

MINUTES

PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

SEPTEMBER 20, 2012

MEMBERS PRESENT: John Ricci, Chairman; Paige Roberts, Vice Chairman; Nancy Novelline Clayburgh, City Council Representative; John Rice; Anthony Blenkinsop; MaryLiz Geffert; David Allen, Deputy City Manager; Richard Hopley, Building Inspector; William Gladhill;

MEMBERS EXCUSED: Brian Groth, Alternate

ALSO PRESENT: Rick Taintor, Planning Director

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Chairman Ricci welcomed new Deputy City Manager Dave Allen to the Planning Board.

I. 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.*

A. The application of **Richard P. Fecteau, Owner**, for property located at **120 Spaulding Turnpike, Two Way Realty, LLC, Owner**, for property located at **100 Spaulding Turnpike**, and **Five Way Realty, LLC, Owner**, for property located at **80 Spaulding Turnpike**, (to be consolidated into one lot), requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer, involving demolition and construction, driveways, septic systems and construction of a stormwater management system, with 42,331 s.f. of impact to the wetland buffer. Said properties are shown on Assessor Map 236 as Lots 33, 37, and 38 and lie within the General Business (GB) and Single Residence B (SRB) District. (This application was postponed from the August 16, 2012 Planning Board Meeting.)

Mr. Taintor stated that the Conservation Commission voted to postpone this application for additional information so it is recommended that the Planning Board also postpone to the October meeting.

Mr. Rice made a motion to postpone this matter to the October 18, 2012 Planning Board Meeting. Mr. Blenkinsop seconded the motion.

The motion to postpone to the October 18, 2012 Planning Board meeting passed unanimously.
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B. The application of **Olde Parish Townhouses Condominium Association, Owner**, for property located at **66 Madison Street**, requesting Amended Site Plan approval to revise a condition of previous Site Plan approval granted on January 22, 2004 by the Planning Board which requires cross-easements for all utilities for recording at the Registry of Deeds. Said property is shown on Assessor Map 147 as Lots 1-1, 1-2 and 1-3 and lie within the General Residence C (GRC) District. (This application was postponed from the August 16, 2012 Planning Board Meeting.)

Mr. Taintor explained that in order to address the easement question, the City Attorney has proposed documents and the applicant and his attorney are reviewing them. He recommended that the Board postpone this matter to the October meeting.

Mr. Rice made a motion to postpone this matter to the October 18, 2012 Planning Board Meeting. Mr. Blenkinsop seconded the motion.

The motion to postpone to the October 18, 2012 Planning Board meeting passed unanimously.

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II. 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.*

Chairman Ricci recused himself from Item A.

A. The application of **High Liner Foods (USA), Inc., Owner**, for property located at **1 Highliner Avenue**, requesting Site Plan Approval for a 4,524 s.f. 28’ high addition to the rear of the existing building, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 259 as Lot 14 and lies within the Industrial (I) District.

The Vice-Chairman read the notice into the record.

SPEAKING TO THE APPLICATION:

Mark Fisher, of Highliner Foods, was present and indicated that they were seeking approval to add a 4,500 s.f. addition to their building. They do not have an adequate amount of space to store their equipment and properly sanitize their equipment. They plan to move their equipment shop into the new area which will be a large open area with a mezzanine to house a few offices. Associated with this project is the sewer line which will be relocated as it currently runs underneath the proposed addition. They will extend the line, adding a manhole and re-connecting with the existing sewer line. They have a water tank in the rear with a driveway leading to it. Their fire sprinkler pumps are there and they need access for diesel fuel deliveries. The new additional will obstruct that driveway so they will be adding a new gravel driveway going around the new addition for access to the tank. They are not adding any personnel to the building. This is strictly to make their operation more efficient.

Mr. Blenkinsop asked what a rodent strip is. Mr. Fisher explained that in food processing facilities they don't want grassy areas against the edges of the building so they put a 5' wide strip of concrete around the perimeter of the building to prevent rodents from getting into the building.

Mr. Allen noted the well and pump house and asked what the area behind shown as a dashed out rectangle was. Mr. Fisher stated that is an existing concrete pad where they have to store their idle equipment but they will demolish the pad once they have the addition.

The Vice-Chairman 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 Site Plan approval with the four stipulations in the Staff Memorandum. Mr. Rice seconded the motion.

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

1. Manhole penetrations should be cored and seal boots for a watertight connection.
2. The manhole invert should be solid brick rather than concrete.
3. The pitch of the sewer line should be adjusted.
4. Manhole covers should not be bolted down.

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B. The application of **Summit Land Development, LLC, Applicant**, for property located at **183 International Drive**, requesting Site Plan Approval to construct three new buildings with the following dimensions: (1) 3-story, 12,300 s.f. footprint; (2): 2-story, 20,160 s.f. footprint; and (3): 2-story, 7,800 s.f. footprint, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 313 as Lot 17 and lies within the Pease Business Commercial District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Matt McCormack, of Hoyle Tanner, presented. Also present was Chad Kageleiry of Summit Land Development, Shawn Tobey of Hoyle Tanner, and Robie Woodburn, Landscape Architect. Mr. McCormack indicated they are seeking approval to construct 2 buildings. They previously submitted a phasing plan, which is Sheet C-5, which caused confusion so they should disregard that. They understand that the City of Portsmouth does not grant approval for phased projects so they are requesting approval for the entire project.

Mr. McCormack indicated that until recently this parcel was part of a larger parcel which contains the existing water tower. A subdivision plan was approved and filed this week creating this 8.8 acre parcel. This project includes the construction of two buildings totaling approximately 92,000 s.f. Building #1 is a 2-story, 56,000 s.f. building and Building #2 is a 3-story, 36,000 s.f. building. Both buildings will be used as general office buildings. This site has evolved tremendously since their first submission to TAC on August 28th. Through coordination with TAC, City Staff and the PDA, they

have made many site improvements, including raising the site 3'-4' and reconfigured the parking areas to save many mature specimen trees on the site. He pointed out seven trees that are being saved by raising the site up and reconfiguring the parking lot. They lost some building square footage and eliminated approximately 30 parking spaces in an effort to save the trees. Because they eliminated 30 parking spaces they are providing less than the minimum required per the PDA land use controls. There are two parking calculations. One is for offices and one if for business offices. One requires one space for 200 s.f. which totals 465 parking spaces and they are providing 433. The other calculation is for one space per two employees. They are estimating approximately 200 employees which would require them to provide 100 parking spaces. Therefore, they meet one calculation but not the other so they have requested a waiver from the PDA to provide the 433 parking spaces. As part of their waiver process they are required to get a recommendation from the Planning Board on whether they can provide the less than minimum required parking. He also noted that they originally came in with a site design that included 465 spaces and they met both parking calculations. By raising the site up and reconfiguring the parking lot to save the trees they have lost those 30 spaces. They are disturbing over 100,000 s.f. of area so they are required to submit an Alteration of Terrain Permit with DES. This program has requirements for pre-treatment, treatment and attenuation, as well as groundwater recharge and this site meets all of those requirements.

The drainage system starts with a network of deep sump off line catch basins which provide a larger volume to help settle out the sediment from the stormwater run-off before leaving. What he meant by off line is that there are no pipes coming into the catch basins and just pipes going out, so they don't stir up the sediment again and reintroduce it back into the treated stormwater. The deep sump catch basins will convey the stormwater to two different detention basins and will provide additional treatment and settling. They received a letter from the Hodgson Brook Restoration Project making planting recommendations and they have honored those requests. They are also proposing an underground storm-tech chamber infiltration system in front of Building #1 which will allow some stormwater run-off to infiltrate back into the ground and provide groundwater recharge. They will provide 4,500 c.f. of stormwater recharge volume and they went above and beyond that. They have increased this system to provide 6,300 s.f., or 40% more than what is required by AOT.

Both buildings will receive sewer service from an existing sewer manhole. They will receive water service from the existing water main that runs in the grass right-of-way. At the request of TAC, the applicant has agreed to extend that water main 650' to the east to the property line where it will eventually connect to the future water main for the proposed federal building. That will create a loop system which will be beneficial to the entire system.

All light fixtures on the site will be dark sky compliant with zero light spillage at the property lines.

Ms. Geffert asked Mr. McCormack to explain the elevation of the site based on the drawings. Also, she asked if there are bike racks and bike routes and whether there are human areas in the landscaped portions, such as an area to go during lunchtime. She also asked him to address the need for this kind of office space at Pease. Mr. McCormack confirmed they have provided a couple of bike racks on site in two different locations and they will be increasing the number of bike racks. These are shown on Sheet C-6. There is a network of sidewalks running through the site so in order to get to the rear bike rack they can come in from International Drive. To get to the other bike rack they can come in either entrance and the sidewalks will connect to the bike rack. Mr. McCormack explained that when they originally came in with their first site design, the site was relatively high with a 25' across the site. They were going to take a lot of the top off to help with the stormwater. What they have ended up

doing is bring the site back up to the existing grade that they are at now and they will be able to save the trees.

Mr. Rice referred to the lighting and landscaping plan. The landscaping plan concerns him somewhat in that they have the vast expansions of asphalt to the right of the building which are not broken up by any type of landscaping. Combined with the lighting plan, they have 2 lights in the middle of the parking lot and not on islands. It seems those could be on some type of landscaped island. This Board likes to see parking lots broken up every 7-8 spaces with a landscaping feature. Mr. McCormack indicated that the PDA allows 18 parking spaces before requiring a landscape island. They can look at the light poles and work with Robbie Woodburn, the landscape architect to add more landscaping.

Mr. Hopley wondered, in keeping the elevations the same as they are now, how are they going to get the accessibility from the public way to the sidewalks within a 5% slope. Mr. McCormack looked into that and the way he reads the International Building Code is that they do not have to have that accessible access if they have a driveway that was not providing pedestrian access. Mr. Hopley asked if it was possible to get sidewalk squeezed in and up the mountain. Mr. McCormack stated they would have to be creative and have many switchbacks to stay at a minimum of 5%.

Ms. Geffert felt that the plans showed the bike rack in the middle of the bushes. Mr. McCormack confirmed they will have to move the bushes. Ms. Geffert felt they should call the bike rack out on C-6 as it does not have a label.

Mr. Taintor referred to his Memorandum on page 5 where he recommended additional bike racks and a continuous hard surface from the bike rack to the door. They are proposing 12 bicycles and he is recommending doubling that. Ms. Geffert agreed that what is on the plan doesn't seem adequate.

Mr. Allen noted they currently have a water service going into the back building and tying off the same service for building #1. He indicated that either has to go through a single meter or a separate service into the 2 buildings.

Mr. Blenkinsop was confused with Mr. Hopley's comment. He understands that the plans have to show a sidewalk that is accessible no more than 5%. Mr. McCormack explained that one area was rather steep and was more than 5%. There are two sections of sidewalk that are steeper than 5% and those are the access points from the roads.

Chairman Ricci asked if the ripraps have been sized and are the calculations on the drawing. Mr. McCormack confirmed they have been sized but the calculations are not on the drawings.

Chairman Ricci was excited by the introduction of trees and vegetation in the detention basins. He asked what is "seed mix A" is. Robbie Woodburn, of Woodburn and Company, confirmed there are two different varieties of seed mix. One is a wetland mix and one is a detention basin mix, which has a mix of plants that will span the spectrum to very dry to very wet and they also mixed in another wetland seed mix for a broad range of things that will catch in there. There are not shrubs so when the Hodgson Brook people asked them to do more mixed vegetation they did the area of planting on the back side of the basin that has native shrubs in it.

Mr. Gladhill asked about the generator /transformer against the 2-story building and whether the shrubbery will completely cover the generator. Mr. McCormack confirmed it will be covered.

Mr. Allen asked if they did any test pits in the area of the infiltration basin to know what is underneath it. Mr. McCormack stated they did 5 test pits. They were provided on the plan set submitted to the Alteration of Terrain bureau. It was surprisingly good soils, the infiltration rates were pretty good and the seasonal high water table was variable but in some places upwards of 76" – 80".

Maria Stowell, of the PDA, confirmed that the PDA Board has looked at the general concept plan and there have been some iterations and the plans have certainly improved after the first submission.

Ms. Geffert asked Ms. Stowell to discuss the need for this much office space on Pease. Ms. Stowell confirmed there is a need for office space. There were some manufacturing building built in 2003-2004 and those jobs are not out there so even those buildings are being converting to office space. Ms. Geffert asked if they anticipated any special type of office use going into these buildings. Ms. Stowell stated there is a single user for the first part of Building #1, using 53,000 s.f.

Chad Kageleiry, of Summit Development, stated that this building is being leased by Sprague Energy who has been on longtime Portsmouth company and has been on Pease for 15 years and they have outgrown their current office space. They will be the only tenant in Building #1. It is an attractive site with some elevations which are rare for that area. The second building will be built later, as tenants come forward. General office is the usual tenant. Ms. Geffert asked what the plan for the 2nd building was. Mr. Kageleiry indicated that Building #1 will go up as soon as possible. They are not going to put up the second 36,000 s.f. building on speculation but it will be much easier to construction #2 when it is needed.

Mr. Allen indicated that a concern of DPW is that the road to water tank is available to DPW vehicles. He understood that issue was brought up this morning at the PDA Board and they were looking at another access. Ms. Stowell stated that was correct. TAC brought that issue up early on and asked if the PDA would allow another access through the woods off International which the PDA Board agreed to and voted in favor of today.

Councilor Novelline Clayburgh asked how much land is left at Pease for development. Ms. Stowell indicated that on the land side there are vast areas within the airport for airport development. On the land side they are maybe down to 50 acres.

Mr. Taintor indicated that this project has been going very fast. The applicant has not had a chance to respond to the comments in the Planning Board Memo. This project is unusual as there are a number of unclosed comments and suggestions as opposed to their normal referrals from TAC. He ran through the points in his Memorandum that TAC had requested.

Mr. McCormack stated that it sounds like a lot but a lot of those issues have been addressed and the rest can be fixed easily. They have not had a chance since the last TAC meeting to make all of the revisions.

Chairman Ricci asked if there was a way to make the sidewalks to ADA requirements. Mr. McCormack stated they can do it but it would be a long winding sidewalk. He read section 11.401 of the International Building Code and he interpreted that they did not need an accessible route. Mr. Taintor interpreted it differently and believes they have sidewalks from both accesses so it does apply. Chairman Ricci indicated that a condition of approval should be ADA accessibility for the sidewalks. He doesn't want to debate it tonight but just wants to know that they can provide it. Mr. McCormack agreed they can provide it.

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. Allen made a motion to grant a waiver for the 433 parking spaces where 450 are required. Ms. Geffert seconded the motion.

The motion to recommend a waiver of the Pease Development Authority Zoning Ordinance under Section 307.01(h) to allow the provision of 433 parking spaces where 450 spaces (1 space per 200 sq. ft. gross floor area) are required by the Ordinance passed unanimously.

Mr. Taintor pointed out that the developer is no longer requesting a phasing plan so the phasing plan should be withdrawn. Also, in Item 3, the PDA Board has approved an alternate route to the water tower but they don't have that yet so he thinks they should still move forward with the easement and indemnification recognizing that will change as soon as the City gets the alternate they don't have that yet so he thinks they should still move forward with the easement and indemnification recognizing that will change as soon as the City gets the alternate access road to the water tower. Chairman Ricci asked them to make it an alternate so that as long as they get one or the other they are all set and would not have to come back.

Ms. Geffert made a motion to recommend site plan approval with the following stipulations:

The plan set shall be revised to address the issues identified in the Planning Department staff memorandum, except those relating to the Phasing Plan because it has been withdrawn. The revised plans shall be subject to review and approval by the Planning Department and Department of Public Works.

The applicant shall either withdraw the proposal to phase development of the site, or replace the Phasing Plan (Sheet C5) with a detailed Phase 1 plan as described in the Planning Department staff memorandum.

The applicant shall either provide (1) an easement to the City to allow municipal and contractor vehicles to traverse the parcel to access the municipal water tank on the north side of the property or there will be an alternate route through Pease wooden logging road that is acceptable to DPW; and (2) a document, acceptable to the City Attorney and Director of Public Works, indemnifying the City from all liability for any damage caused by such municipal and contractor vehicles traversing the parcel.

The sidewalks going from Oak Avenue and International Drive be reconfigured to be at a grade of 5% or less of the building.

Mr. Hopley seconded the motion for discussion.

Mr. Rice added a stipulation that the two light standards as shown on Sheet C-11 that are not currently landscaped shall be landscaped. That was acceptable to Ms. Geffert.

Mr. Hopley felt that might mess up the parking configuration as they are creating a vegetated island where there are parking spaces. Mr. Taintor felt they might want to amend the previous vote to allow

the waiver for additional spaces up to a certain number of spaces, beyond what they have already waived, to accommodate additional landscaping. Chairman Ricci suggested approving up to a reduction of 6 spaces to give some flexibility. Chairman Ricci did not believe they needed to re-vote on the waiver.

Mr. Blenkinsop was confused as Ms. Geffert's last stipulation and Mr. Rice's stipulation are already covered under Stipulation #1. Chairman Ricci felt it would be better to have them covered twice rather than none.

Mr. Hopley added that on Sheet C-6 where the parking calculations are performed they should also delineate the number of accessible spaces. It should be very clear.

Chairman Ricci also add that the sidewalks are ADA accessible compliant.

Ms. Geffert agreed with Mr. Blenkinsop that the Memorandum addressed the two stipulations.

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

1. The plan set shall be revised to address the issues identified in the Planning Department staff memorandum (see below), except those relating to the Phasing Plan because it has been withdrawn. The revised plans shall be subject to review and approval by the Planning Department and Department of Public Works.

General

- The snow fence and signs stipulated in the TAC stipulation are not shown on the Site Plan or Landscaping Plan or in any note. These shall be added to the plans.

Existing Conditions Plan (Sheet C3)

- The existing access road to the City water tower is not shown, and should be added to the plan.

Phasing Plan (Sheet C5)

- The phasing plan does not indicate how the temporary edges of parking areas will be treated, including curbing, drainage, landscaping and lighting. Examples of issues identified include:
 - There is no exit aisle in the parking lot on the east side of Building #1.
 - There is no pedestrian connection to either International Drive or Oak Street.
 - The drainage system is incomplete: for example, there will be no catchbasin for the southerly portion of the parking area on the west side of Building #1, so that stormwater will pond in the 9 parking spaces at the end of this area.
 - There will be no lighting for the westerly row of parking spaces in the parking lot on the west side of Building #1 (the island in which the proposed lights are located is outside the Phase 1 area), and no lighting along the driveway from International Drive.
 - There is no information about how the applicant proposes to treat areas that would be continuous pavement under the full site development plan but that would be a boundary between paved and vegetated areas under the phasing plan. Examples include the southwesterly corner of the parking lot on the west side of Building #1, the southerly portion of the parking area on the east side of Building #1, and the two aisles leading into

the parking areas for Building #2. These areas should be provided with vertical granite curbing consistent with the adjacent areas.

- Note 2F on the Phasing Plan states that “Areas within the boundary of Phase 2 will be rough graded and stabilized as described in the Erosion Control Notes.” Note 3 then states that “additional phases may or may not occur.” Given this uncertainty, the Phasing Plan should include a treatment of the Phase 2 area that is of a quality consistent with a permanent landscaping plan, not simply a temporary stabilization treatment.
- Because of the many deficiencies in the current Phasing Plan, the applicant should remove Sheet C5 from the plan set and seek approval only for the full site development. If phased development is desired, the applicant should submit a complete Phase 1 plan showing the same level of detail as for the overall development, i.e., site plan, grading, drainage, utilities, landscaping and lighting.

Site Plan (Sheet C6)

- The two parking areas on the west side of Building #2 shall be provided with maneuvering areas at the ends of the aisles to allow vehicles to back out of the end spaces.
- Two additional crosswalks are required in the parking area in order to connect the sidewalk from International Drive to Buildings #1 and #2.
- The plan shows two sets of bike racks, each apparently consisting of 3 “inverted U” racks, for a total capacity of 12 bicycles. The number should be increased to at least 6 racks (12 bicycles) at each building (24 bikes represents 1 bicycle per 18 cars). The plan should also show a continuous hard-surfaced pedestrian path from the bicycle racks to the building entrance. (Also see note below on bicycle rack detail.)
- The roadway is graded to 8%, which exceeds the 6% maximum grade allowed in areas regulated by the City. However, it is understood that the PDA accepts 8%.
- The sidewalk along the driveway from International Drive has a grade of about 8%, and the sidewalk from Oak Avenue has a maximum grade of about 9%. The International Building Code requires that “accessible routes” (i.e., not exceeding 5%) be provided from public streets or sidewalks to accessible building entrances in the site. The ADA guidelines further state that “The accessible route shall, to the maximum extent feasible, coincide with the route for the general public.” Therefore, the site plan must show an accessible route from the street to each proposed building, and this route should, if possible, be the same as the primary pedestrian route to the development.
- Truncated dome panels shall be removed from the City sidewalk crossing of the private driveway on Oak Avenue.
- A “Pedestrian Crossing 200 Feet ” sign shall be installed 200 feet south of the crossing on International Drive. It should be added to the Drainage Plan inset (Sheet C7) so that it appears in the plan set.

Landscaping Plan (Sheet C12)

- The Landscaping Plan incorporates the recommendations by the Hodgson Brook Watershed Association.
- There are numerous conflicts between the Site Plan (Sheet C6) and the Landscaping Plan (Sheet C12). For example,

The Landscaping Plan shows at least 7 proposed trees in locations where the Site Plan shows light poles, and at least 2 additional trees that are close enough to proposed light poles to block efficient lighting of the pavement.

The Landscaping Plan shows foundation plantings where the Site Plan shows a bike rack at Building #1.

- There are 4 islands in the parking areas where neither trees nor light poles are proposed. These could potentially be tree locations to substitute for some of the conflicting tree/light pole locations.
- It is not clear if the plantings shown in the pond are in the bottom of the pond. If not, they will not catch the nutrients that they are being planted to catch. They should be located adjacent to the flow path in the bottom of the ponds.
- The applicant should prepare a long-term maintenance plan specifying that the ponds be inspected in spring and fall, and that any siltation be removed, and that vegetation be maintained either consistent with original plan or according to an agreed upon protocol with PDA.

Utility Plan (Sheet C8)

- The water line should be extended past the outlet of Detention Pond #2 outlet to the property line, and a hydrant should be located near the end of the line for flushing.
- A separate domestic water service should be provided from Oak Street to Building #1, with a separate tap into the main and a separate shut-off in the right-of-way.

Details

- No guardrail detail is provided (a note in detail 9 on Sheet C16 refers to a detail on Sheet C19, but there is no detail there.)
 - In the bike rack detail (Sheet C19), the width of the concrete pad should be increased from 7 feet to at least 9 feet, so as to provide a 3' wide path for access to the racks without walking on the grass.
2. The applicant shall either withdraw the proposal to phase development of the site, or replace the Phasing Plan (Sheet C5) with a detailed Phase 1 plan as described in the Planning Department staff memorandum.
 3. The applicant shall either provide (1) an easement to the City to allow municipal and contractor vehicles to traverse the parcel to access the municipal water tank on the north side of the property or there will be an alternate route through the Pease wooden logging road that is acceptable to DPW; and (2) a document, acceptable to the City Attorney and Director of Public Works, indemnifying the City from all liability for any damage caused by such municipal and contractor vehicles traversing the parcel.
 4. The sidewalks going from Oak Avenue and International Drive shall be reconfigured to be at a grade of 5% or less to the building.
 5. The two light standards as shown on Sheet C-11 that are not currently landscaped shall be landscaped.
 6. On Sheet C-6 where the parking calculations are performed they should also delineate the number of accessible spaces so that it is very clear.
 7. The sidewalks shall be ADA accessible compliant.
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C. The application of **2422 Lafayette Road Associates, LLC, Owner**, for property located at **2454 Lafayette Road (Southgate Plaza)**, requesting Amended Site Plan Approval to demolish a portion of an existing building and the construction of a 28,385 s.f. cinema with 1,264 seats; to reduce a previously approved retail pad from 27,335 s.f. to 16,075 s.f. of retail and 833 s.f. of restaurant; and to increase parking spaces from 732 spaces to 859 spaces, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 273 as Lot 3 and lies within the Gateway (G) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernard Pelech appeared on behalf of the applicant. He passed out a written memo of his remarks this evening. Attorney Pelech believed everyone is familiar with the Southgate Plaza and the history going back to Rich's and Shaw's. The Plaza fell into disrepair until Waterstone revitalized the site. They have renovated the existing façade and the parking lot and most of the 2009 Site Plan has been implemented. Tonight they are present for an amendment to that plan which will reduce the new free standing building to 15,570 s.f. instead of 23,000 s.f., it would do away with an expansion of the existing center, would demolish a portion of the existing center and construct a 1,200 seat cinema. Interestingly, in 2009, the old Zoning Ordinance was in effect and they needed a variance for fewer parking spaces. Under the new zoning ordinance they now have too many spaces and needed a variance for additional parking, which was granted by the BOA. They have appeared before TAC and received a favorable recommendation. There also will be a renovated vintage diner added to the site which they think will be a signature feature. They feel the cinema is a much needed addition to the area. Overall this is a very interesting and needed project. They are reducing the impact from what they approved three years ago, they have reduced the amount of traffic being generated, reduced the square footage of space on site, revised the landscaping at the request of TAC, they have more than adequately addressed all TAC concerns and believe this proposal should be embraced and endorsed by the Planning Board.

Attorney Pelech made some comments regarding the Department Memorandum. They do not have a problem with any of the Conditions Precedent recommended in the Memorandum. Condition Subsequent #4 says the applicant shall install GPS time receivers and Opticom traffic signal priority controls in the Lafayette Road traffic signal, which they do not have a problem with. However, the Memo continues on with the Wal-Mart entrance, the Heritage Avenue intersection and the Ocean Road intersection. The Service Credit Union was just built and they weren't required to put any Opticom systems in. Nor was Wal-Mart required to do so at their intersection. It didn't seem fair to him and felt it was overkill. They would like to negotiate with the City regarding a contribution to the Opticom system as they believe they are being unfairly treated.

Patrick Crimmins, of Tighe & Bond, stated this is an amended plan set and he will highlight the revisions. The project included an addition in the back but they are going to demolish that portion of the Big Lots building and construct the cinema. The cinema is 28,385 s.f. with 1,264 seats. They previously had a 27,000 s.f. retail pad approved and they have reduced that pad to 15,075 of retail and 1,833 s.f. of restaurant. They revised the parking which was previously approved for 732 spaces and they now have 848 spaces and they have variance approval to exceed the parking requirement. They have updated all parking calculations on the new Gateway District requirements. They have added a

one way drive around the rear of the building and they added a 10' wide loading pad for the retail area and the diner.

They have provided a grease/waste and dumpster pad in the rear of the diner. They did the same for the retail area. Throughout the plaza, they have placed four exit signs. There was decorative asphalt at the exit which they have removed. They added landscaped islands to the parking area as recommended by TAC, they added 24 bicycle storage spaces along the front of the cinema and also added 2 more directional signs in the cinema parking area.

Mr. Crimmins stated they are showing a dumpster pad in the rear of the cinema and also a striped loading area. They added two notes to site plan. #21 and #22 pertain to an emergency access gate which has been added and the note confirms that it will be locked. The locks shall be coordinated with the Police and Fire Departments and that the entrance shall be plowed by the applicant during the winter months.

The grading and drainage did not change. They modified some catch basin locations but the Best Management Practices will remain the same. It was previously an underground infiltration system in the parking lot and they have water quality units throughout along with tree box filters and a porous asphalt in the rear detention pond. It will still meet the predevelopment flows.

On the Utility Plan some of the drainage has changed as they adjusted some of the connections based on the building locations. They previously had a pump station which pumped up to the shallow manhole in the rear of the 99 restaurant and they have changed that to run an 8" sewer main into the manhole at Lafayette Road. That eliminates the need for a pump station and maintenance. They are also providing a grease trap for the diner.

They provided two new hydrants at the request of the Fire Department. The utility layout is mostly the same. They also added Notes #31 & #32 pertaining to the knox box and that they will comply with any NFPA codes and standards.

They are showing a new gas service connecting from Constitution Avenue to the rear of the cinema. They don't know the exact location of the gas connection in the road and still needs to be coordinated with Unitil. The line either needs to be directionally bored or the cut patch in the road needs to be infra-red so there are no seams in the road.

They added landscaping in the new section and modified the schedule with some additional species. Building elevations were included for the cinema and diner.

There were six TAC stipulations and they have revised the plans to address all of those.

Mr. Crimmins indicated that concluded the revisions to the plans. The photometric plan was added with full cut off parking lot fixtures. TAC requested that the lighting for the cinema be on a separate clock so that the lighting for the cinema parking will be on later than the remainder of the parking lot.

Doug Richardson from Waterstone, Steve Pernaw, traffic engineer, and Mark Adams from Cinemagic were all present.

Mr. Blenkinsop asked for an explanation of how a top rated movie will generate less traffic than what is there now. He would think there would be big back ups.

Stephen Pernaw, President of Pernaw and Company, handed out an exhibit for the Board. He explained that the movie theater does a good job of staggering their movie times. Estimated trips for the movie theater were done using standard practice for New Hampshire which called for the ITE Trip Generation Manual. That analysis was done in many different ways so it may be your typical condition. If they have a blockbuster movie like Avatar, that would not be an everyday occurrence and they would have more impact. They studied their typical peak month conditions with the theater in full operation.

His exhibit was a colored graph. The orange color bar represents the total number of trips that the center generated on a typical Saturday in August of 2012 (717). They know that the existing site is not completely occupied but, if it were, that number would go up to 851 trips, as shown by the blue bar. To accomplish their upgrade they are actually removing retail, so trips would go down to 727, shown in yellow, and when they add on the theater it goes up to 866, shown in green. These projections pertain to a Saturday afternoon peak hour condition. It could represent the matinee shows when the retail shopping center would be at peak. The bottom line conclusion on the chart shows that the approved site plan in 2009 generated 1,245 trips. If they have a blockbuster, he would expect that the 878 would go up but would not exceed the 1,235.

Mr. Blenkinsop asked if they set forth the data for a Saturday evening in July when the restaurants are all full and the movie theater is letting out. Mr. Pernaw did not have that data. The peak that Mr. Blenkinsop might be interested in might be something that would happen with a late night show, around 9:00 ish. A movie theater may generate more at that time but retail trips would be way down. Also, it would not shed any new light on the intersection and the traffic volume on Route 1 would be down. One of their recommendations was not to tamper with the current timing at that intersection. The priority is Route 1 and they have to be able to move traffic which is why they recommend that the timing be left alone.

Mr. Pernaw stated they found at the worse case Saturday afternoon period that the intersection is working below capacity both with the full expansion and also determined that the level of service doesn't change from level of service C. Late night would probably be level B. Mr. Blenkinsop asked what term is used for 7:00 pm. Mr. Pernaw indicated that would be early evening.

Mr. Hopley referred to the statement of Attorney Pelech concerning Opticom. He asked Mr. Pernaw to comment on traffic management. Mr. Pernaw stated that these intersections are coordinated using time based coordination and TAC felt it wasn't coordinated efficiently. The idea of GPS technology is that they have a constant and the receivers can key into that. The industry has found that this is a far better way to coordinate signals. Their office was involved with the signal design at the new fire station and Ocean and that has Opticom. He felt it made sense to put Opticom in at this intersection but disagrees they should be required to continue down Route 1.

Mr. Hopley felt what the Memo was driving at was the success of the Route 1 flow at peaks is dependent on the efficient coordination of continuous intersections to the south. Mr. Pernaw agreed that proper coordination and well timed signals in a time based coordination system is needed for continuous smooth flow. When Route 1 is coordinated, the minor approaches would suffer because the main line is given the priority.

Mr. Gladhill felt with the Opticon at their intersection, people may use the intersection at Friendly's. Would they recommend coordination at that intersection as well? Mr. Pernaw felt people take that as a

shortcut now. That operates under stop sign control and he sees no need to change that. It is nice to have a site where not everybody is forced out the same way.

Chairman Ricci indicated that his office is on Banfield Road and Water Country clogs that road in the summer. He asked if their traffic study looks at the peak of when Water Country closes with a movie letting out. Mr. Pernaw confirmed that they did monitor Water Country as part of their study, during the mid day when Route 1 is at peak levels. They did a count on a Saturday where Water Country closed at 5:00 and the peak hour for that intersection was from 5:00 – 6:00. Water Country had 763 cars exiting that afternoon and it took one hour to do it. Water Country is the elephant in the room. The theater will not be generating much during 5:00 – 6:00 pm. For analysis purposes they assume the site would generate 876 trips during the mid-day period although retail trips tend to drop off later in the day. At the traffic light, traffic was operating better than at mid-day because Route 1 traffic volumes were down. That intersection operated at Level B with or without the shopping center expansion.

Chairman Ricci asked if they looked at overflow heading down Constitution towards Banfield. Mr. Pernaw stated that those numbers showed that on Banfield, Water Country registered 415 right turn departures and 367 left hand departures heading towards Route 1. Chairman Ricci asked if they have historical data on the movie theaters capacity on a cloudy/rainy day. His fear is that movie attendance will be inverse to what Water Country would be.

Mr. Allen understood that Attorney Pelech had heartache about Condition #4 but what about #5 where it talked about a lane warrant analysis and working with DOT and coming up with a contribution to the improvements required based on their impacts there. Attorney Pelech stated they plan on meeting with NHDOT and that is not a problem. Attorney Pelech wanted to mention that at TAC the Police Chief brought up the fact that one of the problems at the intersection at Constitution and Banfield is that there is a sign that tells you to go left for 95-South and right for 95-North. If you have GPS, it tells you to go right whether you want to go 95 north or south.

Mr. Hopley felt it was an interesting observation because a condition of Water Country approval was signage pointing them to Ocean Road, but that was before GPS was used.

Mr. Taintor asked Mr. Pernaw about the Traffic Impact Report where, under study findings and recommendations, it seems to say they should leave things the way they are and there was no need for improvement. Mr. Pernaw stated that they found that the cycle length that they observed in the field is pretty close to the theoretical Opticom cycle length that they could determine from their software. That tells them that DOT has it timed properly. Mr. Taintor asked if they have made any proposals for any mitigation to DOT or any other type of mitigation. Mr. Pernaw did not feel they needed to go to DOT until they read the City comments. Mr. Taintor indicated that the Fire Department confirmed that the signal at the fire station has Opticom but the signal at Ocean Road does not have it. Mr. Pernaw drove by those intersections tonight and he saw the Opticom receivers on the Ocean Road intersection. The fire station is only a flashing yellow and he believes inside the fire station they have a button they can push to make it turn to solid red. That would not be Opticom.

Mr. Taintor stated that the long range plan is to signalize Constitution and Lafayette. Wal-Mart made a contribution towards that project and the City has been accumulating money through its capital plan and the State has it in its long range plan. Once that is done, they will change the entire signage for Water Country to try and get them off Banfield Road. They are engaging an independent peer review to study their traffic study but have not been able to set that up yet. It should be done in the next few weeks. The TAC recommendation was based on review of the evaluation of the traffic impact

analysis. They feel they need to address some traffic issues on Route 1 and the conditions subsequent were because they don't have the information. They know the time based systems they have now are old and get out of sync very easily. They also need to address some traffic flow situations in the vicinity of this project. He thought they were already in discussions with NHDOT regarding some mitigation. Also, without those conditions they would have to postpone it to next month so they were trying to avoid that. They don't know if they agree with your study and need an independent analysis.

Mr. Gladhill referred to Sheet C-3A &B, Note 20, relative to snow storage being hauled off-site if they reach capacity. He asked where the snow storage areas are. Mr. Crimmins point them out on the plan.

Mr. Hopley noted that all plans show the future build out of retail as well as a proposed 4,000 s.f. restaurant next to Bella Luna. They will need some grease capture there. Mr. Crimmins understood that.

Chairman Ricci asked for the Digsafe logo on the front page where they will definitely see it rather than having it tucked away in a note on the utility plan.

Chairman Ricci mentioned that they received correspondence from abutters who live at Springbrook, with four signatures.

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

Howard Siegel, of 240 Hillside Drive, owns the brick building across the street. He feels this development would be a tremendous asset to the area.

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. Blenkinsop made a motion to grant site plan approval, for discussion purposes, with the conditions set forth in the Planning Department Memorandum. Councilor Novelline-Clayburgh seconded the motion.

Mr. Blenkinsop felt that the work that has been done at this location is fantastic and has transformed the plaza. He also felt that this proposal sounds very interesting however his concern is that he does not feel that he has enough information about traffic to feel comfortable about some peak times, especially Saturday evenings in the summer with the restaurants, Water Country and a movie theater. Even with staggered movie start times, it would be very difficult getting in and out of the plaza and also difficult for people on Route 1. His concern is that to the extent they are relying on Saturday mid day peak hour to base all of their studies, they will not have high movie traffic at that time. He does not believe the study is representative of what is going on.

Ms. Roberts agreed with Mr. Blenkinsop wholeheartedly regarding traffic and would be in favor of postponing pending a report from the independent traffic engineer.

Deputy City Manager Allen stated that when he started reviewing this plan he would have leaned in the same direction. They talked to DOT about this and they plan to do a lane warrant analysis. This

intersection does not have a bad level of service right now. Since talking to DOT and DPW, he now has a sense it could be worked out and they would need their peer review to validate that.

Chairman Ricci asked if the peer review indicates something different than Pernaw’s study, it would just be a modification and they wouldn’t have to reinvent the wheel. Deputy City Manager Allen agreed that it might be a turn lane or some signalization work and it would not be of a large magnitude. Chairman Ricci added that if the peer review comes back with dramatically different results, that could put them in a sticky situation. Deputy City Manager Allen agreed and indicated that is where he is on the fence.

Chairman Ricci suggested that they make another stipulation that the applicant shall coordinate and facilitate an amenable solution based on the peer review, and, if they don’t find common ground, maybe they would have to go back to the drawing board. Deputy City Manager Allen was not sure how they would do that.

Mr. Blenkinsop felt that would make him uncomfortable where they may get an unfavorable report. It would be too squishy. He would rather hear that the peer review came back supporting the analysis.

Ms. Geffert felt there was also some uncertainty about the Opticom and how far out they are considering.

Mr. Blenkinsop indicated that the motion contemplates it would be installed in all locations listed in the Memorandum which Attorney Pelech had indicated a certain dissatisfaction with. Chairman Ricci felt if they received a peer review in two weeks it would give City staff and DPW enough time to work with applicant and come back in October with an approved plan. He asked the Board for their overall reaction on how they want to proceed.

Mr. Rice felt they should postpone until they have that piece of information. Traffic is a critical piece of this application.

Mr. Blenkinsop withdrew his motion to approve and made a motion to postpone action on this matter to the October Planning Board meeting in anticipation of receipt of the peer review report on the traffic study. Ms. Geffert seconded the motion and asked them to address the Opticom as well. Chairman Ricci felt the motion would encompass that.

The motion to postpone Site Plan review passed unanimously.

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D. The application of **Parade Office, LLC, Owner**, for property located at **195 Hanover Street** (Portwalk, Phase III), requesting Amended Site Plan Approval to replace an existing 12” drain line in Hanover Street with a new 36” drain line and to place subsurface soil tie-backs in Hanover Street, Maplewood Avenue and Deer Street, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 125 as Lot 1 and lies within the Central Business B (CBB) District, the Downtown Overlay District (DOD), and the Historic District.

ML Geffert stepped down from this hearing.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Patrick Crimmins, of Tighe and Bond, addressed the Board. Also present was Tim Levine, Project Manager, and Gary O'Neil, of McPhail Associates. Mr. Crimmins indicated that they were looking at three items tonight. The first item was some housecleaning from their July 19th approval. There were three stipulations which have been addressed and he submitted amended plans to address those.

On Sheet C-3A, Easement License Plan, Proposed Earth Tie Backs Easement and the City Right-of-Way has been deleted. On July 11th Site Plan Amendment Exhibit, Note #26 referencing the tie backs was deleted. That was a color amendment exhibit they provided to the Board last month. They changed Note 18 stating that the screen wall material will remain brick as previously approved by the HDC.

They amended Sheet C-6A, Grading and Drainage Plan. Previously they had the site drainage collecting from the back of the hotel and residential and it ran down the sidewalk with an 18" line and tied into the existing line that connected into Hanover Street but they have found that they cannot fit that 18" pipe in the sidewalk so they are now proposing to bring the drainage out at the intersection of Hanover Street and Portwalk Place into the Hanover Street drainage system. In order to do so, they have to up-size this pipe which is currently just a 12" RCP pipe and they are proposing to change it to a 36" HDPE pipe, which matches the size to provide for the capacity that can provide for the development.

Gary O'Neil, of McPhail Associates, Geotechnical Consultants, addressed the Board. They prepared a series of conceptual drawings to illustrate the proposed request for tie backs under Hanover, Maplewood and Deer Streets to hold back the temporary shoring wall which they need for construction.

Mr. O'Neill first reviewed the other option to brace the project. The excavation is going to vary from about 18' at Deer Street and 11' – 12' at the other side. The southern side of the site is a very soft clay deposit which requires the use of sheet piling to isolate the clay deposit and provide the adequate support. Because of the depth of the excavation and conjunction with the lousy soils the wall has to be braced. He displayed a plan showing the internal bracing that would comprise an internally braced excavation support system. To brace in this manner, it is very undesirable from a constructability point of view and in terms of how it would impact the adjacent streets. This system would make it difficult to build the foundation walls because the perimeter whaler is in the way, the braces are such that excavation equipment could not easily get underneath and it would also lengthen the duration of the construction and it would require queuing of concrete trucks. For a multitude of reasons, the internal bracing scheme is not palatable.

Mr. McNeil then moved into the tie back scheme. They would be bracing the same wall as before with tie backs which would be comprised of a helical anchor screwed into the ground. They would install the anchors along Hanover Street 35' and about 40' on Maplewood Avenue, 25' on Deer Street. The reason they need more depth on Hanover and Maplewood is because of the clay and they need to extend the anchors out far enough to get through the clay and to the more competent soil below. He showed where the tie backs would be installed underground on the displayed plan. The northern part of Maplewood has the soft soil conditions so they will be going deeper, about 15' below grade. On Deer Street they are going 10' – 12; below grade. After the basement construction is completed, the tie

back and sheeting wall would be abandoned in place. In the future, given the depths of utilities, it is highly unlikely they would ever encounter the tie backs. In the unlikely event that they were in the way, the tie backs are made of steel and could be cut.

Mr. Hopley asked how they know the soil conditions so far out in the right-of-way. Mr. O'Neil stated they have done a lot of boring inside the site and they don't change that rapidly and it is really an extrapolation that the conditions they see in the site would extend below the streets. He believed they have a reasonable degree of certainty that they know what is within 50' of the perimeter. Mr. Hopley asked how they would terminate the tensile value of the rods. Mr. O'Neil explained that there are some analytical procedures to calculate what the capacity is on paper and when they install them in the field, they first want to make sure they are anchoring in the proper soil deposits which is determined by the resistance to twisting or torking them into the ground. Every tie back is tested to a load of about 1.3 times its design level. The testing procedures are well established and are industry standards.

Mr. O'Neil indicated that R. W. Gillespie prepared a peer review of this system and determined it was fairly standard and they had a series of recommendations which they would incorporate into their 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 stated that Gillespie provided their report today and Mr. Taintor made some recommendations. On page 11 and 12 of the Staff Memorandum there is a bullet list of Gillespie's recommendations. Some recommendations should be addressed prior to a permit being issues and others should be addressed during the process. He did not have a chance to separate those out. Many would be dealt with in the CMMP.

Mr. Blenkinsop made a motion to recommend Amended Site Plan approval with the 5 stipulations in the Staff Memorandum. Councilor Novelline Clayburgh seconded the motion.

Deputy City Manager Allen noted they are showing just HDPE pipe on the 36" pipe and at the lower end it looks like they are close to, if not less than, 2' of cover. Therefore, he requested that they use the triple wall pipe.

Mr. Hopley wanted to make sure that the 5 stipulations cover all of the bullet items.

Ms. Roberts appreciated getting the report from Gillespie and she is particularly concerned about the long term future impacts which seem pretty unclear. It seems like a big open question from her non-engineering standpoint. Deputy City Manager Allen explained that is why they hired Gillespie and through meetings and their report, they have developed a level of comfort with the monitoring and having someone present during the installation to be the City's set of eyes.

The motion to grant Amended Site Plan Approval with the following stipulations passed unanimously:

Conditions Precedent (to be completed prior to the issuance of a building permit)

1. The applicant shall respond to and address the recommendations by R.W. Gillespie & Associates, Inc., (see below) to the satisfaction of the Department of Public Works.

- Parade Office should notify utility owners of the potential soil movements and vibrations during construction.
 - Parade Office should describe the range of anticipated settlements and expected variation with distance behind the excavation. This information would be helpful in assessing potential impacts on existing utilities and for comparing construction monitoring data to anticipated movements.
 - Lateral excavation support and ground surface elevation measurements should be made by a New Hampshire-licensed land surveyor or engineer experienced in precision movement monitoring. Monitoring reports with an assessment of the data should be provided to the City.
 - Pre- and post-construction camera surveys of City-designated utilities should be conducted.
 - Parade Office and the City should review the sensitivity of utilities to ground vibrations and movement based on the utility's age, materials, etc., and incorporate utility-based ground vibration levels, as needed, into project documents. Additional information about the locations and type (continuous or peak monitoring) of vibration monitoring should be provided.
 - Parade Office should notify the City immediately of any suspect or actual damage on or below City property.
 - Parade Office should describe how potential conflicts between tieback anchor and future excavations in the right of way could be managed during future design and/or construction.
 - The technical specifications should require that the Contractor demonstrate that the design exceeds specified minimum recommended factor of safeties for instability by bottom heave, piping, sliding, and rotation of ground mass (i.e., circular arc).
 - Parade Office should provide to the City (1) a copy of the temporary excavation support design package, and (2) as-built information.
 - To reduce the potential for delays during construction, Parade Office should affirm that the easement limits include sufficient allowance to account for varying subsurface conditions, and means and methods that might be needed to install the temporary excavation support system. In addition, the contractor's submittal should indicate how location and angle control will be maintained and verified during installation.
 - The technical specifications should require minimum experience levels for the temporary excavation support designer, the contracting company, and for the contracting company's on-site supervisor who will oversee the work. A list and description of similar projects completed by the proposed Contractor should be provided to the City.
 - A third-party engineer should observe all tieback anchor performance and proof testing, in addition to Parade Office's geotechnical engineer as specified.
2. As the tie-backs create a structural load on the roads, and to protect the City from any liability at a later time if they need to be removed, an Agreement shall be prepared for review and approval by the City Attorney.
 3. The company installing the tie-backs shall post a bond with the City, in an amount to be determined by the Planning Director.
 4. The applicant shall provide insurance for the tie-back work, listing the City as a co-insured.
 5. Sanitite, or similar triplewall pipe, shall be used for the 36" drain pipe at the lower end where they are close to, if not less than, 2' of cover.

Conditions Subsequent (to be completed prior to the release of contractor and site plan security)

- 6. The applicant shall pay for the services of an independent inspector, to be selected by the City, who shall be present during the tie-back installation to assure proper installation.

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E. The application of **Stratham Acquisitions, LLC, c/o Frank Catapano, Owner**, for properties located at **5 Sylvester Street and a vacant lot with frontage on Marjorie Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer, to relocate an existing driveway and perform surface grading associated with a new gravel driveway, with 2,200 s.f. of impact to the wetland buffer. Said properties are shown on Assessor Map 232 as Lots 37 & 41 and lie within the Single Residence B (SRB) District.

Applicant has requested postponement. Mr. Taintor confirmed they needed to go back to the Conservation Commission meeting prior to appearing before the Planning Board.

Mr. Rice made a motion to postpone to the October Planning Board meeting. Ms. Roberts seconded the motion.

The motion to postpone Conditional Use Permit approval to the October Planning Board meeting passed unanimously.

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Chairman Ricci recused himself from this hearing.

F. The application of **Diana B. Durling McNabb Revo Trust, Owner, and Mark A. McNabb, Applicant**, for property located at **51 Baycliff Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within a tidal wetland buffer, to replace 392 s.f. of decks, install stone patio over existing patio and replace asphalt driveway with pervious cobblestone, for a total of 1,000 s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 207 as Lot 47 and lies within the Single Residence B (SRB) District.

The Vice -Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Mark McNabb, owner of the property, presented. Mr. McNabb started with the decks and referred to the Site Plan showing the existing decks in a dotted line and the proposed decks in a solid line. Existing decks are about 490 s.f. and they are reducing the size of the decks to 392 s.f. or a reduction of about 20%. The existing decks have a large hot tub on it which has a greater impact with electrical and circuits and they are removing it from the site. They are therefore lessening the impact of what will be happening on the decks as the new decks will be pervious. The decks are between 60' and 90' back from the high water.

Underneath the deck there is stone about 10' out from the foundation and they plan to keep the same width but cover it with a blue stoned paver patio, set in stone and stone dust for water infiltration. They are proposing a slight increase in that area which is the half round section on the plan.

The third part which they didn't need to bring before the Planning Board for approval was the driveway work where they are replacing asphalt with cobblestone and reducing the size of it.

Mr. McNabb addressed the criteria. He stated that the land is reasonably suited for its use as it is where the driveway and patios currently exist and they are disturbing an area which is already disturbed. There is no alternative location on their site as ¾ of their site is within the setback. Everything they are doing is of high quality and there will not be any adverse impact on values to the neighborhood.

Mr. Taintor pointed out that Peter Britz was present if they need his assistance.

Mr. McNabb added that they received unanimously approval from the Conservation Commission.

The Vice-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 approval with the recommended stipulation. Councilor Novelline Clayburgh seconded the motion.

Ms. Roberts referred to Page 14 of the Staff Memo, "While the proposed changes will not create any new disturbance in the wetland buffer, care should be taken during construction to provide adequate protection from erosion and siltation impacts to the tidal wetland area. Contractors should implement best practices to reduce impacts from siltation and erosion." Ms. Roberts hoped that the crushed stone will be adequate for that.

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

1. The applicant shall install crushed stone under the proposed deck area where there is not stone patio specified.

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G. The application of **Thomas and Kimberly Hitchcock, Owners**, for property located at **69 Gosport Road**, and **Clifford and Alexandra Heidinger, Owners**, for property located at **81 Gosport Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland and wetland buffer, for restoration of the buffer area with plantings and landscaping, the removal of culverts and the installation of a footbridge, for a total of 50 s.f. of impact to the inland wetland and 18,468 s.f. of impact to the wetland buffer. Said properties are shown on Assessor Map 207 as Lots 13-3 and 13-4 and lie within the Single Residence A (SRA) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Chris Abbott, of Jones & Beach, appeared as the project Wetland Scientist. Mr. Abbott gave some history. Mr. Hitchcock's lot has had issues with moisture and dampness from the trees around his house so this summer he cleared some trees in the rear of his property and used his neighbors property to access the rear. The City noticed the clearing and a violation notice was issued and a restoration plan was requested. Jones & Beach did an Existing Conditions Survey which outlines the edge of wetlands as well as the 25', 50' and 100' setbacks. There was a culvert installed illegally on his neighbors land as both land owners wanted a walkway to get back to the Urban Forestry Center. They worked with the Conservation Commission and Mr. Britz to create a restoration plan. They have created a densely populated group of trees with the 0 to 25' setback and then reduced tree planting and wild type mix for the 25' – 50' setback and loaming and seeding the slope with from the 50' – 100' setback area. They appeared before the Conservation Commission last Wednesday and went over some recommendations. They reduced the quantity but increased the size of the blueberries. They included a monitoring plan with the hope is to have the work competed by October and they will then submit a restoration report and two additional reports in the spring and fall over the next two years. As part of the package, the wetland violation fill that was planted will be removed. They are proposing an open wooden footbridge over the wetlands and that will not create any wetland impact and will provide access to the rear. It should be noted they are also proposing a deck so there are 4 s.f. of rear deck within the 100' buffer and he will work with the Planning Board and Conservation Commission to create that triangle cut to keep that deck squared off.

Chairman Ricci noted that he is not a big fan of silt fences in these areas as they trap small animals and the State of New Hampshire now recognizes Best Management Practice a mulch row to provide erosion control protection. He doesn't like using unnatural materials in a natural location. He asked them to show a detail of the revised mulch row.

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 advised the Board that the condition regarding the size of the blueberry bushes has been met so that can be dropped off the conditions. Monitoring reports have been added to the plans but he would like to keep that as part of the approval.

Mr. Allen made a motion to grant Conditional Use Permit approval with the stipulation that the monitoring plan as laid out in the memo and on revised Sheet C-2 be followed and that the silt fence be changed to a mulch row berm.

Mr. Blenkinsop asked if there was any need for a height on the mulch row. Chairman Ricci indicated it is a standard on the detail and the nice thing is that it is gradual so you can get up and over it.

Mr. Hopley seconded the motion.

Ms. Geffert asked about the deck because it is not in the application but it is on the plan.

Peter Britz, Environmental Planner, confirmed that the Conservation Commission was aware of the deck and was not concerned. Because it was shown on the drawing, they approved it as proposed.

Councilor Novelline Clayburgh made a comment that this was the second time she has seen an application where residents have taken down trees illegally and disturbed wetlands. She believed they had discussed putting out a notification to new property owners about the wetlands and what their restrictions were.

Peter Britz confirmed that the Conservation Commission has a sub committee working on a letter going out to all houses in the wetland buffers. They are also preparing a brochure to go on the City’s webpage. They did this back in 2006 but he felt it needed to be done again. This should be completed within the next few months.

Ms. Roberts wanted to reassure Councilor Novelline Clayburgh that in all the many years she has been on the board, this kind of behavior, thankfully, is quite rare.

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

1. The blueberry bushes to be installed shall be increased from the 1-gallon size specified in the proposed planting plan to a 3- or 5-gallon size.
2. The applicant shall submit monitoring reports as follows:
 - (a) Reports shall be submitted to the Planning Department, to the attention of the Environmental Planner, on or before: November 15, 2012; May 15, 2013; August 30, 2013; May 15, 2014; and August 30, 2014.
 - (b) The reports shall include photographs of the site, details on the success of the plantings, and any other pertinent details about the status of the restoration plan.
 - (c) Starting with the May 2013 report, each report must demonstrate 80% success of all the plantings, or the applicant shall propose and install additional plantings to achieve an 80% survival of all species.
 - (d) Following review of the August 2014 monitoring report, the Conservation Commission will determine either (a) that the restoration has been successful and no further work or reporting is necessary or (b) that additional work and reporting is necessary to restore the site.

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Chairman Ricci stated, for the record, that he is a direct abutter to the next item. He spoke to City Attorney Sullivan and as he has no personal or professional interest in this application he was advised that there would not be a conflict.

Ms. Geffert stated that her husband works for Unitil but he has nothing to do with this and probably doesn’t even know about it.

H. The application of the **City of Portsmouth, Owner and Unitil, Applicant**, for property located in the public right-of-way running along the northerly side of Banfield Road between Heritage Avenue and Peverly Hill Road, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer, to install a 6” diameter gas pipe, with 11,830 s.f. of impact to the wetland buffer. Said properties lie in the Single Residence A (SRA), Rural (R) and Natural Resource Protection (NRP) Districts.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Stephen Herizog, a Wetland Ecologist with AMIC, representing Unitil, presented to the Board. The project is the installation of a gas pipeline in the northerly side of Banfield Road. The impacts will be limited to the wetland buffer and will be temporary and within previously disturbed road shoulder. There are three jurisdictional wetland buffers being impacted and are described in the application. They maintain that the application meets the criteria in Section 10.1017.20 which is a utility. The construction is in the public interest and design construction and maintenance will use Best Management Practices. No alternative feasible route exists that is not crossed by an alternate wetland or will have a less detrimental impact. Alterations of natural vegetation or managed woodland will occur only to the extent to achieve construction goals.

Chairman Ricci asked if part of that gas line has already been installed, right across from the pond near Pike Industries, on the eastern end of Banfield Road near Peverly Hill Road.

Phil Johnson, of Unitil, stated that some of the pipe was installed near cemetery and somehow there was a mix up between Unitil and the contractor but they have shut them down. Chairman Ricci confirmed that they were working there yesterday and today. Mr. Johnson confirmed they should not have been working.

Ms. Roberts noted at the September 12th Conservation Commission meeting they voted approval with a stipulation regarding a siltation control method. Mr. Herizog confirmed they agreed to use the silt socks as they are not ground disturbing and are easily installed and removed after the work is done.

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 Conditional Use Permit approval with the recommended stipulation. Mr. Hopley seconded the motion.

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

1. The applicant shall specify a silt sock, or other siltation control method that will not disturb the ground, along the length of the project

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III. CITY COUNCIL REFERRALS/REQUESTS

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

A. 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. (This matter was postponed at the July 19, 2012 Planning Board Meeting).

Mr. Taintor stated that the applicant has been trying to get the State Archaeologist to come and look at the area and therefore has requested postponement.

Mr. Blenkinsop made a motion to postpone to the October Planning Board meeting. Ms. Roberts seconded the motion.

The motion to postpone this request to the October Planning Board meeting passed unanimously.

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B. Letter from Stephen Kelm requesting an easement from the City to access his property at 80 Wright Avenue. (This matter was postponed at the August 16, 2012 Planning Board Meeting).

Mr. Taintor advised the Board that this issue is that the owner is looking for an easement across the Connie Bean parking lot to resolve a dispute where the driveway for the new development should go. Mr. Kelm proposed a concept plan to have a joint cross easement on both parcels. However, the City Council has decided to sell the Connie Bean property and it was felt it would be inappropriate to grant an easement when the City was trying to sell the property. Mr. Taintor recommended that the Board vote to recommend to the City Council that no action be taken on this request.

Mr. Blenkinsop recused himself.

Mr. Rice made a motion to recommend to the City Council that no action be taken on this request. Ms. Geffert seconded the motion.

The motion passed unanimously.

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Mr. Blenkinsop recused himself.

C. Proposed Zoning Map Amendment regarding the rezoning of 143 Daniel Street (Connie Bean Center).

Mr. Taintor stated that to facility the sale of this property it is necessary to move it out of the Municipal zoning district and designate it for a particular zoning use. This is adjacent to the CBB and adjacent to the DOD. It is recommended that the lot be moved into both of those districts. It is already in the HDC.

Ms. Geffert made a motion to recommend that the lot designated as Assessors Map 105, Lot 19 (143 Daniel Street) be rezoned from Municipal (M) to Central Business B (CBB); that the Downtown Overlay District (DOD) be extended across Daniel Street to include said lot; and that the Zoning Map be revised accordingly.

Councilor Novelline Clayburgh seconded the motion.

The motion passed unanimously.

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D. Proposed amendments to Zoning Ordinance relative to Exemptions from Certificate of Approval in the Historic District.

Mr. Taintor reported that the HDC is working with Nick Cracknell to take out a lot of very routine, small scale changes to the Zoning Ordinance and replace them with standards. It's just come from the City Council on Monday and they have not had enough time to review the two page list. He is recommending that they Board postpone this to the October Planning Board meeting.

Mr. Rice made a motion to postpone to the October Planning Board meeting. Councilor Novelline Clayburgh seconded the motion.

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

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E. Proposed Waiver of City Council Referrals.

Mr. Taintor explained that this was something which seemed very good when they did it in 2009. There was a section in the Zoning Ordinance which referred thing to the Planning Board which did not deal with zoning. So, it was taken out of the Zoning Ordinance and put into a modified City Ordinance and re-worded, simplified and shortened. Unfortunately, they broadened the language too much.

Also, what has happened, is over the past two year, a number of action have been taken that didn't come to the Planning Board which, under this ordinance, should have come before the Planning Board. What is being recommended is that they retroactively waive all referrals in the past 2 years and prospectively waive referral for leases of land with a lease term than 5 years, all leases of buildings, all temporary easements and all licenses.

Mr. Rice made a motion to waive all referrals from the City Council to the Planning Board for leases of land with a lease term than 5 years, all leases of buildings, all temporary easements and all licenses, and to make this waiver retroactive to December 21, 2009.

Mr. Hopley seconded the motion.

The motion passed unanimously.

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IV. PLANNING DIRECTOR'S REPORT

No report.

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V. ADJOURNMENT

A motion to adjourn at 10:00 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 January 24, 2013.