

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

APRIL 19, 2012

MEMBERS PRESENT: John Ricci, Chairman; Paige Roberts, Vice Chairman; Nancy Novelline Clayburgh, City Council Representative; John Rice; Anthony Blenkinsop; Cindy Hayden, Deputy City Manager; Richard Hopley, Building Inspector; William Gladhill; and Brian Groth, Alternate

MEMBERS EXCUSED: MaryLiz Geffert;

ALSO PRESENT: Rick Taintor, Planning Director

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I. APPROVAL OF MINUTES

1. Approval of Minutes from the January 19, 2012 Planning Board Meeting – Unanimously approved.
 2. Approval of Minutes from the March 15, 2012 Planning Board Meeting – Unanimously approved. (Mr. Hopley abstained).
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II. OLD BUSINESS

A. Review of March 26 Joint Meeting of City Council, Planning Board, Economic Development Commission and Historic District Commission – “Context-Sensitive Redevelopment”

Mr. Taintor indicated that the Mayor asked each board who participated in the March 26th meeting to take some time at the beginning of their next meeting to provide feedback and any thoughts on what might be useful in the future for quarterly meetings.

Mr. Rice would like to see the summaries from the various groups. He felt it was a worthwhile evening and enjoyed the roundtable environment with other boards. He felt it was very useful and would be happy to participate in a future meeting.

Mr. Gladhill found it to be interesting and insightful. He found the Islington Street discussion interesting regarding how many variances it would take to put a particular lot back the way it was, to fit back into the neighborhood. He felt moving towards the Context Sensitive Redevelopment would be a good direction for the City.

Deputy City Manager Hayden thought it was very interesting to see the Boards mixed together. She wondered if they do something they did during the Master Plan, which was ‘Land Use 101’ and which

responsibilities each land use board has. She also thought they might ask the Mayor if he would like to broaden the group to include the Conservation Commission and the Board of Adjustment.

Chairman Ricci was going to suggest the same thing. He would also like to see the Boards submit their top 3 most arduous items, particularly the BOA. Maybe the other Boards could help to do something to mitigate those issues.

Chairman Ricci thanked everyone for their comments.

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Mr. Blenkinsop made a motion to read Items B, C and D in Old Business and Items B and F in New Business out of order for the purposes of postponement. Deputy City Manager Hayden seconded the motion. The motion passed unanimously.

III. PUBLIC HEARINGS – 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.*

B. The application of **Lynn J. Sanderson & Frances T. Sanderson Revocable Trusts, Paul G. Sanderson, Trustee, Owner**, for property located **on Spinney Road and Middle Road**, for Conditional Use Permit Approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer, including a stormwater detention pond/raingarden, vegetated outlet swale and a level spreader. Said property is shown on Assessor Map 167 as Lot 5 and Assessor Map 170 as Lot 24 and lie within the Single Residence B (SRB) District. (This application was postponed from the March 15, 2012 Planning Board Meeting)

C. The application of **Lynn J. Sanderson & Frances T. Sanderson Revocable Trusts, Paul G. Sanderson, Trustee, Owner**, for property located **on Spinney Road and Middle Road**, requesting Preliminary and Final Subdivision Approval to subdivide two lots into nine lots, including a public right-of-way, with the following: Lot 5 on Assessor Plan 167 having 316,165 s.f. (7.258 acres) and Lot 24 on Assessor Plan 170 having 238,601 s.f. (5.478 acres), to be consolidated and subdivided into nine separate lots, ranging in size from 5,000 s.f. to 329,641 s.f. and all with a minimum of 100’ of continuous street frontage on Spinney Road or the new proposed public right-of-way. Said properties lie in a Single Residence B (SRB) District which requires a minimum lot size of 15,000 s.f. and 100’ of continuous street frontage. (This application was postponed from the March 15, 2012 Planning Board Meeting)

D. The application of **Lynn J. & Frances T. Sanderson Revocable Trusts, Paul J. Sanderson, Trustee, Owners**, and various other property owners, for property located **off Spinney, Middle, Thaxter, Sewell and Kensington Roads**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested between lots as properties are located in the Single Residence B (SRB) District where the minimum lot size is 15,000 shown on Assessor Map 167 as Lot 5 and Assessor Map 168 as Lot 17, and abutting lots as listed below. Said s.f. and minimum street frontage requirement is 100’. (This application was postponed from the March 15, 2012 Planning Board Meeting)

1. Lynn J. Sanderson & Frances T. Sanderson Revocable Trusts, Paul G. Sanderson Trustee, Owner
Property located off Spinney, Middle, Thaxter, Sewell and Kensington Roads (Assessor Map 167 as Lot 5 and Assessor Map 170 as Lot 24)
Lot area decreasing in size from 12.74 acres to 11.92 acres
2. Craig S. and Christine Almond Hodgson, Owners
Property located at 165 Middle Road (Assessor Map 168 as Lot 17)
Lot area increasing from .18 acres to .30 acres
Street frontage increasing from 75' to 125' off Middle Road
3. Neal L. and Darlene L. Ouellett Revocable Trust, Neal L and Darlene L. Ouellett, Trustees, Owners
Property located at 124 Kensington Road (Assessor Map 152 as Lot 20)
Lot area increasing from .22 acres to .43 acres
Street frontage remaining at 100'
4. Jeremy D. Martin, Owner
Property located at 199 Middle Road (Assessor Map 168 as Lot 14)
Lot area increasing from .28 acres to .51 acres
Street frontage remaining at 100'
5. Patrick B. and Karen A. Lyons, Owners
Property located at 185 Middle Street (Assessor Map 168 as Lot 15)
Lot area increasing from .13 acres to .80 acres
Street frontage remaining at 50'
6. David and Patricia Gress, Owners
Property located at 14 Sewall Road (Assessor Map 170 as Lot 20)
Lot area remaining at .31 acres to .31 acres
Street frontage decreasing from 135' to 125'
7. Michael Jacques, Patricia Newman and Caroline A. Newman Revocable Trust, Caroline A. Newman, Trustee, Owner
Property located at 342 Spinney Road (Assessor Map 169 as Lot 5)
Lot area increasing from .51 acres to .54 acres
Street frontage decreasing on Spinney Road from 171.3' to 162.59'
8. Joseph G. and Carol S. McGinty, Owners
Property located at 300 Spinney Road (Assessor Map 169 as Lot 6)
Lot area increasing from .69 acres to .70 acres
Street frontage decreasing from 150' to 141.26'
9. Patricia O. Sanderson Revocable Trust, David Sanderson, Trustee, Owner
Property located at 248 Spinney Road (Assessor Map 169 as Lot 4)
Lot area increasing in size from 1.31 acres to 1.46 acres

F. The application of **Lynn J. Sanderson & Frances T. Sanderson Revocable Trusts, Paul G. Sanderson, Trustee, Owner**, for property located **on Spinney Road and Middle Road**, requesting a Conditional Use Permit under Section 10.725 of the Zoning Ordinance for an Open Space Residential Planned Unit Development (OS-PUD) consisting of nine single family residential structures and five two-unit residential structures, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 167 as Lot 5, Assessor Map 170 as Lots 23 and 24, Assessor Map 171 as Lot 13 and lies within the Single Residence B (SRB) District.

The Chair read the notices into the record.

Mr. Blenkinsop made a motion to postpone these matters to the May 17, 2012 Planning Board Meeting. Councilor Novelline Clayburgh seconded the motion.

The motion to postpone these matters to the May 17, 2012 Planning Board meeting passed unanimously.

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B. The application of **Michaels Realty Trust, Owner**, for property located at **1390 Lafayette Road**, **ESUM Realty Trust, Owner**, for property located at **1400 Lafayette Road**, and **MacLeod Enterprises, Inc., Owner**, for property located at **1190 Lafayette Road**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision & Lot Consolidation) is requested between three lots as follows:

REQUEST TO POSTPONE

1. Lot 7 on Assessor Map 252 consisting of 14,358 s.f. being consolidated with Lot 9 on Assessor Map 252 for a total lot area of 237,001 s.f.;
2. Lot 8 as shown on Assessor Map 252 increasing in area from 111,924 s.f. to 126,989 s.f. with 248.72' of continuous street frontage on Lafayette Road and consolidated Lots 9 and 7 as shown on Assessor Map 252 decreasing in area from 237,001 s.f. to 221,936 s.f. with 529.51' of continuous street frontage on Lafayette Road.

Said properties are located in the Gateway District where the minimum lot size is 43,560 s.f. and the minimum continuous street frontage is 200'.

Mr. Blenkinsop made a motion to postpone to the May 17, 2012 Planning Board Meeting. Mr. Hopley seconded the motion.

The motion to postpone this matter to the May 17, 2012 Planning Board meeting passed unanimously.

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A. The application of **Parade Residence Hotel, LLC, Owner**, for property located at **100 Deer Street (formerly a portion of 195 Hanover Street)**, wherein Amended Site Plan Approval is requested for sidewalk changes in connection with a 11,437 s.f. conference center to be established in space previously approved for retail use, with related paving, utilities, landscaping, lighting, drainage and associated site improvements. Said property is shown on Assessor Plan 125 as Lot 22 and lies within the General Business B and the Historic District. (This application was granted by the Planning Board on February 10, 2010; appealed to the Board of Adjustment which upheld the Planning Board action on April 20, 2010; appealed to the Rockingham County Superior Court where the decision was vacated and remanded on January 27, 2011; and appealed to the New Hampshire Supreme Court where the Superior Court Decision was affirmed on March 23, 2012.)

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Mr. Taintor advised the Board that this morning they received a letter form the attorney for Harborside Associates, LP, who is the abutter to the property and the party to the lawsuit. The letter raises some questions about the staff memorandum and particularly about the interpretation of the Zoning Ordinance by the Planning Department. Rather than debate it tonight as he has not had a chance to talk

to the City Attorney he would recommend that this be postponed for a report back from the City Attorney.

Deputy City Manager Hayden made a motion to postpone to the May Planning Board meeting. Councilor Novelling Clayburgh seconded the motion.

The motion to postpone to the May 17, 2012 Planning Board meeting passed unanimously.

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IV. PUBLIC HEARINGS – NEW 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. A public hearing will be held to consider amendments to the Site Plan Review Regulations, Section 3.6. – Drive-Through Facilities, to address screening of drive-through lanes and any other design and performance standards that may appear appropriate.

Mr. Taintor indicated that at the last Planning Board meeting they talked about the drive-through facilities and the Board voted to recommend zoning amendments to the City Council which are now scheduled for 2nd reading at the May meeting. At the same time, the Planning Board discussed having complimentary regulations to the Site Plan Review Regulations. Mr. Taintor’s recommendation is to vote to make the change regarding screening of drive-through facilities as an addition to the Site Plan Review Regulations. It’s a small change but important change because of the potential aesthetic and safety impact of drive-throughs next to streets.

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

Mr. Hopley asked if they will they ever have a case where they will only have one drive thru lane. He noted that the screening is for where there are two or more drive through lanes. Mr. Taintor responded there could be two drive through lanes plus the bypass lane. He thought maybe he should change it to read “where there are two or more lanes” rather than two or more drive through lanes. Mr. Hopley just wondered if they should be looking at screening for a single drive through lane. Mr. Taintor felt it depends on how they look at the site. In many cases there may be a long lead in before you get to the two lanes. Chairman Ricci suggested just taking out where it said “two or more drive through lanes”. Mr. Taintor agreed and added “Such screening shall be continuous along the entire length of the drive through lanes.” Deputy City Manager Hayden asked if they need to say anything about the bypass. If a facility had a drive through lane and a bypass lane, would they want it to actually be the bypass lane that was screened because people can be very literal when they are trying to avoid regulations. Mr. Blenkinsop asked where in proximity to the lane itself would the screening go. Mr. Taintor felt generally it will be close to a lane because of the efficiency of using land. Mr. Blenkinsop asked at what point would it be screened from public view. He doesn’t want to get over technical but couldn’t people say that from the property line it is screened but if you are on the property maybe it is very far away.

Mr. Taintor pointed out that they have a drive through on the agenda tonight and he suggested that they think about this, postpone to the May meeting, and see if any issues come up tonight. Deputy City

Manager Hayden felt that was a good idea and it would not affect tonight’s applicant because the regulation was not in effect.

Mr. Groth noted that it says “fieldstone wall or comparable structure” and he wondered if “landscaped feature” would be appropriate as well. Mr. Taintor stated that they have landscape screen but they could look at alternatives.

Mr. Blenkinsop made a motion to postpone action on this matter to the May Planning Board meeting. Chairman Ricci confirmed that they have closed the public hearing. Mr. Hopley seconded the motion.

The motion to postpone action on this matter to the May Planning Board meeting passed unanimously.

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C. The application of **Northeast Credit Union, Owner, and Liberty Mutual Insurance, Applicant**, for property located at **100 Borthwick Avenue**, for Conditional Use Permit Approval under Section 10.1017 of the Zoning Ordinance for 2,206 s.f. of impact within an inland wetland buffer for the reconstruction of the parking lot stairway and walkway. Said property is shown on Assessor Map 259 as Lot 15 and lies within the Office Research (OR) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

George Fredette, of SFC Engineering Partnership, was present on behalf of Liberty Mutual. Mr. Fredette stated that Liberty Mutual has a large office building on Borthwick Avenue with 700 employees who park across the street on property at 100 Borthwick Avenue. They use a portion of the land owned by Northeast Credit Union which is leased by Liberty Mutual. The minor tonight improvements involve a foot bridge over a wetland and the pathway up to the parking lot. The pathway has a ramp and some stairs. They are removing the existing walkway, stairs and ramp and replacing with new ones in the same place. The walkway is about 80’ long and about 6’ wide and it is within 100’ of the wetland. When the walkway is reconstructed it will be the same length but a little bit narrower. It will be 5’ wide rather than 6’ wide so there will be less impervious area. They are reconfiguring the stairs to make them safer.

They submitted their response to the 5 criteria to justify a Conditional Use Permit. Last week at the Conservation Commission they received a favorable recommendation with conditions which they are agreeable to.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Blenkinsop made a motion to grant the Conditional Use Permit with the two recommended stipulations. Deputy City Manager Hayden seconded the motion.

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

1. Facilities maintenance staff shall attend a winter maintenance training session at UNH, specific to salt application rates and best practices, for the care and maintenance of the parking lot.
2. The applicant shall submit a revised plan to the Planning Department showing (1) a 10-foot non-mowed area around the wetland adjacent to the parking area, and (2) a reduced amount of lawn or mowed area around the walkway.

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.D. The application of **Nikolas and Jennifer Uhlir, Owners**, for property located at **375 F.W. Hartford Drive**, for Conditional Use Permit Approval under Section 10.1017 of the Zoning Ordinance for 2,077 s.f. of impact within the inland wetland and the inland wetland buffer for remediation including re-vegetating the cut areas, adding a rain garden and re-planting and expanding the lawn to restore wetland functions. Said property is shown on Assessor Map 270 as Lot 14 and lies within the Single Residence B (SRA) District.

The Chair read the notice into the record.

Councilor Novelline Clayburgh recused herself as she is an abutter.

SPEAKING TO THE APPLICATION:

Matthew Cardin, of Normandeau Associates, was present on behalf of the applicants. He handed out an Existing Conditions and Wetland Delineation plan to the Board and the Board should already have two plans which are the Restoration Plan and a revised Restoration Plan as a result of the Conservation Commission meeting.

Mr. Cardin advised the Board that this is a restoration plan because the property owner unknowingly had some trees in his backyard cleared to create more space. Normandeau Associates reviewed the wetlands, mapped the area, did a functions and value assessment and created a restoration plan to re-vegetate the area and restore it to the condition it was prior to the clearing. He explained that the pink line on the Existing Conditions Plan is the wetland boundary and the yellow line is the limit of clearing which is where the trees were cut. They plan to re-vegetate the area, extend the lawn area and install a rain garden. The revised Restoration Plan which shows the rain garden pushed further to the east and closer to the house. The restoration plan includes native plantings and wetland plants. Everything within the pink line is within the wetland and everything outside is the wetland buffer and the yellow line shows the limit of disturbance. The green line shows the prior lawn line which was taken from a digitized aerial photo taken in 2010. They are proposing to extend the back yard approximately 1,250 s.f. and extend the grass area and install the rain garden. The rain garden will capture an existing sump pump flow from the basement of the home which is currently being discharged out into the woods.

The Conservation Commission reviewed this plan and they had a few comments. They requested that they level out the fill, remove 6” of fill from the top and lay 2” to 4” of loam to create a healthy growing environment for the vegetation. They also requested that they move the rain garden closer to the house, to a high elevation, which would be more suitable for a rain gardens function. They requested that the soil be tested. The landowner has had the fill tested and they are awaiting the results. They have been in contact with Dave Price, of NHDES, and they are working with them. As

this is not a permanent wetland impact they are working with Mr. Price on a restoration plan. They have provided him the restoration plan and are detailing a report for his jurisdiction. Mr. Price did not have any additional comments on the restoration plan.

Deputy City Manager Hayden stated that they have three stipulations in their staff recommendation and she asked if they have incorporated all of those comments into their plan dated April 12th so they can disregard the April 11th plan. Mr. Cardin indicated that he just wanted to show the base line on the original plan.

Mr. Blenkinsop asked if there was any distance which they can locate the rain garden from to the house. How will they know exactly where the rain garden goes. Mr. Cardin responded it will have to be field located. Right now the sump pipe coming out of the basement is a fixed height so to create negative drainage once the pump reaches the height of the outlets from the foundation they will have to create a negative drainage away from the house and that will justify where the rain garden will go. When he was in the field he estimated it to be about 35', but that is an estimate. Mr. Blenkinsop asked if he would have any objection to having City staff giving the final okay to the exact location once they figure out where it should go. Mr. Cardin was fine with that.

Mr. Groth felt it looks like the application requests that the lawn be extended right to the border of the wetland. Mr. Cardin stated it was a small increase. Mr. Groth felt it was very close so there is no buffer at all for fertilizers. Mr. Cardin was hoping to save the lawn that he had so they put it right up along the wetland line. What they would hate to see is they would have to restore that buffer which is only 5'. Mr. Groth understood they are talking about a restoration plan but they are still extending up to the wetland with lawn. Mr. Cardin stated that prior to the clearing, the forest was a hemlock forest with very little understory and with this planting plan is introducing a diverse amount of species and that will increase the nutrient up take and settlement erosion control. Mr. Cardin could pull that back to where the existing lawn was. The idea of the rain garden was to counter-balance the extension of the lawn.

Chairman Ricci asked Mr. Carbin if he had an objection to keeping a 5' buffer. Mr. Cardin did not believe the landowner would be opposed to that and they might also think about using a low phosphate fertilizer in the area. Chairman Ricci felt that enforcement would be next to impossible for that.

Deputy City Manager Hayden asked if Peter Britz, the City Environmental Planner, could represent to the Board what the Conservation Commission had to say about that because they are gaining some other benefits on this lot.

Chairman Ricci asked Mr. Britz what his thoughts were on the Board members concerns about bringing the new lawn right up against the wetland boundary. Mr. Britz stated that they are talking about a couple of feet so he felt it was a good recommendation to bring it out 5' all the way along the buffer. It would just be a small area where they would have to pull it back. Mr. Cardin did not believe it would be a problem.

Deputy City Manager Hayden indicated that they know that homeowners sometimes unintentionally do things because they are not aware of regulations. In past years they have had some educational literature that has gone out to people and she asked Peter Britz about his thoughts on that. Mr. Britz stated that at the end of the last Conservation Commission meeting was a discussion about the difficulties for homeowners who live right up to the edge of the wetland, both to understand the regulations and also to live with the fact they can't have lawn up to the wetland. In the past they have

sent out a brochure to people to let them know that there is a wetland regulation for anyone that lives in a wetland or wetland buffer area and that there are things they can do as an alternative to a lawn in a wetland buffer. That includes some landscaping suggestions on different things that can be done, including wildlife features or a nature trail that have much more functionality for the wetland. They are going to send that out to all property owners who have wetlands on their property or are in a wetland buffer or are near a prime wetland. Mr. Britz agreed that it was very difficult to enforce this in people's backyard so the brochure will help educate rather than enforce.

Mr. Taintor was having a problem understanding the plans. He was comparing the profile on BB where it looks like they are extending the amount of fill much further than they have now. Mr. Cardin stated that currently the edge of fill varies from 3" – 12". The idea is to peel 6" off of that but create an even grade up to the house so they are not increasing velocities. Mr. Taintor asked if that was showing more fill closer to the wetlands than under the existing condition. Mr. Cardin stated that is loam. The fill is shown with a double cross hatch and the loam is just a hatch. Mr. Taintor noted that the fill (not loam) extends closer to the wetland than they are now. Mr. Cardin stated they are trying to even the grade out so it is a nice natural even grade. They will remove the extension on the sump pump which goes all the way back to the forested area and the rain garden will replace that. Mr. Taintor asked Mr. Britz to confirm that he felt this plan was acceptable.

Mr. Britz stated that the Conservation Commission has not seen the revised plan as it came in after their meeting. Mr. Britz was comfortable with the plan that was in their packet, reflecting what the Conservation Commission requested. The compromise that the Conservation Commission understood was that fill would be put there to level the slope because the backyard had a steep slope in it. The idea was that fill would level that slope out and they would remove 6" off of that fill and put loam in so that they could have lawn that grows. In the end they would have new fill in the buffer that wasn't there before but they would have a reduced amount of fill from what was brought in. That is what they represented and what the plan should show.

Mr. Taintor noted that they had made a reference to low phosphate and the Zoning Ordinance states that it is prohibited in the wetland buffer.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Blenkinsop asked if someone would be able to look at these plans and determine with any level of certainty what will be planted. Chairman Ricci agreed and stated that he found the plans extremely difficult to follow. Mr. Blenkinsop did not understand how anyone could go out on site when this work was done and say with any high degree of certainty that what they approved is what was actually done. Deputy City Manager Hayden understood their concern and agreed to a large extent and that these were some of the most challenging plans they have ever had to review; however, on the other hand she also felt that the homeowner unintentionally did something that they shouldn't have and she is sure they deeply regret it now. She would hate to push this off to another month and have the homeowner spend more money. She felt that maybe they could add a stipulation that the work be done under the guidance of the City Environmental Planner.

Deputy City Manager Hayden made a motion to grant Conditional Use Permit approval with stipulations that they are granting the permit for the plan dated April 12, 2012 and with the stipulation,

as recommended by the Conservation Commission, regarding the soil testing. That they have a 5’ vegetative strip along the west side of the plan where there is currently lawn going right up to the wetland. Lastly, she requested that this work be carried out under the guidance and review of the City Environmental Planner, Peter Britz.

Mr. Blenkinsop seconded the motion and asked if it should be under the guidance, review and approval of Peter Britz. Deputy City Manager agreed.

Chairman Ricci did not want to postpone the application either and felt that Mr. Britz could work with the applicant and it will come out better than probably another set of plans would.

Mr. Taintor wanted to clarify whether they want to refer to the plan set that was handed out at the meeting. Deputy City Manager Hayden felt that there were some concerns with that plan. Mr. Taintor felt that there was more information the profile so if they included the profile and the stipulation about the 5’ separation and review by Peter Britz, they would have the documentation in the record.

Deputy City Manager Hayden suggested that they also reference in the motion the plan submitted at tonight’s meeting, which was undated, but stamped with today’s date.

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

1. Approval is based on the Planting Plan prepared by Normandeau Associates, dated April 12, 2012 and the untitled profile plan which was handed out at the April 19, 2012 Planning Board Meeting.
3. The fill which was brought onto the site shall be tested for 13 priority metals, polycyclic aromatic hydrocarbons (PAH), pesticides and PCBs, and a report shall be provided to the Planning Department.
4. The fill area shall be reduced by a height of 6 inches and loam placed on top.
5. The rain garden shall be located closer to the house so that the sump pump will function properly with it.
5. A 5’ vegetative strip shall be added along the west side of the plan where there is currently lawn going right up to the wetland.
6. All work shall be carried out under the guidance, review and approval of the City Environmental Planner, Peter Britz.

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E. The application of **7 Islington Street, LLC, Owner**, for property located at **40 Bridge Street**, requesting Site Plan Approval to construct a 4 story 5,450 s.f. (footprint) mixed use building, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 126 as Lot 52 and lies within the Central Business B (CBB) District, the Downtown Overlay District (DOD) and the Historic District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

John Chagon, of Ambit Engineering, representing the applicant, was present with Stephen Roberts, counsel to the applicant and Jim DiLorenzo, representing the applicant. Mr. Chagon stated the project is for the redevelopment of 40 Bridge Street which will remove and existing building and replace it with 5,225 s.f. four story building with a partial basement. It will contain four retail units on the first floor and ten dwelling units above. This plan is essentially the same plan which was approved by this Board but the approval expired. The lighting is the same. New brick sidewalks will be installed along the front. There are currently some curb cuts which will be closed off which will result in the creation of a 40' loading zone and one parking spot. The loading zone will turn into two additional parking spaces when the hours for the loading zone are over each day. The utilities will all come from Bridge Street to the building. They are in the street already although there is some issue with the existing sewer which they have been asked to correct.

Mr. Chagon stated that they received a recommendation for approval from TAC in April subject to 11 stipulations. They received HDC approval and on April 12th the Parking and Traffic Safety Committee approved the reconfigured parking along Bridge Street and the loading zone. They have addressed all but four of the TAC stipulations. The first three stipulations relate to the developer's reconstruction of the City sewer in Bridge Street which they have no problem with. The last stipulation is for the standard CMMP.

Deputy City Manager Hayden asked why there was a note on the plan about the handicapped curbcut but no detail. Mr. Chagon explained the reason they have not detailed that out is because they would like to discuss with DPW the treatment of that corner. There is a request to re-do the intersection tip down and it involves coming around Islington Street so they would prefer to work that out with DPW at the time of construction. Deputy City Manager Hayden asked where the crosswalk was at the Islington Street intersection. She could see why that was a challenging corner for a detail but she asked if they will develop a detail when this it is constructed. Mr. Chagon confirmed they will work with DPW and David Desfosses will direct them in the field.

Mr. Taintor pointed out a note on Sheet C-2, Item 8, that talks about providing a full transition from the approved sidewalk to the existing sidewalk which should probably cover this area.

Deputy City Manager Hayden asked about the fenced in transformer as she always has concerns about gates that swing out onto City sidewalks. She asked if that will only periodically get accessed. Mr. Chagon confirmed that the gate will be closed all the time but PSNH wants to be able to get a customer back in service in 3 hours or less so at that point in time they would open the gate and swap out the transformer for a new one. There is a better detail in the HDC packet. Deputy City Manager Hayden had a concern about whether the gate is being securely fastened. Mr. Chagon indicated that the general public should not be able to open it. It will be opened very infrequently. He was sure the gate will be locked with a way for PSNH to access it.

Mr. Gladhill did not remember the transformer and gate on the HDC plan. Mr. Chagon showed him the plan and Mr. Gladhill was all set.

Mr. Groth asked about elevations. Mr. Chagon confirmed they are in the Plan Set as Sheet A-1 and 7, 8, 9, and 10. Chairman Ricci stated they did not have them. Mr. Taintor confirmed there was a copy in the file and they were submitted in February.

Mr. Rice asked if it was normal to have a transformer next to a residential property and whether it was a hazard. Chairman Ricci stated it was not a hazard and they are typically mounted on a pad. Mr. Hopley added that is synonymous with underground services. They are hiding all of the infrastructure by utilizing the pad mounted transformer.

Councilor Novelline Clayburgh noted that the plan requires 15 parking spaces and there are 8 on the plan so she asked if they will enforce the in lieu parking fee. Mr. Taintor confirmed that they will. It will depend on when the applicant applies for a building permit because they are currently working on Zoning Ordinance amendments relative to this. Therefore there may or may not be an in lieu fee.

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

Bill Brassell, President of the 7 Islington Street Condo Association, not to be confused with the 7 Islington Street LLC, addressed the Board. He stated they have 3 residences that were sold with a parking space. They have been dealing with Mr. Kelm, one of the owners, who has indicated that parking will be provided under the building at 40 Bridge Street. Prior to that, Mr. Kelm wrote to the three condo owners and confirmed that the 7 Islington Street properties were sold with one parking space each. Mr. Brassell stated that the current plan for 40 Bridge Street does not have parking and this needs to be resolved before they start building a new building and he has no place to park his car. He paid for a parking space, along with two other condo owners, and those spaces will go away when they build this building. Mr. Brassell has a document that shows parking in the rear with access through to Tanner Street.

Attorney Steve Roberts appeared on behalf of 7 Islington LLC. They understand the concerns of Mr. Brassell and he has had ongoing conversations with Rick Taintor and City Attorney Robert Sullivan. Attorney Roberts is in agreement with City Attorney Sullivan's comments that this is a private matter. They are separate projects on different lots. He agrees with Mr. Brassell that there is some contentiousness between the two partners of 40 Bridge Street and that is also being addressed. They are trying to work the issue out but they do not believe the issue is one for this Board on this particular project.

Mr. Brassell stated that he moved into 7 Islington Street three years ago and was promised a parking space once the 40 Bridge Street construction started. He has been told over and over and over again that he will have a parking space and so he doesn't trust them anymore because he still doesn't have a parking space. He felt the projects are tied together.

Mr. Chagnon indicated that there was a point in time when the developer wanted to put parking on the bottom level of the 40 Bridge Street building, which would exit from the rear onto Tanner Street, however that application did not meet with approval with the City and the City went so far as to place a condition on the Lot Line Relocation plan for Tanner Street which required that there be no access from the Bridge Street lot.

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

DISCUSSION AND DECISION OF THE BOARD

Deputy City Manager Hayden made a motion to grant Site Plan approval with the four recommended stipulations and that the gate to the transformer shall be locked at all time except during maintenance activities. Mr. Hopley seconded the motion.

Deputy City Manager Hayden read from the Planning Director’s Memo “After reviewing these (parking space) documents, the City Attorney has concluded that any commitment regarding the provision of off street parking is an agreement between private parties that does not constitute an obligation under the City’s Zoning Ordinance or Site Plan Review Regulations.” She understands the abutters concern but does not believe that the Planning Board has purview in this area.

Mr. Taintor added, to put it in context, that in addition to the three units at 7 Islington Street that will not have parking, the 10 units at 40 Bridge Street will also not have parking spaces. It is how their Zoning Ordinance is structured and they have been allowing residential units to be created without parking and that is part of the issue that has been discussed by the City Council and the Planning Board.

Mr. Groth understood that the Planning Board was not obligated but asked if that meant it was not under their purview. He felt there were phasing issues. Yes, the parking spaces are dedicated to a different lot but if they are replaced, per the private agreement, it could present public issues as far as phasing. Chairman Ricci confirmed that it was a private agreement and the Board did not have purview and he would defer to the City Attorney’s opinion.

The motion to grant Site Plan Approval passed with Mr. Groth voting in the negative, with the following stipulations:

1. The applicant shall provide a sewer main installation detail which includes a profile view drawing of the sewer with hydraulic dams spaced every 100’. The final plans shall be reviewed by DPW.
2. On Sheet C3, the street paving area should be revised to cover the sewer work from beginning to end if this distance is greater than the original distance specified.
3. Sewer Capacity Use surcharge data shall be submitted to DPW.
4. The applicant shall prepare a Construction Management and Mitigation Plan for review and approval by the City Manager.
5. The gate to the transformer shall be locked at all time except during maintenance activities

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G. The application of **Westinghouse Electric Company, Applicant**, for property located at **20 Durham Street**, requesting Site Plan Approval for a pavement expansion project, including 67 parking spaces, new sidewalks, dumpster pad with enclosure and mechanical pad, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 311 as Lot 3 and lies within the Pease Industrial District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Patrick Crimmins, of Tighe and Bond, was present with Andrew Rotundo, of Westinghouse Electric, Rob Harberson of DeStefano Architects, and Michael Mates, of the Pease Development Authority. Mr. Crimmins indicated that this is a pavement expansion project at the corner of Durham Street and New Hampshire Avenue. The existing building is currently vacant but was previously occupied by Vergon Steel Company and will be occupied by Westinghouse Electric so there will not be a change in use. The project will provide 66 additional parking spaces. The two pavement expansion areas are on the side area and the front of the building. The project also includes the reconstruction and extension of the front sidewalk along the front of the building with new vertical granite curb and concrete sidewalk. They will provide additional landscaping in the new paved areas along the side and front of the building. The project will include a dumpster pad with an enclosure near the loading area. The rear of the building will be used as a storage yard by Westinghouse and as such they will have a 20' x 30' concrete pad for mechanical equipment. The front parking expansion area will include a new lightpole fixture and base which will match the existing fixtures which are full cut off, dark sky compliant. They will provide bicycle rack in the front of the building. At the request of the PDA they are also going to reconstruct the sidewalk along the entire frontage of Durham Street along the parcel. The project is anticipated to result in approximately 10,000 s.f. of additional impervious. This project was designed back in 1995 with a Phase 2 expansion in mind so the additional impervious area they are adding does not exceed that so the existing drainage on site sheetflows into treatment swales which drain to a detention basin area. Those treatment swales and detention are adequately sized for this additional impervious area.

At TAC on April 3rd, they recommended approval with two stipulations. One stipulation was that the applicant shall review the gate operation at the rear of the building and the necessity of a Knox box with the Fire Department. Mr. Crimmins stated that yesterday they did a site walk with the Fire Inspector to review the gate. They will use key cards to open the gate. There is a Knox box on site already to the left of the front entrance. There will be two key cards provided in that Knox box for the Fire Department to access that rear gate. The second stipulation was the standard note for the radio strength tests and they added Note 17 to the Site Plan for that.

Mr. Hopley felt that, as the gate is motor operated, it is probably a sliding gate, they should amend their detail on the plan.

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 made a correction to the Staff Memorandum. As this is a PDA application, the vote should be to recommend approval to the PDA.

Deputy City Manager Hayden made a motion to recommend approval with the stipulation that they change the gate detail on the plans. Mr. Hopley seconded the motion.

The motion to recommend approval passed unanimously with the following stipulation:

1. The applicant shall review the gate operation at the rear of the building and the necessity for a knox box with the Fire Department.
2. The applicant shall be responsible to perform a radio-strength test with a Motorola Service Shop to ensure sufficient signal strength within any structure included in the project to support adequate radio coverage for emergency personnel. The expense for the test shall be the responsibility of the applicant, whether or not the test indicates that amplifiers are necessary to ensure this communication. If the test indicates that amplifiers are required, that cost, too, shall be the responsibility of the applicant. All testing and installations shall be coordinated between the applicant and the police/fire communications supervisor.

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H. The application of **750 Lafayette Road LLC, Owner**, for property located at **720 and 750 Lafayette Road**, requesting Amended Site Plan approval for modifications to proposed “Retail A” building, including a reduction in footprint from 12,198 s.f. to 11,881 s.f., the addition of a full second floor, a single bank drive through lane and a seven space reduction in parking spaces, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 244 as Lots 7 and 8 and lies within the Gateway District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Erik Saari, of Altus Engineering, appeared for the applicant, along with Chad Kageleiry, of Summit Land Development. Mr. Saari stated that since their recent approval they received the final architectural plans for the Goodwill building and those changes have been included in this plan set. The building went down in size by 1 s.f. They located some of the roof drains and tied them into them minor grade changes. It actually helped with the drainage as it raised the bottom of the truck up. The entrance canopy shrank a little.

Regarding Building Retail “A” on the left, they revised the layout slightly. They added a bump out and the west wall of the building was pulled towards Route 1. To accommodate that, they slid the islands further into the parking lot, taking out seven of the pre-approved parking spaces and they added a drive through along the bottom of the plan. All together, these changes create an additional 935 s.f. of green space over the prior approval and it maintains the site configuration that they had on their prior plan. The drive through received BOA approval and the user will be a bank. The building will be two stories and the bank shall 4,000 s.f. split over the two floors. The rest of the building will be mixed use retail and probably a restaurant.

Traffic impacts were reviewed by Steve Pernaw, their Traffic Consultant, for the addition of the drive-through and the additional square footage did not alter the findings of the prior study. DOT has signed off on that amendment.

Mr. Saari displayed renderings showing the drive through. A brick face was added to the Goodwill building to tie the site together architecturally so that they would look similar.

Mr. Rice asked if this plan has been approved previously and they are just voting on amendments. Chairman Ricci advised that this would be the time and place to bring up concerns. Mr. Rice was looking at the parking lot and believed they were previously using the rule of 7 spaces in a row and then some greenery to break up so that it is now a vast pervious asphalt surface. Mr. Rice asked if anyone else felt the same way that he did. Mr. Saari asked them to look at the site as it is today where it is a vast wasteland. This proposal added over half an acre of green space. They will have that substantial benefit, although it may not be in the middle of the parking lot. This plan allows them to compact the site and make it more functional and move the landscaping to the perimeter of the site, where they really need it. All of the islands, except one, include trees. They had to remove that one tree at the request of the Fire Department for a fire hydrant. Mr. Saari point out on the plan that the front of the lot is a sea of landscaping.

Mr. Hopley noted they are providing for a future restaurant with a 1,000 underground interceptor. He asked if that figures into the parking calculations. Mr. Saari confirmed they based parking on a shopping center calculation and they still have a parking surplus under the regulations. Mr. Taintor added that the idea of the shopping center calculation is it's a mix of uses and they can shift around the uses so the restaurant would be included as part of the shopping center.

Mr. Rice asked about the London plane tree. Mr. Saari explained that he was not the Landscape Architect but he seems to remember that it has a nice tall trunk which branches out and would create nice shade.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Hopley felt this would be the time to have a brief discussion on how they would regulate a drive-through. He felt the reason they would want the buffer or vegetation would be for headlight control. Mr. Taintor agreed it would be for headlight control and general aesthetics to the building because you can't design a drive-through lane to be aesthetically pleasing. This plan is a good illustration of why they would not want to do it for an area with one lane with a bypass lane because they would then have a wall or landscaping around three quarters of the building. When they first did the review of this plan, Mr. Taintor had made a number of comments about the headlights and they were able to require more landscaping for this area. He is concerned about when they have a wide expanse of driveway and when it become dominated by the car rather than the building or landscaping, that is when they want to have something in the regulations which is a little stronger.

Mr. Hopley fel that became problematic regulation-wise as they have to add flexibility into the language. Mr. Taintor added that the Site Plan Review Regulations can always be waived by the Planning Board by a 2/3 vote.

Deputy City Manager Hayden asked if the most critical part on the face of the building, where the drive-through was located. In this application, if they had applied what they were talking about for possible changes in screening in the Site Review regulations, she asked if that wall would really run the whole length of the side that's facing Greenleaf Woods Avenue. What if they modified it so it was the face of the building to which the teller windows were located.

Mr. Taintor stated he will take all of their ideas and look at a couple of case studies and bring something back to them.

Mr. Hopley felt there could be a conflict in this application as they have southbound Route 1 traffic and northbound drive-through traffic with opposing headlights going on. Chairman Ricci felt that they won't be seeing this amount of landscaping on most applications.

Mr. Saari interjected that they put in additional landscaping at the request of the Board so that headlights going both ways have additional screening.

Deputy City Manager Hayden made a motion to approve amended Site Plan approval subject to the stipulations of the December 2011 approval. Mr. Blenkinsop seconded the motion.

The motion to grant amended Site Plan approval passed unanimously subject to the stipulations of the original December 2011 approval.

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V. CITY COUNCIL REFERRALS/REQUESTS

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

A. Request of New Hampshire Department of Transportation for an easement under the Scott Avenue Bridge in support of the Memorial Bridge project.

Keith Cota, Chief Project Engineer from the NHDOT. Chairman Ricci asked for a brief presentation.

Mr. Cota stated that the plans outline the area that they are looking to seek an easement from the City to install a generator and transformer pad for the Memorial Bridge back up system. The transformer pad itself is located on the west side of the bridge and they intend to go in front of the pole in front of Harbour Place and go underground to clean up that corner and provide some beautification. The bridge used to be a five span structure and the replacement will be a two span structure. Therefore, the first span from the Memorial Bridge to the center pier is the area they are looking to put a structure containing a generator, which will be their back –up power. The structure was going to call for a gasoline generator which is a little nosy but, as they discussed with the contractor, they are actually going to go with a propane natural gas system and the container it is in works as a muffler to reduce the noise. The venting would be on the east side, facing the 10 State Street LLC property.

They met with representatives of 10 State Street LLC and they expressed an interest in maintaining some type of access way between their site and the location of the generator. As part of the plan they reserved 8' from the property line to the chain link fence which they would use to border the area under the bridge. Additionally, they are looking for parking rights from the City for their maintenance workers to park under the bridge. They did have a parking right to park some vehicles under the existing bridge so they just want to re-establish that. Today they are looking for the City's concurrence to allow them to have a back up system for the new Memorial Bridge.

Deputy City Manager Hayden made a motion to recommend that the City grant the necessary easement(s) to the New Hampshire Department of Transportation for installation and maintenance of a permanent backup generator and utility transformer cabinets on City property under and adjacent to the Scott Avenue Bridge. Mr. Blenkinsop seconded the motion.

The motion passed unanimously.

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B. Letter from Attorney James Noucas, Jr., representing a property owner of the General Porter Condominiums requesting to construct a garage along the rear boundary line of property located at 32 Livermore Street abutting a cemetery.

Mr. Taintor stated that this request comes from a property owner but the proposed solution would address this city wide. There is a state law that establishes a minimum 25' setback between any construction or development activities and any burial ground or cemetery in the absence of any local zoning. They have some cemeteries in the historic district where it is very dense. It is recommended that the Planning Board recommend a Zoning Ordinance amendment that would have the following components:

1. Establish a minimum setback of 25 feet, consistent with the State setback requirement.
2. Within the Historic District only, allow construction within the 25-foot setback pursuant to a conditional use permit granted by the Planning Board.
3. For any development within the 25-foot setback, require a Phase 1A archaeological investigation and, if warranted based on findings, require Phase 1B archaeological investigations prior to the granting of a conditional use permit by the Planning Board or a variance by the Zoning Board of Adjustment, and require monitoring by a qualified archaeologist during site development.

Mr. Rice assumed that any application in the historic district would be reviewed by the HDC. Mr. Taintor confirmed that was correct.

Mr. Hopley asked if they are talking about underground disturbance and he asked what that has to do with being in or out of the district. Mr. Taintor responded that there are structures very close to burial grounds in the district right now and especially this one. It is more of recognition that the conditions are different in the historic core, using the historic district as a proxy for the more developed part of the city. Most other cemeteries around the city are not in a densely developed area.

Mr. Gladhill stated he was opposed to this. A lot of cemeteries are very old and the boundaries can be unknown. There may even be people buried on the other side of a private property line. He felt the 25' setback is a good regulation.

Deputy City Manager Hayden indicated that she originally had concerns at first but she felt that how this is carefully structured addresses that concern. The first step would be a Phase I archaeological study which is where they go out and do the document research. Her concern in leaving the 25' was that there are a number of other structures that are right up against that property line. Mr. Gladhill was concerned because the house in question wasn't constructed there but rather was moved there in the 1800's. The house came after the cemetery. Deputy City Manager Hayden if Mr. Gladhill would be comfortable knowing that if they did the document research and that showed that there was a concern

they would then have to actually do test pits and have an archaeologist on site. Mr. Gladhill asked what would happen if something was discovered. Deputy City Manager Hayden confirmed that when human remains are discovered anywhere, they would contact the State archaeologist and do what they require. This is what happened with Chestnut Street.

James Noucas, Attorney for the Condo Association, felt that they are playing a volleyball match. The State has a 25' regulation which really is inappropriate in a historical community like Portsmouth that is over 400 years old. However, that statute allows them to come back as a local community and control their boundaries. His clients wholeheartedly endorse the archaeological examination. If something is discovered in the process it would go back to the State for their review. There is no indication that any of the other houses in the area which have full basements ever ran into anything. A lot of those went in 100 years after the cemetery was created. Attorney Noucas also pointed out that there are no head markers abutting 32 Livermore Street at all. He felt there is a natural safeguard built in for both the City and his homeowners.

Deputy City Manager Hayden felt that Mr. Gladhill's question was if they find human remains what then happens. Do they still allow a structure to be built right to the property line. She felt that maybe that was something that they needed to further define as they write this ordinance. When they found human remains on Chestnut Street, under the direction of the State Archaeologist, they had to remove all remains they disturbed but they did not touch anything that was undisturbed. They could include that as a stipulation and really spell it out.

Mr. Gladhill still felt that a cemetery should not be disturbed. Attorney Noucas did not believe the City can pass an ordinance that trumps what the State Archaeologist would do in that situation. Their clients found out about the cemetery setback when they were before the HDC and they are very sensitive about the situation.

Mr. Blenkinsop believed that the 25' setback was enacted not only because the boundaries might not be accurate, but if people didn't have money to be buried within the cemetery they would be buried right outside the cemetery. Attorney Noucas believed that Phase 1A addressed that. It is not a 100% rule unless they dig it up. They do not want to disturb it and this is why the State Archaeological statute requires these different levels of inspections and review. Attorney Noucas felt they have a built in a safety net to address Mr. Gladhill's concerns.

Deputy City Manager Hayden asked how far down will they have to dig on the site. Attorney Noucas felt it would probably be around 4' for a series of sonotubes and they might build it up a little with crushed stone under the slab.

Deputy City Manager asked, in this particular case, do they have to build right to the lot line. Attorney Noucas thought it will probably need a variance for an accessory structure but they probably would not be closer than 5' but they will try to be as far away as possible.

Deputy City Manager Hayden felt, if the Board wanted to head in the direction of this zoning change, there are three options. They could vote not to recommend to the City Council, they could vote to recommend to the City Council with some stipulations in addition to the Staff Memorandum that if human remains be found the 25' setback shall be required, something about the depth of the excavation, not they not give up the whole 25' buffer but in no event it be closer than 10', or they could postpone this tonight and do some further research.

Mr. Gladhill stated he would support a postponement for further research as a lot was brought up about State laws and regulations. He would like to be more educated on those.

Mr. Blenkinsop felt that, at a minimum, additional information might be helpful and it also sounds that suggested language may need some tinkering. Some thought should probably go into it and then have it brought back at the May meeting with some additional information. He would support a postponement.

Mr. Rice agreed. What troubled him was, after the archaeological investigation, and they find remains, he wants to know exactly what happens. He would like to see some black and white confirmation.

The Chair felt there was general consensus and he asked for a motion.

Deputy City Manager Hayden made a motion to postpone to the May meeting for additional research on State law and discussions with Attorney Noucas.

Mr. Gladhill seconded the motion.

The motion to postpone to the May 17, 2012 Planning Board meeting passed unanimously.

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C. Letter from David Mikolaities, Lieutenant Colonel, NH Army National Guard, regarding the acquisition of a portion of the Right of Way along Market Street and site improvements for access to the National Guard Readiness Center on 803 McGee Drive.

Mr. Taintor explained that the layout of Market Street is unusual in this location as it dips into what would otherwise be the National Guard parcel. They would like to expand their facility and are requesting the City convey to them a portion of the right-of-way which would straighten Market Street. Steve Parkinson, Director of Public Works, was present to answer any questions.

Mr. Hopley felt that it was a substantial scope of work that will not come to the City for review. Mr. Taintor confirmed that it will not come to the Planning Board as it is a State property and it does not need to comply with their wetland regulations although they are only doing work in the wetland buffer. It does not require any local permits.

Mr. Gladhill didn't see a lot of landscaping on the plan. Mr. Taintor reiterated that they do not have any jurisdiction.

Deputy City Manager Hayden made a motion to recommend that the City convey a portion of the Right of Way along Market Street to the State of New Hampshire for access to the National Guard Readiness Center as presented. Mr. Blenkinsop seconded the motion.

Councilor Novelline Clayburgh asked if they have concerns about it, can they not approve it, or does that look like they are not cooperating with the State. Mr. Taintor stated those are matters which are not under the Planning Board's jurisdiction. The only reason it is coming before the Planning Board is because of the referral from the City Council for the land transfer.

Mr. Gladhill asked if they don't recommend this, the State could still take it. Deputy City Manager Hayden reminded them that they are only recommending to the City Council so the City Council does not have to accept their recommendation.

The motion passed unanimously.

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D. Request of PSNH for an easement for placement of service at Prescott Park.

Mr. Taintor stated that this is a fairly simple request, as the plan reflects. It is a small easement to get an upgraded electric service installed and provide a transformer pad at the entrance of Prescott Park off Marcy Street. This is to help the Prescott Park Arts Festival and other park activities.

Mr. Blenkinsop made a motion to recommend that the City grant an easement to Public Service of New Hampshire for installation of a transformer pad and conduit as shown on the plan. Mr. Hopley seconded the motion.

The motion passed unanimously.

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E. Letter from Attorney Malcolm McNeill, representing Commerce Way, LLC, regarding Commerce Way Conditional Road Layout and Betterment Assessment.

Mr. Taintor advised the Board that this is a request for the Board to essentially approve the layout of the road as they would for a subdivision road. In this case it is a preexisting road that was not built to City standards. The proposal is to build the road up to City standards now and the upgrading will be paid for through a betterment district so that the abutters along the road will bear the cost of the upgrade.

Chairman Ricci advised the Board that Steve Parkinson and Attorney Malcolm McNeill were both present if the Board had any questions.

Mr. Hopley asked if the design was all set. Deputy City Manager Hayden confirmed that the design has been thoroughly reviewed.

Deputy City Manager Hayden made a motion to recommend that the City Council accept Commerce Way as a City street upon completion of improvements to bring the roadway up to City standards as presented. Mr. Blenkinsop seconded the motion.

The motion passed unanimously.

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F. Letter from Barbara Devanna and Robert Cohen requesting an access easement over Pine Street Park for property at 55 Meredith Way (previously identified as 55 Pine Street).

Mr. Taintor stated that this has a complicated history. The Board referred this to the Legal Department last month and the City Attorney provided a report back stating that in addition to the requested access easement across City land at Pine Street Park, the owners would also need authorization to cross the paper street portion of Meredith Way.

Mr. Blenkinsop made a motion to recommend that the City Council authorize the owners of 55 Meredith Way to cross the paper portion of Meredith Way and a portion of Pine Street Park in order to access Pine Street, in such manner as the City Attorney and City Manager determine appropriate. Deputy City Manager Hayden seconded the motion.

The motion passed unanimously.

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G. Zoning Amendments for Downtown Parking.

Mr. Taintor indicated that this was discussed last month in a work session and tonight they can make a formal vote. This eliminates the requirement for restaurant parking in the downtown, it eliminates the requirement for all non-residential uses to provide parking downtown, they changed the residential use to 1 ½ spaces per dwelling units and they have eliminated the optional payment in lieu of providing required parking. If this were passed, any residential development in the downtown overlay district would require parking on site and the only other option would be to go to the BOA.

Deputy City Manager Hayden made a motion to recommend to the Council to amend the Zoning Ordinance as presented. Councilor Novelline Clayburgh seconded the motion.

The motion passed unanimously.

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VI. PLANNING DIRECTOR’S REPORT

A. Downtown Parking – Joint meeting of EDC and Parking and Traffic Safety Committee.

Mr. Taintor reported to the Board that the same way they had a work session on the zoning aspects of downtown parking, the EDC and PTC met to discuss all of the aspects of the pricing, time regulation and increase in parking supply. It was a good discussion and there was a consensus on a lot of issues ranging from changing pricing incentives, encouraging people to use the parking garage, raising on street parking prices relative to the off street prices, extending time limits downtown from 2 hours, extending the time of enforcement into the evening which was compliment to what the Planning Board talked about not having restaurants be required to provide parking themselves. The staff has taken their recommendations along with the recommendations of the Planning Board to draft very specific options for the City Council to consider.

The Chair reminded the Board that they have a Joint Work Session next week with the HDC.

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VII. ADJOURNMENT

A motion to adjourn at 9:20 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 May 17, 2012.