

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

7:00 P.M.

JUNE 17, 2010

MEMBERS PRESENT: John Ricci, Chairman; Paige Roberts, Vice Chairman; Donald Coker; John Rice; Anthony Blenkinsop; MaryLiz Geffert; Cindy Hayden, Deputy City Manager; Norman Patenaude, Alternate and William Gladhill, Alternate

MEMBERS EXCUSED: Eric Spear, City Council Representative and Richard Hopley, Building Inspector;

ALSO PRESENT: Rick Taintor, Planning Director

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6:00 pm – 7:00 pm – WORK SESSION on Zoning Changes

Chairman Ricci turned the meeting over to Rick Taintor. Mr. Taintor indicated that as they have started using the new Zoning Ordinance, items have come to their attention that need revising.

Wetlands:

There are some items that they feel probably should be exempt:

- Sheds behind houses near wetland areas, approximately 10' x 10'.
- Generator pads (the noise standards for them will also need to be adjusted).
- Setbacks from the waterfront for boathouses.

Allow Planning Director to require review by independent wetland scientist (currently, only the Planning Board can decide this.)

The term "use" is used differently in the wetland section and means a change.

Signs:

- Freestanding signs in the Historic District – the wording needs to be clarified
- Exemptions from permits for directional signs, projecting signs and flags. The City Council has implemented a new policy regarding signs on City property so they need to be treated differently.
- Public, educational, historical and institutional signs – the Zoning Ordinance previously allowed these up to 16 s.f. and they will put that back in.
- Parapet vs. wall signs – this section needs to be tightened up.

- Projecting signs – they changed the width requirement to no more than 1/3 of the width of the sidewalk but this doesn't work in some locations, like some of the back streets. This needs more flexibility.
- Sign area – aggregate. They have had a lot of difficulty with this and they feel they can eliminate aggregate sign area altogether.
- Sign area – freestanding. Change so that the free standing signage is counted separately and doesn't interact with the individual signs on the stores within the shopping centers.
- Sign area – freestanding. Move B district to Sign District 4.
- Sign area – freestanding – need to investigate increasing allowable area in the GB and Gateway Districts.
- Signs on more than one façade of a building – need to clarify and allow more flexibility.
- Special event signs – change “one sign” to “sign(s)”
- Change definition of “Internal Sign” for shopping centers – the intent is that the sign is not visible from a residential district.

Number of dwelling units per structure (10.440 – Use Regulations)

The City has previously not allowed more than 8 dwelling units in one building, except in the Business (B) and Central Business (CBA/CBB) districts. This is about controlling scale but more important are the dimensions of the building. The Board discussed the intent behind this regulation and how it prohibits changing the character of residential neighborhoods. The Department will look into this issue. Affordable housing was considered and the option of obtaining a variance.

Building height – rooftop appurtenances (10.530)

This does not allow for elevator penthouses more than 10' above the roof line. Suggested having different height regulations for penthouses but include setbacks so that they are not unsightly.

Accessory structure setback (sec 10.572)

There is no exemption for accessory buildings. Consider making an exception for CBA and CBB districts, or where a lesser setback is specified. Revised wording was suggested.

Historic District – mechanical equipment

They now allow for items that extend 1' out from the building or are 4' above roof plane. There are many things that are being put at grade, rather than on a roof, which have less impact. Suggest adding generators.

Roof mounted wind turbines (10.900)

The required fall zone was designed for ground mounted towers and does not work for roof mounted turbines.

Yards and off-street parking setbacks.

A conflict exists as they defined yards as open space areas and then defined open space as landscaped areas that excludes parking area, etc. This has an impact on development and Mr. Taintor was interested in the Board's feedback on this. Ms. Roberts was concerned about old residential neighborhoods. Mr. Taintor indicated he felt it was more for new commercial development along throughways. It was the consensus to leave this as is. Deputy City Manager Hayden thought clarification might be helpful. Visuals might be helpful.

Generators – Noise limits.

The current ZO exempts emergency generators from noise limits but does not accommodate permanently installed generators which have to be tested weekly. They suggest having strict controls on when they are tested and allow higher noise levels during those times only. Mr. Coker asked about enforcement and Mr. Taintor stated it would be more on a complaint basis and the Inspection Department would investigate.

Neighborhood Dimensional Standards.

Neighborhoods have changed over time. The Department has been looking into the individual neighborhoods to see what the appropriate lot size is for the different areas. They will recommend reductions in required lot area in various areas. Atlantic Heights was the most extreme example. This would make it less burdensome for the homeowners. Mr. Rice asked if they would create sub-districts. Mr. Taintor was unsure how to accomplish this. It was prompted by finding concentrations of areas being nonconforming as well as monitoring the BOA agendas and seeing the majority of applications for front or side setbacks.

Mr. Taintor will continue to work on the dimensional table and he will create draft language. Another work session will be scheduled next month with the Board.

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I. APPROVAL OF MINUTES

- 1. Approval of Minutes from the May 20, 2010 Planning Board Meeting – Unanimously approved.

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II. OLD BUSINESS

*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 the **City of Portsmouth, Owner, and the School Department, Applicant**, for property located at **25 Granite Street**, requesting Site Plan Approval to demolish an existing building and construct a softball field with bleachers, restroom/concession pavilion and a 63-space parking area, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 217 as Lot 5 and lies within the Municipal District. (This application was postponed at the May 20, 2010 Planning Board meeting).

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Lisa DeStefano, of DeStefano Architects, addressed the Board. She stated they have been working diligently over the past month to address the concerns of the last meeting. Also present were Doug

Roberts, of JCJ Architecture, Project Manager, Doug Lajoie, Vice President of Consulting Engineering Services, Gordan Leedy, of VHB, Chris Dwyer and Dexter Legg, Co-Chairs of the Joint Building Committee, Rus Wilson, City Recreation Athletic Director, David Allen, Deputy Director of Public Works and Steve Bartlett, School Administrator.

Ms. DeStefano stated this has been a six year decision-making process to renovate the Middle School. As part of that process they need to relocate Alumni Field and they have selected this location. To-date a number of meetings have occurred. On May 5th they received a favorable recommendation with 3 stipulations from TAC, on May 12th they received a favorable recommendation with 2 stipulations from the Conservation Commission, on May 13th they received favorable approval from the Traffic & Safety Committee, on May 20th they received Conditional Use Permit approval from the Planning Board and they have been working with the contractor, Gilbane Construction, and they are meeting with City Staff on their Construction Management Plan (CMP). She turned the meeting over to Doug Roberts.

Mr. Roberts reviewed the letter he submitted, summarizing the stipulations from TAC. They also discussed the concerns of the May 20th Planning Board meeting and they added additional notes and details to insure the constructability of the final project.

Sheet C-1 – Note #3 was added, stating that during construction of the project, the debris on the site shall be removed to the maximum extent practical. There was a concern about the debris along the wooded area on Market Street extension which they will clean up as part of the project.

Sheet C-2 Site Plan. The plan from May 20th addressed a concern about the need to add a barrier fence between the property and abutting property on Woodbury Avenue. They removed that barrier fence as it was felt it would enhance the aesthetics of the site as well as increase the ease to maintain the property. They added trash receptacles on the property. They located one each at the bleacher areas and two near the concession stand. On the north end of the parking lot there were 3 lights on the west side of the parking lot. In reviewing the photometric study of the site it was determined there was a minimal contribution from those lights at the property line so they can say there is zero contribution of those parking lights on the abutting property on Granite Street. Those three site lights were moved to the eastern side of the property, which is closest to the softball field. Again, the photometric study shows that those lights do not contribute any light at the property line, in compliance with the Zoning Ordinance.

Sheet C-3 Layout and Materials Plan and Sheet D-1 Demolition Plan. They added a note to address the memorial stone stating “Remove and relocate memorial stone. Coordinate removal, storage and relocation with the DPW.”

Sheet C-4 Grading and Utility Plan. Where they are entering the site from Granite Street they are making a grade change. In the interest of staying away from abutting property, there is a note “Do not clear or grade within 5’ of the property line.” This is to assure minimal disturbance to that property line.

Sheet C-7 Site Details 2. They added additional details to increase the information for constructability and also provide specification for items such as the foul pole, barrier netting and trash receptacles.

Sheet C-8 Site Details 3. They added two details to address the school bus turning movement and the snowplow single truck turning movement on the site.

Sheet L-1 Planting Plan. Significant changes were made to this plan. To address the concern of lights from cars being cast onto the abutting property and also as a barrier to pedestrian access through the abutting property on Granite Street, 32 arborvitaes 6' in height when planted, were added along the property line, 17 on the east property line and 15 on the south property line. They added notes to preserve two existing trees. One is a 24" ash and one is a 24" cherry tree on the abutting property line off Granite Street. They also added a note that there will be 9 existing trees that will be removed, 6" or greater in caliber, to create the access drive to the parking lot from Granite Street.

Sheet SU-3, Site Lighting Point Calculation Plan. Mr. Roberts already addressed the relocation of three parking lot lights. They also wanted to address the site lighting itself for the ball field. They wanted to make sure they had proper illumination so that they could have safe play on the field. In their letter they state that Illuminating Engineering Society of North America (IESNA) recommends a minimum average of 30 foot candles of light on the playing surface for soccer and 50 foot candles for the infield play for softball. On the Photometric Plan it shows they are just over at 50.8 foot candles in the out field and 30.2 in the outfield. Therefore, they met the safe play on the field and they were able to achieve this by slightly adjusting the lights to minimize the light contribution at the abutting property lines. They still have a little bit of light at the property line but it was reduced from the previous submission.

They clarified that the ballfield lights were mounted at 60' in height and the parking lot lights are 20'. The ballfield lights as well as the parking lot lights are full cutoff light fixtures in accordance with the City's zoning standards.

Mr. Roberts addressed the public address system. The noise ordinance as interpreted does not apply to public events; however, because the City wants to be a good neighbor they wanted to address that and issued a separate letter. He explained that in theory they can calculate the sound of noise and know that noise diminishes as it travels away from the point source. They also know they will have ambient noise that will contribute to the perception of sound at the property line, such as vehicle sound off of Market Street extension. Noise is also influenced by the temperature, humidity and wind. Rather than try to bring forward calculations that would present a certain condition based on the ideal environments, they didn't want to represent anything that may not be true based on a day to day basis. What they were able to report is that the public address system has controls in it to regulate the amount of sound output. This public address system has a maximum peak output of 124 dBA. The threshold to pain for hearing is between 120 – 130 dBA so he assured them they will not be at the maximum peak. To achieve an audible sound at the beachers, which are 55 feet away, if they had a source output at the pavilion to the bleachers and with the direction of the speakers, they can direct the sound so that it remains on the property itself and doesn't actually spill over the property, either at the 1st base line or the 3rd base line. There are also amplifier connections within the speakers that act as a governor so they can set maximum thresholds for the output and they have a volume control. All of these are regular, customary measures taken when installing a public address system. During the installation they will work with the City to make sure the sound remains on the site.

Mr. Coker asked if the ballfield lights are 50' or 60'. Mr. Roberts confirmed they are 60'.

Rus Wilson, City Recreational Director, addressed the Board. He did not want to repeat what was detailed at the last meeting regarding the schedule other than to say they will play the bulk of their games during the spring and summer seasons. They only play 2 games an evening, usually with 6:00 pm and 7:30 pm start times. The games finish between 9:00 – 10:00 pm. This is the exact same schedule that has been used at Alumni Field for years, if not decades. Most players are middle aged adults who are anxious to get home. At all of the fields throughout the City they try to be very cognizant that they are around people's homes. It's the way it is in Portsmouth. All of the fields are in the middle of neighborhoods. They want a field to be an asset to a neighborhood, where there can be neighborhood gatherings and they feel it will certainly improve the aesthetics of the neighborhood. The City has been doing this for a long time with very positive results and if there are any issues, no matter how small, they will take care of it as soon as possible.

Chairman Ricci had some drainage questions. He noticed there was a P-7 and he asked if any borings or testpits were done and if they anticipated doing any blasting. Gordan Leedy, of VHB, confirmed that there were permeability tests done. They are trying to avoid blasting which is why the site is configured the way it is. There is a knob of ledge near the southwest corner, adjacent to the concession building. The raingarden is not anticipated to have a huge amount of infiltration but is more of a filtration treatment storage device and there is an underdrain that connects to the drainage system. Chairman Ricci noted they are 4' below existing grade. He asked if they know what ground water is at that elevation. Mr. Leedy stated it was about the bottom of the rain garden. Chairman Ricci asked if it is "about" or if it was at the bottom of the raingarden. Mr. Leedy responded that they took the boring in March or April and the ground water was fairly high at that time and it was at the elevation of the bottom of the rain garden. They have a separation they have to provide to take credit for treatment. Chairman Ricci asked how they would be able to do that if the bottom was already at the ground water table. Where will they get their level of separation. Mr. Leedy stated it was designed to meet the standards for separation. Chairman Ricci asked if they had given any thought to creating a little swale to the abutting neighbor as you come off of Granite Street to the parking area and directing that into catch basin 14. Mr. Leedy stated it will function that way. They are replacing the catch basin in the area of catch basin 14. There is also a silted-in swale along the southerly property line of the adjacent properties which is essentially dead flat and they will clean that up.

Mr. Blenkinsop had a question about landscaping. The arborvitae trees that will be planted around the Oxholm property are marked as 6' in height and he asked if that was their height when planted, and if so, how far apart will they be. Mr. Leedy confirmed that is their height when planted and they are placed about 8' apart. They specified mission arborvitae, a very vigorous grower, and the mature size is more like 16' to 18' so they need to balance the immediate effect against the mature size of the plants. Within a relatively short period of time, 2 years max, they will fill in the gaps.

Chairman Ricci stated they would need a motion to suspend the rules with a two-thirds vote if they want to allow public comments as they closed the public hearing last month.

Deputy City Manager Hayden made a motion to suspend the rules to allow public comment. Mr. Blenkinsop seconded the motion. The motion passed unanimously.

Chairman Ricci called for public comment.

Steve Oxholm, of 51 Granite Street. He expressed his appreciation to the Joint Building Committee as they have done a lot to address his concerns. He knows there has been discussion regarding exclusions for municipal events. He feels they are for one time events and not for an ongoing function. He is not sure the constant adult games fits into that exclusion and he felt they need to decide if they meet the spirit of the ordinance. Mr. Oxholm indicated that at dinner that night they heard windows breaking at the Wentworth School and their dinner conversation was stopped due to the noise of the window breaking so he does not feel that the noise can be discounted. He hears that most games end at 9:00 – 9:30 but he certainly doesn't believe they should go to 11:00 so he feels a curfew would be appropriate. Lastly, he implored that they look at this project the same as they would a commercial entity. He has confidence they will do the right thing.

Bernie Pelech, a resident of the City, was very familiar with the Wentworth School. He used to bring his teams from New Franklin School to play there. This is something that the City really needs and it is a wonderful proposal. He realizes the Board must balance the needs of the general public against the abutters' concerns but he feels the needs of the City outweigh the concerns of the abutters. This property is municipal property and it could have been a fire station, a school, etc. He doesn't believe this will have an adverse effect on abutters and feels it is a wonderful project.

Chairman Ricci closed the public comment session.

DISCUSSION AND DECISION OF THE BOARD

Ms. Geffert made a motion to grant Site Plan approval. Ms. Roberts seconded the motion. Ms. Geffert commended the City as they went back and made amendments to the plans and the Planning Board did hear what Mr. Oxholm has said.

Mr. Coker also commended the applicant and their team for making the changes they did. However, after reading the Memorandum from Assistant City Attorney Suzanne Woodland dated June 8, 2010, saying the City doesn't have to follow their own rules, he still believes very strongly that if games start at 6:00 pm and 7:30 pm, he would want a 9:30 pm curfew. He understands that the City does not allow alcohol but he knows the alcohol is there. He was concerned about what happens if the light is not as it is being described. He stated he will push very hard for the Board not to abdicate the responsibilities to the abutters. Having lived downtown and being sensitive to the noise issue, he is sympathetic to the abutters. These abutters did not buy their homes with the Alumni Field being there.

Deputy City Manager Hayden felt this was a significant community benefit and it just doesn't make sense to put all this money into a playing field and then reduce play time. She felt 9:30 pm is way too early.

Mr. Blenkinsop recognized that the City would like to have a uniform policy for its fields in terms of the end time when games could go to. Deputy City Manager Hayden felt when they roll back someone at one field they may receive pressure to roll it back somewhere else and they would set a precedent. Mr. Blenkinsop asked if it was possible to tie in, not a straight cut off time, but rather a policy that a certain amount of time after the conclusion of the game the property has to be vacated.

Chairman Ricci understood what Mr. Coker was saying however they have the best possible applicant they can have with a great track record. He has played in a few leagues and has not heard any complaints. Mr. Wilson has indicated that most games are over between 9:00 – 9:30 and if games continually go over then the City will deal with it. There are no issues in this City with softballs games and it has worked for over 20 years. Chairman Ricci was opposed to any curfews because it isn't an issue. Mr. Coker's point was that there is not field at Granite Street now and they are being asked to impact people who otherwise would not be impacted. He felt the Board has an obligation to take their needs and concerns into consideration and it is for this field only. He supports the project and believes it is good for the City but he feels they are being asked to look the other way for families that live there.

Ms. Geffert noted that Mr. Coker stated that on a couple of occasions the Board has abdicated their responsibility to the abutters and she wanted to be very clear. This Board probably got the City all riled up because they asked people to make changes to what was a pretty darn good plan and is now an even better plan, so she did not feel they had abdicated anything. She believes this Board has been very focused on the abutters. Also, they are not looking the other way. This isn't about the City coming forward and the Board saying it's the City so it's okay. She felt they have been tough on the City. The property is currently an eyesore and could have been sold for commercial development. She is thinking of the abutters and feels it will be an improvement to the neighborhood. When it comes to noise, the Planning Board reviewed the entire municipality and made a decision, based on what they felt was best for the community and they set a noise/time limitation of 11:00 pm. They did it based on a reasoned discussion. She is not objecting to Mr. Coker's opinion but she is objecting to his statement that the Board abdicated.

Mr. Coker meant to say that if they don't address the neighbors concerns that would be abdicating their responsibilities. He just wants to go the extra half step and add a curfew.

Mr. Rice indicated that he visited the site today and from an aesthetic standpoint 80% of that area is commercial. He felt this comes down to one resident and because of how the site is laid out it is a great place to tuck a little ball park into. The noise, lights and activity affects one residential lot and "for the common good" the Committee has taken a month to take the concerns one at a time to do everything possible to ameliorate all of the negative impacts on the abutter property. He commends them for that and understands that life for that particular resident is going to change dramatically but he felt it was for the greater good. He felt they have dwelt quite a bit on the negative side of this ball park and from a logical standpoint they have done everything humanly possible to ameliorate the negative impacts.

Mr. Coker noted that Mr. Rice said that life for that abutter will change dramatically and that astounded him. It is nice to be able to say it is for the common good but if you are that abutter he does not believe it is an unreasonable request, he doesn't think it will cause problems and it is only for this application. Therefore, Mr. Coker requested the maker of the motion to add a stipulation.

Deputy City Manager Hayden stated that whenever a development comes before this Board, it does have impact on abutters and it does change things and that is a fact of life. Their job, which she felt

they typically do quite well, is to balance the aspects of any project. Mr. Coker agreed but he is asking the Board to take that final step and enforce a curfew.

Ms. Geffert was not willing to amend her motion and if the motion is approved then Mr. Coker's request is moot.

Mr. Taintor raised the question about a Construction Management Plan. Deputy City Manager Hayden was comfortable as they have already started working on the CMP and she believed there was a note on the Site Plan.

The motion to approve Site Plan approval passed with Mr. Coker voting in the negative.

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II. 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 **Eugene C. Bergeron, Owner**, for property located at **20 Columbia Street**, requesting Site Plan Approval to pave and stripe a grassed area behind an existing structure and to install a rain garden, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 156 as Lot 22 and lies within the General Residence C (GRC) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernie Pelech appeared on behalf of Eugene Bergeron, owner of 18-24 Columbia Street. He indicated that this building has been a 4-unit multi family for many years, previously owned by Mr. Bergeron's father, and it needs a facelift. Work has been on-going inside the building and now they intend to pave the backyard which has been a lawn where tenants park. He wants to pave it, landscape it and install a rain garden. In the Planning Department Memorandum there were concerns about the area in front of the house and he felt those have been worked out and Mr. Ross will review that with the Board. Attorney Pelech felt this was a great project which will improve the property.

Alex Ross, of Ross Engineering, stated they added some clarity to the plans to show what will happen in front of the house. He handed out a color sketch to the Board.

Mr. Ross stated the lot is 8,605 s.f. or .19 acres and one lot back from Islington Street. They are looking to improve the site and provide safe and adequate parking. They hope to replace the back yard grass parking lot with an asphalt parking lot. They designed a rain garden to comply with the City's stormwater regulations which will better control stormwater run off and recharge the aquifer. The rain garden plants and landscaping have been selected and placed by a professional landscaper. A drainage

study was provided and all City regulations have been met. The Technical Advisory Committee (TAC) recommended approval with 5 stipulations:

- 1) The back lighting panel, or the south side of the lighting fixture, shall be blacked out so that the lights do not shine towards the houses on Columbia Court.

This was addressed on Sheet C-4, Notes 5 & 6.

- 2) The lighting fixtures shall be one bulb each and no more than 60 watts or equivalent.

This was also addressed on Sheet C-4, Notes 5 & 6.

- 3) The pavement in the front of the building shall be removed and grass shall be placed in the area so that parking cannot occur (to be approved by DPW prior to Planning Board meeting).

A detail was added on Sheet C-3 showing their intent to make a 4' paved walkway with a 5' wide sidewalk and it matches up with the sidewalk to the north and to the south.

- 4) The rain garden detail shall be revised so that labeling is consistent.

This has been revised.

- 5) The storage tank underneath the driveway shall be removed and filled according to State law.

Note 6 was added to Sheet C-2 to address the removal of the tank.

Mr. Ross pointed out their Waiver Request Letter. The site is serviced by City water and sewer with overhead electric and no changes are proposed. All improvements shown on the application and the plans meet City regulations and will provide safe, maintainable off street parking for more than the required amount of spaces. Neighborhood support has been shown by the six abutter signature letters submitted in favor of the application.

Mr. Rice asked if the green colored area on the plans was grass or wetlands. Mr. Ross stated it was grass.

Ms. Geffert asked them to confirm whether they are moving any trees? Mr. Ross confirmed they are not.

Chairman Ricci stated that he used to do a lot of engineering work in western Massachusetts and lots like these cause him a lot of concern. He asked if they have given any thought to doing anything other than paving in the back. Mr. Ross responded that they looked at a couple of different options, including pervious pavement but they felt this was the best solution for this small lot. They prepared an extensive drainage study and they proved there will be a decrease in stormwater runoff, pre-development vs. post development. Chairman Ricci asked for an explanation of how that happens.

Mr. Ross explained that the big change is they have added a lot of pervious surface to the back yard. That is all collected into a rain garden which, in a way, acts as a detention pond. They have given enough volume to hold a 50 year storm, contain it and slowly release it. Therefore the rate of runoff is the same or less than the requirement for different storms. He stated they did a test pit and it is shown on Sheet C-1, Note 5. At a depth of 24" there was a rate of 4" per hour. They also did some test pits and found there was a semi restrictive layer 1 ½ foot below the surface of the rain garden. Currently this is used as a parking area and in big storms earlier this year they have a little bit of ponding and the soil can accept it at a decent perc rate and it goes into the ground.

Chairman Ricci asked how the drainage works. Mr. Ross explained that as it hits the new parking lot, the drainage flows to the southeast. That is following the current drainage flow off Islington to the south.

Chairman Ricci stated that he had a real problem with this small lot and he did not seem right to pave it. He felt they could possibly use a stone gravel. Ms. Roberts suggested something more pervious. Chairman Ricci had a hard time making the entire back yard paved and felt it has a huge impact on abutters.

Deputy City Manager Hayden asked what happens to the water when it hits the driveway. Mr. Ross stated that most of that flow goes back to Columbia Street as it currently does. The driveway is asphalt now.

Deputy City Manager Hayden referred to the abutter letters which they provided to the Board. She didn't see any signatures from direct abutters. Attorney Pelech stated that most abutters are not residents and are multi family residences with parking in the rear of their buildings. He added that they have not received any negative comments from abutters.

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 stated that after making his recommendation to postpone in the Department Memorandum, he received additional information from the applicant and would now recommend approval per the Site Plan revised on June 17th with the stipulation that a note be added to the Site Plan stating that there shall be no parking in front of the building or on the paved area on the south side of the building.

Mr. Patenaude made a motion to approve with Mr. Taintor's stipulation. Mr. Blenkinsop seconded the motion.

Mr. Coker asked for clarification on the area where parking would not be allowed. Mr. Taintor pointed out the area which is currently asphalt and it is proposed to stay asphalt. Mr. Coker suggested removing the asphalt. Mr. Taintor explained that the area under the porch is used for trash receptacles now. Mr. Ross added that was discussed at TAC but the owner would like to keep that area asphalt for maintenance and trash removal.

Deputy City Manager Hayden asked to hear more about Chairman Ricci’s drainage concerns and if there is a way to address that with grass, gravel or pavers.

Mr. Ross stated this was a condominium setting, surrounded by condominiums with lots which are completely paved. This is the only one that has a rain garden. They considered gravel but, while it is not completely impervious, is close to being impervious and a rain garden or detention pond would still be necessary.

Chairman Ricci has previously done projects in Massachusetts where they have drywells or come up with alternate methods. He felt they are adding a lot of blacktop to an area that doesn’t necessarily need it. He feels the rain garden is great but without the rain garden it would be detrimental.

Ms. Roberts echoed what Chairman Ricci said. She felt they spend a lot of time on these issues and the stormwater situation in New Hampshire is getting worse. They have had several 100 year storms in the past two years. Doing data analysis based on a 50 year storm will only get them so far. Ms. Roberts stated they are trying to minimize impervious surfaces to address the stormwater situation.

Deputy City Manager Hayden saw the property owners trying to improve their property and what they are proposing to do is in keeping with that neighborhood. She felt they are moving in the right direction because they are including the rain garden. She also added the bigger issue is something to deal with down the road.

Mr. Blenkinsop asked about the no parking on the south side of the building and how that is enforced. There is no curbcut so it intuitively works as a driveway. Mr. Taintor felt that a sign would make it clearer but he expected by having it as a stipulation of approval it would be taken care of. Deputy City Manager Hayden did not like the idea of putting a sign up.

The motion to grant Site Plan approval passed with an 8-1 vote, with Chairman Ricci voting in the negative, with the following stipulation:

- 1) A note shall be added to the Site Plan stating that there shall be no parking in front of the building or on the paved area on the south side of the building.

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B. The application of **Lang and Longmeadow Development, LLC, Owner**, for property located at **126 Lang Road**, requesting Amended Site Plan Approval to relocate one of five proposed multi-unit dwelling units on the site, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 291 as Lot 1-1 and lies within the Garden Apartment/Mobile Home (GA/MH) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernard Pelech was present on behalf of the applicant. He also introduced Ed Huminick, of Lang & Longmeadow, LLC. He stated that this project was approved in 2003 – 2005 and those

approvals are still valid. They are present to slightly amend the site plan to relocate one of the five multi unit dwellings. This site was a former junk yard. An extreme amount of vehicles and junk was removed and a lot of environmental issues were dealt with. At this point in time, it is advantageous for the developer to move one of the buildings. They appeared before TAC on June 1st and they recommended approval with a number of stipulations which they added to the 2003 approval stipulations. Attorney Pelech also stated that he has already submitted a draft Memorandum of Understanding for the plowing of Longmeadow Road Extension to the City's Attorney last week. They have put in writing that they will plow and maintain Longmeadow Road Extension until it is taken over by the City.

Corey Colwell, of MSC Land Surveyors and Engineers, confirmed that they have proposed 117 units with a clubhouse, a new access drive and a new extension of Longmeadow Road, a through road out to Lang Road, so it will be continuous loop access servicing the new residential units. The City has determined that this qualifies for amended Site Plan approval so the new Site Review Regulations and the old Zoning Ordinance apply.

Since this project was approved, there have been five changes:

- A water main was extended down Lang Road for future connections;
- The retention pond was excavated as part of the junk yard cleanup;
- A foundation was installed for the clubhouse;
- The removal of wood roads changed the topography, as part of the junk yard cleanup;
- The edge of wetlands have changed.

Mr. Colwell stated the amended plans are very similar to those that were approved in 2005. There are really only two major differences.

The residential buildings have been mirror-imaged and there has been a very slight movement of the structures. There are now 6 internal parking spaces in each of the structures. This eliminates the need for many exterior on grade parking spaces. Under the old proposal there were 132 exterior on-grade parking spaces. The new revision has 100 exterior on grade parking spaces so they have eliminated the need for a lot of pavement.

Due to the changes in topography, the site has been re-graded which essentially changed some of the drainage. Two detention ponds are proposed. Detention area #2 is behind Building #2 and collects all stormwater runoff from the corner of the cul-de-sac northward. Detention area #1 on the southerly side of the site collects all of the runoff from the center of the cul-de-sac southward. Both detention areas are sloped at the bottom towards the low points where the runoff is carried to an outlet control structure. From that point runoff outlets via a large 24" HDPE pipe to a riprap apron and eventually to a level spreader where it will slowly be released back into the property on the easterly side. It has the same basic function. They are taking all stormwater, collecting it in two basins, channeling it to a level spreader and then releasing it back into the wetlands. When doing so, they are actually reducing off site runoff in every storm event as indicated in the Drainage Study which was distributed to TAC and the Planning Department.

They provided a 12 sheet plan set which addressed all aspects of this project. Longmeadow Road will be extended 400', continuing through the site with a cul-de-sac and coming out on Lang Road. The roads provide all services, including sewer, water, gas, and electric. They are also proposing a landscape berm along the easterly property line to give this development some screening from the commercial development in front.

The Planning Department has thoroughly reviewed this application. He addressed some previously raised concerns. The applicant has agreed to prepare a Construction Management Plan (CMP) with the City and to pay for the services of a private consultant to monitor and enforce the CMP. There is a Memorandum of Understanding (MOU) which is the applicant's agreement to plow Longmeadow Road Extension until it is accepted as a public street. The plans include catalog cuts of the light fixtures they intend to use. They are all full cut-off optics and meet dark sky friendly requirements. They have provided a color site plan and a color architectural rendering of the project.

Mr. Colwell felt their changes were minor in nature as the entire project had been approved five years ago.

Deputy City Manager Hayden asked if Longmeadow Road Extension will be built to City standards? Mr. Colwell confirmed that it will be.

Deputy City Manager Hayden asked the difference between a detention pond and a retention pond. Project Engineer, John Lorden of MSC, responded that the retention pond was put in place at the time they were doing some ledge removal. The detention pond will hold back some stormwater and allow the peak flow to be reduced as it is running off site. The retention pond will hold the water. Deputy City Manager Hayden followed up noting that the plan says "The detention pond will be filled in and made to work as a wetland" and she asked what that means. Mr. Lorden stated they will move forward and work with DES to try to either create some wetlands there or fill it. That is not part of the drainage analysis. The two detention ponds are part to the drainage design. That retention pond was to hold sediment during the blasting operation.

Deputy City Manager Hayden asked, as that mitigation has not been approved by DES yet, what will happen to that retention pond if they decide it can't become a functioning mitigating wetland. Mr. Lorden indicated they have not entered into discussions with them yet so they have not explored that. Deputy City Manager Hayden asked if it stays in its current state as a detention pond, what safety measures will be put in place. Mr. Lorden stated they will put a fence around it. It is a manmade wetland so it shouldn't be a long process. Deputy City Manager Hayden asked if they would have any problem if they modified the stipulation that it be fenced for safety reasons if it does not ultimately become a wetland. Mr. Lorden was fine with that.

Mr. Coker asked about environmental remediation and what the process was to make sure the land was not contaminated. Mr. Huminick stated that when the owner of the property cleaned the site they performed four ground water wells and tested before and after. They basically sent samples to a lab. The environmental engineers were present every day while they were removing items from the site. The type of materials they removed were tires, metal parts, fenders, axles, and bricks.

Ms. Geffert asked what their plans were for construction. Mr. Huminik indicated, once they get their amended Site Review approval, they will go full speed into the architectural design of the buildings and they anticipate starting construction in the Spring of 2011.

Chairman Ricci asked how many cubic yards of material they will be bringing in. Mr. Lorden did not have that number but it will be a lot. Chairman Ricci indicated that he was very disappointed in the erosion control plan as it looks like it is just a single family home lot with a silt fence. There was no erosion stabilization called out. He didn't see much in the way of stone check dams. He was very, very disappointed in the erosion control drawing considering the amount of fill coming in. There are 15' slopes that are being filled and there are silt fences behind detention ponds. Chairman Ricci stated his biggest concern of any project that abuts the wetlands is the erosion control plan. Mr. Lorden confirmed they were using only using silt fences. Chairman Ricci asked if they didn't have any concerns about a layer of silt fence being able to contain a 15' fill of material that won't be stabilized for 2-3 weeks. Mr. Lorden stated they can add some stabilization blankets during the process where the fill is compacted or vegetated. Chairman Ricci asked if there was any riprap on the steep slopes in the back and he asked how they are going to be mowed. Mr. Lorden didn't know if they were going to be mowed. Chairman Ricci asked if they felt the slopes behind building #4 where the slope is 2:1 will hold the vegetation by itself. Mr. Lorden stated they can add a blanket to help secure it.

Attorney Pelech stated that nothing has changed since 2003 when this was approved. Chairman Ricci responded that he wasn't on the Board back then.

Mr. Coker asked Chairman Ricci if he received a satisfactory answer to his question. Chairman Ricci indicated that he did not. Mr. Coker respected his opinion and if Chairman Ricci was not satisfied then he wasn't satisfied either. Chairman Ricci noted that the engineer was satisfied and it is his stamp that is on the plans. He was just making his concerns known.

Attorney Pelech stated that if the Board had suggestions they would be happy to consider them. Chairman Ricci responded that he would have hoped suggestions and ideas would come from the engineer of record. Attorney Pelech stated that the reason the engineer didn't change anything is because it had already been approved.

Mr. Coker wanted follow up for the record exactly what the engineer was going to do specifically to address Chairman Ricci's concerns. Mr. Lorden responded that they will be happy to add a blanket on the side when it is installed to help additional run off. They have a note on the plan that things will be seeded within 72 hours on the steep cuts. They can add some mulch and tackifier as well to help speed the process. They would be happy to add a double silt fence. Mr. Coker felt that was a good idea. Mr. Blenkinsop asked what a blanket was and where will they add it. Mr. Lorden responded they will add it on the steeper slopes above 3:1 and they add a fabric before vegetation is established but it can grow through the fabric and rain and runoff will not carry the seeds and pull it away.

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 felt, given the documentation received tonight, they could eliminate his recommended Stipulation #2 regarding dark sky friendly lighting. Also #1 could say “retention” rather than “detention” and move it down to the second group of stipulations for prior to occupancy. He would suggest adding a stipulation that the labels on the residential structures be changed to conform to the Zoning Ordinance prohibition on more than 8 dwelling units per building. The applicant is well aware of this issue and they discussed it in their Planning Board Work Session earlier this evening. Currently the Zoning Ordinance does not allow more than 8 dwelling units per building and the plans show 24 unit residential buildings. For whatever reason, that was allowed with the past approval but he wants to make sure this is clarified so it does not appear that the Planning Board is approving a 24 unit dwelling when it is not allowed.

Mr. Coker requested an additional stipulation to incorporate the engineer’s agreement about the blanket and double silt fence.

Deputy City Manager Hayden made a motion to approve for purposes of discussion, although she did not know whether she was ready to vote in favor of this tonight. Her motion included the 12 stipulations as recommended by the Planning Department, minus #2 and #1 to be moved and “retention” inserted for “detention”. She included Mr. Taintor’s stipulation regarding the number of units per building and Mr. Coker’s stipulation regarding the blanket and silt fence.

Deputy City Manager Hayden felt that Chairman Ricci raised a very valid concern about erosion control. She did not know whether she felt comfortable voting on this tonight just by adding a few stipulations that they are suggesting when she doesn’t know whether this erosion control was up to snuff. She wondered how other people felt about this and whether they want a revised erosion control plan.

Mr. Coker felt that was a very interesting statement and he felt the same way. This was not on his radar. As he recalls, this project was a much flatter application on an open field. Their concerns at that time were the Berry’s Brook watershed. He felt if they can’t deal with it satisfactorily through stipulations then they should get a better erosion control plan.

Ms. Geffert didn’t disagree. She wondered if there was a way to approve this matter except for the erosion control and they would have to come back to the Board for that.

Attorney Pelech stated they had no problem submitting a revised erosion control plan for the satisfaction of the Chairman or DPW. Had they known this was a concern they certainly would have dealt with it.

Ms. Roberts thanked Chairman Ricci for his eagle eye. Chairman Ricci stated he would like to see this postponed and brought back next month. Everything else is fine and the buildings are beautiful. Ms. Roberts added that it certainly is nothing against the applicant but as a Board they have become much more aware of environmental issues.

Deputy City Manager Hayden agreed that practices have changed and common practice of five years ago is not common practice today.

Attorney Pelech stated they would have no problem having it continued if they tell them what they want. Chairman Ricci would expect there are a lot of things to improve the plan and he will leave it up to the engineer to do that. This looks like a plan that was done 5 year ago and he felt they needed an updated erosion control plan.

Deputy City Manager Hayden confirmed that they are applying the new Site Review regulations. Mr. Taintor confirmed that was correct.

City Manager Hayden felt it would be much clearer if they vote to come back next month as she didn't think Chairman Ricci should be designing their project for them and their erosion control plan was deficient enough that they need to review it as a Board.

Deputy City Manager Hayden withdrew her motion. Mr. Coker withdrew his 2nd.

Deputy City Manager Hayden made a motion to postpone the application to the July Planning Board meeting. Mr. Coker seconded the motion. Chairman Ricci confirmed one of the reasons for postponing was for an updated erosion control plan.

Deputy City Manager Hayden had asked them about adding a fence around the pond but she sees it actually says they will either enhance it or fill it in so she doesn't believe they need a fence.

The motion to postpone passed unanimously.

Ms. Geffert reminded the Board to retain the old set of plans.

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C. The application of **Catherine R. Whelan, Owner**, of property located at **660 Middle Street** requesting Final Subdivision Approval to subdivide one lot into three lots with the following: Proposed Lot 1 having 16,377 ± s.f. (.38 ± acres) and 70' ± of street frontage on Middle Street; Proposed Lot 2 having 21,124 ± s.f. (.48 ± acres) and 108' off of a right of way; and Proposed Lot 3 having 21,268 ± s.f.(.49 ± acres) and 114' off of a right of way; and lying in a zone where a minimum lot area of 7,500 s.f. and 100' of continuous street frontage is required. Said property is shown on Assessor Plan 147 as Lot 19 and lies within a General Residence A (GRA) District and Historic District A;

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

James Verra, from James Verra and Associates, was present with Catherine Whelan, Charles Gaudet, Attorney Pelech and Eric Weinrieb, of Altus Engineering. Mr. Verra stated this is a three lot subdivision. The existing house is at 660 Middle Street and they are proposing 2 lots with frontage on Chevrolet Avenue. They were before the Board of Adjustment in August of 2008 to seek variances for

frontage of 70' on Middle Street and to allow proposed Lot #2 and #3 to have access off of a right of way (Chevrolet Avenue). They propose a common driveway as was proposed in the preliminary application. Water will come from a recently constructed hydrant on Chevrolet Avenue. They are proposing a sewer line to tie into the existing sewer line on Chevrolet Avenue. They have a sewer design plan which was presented to DPW and they made changes as requested by them. They will obtain a driveway permit and will prepare all of the deeds. Mr. Verra advised the Board that Mr. Weinrieb was present for any engineering questions.

Chairman Ricci asked about the little mark that runs through proposed Lot 3 on the Utility Plan. Mr. Verra confirmed that was an existing granite pathway and he will label it on the plan.

Mr. Coker indicated that someday he would like to get the history of Chevrolet Avenue but this was not the time or place. Mr. Verra confirmed it was very convoluted. Mr. Taintor added that the end of the public street is shown on the plan where it says "Avenue". Deputy City Manager Hayden confirmed it is both public and private.

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 final subdivision approval with the stipulations listed in the Department Memorandum. Also for clarity she would request a note on plan about the walkway. Deputy City Manager Hayden seconded the motion.

The motion to grant final subdivision approval passed unanimously with the following stipulations:

1. The granite pathway shall be labeled on the final plat.
2. The applicant shall obtain a driveway permit from the Department of Public Works prior to the recording of the final plat.
3. 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.
4. Property monuments shall be set as required by DPW prior to the filing of the plat.
5. GIS data shall be provided to DPW in the form as required by the City.

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III. 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. Report back from Downtown Parking Focus Group.

Mr. Taintor confirmed that a copy of this report was provided to the Board this evening. It was just delivered to the Planning Department yesterday. He recommended that the Board accept the report tonight and discuss it at the July meeting.

Mr. Coker urged the Board members to read the report. It was an interesting process and their findings were very well supported.

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B. Request from Tony Schena and Chris Schena, of Portside Seafoods, for property located at 21 Congress Street, to install a projecting sign.

Mr. Taintor confirmed that this sign meets all requirements of zoning and the Department recommends that the Board recommend approval of a license subject to the listed conditions.

Mr. Patenaude made a motion to recommend approval of a revocable municipal license, with stipulations. Mr. Blenkinsop seconded the motion.

The motion to recommend approval of a revocable municipal 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.

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C. Request from Jeff Casler, of Second Time Around, for property located at 19 Congress Street, to install a projecting sign.

Mr. Taintor explained that the Department Memorandum mistakenly included “awning”. The awning does require approval from the HDC but not a license from the City. Therefore they only need a recommendation on the projecting sign. Again, Mr. Taintor confirmed that this sign meets all requirements of zoning and the Department recommends that the Board recommend approval of a license subject to the listed conditions.

Mr. Blenkinsop made a motion to recommend approval of a revocable municipal license, with stipulations. Deputy City Manager Hayden seconded the motion.

The motion to recommend approval of a revocable municipal 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.

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D. Request from Richard and Linda Harding of 1808 Islington Street for a proposed land transfer with the City of Portsmouth.

John Rice recused himself.

Mr. Taintor advised the Board that this is something that has come to the Planning Board in the past for a subdivision and was withdrawn both times. This is now a proposal for a land swap. The property owners would receive a small triangle parcel of land where their driveway is currently located on Pearson Street and in return they would transfer to the City the larger interior lot which is primarily wetlands but receives drainage from the public drainage system. This lot is also a portion of the schoolhouse lot. He noted in the memo that there is a long term benefit to the Hardings as they will have a better situation to subdivide their lot.

Deputy City Manager Hayden stated her feeling was she is not ready to take action because it came to the Planning Department last Monday from the City Council meeting and staff needs more time to do due diligence on this. Whenever the City is buying or swapping land they need to look into various items. Mr. Coker agreed. This property appears to be land-locked and he felt it needs a little bit more homework.

Deputy City Manager Hayden made a motion to postpone to the July Planning Board meeting to allow staff to investigate. Mr. Coker seconded the motion.

The motion to postpone to the July Planning Board meeting passed unanimously.

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IV. OLD BUSINESS

A. Appointment of Planning Board Representative to the Historic District Commission.

It was agreed to continue this to next month.

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V. PLANNING DIRECTOR’S REPORT

A. Administrative Approval for 195 Hanover Street, (Portwalk) Lot #3.

Mr. Taintor stated this was for the new municipal parking lot. There were some very minor changes regarding motorcycle parking spaces, bollards to protect fire alarm box and some signage around the entrance gates. He granted administrative approval.

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The Board was reminded of their Joint Work Session with the Board of Adjustment scheduled for next Wednesday from 7:00 – 9:00 pm.

VI. ADJOURNMENT

A motion to adjourn at 9:10 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 July 15, 2010.