

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

NOVEMBER 21, 2013

MEMBERS PRESENT: John Ricci, Chairman; John Rice, Vice-Chairman; Nancy Novelline Clayburgh, City Council Representative; David Allen, Deputy City Manager; Richard Hopley, Building Inspector; William Gladhill; Colby Gamester; Elizabeth Moreau, Michael Barker and Jay Leduc, Alternate

MEMBERS EXCUSED: n/a

ALSO PRESENT: Rick Taintor, Planning Director

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Chairman Ricci requested a motion to take Items under Public Hearings, Old Business, Item B and Public Hearings, New Business, Item D out of order for the purpose of postponement. Mr. Rice made the motion, Ms. Moreau seconded the motion and it passed unanimously.

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B. The application of **Borthwick Forest, LLC, Owner**, for property located **between Islington Street and Borthwick Avenue**, requesting Conditional Use Permit approval under the Zoning Ordinance for work within an inland wetland buffer to construct a road from Borthwick Avenue to Islington Street in connection with a proposed subdivision, with 10,700 s.f. of impact to the wetland buffer and 5,800 s.f. of wetland buffer restoration. Said properties are shown on Assessor Plan 233, as Lots 112 & 113 and Assessor Plan 241 as Lot 25 and lie within the Single Residence B (SRB) District and the Office Research (OR) District. (This application was postponed at the October 17, 2013 Planning Board meeting)

Mr. Gladhill made a motion to postpone to the next Planning Board Meeting. Councilor Novelline Clayburgh seconded the motion. The motion to postpone Conditional Use Permit approval to the December 19, 2013 Planning Board meeting passed unanimously.

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D. The application of **Ertugrul Yurtseven, Owner**, for property located at **292 Lang Road**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into four lots with the following:

- a. Proposed Lot 4 having 87,153 ± s.f. (2 acres) and 201.36' ± of continuous street frontage on Lang Road.
- b. Proposed Lot 4-1 having 405,342 ± s.f. (9.31 acres) and 384.05' ± of continuous street frontage on Lang Road.
- c. Proposed Lot 4-2 having 177,434 ± s.f. (4.07 acres) and 100' ± of continuous street frontage on Lang Road.
- d. Proposed Lot 4-3 having 140,181 ± s.f. (3.22 acres) and 310.87' ± of continuous street frontage on Lang Road.

Said lot is shown on Assessor Plan 287 as Lot 4 and lies within the Single Residence B (SRB) District where a minimum lot area of 15,000 s.f. and 100' of continuous street frontage is required.

Mr. Hopley made a motion to postpone to the next Planning Board Meeting. Ms. Moreau seconded the motion. The motion to postpone Preliminary and Final subdivision approval to the December 19, 2013 Planning Board meeting passed unanimously.

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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.*

Chairman Ricci recused himself from this hearing and turned the gavel over to Vice Chairman Rice.

- A. The application of **Great Bay School Training Center, Owner, and David Lemieux, Applicant**, for property located at **417 Lafayette Road**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into two lots with the following:
 - a. Proposed Lot 1 having 15,000 ± s.f. and 149.35' of continuous street frontage on Lafayette Road;
 - b. Proposed Lot 2 having 16,620 ± s.f. and 100' of continuous street frontage on Lafayette Road.

Said lot is shown on Assessor Plan 230 as Lot 23 and lies within the Single Residence B (SRB) District where a minimum lot area of 15,000 s.f. and 100' of continuous street frontage is required. (This application was postponed at the October 17, 2013 Planning Board meeting)

The Vice Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernard Pelech appeared on behalf of Mr. Lemieux. Attorney Pelech indicated that they were before the Board last month and they were tabled with several suggestions regarding reconfiguring the new lot line. They appeared before the BOA and received a variance to allow a configuration of the two lots as shown on the plan. One lot has 90% of the required lot size however the lot line is now relatively perpendicular to Lafayette Road and is now in order for approval by the Planning Board.

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 made a motion to approve preliminary and final subdivision approval with the three recommended stipulations in the Staff Memorandum. Ms. Moreau seconded the motion.

Mr. Hopley pointed out what appeared to be a typo on the plan regarding the Portsmouth High School sign. It says Portsmouth High "Pool" rather than "School" and should be corrected.

Councilor Novelline Clayburgh asked if the sign will remain. Attorney Pelech confirmed that it will. Deputy City Manager Allen asked if there was some sort of recording or easement that will allow that. Attorney was not sure on the details.

Mr. Lemieux stated that they have spoken to the Traffic & Safety Committee and they have agreed to work with them on the sign and maybe new signage as they move forward.

The motion to grant Preliminary and Final Subdivision Approval with the following stipulations passed unanimously:

1. The note on the Site Plan for the Sign and Marquee on Lafayette Road shall be revised to read "Portsmouth High School".
2. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
3. GIS data shall be provided to the Department of Public Works in the form as required by the City.

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C. The application of **Beth and Marco Gross-Santos, Owners, and JP Ventures, Applicant**, for property located on Marjorie Street, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer to construct a single family home with driveway, drainage and landscaping, with 6,976 s.f. of impact to the wetland buffer. Said property is shown on Assessor Plan 232 as part of Lot 14 and lies within the Single Residence B (SRB) District. Said Lot 14 was restored to its pre-merger status by City Council vote on April 15, 2013, and three of the merged lots will be voluntarily merged by the owner to create a new building lot. (This application was postponed at the October 17, 2013 Planning Board meeting)

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernard Pelech appeared for the owner and the applicant. Attorney Pelech explained that this application goes back to August of 2013 when they appeared before the BOA, who tabled it for a wetlands study, drainage analysis and numerous other items. In the meantime, they have had the wetlands flagged, John Chagnon has prepared a drainage analysis, they have appeared before the Conservation Commission on two occasions, and they received a favorable recommendation at the last meeting for a Conditional Use Permit. On Tuesday they appeared before the BOA and received approval to construct a building on a substandard sized lot. They have designed a single family dwelling with an underground storage chamber and a rain garden. The applicant has agreed to spend thousands of dollars to comply with the requirements for the Conditional Use Permit. The Conservation Commission was impressed and DPW has reviewed the plan and has approved the stormwater management plan, its retention structure and the rain gardens. This is a great example of the Conservation Commission, the Planning Board and the Planning Department all working in concert with the applicant to come up with a very viable solution to the problem. It is probably well known that the lower end of these streets (Marjorie, Lois and Joseph Streets) have severe wetland and drainage problems. He pointed out that no abutters spoke in opposition at the BOA meeting and he felt this was a win-win for the City, the abutters and the applicant.

Mr. Hopley agreed that the plan was very detailed and it is so detailed that he is surprised there is no mention of dewatering of the basement and a sump and ultimately where would that sump discharge

to. The other minor item is that the basement is going to need a second exit and there should be a note about whether it will be a bulkhead, a window well, or a walkout. Attorney Pelech believed that Mr. Chagnon stated to the BOA that the basement was going to be a walkout. He was willing to have a condition that they have a second means of egress shown on the plans. They are raising the grade considerably with fill and with the subsurface retention structure and with the rain garden they have created a situation where there is no increase in run off to any abutting property. Mr. Hopley was worried about water in the basement and discharge of that. Attorney Pelech indicated they can also make a condition that the sump will discharge into either the stormwater detention basin or the raingarden. Chairman Ricci pointed out that the plan shows a foundation drain that drains out. Chairman Ricci asked if there is a plan for handling the footings which will probably be in ground water. The applicant should coordinate with DPW for some provisions during construction.

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

DISCUSSION AND DECISION OF THE BOARD

Deputy City Manager Allen made a motion to grant Conditional Use Permit approval with the stipulations as listed in the Staff Memorandum. Chairman Ricci also asked for a stipulation that the applicant meet with DPW for a dewatering plan during construction. Ms. Moreau seconded the motion.

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

1. Prior to the issuance of a building permit for the proposed dwelling, the applicant shall file with the Planning Department a Planting Plan that includes the following:
 - (a) Removal of invasive species from the southeast corner of the property.
 - (b) Planting of silky dogwood (*Cornus amomum*) and highbush blueberry (*Vaccinium corymbosum*) in the wetland buffer in the southeast corner of the property. Plants shall be spaced 3 feet on center and shall be at least 3 feet high at the time of planting.
2. The building permit for the proposed dwelling shall include a requirement that the Stormwater Management Inspection and Maintenance Plan and the Planting Plan shall be binding on all current and future owners of the property.
3. The applicant shall work with the Planning and Legal Departments to draft a covenant for the property, to be recorded at the Registry of Deeds by the City, which requires all current and future property owners to comply with the Stormwater Management Inspection and Maintenance Plan and the Planting Plan.
4. The applicant shall work with DPW to prepare a dewatering plan to be implemented during construction.

Chairman Ricci added that these were one of the best residential plan sets he has seen while on the Board. He felt the applicants should be commended for carrying this through.

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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.*

A. A public hearing to consider amending the Zoning Ordinance, Section 10.630 – Historic District by making the following changes:

- a. Provide for limited administrative approvals by City staff for very small projects such as field changes or minor changes to a previously approved Certificate of Approval;
- b. Require electronic submission of electronic copies of plans, renderings and other applications materials;
- c. Require submission of an electronic or physical model for all proposed projects greater than 10,000 sq. ft. GFA; and
- d. Provide for a Consent Agenda approval process for small projects.

These proposed amendments were referred by the City Council to the Planning Board for a recommendation.

Chairman Ricci turned this over to Planning Director Rick Taintor. These amendments were drafted by Nick Cracknell and worked on with the HDC over several meetings. This is partially an attempt to get control over their agendas as they are routinely going 5-6 hours per meeting and they meet 2-3 times per month. This is one way to try and deal with the smaller projects and smaller changes at an administrative level.

The first item is to allow for limited administrative approvals by City staff for very small projects such as field changes or minor changes to a previously approved Certificate of Approval. Mr. Taintor has the ability under Site Plan approval to grant an administrative approval for very small changes to approved site plans and they are basically proposing the same type of thing for the HDC.

The second item is to require electronic submission of all materials, which is what they have done with Site Plan Review and Subdivision and the BOA. They are trying to bring the HDC up to that same level so they can more easily download everything to the website.

The third item is a different type of change and is to require scaled plans for all projects to assist in interpretation, and to require large projects, over 10,000 s.f. of new floor area, to submit an electronic or physical model. This would be on the scale of 10 Pleasant Street. The City Council was just granted some funding for the HDC to do an electronic model of the entire historic district in the downtown core. Once they get that in place, they will be able to plug in an electronic model and it will be much easier for Board members and members of the public to see how a large project will fit into the surrounding area.

The final item is to allow the HDC to approve small projects through a consent agenda. This would be just the way that the City Council approves all of their projecting sign applications, along with a number of other things. This would allow projects that meet all of the requirements that the Chair and staff felt were non-controversial to go through a single vote unless some member of the Board wanted to pull it off for review in more detail.

Ms. Moreau asked if consent agenda items would be a public hearing. Mr. Taintor confirmed that it would be a single public hearing, they would all be heard together and voted on together.

Chairman Ricci asked if there was a definition for “small”. Mr. Taintor stated there is not. Mr. Rice suggested that a small project would be putting in a small sky light on the street-facing side of a house. Mr. Barker asked if they should have a dollar amount of the renovation. Councilor Novelline Clayburgh suggested using square footage. Mr. Taintor felt that the problem with both of those is that a very small change could drastically alter another feature. Deputy City Manager Allen also pointed out that the purpose of this amendment is to put an item on the consent agenda and if anyone is uncomfortable they can pull it off. Chairman Ricci suggested letting the HDC define what “small” is. Mr. Gladhill added that once their Architectural Guidelines and Standards are done they will be able to use that as a guide. Sometimes applicants come in with a vinyl fence which the HDC has never approved but if they have a list of options that would be acceptable, it would be a quick matter that wouldn’t require a half hour hearing.

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

Jerry Zelin, of 70 Kensington Road. He wanted to speak in favor of the concept of these amendments and point out a few technical details that would make it even better.

#1, Section 10.634.23, about the electronic or physical scale massing model. There is a requirement that also includes “adjacent” structures. Does that mean structures on the same side of the street or does it also include structures across the street. He encouraged them to define adjacent. He felt they may also want to include not only buildings that are immediately adjacent but also buildings that are a few doors away.

#2, the same section, the last word on Page 1, states “two block faces” and he wondered what that means. Mr. Taintor agreed that was a good question and he would have to check with Mr. Cracknell. Mr. Zelin felt that it needed to be defined.

He also urged that they add something that requires that the plans that are filed, either electronic or physical, include some basic information that abutters and the public need to judge the scale of the building in relation to the neighborhood. It needs to demand that the applicant specify the building overall height, width and depth.

His last point, on page 2, concerning the consent agenda portion, Section 10.635.35 (3), says a person wishing to address the HDC on a matter that is contained in the Consent Agenda shall be permitted to do so in accordance with the Commission’s rules and procedures. He felt that was “kicking the can down the road” because he didn’t see anything in the Rules & Procedures that addresses this issue. They need to either specify how a person will address that or direct the HDC to amend their Rules & Procedures to clarify the procedure.

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

DISCUSSION AND DECISION OF THE BOARD

Chairman Ricci assumed they will take those comments into consideration and modify their document.

Deputy City Manager Allen made a motion to adopt the proposed amendments and allow staff to modify as pointed out by Attorney Zelin. His concern is that this is going for 2nd reading before the City Council on December 2nd and these could easily be administratively addressed by staff.

Mr. Hopley seconded the motion.

The Motion to recommend that the City Council enact the proposed amendments, with several wording changes and additions, as discussed at the public hearing, passed unanimously.

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- B. A public hearing to consider amending the Subdivision Rules & Regulations by making the following changes:
 - a. Establish requirements and procedures for review of certain applications for subdivision approval by the Technical Advisory Committee; and
 - b. Require that approved plans be recorded at the Registry within a specified time after approval.

Chairman Ricci turned this over to Planning Director Rick Taintor.

Mr. Taintor reminded the Board that they have had a number of complicated subdivisions lately, including Spinney Road and Laurel Court, that required infrastructure, construction of a street, and complicated easements, which take up time and the Planning Board often votes to refer them to TAC. This amendment is to have these projects automatically go to TAC for a pre-referral before coming to the Planning Board to work through the infrastructure and road alignment issues done prior to coming before the Planning Board. This would be the same process that they currently have for Site Review.

The second issue is for recording plans and to make sure they are recorded in a timely fashion of six months unless the Planning Director gives an administrative six months extension or if the Planning Board gives another one year extension, giving the applicant a total of 18 months. That way they will not have subdivisions sitting around and the conditions never getting completed.

Ms. Moreau referred to the Applicant’s Responsibility where it should require only 10 copies to TAC rather than 12 copies. Mr. Taintor stated he will change that.

Mr. Gladhill asked what the total extension would be. Mr. Taintor confirmed they would have a total of 18 months from the date of approval to complete all of the conditions and have the plan recorded.

Mr. Hopley asked if the intent of this was for the brick and mortar work be done in six months. Mr. Taintor confirmed it was not and maybe they should change it to refer to only the Conditions Precedent. Building a road is not part of the subdivision plan and would be part of the Site Review Plan but they could require setting the bounds, for instance. Mr. Hopley asked if this was intended to get the plans up to speed that will ultimately be implemented. Mr. Taintor agreed and added that because Mr. Hopley raised that point he should clarify it.

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

DISCUSSION AND DECISION OF THE BOARD

Ms. Moreau made a motion to amend the Subdivision Rules & Regulations as proposed in the Staff Memorandum, as well as the two changes as discussed. Mr. Rice seconded the motion.

The motion to amend the Subdivision Rules and Regulations as set forth in the document titled “Subdivision Rules and Regulations – Proposed Amendments – November 21, 2013” with two minor changes as discussed at the public hearing passed unanimously.

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C. A public hearing to consider amending the Site Plan Review Regulations by increasing the required number of plan sets for submission to the Technical Advisory Committee from 9 to 10.

Mr. Taintor explained that they simply need an additional copy of plan sets at this point.

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

DISCUSSION AND DECISION OF THE BOARD

Ms. Moreau made a motion to amend Site Plan Review Regulations as recommended. Councilor Novelline Clayburgh seconded the motion.

The motion to amend the Site Plan Review Regulations, Section 2.5.2(1) by deleting the words “nine (9)” and inserting in their place the words “ten (10)” passed unanimously.

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E. The application of **Maplewood & Vaughan Holding Company, LLC, Owner**, for property located at **111 Maplewood Avenue**, requesting Site Plan Approval to construct a 4-story mixed-use building with 40,000± s.f. of building coverage; 94,320± s.f. of floor area, including 14,140 s.f. of commercial use on the 1st floor and 70 residential units on the 2nd – 4th floors; and 104 surface parking spaces, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 124 as Lot 8 and lies within the Central Business A (CBA) District, the Historic District and the Downtown Overlay District (DOD).

The Chair read the notice into the record.

Mr. Gamester recused himself from this application.

SPEAKING TO THE APPLICATION:

Jamie Pennington, of RJ Finlay and Company, and part of the development team, addressed the Board. He stated they were last before the Board in July for a joint Work Session with the HDC and a lot has happened since then. The HDC has subsequently approved their application and they have received a favorable recommendation from TAC.

The entire design team was present: Lisa DeStefano, of DeStefano Architects, Patrick Crimmins, of Tighe & Bond, Attorney Peter Loughlin, Robbie Woodburn, Landscape Architect, Nick Sanders, Traffic Engineer from VHB, Mark Lufsky from Walker Parking, and Lisa Bissonette from RJ Finlay.

Mr. Pennington stated that their design team created a project from the beginning that was responsive to what they were hearing from the Master Plan, the City and the ordinance. They saw a need for residential housing in downtown Portsmouth. They pulled the architecture back from the property

lines, they terraced the volume of the building and created areas for pocket parks and landscaping that is not always available in downtown areas. That gave them an opportunity for lush landscaping for a transition zone.

One challenge was how to do this type of project without exasperating the infrastructure of the City. They are providing substantial upgrades to the sewer, utilities, additional cross walks, and modification of the entire intersection. All improvements are important for the evolution of the Northern Tier.

Lisa DeStefano, of Destefano Architects, displayed an aerial of their site which is fronted on all four sides by streets. They considered the surroundings while designing. The Northern Tier has yet to be developed but it has been discussed for years. As part of that, their goal was to extend the vibrancy of the heart of the city with daytime and nighttime mixed-uses. They know that 3S Artspace is being developed, the vacant lot on Vaughan Street is beginning construction and the Harborside/Sheraton project is coming back before the Board. When designing this building, they took into account the Portwalk project and the wood frame buildings across the street.

They originally designed the building in 2012 but with the height ordinance change they had to change their design a bit. They still have all parking requirements provided on site.

She displayed the architectural drawings. They had two public hearings before the HDC for the final design and approval. They looked at the building as more of a warehouse building to relate to the context of what was behind it. They refer to context as across the street, behind and alongside. They have a 3 story building with anchors on the corners and a central entrance. In all of their designs, they reinforced what was happening with the building setbacks. They have the ability for a 0 lot line but they set their building back at various distances and building height does not exceed the allowable height allowed in this district. They received a variance because they had parking between the street and structure. They are parking cars underneath the building.

Ms. DeStefano displayed 3-D CAD drawings of surrounding buildings and the proposed building.

In summary, they have reinforced the planning directives. It shows the walkable pattern to the downtown, it reinforces the mixed uses of pedestrian friendly streets, human scaled architecture with the one story, two story, three story form and fourth story sloped back with the anchors on the corners and at the center. They are looking to improve the city corridors, they are maintaining an adequate supply of parking, and they have landscaping elements and pocket parks. This will be a nice gateway into the City, extending a vibrant downtown experience to the Northern Tier, energizing Maplewood frontage with pedestrian and bike traffic and enhancing the vitality of the area while contributing to job creation and increasing the City's tax base.

Patrick Crimmins, Tighe and Bond, indicated that he is a neighbor of this project and this will be the view from his house. It was a pleasure for him to work on this project and to be present after a year of hard work. They have met with all service providers and have confirmed there is adequate service for this project. That included Fairpoint, PSNH, Unitel and Waste Management. The project will require State permits. A Shoreland Protection Permit has already been obtained in July. An Alteration of Terrain Permit was submitted in July, they received comments from the State in August and they were awaiting comments from TAC to submit a response and they will do that early next week. They are also required to get a sewer connection permit from NHDES and as a result of the extensive coordination between DPW, they have been holding off until they finalized the details of the sewer main replacement. They anticipate submitting that next week as well.

Mr. Crimmins displayed Sheet C-3 with color landscaping. The first floor is commercial and the second through fourth floors will include 72 dwelling units. There will be 104 parking spaces on the site. The site meets all of the dimensional and parking requirements. The lot line setbacks are zero but they have set the building back on the front, varying between 8' – 12' from the property line. Along the side corner they have a 12' setback and in the rear they are at a 14' setback at the minimum point. The 104 parking spaces being provided on site meets the zoning requirement. They requested and received a variance for placing parking between the principal building and the street because the site is unique and surrounded on three sides by streets. 59 of the parking spaces are underground with a second story deck. There are a few spaces along the street but all other parking is covered. The spaces that are not covered are porous asphalt, incorporated for drainage improvements. They are providing a brick paver connection through the parking area, consistent with the brick sidewalks provided around the entire site. They are providing a connection to the existing rear retail spaces to provide ADA accessibility.

They will be adding six spaces to the existing parking area. They are reconfiguring the driveways and closing off the curbcut on Maplewood Avenue. There will be 7' brick sidewalks around the perimeter of the site. They will eliminate the existing concrete sidewalk and a grass strip and construct the sidewalks to City standard brick sidewalks. There will be all new lighting around the perimeter and will work out the details for the fixtures with the City. They did a great job with landscaping around the perimeter of the site and are adding 14 trees, ground covers and shrubs. They have raised planter beds with plantings and tree and give an enhanced pedestrian feel along the frontage. Bike racks were an important item requested by staff. They have 10 bicycle staples on site. In addition they are providing 20 bicycle storage spaces inside for tenants.

At the intersection they will provide 325 s.f. of the parcel to realign the intersection at Raynes Avenue. Trash was a big discussion topic at TAC and DPW. They are providing in the rear three dumpsters at the request of DPW. Two are for trash and one for recycling. At the corner, the screen wall doors will hinge and slide open along the street for clear access for Waste Management vehicles. Additionally, they relocated the transformer and it is screened

Mr. Crimmins reviewed the detailed Grading, Drainage and Erosion Control plan. They are providing a low impact design stormwater management system. All roof run-off will be collected into an underground detention system located below the parking area. It is clean run off but to meet the State requirements they are required to treat that so they are also providing a stormwater treatment unit prior to discharge to the street. Staff had concerns with volume and wanted them to find ways to infiltrate even further so they are providing porous asphalt to the exposed parking spaces and they have incorporated a rain garden for run-off to be infiltrated. This was, again, another big topic of discussion with DPW about impacts of stormwater from the development to the neighborhood infrastructure. They provided a detailed drainage analysis that addressed off-site impacts. The improvements will help with the current system. Currently the parking area discharges upstream in the system and they are taking the drainage and discharging it further down stream so it can get out quicker to help improve the Vaughan Street infrastructure.

On Sheet C-5, Utilities, he identified the various utilities in color. There are two sewer connections to the street. One connection is for the first floor commercial, they are providing two grease traps for future potential restaurants, they are providing a separate connection for the residential units. The Project will produce 16,410 gallons per day of flow. Those flows were provided in a Memorandum to the City Engineer as part of TAC and will also be submitted to the State as part of their sewer connection permit. They are providing a floor drain in the trash management area with a trap as well.

Regarding water, they tried to avoid entering into Maplewood Avenue as it is the major telecommunications artery for the entire seacoast. The one that they did feel comfortable with, because they can get it down low enough, and they were mandated by DPW, is the proposed water. They are providing two separate connections. One is for domestic and one is for fire. As a result of the realignment of the intersection they also have to relocate a hydrant further down. Telecommunications will feed off an existing manhole. Unitel will tap off of Raynes Avenue. They have coordinated with PSNH and they designed their building and parking lot around the PSNH transformer and will loop into it.

Off-site sewer was a big coordination item with DPW. The applicant is making a big contribution to the City by installing over 765 linear feet of new sewer pipe, new manholes, and upgrades to the infrastructure in Raynes and Green Street.

They provided a separate sheet for the off site sewer improvements and the next plan is the intersection realignment off site improvements. Everything off site will be constructed to City standards standards.

The realignment started as part of their traffic coordination with the City. The City requested a 3rd party peer review so this study has been vetted very thoroughly over the past year. The current intersection is very wide. The improvement is to make the intersection more of a 90 degrees "T". Given they do not know what may or may not occur on the other side, or where the neighborhood may be heading, they have agreed to provide permanent improvements on their side of the street for the alignment and have also provided interim improvements that could be removed if the intersection was improved in the future. They would provide a new tipdown ramp and crosswalk, a median island to provide a place of refuse, striping consistent with current bike lane, and they would delineate the pedestrian path. Some of the more recent revisions are a result of their meeting with PT&S last week.

Mr. Pennington made closing statements. He stated that they agree with the stipulations in the Staff Memo. The only one of concern is #1, regarding a variance. The first approval they received in November of last year was a variance from the Board of Adjustment. That allowed for a small portion of their parking to be exposed to the street. That variance is a year old but their understanding is a little different than the Staff Memorandum and they believe a recent statute in the State of NH has extended variances beyond what the City ordinances state. Their attorney, Peter Loughlin, was present to further discuss that if requested.

There were three stipulations regarding parking, two regarding lifts and one regarding shared parking. Since starting their projects and meeting with their neighbors, they have heard loud and clear that parking is a major concern. They feel the ordinances are contradictory, and difficult to explain to a lot of people who have concerns. The ordinance wants a first floor that is all commercial space but in the downtown overlay district there is also a certain prohibition on excessive parking. It is a stated goal in relaxing or prohibiting parking in the Downtown Overlay District that the existence of private shared parking facilities is a reason for a relaxation of that standard. They meet the ordinance but have been looking for strategies to improve parking. The first thing they did was investigate shared parking. Their residents will mostly vacate the eastern side of the property during the daytime. They came up with the concept of adding parking lifts. This is not a new concept and, conceptually, TAC was on board with them. This would allow them to exceed the ordinance requirements. They estimated approximately 50 lifts would be utilized. The spaces along the rear would not have lifts for aesthetics from the outside and for those vehicles that would not fit on the lifts. They would not have to modify the building at all as they had a little extra height in the parking area. They also would work out an operating and maintenance plan.

There are a lot of details in this plan and they have their entire project team present to answer any questions that the Board may have.

Mr. Gladhill if all tenants would have parking on this portion of the lot without having to use the existing parking lot. Mr. Pennington confirmed they would.

Councilor Novelline Clayburgh asked if they would need to have an employee present to work the lifts. Mr. Pennington responded that they would initially. This will be private to the residents and there would be a training session for them to learn how to use the lifts themselves.

Ms. Moreau was confused about how many units the project will actually have. She has seen 70, 71 and 72 in different places. Mr. Pennington explained that the number of units is really a function of the parking count. The current parking count allows for 72 units.

Mr. Ledux was curious about the parking spaces being added along the streets but noted there was no street parking along Vaughan, across from Green Street. Mr. Pennington explained that it was the City's decision but when they aren't striped you actually get a few more cars in.

Mr. Barker wondered why, under the project mitigation, there was some required pedestrian system and public street to be done and they only agreed to pay half of the \$65,000 that was necessary. Mr. Pennington felt they are the first project out of the gate and bearing half of the cost of pedestrian improvements that are a block away seems fair to them. Since that time they conceded with regard to the intersection improvements. He felt that other projects will be developed shortly after them. He also pointed out that RSG, the independent traffic engineer, agreed in one of their responses. Mr. Barker asked if the upgrades are required without their development.

Nick Sanders, of VHB, the Applicant's Traffic Engineer. RSG noted approximately 5-6 locations within the project area that some pedestrian improvements could be made. There may be sidewalks on either side of an intersection but no crosswalk or tipdowns. RSG made the recommendation that the applicant look at those pedestrian improvements. But, certainly, those are existing deficiencies and those are pedestrian routes that would benefit today with or without this project. They felt 50% of that cost estimate would be a very reasonable contribution. In addition to that, there is the realignment of the Raynes/Maplewood intersection as well as a fair share contribution to the future signalization at Vaughan and Russell.

Councilor Novelline Clayburgh asked how many driveways are there in total. Mr. Crimmins stated there are currently three driveways and they are taking one away and sliding the other two out a little to improve access management. None are on Maplewood Avenue.

Ms. Moreau referred to the traffic study. Looking at the numbers of new people exiting the building they accounted for 25 but they are talking about 72 units with possibly two people per unit. She felt 24 seemed like a rather small number and she wondered where the numbers came from. Mr. Sanders responded that the trip generation numbers they used are based on standards from the Institute for Transportation Engineers Trip Generation Manual. Those are standards that consultants use for methodology on all traffic impact studies. Those are the peak hour trips of the adjacent street system and that figure is for a one hour period. There are also complimentary uses on the site so some people may only be walking down to the commercial first level. There are a number of reasons but he would point out that they use national standards. Ms. Moreau asked what the peak hours were that they used. Mr. Sanders confirmed they connected traffic counts during 3 conditions: Weekday morning, weekday

evening and Saturday midday. That count data revealed that the morning peak was generally at 8:00am, the weekday evening was at 5:00 pm and Saturday midday was at 12:00 noon.

Mr. Hopley felt that the drawings have a lot of information and he was intrigued with the underground detention system. He got hooked on elevations and he could not find a reference elevation for the building. Mr. Crimmins referred him to Sheet C-4, showing proposed contours of topography. The parking lot slopes up from the entrance. That will give the second floor more height under the deck which allows more space for the lifts. Underground detention is about 700' of 36" HDPE pipe with 3' of cover. All roof drains are all tied into the system to collect and detain and slowly release the water out of it at a controlled rate. The first 1" of run-off will be diverted into the stormwater treatment unit. Mr. Hopley asked if it was sheet flow going towards the driveway. Mr. Crimmins confirmed that it was but it was covered.

Mr. Gladhill asked about the BOA approval and the State statute that protects its expiration. Attorney Loughlin indicated that he sent a letter to the Planning Director regarding that. The statute was adopted on August 19th, 2013 and it was expanded for variances and special exceptions. This is the result of the builders lobby in response to what has happened over the past few years with the economy where a lot of projects getting approvals but are not getting financing. There was an effort to extend the length of approvals. In terms of variances, Section 674.33.1-a, stated "Variances authorized under paragraph 1 shall be valid if exercised within two years of final approval or as further extended by local ordinance or by the Board of Adjustment for good cause, provided that no such variance shall expire within six months after the resolution of the Planning application relying upon the variance."

Mr. Taintor felt that City Attorney Sullivan and Attorney Loughlin should be able to work this out.

Mr. Barker went back to the Traffic Impact Study and the national standards. He was surprised there wasn't more of an impact. He asked Mr. Sanders to shed more light on the national standards and if there is a lot of public transportation that is being factored into that. Mr. Sanders confirmed that the overall site is composed of apartments, shopping retail and quality restaurant. There is the component of shared strips which is based on NCHRP Report 684, which does account for internal capture between the land uses. There is an 8% internal capture in the morning, 37% in the weekday evening and 38% in the Saturday midday condition. Another component is pass-by traffic, based on the same ITE database. That accounts for 14% of the overall traffic in the morning, 43% during the weekday evening and 43% during the Saturday midday. Those are trips that are already travelling along the adjacent street and would go into the retail or commercial uses on the first floor. He pointed out that RSG has reviewed the traffic impact study and are in overall agreement with the trip generation numbers. They did take a look at what would be reasonable to use for a New Hampshire urban area and they used relatively low numbers for public transit and pedestrians. He feels these numbers are reasonable.

Mr. Barker asked how much the overall traffic impact had on their assessment to pay 50% of the sidewalk improvements contribution. What if the volume doubled and they were only half right, would they consider increasing their contribution. Mr. Sanders felt that the vehicle trip generation is not as tied to the pedestrian improvements as the amount of pedestrian traffic generated by the site. In order to do a detailed evaluation of what a fair share estimate would be for those pedestrian improvements, they would need a basis of how many pedestrians were going on all of the corridors and estimate the amount of pedestrian traffic that the development would generate and do a fair share done on that. He would expect the amount of pedestrian traffic, based on the existing, is going to less than a 50% increase. He felt the contribution of 50% was very generous and based on vehicular trips and that

was the basis for the impact fee to the signal improvements at Market/Russell. Mr. Barker felt that more traffic would put more pedestrians at risk so they really are related.

Mr. Taintor stated that he relied on their transportation planner and RSG but was perplexed by the fact that the comparison of the build and no build situation shows no additional traffic going in or out of Raynes Street at the intersection. Mr. Sanders confirmed that the change was very small. A big factor was the pass-by traffic. Mr. Taintor asked if the traffic generated by the development on the Vaughan Street side is entirely residential traffic so there would be no pass-by impact. Mr. Sanders pointed out that there are essentially three access points away from the site, one is Green Street to the north to Russell, one is Market Street which goes towards I-95, and one heads downtown from Vaughan Street. It is probably more desirable to access the downtown via the other side of the site as opposed to going down Raynes. Therefore, the Raynes intersection doesn't experience a significant amount of the overall site generated traffic.

Mr. Taintor mentioned the partial set of revised plans they received by e-mail on Monday. He asked if DPW has commented on those plans. Mr. Crimmins stated that the last response they received from David Desfosses was regarding the back flow preventers and they have not received a response from Terry Desmarias on what their preferred preventer is. He stated they will continue to closely coordinate all details with DPW. Once they receive those responses, they will update the sheets and submit them for final DPW approval. The details will all be the same, on site and off site, all built to City standard. They are open to a stipulation that they continue to work with DPW until all details are approved.

Mr. Taintor noted that the parking lifts were not included in their plan submission. Mr. Crimmins confirmed they will include them in the plan set.

Mr. Taintor felt that the shared parking plan was a little confusing because the requirements of the ZO are that the residents have 104 legal parking spaces. The point of proposed Stipulation #9 was that the shared parking plan must have a provision as the lifts are not legal spaces. They need to figure out how to draft that shared parking plan so that somebody who needs a parking space has a parking space.

Mr. Pennington stated they have done a lot of research on this. They don't know who their commercial tenants are so it's hard to finalize the shared parking plan. It also needs to be somewhat flexible and will need to evolve over time. Mr. Taintor felt they were essentially displacing all of the existing commercial parking spaces by assigning those existing spaces to residential units. Mr. Pennington confirmed they will provide for all of their tenants but it may have to be somewhat flexible. They have seen guides and approximations but they cannot pin point everything precisely. They are trying to far exceed City requirements.

Mr. Taintor confirmed they submitted a new set of plans today on CD, he knows the Raynes intersection is different than what the Board has, and he assumes the six sheets submitted on Monday are also different. He asked what other differences are there that the Planning Board has not see, if any. Mr. Crimmins stated that the constant revisions of the details through the coordination with DPW and the intersection realignment will be included in the final plan set but otherwise there have been no other changes.

Mr. Taintor referred to the renderings from the beginning of the presentation, the light standards have changed since the plan was drawn. Ms. DeStefano stated that those renderings were done for the HDC and have not been updated. They are being used for intent of scale, massing and building detailing.

Mr. Taintor noted that the trees have been pulled forward as a result of TAC review. Their renderings will all be updated.

Mr. Hopley asked about PT&S and asked why it was better to have the longer crosswalk in the street. Mr. Taintor explained the reason was that they were thinking ahead. This plan is just to get the pedestrians across the street from this development and when another development comes in, it will be redone.

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

Chris Ryder, 105 Whipple Road, Kittery, Maine. Mr. Ryder is the Executive director of 3S Artspace, located in the building directly behind this development. He stated that much of what was being discussed was way beyond his depth but he wanted to speak in support of the project as a neighbor and stakeholder in this area of Portsmouth. They have been paying keen attention as this project evolved and it has been a really great example of the applicant working with neighbors, stakeholders, City Staff and Boards and it is reflected in the design that has evolved from November of last year. They are excited as a neighbor to this project.

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. Taintor noted that he omitted in his memorandum that they need a vote that the application is complete.

Ms. Moreau made a motion that the plan is complete. Mr. Hopley seconded the motion. The motion passed unanimously.

Deputy City Manager Allen made a motion to postpone this application to the next meeting. Mr. Gladhill seconded the motion.

Deputy City Manager Allen was indicated that he was really close to the approval of this project and it has been an intensively scrutinized project, but he feels there are questions. A new set of plans came in on Monday and they continue to work with DPW and staff and he would feel more comfortable seeing a final set of plans.

Mr. Hopley stated that they have 11 proposed conditions and he would like to see those trimmed down and make the approval a little cleaner. He felt it was a little late for the Fire Department to approve the lifts, under Condition #8, and that should be done before the building permit is issued. He felt they need to flush out any issues with the Fire Department in terms of building plan review. Also proposed condition #11 and he felt it was great that they were requiring an oversite engineer but he felt they needed it at the beginning of the site development process and not at the issuance of the CO. He felt this project was almost there and he applauded the design team for all of the effort they have made to work with the City.

The motion to postpone Site Plan Review to the next monthly Planning Board meeting passed unanimously.

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III. CITY COUNCIL REFERRALS

A. Letter from Steven Wilson, for property located at 143 Daniel Street, for exchange of easements.

Mr. Gamester recused himself from this item.

Mr. Taintor explained there was a plan included in their packets showing the easements. The developer, Steve Wilson, has come up with a plan that has been reviewed by TAC and will probably be before the Planning Board in December. The design rests on having two small slivers of easements. One easement is from the City on the Memorial Bridge side of the property to enable him to have underground parking. In return he is proposing to grant to the City an easement on the Chapel side to allow a wider sidewalk and a narrow easement on the Daniel Street side of the sidewalk to bring it up to the proposed planters.

Because this is a chicken and egg situation, he suggests that the Planning Board vote to recommend that the City Council approve the exchange of easements contingent upon Site Plan approval by the Planning Board. That would allow Mr. Wilson to go to the City Council, get the City Council’s blessing and then come back to the Planning Board for final Site Plan approval. .

Councilor Novelline Clayburgh made the above motion. Mr. Rice seconded the motion.

The motion to recommend that the City Council vote to approve the exchange of easements with the property at 143 Daniel Street as generally indicated in the November 12, 2013, letter from Steven Wilson, subject to final Site Plan Approval by the Planning Board passed unanimously.

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IV. OTHER BUSINESS

A. Appointment of Capital Improvement Plan Sub-Committee.

Chairman Ricci, William Gladhill, Colby Gamester were appointed. The meeting will be held on December 4th at 11:30 a.m. in the Planning Department.

Mr. Rice made a motion to appoint the above members. Mr. Hopley seconded the motion.

The motion to appoint Chairman Ricci, William Gladhill and Colby Gamester to the CIP Sub-Committee passed unanimously.

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V. PLANNING DIRECTOR’S REPORT

- 1. FBZ is being deferred to at least January. They will regroup and try to get the public involved.

2. Proposed development of the Sheraton Harborcorp vacant lot. Plans should be submitted for their December meeting for design review. It will be a complex project which will require HDC approval. If the application is filed, he is proposing a public hearing in December and then continuing the public hearing to the January Planning Board meeting so enable them to conduct a joint work session on January 9th with the HDC and EDC.

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VI. ADJOURNMENT

A motion to adjourn at 9:26 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 April 17, 2014.