

**MINUTES**

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

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

**7:00 P.M.**

**AUGUST 19, 2010**

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

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

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

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Chairman Ricci called the work session to order.

**6:00 – 7:00 pm WORK SESSION on Proposed Amendments to the Zoning Ordinance**

Rick Taintor indicated that they are going through a series of proposed zoning amendments. Last month they looked at wetland changes. This month they are looking at dimensional and intensity standards, Article 5. If they are supportive of the three items tonight they would look to the City Council for adoption.

**1. Maximum size of multifamily dwellings (Sec. 10.440: Table of Uses, and Section 10.520: Dimensional Standards – residential and Mixed Residential Districts)**

For many years the Zoning Ordinance has had a limit of 8 dwelling units per multi family building. The pending Lang and Longmeadow development has fire rated walls between their eight unit buildings so that it looks like a 24 unit building. He assumed that the 8 unit limit had something to do with control over massing and scale of the building but if you can get around it by putting in the fire rated walls it's not very effective. Using the fire rated walls gets complicated as it has interaction between the Building Code and the Zoning Ordinance.

They are proposing to define scale in terms of a measure of feet. They would use a new term "building length" and essentially say that no multi family dwelling should be more than 160' long and get rid of the 8 unit limitation in the Garden Apartment District. Mr. Taintor's handout provided different scales to show the average dimensions, perimeter and area of various sections of the City. There would only be three changes to the ordinance. They would change section 1.43 for more than 8 dwelling units in the Garden Apartment District from N to P. They would add a new provision that the maximum

building length of a multi family dwelling shall not exceed 160 feet. Third, they would define the new term "building length". Illustrations were provided to show the different options.

Mr. Taintor felt there were some things to think about. One was whether using a numeric scale made sense, if 160' was a good number to use and how did they feel about the buildings set at angles.

Mr. Rice asked where the figure of 160' came from? Mr. Taintor explained that he did some web research and looked at a lot of communities across the country and found that many used something in the area of 150' – 160' and then he went back to see what we actually had and it was in the upper end. Mr. Rice followed up by asking why they would want to limit the length of a building to 160', given the way housing needs are. Mr. Taintor gave the Lang and Longmeadow development as an example as they were proposing 7 buildings, all of which were 160' long. Beechstone is a development where the buildings are larger. It is more or less an arbitrary number but it is a matter of scale and balancing the mass of the building to the open space around it. Another option would be to have no limit at all.

Mr. Coker felt that by picking an arbitrary number, someone would try to fit as many units in the 160' as possible and it would force the developers to build tall skinny units. Mr. Hopley added that they still have a density limit. Mr. Taintor added that in the Central Business there would not be a density issue but in the Garden Apartment District there would be.

Mr. Coker asked what would happen if the interior angle of a building was less than 135 degrees. Mr. Taintor explained that as the angle gets smaller they see less of the building. He was not sure why the old ordinance had the 8 unit limit although it probably had to do with the massing of the buildings and they wanted to break up the building. Therefore, he was trying to use the dimensions rather than number of units to get at that. He thought it became less important as you could see less of the building.

Mr. Coker wanted to consider the unintended consequences of trying to set limits. This may cause developers to build more expensive housing rather than encourage less expensive development for more affordable housing. Mr. Taintor explained this would not limit the number of units but, rather, it would limit the density. He also reminded the Board that they have a height limit. Chairman Ricci stated they could just keep the buildings 10' apart which gives landscaping and fire access. Mr. Hopley noted that they are not talking about single family homes. This is the GA/MH district and they need to consider what kind of buildings they want in the community and whether they want another Beechstone.

Ms. Roberts felt this was a good approach and 135 degrees makes sense to her. She wondered about the potential in the GA district right now for new development. Mr. Taintor believed it was fairly limited. Ms. Roberts would not want to see the length more than 160'. Mr. Taintor referred them to the GRA and GRB district, which would be Atlantic Heights, where one issue that came before them was that the 8 unit limit was restrictive but they hadn't figured out that they can join several buildings together that looks like one 24' building.

Councilor Spear thought this was well thought out, especially the dimensional standards but he needs more examples. Councilor Spear asked about the Feaster Apartments on Court Street and whether that building is bigger than what is permitted? Mr. Taintor confirmed there is a height limit of 35' so that

type of building would not be permitted. Councilor Spear felt it was easy to see the positives of smaller buildings but he also felt that some of the old mills along the rivers are being converted to multi family units and they are very attractive. He felt it was possible to build something attractive and have it be long but maybe it was better to be conservative and have dimensional standards. Mr. Taintor noted they are trying to replace something they already have with something different. An interesting requirement of the fire wall and the separation of units was that the third floor units had to be accessed by a two story staircase with no doors off of it. Therefore, at the very least, he felt they should get rid of the 8 unit limit and replace it with something else. Councilor Spear felt if they are consistent in the original intention, this is definitely an improvement and he would support it on that line alone.

Mr. Hopley asked if they would like to see a greater distance between the buildings. That would force the design to consider some fire rated walls between those buildings. Once you get to 30' the fire separation is said to be enough that radiant heat had little effect. Mr. Rice felt a cluster of smaller buildings would be safer. Ms. Roberts would like to see them set closer together rather than set apart like an office park. Chairman Ricci felt it would at least break the massing up. A 10' separation to him is attractive. Mr. Hopley confirmed the buildings would have to be sprinkled anyways.

Chairman Ricci felt that the general consensus of the Board was that 160' seemed to be acceptable.

**2. Building height – roof appurtenances (10.530)**

Mr. Taintor stated that roof appurtenances allow elevator penthouses but they do not allow for elevator penthouses if they want to take the elevator up to the roof of the building. They allow for an elevator to go to the top floor with mechanical equipment above the elevator but you cannot go up to the roof and get out with only 10'. This has come up because they have a developer who is interested in providing a roof terrace on top of the building. A lot has to do with a particular developer who wants to do something very nice to have a green roof for people to enjoy. The roof appurtenances also do not allow for roof mounted roof turbines. The new Zoning Ordinance allows for small wind energy systems but does not allow for roof mounted turbines. It also does not allow for structures that would support the use of a rooftop such as a vestibule for an elevator.

The first proposed change was to change the definition of a roof appurtenance to not include a wind mounted wind turbine. Additional proposed changes expand the current section, as outlined on the handout.

Section 10.517.10 was just explanatory text as the table was misleading and he clarified that the roof appurtenance can exceed the maximum allowed structure height for the district.

Section 10.517.20 has to do with three specific types of roof top features:

- 10.517.21                      An elevator enclosure to go up 20' (10' to get the person to the rooftop and another 10' for the mechanics for the elevator) and must be set back at least 30' from all edges of the roof and cannot exceed 300s.f. in area.

- 10.517.22 Elevator vestibules and partial shelters may extend to the height for roof top appurtenances, set back a distance equal to their height and cannot exceed 15% of roof area.
- 10.517.23 Railings can be up to 4' above the roof as long as they are set back twice the height.

Mr. Taintor explained this is to allow for some use of the roof in a commercial area.

Section 10.517.30 simply adds the phrase "other features that exceed the allowed structure height for the zoning district". They currently have a 33% limit on the roof area and this just expands that to these new areas.

Mr. Rice's red flag was buildings in the historic district with extra latitude for roof appurtenances. He wondered whether the HDC ordinance trumps this and, if not, he would take a dim view of the revision. Mr. Taintor stated a solution might be to exclude the historic district. Mr. Coker thought 20' was awfully high and was higher than an additional story. Mr. Taintor explained the intent is to get people up to the roof. Mr. Taintor was thinking about the redevelopment of the Gateway district. If they exempted the historic district, someone could build in the CBB to 45' and put a deck on top and still be within the height limits. Mr. Taintor was trying to protect the mixed residential and residential districts but maybe they also want to protect the historic district as well. He encouraged them to talk about whether this was a good idea. Mr. Coker thought 20' seems like an awful lot to him and asked if they could they do it in less than 20'? Mr. Taintor did not believe they could as they would need space for the elevator and equipment on top of the elevator. Chairman Ricci felt that 20' sounded like a lot to him also.

Mr. Blenkinsop asked where they came up with the 20'. Mr. Taintor stated he talked to a developer and looking at the structure that is needed to get an elevator up to a roof. Ms. Roberts thought it sounded like it would be impossible to have a roof deck without it because of ADA.

Councilor Spears indicated that the developer could always build one story lower to allow for the 20' elevator. He felt they need to look very closely at why they have the height limit.

Mr. Coker pointed out there is a strong 30' setback so the appurtenance will not stand out.

Chairman Ricci agreed with Councilor Spear and felt that 20' sounds like a lot, on top of 60'.

Mr. Coker stated that they would go to the BOA now if they wanted to expand the height.

Mr. Hopley felt if they are going to create a habitable roof deck, they need accessibility to that deck. He does not know if there are elevators without a lot of mechanics on the top of the shaft. The typical cable system will need a cable above the cab and 20' sounds fine to him.

Chairman Ricci sensed that the Board felt 20' was too much. They will have staff do some research and come back with it next month.

**3. Accessory structure setback (Sec. 10.572)**

Mr. Taintor noticed, when reviewing a development proposal, in the CB district there is a 0 setback for lot lines but accessory buildings are required to have a 10' setback unless they are very small sheds. He has proposed some slightly more complex set back requirement. If the sideyard requirement is 10' or less then the accessory building structure will conform to whatever that setback is. If it is more than 10' then they keep the existing rules which is the greater of 10' back or 75% of its height. They also had an exemption for small sheds that are under 100 s.f. in area and 10' in height yet they were finding smaller items which did not qualify for the exemption as they were not sheds. An example is a generator. They are proposing to make the language broader to say "any accessory building or structure". The last line states that "an accessory use that does not include a structure shall be set back at least 10 feet from a side or rear lot line" and was carried over from the old ZO.

Mr. Coker felt this would just beef up the agenda for the BOA. Mr. Taintor felt it would be less. The two things they are changing are allowing an accessory buildings to be on the lot line in the CB District because that is where the principal building can be located and the other change is that other small structures, other than sheds, can have the same setback as a shed.

Ms. Roberts asked if that includes generators, which she would not be in favor of because of the noise. Mr. Taintor stated they are currently struggling with that issue. Generators are supposed to have a sound pressure level of no more than 65 dBA at the lot line. Most have a pressure of 74 at 20' so most generators should not be closer than 25' – 30' to the lot line, if installed without soundproofing. The Department is currently getting flooded with applications for generators and the generators have to be exercised at least once a week. They are putting a restriction on the building permit that the noise level not exceed 65 dBA at the lot line. Chairman Ricci asked if the homeowner is required to come back with a certification of the noise level prior to the issuance of a building permit. Mr. Hopley stated you can't do that as the generator will already be installed. The problem is that you don't know if someone is in violation until it is all done. Mr. Blenkinsop asked if they could require the noise protection up front. Mr. Taintor indicated that the trade off is they might start getting larger, uglier structures by trading visual impact for sound impact. Because of the density, Ms. Roberts would be in favor of a limit on noise pollution.

Mr. Hopley confirmed that the noise stipulation goes on the permit and they haven't had any post installation call backs yet but it will happen at some time in the future.

Mr. Taintor asked if the Board felt this was reasonable, aside from generators. The Board was happy with the amendments.

Mr. Coker asked how they left the previous HDC issue on roof appurtenances. Mr. Taintor confirmed they decided not to move forward with it at this time.

Councilor Spear asked what 10.576 meant. Mr. Taintor did not believe it would come up in a residential situation but it might be storage of goods for a business. The keeping of household pets was an accessory use in the old zoning ordinance but he did not necessarily consider that an accessory use. It is a grey area.

Hearing no further questions or comments, Chairman Ricci adjourned the work session.

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**I. 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 **Morgan Sze, Owner**, for property located at **4 Regina Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for the replacement of a septic system within the inland wetland buffer. Said property is shown on Assessor Plan 225 as Lot 25 and lies within the Single Residence A (SRA) District.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Anne Bialobrzkeski, of Stockton Services, appeared on behalf of Morgan Sze. Ms. Bialobrzkeski was the septic designer. She explained this was a replacement for a failed system which was creating back up issues in the house. NHDES approved the plan on July 27, 2010. The proposal that DES approved has a system of the same type as the original system in the same general location. The existing leach field is shaded on the site plan and she has pulled the system away from that location. The elevation is 1 ½ - 2’ higher than the original system. She was available for any questions they may have.

Mr. Hopley noted it was unusual to have two tanks. Ms. Bialobrzkeski explained this house was built in the 60’s. As a result of the test pit, she can tell they brought in beautiful fill to develop this lot and the house is quite long so they have a test pit at each end. It’s a lovely set up with a distribution box at each end of the leach field and she saw no reason to deviate from that original plan. Mr. Hopley reminded her to make sure the installer comes to the Inspection Department to secure a plumbing permit.

Chairman Ricci requested as a condition of approval that they add a detail for the silt fence to show what they are putting in. Ms. Bialobrzkeski asked if the installer could provide that to the Plumbing Inspector. Chairman Ricci felt that would be acceptable.

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 approved Conditional Use Permit approval. Ms. Geffert seconded the motion. Chairman Ricci requested the stipulation that a silt fence detail be added to the Site Plan.

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

- 1. That a detail for the silt fence be added to the Site Plan.

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B. The application of the **Estate of Leonard M. Hatch, Welles C. Hatch, Executor, owner**, for property located at **305 Salmon Avenue**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for the removal of an existing 8' x 12' shed and the installation of a new 8' x 12' shed within the inland wetland buffer. Said property is shown on Assessor Plan 291 as Lot 7 and lies within the Gateway District, the Garden Apartment/Mobile Home Distirct and the Rural District.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Wells Hatch, executor of the Estate of Leonard Hatch, appeared before the Board. He explained that the exhibits were delivered to the Conservation Commission (where they received a favorable recommendation) and the Planning Board. He clarified that the existing shed has a 10 x 12 footprint and the replacement shed will be 8 x 12. The purpose for replacing the shed is to bring that structure in compliance with the Hillcrest Estate Park standards.

Mr. Coker asked how the shed was going to be brought into the location. Mr. Hatch explained that US Sheds will come in with a flatbed truck on the paved area and they will carry the materials back to the footprint of the old shed. They will build it on site. Mr. Coker pointed out the stipulation from the Conservation Commission that the new shed shall be placed on blocks. Mr. Wells confirmed that is the planned construction.

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

**DISCUSSION AND DECISION OF THE BOARD**

Mr. Rice made a motion to grant Conditional Use Permit approve passed with a stipulation that the shed shall be placed on blocks. Ms. Roberts seconded the motion.

Ms. Geffert asked that the record be clear about the size of new shed and the old shed as it is a little confusing.

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

- 1. The new shed shall be placed on blocks.
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C. The application of **Public Service Company of New Hampshire, Owner**, for property located at **400 Gosling Road**, requesting Amended Site Plan approval to amend the Truck Management Plan regarding deliveries, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 214 as Lot 1 and lies within the Waterfront Industrial District.

Chairman Ricci recused himself and turned the hearing over to Vice Chair Roberts.

The Vice Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Presenting was Station Manager of Schiller Station, Dick Despins. He stated this was a generating station of PSNH located on the Piscataqua River. They currently have 3 units operating, designated as 4, 5, and 6. Units 4 & 6 burn primarily coal and Unit 5 was converted to 100% wood in 2006. In 2004 they approached the City for site plan approval for that project and part of that approval consisted of a Truck Management Plan which included the wood truck delivery routes as well as the hours of operation. Portsmouth and Newington were very concerned about how wood would get to the site and the hours that they would operate. He displayed an aerial photo of the area showing the distance from the Spaulding Turnpike which is about  $\frac{3}{4}$  mile. The turning radius at Exit 1 was a concern. He pointed out the area in front of McDonalds where a modification was made for two left turning lanes and two straight lanes with pedestrian crossings. A median was installed at the next intersection to avoid left hand turns into the gas stations. Their site allows ample room for queuing as necessary. Along with the entire paving of that corridor on Gosling Road, PSNH agreed to pay the City \$1.5 million to pay to have those items taken care of.

This application requests minor changes to the hours of operation. Their current approval allows them to receive wood from 7:00 a.m. – 9:00 p.m., Monday – Friday. They are requesting to receive wood at 6:00 a.m. rather than 7:00 a.m. They also have the ability to receive wood on Saturday from 7:00 a.m. to 12:30 p.m. and they are requesting to receive wood from 6:00 a.m. – 3:00 p.m. as needed, as this is weather driven. If they lose a day of deliveries during the week they need a back up day to make up those deliveries. They have found that the 7:00 a.m. – 12:30 p.m. time frame does not allow for a second trip in one day by the loggers.

With permission of TAC they were allowed a 6 month trial period to try these hours. They used one Saturday where they received 39 trucks. They have not had a single complaint from Portsmouth or Newington. No roadways or structures would have to be changed and no other significant modifications would be required.

Councilor Spear asked if the loggers would be able to accommodate an earlier start time. Mr. Despins explained that the logging operation is daylight hours. This time of year, they tend to start earlier in the day so the 6:00 a.m. start will be more conducive to their operational timing. They will have the same number of trucks on Saturday but are requesting a wider window to deliver the wood.



Mr. Coker asked why the trucks don't come down Woodbury Avenue and take a left onto Gosling Road. Mr. Despins explained that was a major stipulation as part of their Site Plan Approval in 2004 that the required truck route by all trucks would be via Gosling Road. That decision was made because regardless of what direction the wood was coming from, they can all converge on the Spaulding Turnpike. There was a concern of additional traffic on Woodbury Avenue and it was the consensus to have all of the trucks come off of Exit 1 and continue down Gosling Road and return on the same path.

Mr. Coker noted that the trucks pass the housing development, Gosling Meadows, and he was very concerned about trucks passing at 6:00 a.m. He asked if it would be unreasonable to consider a later time on Saturdays.

Mr. Taintor stated that the original request was for 7:00 a.m. – 7:00 p.m. and TAC was very concerned about the trucks going any later than 3:00 because of the amount of traffic on Saturday afternoons in that area. It was a recommendation from TAC to go earlier than 7:00 a.m. on a trial basis. To make it work they need to have a wide enough window for two round trips.

Mr. Hopley asked if there had been any talk about the use of jake brakes coming off the Spaulding as that could be very annoying at 6:00 a.m. Mr. Despins indicated they did not discuss that but they could work with suppliers to not use jake brakes in that area.

Mr. Coker asked if they could start at 8:00 a.m. or even 7:00 a.m. Mr. Despins explained their original request was for a 12 hour window to provide as close to a full day of trucks as they would have during the course of the week. During those discussions they were worried about the afternoon traffic so they wanted to stop at 3:00 p.m. and agreed to start at 6:00 a.m. which only gave them a 9 hour window. They would be willing to start at 7:00 am but would request an additional hour on the other end to maintain that 9 hour window. Mr. Coker felt that would be better.

Mr. Rice asked how many trucks they are talking about between 6:00 a.m. – 7:00 a.m. Mr. Despin responded that this a.m. they had 6 when they first opened. A typical full hour from 6:00 a.m. to 7:00 a.m. would be 10 – 12 trucks. A Saturday from 6:00 a.m. – 7:00 a.m. could be anywhere between 1 to 12 trucks.

Mr. Coker thought a good parallel would be the scrap metal recycling at the State Pier or Granite State Mineral where occasionally at 6:00 a.m. there are trucks lined up. He would still like to have them start later. Mr. Despins added that part of their Truck Management Plan prohibits queuing on Gosling Road.

Mr. Blenkinsop asked if they have had any complaints from Gosling Meadows residents regarding the Saturday 7:00 a.m. start time. Mr. Despins responded they have not had a single complaint since they went operational in 2006.

Mr. Gladhill understood that during their 6 month trial period they utilized the Saturday one time and he asked before that how many Saturdays have they utilized. Mr. Despins stated that in 2007 they utilized Saturdays 6 times, in 2009 they utilized Saturdays 4 times and so far this year once. In 2008 they had the tornado and they ended up using 31 Saturdays because there was a lot of activity especially with smaller logging operations helping landowners clear their properties. They did not get

many trucks on those days but they left their doors open to allow that process to work through the weekend.

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**

Councilor Spear noted that the Department Memorandum indicated that they have options of a permanent revocable approval or an 11 month trial period. Mr. Taintor stated they did not have a chance to discuss those options with the Legal Department. Another thing that was not incorporated in the Memo was the option of incorporating the weekday hours on a permanent basis and the weekend hours on a trial basis. Mr. Taintor suggested that they work on a trial basis with a report back because that will give the City a little more security.

Councilor Spear made a motion to grant amended site plan approval to allow wood chip delivery between 6:00 am – 9:00 pm on Mondays - Fridays and 7:00 am – 4:00 pm on Saturdays and that the approval would be for a one year trial period, with the condition that the applicant will provide a report in 11 months for the City's review prior to the expiration of the trial period.

Mr. Hopley seconded the motion.

Councilor Spear asked to speak to the motion. He understands their compromise from a 12 hour window to a 9 hour window and he understands their needs. He was trying to split the needs of all of the commercial traffic on Gosling Road on Saturday afternoon plus the residents who live at Gosling Meadows. Even if the residents are not complaining, 12 trucks at 6:00 a.m. would be outrageous. Therefore, he felt the 7:00 am – 4:00 pm option seems better to him on Saturdays.

For the record, Mr. Coker indicated he was not anti-PSNH and this was strictly a concern for the neighbors and he urged the maker of the motion to reconsider and make his motion for 8:00 am to 5:00 pm. He felt that would have a better impact on the neighbors.

Councilor Spear was happy to hear more discussion on the motion.

Mr. Blenkinsop was comfortable with Councilor Spears motion and pointed out that the scheduled already is 7:00 am and has been so for a number of years with no complaints. Furthermore, this is for a 12 month trial period and they will need to report back. He felt that it seemed reasonable to leave it at 7:00 am and the issue can be reviewed again in a year if there are suddenly more complaints. He would prefer that Councilor Spears' motion be left at 7:00 am.

Mr. Coker withdrew his comment.

The motion to grant Amended Site Review approval to amend the Truck Management Plan to allow truck delivery hours from 6:00 am to 9:00 pm on Monday through Friday, and from 7:00 am to 4:00 pm on Saturdays for a one year trial period, with the condition that the applicant provide a report in 11 months for the City's review prior to the expiration of the trial period.

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D. The application of **Meadowbrook Motor, Inc., Owner, and Key Auto Group, Applicant**, for property located at **549 Route One By-Pass** (Traffic Circle), requesting Site Plan approval to construct a 1-1/2 story 29,405 s.f. (footprint) automobile sales/service center, 432 ± parking spaces, and future development site, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 234 as Lot 51 and lies within the General Business (GB) District.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Attorney Malcolm McNeill appeared on behalf of Meadowbrook Motor, Inc. Also present were Gordon Leedy, of VHB and Anthony DiLorenzo.

Attorney McNeill felt that this site was very familiar to everyone and it consists of 18.05 acres and is surrounded on three sides by State controlled highways and on the fourth side by Coakley Road. The applicant currently owns Portsmouth Chevrolet next to the Fox Run Mall and he plans to move that facility to this site to operate an automobile dealership.

Attorney McNeill stated this is a very valuable piece of commercial property and the use is a permitted use. The issue before the Board is not one of whether this use is desirable or whether it is appropriate as that decision has been made by the Zoning Ordinance. They have complied with all components of the Zoning Ordinance, Site Review Regulations, and all conservation and environmental components of the project. Less than half of the property is developable, the property is well buffered in excess of 350' from any residential neighborhood, and it is the type of use that is the least impacting from a traffic perspective. They are not proposing a high intensity type of use but rather a car dealership with a relatively small building and a lot of parking for storage of vehicles for sale.

There is a location shown on the plan as not being developed which is because across from the site is a residential zoning district with two residential houses. Under the zoning regulations there has to be a 200' setback between a car dealership and a residential district and their variance request was denied.

Attorney McNeill felt that the history of the site is important. The previous use of the property was a motel and it was intensely used and then fell into disrepair. It has been vacant for over 2 years. If there is discussion about traffic, Route One and pedestrians, for 2 ½ years there has been no activity on the site. The existing conditions today deal with what is a vacant site. In 2008 they came before the Planning Board with a different plan during the real estate “depression” for a proposed hotel, 2 retail stores and 3 restaurants however the developer was unable to secure tenants. The previously proposed project had the potential of having people go on and off the site to visit the restaurants or the hotel as well as the retail uses. There was a lot of discussion about creating a crosswalk across the By-Pass intersection because both the City and State had an interest in that proposal and everyone ultimately agreed with the plan to put in a crosswalk with appropriate facilities. That was done because of what they perceived to be the potential of establishing a reasonable rational nexus between their proposed

use and a generation of pedestrian or vehicular traffic which would affect pedestrians. The new site complies with all regulations, including lighting, parking requirements and there is no non-compliance with any regulations. Mr. Leedy will address technical issues but this is a site to buy a new car and people don't walk to a car dealership to buy a car. Traffic generated by this plan is 80% less than the previous plan which was approved. In the context of neighborhood impact, this site generates the least amount of traffic, most cars on site are stationary, and there are separations between neighborhoods because of environmental constraints, trees and obstacles.

Attorney McNeill discussed the crosswalk issue. He believed they were in agreement with the City on all issues and they were also in agreement with the City with regard to the crosswalk. They were sent to Traffic & Safety regarding the crosswalk and internal circulation. The question was "Should the City request a pedestrian crossing from the State in this area and, if so, should they construct the crossing at the Borthwick-Jones Center or at Coakley-Cottage." Attorney McNeill indicated that he has been working for four years on a proposed CCRC on Borthwick Avenue and there are a lot of activities on Borthwick so that was the context of the question. At the last T&S meeting he asked why people would cross the street in this area anyways and the neighbors said "To get to the other side" but in the context of this particular area in Portsmouth, significant utilization of the roadway for pedestrian purposes is unlikely. They went to T&S and after 2 hours, the final motion was:

"Motion made by Steve Parkinson that the developer work jointly with the City and State because they are the controlling entities with regard to this area for the establishment of a crosswalk and sidewalk at the Coakley Road intersection with the Route One By-Pass."

Attorney McNeill felt that motion was a recognition that probable argument for a pedestrian crossing did not emanate from the appearance of this application. It is a product of 10-20 years of development along Route One and is not solely attributable to this use in any fashion. Portsmouth does not have impact fees and does not have a direct reasonable application in a circumstance like this. The context is that there was a recognition at T&S that this party is not responsible for this condition and there are many, many contributing factors. In consultation with Mr. Parkinson, the applicant has agreed to make a \$10,000 contribution to the City to be used for their continued discussion with the State regarding a crosswalk. This is similar to what was done with the Christmas Tree Shop development where they made a contribution to presumed improvements in the area of their entrance as the City acknowledged they were not wholly responsible for condition.

Attorney McNeill also indicated that they have extensive involvement with the Conservation Commission with regard to Hodgson Brook, which also has its own protective group which they dealt with in obtaining a Conditional Use Permit for this project.

Gordon Leedy, Landscape Architect and Certified Planner with VHB, stated that as they were bringing forward some significant portions of the previous approval he wanted talk about some of those things. There was significant discussion and concern about Hodgson Brook so they developed significant buffer enhancements and none of that has changed. The old plan had more roof area and less pavement which means the gravel wetland, which is a treatment facility which has a very high removal of pollutants, is incorporated into the plan and they made it bigger towards the pavement areas. The roofs will go into underground infiltration areas. The previous approval also included filling a small

wetland to move the Coakley Road driveway 250' back from the intersection in order to provide safe access to the property.

Mr. Leedy stated that from a traffic perspective the intensity of use is significantly lower than the previous application. The traffic to be generated by this plan is 20% of the trip generation by the previous plan both in the Saturday midday peak and the weekday midday peak hour periods, which are the critical time periods. They are proposing to do the same access improvements as the previous, more intense plan. There is a truck route around the site that comes out so that they would exit at the signal on Coakley Road. They have essentially the same number of trees as the previous plan.

He displayed the site plan, showing the significantly buffered wetland area and stream corridor, and the automobile sales and service facility with parking. Mr. Leedy indicated there was an anomaly because the business is selling cars so they have to make a distinction between what a parking space is and what a display space is. The Zoning Ordinance calls for parking spaces not to be between the roadway and the principal use. They have located grey shaded parking spaces with lines which are the required parking spaces and all other areas are display spaces, away from the roadway frontage.

Mr. Leedy discussed utilities. He touched on the drainage system a little bit but further explained that the pavement areas will come down into the gravel wetland area and the required stormwater volume will be treated. In higher flood events, there is a by-pass system to discharge safely out into the brook area. There area underground infiltration and sand filter areas. The soils are very much like a lot of the soils in Portsmouth where you have poor infiltration but since this area is being filled they have an opportunity to provide a filtration layer and the water will be held for a period of time and then it will infiltrate out into the other soils on the site as it does today. The utility services are from the Route One By-Pass or Coakley Road. They have prepared lighting plans, one of which is in their packet and one which was requested at TAC and is available tonight. All lights fixtures are 20' high, full cut-off and compliant with City lighting standards. When the business is not open there is an allowance for security lighting in the ordinance and he displayed a plan showing which fixtures will be left on for a compliant level of lighting.

At TAC there were a number of comments and their revised plan set addressed everything other than the lighting.

There were a few changes to the floor area of the building where they are now at 39,740 s.f. which includes both the footprint and a fairly large mezzanine area. In speaking with the Planning Department, they elected to count all of the space as automobile sales and service which has a defined parking ratio of 1 per 600 s.f. They have a number of storage bins and a mechanical room on the back which are accessible from the outside and it is unclear whether those will be completely enclosed or partially enclosed with a roof so they also elected to count that as part of the gross square footage. The plan included 95 required parking spaces and 337 display spaces for a total of 432 spaces.

Mr. Leedy noted they are showing a future development area. They initially applied for a restaurant use but they needed zoning relief which they did not receive. That is being left as a future development area and when a tenant is interested, they will come back for an amended site plan.

There were details on grading and drainage particularly around the Coakley Road site driveway. They received a comment from David Desfosses yesterday that since some of the drainage is coming off the street onto their site, the City would need an easement which they are more than happy to provide. They have also provided a 20' wide easement for a future pedestrian facility along the frontage.

There were details on utility services to the site. Mr. Desfosses had requested that the power come off a different pole which they are fine with as long as it is okay with PSNH. They will need 3 phase power and they haven't had an opportunity to discuss that.

They added some details on the reconstruction of Coakley Road where they are tapping into the large water main and they will top the entire road.

There was a suggestion that they provide a maintenance plan for the stormwater management facilities and Mr. Desfosses asked if they could provide a bit more detail as well as require logs be submitted to the City and they have no problems with that.

Mr. Leedy understood that there has been some controversy with exteriors of car dealerships in the City and he assured them this was a first class non illuminated building. He displayed renderings of the building façade showing clear glass, metal fascia panels with some color at the main entrance, which will be internally illuminated or halo lit letters, consistent with the City's sign ordinance. There is no light wall.

Mr. Leedy reiterated that they went to T&S last Thursday. There were concerns expressed at TAC over site circulation and that the Route One access would become a shortcut to Coakley Road. Due to reduced trip generation and how they have stop controlled all of the driveways, they do not believe any conflict will become an issue. There was also discussion from the neighborhood at T&S about traffic cars leaving the site for test driving and driving around their residential cul-de-sac. They are happy to add to the plan a solution such as a "no right turn" sign. There was also a request by the neighborhood to put up either "no trucks" or "no outlet" signs but Mr. Leedy felt that was more of a City matter. .

Ms. Leedy stated that the only other issue was that a condominium was filed for this plan and they need to extinguish that. There was no land transfer for that plan so that could be a stipulation.

Mr. Hopley referred to Sheet C-2, along the Coakley Road line at the future development area, and asked if the vertical granite curb was existing or proposed. Mr. Leedy stated they are putting it in all the way to the By-pass. Mr. Hopley asked why the sidewalk stops way back at their driveway rather than coming out to the curb at the intersection. Mr. Leedy responded that it was their obligation to provide safe pedestrian access from the public way to the primary use on the site, according to the ADA. There is no sidewalk on Coakley Road and there is no crosswalk across the By-pass so it becomes an issue of a sidewalk to nowhere. Mr. Hopley felt it is still going nowhere and he wondered if it was a small contribution to begin a process of going somewhere. Mr. Leedy indicated they would have a safety issue with that.

Mr. Hopley referred to their accessible parking spaces and their note referencing the vertical signs which need to be replicated for the other accessible spaces. They are providing 5 spaces and one van space. The sign needs to be replicated for all of those spaces.

Mr. Rice asked for clarification on the wetland buffer zone. Mr. Leedy pointed out the buffer zones on the plan. Mr. Rice noted they have 35 display spaces in the buffer zone. Mr. Leedy explained that in the previous process they applied for a wetland permit and a conditional use permit and they received both approvals. These impacts are the same so they held the pavement line and held the bottom of the slope. The fills are all the same and the pavement areas go to the same extent as the previous application. They pulled pavement away from the property lines as setbacks had changed.

Mr. Rice notes that when they approve parking lots, from a landscape standpoint, they look for vegetation and trees. The rule of thumb was having vegetation about every 8 spaces. This may impact the business but this is a very visible and critical location in the gateway to Portsmouth and from an aesthetic standpoint he felt that the vast unbroken asphalt seems it could stand a little landscaping. Mr. Rice came up with perhaps two islands of trees in each of the display rows. As a landscape architect, Mr. Leedy appreciated Mr. Rice's suggestion for additional landscaping. However, what they tried to do provide ample exterior buffering landscaping with trees. There are a higher number of trees at this car dealership than any other dealership. The applicant would like to have a lot more cars on the lot so taking way just a few spaces in each aisle would add up to a lot of spaces and would make a big impact.

Attorney McNeill added that they sought some relief with some of the setback buffers around the site because of the buffer requirements but were denied by the BOA. He felt it was a balancing act. They have the environmental constraint of Hodgson Brook which consumes a significant part of the site, they have limited access options because of the surrounding highways, it is an extremely valuable piece of land and it needs to be seen from a commercial prospective but also be tastefully designed, which is what they tried to do.

Mr. Coker asked for clarification regarding the drainage improvements that they were carrying forward. Mr. Leedy responded there were significant improvements over what is existing on the site that were incorporated in the previous plan which they are now carrying forward. For the record, Mr. Coker asked him to explain the differences in the drainage and the wetlands impacts from this plan to the prior plan.

Mr. Leedy explained that all wetland impacts are the same, the impervious area is roughly the same but the characteristics of the runoff has changed. The previous plan had much more roof area which they didn't need to treat. They could put that into infiltration chambers and just have it bleed out to the ground through a sand filter. When you have a parking lot you are required to treat all of that water so the ratios between the parking area and the roof area necessitated changes in the volumes these facilities would accept. They had to capture more volume in the gravel wetland to adequately treat the water quality volume required by DES.

Mr. Coker asked why this was not requiring a new Conditional Use Permit. Mr. Taintor explained that they determined early on that the nature of changes and impacts were very similar and the key changes were the shift between the parking lot run off and the roof run off. Additional materials were provided to the Planning Department and the Department of Public Works and everyone was comfortable that the impacts were similar enough that a conditional use permit change was not required. They

discussed it and talked about creating an overlay to visually compare the changes. Because they had begun work vested under the existing permit, they felt it was adequate.

Mr. Coker asked if there is a turn lane off Route One into their site. Mr. Leedy stated they are proposing to build one.

Mr. Coker suggested that, regarding the no right turn on Coakley Road, they should curve their driveway towards Route One. This solved a problem with another business on Lafayette Road. Mr. Leedy felt that might create other problems. From an approval standpoint, they would like to keep the road exactly the same as the previous plan as it may impact their wetland permit. Mr. Leedy felt it may create some geometric problems. Mr. Coker asked where the car carriers will unload. Mr. Leedy indicated they will typically unload at another site, process them and drive them over so they do not anticipate a large number, if any, car carriers. He did have a problem designing a car dealership without accommodating a car carrier. Mr. Coker asked if they would agree to stipulate that there will be no car carriers unloading on Coakley Road. Mr. Leedy did not have a problem with that.

Ms. Geffert asked whether any consideration was given to enhancing the vegetative buffer located by the parking area facing the residential houses. Mr. Leedy confirmed that was part of the plan. There is a buffer and gravel wetland plan included as part of the plan set. Ms. Geffert understood the buffer but she was talking about a visual buffer to block car lights. She understands their foot candles are not going over the lot line. Mr. Leedy felt there are a lot of reasonably sized shrubs in the buffer. It will be planted in buffer vegetation.

Ms. Geffert asked to see more room for bicyclists. Mr. Leedy noted the lanes were 15' wide where they are normally only 12' so there should be some extra room. Ms. Geffert also asked for a bicycle rack to encourage people to cycle over. Mr. Leedy indicated they would look at that.

Ms. Geffert wanted to make sure the PA system was compliant with the ordinance. At other sites they have a curfew. Mr. Leedy stated that they discussed hours of operation from 7:00 a.m. – 10:00 p.m. To the extent the PA system is allowed they would like to include it as a feature. They have agreed that any kind of speakers would be compliant and would be pointed away from the neighborhood. He pointed out this is a very noisy place with a lot of ambient noise. With the setback to the community and the buffering, and given the fact they have agreed to point the speakers away from the residents, that should solve the problem.

Chairman Ricci asked how many cubic yards of material they are bringing onto the site. Mr. Leedy stated it was between 20,000 to 30,000 yards. Chairman Ricci did not feel that the Construction Management Plan (CMP) should be a standard form. He didn't see any pervious pavement and he felt it was a perfect opportunity with their parking aisles to introduce pervious pavement. Mr. Leedy explained there are some issues. He doesn't disagree and they looked at it with the previous plan. There were concerns with the heavy vehicles and a lot of turning movements. Chairman Ricci was only talking about where the vehicles are parked. Mr. Leedy stated the simple answer was that they considered it and decided it was not the way to go because of the durability issue. They have done pervious pavement in parking areas and they are fans but with the soil conditions this site is not conducive. Chairman Ricci stated they could agree to disagree on that and he moved on.



Chairman Ricci felt that some of the catch basin sizes seemed a little small for the pipes going into them. He felt that should be looked at. He asked them to talk to him about what storm event they will use the erosion stone overflows on. Mr. Leedy stated there is a water quality volume which is the first 1". In any storm event, the first 1" of rainfall will be treated and anything above that will go into the bypass system. Chairman Ricci asked how it gets into the bypass rip rap apron. Mr. Leedy responded there is an overflow in the catch basins. It comes up to a weir and overflows.

Chairman Ricci noted on Sheet C-6, Erosion and Sedimentation Control Plan, there are dark arrows that he doesn't understand. Mr. Leedy stated they are temporary sedimentation basins.

Chairman Ricci added that the gravel wetland stormwater systems are not cheap and are a great application. There aren't a lot of sites around town that are big enough to put them in so he is a big advocate and believes they work well.

Councilor Spear suggested that rather than having negative signage coming out onto Coakley, they could direct them to the interstate. He felt this was an ideal location for the pervious surface as it was a controlled environment. He sees in the next 20 years some sort of impervious surface tax and making that move now would forestall that. It might be in their economic self interest.

Mr. Coker referred to Sheet A-3.1 & A-3.2. He asked them to clearly describe, for the record, the construction of the building and how that building is lit at night. Mr. Leedy stated the building is fairly standard commercial construction. He believed it will be steel and metal stud, it has metal fascia panels on the outside which are solid metal panels. There will be clear glass windows so some light will be coming from inside the building. There is an illuminated sign proposed above the entrance feature which is allowed by ordinance. Mr. Coker asked if it was his representation that this building will not have any lighting coming out of it. Mr. Leedy clarified that it was his representation that there will be no lighting behind any part of the façade. They are also proposing a number of wall pack lights around the façade which are downcast to light pedestrian areas. Sheet SL 1 is an accurate representative of the lighting.

Mr. Coker asked about the hours of operation. Mr. Leedy responded they are currently looking at 8:00 pm or 9:00 pm but they would like the option to stay open until 10:00 pm. Mr. Coker asked if hours of operation are in their purview. Mr. Taintor stated that hours of operation are within their purview if they are specified in the zoning ordinance but they cannot arbitrarily set an earlier time. Mr. Coker was asking the question because a car dealership is lit up when it is open and there are neighbors and light travels. Mr. Leedy confirmed that the lighting plan is fully compliant with the ordinance. What they have seen in other car dealerships, both in the City of Portsmouth and other communities, may or may not be the same at this. Chairman Ricci indicated that the ordinance stated that the dealership shall not be illuminated from 11:00 pm – 6:00 am. Chairman Ricci suggested that they just request that they comply with the ordinance.

Mr. Taintor had drafted some potential stipulations and he reviewed them to make sure he hadn't missed anything. He also incorporated input from the Traffic & Safety Committee and from the letter from David Desfosses.

- Regarding the Coakley Road access, he had written that the applicant should revise the Layout and Materials Plan to include a no right turn restriction exiting the site to drive out onto Coakley Road but after discussion he felt it might be more general to say they include appropriate signage acceptable to DPW to prevent traffic impacts in the Coakley Road neighborhood.
- The applicant shall revise the Grading and Drainage Plan to show 2" stone rather than ¾" stone at the edge of the curb on Coakley Road.
- The applicant shall submit a revised Site Lighting Plan demonstrating compliance with the Zoning Ordinance limits for security lighting.
- The applicant shall revise the Utility Plan to show relocation of the utility pole that is currently located just east of the Coakley Road driveway to at least 6' from the edge of road and connection to the site's underground utilities from that pole. He understands that will be acceptable to the applicant if it is acceptable to PSNH.
- The applicant shall revise the Site Plan to show a drainage easement acceptable to DPW around the area of the Coakley Road driveway and convey that easement to the City.
- The applicant shall convey to the City the 20' sidewalk easement shown on the Site Plan and grant the City the amount of \$10,000, etc.
- The applicant shall submit documentation that the Condominium Plan previously filed has been formally extinguished.
- The applicant shall revise the inspection and management plan for the stormwater management system to include original manufacturer documentation for manufactured products and require that the maintenance logs be submitted to DPW for review.
- Revise Sheet 6, Erosion and Sedimentation Control Plan by adding a legend.

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

Sedric Crowell, 35 Coakley Road, had some concerns and the important one was pedestrians crossing. He knows they do not want to put in a crosswalk but times and traffic patterns have changed. The neighborhood has 45 homes with children and they have no way to cross the By-Pass. The safe place to put a crosswalk is at the Coakley/Cottage intersection. Employees and customers will want to leave the site to eat. The estimate cost for the crosswalk is \$75,000. For the goodwill of the community, they can afford that. Their second issue is Hodgson Brook which is a living entity and he is concerned about rain coming off the pavement and pushed into the brook. With cars coming out and turning left, maybe a "residents only" sign would work. Also, coming into Coakley Road to the property, it is a 90 degree right turn to get to Coakley Road and it's a 90 degree turn to get into their property and a trailer truck will be all over the lawn to get into the site which should also be addressed.

Al Romano, 3 Coakley Road, agreed with Mr. Crowell. He also agreed with Mr. Coker regarding the curved driveway which would be good to keep people out of their neighborhood. It would also make it easier for the car carriers coming in. Regarding lighting, when it starts to get dark early and the leaves are gone, if they are open until 11:00 pm, the light will interfere with the residential homes. They say there won't be a problem with noise in their neighborhood but what about the residents on the other side of the By Pass. He feels they need a crosswalk and he doesn't care who puts it in. He thinks the City should push for it. Something should also be done with the timing of the traffic lights. Car carriers are slow moving and the light is only about 1 minute, 15 seconds so the residents have trouble getting out of Coakley Road.

Carl Bletzer, 14 Coakley Road, was not against the project but he had some concerns that he would like to see addressed. Two of his concerns have already been addressed. They talked about not taking a right and test driving cars in the neighborhood. At the Traffic & Safety meeting, some Portsmouth officials didn't think that a "no right turn" sign would work but suggested a "local traffic only, no outlet" sign instead. He felt his concern about lighting has been addressed, as long as they go down to security lighting at night. If business hours end at 8:00 pm, it would be nice to have security lighting at that time. His third concern is the outdoor sound system. It would not be a big problem in the summer with the trees but in the winter it is a whole different story with the lighting and the sound. In the winter they can hear the audio system at the Cadillac garage. It would be nice if there was an alternate system. He also wanted to ask that they don't park cars on the grass and keep them on the hardtop.

Colleen Romano, 3 Coakley, can attest to crossing the street. She takes walks and crosses the street and is taking her life into her own hands. The traffic at the intersections is constantly blocked and needs to be addressed. If there is an emergency, they may not be able to get out. Something needs to be done. She is not opposed to this plan at all but safety has to be the number one issue.

Sedrick Crowell, was also concerned about parking cars on the grass. The cars should be parked in the designated spots on the pavement. He noted that the applicant's Chevrolet dealership in Newington has cars parked all over the grass and the hills and it looks terrible and is an eyesore. He does not want that at this location.

Candace Dolan, Coordinator for the Hodgson Brook Restoration Project, asked if the sizing of the stormwater system was still appropriate to handle the anticipated additional business. She also asked that they require an inspection of the buffer plantings after the first growing season and require the replacement of any plants that did not survive. Mr. Leedy confirmed that the stormwater system was sized to anticipate all future development. It will handle the car dealership and the vacant development pad.

Attorney McNeill responded to the comments of the neighbors. Regarding the crosswalk, when they went before Traffic & Safety and this matter was discussed, the issue of tipping points, reasonableness, history, cumulative development, and the reasonable rational nexus were all part of the discussion. This particular use is not the traffic problem on Route One but they have agreed to step up when it is probably not legally necessary. The DPW Director said the contribution recognizes that this particular applicant is only responsible for a small part of the problem and the 20' easement along Coakley Road, which is valuable property, will be there so that if something occurs in the future there will be adequate

land without the necessity of a taking or other negotiations to accommodate a pedestrian bridge. The City's own experts on traffic and safety have made a recommendation which they followed. Attorney McNeill would recommend that the Planning Board follow Mr. Parkinson's recommendation.

Attorney McNeill recognizes the comment that the cost of the crosswalk is only the cost of two cars but due to the cumulative cost of doing any project, including the sophisticated drainage system and many other changes related to infrastructure, that is a rather simplistic argument in light of all of the improvements.

Attorney McNeill represented Newington for 10 years regarding aircraft noise as it related to Pease and the subjective nature of noise as it affects various people in various locations. This allowed use has an extraordinary buffer between itself and its neighbors. They have sufficiently addressed this with landscaping and by directing the microphones away from the Coakley Road area.

Attorney McNeill stated they believe that all of the recommendations of Mr. Taintor and Traffic & Safety, and compliance with all regulations call for an approval of Site Review.

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. Coker asked to make an observation. He felt it was unfair to say this development will not have an impact on the pedestrian count. People are going to drop their cars off and have them serviced. They will be looking for breakfast and will head across the street to the diner. He thinks it is unfair to say there isn't any impact. He's in favor of this project and it is far better than the original plan; however, common sense says this application will have an impact and he thinks they should require a crosswalk.

Ms. Roberts made a motion to approve with Mr. Taintor's recommended stipulations.

Chairman Ricci requested an annual inspection of the plantings. He also requested that the applicant work with the City of Portsmouth on exploring pervious pavement, although he is not making it a stipulation. He requested that the applicant look at the sizes of the catch basins on site as he feels some are too small.

Ms. Roberts requested the addition of a bike rack. Also that the applicant work with DPW to address the need for a sign at the exit onto Coakley Road to avoid right hand turns.

Mr. Blenkinsop asked for clarification on Chairman Ricci's stipulation for an annual inspection of the plantings and he asked about replacement. Chairman Ricci clarified that after a year of plantings they should be inspected. Mr. Taintor was going to propose another stipulation which relates to that. Because this is covered on Sheet C-5, the Landscape Plan, but it is not covered on the buffer area and gravel wetland Planting Plan, he was going to propose to revise the Buffer Area and Gravel Wetland Planting Plan to include a note incorporating the notes on the Landscape Plan regarding planting, guarantees, tree protection and plan maintenance. Mr. Blenkinsop asked for clarification that if the inspection shows that some of them have died, they will be replaced? Mr. Taintor confirmed that the

note included that “The Contractor shall replace dead or dying plants at the end of the one year guarantee period.”

Mr. Hopley seconded the motion and added a stipulation that a note be added concerning the upright accessibility signs on the other handicapped spaces on Sheet C-2.

Mr. Rice asked if they could incorporate the crosswalk into this. Chairman Ricci felt they should have a discussion on that. He doesn't often speak out but he believes that the crosswalk issues were present today and prior to this applicant. The applicant has made a good faith effort. He felt the heavy lifting should be borne by the City and DOT. These are the only two intersections missing crosswalks all the way down to Southgate Plaza. He would like to see the Planning Department get with the City and State to formulate a plan. He doesn't think this applicant should be responsible for a condition that already exists and he felt they are paying their fair share. Ms. Roberts agreed totally with the Chair. She thinks the City needs to step up. She is also concerned about the issue of traffic volume and movement which should not be part of this project. There is a potential safety issue.

Mr. Taintor spoke to David Desfosses today who felt that this initial contribution from the developer would serve as a starting point for getting this on the Capital Improvement Program. Next week they will be sending out the initial Memorandums to Departments. Mr. Taintor also reminded the Board of the Re-zoning request they are looking at in the Cate Street area which might result in a public four-way intersection at Borthwick and they are starting a small traffic study related to that.

Mr. Gladhill agreed this has been a problem for a number of years and as a past member of the EDC has seen it discussed numerous times. This is an issue that has been going on long before this applicant came before the Board.

Mr. Rice asked for a stipulation that the sound system be directed away from the residential neighborhood.

Mr. Coker asked for no parking or unloading of vehicles or trucks on Coakley Road.

Councilor Spear had a concern with the future development area that after the project is complete, the area gets left for scrap. He asked if that will be grass or if there is some sort of guarantee that it will be cleaned up. Chairman Ricci pointed out that the plans show loam and seed and extensive plantings around it. It is covered on Sheet C-5.

The motion to grant Site Review approval passed unanimously with the following stipulations:.

1. The applicant shall make the following revisions to the Site Plans:

(a) Legend and General Notes (Sheet C-1):

(1) Add a note stating, “All sound system speakers shall be directed away from the Coakley Road neighborhood.”

- (2) Add a note stating, “No parking or unloading of vehicles or trucks shall be allowed on Coakley Road.”

(b) Layout and Materials Plan (Sheet C-2):

- (1) Include appropriate signage acceptable to DPW to prevent traffic impacts on the Coakley Road neighborhood.
- (2) Add notes for the bollard mounted signs at the accessible spaces on the east side of the building (i.e., “R7-8” and “R7-8A”).
- (3) Add a bicycle rack near the main entrance to the building.
- (4) Add a drainage easement acceptable to the Department of Public Works around the area of the Coakley Road driveway.

(c) Grading and Drainage Plan (Sheet C-3): Show 2” stone (rather than 3/4” stone) at the edge of the curb run on Coakley Road.

(d) Utility Plan (Sheet C-4):

- (1) Show relocation of the utility pole that is currently located just east of the Coakley Road driveway to at least 6 feet from the edge of the road, and connection to the site’s underground utilities from that pole (subject to approval by PSNH).
- (2) Confirm that the catch basins are sized adequately.

(e) Erosion and Sedimentation Control Plan (Sheet C-6): Add a legend.

(f) Buffer Area and Gravel Wetland Planting Plan (Sheet W-1): Include a note incorporating the notes on the Landscape Plan (Sheet C-5) regarding planting, guarantees, tree protection and plan maintenance.

(g) Site Lighting Plan (Sheet SL-1): Submit a supplemental Site Lighting Plan (Sheet SL-2) demonstrating compliance with the Zoning Ordinance limits for security lighting when the business is not open to customers (Sec. 10.1145.12).

2. The applicant shall revise the Inspection and Maintenance Plan for the Stormwater Management System to include original manufacturer’s documentation for manufactured products, and to require that maintenance logs be submitted to the Department of Public Works for review.
3. The applicant shall convey to the City (a) the 20-foot sidewalk easement along Coakley Road as shown on the Layout and Materials Plan, and (b) the drainage easement at the Coakley Road driveway.

- 4. The applicant shall grant to the City the amount of \$10,000 to be placed in a separate account and used for pedestrian crossing improvements on the Route One Bypass, which together shall be deemed to satisfy the obligation of this development with respect to a pedestrian crosswalk.
- 5. The applicant shall submit documentation that the condominium plan previously filed for the site has been formally extinguished.
- 6. The applicant shall work with the Department of Public Works and the Planning Department regarding pervious pavement applications on the site.
- 7. The applicant shall prepare a Construction Management Plan for review and approval by the City.
- 8. The applicant shall pay for the services of an oversight engineer, to be selected by the City, to monitor site development including the gravel wetland construction.

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**II. CITY COUNCIL REFERRALS/REQUESTS**

*The Board's action in these matters has been deemed to be legislative in nature.  
If any person believes any member of the Board has a conflict of interest,  
that issue should be raised at this point or it will be deemed waived.*

A. Request from Richard and Linda Harding of 1808 Islington Street for proposed land transfers (easements) with the City of Portsmouth.

Mr. Rice recused himself.

Mr. Taintor stated that this came before them in June where issues were raised at the meeting so staff went back and looked at it again. Staff has arrived at an option of four easements instead of land transfers. One easement is from the Hardings to the City for a drainage easement which is essentially the area that the City is already draining onto. A second is a driveway and sewer easement to the Hardings for an area they are using for their driveway which is actually City property. There are two smaller easements; one is an easement from the City to the Hardings for a sewer to service the future subdivided lot and an easement from the Hardings to the other lot.

Because the whole area, including the old school building and the ball field, is one lot they are not clear whether it will be an easement or a license.

Mr. Blenkinsop made a motion to recommend that the City Council approve the easements as shown on the plan titled "Harding Parcel Subdivision – ... – Easement Concept Plan" dated July 29, 2010.

Mr. Coker seconded the motion.

The motion passed unanimously.

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B. Request from the Foundation for Seacoast Health for placement of a sign for the Community Campus at intersection of Lafayette Road and West Road.

Mr. Taintor advised the Board that this started with a request from Peter Loughlin on behalf of the Foundation for Seacoast Health in July to the City Council asking for a simple monument sign to be placed on the south corner of the intersection of West Road and Lafayette Road to indicate that Community Campus was up that road. No one knows when or how the existing multi-tenant sign was put up. They cannot find any permits for it or any record of any authorization for it and it is buried in vegetation and is fairly useless. Staff came up with the idea of eliminating the multi tenant sign and replacing it with a sign in the median, simply identifying the park and the campus. They contacted all six businesses on the existing sign and five have no objection to the removal and one requested that it remain. They also came up with five points going beyond the initial request. Items #1 and #2 address the initial request but Items #3 - #5 deal with things that should be done along the approaches in both directions on Lafayette Road and also the intersection of West Road and Campus Drive.

Mr. Taintor stated for the purpose of tonight’s meeting and the referral, the recommendation was that the Board vote to recommend approval with staff recommendations.

Councilor Spear made a motion to recommend to the City Council that the existing multi-tenant sign on City property at the intersection of Lafayette Road and West Road be removed, and that a new sign identifying the Lafayette West Industrial Park and the Community Campus be installed in the median of West Road at the same intersection, with the design to be approved by the Planning and Public Works Departments.

Mr. Blenkinsop seconded the motion.

The motion passes unanimously.

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C. Request to rename the portion of Sherburne Road on the Pease International Tradeport.

Mr. Taintor explained that this came up because of advancements with technology. Truck drivers who use GPS to access the industrial park sometimes go down Sherburne Road and find that the road is blocked by the gate. The request was to change the name of Sherburne Road but that wouldn’t do anything because the mapping network doesn’t look at the names. Michael Mates, of Pease Development Authority, was able to insert a gate on the mapping software which should address the problem.

Councilor Spear made a motion to recommend that the portion of Sherburne Road on the Tradeport **not** be renamed.

Mr. Blenkinsop seconded the motion.



The motion passed unanimously.

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D. Proposed rezoning of 2700 Lafayette Road (former Fire Station #2) from Municipal District to Gateway District.

Mr. Taintor confirmed that the City’s Fire Station #2 was sold yesterday at auction and the Zoning Ordinance provides for an automatic rezoning to Municipal when the city acquires a piece of property but does not provide any way for it to be rezoned when it is disposed of. They recommend that it be rezoned from Municipal to Gateway, which surrounds it on three sides.

Mr. Rice made a motion to recommend to the City Council that the property at 2700 Lafayette Road (former Fire Station #2) be rezoned from Municipal District to Gateway District.

Mr. Blenkinsop seconded the motion.

The motion passed unanimously.

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E. Request from Sagel Urlacher and Kelly Mower, of Presence of Nature, for property located at 74 Congress Street, to install a projecting sign over City property.

Mr. Coker stepped down as he was an abutter.

Mr. Taintor confirmed that this sign complies with all zoning requirements and no other municipal approvals are needed. They recommended approval subject to the usual three conditions..

Mr. Blenkinsop made a motion to recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, 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.

Ms. Geffert seconded the motion.

The motion passed unanimously.

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**III. OTHER BUSINESS**

A. Street name/numbering issue on Winchester Street.

Mr. Taintor stated that the numbering on this street is very confusing as there are three separate sections of Winchester Street. As noted in the Memo, this was looked at in quite a bit of detail 9 years ago and there was a proposal to rename two smaller segments and there was neighborhood support for this but it was not unanimous. They recommend that the Board schedule this for a public hearing and, in the meantime, have staff go out and meet with neighbors to better sense of what the best approach would be. In 2001 Tom Richter came up with a very good approach with minimal impact and that is the way they would like to go.

Ms. Geffert made a motion to schedule a public hearing at the September Planning Board meeting.

Mr. Blenkinsop seconded the motion.

The motion passed unanimously.

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B. Proposed Zoning Ordinance revisions – Article 5.

Mr. Taintor indicated this was to follow up with their discussion at the Work Session. The Board felt staff should move ahead with the change of the size of multi family dwellings and the accessory setbacks but they were not ready to move ahead with the roof appurtenances.

If that is the case, he recommended that they vote to recommend those changes to the City Council.

Mr. Coker made a motion to recommend that the City Council amend the Zoning Ordinance regarding maximum size of multifamily dwellings and accessory structure setbacks, as recommended by the Planning Director in the document titled "Zoning Ordinance - Proposed Amendments: "Article 5 - Dimensional and Intensity Standards," dated 8/19/10

Mr. Blenkisop seconded the motion.

The motion passed unanimously.

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

It was agreed to postpone this item to the September meeting.

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**IV. ADJOURNMENT**

A motion to adjourn at 9:25 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 October 21, 2010.