

**MINUTES OF MEETING  
SITE REVIEW TECHNICAL ADVISORY COMMITTEE MEETING**

**2:00 PM**

**APRIL 1, 2014**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS  
MUNICIPAL COMPLEX, 1 JUNKINS AVENUE  
PORTSMOUTH, NEW HAMPSHIRE**

**MEMBERS PRESENT:** Rick Taintor, Chairman, Planning Director; Peter Britz, Environmental Planner; Nick Cracknell, Principal Planner; Juliet Walker, Transportation Planner; Peter Rice, Director, Public Works; David Desfosses, Engineering Technician; Jared Sheehan, Engineering Technician; Patrick Howe, Fire Inspector, Fire Department; Aaron Goodwin, Police Department and Michael Schwartz, Captain, Police Department

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The Chair called the meeting to order.

**I. OLD BUSINESS**

A. The amended application of **2422 Lafayette Road Associates, LLC**, for property located at **2454 Lafayette Road (Southgate Plaza)**, requesting Amended Site Plan Approval to demolish 21,022 ± s.f. of existing retail space, add 11,000 ± s.f. footprint of new retail space to the existing retail/restaurant strip building, add a rain garden at the rear of the site, to replace the previously approved porous pavement in the rear of the site with a gravel pad for a garden center, and make related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 273, Lot 3 and lies within the Gateway District. (This application was postponed at the March 4, 2014 TAC meeting).

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Gregg Mikolaities, of Tighe & Bond, appeared on behalf of the Applicant. Also present was Gregg Halsey, of Tighe & Bond. They were last before the Committee last October and improvements have been on-going. Today they are looking for modification in the northwest corner of the site. When the Big Lots lease expires, their plan is to cut back the front of the building and bring it more in line with the cinema, add additional parking and an additional retail building. They have relocated the porous pavement and created a rain garden. There is a net reduction in the building square footage of 10,022 s.f.

A revised drainage study and traffic study were both submitted in the fall. Based on discussions last fall, there was a condition to dredge and re-seed the swale on Constitution Drive, replace the water culvert underneath the Water County driveway with an 18" to a 24".

The Committee has had the benefit of seeing this plaza in operation and it's improvements and it is nice to see the Southgate Plaza revitalized.

Mr. Desfosses asked if they are repaving everything on the driveways except the first 10' as you come out of the property. It almost appeared like they have a stop pavement line right at the right-of-way line rather than going to the asphalt road. Mr. Desfosses wanted to understand exactly what will be paved and he assumes they would not leave 10' of old asphalt. Mr. Mikolaities indicated they can make it a condition of approval that they will pave all the way out. Mr. Desfosses also indicated he will not make them obtain a driveway permit. Mr. Taintor confirmed that the condition should read that the paving will go out to City Street rather than having the saw cut 10' away from it.

Mr. Desfosses still had concerns about the Southgate Plaza signal light. It does not seem to be working very well, it's old and needs replacement. That is his only issue. Mr. Taintor asked about the status of the signal. Mr. Desfosses indicated there are several loops broken and the will be State will fixing those when springtime comes. The problem is that the cabinet and wiring is very old and is susceptible to breaking constantly. He feels the applicant should be responsible for contributing money to upgrade the traffic control cabinet at that intersection. Mr. Rice asked how much Mr. Desfosses thought an appropriate contribution would be. Mr. Desfosses was not sure how much a traffic control cabinet costs but probably \$15,000 – \$20,000. The cabinet is on the edge of the road, it is susceptible to salt and water gets in from the roadway and reeks havoc. He knows that NHDOT would really like a new one.

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

## **DISCUSSION AND DECISION OF THE COMMITTEE**

Mr. Desfosses made a motion to recommend amended Site Plan approval. Deputy Fire Chief Roediger seconded the motion. Mr. Desfosses requested a stipulation that the driveway paving will go all the way out to Constitution Avenue. (Mr. Mikolaities indicated that was on Sheet 3-B) Mr. Rice asked if they need to go out to Route 1 to close that difference as well. Mr. Desfosses believed that was already paved. Mr. Desfosses asked if they have put a final overlay on the plaza yet. Mr. Mikolaities stated they have not. Mr. Desfosses asked when they pave the final overlay, will they start at Route 1 and pave the whole thing. Mr. Mikolaities confirmed they will.

Mr. Rice requested that the previous stipulations are still standing regarding the insulation of the culvert and maintenance of the drainage swales. Those were enumerated in their cover letter. Mr. Desfosses felt that culvert is so shallow they may need to spec an RCP culvert that doesn't have bells.

Mr. Rice felt this was frustrating because they are dealing with a project that has been complete in a number of stages. Each time they come back they discern additional impacts, such as the traffic light based on the traffic patterns that have been created. There are mitigation efforts that would be appropriate and he felt it would be appropriate to consider a contribution to the NHDOT traffic maintenance of \$15,000 for mitigation for additional traffic. He made that a stipulation.

Mr. Taintor stated that when this project was initially approved in September of 2013, there were four stipulations. One stipulation was retaining the use of the porous asphalt and that has been superseded by these plans. The remaining three stipulations would include replacing the culvert across the Water Country drive and repair the drive, dredge and replace the swale across Constitution Avenue to drain water off site to the satisfaction of DPW and show a minimum of 7' of sidewalk along the new retail building.

Mr. Rice stated there were other stipulations that have been dropped as well. Mr. Taintor mentioned the porous pavement stipulation and the drainage participation on Banfield Road which was dropped as well. He just wanted to point out that there has been some give and take on this project on behalf of the City and it is not all “take”. Mr. Desfosses agreed that it was mostly “give”.

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

1. Replace the culvert across the Water Country drive with an adequately sized culvert during Water Country’s off season, and repair the drive.
2. Dredge and replace the swale on Constitution Avenue to drain water off site to the satisfaction of the City of Portsmouth Department of Public Works.
3. Show a minimum of 7’ of sidewalk width along the new retail building.
4. The driveway paving shall extend out to Constitution Avenue.
5. A \$15,000 contribution to the NHDOT for mitigation for additional traffic shall be payable to the State as directed by the Director of Public Works.

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B. The application of **Carol S. and Joseph G. McGinty, Owners**, and the **Frances T. Sanderson Revocable Trust and Lynn J. Sanderson Revocable Trust, Paul G. Sanderson, Trustee, Owners**, for property located at **300 Spinney Road and off Spinney Road**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested between two lots as follows:

- a. Lot 6 on Assessor Map 169 decreasing in area from 30,000 s.f. to 28,363 s.f. and with continuous street frontage on Spinney Road decreasing from 150 ft. to 132.54 ft.
- b. Lot 24 on Assessor Map 170 increasing in area from 181,725 s.f. to 183,362 s.f. with 139.06 ft. of continuous street frontage on Middle Road.

Said properties are located in the Single Residence B (SRB) District which requires a minimum lot size of 15,000 s.f. and 100 ft. of continuous street frontage.) (This application was postponed at the March 4, 2014 TAC meeting).

C. The application of the **Frances T. Sanderson Revocable Trust and Lynn J. Sanderson Revocable Trust, Paul G. Sanderson, Trustee, Owners**, and **Spinney Road Land Holdings, LLC, Applicant**, for property located **off Spinney Road and Middle Road**, for Preliminary and Final Subdivision Approval to subdivide two lots into five lots with a new public right-of-way, with the following: Lot 5 on Assessor Map 167 having 263,937 s.f. (6.06 acres) and Lot 24 on Assessor Map 170 having 183,362 s.f. (4.21 acres), to be consolidated and subdivided into five separate lots ranging in size from 15,500 s.f. (0.36 acre) to 352,414 s.f. (8.09 acres), and all with a minimum of 100 ft. of continuous frontage on the proposed public right-of-way. Said properties are located in the Single Residence B (SRB) District which requires a minimum lot size of 15,000 s.f. and 100 ft. of continuous street frontage. (This application was postponed at the March 4, 2014 TAC meeting).

D. The application of **Frances T. Sanderson Revocable Trust and Lynn J. Sanderson Revocable Trust, Owners**, and **Spinney Road Land Holdings, LLC, Applicant**, for property located **off Spinney Road and Middle Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within a wetland buffer to install a rain garden of which a portion is within the wetland buffer, with 3,120 s.f. of impact to the wetland buffer. Said property is

shown on Assessor Map 170 as Lot 24 and lies within the Singe Residence B (SRB) District. (This application was postponed at the March 4, 2014 TAC meeting).

Deputy Fire Chief Roediger made a motion to postpone all three applications to the next TAC meeting. Mr. Desfosses seconded the motion.

The motion to postpone all three applications to the April 29, 2014 TAC meeting passed unanimously.

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E. The application of **The Aphrodite Georgopolous Revocable Trust of 1999, Owner, and Seacoast Trust, LLP, Applicant**, for property located at **1900 Lafayette Road**, requesting Site Plan approval to construct two medical office buildings: (1) a 2-story building with a footprint of 12,150 s.f. and gross floor area of 21,000 s.f. plus a 10' x 60' MRI coach, and a proposed 2,050 s.f. future MRI addition to the building; and (2) a 2-story building with a footprint of 10,000 and gross floor area of 20,000 s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 267 as Lot 8 and lies within the Office Research (OR) District. (This application was postponed at the March 4, 2014 TAC meeting)

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Peter Weeks appeared on behalf of the applicant, Seacoast Trust, LLP. Also present was Corey Colwell, of MSC Engineers and Land Surveyors. Mr. Weeks pointed out that the legal notice states this is to build two medical office buildings however at this time they are only planning a general office building in the rear of the lot.

At the last TAC meeting they were asked to look at a number of things which they have done and have been included in the revised plans of February 19<sup>th</sup>. They identified the list of trees to be removed from the front of the site. The second item was to provide a sewer pump station design and they are looking into a gravity feed to Lafayette Road for the front office building with would eliminate the need for a pump station. They changed the bike rack to the City preference. They have worked with Peter Rice about doing drainage study 3<sup>rd</sup> party agreement which they will undertake as soon as the independent is chosen. They provided the pedestrian access between the two buildings as requested. Although their traffic engineer, Steve Pernaw, and NHDOT agree that a left hand turn exit would work in their estimation, they are reluctantly removing that as there is not sufficient support from the TAC committee for the left turn lane. That doesn't mean they won't come back in five year but at the present time they will eliminate it from the plan. Mr. Weeks believes they completed all items requested of them other than the 3<sup>rd</sup> party review of the drainage study and final sewer line hook-up for the front and rear building.

Mr. Taintor confirmed that the February 19<sup>th</sup> plans that the Committee has do not have the changes that Mr. Weeks reviewed. Mr. Weeks confirmed that the plans include all changes except for the left hand turn driveway. When they come back with the new sewer layout and any change in drainage they will remove that turn.

Mr. Taintor reiterated that the plans need to be very clear before they go to the Planning Board, showing what they are committing to do this year and what they are committing to do next year. They

will need very clear timelines for completing the second building and the entire second part of the project. This will not be an open ended approval.

Mr. Weeks also indicated that they are still discussing the completion of the service road and land behind the site. Mr. Taintor confirmed that was part of what he was referring to.

Mr. Desfosses asked Mr. Colwell for a full set of plans to submit to the 3<sup>rd</sup> party engineer.

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

**DISCUSSION AND DECISION OF THE COMMITTEE**

Mr. Desfosses made a motion to postpone to the next TAC meeting. Mr. Rice seconded the motion.

The motion to postpone Site Plan Review to the April 29, 2014 TAC meeting passed unanimously.

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F. The application of **Ertugrul Yurtseven, Owner**, for property located at **292 Lang Road**, requesting 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. (This application was referred to TAC by the Planning Board at the January 23, 2014 Planning Board Meeting and postponed at the March 4, 2014 TAC meeting)

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Christopher Berry, of Berry Surveying and Engineering, was present along with Christian Smith, of Beal Associates.

Mr. Berry stated they were asked to modify the affluent disposal systems which are proposed on each of the lots, due to the TMDL in Berry's Brook. They were asked to raise them to an elevation above seasonal high water table. These systems are advanced in nature and they provided information regarding the removal rates proposed by the manufacturer. They increased the separation from seasonal high water table. The typical application is to have 2' and they raised that to 3'. They also increased the size of each field by a row of tubes to add a level of safety in the system itself. They were asked to provide a Stormwater Maintenance Manual for the proposed bio retention areas, which they have done, as well as Stormwater Maintenance Manuals for the rest of the site regarding yards and infiltration systems and rip rap outlets. They feel they provided what they were asked to provide

at the last TAC meeting. They have since met with the Conservation Commission regarding the Conditional Use Permit that is required at the entrance of the site. They have a small conditional use area for wetlands across Lang Road. The Conservation Commission had very few questions for them except regarding the septic which TAC addressed. They also filed a Wetlands Permit Application which included the total removal rates and analysis. They haven't modified the plans in any way. They have added the easements plan sheets so that the individual owners will know what easements they will have.

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

**DISCUSSION AND DECISION OF THE COMMITTEE**

Mr. Rice made a motion to recommend Final Subdivision approval. Mr. Taintor requested that the easements are subject to review and approval by the Legal Department prior to recording the subdivision. Mr. Desfosses seconded the motion.

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

1. All drainage and driveway easements shall be subject to review and approval by the City Legal Department prior to the recording of the subdivision plan.

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**II. NEW BUSINESS**

A. The application of **7 Islington Street, LLC, Owner**, for property located at **40 Bridge Street**, requesting a second one year extension of Site Plan Approval to construct a 4 story 5,450 s.f. (footprint) mixed use building, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Site Plan Approval for this project was originally granted on April 19, 2012, and a one-year extension was granted on February 21, 2013. Said property is shown on Assessor Map 126 as Lot 52 and lies within the Central Business B (CBB) District, the Downtown Overlay District (DOD) and the Historic District.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

John Chagnon, of Ambit Engineering, addressed the Committee on behalf of the owner, 7 Islington Street, LLC. Also present was Attorney Steve Roberts. Mr. Chagnon stated these plans are similar to the plans approved by the Planning Board one year ago when they requested a 1 year extension. The plans were modifications as a result of the TAC work session held last week. They added striping at Hanover Street so the project proponents would add a crosswalk at the intersection; they revised the grease trap detail to comply with the current City standard; they provided the architectural elevations; they worked with DPW to address off site improvements. The applicant is committed to going forward with the off site improvements if this plan is approved and they have no issue with any stipulations regarding providing funds for those off site improvements and working with DPW to time the work so that it is the most efficient.

Mr. Cracknell asked them to clarify what is new from the prior approval, other than meeting the stipulations.

Mr. Chagnon stated that the cover sheet had the revised ownership change; there were no significant changes on the Existing Conditions Plan (only minor notes about utility demolition); the Layout Plan has not changed; the Utility plan had some minor revisions with the location of the sewer/water connection; Sheet C-4 was added to meet the stipulation regarding the replacement of the sewer line in the street; they added the new cross walk after doing the street overlay; they provided a profile sheet of the sewer; the details have been updated to the new brick sidewalk requirements; and they added the elevations however they are the same elevations from a year ago.

Mr. Cracknell asked if they only changes were the ownership and stipulations from the original approval. Mr. Chagnon believed that was a fair assessment. Mr. Taintor thought that 7 Islington was the owner. Mr. Chagnon indicated he may have misspoke and confirmed it is still the same entity but there is a new managing partner.

Mr. Desfosses had two comments. He indicated that this project has been approved and reapproved. The City has recently been working with the applicant and came up with an off site improvement plan which they have approved at this point. This year the Water Department will be installing new water mains in this section of road and the gas company will be installing new gas mains. These were both geared by the development of this parcel and its requirement to replace the sewer line. Right now the sewer line is inaccessible because the gas line and certain portions of the water line as he recalls and part of the telephone line are on top of the sewer and they cannot get to the sewer line to replace it. He has concerns that if the project stalls out again, the City of Portsmouth will have new water and sewer lines and gas line but they may have a road that is compromised due to the utility trenches for quite some time. Therefore, as part of the approval motion he will be making, will be, as part of a time certain guarantee, that the applicant provide a letter of credit to the City so that if this project is delayed, on September 1, 2015 they will have the letter of credit that the City can call in and use the money to overlay the street and avoid multiple winters and construction periods where the road sits in a state of disrepair.

Mr. Desfosses' second stipulation is that Bridge Street is still very much in flux and they do not know, as a Department, if they will be replacing sidewalks and putting in street lights on Bridge Street which is still part of the downtown. He will ask the applicant to install the necessary conduit in the proper place as part of the sidewalk replacement so that if the City decides to put streetlights on that side of the street the conduit will be in place and they will not have to remove the sidewalk again to put the streetlights in.

Otherwise, Mr. Desfosses confirmed that the off site plans have been approved and he doesn't believe they have any other conditions for this applicant.

Mr. Taintor pointed out that as this is a second request for a one year extension, they need to demonstrate good cause for the Planning Board. They have not addressed any reason why the second one year application should be granted.

Attorney Steve Roberts stated that this project has gone through a power struggle over the past year. After first extension approval, Mr. Kelm and Mr. DiLorenzo, the two partners, had a falling out that matured to the point where they couldn't reconcile their differences. Mr. DiLorenzo had loaned the company in excess of \$2 million, that money was not being returned, so they initiated foreclosure

proceedings. As a result of the notice of foreclosure, two things happened. The residential abutters from next door, which was originally part of the project, filed suit and Mr. Kelm filed suit. Those two law suits have been consolidated and are still pending. From May, 2013 to October 2013 there was a power struggle, highly contested litigation between the parties, and in October of 2013 sole control of the company was finally granted to Mr. DiLorenzo by the Superior Court. The lenders were very wary due to the nature of the litigation so they lost 6 months of the 12 month extension that was granted. On top of that, they also have the abutters suit which claims they are entitled to three residential parking spaces on this property. Mr. Roberts and his client believe that suit is without merit however there is a preliminary decision from the Judge stating that they can't go forward with a foreclosure as that may affect the rights of the abutters so the foreclosure has been enjoined. The Judge has also said that this project may have to accommodate the three residential tenants but the trial is not scheduled until April of 2015. That litigation took up a lot of time and energy and there is now a new lawyer, Jonathan Springer, for Mr. Kelm.

Mr. Taintor noted that there is a trial scheduled for April 2015 so they couldn't possibly do this project within the one year period. Attorney Roberts stated that was not true as they could go forward at their own peril and parking must be provided on either Bridge or Tanner Street or 51 Islington Street. They believe there are alternatives to allow them to proceed forward on this project. Mr. DiLorenzo is committed to this project and they want to get it done. He also indicated that they will appear before the HDC tomorrow night.

Ms. Walker remembered something from the last TAC meeting about resolving a building code issue regarding access and egress. Attorney Roberts confirmed that the building plans had issues with a second form of egress and those plans are being revised. That issue is all internal and does not affect the site plans.

Mr. Taintor stated that Mr. McHenry stated at the last meeting that the doors as currently shown on the site plan will not move. Mr. McHenry stated that was correct.

The Chair asked if there was anyone wishing to speak to, for or against the application.

Attorney Paul Pudlowski spoke on behalf of the abutters, Ed Carrier, Bill and Mary Brassil, and Emilee Hefner, who are the residential condo owners at 7 Islington Street. Attorney Pudlowski felt it was premature for this Committee to consider any plan because the ability of the developer to go forward with this project is totally contingent upon an extension from the Planning Board on April 17<sup>th</sup>. Absent an approval, there is no reason for them to waste their time on this project. There has been no change in ownership and it has always been 7 Islington Street, LLC. He stated he has tremendous knowledge of their development company which was formed in 2005. The operating agreement stated that Mr. Kelm and Mr. DiLorenzo were to be co-managers and both remain co-managers. This particular project in late 2011/early 2012 that obtained approvals were brought to the Board strictly by Mr. DiLorenzo. He was acting as the co-manager of the LLC at that time and he is still the co-manager at this time. Attorney Pudlowski felt it was incorrect to say there has been a change in ownership or a change in the managing partner. As he understands it, the only revisions to the plans are detail regarding street improvements that were part of the original approval in 2012. The only remaining issue is Mr. Chagnon's comment that there had been a change in the ownership of the development entity.

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



## DISCUSSION AND DECISION OF THE COMMITTEE

Mr. Taintor asked for the status of the HDC schedule. Mr. Cracknell confirmed the HDC will hear this tomorrow evening and they potentially could have a decision before the Planning Board has to act on it.

Mr. Rice asked for a point of clarification. Attorney Pudlowski pointed out that he did not feel it was appropriate for them to act on this until the Planning Board had renewed the extension yet it was his understanding that they are making a recommendation to the Planning Board on whether to renew or not. Mr. Taintor stated that was correct and added that the HDC approval actually ran out so they have filed a new application and are going for a new approval.

As Mr. Rice periodically points out, he stated they are a technical advisory committee and he asked if they need to weigh the legal issues for their technical review. Mr. Taintor believed their role was a technical role and to look at the technical issues to see if the project is appropriately designed and built, including the off site improvements, but not the policy issue of whether it can be demonstrated there is a good cause for granting a second extension. He does feel they should have strong recommendations as to when this project actually gets built, like the comments by Mr. Desfosses. They should also have recommendations regarding any further extensions. It is a little misleading because this is not really the second extension. This project has actually received 4-5 extensions as the original approval expired and they went back and started over again.

Deputy Fire Chief Roediger was concerned about if they are making a recommendation to the Planning Board how can they make a proper recommendation without considering the possible effect of litigation, given everything that is going to take place in the City streets. The bottom line is no one has answers until April 15<sup>th</sup> and given the time line to get all of this work done, he sees the cart and the horse taking two different paths. He is concerned about sending a recommendation to the Planning Board knowing everything that is going on behind it.

Mr. Rice would share his concern if they weren't stipulating a letter of credit that would cover the cost of doing the work. If the project stalls in litigation or due to initiative, they still have the ability to pave the road by using the line of credit. Therefore, he is not as concerned. Deputy Fire Chief Roediger asked, as part of all roadwork, would all proposed utilities going to the site be brought to the site so that the road doesn't have to be dug up again. Mr. Rice confirmed they would have to dig the road up but would have to restore the road when done. Mr. Desfosses stated if they don't move forward they will have to repave the road again.

Mr. Cracknell made a motion to recommend a second one year extension as amended if the Planning Board through it's own evaluation of the just cause question regarding the extension request is approved, the TAC recommends that the previously approved site plan be amended to incorporate the two stipulations of Mr. Desfosses (the letter of credit for the roadway improvements and the conduit for the street lighting be shown on the plans and incorporated into the final approval if the Planning Board approves the extension). Mr. Taintor asked if the letter of credit would also include the second stipulation. Mr. Desfosses stated that sidewalk improvements would not be included and confirmed that the original stipulation was intended to be inside the curb to curb area. It would not make sense to rebuild the sidewalk if the developer would be going to build a building there.

Mr. Desfosses seconded the motion.

Mr. Taintor confirmed the three remaining stipulations from their original approval would also be carried over.

The motion to recommend a second one year extension of site plan approval passed unanimously with the following stipulations:

1. Sewer Capacity Use surcharge data shall be submitted to DPW.
2. The applicant shall prepare a Construction Management and Mitigation Plan for review and approval by the City Manager.
3. The gate to the transformer shall be locked at all time except during maintenance activities.
4. As part of a time certain guarantee, the applicant shall provide a letter of credit to the City, in an amount determined by DPW, to be used on September 1, 2015 to overlay the street if this project has not been completed.
5. The applicant shall revise the Site Plans to include the necessary conduit in a location determined and approved by DPW as part of the sidewalk replacement, so that if the City decides to put streetlights on that side of the street the conduit will be in place.

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B. The application of **Searay Realty, LLC, Owner, and Public Service Company of New Hampshire, Applicant**, for properties located at **445 Route 1 By-Pass, off Borthwick Avenue and off Barberry Lane**, requesting Site Plan Approval to demolish an existing substation and two existing buildings, construct a new substation including a 12,250 s.f. gravel area with associated equipment and poles, and construct an adjacent mobile substation; with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 234 as Lots 2, 2A, 3 & 7-7 and lies within the Office Research (OR) District

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Gregg Mikolaities, of Tighe & Bond, addressed the Committee. Also present was Greg Halsay of Tighe & Bond and PSNH representatives. This property has two existing buildings on the Route 1 By-Pass and an existing substation. They are proposing to demolish the two existing structures and the substation and create a mobile substation in its place. 99% of the property is within the 100' buffer and they have appeared before the Conservation Commission. They are removing 17,120 s.f. of impervious area within the buffer and are completing 3,750 s.f. of buffer enhancements. They have appeared before the BOA and received approval for the use and the setbacks.

They are looking for approval for a new mobile substation. There are two existing curbcuts which will remain. They have talked to DOT and confirmed they will have to submit for a driveway permit. The second item that was discussed at the TAC Work Session was the sewer connection to the existing building. They search City records and couldn't find any records of the existing sewer service so they are happy to have a condition stating that the contractor will confirm the location of the existing connection to determine whether it can be reused and, if not, they will coordinate full removal with DPW. Because they are removing a large amount of impervious surface, the flow will be less. They have a 6' landscape berm along one side and 6' arborvitae on top of it, and they also have a 6' wall with arborvitae on top of it. They have done the best that they can to screen the substation, given their

constraints. They don't want vegetation growing underneath the existing wires so they have screened as much as they can. The substation is for maintenance and outages.

Mr. Taintor noted there is a separate Subdivision (Lot Line Revision) Plan and Conditional Use Permit Plan being presented at the Planning Board meeting on April 17<sup>th</sup>.

Mr. Mikolaities briefly reviewed the Lot Line Revision Plan. He explained there are three lots and they are moving one boundary.

Mr. Britz noted that Mr. Mikolaities mentioned that they will be planting conservation seed mix but he does not say how that will be maintained. He asked if there was a plan to mow it annually or not at all. Mr. Mikolaities stated that they typically mow annually and they will add that to the plans. Mr. Britz requested that it be worded as no more than once annually. He also mentioned that there are a lot of fragmities and other invasive species adjacent to that area so he asked them to make an effort to keep them out of the new conservation seed mix area.

Mr. Rice asked about dealing with fragmities and if there are special requirements that are included to make sure they really get the root systems out and dispose of them in a manner that does not potential spread the fragmities elsewhere. Mr. Britz confirmed that there are requirements but he is not sure they are getting into those areas. They are mostly replacing lawn areas with the conservation seed mix.

Mr. Sheehan asked about the oil/water separator and if there will be any maintenance on that. Kevin Duhaime of PSNH stated that they will do an annual inspection. Mr. Sheehan wondered if they should move it closer to the road on the other side so they have access to it. Mr. Rice encouraged them to make it accessible because things that are not accessible tend to not get maintained. Mr. Duhaime confirmed that they make an effort to make sure the manhole is accessible year round. There are gates on the other side which big tankers will fit in to reach it.

The Chair asked if there was anyone wishing to speak to, for or against the application.

John Whiteman, of 26 Foch Avenue, was concerned about the size of the project and its proximity to houses in his neighborhood. He felt that electricity substations are by their nature not the prettiest site in the world. They live in a small rural neighborhood, consisting of 11 houses. Most residents on Barberry Lane have lived in their homes for years. There is a concern for environmental and health impacts from background hum and EMF emissions. They understand that PSNH will demolish several buildings and provide screening from the Route 1 By-Pass but there are no plans for screening to the neighboring properties in the rear. They submit there area more optimum sites for a substation of this scale.

Ms. Walker asked if they can currently see the existing structures from their property. Mr. Whiteman confirmed that they can.

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

## **DISCUSSION AND DECISION OF THE COMMITTEE**

Mr. Rice made a motion to recommend Site Plan approve with stipulations. He asked for a clarification from PSNH. He asked if the replacement of the existing substation was an increase of

capacity and they were pushing farther away. He asked if the transmission lines were being upsized as a result of that. He wanted to know what the material change to the distribution system resulting from this project.

Mike Buzbee, Portsmouth Engineer for PSNH. The EMF is going to be reduced by this project because it will be a different voltage being supplied by this substation. The existing substation is a small 4-KB substation. They are putting in a larger substation but it is still going to be one transformer. This would be considered a small substation in modern terms. The new substation will be further away from his house than the existing substation. They are changing the line that feeds it, which is what he will see the most. The structures will be taller but there will be less structures and they will be further apart from each other. There will be a higher voltage which will decrease the EMF because there will be less current. They are improving health and safety and this will be built to modern standards. The oils in the transformers are far less and are more like a mineral or vegetable oil. They will have a better retaining system. The existing station is an old '50's vintage sub-station with very little capacity. This will tie into all of the existing circuits in downtown Portsmouth and the greater Portsmouth area to increase reliable and provide more capacity that is needed due to all of the growth in the area, and not just in the downtown, but with homes in general.

Mr. Rice noted that the existing buildings don't show up on the plan. Mr. Buzbee showed where the existing buildings were. He stated there will be a transformer and structures for the lines that come but there will be less physical structures. Again, it is a one transformer substation with a metal clad switching station where the breakers will go. Mr. Rice asked if there would be any storage. Mr. Buzbee stated it was just for the sub station itself.

Mr. Britz seconded the motion. He stipulated that the wetland buffer enhancement area be mowed not more than once a year. Second, that the site, especially the wetland buffer enhancement area, be monitored for invasive species and that they be removed to keep it as a natural wetland buffer.

Mr. Desfosses asked, in the interest of aesthetics, if it would be possible to put in a black vinyl chain link fence so that it would be more pleasing to those driving down the by-pass.

Mr. Rice referred to the screening question of the abutter and asked if there are there options for additional screening on the back side. Mr. Britz believed they are getting the view down the power line corridor so they could put some more arborvitaes or possibly some native plants. They could also consider some trees, off of the power lines, in the wetland enhancement area. Mr. Mikolaities believed the neighbors actually sit up and look down at the property so he wasn't sure there was anything they could do.

Ms. Walker suggested some investigation prior to the Planning Board meeting so that they would have some information before making their determination. Mr. Taintor felt that would be good.

Mr. Taintor asked Mr. Mikolaities to respond to the question about a black vinyl fence. Mr. Mikolaities stated that is not standard for them. They need standard pieces in their yards and that is something that they don't carry. Mr. Rice was okay with stipulating it anyways. Mr. Duhaime stated the galvanized tight mesh was their standard utility fence which involved grounding. They use the tighter mess to avoid the public climbing the fence and they use it all over the State.

Mr. Taintor stated they understand what the concern is so if there is something that is non-standard that they can propose before the Planning Board meeting, that would accomplish the same thing for

screening. Mr. Duhaime felt that was what they were trying to accomplish with the arborvitae. Ms. Walker confirmed that the stipulation would be a black vinyl fence or a suitable alternative to provide better aesthetics, as determined by the Planning Board.

Mr. Mikolaities mentioned the two stipulations that he suggested regarding the sewer connection for the contractor to confirm, and the other was the DOT curb cut.

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

1. The wetland buffer enhancement area shall not be mowed more than once a year.
2. Any invasive species in the wetland buffer enhancement area shall be removed.
3. The applicant shall investigate screening options for the abutters to the rear for the Planning Board to consider in its deliberation.
4. That a black vinyl fence, or a suitable alternative, shall be substituted to provide better aesthetics, as determined by the Planning Board.
5. The contractor will locate the existing sewer connection to see if it can be reused; if not, the applicant shall work with DPW for the placement of the new sewer connection.
6. The applicant is required to obtain a driveway permit from NHDOT.

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C The application of **Portwalk HI, LLC and Hanover Apartments, LLC, Owner**, for property located at **195 Hanover Street** (Portwalk, Phase III), requesting Amended Site Plan Approval for 25 itemized revisions including, but not limited to, increased floor area for restaurant, residential and retail uses; reduced number of off-street parking spaces; relocation, addition and removal of various doors; addition of gas regulator and enclosure and planters along Deer Street; modified screen wall along Maplewood Avenue; relocation of transformers on parking deck; addition of 4<sup>th</sup> grease trap on Portwalk Place; and addition of access controls to both parking levels; 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.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Gregg Mikolaities, of Tighe & Bond, was present along with Gregg Hasley of his office, Tim Levine, of Old Harbor and Attorney Peter Loughlin. Mr. Mikolaities stated that, at the TAC work session last week they provided an updated list of each amendment request and the status of whether they have been installed or have not been installed. These changes before them today are to coordinate the final architectural details, final building design details and clean things up. Mr. Mikolaities reviewed the itemized changes:

1. Revised the 3,070 sf restaurant space to 4,600 sf by expanding the restaurant along Hanover Street. This has not been installed. It is pending Site Review and HDC approvals.
2. Relocate the 4,600 sf restaurant entrance at the corner of Portwalk Place/Hanover Street further north up Portwalk Place (Sheet C-5A). This has not been installed. It is pending HDC approval.

3. Revised the 2,860 sf residential lobby to 3,454 sf. Total residential ground floor use is 9.3% as shown on the residential ground floor use calculation. This was installed per the architectural calculations from the building permit.
4. Revised the 4,060 sf retail to 4,317 sf. This was installed.
5. Added door along Portwalk Place to the 4,317 sf space. This has been installed and is awaiting HDC approval.
6. Revised three door entrances along Portwalk Place for the 4,317 sf retail to a single door per building drawings. This has been installed and is awaiting HDC approval.
7. Removed door to the 4,317 s.f retail in the port cochere. This has been installed and is awaiting HDC approval.
8. Added additional door to the parking deck for the 4,317 sf retail space. This has been installed and is awaiting HDC approval.
9. Removed stop legend and arrow from the port cochere per architectural paving pattern. This has not been installed pending Site Plan approval.
10. Added entrance/exit gate for the parking deck per building drawings. This has not been installed pending Site Plan approval.
11. Revised three door entrance to the hotel along Portwalk Place to double door. This has been installed and is awaiting HDC approval.
12. Revised the 12,050 sf hotel to 11,789 sf. This has been installed.
13. Revised the 2,150 sf retail to 2,809 sf. This has been installed.
14. Removed double door to 2,809 sf retail along Deer Street. This has been installed and is awaiting HDC approval.
15. Added single doo to 2,809 sf retail along Deer Street. This has been installed and is pending Site Plan Approval and HDC approval.
16. Added gas regulator and enclosure along Deer Street per coordination with Unitil and building drawings. Added 3' x 5' granite planter on both sides of the regulator. The gas regulator has been installed per coordination with Unitil. The enclosure and planters have not been installed, pending Site Plan approval.
17. Revised double door entrance to hotel at Maplewood Avenue/Deer Street to single door. This has been installed per building permit drawings.
18. Revised ground level and basement level parking layouts per building drawings. 235 conforming parking spaces are provided where a minimum of 232 are required. A total of 244 parking spaces are provided including 9 valet spaces. This has not been installed and is awaiting HDC approval.
19. Revised screen wall to enclose entire generator on parking deck. This is not installed and is pending Site Plan approval.
20. Relocated transformers on parking deck and associated electric service per coordination with PSNH and building drawings to allow PSNH street access for installation and maintenance. These are not installed. He has a letter from PSNH dated March 10<sup>th</sup> that went to Portwalk which Peter Rice was copied on. Mr. Rice remembered the letter but felt it did not make accommodations for the City to deal with it. Mr. Mikolaities indicated he would get something else if that was not suitable. Mr. Rice confirmed that was the letter he was referring to and his point in bringing it up was that they were showing certain treatments to the area and their experience is that PSNH has things that they don't like so just because Portwalk shows a detail, it does not mean it will be consistent with their detail. They want to make sure what is being provided is consistent with what the Site Plans show.
21. Revised flush circle planter to flush square planter at Portwalk Place/Hanover Street. This is not installed pending Site Plan approval.

22. Provided fourth grease trap along Portwalk Place for hotel server. The applicant has agreed to put in this grease trap and it is not installed. Mr. Desfosses asked if there was any way to put that in the sidewalk. Mr. Mikolaities stated it was in a parking space.
23. Revised tree species along Portwalk Place to a larger caliper red sunset maple per landscape architect recommendation. This is not installed pending Site Plan approval.
24. Added a security grate to basement level parking per latest building drawings. This is not installed, pending coordination with the Fire Department.
25. Revised the 10,060 sf retail space to 9,988 sf. This is installed.
26. Revised six staple bike racks on parking deck for 12 total bicycle spaces to two movable bike racks for 12 total spaces. Also added movable bike racks to basement level. This is not installed pending Site Plan approval.
27. Added the gas regulator within the entrance ramp to lower level per coordination with Unitil. Existing gas main locations on Maplewood, Deer, and Hanover were updated based on GIS plans provided by Unitil provided on March 28, 2014. The gas regulator has been installed.

Mr. Taintor believed there was one change that was not identified on the plan, which leads him to the next point that they have raised before. They are going to want to have a certification from the engineer that all changes that have been made have been told to them. He believes they are missing a new door at the back of the expanded restaurant, to the right of the lower level of the parking garage. There is a new set of stairs to a new doorway and it doesn't appear to be called out anywhere. It is of concern to him because the door swing leaves no room for passage on the sidewalk which he was concerned about with the initial Site Plan with the building maxing out on the lot. Secondly, they would have to go back to the City Council for an amended license or easement for the door swing. Mr. Desfosses added that he was also concerned about the sidewalk being narrowed. Ms. Walker also expressed her concern.

Tim Levine addressed the issue. On the previously approved plan there was a double door that opened into the tree to the right of the new door in the same way. That one is taken out and moved down the street. It is a change that should have been identified. There is a license for the door that was there before. Mr. Taintor does not believe they can just move a license. This is an emergency only egress but have they confirmed they can use that with the building inspection. Mr. Levin stated it was a solid door. Mr. Desfosses noted that when it is opened and swings out it could hit someone on the sidewalk.

Ms. Walker noted that the details weren't updated for the bike racks. Mr. Mikolaities confirmed they will provide that information for the Planning Board.

Mr. Taintor referred to the gas issue. He felt it may be splitting hairs however they are saying they now have an existing gas line where they didn't know where it was before. It was his understanding that the gas line was replaced as part of this project. Mr. Mikolaities indicated that a couple of things happened. On Deer Street there was a line that was upgraded to service the hotel on Deer Street. There is another service off Hanover by the garage entrance. On Maplewood Avenue, Unitil slip-lined that pipe but they don't have a service off of Maplewood. Mr. Desfosses confirmed they have a service off of Deer and a service off of Hanover and most of the gas and service work that was done last summer was required by their project based on the fact that they needed two gas lines. The original Unitil letter stated they could provide gas in Deer Street. However, as part of all of the design changes, a decision was made by Portwalk that they didn't want a 150 gas meters all in one location and they didn't want to run a gas line through the building and they didn't want to run a gas line down

Portwalk Place across private property so to service their building Unitil was required to do upgrades I the City Street.

Tim Levin responded to Mr. Desfosses. When they opted to go forward with the Lot III project they obtained "will serve" letters from each of the utilities, one of which was Unitil, and he had asked Mr. Mikolaities to re-forward that letter to Mr. Taintor yesterday. The letter was dated in early November of 2012, identifying that the Lot 3 project could be served off of Deer Street. The approved Site Plans were based on that "will serve" letter and they had discussed with Unitil that they would run a line down Portwalk Place to serve the hotel, the apartment building and the tenants of the retail spaces. Unbeknownst to them, Unitil decided that they wanted to upgrade service to other parts of the City and came back to Portwalk and said they did not want to do the project they previously said they would do and instead they preferred to do a larger project down Maplewood. The upgrades were not part of the Portwalk project and were not necessary for the Portwalk project at all. The intent was to run down Portwalk place, as approved, and that was what they had every intention of doing. They have had no input whatsoever and , in fact, he was caught off guard when the construction company came back to him and said they heard that Unitil was doing something completely different. He would submit to the committee that the upgrades done by Unitil were not associated with them in any way, shape or form.

Deputy Fire Chief Roediger wanted to confirm that with the change in the door for the proposed restaurant at Portwalk/Hanover, will have a Portwalk Place address now. Mr. Levine confirmed that is correct and as a stipulation they should note that the strobe light and the knox box should be relocated to the new door location. Deputy Fire Chief Roediger didn't feel that had to be a stipulation but it would be good to speak with Brian and his fire alarm guy to make sure the doors are still where they should be.

Mr. Taintor recapped his point regarding the gas. Before this goes to the Planning Board, the plan has to be amended to show not only added gas regulator, but that they added a gas service that was not on the previous plans. Mr. Levine stated they had always anticipated two gas services off of Portwalk Street rather than Hanover Street. Mr. Taintor stated it is coming off Portwalk Place now rather than Hanover Street. They should change the wording on the existing gas service as it is somewhat misleading.

Mr. Desfosses asked if the HDC has approved the new plans. Mr. Cracknell confirmed that he has proposed a multi-step process for review which will hopefully be completed by the beginning of May. Mr. Desfosses felt they should have the HDC review that egress door and have it be glass so that you can see if someone is on the other side, as well as any other door like it, all the way around the building.

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

## **DISCUSSION AND DECISION OF THE COMMITTEE**

Mr. Rice made a motion to recommend amended site plan approval with stipulations. He asked if they anticipate the HDC changing the site aspects of this project and that their changes would be for the building/structure itself. Mr. Cracknell felt for the most part that was correct but he has some concerns about the green wall on Maplewood and the gates. It would be a material change to have the gates replace the screen wall. He is assuming the doors to the businesses being located is not a big deal for the HDC but he doesn't know that. He is not expecting major changes but there may be some



modifications made through the HDC process, which would mean it would have to come back for amended Site Plan approval.

Mr. Rice felt that goes with the PSNH screening requirements as well where they will want a specific type of screening for access to their transformers and it has been represented that they will match the existing screening and wall type, but based on what they know, it is the policy of PSNH to do what they feel they need to do, based on their standard approach and it doesn't always match that has been approved. One of the stipulations he would make was that PSNH will guarantee that they will accept the proposed screening and will not materially change what has been approved so that they don't end up in a situation where the fall back is they have to do what PSNH is telling them and it's not their fault. They need a clear picture of what the PSNH requirements are and what is being proposed is acceptable. Mr. Rice knew that Mr. Levine could say that was the case but until PSNH puts it in writing and signs off on it, it doesn't matter. Mr. Levine suggested that the stipulation could be that a new letter should come from PSNH which included an attachment the detail they propose to use so that it would positively identify that they have agreed to the exact detail. Mr. Rice stated that if the picture and actual profile, showing exactly what they want, and PSNH will sign off and indicate that they will not change it, could be the stipulation.

Mr. Desfosses seconded the motion.

Mr. Taintor requested that the HDC review the door, and all similar doors, for safety regulations.

Mr. Desfosses felt, at a minimum, the applicant should provide a stop bar coming onto Portwalk Place, going across the sidewalk. They have removed the stop legend and stop bar from the plans. At the minimum they should have a stop bar so that it is clear that automobile traffic does not have the right of way when crossing that sidewalk. Mr. Rice confirmed that was coming out of the garage.

Mr. Rice requested a one way sign on the opposite side. Mr. Taintor confirmed that was shown.

Mr. Taintor asked about the sidewalk width in front of the emergency access door. Mr. Desfosses added that they are not seeing the tree that is in the same location. If there is a tree grate, rather than a tree planter, there is some additional room. Mr. Taintor confirmed it was flush. Mr. Desfosses thought it might not be as critical as it is an emergency door. Mr. Taintor would stipulate that the door should be for emergency egress only. Ms. Walker asked if they would have to get another license and should that be part of the stipulation. Mr. Taintor felt it should be subject to requiring a new license, if the current license does not cover it.

Mr. Desfosses referred to Maplewood Avenue and the gas line. It is his belief that those gas lines had to be upgraded to serve this building. The letter to serve was from Deer Street and he doesn't know ultimately who is responsible but he suspects the developer should be responsible for overlaying this road. He stated this was not only for the gas line but because of the traffic detours, the cranes, lack of parking, moving the bus stops, and general issues with the construction and issues with the utilities. So many things have changed on the plans since they were originally approved. Every week he would get a phone call about a change they needed to make. He felt there have been enough impacts to this corridor that it warrants a requirement to do a mill and overlay on Maplewood Avenue from the railroad tracks to Congress. He did not think it made sense to require them to work on the other side of the railroad tracks as there will be a lot of work on that side with other developments. Also, the City has a Maplewood project to replace some water lines. Mr. Desfosses felt it was a relatively safe bet that overlaying from the railroad tracks to Congress Street would be fair, reasonable and justified.

Mr. Taintor asked about an additional line that was shown going up Maplewood Avenue in the travel lane. Mr. Mikolaities confirmed that was an error and he would remove it.

Mr. Taintor confirmed they are still working with the previous stipulation on the intersection of Portwalk Place and Hanover Street. Mr. Rice confirmed that was the crosswalk plaza. Mr. Desfosses stated they are working with the developer, they have been given the details and they are devising final versions for approval. He added that, if the Planning Board decides to approve these amendments with the overlay of Maplewood Avenue, that the details for that overlay shall be approved by DPW, including traffic loops, traffic detours, striping, paving, drill depths.

Mr. Mikolaities referred to Sheet C-4 and asked to clarify what section of Maplewood Avenue they were referring to. Mr. Desfosses confirmed the repaving would be from the top of the page at the railroad tracks and all the way to the stop bar at Congress Street. Mr. Taintor confirmed that was a closed stipulation.

Mr. Sheehan asked that the capacity use surcharge be revisited based on the restaurant and hotel and retail space which was reconfigured.

Deputy Fire Chief Roediger asked if the proposed 4,600 s.f. restaurant will have a Portwalk Place address and he requested that the exterior fire alarm devices and the knox box relocated to the correct location at the new door.

Mr. Taintor confirmed that he wants the design engineer to certify that all changes have been shown on the plans.

Mr. Levine asked to note for the record that he does not feel there is a technical justification for pavement overlay on Maplewood.

The motion to approve amended Site Plan Approval passed unanimously with the following stipulations:

1. An agreement, including a picture and profile showing exactly what is required from PSNH, to be reviewed and approved by the Planning Director, shall be executed by PSNH to assure that they will build exactly what was approved.
2. The HDC shall review the new door at the back of the expanded restaurant, to the right of the lower level of the parking garage, as well as all other similar doors, which may swing out onto the sidewalk, for safety concerns; also, the door shall be used for emergency egress only and subject to review to determine whether a new license from the City Council is required.
3. A stop bar for vehicles exiting onto Portwalk Place from the garage shall be added to the plans.
4. The applicant shall be responsible for the milling, overlay and paving of Maplewood Avenue from the railroad tracks to the stop bar at Congress Street, including traffic loops, traffic detours, striping, paving, drill depths, all to be completed to City standards and under the supervision of DPW.
5. The capacity use surcharge shall be recalculated based on the reconfigured restaurant, hotel and retail space.

6. The proposed 4,600 s.f. restaurant shall have a Portwalk Place address and the exterior fire alarm devices and the knox box shall be relocated to the correct location at the new door, as approved by the Fire Department.
7. The design engineer shall certify that all changes have been shown on the plans.

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D. The application of **319 Vaughan Street Center, LLC, Owner, and 3S Artspace, Applicant,** for property located at 319 Vaughan Street, requesting Amended Site Plan Approval to remove and revise exterior architectural elements, revise emergency egress at the rear of the building, remove all seating walls, revise patios at gallery entrance and rear, revise transformer location, and revise grading at entrance and rear, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 124 as Lot 9 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.

**SPEAKING TO THE APPLICATION:**

John Chagnon, of Ambit Engineering, appeared on behalf of the applicant and handed out revised plans to the Committee. Also present was Steve McHenry, the project architect, Lane Chaney, from the development group and Tim Levine, Manager of the construction project.

Mr. Chagnon stated they are looking for amended Site Plan approval as they go to construction. The major change is the egress location. As a result of negotiations with their abutter to the northwest they could not locate a proper path over that property so they have negotiated with their abutter to the southeast.

The cover street shows a new owner. The standard boundary survey remains the same. They added an easement plan showing the proposed easement area along the front of the property that will be granted to the City which will be used for the lighting that will be placed in that area. An egress easement plan has been added to the set showing the area of egress that will be dedicated to a permanent appropriate easement so that people exiting the building from the rear can go around the building to the public street.

On Sheet C-1, they have added some partial demolition of the existing loading dock. Initially it was going to be left in tact and the walkway was going to rise to meet it. They are going to remove the northerly half and the walkway will now go to a lower level. This plan was updated to show the construction that has occurred on the property to the south which is the 299 Vaughan Street parking lot.

On the Landscaping Plan they removed the seating walls on the edges of the patio and walkway. The transformer location has changed slightly and they show the new sidewalk coming from the rear to the property to the south and connecting to the onsite walkways to define new egress path.

The Utility and Grading Plan has undergone some transformations in the grading of the sidewalk and the lowering of the walkway. They also added a fire department connection on the west side of the building.

The Detail Sheet has been updated with the new brick sidewalk standards and on the second sheet, they removed the retaining wall.

Mr. Chagnon handed out revised plans with some minor changes resulting from the TAC Work Session last week which include some minor drafting revisions, the water service connecting to the main, they revised the bike rack layout to reflect the newer bike rack, and the bike rack is shown on Sheet D-2. The walkway around the rear of the building will have some impact to the City's buffer so the plan details those changes in s.f. They have applied for an amendment to their Conditional Use Permit approval and the revised plan shows the buffer plantings in the parking lot area so, to the extent they will be intruding on the buffer area, they will make up for it with buffer plantings and they will keep the same square footage.

On Sheet C-3 they adjusted Note 7 regarding the Fire Department notification and they added the proposed street lights and the conduit to come across from the 111 Maplewood Avenue project. They want 60' light spacing so they ended up one light at the property line, another at the entrance and 60' further up is the entrance to the property next door and they are showing that as a future light for when they do the sidewalk.

The grease trap detail was revised to the new City standard, the bike rack detail has been added and they have included the architectural plans.

Mr. Taintor referred to Sheet C-2 which shows the easements and impacts in the City buffer. He assumes this is a joint application between the owners of 319 and the abutting property as they are providing the additional buffer. Mr. Chagnon confirmed that some of the work will be on property of the abutter. Mr. Taintor stated it would have to be a joint application and binding on both property owners. Mr. Chagnon thought they would potentially do it as the obligation of 3S but the neighboring property owner would sign on and consent. Mr. Taintor just needs to make sure it is binding on the abutting property.

Mr. Taintor asked about the status of the floating easement that is not shown on the plan but is through the parking lot. He asked if there was a deed for that. Mr. Chagnon stated the easement that was submitted with the application materials, to be reviewed by the Legal Department, allows for temporary relocations.

Mr. Rice indicated that at the TAC Work Session it was recommended that they talk to the Health Department related to their kitchen layout, garbage storage and renderings. He asked if they have had a chance to talk to them yet. Tim Levine did not believe that has happened. Mr. Rice just wanted them to be advised that there may be layout changes based on their kitchen approval.

Deputy Fire Chief Roediger realized it was just an example but the architectural renderings on A.2.1 don't show the sidewalk coming down between the building and the parking lot. He realizes it is on the site plan but he wants to make sure it gets carried through on the south side of the building. Mr. Chagnon stated that the Site Plan would control that. Mr. Taintor stated there are several views that are inaccurate. It doesn't show the right landscaping on the site or the correct bicycle racks. Mr. Chagnon confirmed they will eliminate the pictures.

Mr. Desfosses asked for some corrections. He stated that the lights they are putting in this zone are the northern tier/Market Street lights. They are a bigger light and are not required to be spaced 60' apart. They can be spaced 80' – 90' apart. He had asked them to show two lights on the plans and they did

but he would like the lights spaced out more. The lights go on the curblin and not on the back of the sidewalk. Also, the sidewalks need to be 7' wide to accommodate the street lights. They appear to be a variable width, or less than 7', on the plans. He also questioned why the porous concrete stops as soon as it gets into the buffer zone. Why not extend it up to the building corner so it's not a material change when someone is walking. Mr. Chagnon confirmed the area is all concrete and simply changes to porous concrete in the buffer and was a cost saving measure. Mr. Desfosses noted that the patio in the rear was asphalt and he asked why that was allowed when the sidewalk had to be porous concrete. Mr. Chagnon stated it was already approved as a hardscape patio. Mr. Desfosses thought it used to be a nice patio area with a wall. He stated that the City is spending quite a bit of money to upgrade Market Street and is providing a park across the pond and all of the "nice" improvements to the back side of this building have been removed from this application. He also asked if the HDC had seen this. Mr. Chagnon stated that the HDC had approved it. Mr. Desfosses felt that was tragic. Mr. Taintor added that in one previous plan the back had a second story deck above first floor porous pavers. Mr. Britz stated that meant it was covered before and now it's not. He asked them to make it porous as the Conservation Commission will have a concern with that.

Mr. Rice felt that Mr. Desfosses brought up a good point. The back end of this building will be visible from Market Street and the new pocket park which they are trying to enhance. Originally there was some breaking up of the back block wall and he asked if there was anything they could consider relative to screening it. He understands that they do not have a lot of space but the abutting property has plenty of room. Mr. Taintor felt it was unfortunate that the HDC approved it as TAC does not have jurisdiction over the appearance. Mr. Rice felt they could require appropriate screening. Mr. Britz felt that trees would be nice but they don't own that back property. Mr. Taintor stated that they are using that back property for their wetland impact. Mr. Chagnon indicated that the buffer planting was for the parking lot. Mr. Taintor understood that. Mr. Rice asked if 299 Vaughan Street owns the strip of land behind the building. Mr. Chagnon confirmed that they did. Mr. Rice felt that something to break up that wall would be nice. Mr. Taintor felt they should include as a stipulation that the applicant propose working with the abutting property owner and propose some type of screening to break up the rear view. As they have an arrangement with the abutting property to do other things they can continue with those efforts.

Lane Chaney, was on the Building Committee for 3S, and he stated that their hope is to go back to the original plan, and add the patio and the deck and make it look better, but they had to back track from that. If they put up screening now it may adversely affect future plans. They hope to make it a lot better and if they did nothing they would be looking at what exists now. Mr. Rice appreciates that and asked if it is their intent to paint it all the same color. Mr. Chaney believed that was their intent. Mr. Rice asked if they would consider banding it so that it's not all one color. Mr. Taintor confirmed that the HDC does not have purview over paint and color.

Steve McHenry, of McHenry Architecture, noted that it is true they are trying to phase the work on the north and east sides and they could easily seal and paint those elevations to pick up the architectural features on the other side which could be two color bands. There is a 50' buffer between the waters edge and the back of the building, which has a pretty good group of wild brush and trees but it is not completely cleared so there is some screening. They would be happy to work with their neighbor to attempt to upgrade the area. Mr. Britz added that if they planted their trees or screening closer to the water, it wouldn't interfere with their future plans for the porch and deck. That would keep it very nice for the people on the patio as well. Mr. McHenry confirmed that their first choice is to go back to their original plan. Mr. Taintor thought it should be possible to do planting along the northeasterly property line of the abutting property to provide them with more screening.

Mr. Desfosses stated that PSNH is intending to install the conduits in the underground vault along their frontage in the near future, so he asked for a final location for their lights by tomorrow.

Mr. Levine spoke as a representative of 299 Vaughan Street and stated they have worked with the applicant and accommodated their need for an easement however they would not want to see any further encumbrance on the 299 property as they do have plans to redevelop it. Whatever they do will include an enhanced planting screen in the area behind 3S Artspace. They feel they have gone above and beyond to assist 3S and he requested there not be further encumbrances on the property.

Mr. Chagnon suggested a space that was on 3S property where they could plant one large tree at the corner to help scale down the building. Mr. Britz felt that would be really nice.

Previous approval for this project only required them to put in an easement and not to provide the lights. They will need a stipulation as this is a new approval. Mr. Rice stated it doesn't matter as they have clarified it and it was intended to be included.

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

**DISCUSSION AND DECISION OF THE COMMITTEE**

Mr. Desfosses made a motion to recommend amended site plan approval with the stipulations that were previously discussed. Mr. Rice seconded the motion.

The previous stipulations included that the lighting be relocated and spread out further and at the curblin, the sidewalk should be full width, planting of the tree in the corner of the back, the porous pavement will be brought up at the Conservation Commission, add a cleanout on the effluent line for the grease trap, or elbows.

Mr. Desfosses asked if there is a water service to be abandoned. Mr. Chagnon believed there was. Mr. Desfosses requested a note that the existing domestic line needs to be abandoned.

Ms. Walker asked about review and approval from the Health Department on the kitchen layout. Mr. Taintor felt that was more internal and they just need to be aware that things could change.

The motion to recommend amended site plan approval passed unanimously with the following stipulations:

1. The architectural renderings shall be removed from the plan set.
2. The two street light locations shall be provided to David Desfosses, of DPW, immediately.
3. The street lights shall be placed on the curblin, and not on the back of the sidewalk.
4. The sidewalk shall be 7' wide.
5. Landscaping or other screening shall be added to break up the view of the back of the building. One potential solution would be to plant a large tree at the rear corner of the site.
6. A cleanout shall be added on the effluent line for the grease trap where it elbows.
7. A note shall be added to the plans that the existing domestic water line shall be abandoned.

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E. The application of **Harborcorp, LLC, Owner**, for property located on **Russell Street, Deer Street and Maplewood Avenue**, requesting Site Plan Approval for a proposed 5-story mixed use development with a footprint of 66,315 ± s.f. and gross floor area of 375,741 ± s.f., including a hotel/event center with 128,700 s.f. of event center space and 98 hotel rooms, 14 residential condominiums, a 40,660 s.f. retail supermarket, and 580 parking spaces (417 spaces in a garage structure and 163 below-grade spaces serving the retail use); with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 125 as Lot 21, Assessor Map 118 as Lot 28 and Assessor Map 124 as Lot 126 and lies within the Central Business B (CBB) District, the Downtown Overlay District (DOD) and the Historic District.

The Chair read the notice into the record.

Deputy Fire Chief Roediger made a motion to postpone this matter to the next TAC meeting. Ms. Walker seconded the motion


The motion to postpone Site Plan review to the April 29, 2014 TAC meeting passed unanimously.

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**III. ADJOURNMENT** was had at approximately 4:40 pm.

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Respectfully submitted,

  
Jane M. Shouse  
Acting Secretary