

would be better to take care of the piping problem rather than disturbing the existing area of the PUD.

Dennis Moulton with Millette, Sprague and Colwell stated that when the project was first approved, the drainage study was done in accordance with City regulations and a plan was introduced that would result in a 14% decrease in flow rate. He explained that it was standard practice to look at the flow rate.

As the project developed, the homeowners, due to aesthetic reasons, wondered how the drainage swale and pond would look next to their houses. Mr. Moulton commented that such drainage structures are functional but not beautiful.

An additional study was done. The Technical Advisory Committee felt that the rates presented in December were all well and fine but felt that there was an overall (bigger) problem. The area of the drainage study was expanded. Mr. Holden interjected to explain that a partnership was entered into between the applicant David Hancock, and the condo owners.

Mr. Moulton went on to state that stormwater runoff ends up at Taft Road and Hoover Drive and ponding occurs. In other words, the runoff peaks at an elevation above the lowest elevation of the road in that area. He stated that the Hoover Drive development increases the flow rate and the ponding slightly. With the proposed drainage structures, it is anticipated that the flow rate would decrease from the pre-development rate. However, the affects on the volume of water are virtually the same. He stated that the piping is so undersized in that area that it does not allow the stormwater runoff to get out fast enough.

It was Mr. Moulton's opinion that what would help would be to increase the size of the pipe to 18" or 24" which, in his opinion, would bring the water level down quite a bit.

Mr. Sullivan wondered what would happen to people downstream. David Desfosses, engineering technician with the Public Works Department, stated that the drainage system for Hoover Drive was installed prior to development.

Mr. Sullivan stated that the PUD was approved with the understanding that the detention pond would be built to take care of the water. He stated that he was concerned about the residents on the other side of Hoover Drive that they have been flooded out for years from this particular piece of property. Mr. Sullivan stated that the developer of the project had agreed to bring fill in and raise that person's lot up high so that the problem would be taken care of. Mr. Sullivan stated that to this day, such has not been done. Mr. Desfosses explained that the homeowner did not want the fill; that he (Mr. Desfosses) had made personal calls to that person who was in the process of selling his house only to find out that the homeowner did not want to go through the effort of reseeded the lawn.

Mr. Allen reiterated that he felt that the best option was the proper sizing of the outlet pipe; that even with the detention pond, the flow would still be over the road adding that obviously it would be in the City's best interests to keep the road from getting flooded. He stated that the

Homeowner's Association is willing to discuss such an option and the applicant (David Hancock) has some money to contribute.

Mr. Will inquired as to what kind of difference the size of a pipe makes. Mr. Allen responded that there would be a significant difference going to an 18" or 24" pipe; it being his opinion that ponding would not occur.

Mr. Carrier stated that he is very familiar with that pond. He thought it might be premature to make a decision without figures on the outfall. Mr. Holden interjected that the applicant has met his responsibility under the regulations and has helped in identifying the problem.

Mr. Coker commented that this project came in before his time on the board; that if someone has a problem today... The Chair interjected that the property was sold; that nobody has come in. Mr. Coker stated that the problem is still there. He asked if enlarging the pipe would address that particular problem. Mr. Holden commented that the approved design would still flood at a certain point. Mr. Desfosses stated that the house being referred to is actually uphill from the PUD development; that the stormwater runoff affecting that property is coming from Lafayette Road.

Mr. Sullivan stated that the swale and detention pond would protect this individual's property. He asked if the swale and detention pond were done away with, what method would one have of filtering that water before it goes downstream and enters Berry's Brook. Mr. Moulton stated that there is a significant distance before the runoff gets to the wetlands. Mr. Allen concurred that the runoff has a significant distance to travel, and is cleansed in that manner, before entering the wetlands.

Mr. Holden pointed out that if the drainage structures were installed as originally approved, that trees (retaining the water) would have to be removed. Mr. Sullivan spoke to the amount of asphalt created by VIP, the auto center, the church and the PUD. Mr. Moulton pointed out that the VIP and auto center sites have their own detention ponds.

Mr. Carrier stated that his concern was that the original developer was a landscaper from Massachusetts; that the person who lived in the house they are talking about came to several meetings complaining about flooding; that the approved design was supposed to accommodate for that. He wanted to be sure that the redesign was not ignoring that problem. Mr. Carrier added that he lives very close to that site, that he has never noticed any sheet flow going across the road but he has noticed a lot of water at the Taft Road/Hoover Drive intersection.

Mr. Savramis inquired as to the size of the existing line. Mr. Allen responded that the outlet pipe is 15" and it would be increased to 18" or 24".

Mr. Holden indicated that the project would be identified in the Capital Improvement Plan indicating the partnership with the applicant and the homeowner's association. Mr. Holden commented that it is a complex issue and hopefully a way to address the problem has been found.

The Board then returned to a Public Hearing mode.

SPEAKING TO THE APPLICATION:

The Chair asked if there was any one in the public to speak to, for or against the request.

Bob Brookhouse of 5 Pheasant Lane addressed the Board and stated that he was the “esteemed” President of the Homeowners’ Association. He pointed out that the Planning Department has in its records a letter from every homeowner in the association requesting approval of the revised plan.

The Chair asked if there was anyone else in the public who wished to speak. There being no takers, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Holden offered that he might be able to guide the Board in which way it should go adding that when the Technical Advisory Committee reviewed the request, they thought a work session on this very complex issue would be a good way to bring it to the Board. Mr. Holden went on to state that the partnership created with the homeowner’s association, the applicant and the City has helped to identify a critical problem – the culvert at Hoover Drive and Taft Road is undersized and needs to be addressed. Mr. Holden stated that the following conditions should be imposed on any approval:

1. That the site review bond be renewed for an additional six months. Mr. Holden commented that he has been working with the parties and the project remains bonded;
2. That an indication be submitted that all homeowners in the association support this concept; and,
3. That the Planning Board, applicant, City staff, and the homeowner’s association work out a process to schedule the improvements for this culvert.

Mr. Carrier so moved. Mr. Will seconded the motion which passed on an 8-0 vote.

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H. The application of the **Cedars of Portsmouth Condo Association** for property located at **2200 White Cedar Boulevard** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(A) of the *Zoning Ordinance* for improvements to an existing drainage system within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 272 as Lot 9-7 and lies within a Garden Apartment/Mobile Home district.

SPEAKING TO THE APPLICATION:

The Chair read the notice. Eric Weinrieb of Altus Engineering addressed the Board explaining that the site in question has an accessway from Lafayette Road and that the site was developed in 1986/87. Twenty-one buildings on the site house 252 housing units with car ports throughout the

site. It was Mr. Weinrieb's opinion that if the site were built today, it would have less density, if built at all, as he felt that the site contained marginal land.

Mr. Weinrieb went on to state that the site has a lot of drainage problems and that over half of the units are below grade. The proposed drainage improvements are an attempt to address the problems and reduce the flooding on site.

The Phase I improvements would impact some 19,925 s.f. of the wetland buffer. Some 720' of wetlands would be disturbed. The proposal is to regrade, create a larger depression and increase the stormwater detention. Mr. Weinrieb spoke to the fact that the end of a culvert was in an erosive condition and that by installing rip rap, it would eliminate the potential for future erosion.

The salt storage shed would be relocated during Phase II. Mr. Weinrieb spoke to the maintenance garage and pump station and the installation of fencing. Those areas would be revegetated and stabilized so that there would be a better vegetative buffer between the pavement areas and the wetlands. Mr. Weinrieb stated that there would be no changes in hydrology to the Cedar Swamp.

Mr. Carrier inquired if there would be any accommodation foredimentation traps or oil traps with Mr. Weinrieb replying that they have not added oil or sedimentation traps. He spoke to open drainage to a manmade swale that actually acts as a filter.

Mr. Carrier asked how much lower the detention area would be lowered with Mr. Weinreib responding about two feet. Mr. Carrier asked for a depth of what with Mr. Weinrieb responding by stating four feet deep.

Mr. Smith inquired as to the beaver dam with Mr. Weinrieb responding that it is being removed with Mr. Weinrieb explaining that the Cedar Swamp is a very sensitive area; that by removing the beaver dam, the flow would return to normal level and would not allow the Cedars to die. Thus, the removal of the dam would have a positive impact on the Cedar Swamp.

The Chair asked if there was anyone else in the public to, for or against. There being no further speakers, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Holden commented that this is a somewhat unique request; that the development in question was approved before the Inland Wetlands Buffer zone was established. He went on to state that the City, Mr. Weinrieb and the homeowners' association have been working closely to come up with a solution. It was Mr. Holden's opinion that the impacts had been minimized to the extent possible. He stated that one positive aspect of the proposal is that the salt house would be moved away from the buffer. Mr. Holden pointed out that the Conservation Commission recommended approval.

Mr. Sullivan inquired if the dam would be removed or the beaver. Mr. Weinrieb thought that the dam would be removed. Mr. Sullivan commented that by just removing the dam, the beaver would be right back.

Ron Maglieri, business manager for the Cedars, stated that he hired somebody from Rye and he thought he was going to remove the dam. He stated that he could find out and get back to the Board if so desired. Mr. Sullivan commented that it was immaterial.

Mr. Carrier wondered how the improvements would be monitored. It was suggested that a stipulation could be made that the engineering firm could advise the City when the work has been completed and an inspection could be made. It was also suggested that the drainage structures should have a maintenance schedule posted with the City.

In answer to a question from Mr. Coker regarding the removal of the beaver dam, Mr. Maglieri commented that the owner had to sign a request from approval from the State; more specifically the Fish and Game Department.

Mr. Carrier moved to approve as submitted with stipulations. Mr. Sullivan seconded the motion. The motion passed on an 8-0 vote.

Stipulations:

- 1) That Altus Engineering certify when the work is done so that the City can inspect the job; and,
- 2) That a scheduled maintenance program be put into place for the detention pond and all appurtenant structures.

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I. The application of **Sharan R. Gross Revocable Trust**, owner, and **Paul D. Gross and Sharan R. Gross**, applicants, for property located at **226 Cate Street** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* for the construction of a 30' x 50' two story structure to house a beauty parlor on the first floor and two apartments on the second floor with associated parking within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 163 as Lot 32 and lies within a General Residence A district.

SPEAKING TO THE APPLICATION:

The Chair read the notice. Paul Gross addressed the Board and stated that he and his wife own the property in question as well as an adjacent property; that the barn on the adjacent property was in need of repair and was renovated. He stated that the building on the site in question is in need of repair and is not worth saving. He stated that the building was trucked in in 1958 from Pease Air Base; that there is a poor foundation to it. He stated that the building is used for auto and marine repair; that it has been used as a repair garage including a garage that had garbage trucks backed into it for repair.

Mr. Gross went on to state that his intent is to do something better with the property adding that the site is right next to the creek and that there is not much room to do a lot with it. The proposal is to demolish the existing building and construct a 30 x 50 building with nine parking spaces provided in front. The first floor of the building would be used as a beauty salon for his daughter, Amanda. The second floor would have two one-bedroom apartment units.

Mr. Will asked if Board of Adjustment approval had been received for the use. Mr. Gross responded in the negative. Mr. Gross further explained that the whole lot is within the wetland buffer and the whole lot is paved.

Mr. Coker inquired as to the government easement. Mr. Sullivan stated that he could provide even more background; that prior to Pease Air Base, the site in question was a dam; that there was a big skating pond that went from Cate Street right down to Morning Street; that the dam went underneath the laundry, the Bartlett Street bridge and into the North Mill Pond. He went on to state that when the Pease Air Base was built, a ditch was put in and the pond was filled pointing out that the site in question is all filled land.

The Chair asked if there was anyone else in the public wishing to speak to, for or against. There being no further speakers, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Holden pointed out that the Conservation Commission recommended approval of the request. He stated that the Board's decision would have no stance with any issue before the Board of Adjustment. He went on to comment that if the Board felt that the proposed use might be better than what presently exists, then the Board could send the applicant on to the next step.

The Chair asked the Board's pleasure. Mr. Sullivan so moved the recommendation. Mr. Carrier seconded the motion. Mr. Will commented that presently the entire lot is paved; that the proposal shows 10' turned into a grassy area. He asked that the applicant eliminate as much pavement as possible.

Mr. Smith asked if the application would return to the Board for Site Review approval. Mr. Holden responded that as this project develops, such a balance could be set and the balance could be shown during the Site Review process. Mr. Will stated that his only concern was with the Site Review criteria and the issue of wetlands. Mr. Holden asked that the Board hold him (Mr. Holden) to this; that is, the elimination of as much pavement as is possible.

Mr. Coker stated that he is usually very much opposed to development 100% within the buffer zone; however, given the history provided by Mr. Sullivan regarding filled land, that he (Mr. Coker) didn't really see much of a problem and he would support the motion. The motion passed on an 8-0 vote.

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J The application of **Lafayette Partners of Michigan, LP**, owner, and **Margaritas Management Group**, applicant, for property located at **775 Lafayette Road** wherein site plan approval is requested for the construction of an 1,838 s.f. addition to the existing Margaritas Restaurant with associated site improvements. This request amends the previous request for three additions to the existing restaurant. Said property is shown on Assessor Plan 245 as Lot 1 and lies within a General Business district.

SPEAKING TO THE APPLICATION:

The Chair read the notice. Attorney Bernard W. Pelech addressed the Board on behalf of Margaritas. He stated that the Technical Advisory Committee had reviewed the request on two

occasions. The proposal is for an addition to the existing restaurant with a general overall facelift of the façade.

Attorney Pelech went on to explain that the original request was for three small additions. However, the Technical Advisory Committee had concerns with regard to the proximity of the front addition to the sidewalk and the elimination of the sidewalk.

The proposal before the Board will accomplish the same thing and will allow for the four foot sidewalk to come around to the front of the building. A planter will shield the sidewalk from the travel lane and the parking lot with the whole concept providing better pedestrian access.

Attorney Pelech informed the Board that John Chagnon, the site engineer and Lisa DeStefano, the architect were also present.

John Chagnon of Ambit Engineering addressed the Board and stated that a favorable recommendation had been received from the Technical Advisory Committee earlier this month. The stipulations associated with the Board of Adjustment approval for the patio have been added to Sheet C-1.

Mr. Chagnon spoke to the sewer service including a force main around the building and the increase from a 500 gallon grease trap to a 1,000 gallon grease trap.

Mr. Hopley noted that the stipulations from the Board of Adjustment listed on Sheet C-1 refer to patio and deck and wondered if they were one in the same. Attorney Pelech responded that they are one in the same and that the language is taken directly from the letter of decision.

Mr. Carrier spoke to the gravity sewer line to accommodate the bathrooms and the separate force main to accommodate the kitchen waste and the proposal for a small lift station. He wondered if a provision had been made for emergency power. Mr. Chagnon responded that back-up power had not been provided adding that there is reserve capacity in the tank. He pointed out that if there was a loss of power, the restaurant would shut down. Mr. Chagnon went on to state the pumping station had been sized to accommodate a set of calculations and that those calculations are shown on Sheet C-2. Furthermore, the pumping station would have alternating pumps.

The Chair asked if there was anyone else in the public wishing to speak. There being none, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Holden explained that it may be necessary for the applicant to meet with the City's Entertainment Committee prior to a Building Permit being issued. If such a meeting is found to be unnecessary, then the Building Permit will be issued without holding such a meeting. Mr. Hopley interjected that in the event he is invited to such a meeting, floor plans would be needed early on.

Mr. Carrier moved for acceptance with stipulations. Mr. Will seconded the motion. The motion passed on a 7-0 vote.

Let the record show that Mr. Sullivan commented that he did not participate in the discussion nor did he participate in the vote as he is too closely related to Lisa DeStefano.

Stipulations:

From the Technical Advisory Committee:

- 1. That a note be added to the site plan indicating the stipulations associated with the Board of Adjustment approval concerning the use of the deck; and,
- 2. That an attempt be made to provide a 6" sewer line.

From the Planning Board:

That, if appropriate, the applicant shall meet with the City's Entertainment Committee prior to the issuance of a Building Permit.

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K. The application of the **Construction and General Laborer's Local Union 976 AFL-CIO**, owner, for property located at **155 West Road** wherein site plan approval is requested for the construction of two 900 s.f. one-story additions (for a total of 1,800 s.f.) to the rear of the existing building with associated site improvements. Said property is shown on Assessor Plan 252 as Lot 2-37 and lies within an Industrial district.

SPEAKING TO THE APPLICATION:

The Chair read the notice. John Chagnon from Ambit Engineering addressed the Board and stated that he was representing Local 976. He informed the Board that Tom Brewster, business manager, was also present.

The proposal calls for two 30' x 30' additions to an existing structure coming off the back. He referred to a number of street trees and commented that the building would set back from the road. The plan required a Variance for a side setback. The Variance was granted by the Zoning Board at their February meeting to allow a 40' setback where 50' is required.

The proposal will not result in any increase in pavement. The existing parking facility will be striped and the new striping will meet the requirements of the *Zoning Ordinance* as to number of spaces for the use.

Mr. Chagnon reported that the Technical Advisory Committee recommended approval subject to stipulations. He indicated that the sewer lateral is shown on the plan. He reported that he had met on site with Lucy Tillman of the Planning Department and had agreed to some landscaping improvements; such as, the planting of trees and shrubs at the westerly boundary line to increase the buffer and the provision of one tree at the corner to soften the edge of the building.

Mr. Chagnon spoke to the relocation and screening of the dumpster. Mr. Smith inquired as to snow storage. It was Mr. Chagnon’s opinion that the parking area would be large enough to handle snow storage pointing out that no curbing is provided.

The Chair asked if there was anyone else in the public wishing to speak. There being none, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Carrier moved for approval with stipulations. Mr. Will seconded the motion. The motion passed on a 7-0 vote. Let the record show that Mr. Sullivan indicated that he did not participate in the discussion nor did he vote on this application as he is a paying union member.

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L. The application of **325 State Street, LLC**, owner, for property located off **Porter Street** wherein site plan approval is requested for the construction of a four-story building with an 8,926 s.f. ± footprint for the purpose of providing eleven attached condominium units with individual garages on the first floor with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 117 as Lots 38-2 and 46 (lots to be combined) and lies within the Central Business B and Historic A districts.

SPEAKING TO THE APPLICATION:

The Chair read the notice. Let the record show that Mr. Coker stepped down from sitting on this application.

Eric Weinrieb of Altus Engineering addressed the Board and stated that he was representing 325 State Street LLC in the development of the Porter Street townhouses; eleven townhouses to be exact. The site in question is bounded on the east by Church Street, on the north by Eagle Photo and the Odd Fellows Building, on the west by Fleet Street and on the south by Porter Street.

Mr. Weinrieb went on to inform the Board that 325 State Street LLC also owns the property upon which the former First National Bank building is located. He reported that the proposal for that site has gone through the Historic District Commission process.

Mr. Weinrieb further announced that Lisa DeStefano, architect for the project, was also present.

Mr. Weinrieb went on to state that the project has received approval from the Historic District Commission and favorable recommendations from the Technical Advisory Committee and the Traffic/Safety Committee.

Access to the site will be from the rear via a one-way driveway from Fleet Street to Church Street. Rear, at grade, parking garages will be provided for each unit. Access stairs will be provided at the front and green space will be divided between public and private lands. The proposal is to reconstruct the sidewalk on the northerly side of the street. Lighting will be provided to meet City standards along Fleet and Church Streets. Landscaping will be provided to the rear of the site; such as, the use of maple trees.

Utilities will be overhead on Porter Street. Utilities will be provided underground during Phase II. A transformer will be provided. The water line being of 1912/1914 vintage will be replaced

with an 8" line from Fleet to Church. Roof drains will enter a closed system with a series of catch basins tied into the municipal system.

Newell Keenan of 80 Fleet Street addressed the Board informing them that he is the President of the Condominium Association. He stated that he has attended the Historic District Commission and Technical Advisory Committee meetings adding that the narrowing of Porter Street is a concern. He spoke to the existing traffic congestion caused by 10 Pleasant Street.

Donald Coker of 90 Fleet Street addressed the Board and explained that he is an immediate abutter residing in the McIntosh Building. He stated that the project is a wonderful one although he bemoaned the loss of parking spaces and the suffering through the construction noise and mess.

However, he thought that Mr. Weinrieb had left out possibly the most negative aspect of the project; that being the narrowing of Porter Street to a 10' travel way. Mr. Coker commented that Porter Street is a very heavily traveled street and a very important downtown street. He stated that what with the Japanese restaurant and Me and Ollie's, that when one car stops, traffic is blocked.

Mr. Coker stated that no traffic study had been provided with traffic counts. He went on to stated that he did not want to see the road narrowed; that the "green space" refers to the front lawns for these buildings; that he did not think that such was a very good trade. He continued on by stating that he lives there, he sees this every day and he parks there.

Mr. Coker referred to the Technical Advisory Committee minutes, where the street width was presented as 16' and noted that David Desfosses raised numerous questions about it. He stated that the Board would be creating a bottleneck; that they would be doing nothing but blocking off a heavily traveled artery.

Mr. Coker reiterated that the project is a wonderful project repeating that he didn't think trading green space of a 10' wide street was a fair trade.

Discussion ensued between Mr. Weinrieb and Mr. Will concerning the width of the aisle for the parking garages with Mr. Weinrieb noting the 90 degree turn within the garage. With regard to the 10' travel way in front of the building, Mr. Weinrieb explained that initially the proposal was for a 16' wide travel lane with no parking. Subsequently, a meeting was held with the Public Works Department and a 60' (length) loading area was provided with an 18' wide Porter Street.

It was then decided that the parking spaces should not be lost; that the Traffic Safety Committee was very comfortable with a 10' travel way with an 8' parking stall.

Mr. Will suggested making the townhouse smaller and angling the garages taking into consideration public safety and public interest. Mr. Weinrieb stated that the proposal is actually a win/win situation by improving the streetscape, the sidewalks and generally improving the accessway to Market Square from the Music Hall. He spoke to the proposed landscaping on the southerly side of the project making it a win/win for the City providing a more friendly area.

George Dodge of 175 State Street addressed the Board and stated that it was his opinion that the project is a very fine project and that he hopes it happens. However, he expressed his concern with the proposed 10' width of Porter Street pointing out that on a snow day, a snow storm, the width of Porter Street would be seven or eight feet until such time as the snow is removed. He stated that the proposed planting along the westerly side of Porter Street would not be especially

friendly for pedestrians. He suggested that the telephone pole that sits to the rear of the Federal Building be removed making the sidewalk much more maneuverable.

He reiterated that the proposed strip along the front of the buildings would only collect trash pointing to the fact that the end of the Vaughan Mall is in a deplorable state. He felt that benches would be a very attractive addition.

Jay Smith of 49 Sheafe Street addressed the Board and stated that he would add his concerns about the narrowing of Porter Street pointing out that everything would have to stop for UPS deliveries and that snow piles would add to the narrowness. He stated that Porter Street is a major traffic escape route for those who live downtown. He stated that when the bridge goes up every half hour, State Street becomes a parking lot. It was Mr. Smith's opinion that the project would act like a cavern in that particular part of town with no sunlight.

Mr. Keenan reiterated his concerns about the narrowing of Porter Street

Mr. Coker again spoke to the narrowing of Porter Street adding that the loss of four parking spaces downtown is a major loss; that it is a major loss when you are living there. It was his opinion that by narrowing the street and with the height of the buildings, that an alley way would be created referring to the Salvation Army alleyway with five floors on both sides of the street.

Mr. Weinrieb disagreed that an alley would be created. He commented that he worked with the Traffic/Safety Committee pointing out that Mike Magnant, John Burke and Steve Parkinson are very active with traffic issues in the City. He stated that he understood that when the Memorial Bridge is up, that Porter Street is one of the main access ways; however, the plan before the Board is what Traffic/Safety wanted. Mr. Weinrieb reminded the Board that the project meets height and setback requirements.

The Chair asked if there was anyone else in the public who wished to speak. There being none, the Public Hearing was closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Holden commented that traffic had been reviewed extensively by the applicant and John Burke and that Traffic/Safety had reviewed the issue. He asked that Lucy Tillman read the comments from the Traffic/Safety Committee so that the Board could have a better sense of the proceedings. Ms. Tillman read the comments that included, in part, that

...At the onsite review, there were concerns with the proposed 16' wide roadway and the proposed elimination of four parking spaces. Subsequent to that meeting the plan was revised for Phase I. An 18' wide travel lane with curbing will be maintained allowing the four parking spaces to remain. A 10' travel lane will be provided. The applicant will reduce the width of the proposed brick sidewalk on the north side of Porter Street from 6' to 5' and reduce the green space proposed by 1'...

Mr. Holden recommended that the Board determine if the stipulations from the Technical Advisory Committee had been met.

1. That the Traffic/Safety Committee review the plan with a recommendation back to the Planning Board; (done)
2. That the plan show what is actually going to be done on Porter Street, both sides, during Phase 1; (done)

3. That the bond instrument be of a sufficient amount to implement the plan completely in the event that the Phase 11 project never occurs; (agreed to and to be done)
4. That the various utility companies sign off on the site plan prior to the Planning Board meeting; (done)
5. That a water service be shown for unit #9; (done)
6. That the use of landscaped areas within the City's right-of-way be reviewed with Lucy Tillman of the Planning Department and the City Attorney, as appropriate; (to be done)
7. That the sizing of the water line be reviewed with the Public Works and Fire Departments with a model to ensure adequate flow in the area (done).

Mr. Weinrieb commented that by showing the utility pole(s) on the site plan, City Council approval would not be needed.

Mr. Will spoke to the proposed private way in the rear and viewed it as becoming a short cut. Mr. Weinrieb commented that they wanted to keep it open providing a more friendly attitude adding that anybody coming down Church Street would not be able to turn right onto the driveway.

Lisa DeStefano commented that the driveway is one-way in/one-way out and that sufficient turning radius is being provided to enter the rear of the units. Ms. DeStefano pointed out that a deck would project 7' over the garage doors hiding the garage doors and adding an amenity to each of the units. In answer to a question from one of the Board members, Ms. DeStefano responded that the garage bay would be 22' deep.

Mr. Carrier inquired if part of the maintenance of the utility pole(s) would be taken care of by the developer referring to the utility poles within the sidewalk area. Mr. Weinrieb responded by indicating that such would be the case during Phase I.

Mr. Weinrieb pointed out that presently there are four parking spaces on the street; that under the proposed condition, there will be five spaces.

The Chair inquired as to snow storage. Mr. Weinrieb indicated that it would be removed from the site. The Chair asked that such be noted on the plan.

Mr. Holden inquired if the proposal provides for some amenities within the right-of-way. It was Mr. Weinrieb's opinion that they would be creating a more friendly area, more green space on the northerly side of the street and eliminating a sidewalk on the southerly side. He continued on to state that should Phase II go forward, three curb cuts would be eliminated which would provide for a much safer travel way.

Mr. Carrier inquired as to the location of the air conditioning units with Mr. Weinrieb responding that they would be placed on the roof.

The Chair asked that the discussion return to traffic adding that he has a problem with the project when it comes to a 10' roadway. He commented that Porter Street is a pressure relief road – a major pressure relief valve. He went on to state that Porter Street is a very well used avenue by tourists and people who live in this community adding that he could not support the proposal as

presented at this time. He commented that he would like to see a full traffic study adding that the Board has not looked at Phase II as yet. Furthermore, it was the Chair's belief that people would try to sneak through the rear driveway.

Mr. Weinrieb spoke to a wider roadway at the end of Porter Street adding that further refining had to be done to satisfy Traffic/Safety pointing out that having a road wider than 18' would invite two-way traffic. The Chair stated that he would like to hear from John Burke, the City's Parking and Transportation Engineer.

Mr. Will stated that he couldn't agree with the Chair any more. It was his opinion that a great opportunity existed to make the down town a lot more friendly. It was Mr. Will's suggestion that the rear driveway be gated. He further felt that the Board might want to take its time on this application.

Mr. Carrier wondered if the various City department heads and the Technical Advisory Committee hadn't already addressed all concerns. Mr. Holden interjected that the department would stand by the recommendation of the Traffic/Safety and Technical Advisory Committees that the project could be approved adding that the traffic concerns had been discussed.

Mr. Will moved that the application be tabled to the next meeting to allow for John Burke to be present to explain the recommendation of the Traffic/Safety Committee adding that he (Mr. Will) had questions about the recommendation and would feel more comfortable with John Burke present.

Mr. Holden encouraged the Board, that if this is the only issue, that the initial motion be made to approve so that the stipulations could be laid out and then, at the appropriate time, the Board could table for specific information on one issue.

The Chair suggested a wider street with some green space removed. The Chair added on to the tabling motion, if it is seconded, that information be presented for Phase II explaining that he did not want an alley way created down there.

At this point in the proceedings, the Chair passed the gavel to Mr. Carrier. Mr. Smith seconded the motion to table.

In speaking to his motion, Mr. Will reiterated that he would feel more comfortable with John Burke explaining in detail what was discussed at the Traffic/Safety Committee meeting. Mr. Will also referred to the Chair's concerns as how this affects other aspects of the site review.

In speaking to his second, the Chair stated that he would like to see what Phase II looks like. Mr. Hopley stated that he did not understand what the Chair wanted regarding Phase II as the application before the Board is clearly a Phase I application. The Chair expressed the concern that if Phase II goes right to the property line, a tunnel effect would be created down that street. He stated that he would like an opportunity to look at Phase II in relation to Porter Street and traffic. Mr. Hopley commented that he could not support the motion. Mr. Holden interjected that the Board might be entering dangerous ground as there are two separate applications; that the application before the Board stands on its own. The Chair then withdrew his additions to the seconding of the motion.

Mr. Hopley commented that the only stipulations outstanding were the bond instrument, documentation that the utility companies had signed off on the plan and the landscaping stipulation.

A roll call vote was taken. The motion failed on a tie vote with Messrs. Savramis, Carrier and Hopley voting in the negative and Ms. Roberts, Mr. Will and the Chair voting in the affirmative. Let the record show that Mr. Sullivan abstained from voting.

Mr. Will inquired of Mr. Holden if it would be possible to move to approve with the stipulation that the Traffic Engineer come forward. Mr. Holden stated that it was his sense that the only issue is traffic related. He went back to his recommendation that a motion to approve be made that could be tabled for traffic issues; that way, the application could continue to go forward.

Mr. Carrier moved to approve as submitted with the stipulations from the Technical Advisory Committee. Ms. Roberts seconded the motion. Mr. Hopley commented that the motion offers no opportunity for John Burke to get to this Board. Mr. Holden interjected that the Board has made a motion to approve; that if there are concerns, the Board has a right to ask for more information.

It was Mr. Will's opinion that the Board felt that the rest of the plan is fine; that it was just the comfort level on the street. The Chair reiterated that he would like an opportunity to have Mr. Burke present.

Mr. Will moved to table the motion to approve until the Board is able to have John Burke present at the next meeting. There was no second.

Mr. Savramis offered a motion to deny. He was informed that there is a motion to approve on the floor.

Mr. Holden interjected that the project is an important one and suggested that someone second the tabling motion.

The Chair stated that he would not support the motion to approve as he does not have enough comfortable information on the traffic, on the size of the street and the sidewalk condition. Mr. Will agreed with the Chair. He stated, however, that he did not want to send the applicant back to the drawing board because of one problem. The Chair cautioned the Board against denying the application due to one issue and suggested that the way to go would be a tabling motion.

Mr. Hopley made a tabling motion for the purposes of getting Mr. Burke before the Board. Mr. Will seconded the motion. Mr. Holden interjected that the department would recommend the tabling motion pass. A roll call vote was taken. The motion passed on a 6-0 vote with Mr. Sullivan abstaining.

The Chair asked that the department and the applicant provide as much information as is possible for the May 16th meeting.

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Let the record show that the Board took a five minute recess at this point in the proceedings.

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M. The application of **Vincent Colella and Kathleen Dowling**, property owners, and **Vincent Colella**, applicant for property located at **22 and 28 Deer Street** wherein site plan approval is requested for the construction of a proposed four-story addition (with a 2,325 s.f. ± footprint) to

an existing building located at 28 Deer Street. Said property is shown on Assessor Plan 118 as Lots 13 and 14 (lots to be combined) and lies within the Central Business B and Historic A districts.

SPEAKING TO THE APPLICATION:

The Chair read the notice. John Chagnon of Ambit Engineering addressed the Board and informed them that Mr. Colella was also present. The proposal is for a four-story building at 22 Deer Street to be connected to 28 Deer Street which building was approved and constructed by the applicant some two years ago. The proposal also includes a 383 s.f. one-story addition on the rear of the building that was granted a Variance by the Board of Adjustment on April 16th due to the fact that the addition would be less than the 20' minimum in height as required by the *Zoning Ordinance*.

Mr. Chagnon reported that the Technical Advisory Committee did not find it necessary for the plan to return to them should the Variance be granted.

The proposal calls for some sidewalk improvements; such as, a proposed brick sidewalk on the westerly side of 28 Deer Street all the way down to the intersection of Deer and Market Streets and provide some tipdowns at the crosswalk. Mr. Chagnon commented that City Council approval would be required for work in the City's right-of-way.

Additionally, Mr. Chagnon stated that the concrete sidewalk in front of 28 Deer Street, constructed as part of the project, would be taken out and brick put in. Mr. Chagnon went on to state that Mr. Colella is attempting to work with the City's Economic Development Commission on a 50/50 partnership with regard to improvements to the sidewalk. Mr. Chagnon reported that the matter had been referred to the City Manager earlier in the month.

Mr. Chagnon went on to state that the proposal calls for landscaping both on site and off site with landscaping provided on the easterly side of the proposed building. Off site improvements include working with the City on an Adopt-a-Spot for the pumping station site with some specific plantings and some curbing to protect the plantings on the southerly side of the sewer pump station.

With regard to drainage, Mr. Chagnon commented that there is a paved shoot which handles the drainage from the Maxam driveway (adjacent property) and goes out to High Street. Drainage also flows across the site to Market Street. An additional catch basin will be installed at the toe of that shoot for a closed pipe system for 28 Deer Street.

Mr. Chagnon reported that the Technical Advisory Committee had approved the plans subject to eight conditions.

He stated that the 28 Deer Street building is served by 1 1/2" fire and domestic. Due to the combining of the properties and the City's requirement that only one water service access each lot, the water service which serves the current building at 22 Deer Street will be abandoned and all utilities would be connected internally.

Mr. Chagnon went on to state that Tom Cravens of the City's Water Division was concerned about the potential use of the building, say as a restaurant and wondered if the 1 1/2" service would be sufficient to serve both buildings. Atlantic Engineering was hired to do a hydraulic analysis. The report indicated that the 1 1/2" service could accommodate an a.m. restaurant and a p.m. restaurant.

Mr. Chagnon reported that the sidewalk detail had been updated. He pointed out that the building would be slab on grade; that they felt comfortable with the pipe going under the slab. He added that note 9 refers to a connection to the fire alarm master box.

With regard to the 50/50 partnership regarding the sidewalk improvements, Mr. Chagnon commented that the plan shows a proposed brick sidewalk; that Mr. Colella would be having a meeting with the City Manager to discuss options.

With regard to City Council approval for work in the right-of-way, Mr. Chagnon reported that the City Council has referred the matter to the City Manager; that they would be working with the City Manager and the Department of Public Works on the matter.

With regard to the issue of suitable plantings around the pumping station, Mr. Chagnon responded that a plan has been submitted to the Public Works Department.

With regard to the lot consolidation, Mr. Chagnon commented that such is not a problem and would be done prior to a Building Permit being issued.

The Chair asked if there was anyone else in the public wishing to speak to, for, or against the application. There being none, the Chair declared the Public Hearing closed.

DISCUSSION AND DECISION OF THE BOARD:

The Chair asked if any of the five parking spaces would need to be handicapped accessible. Mr. Hopley commented that such was a good observation and probably would be the case.

The Chair asked about trash removal with the response being that there is City pick-up. The Chair asked that the recycling bin be indicated on the plan and that it be screened.

The Chair inquired as to snow storage/removal with the comment that storage would be in the vicinity of the catch basin. The Chair asked that such be marked on the plan and inquired if there would be enough storage space. The response was that, if necessary, the snow would be removed.

Mr. Hopley moved approval of the project subject to stipulations. The motion was seconded. Mr. Holden indicated the request of Tom Cravens of the Water Division that a booster pump system be installed for at least the top floor as 20 psi is the minimum. The motion passed on an 8-0 vote.

Stipulations:

From the Technical Advisory Committee:

1. That the existing 1 ½" water service be looked at by a mechanical engineer to see if the service could accommodate two restaurants; one in each building and that a report be forwarded to Tom Cravens of the Public Works Department;
2. That the sidewalk detail indicate City standard brick;
3. That a note be added to the plan that the drainage pipe underneath the building is installed at the owner's own "risk and peril";
4. That a note be added to the site plan concerning a master box connection with the municipal system;

- 5. That a mark-up be provided showing what sidewalk improvements would be done with a City partnership and what would be done without; said mark-ups to be reviewed by David Desfosses of the Public Works Department;
- 6. That any sidewalk improvements are subject to City Council approval;
- 7. That the plantings abutting the City’s pumping station be reviewed by Mark Tanner, arborist with the Public Works Department;
- 8. That the lots shall be consolidated prior to the issuance of a Building Permit.

From the Planning Board:

- 1. That handicapped spaces shall be provided, as appropriate together with associated signage;
- 2. That the snow storage area shall be noted on the site plan;
- 3. That the dumpster location shall be noted on the site plan with the appropriate screening; and,
- 4. That with regards to the water service, a booster pump system shall be installed for at least the top floor.

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III. OLD BUSINESS

A. The application of the **City of Portsmouth Department of Public Works** for property located off **Islington Street** and **Andrew H. and Edward W. Sherburne** for property located at **1821 Islington Street** wherein Preliminary and Final Approval is requested for a lot line relocation whereby the property owned by the City of Portsmouth would increase in lot area to 5.69 acres, more or less and the property located at 1821 Islington Street would decrease in lot area to 4.48 acres, more or less. Said property is shown on Assessor Plan 241 as Lots 18 and 20 and lies within the Municipal and Single Residence B districts. Plat plans are recorded in the Planning Department Office as 05.1-02. **(This application was tabled from the Board’s March 21, 2002, meeting to this meeting.)**

SPEAKING TO THE APPLICATION:

The Chair read the notice. Mr. Sullivan moved to take the application off the table. Mr. Will seconded the motion. The motion passed on an 8-0 vote.

Attorney Bernard W. Pelech addressed the Board and stated that he was present on behalf of Edward and Andrew Sherburne. He reported that the parties are still negotiating and asked that the application be tabled to the Board’s May 16th meeting.

DISCUSSION AND DECISION OF THE BOARD:

It was so moved and seconded. The motion passed on an 8-0 vote.

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B. The application of the **Estate of Mary Yager** for property located at **2200 Lafayette Road** and **2236 Lafayette Road** wherein Preliminary Approval is requested for a lot line relocation which would result in the following: Property at 2200 Lafayette Road would have a lot area of 36,446 s.f. Property at 2236 Lafayette Road, being used as a Meineke Muffler facility, would have a lot area of 22,453 s.f. Said property is shown on Assessor Plan 267 as Lots 1 and 2 and lies within a General Business district. **(This application was tabled from the Board's March 21, 2002, meeting to this meeting.)**

SPEAKING TO THE APPLICATION:

The Chair read the notice. Mr. Sullivan moved to take the application off the table. Mr. Will seconded the motion. The motion passed on an 8-0 vote.

Attorney Bernard W. Pelech addressed the Board and stated that he was present on behalf of Mr. and Mrs. Kovit and informed the Board that John Chagnon of Ambit Engineering was also present.

Attorney Pelech went on to state that the application had been tabled pending review by the Board of Adjustment. He reported that at the April Board of Adjustment meeting, the Board unanimously voted to grant a Variance that would allow the lot line to be relocated. Attorney Pelech stated that an interesting comment was made by the Board of Adjustment that the line of trees provides for a natural line of demarcation.

Attorney Pelech continued on by stating that he has reviewed the Planning Department memo and is certainly willing to meet with Mr. Holden. Attorney Pelech explained the proposal as moving imaginary lines on a piece of paper; that it was anticipated that there would be future proposals for the newly created vacant lot (existing house to be removed).

Attorney Pelech informed the Board that there is a potential applicant for the property but nothing concrete yet. He stated that once the lot line relocation is established, the home would come down describing the home as a non-conforming residential structure that sits practically within the right-of-way. He added that once the house comes down, a 12' easement would be granted to NHDOT for the purpose of widening Lafayette Road. Attorney Pelech then read into the record a letter from Alan Garland of NHDOT:

Regarding the abandoned house at 2200 Lafayette Road in Portsmouth. This Department would be supportive of the removal of this house.

The existing drive can be moved to a new location on a newly created lot provided 400 feet of sight distance can be attained.

John Chagnon of Ambit Engineering addressed the Board and stated that he was representing the applicants. He stated that the Board had discussed the proposed subdivision at its March 21st meeting. At that time, the Board asked that the curb cuts be shown on the plan. He spoke to the existing curb cut for the Meineke Facility. As far as the 2236 Lafayette Road is concerned, Mr. Chagnon spoke to some old pavement situated to the west of the site which used to serve as an entrance for the gas pumps and the office for the cabins. It is anticipated that the new driveway will be aligned with the driveway across Lafayette Road for the least amount of conflicting movements. It was Mr. Chagnon's opinion that the 400' sight distance could be achieved.

The Chair asked if there was anyone else in the public wishing to speak. There being none, the Public Hearing was closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Holden stated that he would like the opportunity to meet with the applicant and John Burke, the City's Transportation Engineer, and review the particulars of this request. Mr. Will asked if Mr. Holden could elaborate on some of his concerns.

Mr. Holden expressed his concern that any potential development for proposed 267/1 would require relief from the Board of Adjustment. He stated that he would prefer to see the whole area developed as one lot with minimum driveways. He continued on to state that the real issue is that he would like to have the City's Transportation Engineer review the plan. He went on to state that the condominium process would provide the opportunity to have the site as one lot. He asked that the application be tabled rather than having Preliminary Approval granted.

Mr. Will moved to table the application to the Board's May 16th meeting. Mr. Coker seconded the motion. The motion was made to allow time for the department and the applicant to get together with John Burke.

Mr. Hopley stated that he would not support the motion in an attempt to stick to the issues; that the application before the Board is for subdivision (lot line relocation) not site review.

A roll call vote was taken. The motion failed on a 5-3 vote with Messrs. Savramis, Coker and Will voting in the affirmative and Ms. Roberts, Messrs. Sullivan, Carrier, Hopley and the Chair voting in the negative.

Mr. Will moved that Preliminary Approval be granted with the proviso that the applicant speak with the department. Mr. Hopley seconded the motion. The motion passed on an 8-0 vote.

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IV. CITY COUNCIL REFERRALS/REQUESTS

A. Request to re-designate a paper street known as Franklin Avenue as a private way named Franklin Lane

Mr. Holden commented that the request actually started in 1999 and had been bantered back and forth. The request before the Board follows the process recently adopted by the City Council for naming private ways. The dispatch center recommended that Franklin not be used as it might create confusion with Franklin Avenue during a safety call. Mr. Holden stated that he conferred with the Websters and suggested the name of Webster Way. Mr. Holden reported that the Websters are agreeable and that Webster Way does work with the Police and Fire dispatch. In making the recommendation, Mr. Holden referred to Daniel Webster, a historic figure in the City.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Will moved to recommend to the City Council that the private way named Franklin Lane be re-designated as Webster Way adding that he was getting bored with the potential list of street names prepared by the Planning Board and felt that history would be upheld with Webster Way. Mr. Hopley seconded the motion. The motion passed on an 8-0 vote.
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V. NEW BUSINESS

A. 46 Livermore Street -- request for a driveway permit

Mr. Holden commented that the Board had some discussion on this request at a previous meeting adding that the proposal had initiated a great deal of public interest. He recommended that the Board schedule a public hearing as the first item on the May Agenda and further suggested that the Board and the applicant meet 15 – 20 minutes before the meeting to view some exhibits in the Portsmouth Room. Mr. Holden further indicated that a report submitted by Attorney Peter Loughlin was available in the Planning Department for viewing.

DISCUSSION AND DECISION OF THE BOARD:

It was so moved and seconded. The motion passed on an 8-0 vote.

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B. 1950 Lafayette Road – request for a one year extension of site plan approval

Mr. Holden reported that this is a first time request for an extension of the original site plan approval and recommended that the Board grant the request.

DISCUSSION AND DECISION OF THE BOARD:

It was so moved and seconded. The motion passed on an 8-0 vote.

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Item not on the Agenda:

BJ’S at 1801 Woodbury Avenue

Mr. Holden reported to the Board that on the sidewalk issue, John Burke, the City’s Transportation Engineer, David Desfosses, Engineering Technician with the Public Works Department, and David Allen, Deputy Public Works Director had concluded that the steep grades from the access to the driveway would preclude the installation of sidewalks. The Board was satisfied with the report.

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VI. ADJOURNMENT was had at approximately 10:30 p.m.

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Respectfully submitted,

Barbara B. Driscoll, Acting Secretary for the Planning Board

These minutes were approved by the Planning Board at its June 20, 2002, meeting.