt that type of roof would reuse run off from the building itself. Attorney Loughlin indicated there was discussion about whether the run off from the roof should be sent east towards the parking lot to improve the quality of the run off in the catch basin or sent it west towards the marsh. Mr. Saucier stated that the purposes for a vegetative roof are cooling of run off and nutrient uptake. The buffer they are proposing to sheet flow this water to will also serve that same purpose prior to the water entering the wetlands. They will take that under advisement.

Mr. Coker asked if he understood him to say there would be sheet flow? Mr. Saucier confirmed there will be sheet flow off of the roof.

Chairman Ricci asked how they will treat the lot once they plow it. Will they salt it or how will they maintain it? Mr. Saucier stated they will not do anything different. He added there is a retrofit they are proposing at the catch basins on the site where all of the run off goes. The catch basins will catch all of the sand and grit and they will retro fit the catch basins with snouts to collect floatables and trap solids. That is one proposal they have incorporated in the plan. They will use a salt and sand mix. Chairman Ricci requested that they look for a different alternative for this area. He is not worried about roof run off but he is concerned about an area like this getting over salted. Chairman Ricci also wants to see the mix for the vegetative strip in the back.

Ms. Geffert noted this site is in the Gateway District and they are looking for a different visual and aesthetic in this district. She would like to see some of the aesthetics which they were hoping for in the Gateway District be brought to bear. She was not going to tell them what do to with their Site Plan. She feels they are moving forward but she is concerned about the intensity of the use and she would like to see some more aesthetics. Mr. Rice stated he will also be looking at the landscaping plan to break up the impervious surface on the site. It will be a challenge but the Board will be looking for that.

Mr. Taintor followed up on the Gateway District. He pointed out to the applicant that the zoning has changed so the notes on the Existing Conditions Plan should reflect the new district and the zoning requirement. On the Site Layout and Utility Landscape Plan, in the front of the site they show 30' to the proposed canopy and there is another line 15.5' to the existing canopy and he asked why it is in bold? Mr. Saucier was not sure why it was in bold. Mr. Taintor pointed out that other items, such as side setbacks, from the Existing Conditions Plan, are not in bold. Mr. Taintor asked them to include the adjoining lot where the right of way is so that they can advertise both lots.

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 Conditional Use approval. Mr. Coker seconded the motion.

Ms. Roberts acknowledged the hard work from the Conservation Commission on this project and their efforts to acquire more information. Mr. Coker reiterated that, historically speaking, fuel service areas in sensitive environmental situations has been looked at very closely by this Board and they should keep that in mind when they apply for Site Review. This is a very sensitive area with a lot of marine wildlife and small mammals.

The motion to grant Conditional Use approval passed unanimously.

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D. The application of **J. P. Nadeau, Owner, and Witch Cove Marina Development, LLC, Applicant**, for property located at **187 Wentworth House Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for the placement of two structures, a portion of which fall within the tidal wetland buffer. Said property is shown on Assessor Plan 201 as Lot 12 and lies within the Waterfront Business (WB) District.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Mr. Taintor explained this application is part of a plan that was previously submitted to the Board and in this case it is simply moving two structures from one side of the lot to another. It is moving structured from inland tidal wetland buffer into the tidal wetland buffer. The Conservation Commission reviewed this last week and did not have enough information to make a determination and postponed to their March 10<sup>th</sup> meeting. The recommendation for this Board is to postpone this to the March Planning Board meeting also.

Mr. Coker made a motion to postpone to the March 18, 2010 Planning Board Meeting. Mr. Blenkinsop seconded the motion.

The motion to postpone this application to the next regularly scheduled Planning Board meeting on March 18, 2010 passed unanimously.

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**III. CITY COUNCIL REFERRALS/REQUESTS**

A. Request to revise off-street parking standards and requirements in the Central Business District and Downtown Overlay District (letter from Robert A. Shaines dated January 12, 2010).

Rick Taintor, Planning Director, stated there was a brief overview in the Board’s packet and he finished a more extensive Memorandum this afternoon which was provided to the Board. That Memorandum went through the background of how they got to where they were, starting with his April 2009 memo, whether the downtown parking standards are discriminatory, which they are but in a positive way; whether the in lieu payment is a tax or an impact fee, which it is not and he gives the

reasons; whether it is unreasonable and he gives arguments to why it is not felt to be unreasonable; he discussed some of the policy considerations and some options that could be considered. He listed five general options that are not meant to be all encompassing but are meant to describe a range of possibilities. One is to eliminate all off street parking requirements in the downtown area. One is to eliminate off street requirements for first floor uses. One is to exempt more parking spaces. They now exempt the first four spaces and they could exempt the first 10 or 20 parking spaces. One is to reduce the off street parking requirement for restaurants. The last would be to reduce the amount of the in lieu payment. All are ways to address the concern by reducing the cost to an applicant moving into the downtown area. Each would shift the cost from the property owners to users and/or tax payers. Councilor Spear questioned whether tax payer funds were actually going into parking at this point but the fact is there is some sort of split between private development and users and/or taxpayers funding parking in the downtown. A sixth option which he clearly does not recommend is to eliminate the in lieu payment altogether. He is opposed to that because it would require people to provide their parking on site and that would not be good for the downtown. He ended with a short term recommendation to reduce the in lieu payment and a longer term recommendation to create a study group and come up with a long term strategy for managing parking.

Chairman Ricci felt this is one of the few items that they tackled that they need to engage downtown business owners. He feels it is too complex and they should sit down with property owners to simplify it so that it makes sense. He would like to have a sub-committee with members of this Board to sit at a round table with downtown business owners and property owners and analyze how this should go forward.

Mr. Coker asked for clarification on a point. They are now working under the law as it is now which is the new Zoning Ordinance and there is some spirited debate on whether that was a good change. What can they do between now and when the sub committee is formed. Do they have the authority right now to change the \$5,000?

City Attorney Robert Sullivan explained that to address the issues raised by one downtown business will require that an ordinance amendment first be recommended by the Planning Board and then passed by the City Council. There is no other way to get to it. There is no provision authorized by Statute to suspend those rules.

Ms. Geffert concurred with Mr. Taintor and the better thing would be to roll back to where they were before, recommend the City Council consider that as an interim measure until this process can go forward and they can recommend a change.

Mr. Coker made a motion, using Mr. Taintor's Memorandum, to recommend that the Planning Board initiate a study process through a subcommittee or focus group of City Officials and downtown property owners who would be charged with reviewing alternative strategies for managing and financing public parking in the central business district and that they roll it back to what it was before. And they recommend to the City Council that the in lieu fee be the same as it was before.

Attorney Sullivan felt that was an avenue that could work but there are more ordinance changes involved. Mr. Taintor felt that if they were to roll it back to where they were before, they would have to bring back the whole unmet parking need mess. Because they have already reduced the parking

requirements in the downtown area substantially, if they applied the \$1,306 fee that existed in 2009 to these reduced parking requirements they would actually be lowering the parking fee compared to what it was. He had recommended a round figure of \$2,000. He did not know whether that would be an increase or decrease but it will be somewhere in the ballpark of what it was last year.

Mr. Coker withdrew the second part of his motion, and will just make his motion to initiate a study process as noted in Mr. Taintor's Memorandum. Mr. Rice seconded the motion. Mr. Blenkinsop asked who forms the study group? Chairman Ricci stated the Planning Board will form the group, get feedback for this Board so they can then send it to the City Council. Mr. Blenkinsop asked if they should they set a deadline for that report, given the importance of this issue? Chairman Ricci felt they could have this information in a couple of weeks and a deadline would be appropriate. He asked for a volunteer from the Board to spearhead the committee. Mr. Coker volunteered to spear head the sub-committee.

The motion to recommend that the Planning Board initiate a study process through a subcommittee or focus group of City Officials and downtown property owners who would be charged with reviewing alternative strategies for managing and financing public parking in the central business district passed unanimously.

Chairman Ricci indicated they can now talk about a second motion to discuss the fee. Mr. Taintor referred them to his recommendation in the second sentence of the first paragraph, which read "As a short term measure, therefore, I recommend that the Board consider recommending to the City Council that the in-lieu payment be reduced to \$2,000 per space not provided."

Ms. Geffert asked if Staff would be agreeable to having the motion be a little more flexible so that what is presented to the City Council puts the fee closer to what the property owners would expect had no zoning change gone into place, until they figure things out. Chairman Ricci felt this was the measure that they need to give them an interim period. Ms. Geffert agreed but rather than use the \$2,000 number, she wanted them to ask staff to come up with the right number. Mr. Taintor understood her concern however one of the difficulties is that the previous system gave free rides to some properties and imposed costs to other properties. The system they have now is applied equally across all properties. The answer would be some properties are losing out and some are gaining and he would not know how to balance that and it could not be more specific. Ms. Geffert thanked him for the clarification.

Mr. Hopley asked for a point of clarification from Attorney Sullivan. If this goes forward, this would be a recommendation to the City Council tonight for the interim ordinance change but in order to carry out that change, would it be 3 readings? Attorney Sullivan stated it would ordinarily be 3 readings but they could do it in two readings with a suspension of the rules and there would be a public hearing.

Ms. Geffert made a motion to recommend to the City Council an interim change to the Zoning Ordinance permitting the in lieu parking fees to be reduced to \$2,000 per parking space. Mr. Coker seconded the motion.

The motion to recommend to the City Council an interim change to the Zoning Ordinance permitting the in lieu parking fees to be reduced to \$2,000 per parking space passed unanimously.

Chairman Ricci confirmed that Mr. Coker will spearhead the Sub-Committee. Chairman Ricci indicated he would like information back to this Board in 30 days, at their next Planning Board Meeting. He felt the answers are out there and they just need to go out there and get them. Mr. Coker felt, with the help of the press, they could make it very clear that they are looking for downtown property owners, tenants and residents.

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B. Request to rezone lots on Sagamore Grove from Waterfront Business (WB) to Mixed Residential Business (MRB) or Single Residence B (SRB) (letter from Peter G. Weeks dated January 25, 2010).

Mr. Taintor stated this was a very complicated area which is isolated and surrounded on two sides by waterfront business, another side by mixed residential business and opposite Sagamore Creek. If the Board recommended the re-zoning of this area they would also be recommending the rezoning of one or two additional parcels that are not included in the petition. He suggested the Board schedule a public hearing on this. Mr. Weeks has requested that the public hearing be scheduled for the April Planning board meeting as he is unavailable for the March meeting.

Mr. Coker made a motion to schedule a public hearing at the April 15<sup>th</sup> Planning Board meeting. Mr. Blenkinsop seconded the motion.

Coker urged the Board to do some homework on this. A number of years back, Joe Sawtelle requested this Board rezone for Mike’s Marina. Waterfront business is a very important piece of this community. At that time, the request to re-zoning Waterfront Business produced a lot of public input. He stressed that Waterfront Business exists for a reason.

Councilor Spears indicated that a few months ago he was attending a meeting about development in Vancouver and it has to do with development on the waterfront. There was a large parcel and the private developers were making the argument that the City would be able to get more tax revenue if they allowed the condos to be right on the water. The City ended up having the waterfront be park land and the developer had the condos around it. What ended up happening was the total value for the entire neighborhood was higher because, even though the City gave up tax revenue from the waterfront, the tax revenue for the entire neighborhood was higher. In this case the property is private waterfront business, but a lot of those businesses have a quasi public component in them so he will be thinking about that at the April hearing.

The motion to schedule a public hearing at the April 15, 2010 Planning Board Meeting passed unanimously.

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Chairman Ricci made a special presentation to Past Planning Board Representative, City Councilor Chris Dwyer, thanking her for her four years of service on the Planning Board. Councilor Dwyer thanked the Board for her gift.



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Congratulations went out to Anthony Blenkinsop on the birth of his daughter, Elliott Olivia, on Friday, February 12<sup>th</sup>, weighing in at 6 lbs, 15 oz.

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**IV. ADJOURNMENT**

A motion to adjourn at 8:50 pm was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse  
Acting Secretary for the Planning Board

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