

**MINUTES OF MEETING  
REGULAR MEETING  
PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

**7:00 P.M.  
2003**

**CITY COUNCIL CHAMBERS      DECEMBER 18,**

**CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

**MEMBERS PRESENT:** Kenneth Smith, Chairman; Paige Roberts, Vice-Chairman; Brad Lown, City Council Representative; Richard A. Hopley, Building Inspector; Thaddeus J. "Ted" Jankowski, Deputy City Manager; John Sullivan; Raymond Will; Donald Coker; George Savramis; and, alternates, John Ricci and Jerry Hejtmanek

**MEMBERS EXCUSED:** n/a

**ALSO PRESENT:** David M. Holden, Planning Director; and, Lucy E. Tillman, Planner I

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6:30 –7:15 P.M. A work session was held to consider mixed uses in the Central Business **A and Central Business B Districts.**  
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**I. SITE PLAN REVIEW EXTENSION OF APPROVAL**

A. The application of the **City of Portsmouth** for property located at **175 Parrott Avenue** wherein a one-year extension of a site plan approval is requested for the construction of a new public library.

This one year extension was **granted** unanimously by the Board. Site plan approval will now expire on **February 6, 2005**. The stipulations associated with the original approval remain in effect.  
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**II. PUBLIC HEARINGS**

A. The application of **Aranosian Oil Company, Inc.** for property located at **1166 Greenland Road** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* for the demolition of an existing building and canopy and the construction of a 3,900 s.f. single-story building for use as a store, a 24' x 36' building for use as a car wash, refueling islands with canopies and new pavement within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 279 as Lots 1 and 2 and lies within an Industrial district. (This application was tabled to this meeting from the Board's November 20, 2003, meeting.)

A motion was made and seconded to take the application off of the table.

Attorney Malcolm McNeill addressed the Board, on behalf of the applicant, Aranosian Oil Company. Also in attendance were Floyd Hayes and Paul Kenney from Aranosian Oil, Dennis Moulton, of Millette, Sprague & Colwell, Chris Danforth, Certified Wetland Scientist, Steve Rickerich, of Shevanell-Gallen. They were present before the Board in October for a full hearing. The Conservation Commission had recommended the conditional use permit which they were seeking

relative to this matter. That recommendation was made after hiring a Wetland Scientist to make a recommendation. One of the Conservation Commission members who was present at October's hearing but had been absent at the Conservation Commission meeting, requested of the Conservation Commission that there be a rehearing. There was re-hearing and by a 6-1 vote, the Conservation Commission again recommended the conditional use permit.

In October, the Planning Board made suggestions via letter from David Holden dated October 20, 2003 that they consider three issues:

- 1) A decision of whether the site would be connected to a municipal sewer system or would utilize a septic system;
- 2) The resolution of the issue of snow storage and/or removal;
- 3) Submission of performance standards for the submitted drainage plan.

The sewer will be used for a ladies room and a men's room. Each will have a sink and a low volume toilet and there will be no washing machines or showers. The Planning Department was concerned about a septic system at the Packard Development and may have been an influencing factor in the processing of that application. The building they are proposing is 3,900 s.f. and Packard Development is 90 times that size at 350,000 s.f. Attorney McNeill did not believe that any analogy between the two was appropriate. The applicants want to use the most cost effective methodology to get through the permit process and operate their business. This line is very unique as it is private and they have been given an estimate of \$350,000 to tie into the line. They can install a State approved septic system for \$15,000. Therefore, a State approved septic system will be the system that they will utilize.

There was concern at the Conservation Commission and Planning Board meetings about run off from the carwash. They plan to recycle their water 100% and it will be an entirely closed system.

The Planning Board was also concerned about stormwater considerations. Attorney McNeill indicated that this plan supplies berms, catch basins, oil water separators and other means of collecting water that will enhance and improve the existing drainage condition on the site. The DES will have to review this site as well. Attorney McNeill referred to a letter from Dorey Wiggin of NH DES dated May 12, 2003, which strongly advocates from a DES prospective that this plan be processed. The DES will monitor the removal of old tanks and installation of new tanks. The applicant would be happy to provide the City with copies of all NH DES monitoring reports.

Attorney McNeill stated that the applicant proposes to change the site from its existing configuration. He reviewed the plans with the Board and pointed out the wetland boundaries. The property has been in existence since 1966 and there is no enforcement action pending by the DES. Currently trucks use this location as an overnight parking lot, with 40-50 trucks every night and there are no regulations prohibiting this use. The applicants wish to up-grade the site and make it better. The convenience store will be upgraded and there will only be room for 10 spaces for tractor trailer trucks, with no overnight parking. The site will be manned 24-hours a day to enable enforcement of the parking.

Attorney McNeill represented that the improvements they are making will not effect the Great Bog and Mike Cuomo's report will confirm that. Now treated materials, as opposed to untreated materials of 40-50 trucks, will proceed towards Pickering Brook in a manner that is treated and will not adversely effect Pickering Brook. The Great Bay is a long way from the site and there will be treatment that will mitigate against those concerns.

Attorney McNeill addressed the question of why they were there. They filed their application in May, after six months of discussions with city officials. They felt the issue was environmental and the involvement of the Conservation Commission and the Planning Board should come first.

Regarding the criteria for the Board's consideration, the land is reasonably suited to the use and the wetland values are not adversely impacted as reflected in the expert reports. There have been no abutters expressing any concerns about this project.

Attorney McNeill indicated that the applicant wishes to upgrade the station and it will cost in excess of \$1 million. In order to make the upgrade, he needs a car wash and he needs to enhance his convenience store. Therefore, this relief is necessary. The applicant will demonstrate that the proposal is the alternative with the least adverse impacts to areas and environments under the jurisdiction of the ordinance. Attorney McNeill did not feel there was any contradictory evidence in the case. He summed up their case as: 1) no input to the Great Bog; 2) no impact to the Great Bay; 3) improved septic system; 4) a car wash that doesn't put any water into the system; and 5) improved site and other factors. Attorney McNeill indicated that once they get through the Conditional Use process, they will have to complete the Site Review process, they will go to the DES for matters and, depending on discussions with Mr. Sullivan, a determination on how this non-conforming use will be processed under the ordinance.

Mr. Will asked why they didn't submit any plans for a final septic system if that is the way they were going to go? Attorney McNeill indicated they will do that when it's appropriate. Without that particular frame of reference, Mr. Will did not believe he could make a decision one way or the other. Attorney McNeill indicated they will provide this septic system in a legally acceptable manner that will not adversely effect any of the City's regulations. Attorney McNeill did not understand why it matters what part of the parking lot the septic system would be under. They have represented that it a septic system that isn't seeking waivers or relief and isn't subject to the City's jurisdiction. Mr. Will disagreed.

Chairman Smith asked if they had applied for a septic system permit and did they have one approved at this point? Attorney McNeill indicated that it had not been applied for. Chairman Smith asked specifically where the septic system would be located? Attorney McNeill indicated it would be outside of the wetland protected zone, under the pavement. Chairman Smith indicated that was not acceptable and that he needed to know exactly where it would be located.

Dennis Moulton, of Millette, Sprague & Colwell, addressed the Board. He indicated that the most recent plan indicates the location of the septic disposal leaching beds in front of the canopies. This location was chosen based on soil testing.

Mr. Coker asked how long the applicant has owned the property? Mr. Moulton indicated since 1965 – 1966.

Steve Rickerich, of Ransom Environmental Consultants, indicated that they have been working on the site since the early 1990's, monitoring petroleum releases to the groundwater. They are currently monitoring in June and December and it occurs under a groundwater management permit. They sample 4-5 wells. This monitoring will continue until all groundwater standards are met by the State, which is drinking water standards. He anticipated that monitoring would last another 4-5 years.

Mr. Coker asked where the reports were sent and if copies could be sent to the Department of Public Works?

Mr. Rickerick stated that the reports were sent to the Department of Enviromental Services, the Waste Management division and it would be no problem providing copies to the DPW.

Mr. Sullivan asked Attorney McNeill about the construction of the business on part of city property. He feels part of the Route that used to go to Manchester is being used as an entrance and parking by the applicant. The Planning Board has previously denied them the use of that property.

Attorney McNeill indicated that this had been an issue for five months and he felt it was more appropriate for Site Review. They have retained the law firm of Sheehan, Phinney, Bass and Green to provide them with additional advice on this matter.

Councilor Lown indicated that Mike Cuomo's report indicates that there will be an additional 39,000 fill in pavement in the wetland buffer and he considered it a significant encroachment on current use. He asked if there was anything between the current use and the plans being presented to the Board where they would not have to encroach to that extent on the wetland buffer?

Attorney McNeill felt that the process that needed to be undertaken was a balancing test between the legal rights that exist in the applicant, the desire to improve the circumstance, yet having to pay for them. There is a trade-off. If they were coming before the Board with a new project on this site that had no existing rights to proceed, there would be a different way of looking at the project. He also reiterated the fact that the Conservation Commission voted to recommend approval of this application twice. They feel that they need this result to make the project work.

Mr. Jankowski asked what the estimated capacity of the tanks were and where the fuel tanks will be located, in or out of the wetland buffer? As it was determined that this would be part of their presentation, the question was deferred.

Mr. Moulton addressed the improvements they are making with their stormwater detention and treatment system. The current site has no stormwater detention or treatment at all. At the proposed site they will be re-grading the site to allow for all stormwaters to drain in the direction of the south and southeast, to catch basins, running to an oil/water separator, which then leads to a wet detention pond. The wet pond has standing water in it which allows for extended time for sediments to settle out, which provides a very good cleansing method for stormwater. From there it goes through a rear outlet, which is another form of oil/water separator. This wet basin would be able to store 12,000 gallons of contaminants above the outlet. The flow continues to a dry detention area which holds back the water for an extended period of time, allowing some settlement of the solids. It allows the water to flow out through an outlet with a level spreader, which allows the water to rise up and flow in a sheet flow manner, down a vegetative filter strip into the existing wetland. Mr. Moulton indicated this was a very common system however the combination of so many of the components is uncommon. They added a couple of different layers to their system.

Mr. Moulton indicated there would be an additional 22,770 s.f. of pavement but this pavement is over existing pre-disturbed, filled in site. They are not asking to pave pristine buffer area but gravel, debris and overgrowth. Mr. Cuomo had brought up the question of why there had to be so much pavement. Mr. Moulton indicated that tractor trailers are not easy vehicles to move and have to make wide turns.

Mr. Hejtmanek referred to a previous notice that they had a copy of where they were cited by the DES for illegally filling in wetlands and asked for information.

Attorney McNeill indicated that one of the reviews that was done by Michael Cuomo was a record review to ascertain whether there were any existing violations on the site. There was a finding dated August 14, 2003, addressed to the City of Portsmouth, that there were not any present DES violations.

Mr. Richerick indicated that a restoration plan was requested by DES and implemented by Aranco and approved.

Mr. Moulton indicated that they provided drainage calculations to the Board and they were prepared to discuss that report. Stormwater treatment is a difficult science but there have been some studies and some decent information is available. What he looked for when he designed this system was a combination of not only treatment but management of the stormwater flows so as not to overflow the system and also low maintenance. The wet pond is very low maintenance as it basically just needs to be checked to make sure the outlets remain free of debris and it is maintained in good condition. The detention pond needs to be kept free of debris also. The level spreader is the same – make sure there is nothing to block the channel flow. It is Mr. Moulton's personal belief that the less maintenance that is required, the more likely a system will be maintained. Normally, these items would be reviewed at Site Review.

Mr. Moulton spoke to the snow issue. They testified before the Conservation Commission that the snow would stockpile in the parking area and be removed from the site. This refers to heavy snow. When there is a small storm, the snow could just be pushed off to the edge and stored there. Any snow fall that would exceed the berm height would have to be pushed into the truck parking area for storage and then trucked off site.

Mr. Will indicated that the Conservation Commission, in their memo of November 14th, included a stipulation that no untreated effluent from any septic system on the site be allowed to escape into the wetland. Given the location of the septic system, Mr. Will asked how they could guarantee that?

Mr. Moulton indicated that the State standard for setback to a wetland area is 75' and they feel that this is sufficient to filter out the effluent from the septic system. They are in excess of State standard.

Mr. Sullivan asked about the traffic flow of the trucks coming into the site, which was their justification for adding more soil and fill, and whether they could move the building further to the front which would give a better traffic flow without putting the fill in? Also, he asked them to give the Board a color coded chart next time, indicating where on the lot they are going to fill so that they can see it better.

Mr. Moulton did not feel the building could be moved forward as the trucks need adequate space to make their turns. For safety reasons, they need the extra space.

Mr. Hejtmanek acknowledged that this system would be easy to maintain but he felt that some of the system, for instance the oil/water separator, needs to be maintained with some rigor.

Mr. Moulton indicated they are not completely without maintenance but compared to other management practices, he would consider them low maintenance.

Mr. Hejtmanek asked if the system was not maintained, would it back up into the wetlands? What assurance could they give them that five years out the system will continue to be maintained properly?

Mr. Moulton indicated that it would be completely appropriate to have someone inspect the system on a yearly basis and file a report.

Mr. Coker asked if it was fair to categorize his revised drainage as an extended detention pond?

Mr. Moulton indicated that was correct. They will size the outlets so as to provide the 24 hour detention period for the stormwater.

Mr. Coker indicated that their report was formatted to list out advantages and disadvantages for treating stormwater runoff and there were no disadvantages listed for the extended detention pond. Mr. Coker asked how that might happen? He was concerned about the run-off. Mr. Coker indicated that it was good that things were being improved but he feels that the option needs to have the least impact to the environment and he is not convinced that this is the least impact, given what they supplied for materials.

Floyd Hayes, owner of the site, spoke regarding the location of the tanks. The tanks are currently behind the old building and there is approximately 68,000 gallons in storage on the property, one metal tank, six 10,000 polytanks. The proposed upgrade is to take all of those tanks out of the ground and put in what is called titan tanks, which are state of the art and leak proof. Those new tanks will be installed to the back of the truck aisle. They will go from 68,000 gallons to 64,000 gallons. They are installing state of the art, double walled total containment lines. If there is ever a leak they can pull the inner wall right out and put a new one right in. They will be installing line leak protectors so that if at night the diesel pump happens to have a leak in the line, the pump will shut down and will not start until they fix the leak in the line. They will also have total containment sumps so that when they are

pumping the gasoline and there is a leak, the fuel will go back into the sump and back into the tank and not into the property.

Mr. Hayes stated that a canopy will be installed over the diesel pump. Presently, when the gasoline kicks off, it runs off of the property. The new canopy would cover all of the pumps and the gasoline will stay underneath the canopy and there is a very good chance that it will not make it to the wetlands.

Mr. Jankowski asked what the capacity of the new tanks will be?

Mr. Hayes indicated they were going from 68,000 to 64,000, going from seven tanks to six tanks. They will be located outside of the buffer area.

Mr. Coker stated that there is currently a sign on the site stating that the property was being video monitored. What width was actually being monitored?

Mr. Hayes indicated that the 10 spots on the proposed plan will have video monitoring as well as lights. There has not been any video monitoring at the location and the sign is only used as a deterrent.

Chairman Smith asked if the tanks will have both gasoline and diesel storage?

Mr. Hayes stated that there will be a combination of separate gasoline tanks and separate diesel tanks. Their biggest fear right now is if there is an accident, the fuel will go directly into the wetlands and by the time the environmental guy gets there the fuel will already be in the wetlands. Under the new proposal, they are able to catch that spill.

Mr. Rickerich distributed an aerial photograph to the Board members. He addressed some of the concerns that were expressed about the stormwater flow impacting upon the Great Bog. The photo showed catch basins, C-1 through C-14. These were identified using a hand-held GPS locator. They were trying to provide the Board with evidence that there was no identifiable connection to the Great Bog and the wetlands located closer to Greenland Road. They walked the entire margin of I-95 at the base of the abutment and identified all of the catch basins, which are outfalls for storm drains that were in the I-95 corridor, either from the center median or the shoulder of the road. On the opposite side, or the Great Bog side, they observed outfalls for the catch basins that service the eastbound lane. In none of the locations could they find a pipe or culvert that connected beneath the highway. In short, Michael Cuomo in his early December report, made the same transept that they did. Currently surface water does flow to the northeast towards the on/off ramps for Exit 3. The drainage in that area does so through a system of structures that eventually heads underneath I-95 and into the Great Bog. The proposed modifications have been designed so that all of the flow will be directed towards the southwest and the wooded wetland area on the west side of I-95. Therefore, they will be further isolating the facility from the Great Bog. The surface water flow that migrates off the site under the proposed plan will occur through a wooded wetland area, under the corridor, and eventually to Pickering Brook that flows back up to the northwest towards Great Bay. The surface water treatment structures that have been designed are good viable systems that will greatly improve the water quality going off of the site and should result in no impact from the site. They believe the water should be treated to surface water quality standards as it is leaving the detention structures.

Mr. Coker asked if he understood Mr. Rickerich to say that this was an isolated wetland?

Mr. Richerich stated that it was not connected to the Great Bog under I-95.

Mr. Coker read from Mike Cuomo's report of September 30, 2003, where he disagrees with the SCC report where the wetland is described as isolated from the Great Bog. Mr. Coker asked for clarification.

Mr. Richerich indicated that the reason they did the site walks was to clarify that statement. Their observations let them to their conclusions. Mr. Richerich went on to say that Mr. Cuomo, in the same

document, said that he inspected the culverts under I-94 and agreed that the water would flow to Pickering Brook, rather than the Great Bog.

Mr. Coker wanted to be crystal clear and reiterated that Mr. Richerich was saying that there are no culverts that allow water to flow from the site to the Great Bog?

Mr. Richerich felt that, under the proposed plan, that was true. All of the flow will be directed to the southeast, to the detention pond system, which will go into that wetland, which is completely separate from the ones to the north.

Chairman Smith confirmed that there was none to the Great Bog but they did find some to Pickering Brook.

Mr. Richerich indicated that yes, it eventually makes its way to Pickering Brook.

Chris Danforth, of Schauer Environmental, Wetland Scientist, advised the Board that it was his task to prepare the functional evaluation. He went to the site with Mr. Richerich to investigate the culverts to determine the flow path from their site to the Great Bog and Pickering Brook. The principal functions of his report was flow alteration, semi-toxicant retention and \_\_\_\_\_ removal. This was because there was no concentrated surface water run off from or through the wetlands directly adjacent to the site. The water movement through the site is basically sub-surface, until it reaches the berm, where it backs up and discharges through the small breach. They are talking about 1,000' from the site to the berm where they have sub-surface flow. They have maximum treatment of contaminants that may be in the water. By the time it reaches the breach in the berm it becomes surface water flow through the site. They should have achieved complete treatment of the stormwater runoff to the site. Therefore, he would make the assumption that there is no impact to the Pickering Brook.

Mr. Coker asked Mr. Moulton whether the design was better than what was there and, as their regulations say "least impact" he asked why they didn't choose some other more efficient technology. His concern is the proximity to the Great Bog and the sensitivity of the area.

Mr. Moulton felt that, when all the different elements were combined, they would give an efficiency of 99% which is very, very high. He felt they were above and beyond what most other municipalities would require.

Mr. Coker asked about in the winter time when grass and the swale is frozen solid and they have rain and snow which would make the detention pond fill, what comes out of there and where does it go and what quality is it?

Mr. Moulton felt that most other alternative technologies must be designed for a storm event. Most are designed for a 2 year storm. When you get to the higher year storm, you have to by-pass the systems because they flood and it just pushes everything out of the system. By creating a detention area, it will slow down the flow. By the time that you get past the detention basin, 60 –70% of solvents have been removed.

Mr. Coker asked in Mr. Moulton's professional opinion and for the record, did he feel that the water that came out of there is approximately 90-95% clean?

Mr. Moulton indicated that after it has gone through all of the infrastructures and the system that they have presented tonight, it would be at that level.

Ms. Roberts indicated that Mr. Cuomo's most recent memo dated 12/8/03 raised some points that she would like them to respond to. She asked about his reference to suggesting post construction monitoring by a third party?

Mr. Moulton indicated that Mr. Richerich was providing his reports to the DES and they would agree to provide those reports as well. They would also supply maintenance reports to the City and would be agreeable to have the City do their own inspections.

Mr. Sullivan indicated he would like to see a maintenance schedule so that they would know when it would take place so that anyone from the City could be present.

Mr. Hopley referenced four items in their buffer zone ordinance and specifically #4 indicates that the applicant will demonstrate a proposal as the alternative with the least adverse impact on the areas under the jurisdiction of the ordinance. As there is an existing building outside of the buffer and they are almost doubling the size and putting a portion of the new building in the buffer and are increasing the fill and paves area by 3,900 s.f, how can they say that this proposal has the last impact?

Attorney McNeill explained that it must be looked at in the context of the totality of the circumstances of this case. This is the most reasonable least impact scenario. Extending the concept of Simplex and the general legal concept of reasonableness, he believes that is the context that this must be viewed in.

Mr. Will indicated that the Board does not create scenarios but only reacts to what is presented to them. He believes they could expect a more reasonable plan.

Chairman Smith asked if they looked at a design without a car wash and a design to move the building out of the wetland buffer?

Attorney McNeill indicated that they did not consider not having a car wash.

Alanson Sturgis, Chairman of the Conservation Commission, was interested to hear Attorney McNeill say that the City had hired the Conservation Commission to review this. He assumed his check got lost in the mail. He could only repeat what he told the Board before. They looked at the project, recognized that there is not a big invasion of the buffer zone and that buffer zone was doing very little buffering now. It is a truck park and part of it is a rubbish dump. If the applicant does what they say they are going to do, it looks like a betterment of the wetlands. Mr. Sturgis hoped that, if the application was granted, the Board would stipulate that all of Mr. Cuomo's recommendations in paragraph A of his 12/8/03 memo be included. Regarding Mr. Will's questions about whether the Conservation Commission considers the 75' distance from the wetlands adequate, Mr. Sturgis indicated that none of them were sanitary engineers and the DES does have sanitary engineers so he will not argue with them.

Attorney McNeill asked that the record reflect that no one from the public has spoken against the project.

Steve Miller of the Conservation Commission indicated that this was not an easy decision on his part and it was nice to have the opportunity to review it a second time. There were many things that he did not like about the proposal and many things that he had no purview over. What it all came down to was he voted for the proposal because he felt that they would get a better water quality out of the project. He has made many site visits and he feels that the buffer zone that is there now is not a buffer zone but rather is a truck parking lot. It is almost non-functional as a buffer zone and this proposal would be better for the quality and he had to base his vote on that.

Councilor Lown asked who was the dissenting vote and what was the basis of that dissent? Mr. Miller indicated that the dissenting vote was based on the fact that this was a large incursion into the buffer zone.

There being no further speakers, the Public Hearing was closed.



**DISCUSSION AND RECOMMENDATION OF THE BOARD:**

Mr. Will moved to deny the application based on criteria within the wetland ordinance which states that the applicant shall demonstrate the proposal is an alternative with the least adverse impact to the various environments. Mr. Jankowski seconded.

Mr. Will indicated that he did not believe the proposal could be worked with or tabled. He believed a simple visualization of the facts leaves him no choice but to deny the application. He felt the Board could do something about this. He does not believe, that by denying the application, they are saying that they want things to stay the way they are but they are saying quite the opposite. He believes this business can expand without such an encroachment upon the property. He feels they are in violation of criteria 4 in Section X 408(b)(4).

Ms. Roberts indicated that she would be voting against the motion because she also struggled with the issue but essentially agrees with the points made by the Conservation Commission members.

Councilor Lown understood Attorney McNeill’s argument about quid pro quo and his argument about the totality of the circumstances and in almost any other case this is an application that should be denied under the provisions of the ordinance. He has to agree with Steve Miller who indicated that this buffer zone is not functioning as a buffer zone at all and trucks are parking in the buffer zone and who knows what is coming from those trucks. In the totality of the circumstance, Mr. Cuomo is saying that this is probably going to be an improvement over what exists and that is a persuasive argument to him. He will be voting against the motion.

Mr. Savamis indicated that he will be supporting the motion as he felt the expansion of the site was too close to a very sensitive area and improvements can be made to the site.

Mr. Coker stated that he would not be supporting the motion. There was a lot of talk about the buffer zone but at the current time there is no buffer zone. What goes in its place would be significantly better than what is there now. He has had some huge reservations about this proposal but he felt the developer and owner have a right to develop this property and given the totality of the circumstances he feels it should be granted.

Mr. Jankowski stated that he was supporting the motion because he was not convinced that this was the best proposal. The economic value of this site is very high. He is concerned about the use of the city right-of-way and the septic system.

Chairman Smith was supporting the motion. He did not believe the land was reasonably suitable. If it was, they would not have to be doing 3,900 square feet of fill. He also felt that there was no chance of compromise as they did not look at a proposal without a car wash nor would they be open to alternatives. He did not believe this was the last time they would see this and they will be back before the Board.

The Motion to Deny passed with a 5 – 4 vote, with Councilor Lown, Ms. Roberts, Mr. Sullivan, and Mr. Coker voting in the negative.

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B. The application of **David W. and Anne L. Perkins and the Roman Catholic Bishop** for properties located at **827 and 759 Woodbury Avenue** wherein a Lot Line Change is requested between two lots having the following: Lot 15 as shown on Assessor Plan 220 increasing in area from 0.22 acres to 0.35 acres and with continuous street frontage off Woodbury Avenue Lot; Lot 39 as shown on Assessor Plan 219 decreasing in area from 10.33 acres to 10.20 acres and with continuous street frontage off Woodbury Avenue; and, lying in a zone where a minimum lot area of 15,000 s.f. and 100’ of continuous street frontage is required. Said properties are located in a Single Residence B

district and are shown on Assessor Plan 219 , Lot 39 and Plan 220, Lot 15. (Plat plans are on file in the Planning Department Office and are identified as 17-01-03.)

**SPEAKING TO THE APPLICATION:**

Cory Colwell, of Millette, Sprague & Colwell, spoke on behalf of David and Anne Perkins and indicated they were looking at a simple lot line relocation. The properties involved were the Perkins property which is a small lot with a single residential dwelling and property of the Roman Catholic Bishop of Manchester, which is a large open lot with a very picturesque duck pond. The Perkins hope to extend their property as their garage and shed are extremely close to the property line. By moving their property line over it would put their driveway completely on the Perkins site, it brings the garage and the back shed into conformance with the side setback regulations, it makes a nice rectangular shape to the Roman Catholic Bishop property and it brings the line into conformance with the area zoning requirements. They are in Single Residence B zone which requires 15,000s.f. of property and by adding this additional piece of property they are bringing the lot from 9,790 s.f. up to 15,419 s.f. They would set monuments at the newly created lot borders and certify those monuments to the Planning Department.

Mr. Sullivan indicated that the lot was that way because there used to be a house that was taken down and he believes that land was either sold or given in trust to the Catholic church. He asked if there were any restrictions on the land as a result of that transaction?

Mr. Perkins was unsure how the property was conveyed but was unaware of any restrictions on that property.

There being no further speakers, the public hearing was closed.

**DISCUSSION AND RECOMMENDATION OF THE BOARD:**

Mr. Sullivan moved to approve Preliminary and Final approval, subject to the noted stipulations. Mr. Will seconded. The motion to approve subject to the following stipulations passed unanimously:

- 1) Installation of permanent boundary monuments per the requirements of the Public Works Department; and
- 2) Land Surveyors certify to the City that there are no easements or restrictions on the property.

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C. The application of **Four Seas Partners and Frank J. A. and Irja Cilluffo** for properties located at **179 and 181 Pleasant Street** wherein a Lot Line Change is requested between two lots having the following: Lot 15 increasing in area from 0.743 acres to 0.930 acres and with continuous street frontage off Pleasant Street; Lot 16-1 decreasing in area from 0.362 acres to 0.175 acres and with continuous street frontage off Pleasant Street; and, lying in a zone where a minimum lot area of 7,500 s.f. and 100' of continuous street frontage is required. Said properties are located in a Mixed Residential Office district and are shown on Assessor Plan 108 as Lots 15 and 16-1. (Plat plan is on file in the Planning Department Office and is identified as 18-01-03.)

**SPEAKING TO THE APPLICATION:**

Cory Colwell, of Millette, Sprague and Colwell, spoke on behalf of Four Seas Partners and the Cilluffo's. He indicated that the property was at the intersection of Pleasant and Junkins Streets. He stated that the property lines were very oddly shaped and the lot line jogs out and runs through the middle of a building, across the driveway and onto Pleasant Street. They are proposing to move or eliminate one lot line and move it to a new location. The proposal is for the transfer of 8,154 s.f. and they would set lot line monuments at the newly created lot lines.

Mr. Sullivan asked how something like that ever developed?

Mr. Colwell indicated that they actually see a lot of it in the cities. Years ago there were no setbacks and you might start with a house and then the house might have a caretaker who would want his own piece of property. So pieces would get sub-divided out. That is one example. He said this was very common in New Castle where lot lines run through houses. Sometimes a will will leave one side of a house to one person and the other side of the house to someone else so the property would be subdivided right down the middle.

There being no further speakers, the public hearing was closed.

**DISCUSSION AND RECOMMENDATION OF THE BOARD:**

Mr. Will moved to approve Preliminary and Final approval, subject to the noted stipulations. The motion was seconded. The motion to approve subject to the following stipulations passed unanimously:

- 1) Installation of permanent boundary monuments per the requirements of the Public Works Department; and
- 2) Elimination of one curb cut from Lot 16-1, off Richmond Street.

.....

D. The application of **Karl and Gale Belilah** for properties located at **244 and 254 New Castle Avenue** wherein a Preliminary Lot Line Change is requested between two lots having the following: Lot 38 increasing in area from 5,291 s.f. +/- to 6,197 s.f. +/- and with continuous street frontage off New Castle Avenue and Driftwood Lane; Lot 39 decreasing in area from 4,581 s.f. +/- to 3,674 s.f. +/- and with continuous street frontage off New Castle Avenue; and, lying in a zone where a minimum lot area of 15,000 s.f. and 100' of continuous street frontage is required. Said properties are located in a Single Residence B district and are shown on Assessor Plan 207 as Lots 38 and 39. (Plat plan is on file in the Planning Department Office and is identified as 19-01-03.)

**SPEAKING TO THE APPLICATION:**

Karen Lovejoy, of Ambit Engineering, represented Mr. & Mrs. Belilah in their request for preliminary approval of a lot line relocation between the two lots owned by the Beliliahs. Both lots are currently non-conforming and the lot line would decrease the square footage of Lot 39. There are clear reasons why this lot line change would be desirable. The detached area is part of Lot 39 but actually cut back into the back lot of Lot 38. The goal is to give Lot 38 a useable backyard. In addition it would make both lots more regularly shaped. They anticipate bringing this before the Board of Adjustment but were requesting preliminary approval from the Planning Department.

Chairman Smith indicated that the lot line was going through one of the building and was there a reason why that wasn't being corrected at this time as well?

Ms. Lovejoy indicated that a final boundary determination has not been made yet so they don't know the full scope of this problem but this is how it is reflected on the tax map. They will address that problem when they determine how far over the line is.

Councilor Lown asked, if they determine that the structure is in fact over the line, would they be agreeable to an arrangement to address that?

Ms. Lovejoy indicated they wanted to address the problem and would explore a lot line change. She did not want to get into an easement as that seemed rather cumbersome.

Mr. Coker was not comfortable even doing a preliminary because they were being asked to grant approval on something that they don't know what it is. He would prefer to come back with a completed plan so that they could vote on it as presented.

Mr. Jankowski asked historically how this situation arose?

Ms. Lovejoy discovered, in doing the deed research, that lot 39 was actually part of the lot to the south which was Pickering Farm. The detached area was created when the Pickering Farm divided their farm. It was possibly a garden.

Mr. Sullivan asked why this was being brought before the Planning Board prior to doing all of their homework as it would probably change when they came back.

Mr. Holden clarified that they actually encouraged the applicant to do this. They are basically taking the existing tax map and showing how they would like to proceed. The purpose of the preliminary is to see whether the Board sees any merit in it. That is also why the Planning Department gives them a couple of options. Absolutely nothing will happen until they receive final approval.

There being no further speakers, the public hearing was closed.

**DISCUSSION AND RECOMMENDATION OF THE BOARD:**

Councilor Lown moved to approve Preliminary approval, subject to the noted stipulations. Mr. Will seconded. The motion to approve subject to the following stipulations passed unanimously:

- 1) That if an encroachment exists, that some mechanism (easement) be proposed that recognizes it without altering the side yard;
- 2) Installation of permanent boundary monuments per the requirements of the Public Works Department.

.....

E. The application of **Bicoast Associates, Inc.** for property located at **579 Sagamore Avenue** [Tidewatch Condominiums – A Planned Unit Development] wherein site plan approval is requested to amend a previously approved site plan for a planned unit development located at this location. Amendments requested include: a reduction in the remaining density of the project [from 41 units to 36 units]; the relocation of proposed units from previously approved locations; changes in unit types; a new emergency access/egress to Jones Avenue; new maintenance garage; along with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 223 as Lot 30 and lies within a Single Residence A district.

**SPEAKING TO THE APPLICATION:**

Robert Thoresen, representing Bicoast Associates, was seeking approval for a supervised plan. This was a fully approved and valid site plan that is also vested. In 1985 the Planning Board originally approved the plan and a building permit was obtained in 1986. There has been an active permit maintained on the site ever since. There were 122 units originally approved in three phases. 55 units were built in the 1980's and early 1990's as well as the entire roadway except for the last loop. Later, 25 units were built and the last one was finished about six weeks ago. The plan is now to move into the final area where they have approval for 41 units. They have been working with the Condo Association to make some changes to the plan to reduce the density. They have come to an agreement that everyone supports which reduces the number of units from 41 to 36 and changes the configuration of some of the units. The improved layout has less pavement and added a future garage for storage of

materials. They moved three of the buildings that were within the buffer zone, which didn't even exist when the plan was originally approved, so they no longer infringe in any way on the buffer zone. There was a small 2,000 s.f. of wetland area that was discovered later on in the process and they moved the building that was going to be built right on top of the wetland. They believe they have an improved layout. They added a future recycling center. They added some extra parking spaces along the roadway.

Mr. Thoresen indicated there was a proposal for a controlled access point onto Jones Avenue however the Technical Advisory Committee recommended against that and they have taken it off the plan so they are in compliance with all of the TAC conditions. Mr. Thoresen stated that the Condo Association has some concerns about that from an emergency access point of view which they will share with the Board. All utilities have been installed along with driveway and they go down to the Elks Lodge and tie into that water/sewer system. There was a letter in the file from Chris Ogden of Maguire, indicating that the layout of the water/sewer system will handle the addition of the 36 additional units.

Mr. Will brought to the attention of the Board that he had spoken to and works with Jim Daphner who lives on Broad Street and they had a brief discussion about the Jones Avenue access. Mr. Will then went on to ask about the emergency access and what their intentions were.

Mr. Thoresen confirmed that they took the access off the plans however reiterated that the Association has concerns about only one means of access/egress.

The Chairman called for speakers from the public.

Attorney Bernie Pelech spoke on behalf of the Elks Lodge #97, which is a direct abutter. He was speaking in favor of the plan. They spoke in opposition at the TAC meeting due to the access onto Jones Avenue. However, they have since removed that from their plans so the hall is not full of people in opposition.

Roland Lalanchette, of Jones Avenue, spoke in opposition to the Jones Avenue access. They already have a lot of traffic generated by the dump, the Elks Lodge, the nursing home and the junk yard. He also did not believe that the narrow, winding road would be good for emergency vehicles.

Paul Houlares of 65 Jones Avenue spoke about the traffic on Jones Avenue and how it has increased over the years with the addition of SunBridge and the scrapyard. He has issues with safety as the road is so narrow. He was concerned about the undeveloped land in the area that could be developed in the future. Jones Avenue has a lot of very young children. He was opposed to the access from Tidewatch.

Roger Pittroff, of 441 Jones Avenue, abuts Tidewatch. He said it was originally called an emergency access road but then they indicated that they were adding 40 more units which makes him very nervous. He does not want the access road and filed a Petition in opposition with the Board.

David Foreman, of 116 Tidewatch, spoke in support of the access road. Tidewatch has 120-140 people currently living there. He read from the Site Review Regulations regarding cul-de-sacs and indicated that they should have more than one access for safety reason. The Condo Association voted for the access and they will be very unhappy if they don't get it.

Mr. Will indicated that Mr. Daphner's name was on the petition that was filed with the Board so he would be recusing himself from this discussion.

John McNair, a resident of Tidewatch, indicated that he was also on the Tidewatch Board of Directors. He indicated that the Tidewatch Community supported the original plan which included Jones Avenue access. He felt there was a traffic and safety issue and that the access road merits consideration.

Jack Davis, a resident of Tidewatch, agreed with the people who live on Jones Avenue in one respect as they do not want additional traffic in their neighborhood. He indicated that most towns and cities would never allow a development of this size to be built with only one access. He felt it was also dangerous for the properties on Jones Avenue, such as the nursing home and the Elks Club, to only have one access. The Tidewatch access should be limited to police, fire and ambulances. He also believes it is hazardous to the people living at Tidewatch. If their one access was blocked, no emergency vehicles could get in.

Mr. Savramis indicated that the city had other developments that only have one way in and out - Springbrook, the Cedars.

Nancy Coxwell, President of the Tidewatch Homeowner's Association, indicated that she was present at the TAC meeting but was not prepared at that time for the emotional outburst from the Jones Avenue residents. She acquiesced at the TAC meeting to withdraw the Jones Avenue access and then attempted to speak to the Jones Avenue residents to compromise. They would be willing to guarantee no construction vehicles would use the access. She would like to pursue the emergency only access and would like to go on record that the access is necessary.

Warren Weeks, of 185 Jones Avenue, is a lifelong resident of Jones Avenue, and he felt that every once in a while they get more pushed on them. He indicated that if they opened this access up, in ten years it would be an open road. It always happened that way.

An unidentified speak indicated that he went to the first meeting 10 years ago regarding Tidewatch and he remembers at that time that Tidewatch indicated that they would never have an access to Jones Avenue. He asked if Mr. Holden was present and remembered that.

Mr. Holden stated that the he remembered the approved site plan which does not show an access. This lot was developed as one lot and as a Planned Unit Development.

Mr. Foreman spoke again. He felt that this was an opportunity for the City to right a wrong and add a second access.

Mr. Pittroff spoke again. He indicated that there were other ways to get an access road. They could buy property for an access road.

Mr. Davis spoke again. He wondered if there was some way the City could grant an emergency access for fire, police and ambulance and have it iron clad so that if anyone else uses it they would get fined.

There being no further speakers, the public hearing was closed.

**DISCUSSION AND RECOMMENDATION OF THE BOARD:**

Mr. Will stepped down and was substituted with Mr. Ricci.

Chairman Smith asked for discussion regarding the project changes.

Councilor Lown felt that, excluding the access way, the modifications make a lot of sense and improve the layout, the setbacks from the buffer zone, the design and the placement in just about every way.

Mr. Coker referenced the discussion about cul-de-sacs with a 500' limit versus what appears to be a private road. He asked Mr. Holden for clarification.

Mr. Holden stated that this project is viewed as a development on one lot. It is a Planned Unit Development which is one lot so that is a driveway. In this instance, when the driveway went to the original site review process it was widened to 28' to accommodate the number of units. At that time, as well as this time through the TAC process, the Fire and Police Departments were involed.

Mr. Coker asked if the issue of a cul-de-sac was a non issue?

Mr. Holden agreed as it was not a public street. Basically what a PUD does is it represents a balancing of issues that afford the developer certain density requirements so that they can have more development and in return the municipality is not holding them to the same standards that they do for a sub-division, because it is not a sub-division. It is a development on one lot where the Association owns most of the responsibilities.

Chairman Smith then asked for comment concerning the Jones Avenue accessway. He indicated that there was a recommendation from TAC that there should be no access or egress to Jones Avenue from the site. It is his understanding that there was a lot of emotion at that meeting. If the Planning Board has an opportunity to stand by what TAC suggested, then Tidewatch could come back and amend it and they could be assured that all of the abutters would have a change to know about it and work with Tidewatch.

Mr. Coker agreed with Chairman Smith. He indicated that he was alittle confused over the whole matter as they had a proposal with an access road, TAC said no, the developer has withdrawn it, the Association says yes, and the neighbors say no. Mr. Coker’s question was one of public safety and it seemed to him that with the members of TAC if there was a concern over public safety it would have been raised at that time. He therefore felt they should support the TAC recommendation.

Mr. Hopley moved to approve final approval, as presented, subject to the noted stipulations. Mr. Coker seconded. The motion to approve subject to the following stipulations passed unanimously:

- 1) That there be no access or egress to Jones Avenue from this site, including during construction;
- 2) That stormwater cleansing, drainage and grading and stormwater treatment swales need to be shown in detail on the plan;
- 3) That water shut offs for units 104, 105, 106, 109 and 110 should be pulled back to the paved areas;
- 4) That there should be one water meter per building;
- 5) That a plan of as-built water mains should be provided to David Allen of the PWD;
- 6) That the existing fire hydrant be relocated to the traffic island next to units 84 & 95 and should have a blow-off;

.....

Chairman Smith asked the Board to vote on whether they wanted to continue after 10:30 pm. Mr. Coker made a motion to continue. Mr. Sullivan seconded. The motion to continue after 10:30 pm passed.

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F. The application of **Christiana D’Adamo**, for property located at **44 & 54 Bridge Street** wherein site plan approval is requested for the following: a) a 273 sf connector addition for handicap ingress/egress between buildings located at 44 Bridge Street and 54 Bridge Street, and b) a 273 sf two story addition to the rear of 54 Bridge Street with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 126 as Lots 53 & 54 (to be combined) and lies within a Central Business B district.

**SPEAKING TO THE APPLICATION:**

Attorney Bernard Pelech addressed the Board on behalf of Christiana D’Adamo. Chester Keefe, Architect was also present. They have received approval from the HDC as well as a recommendation for approval from TAC, with some minor stipulations which have all been marked on their revised plans. Signage is shown on the revised plans for the handicapped parking on the cobblestone area, a master box is shown on the plan, lighting in the back courtyard has been shown and also that there be one water meter for the entire structure is also now reflected. Dr. D’Adamo has a thriving business, he acquired the house next door and he is now connecting them. Attorney Pelech indicated that this is what the Master Plan calls for – the creative reuse of downtown buildings.

There being no further speakers, the public hearing was closed.

**DISCUSSION AND RECOMMENDATION OF THE BOARD:**

Mr. Sullivan moved to approve Final Approval. Mr. Will seconded. The motion to approve passed unanimously

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G. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 500 of the Pease Development Authority Subdivision Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **Pioneer New Hampshire, LLC (The Kane Company) and Pease Development Authority** for property located at **207 International Drive** wherein a Lot Line Change is requested between two lots having the following: Lot 1 increasing in area by 1.29 acres from 12.51 acres for a total of 13.8 acres and with continuous street frontage off International Drive; and the remaining land area being decreased by 1.29 acres and constituting a portion of the Tradeport; and, lying in a zone where a minimum lot area of 5.0 acres and 200’ of continuous street frontage is required. Said properties are located in an Airport Business Commercial district and are shown on Assessor Plan 315 as Lot 0004. (Plat plans are on file in the Planning Department Office and are identified as 16-01-03.)

H. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 400 of the Pease Development Authority Site Review Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **The Kane Company** for property located at **207 International Drive** wherein site plan approval is requested [subject to Subdivision Approval] for the construction of 116 additional vehicular parking spaces [total of 469 spaces] for use by the tenants of the existing structure (Liberty Mutual) along with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 315 as Lot 4 and lies within an Airport Business Commercial district.

**SPEAKING TO THE APPLICATION:**

Dirk Grotenhuis, of Kimball Chase, representing the Kane Company, addressed the Board. He indicated that 207 International was currently the home to Liberty Mutual and is located within the business/commercial zone. He indicated that the site is 12 ½ acres and was developed approximately 2 years ago and was approved before the Board for 75,000 s.f. of building and 357 parking spaces. Since that time, the tenant has found that they are shy on parking and would like to increase the size of their parking lot. They are projecting a growth of 30-35% for the company and 50-60 spaces would be utilized for surplus for off site employees who come for training or company conferences. The 1.3 acre addition to the lot would allow the 116 spaces to be constructed and meet the requirements for setback within the Pease Tradeport requirements. Mr. Grotenhuis indicated that the parking would be split up into islands so that landscaping could be added, at the request of the PDA. There would be no additional utility impact, specifically water or sewerage. There will be a slight increase in the rate of



run off from the site as well as the rate of volume. They are proposing stormwater treatments through vegetative swales within the parking island which will then drain to the existing closed drainage system. They met with TAC in December and have met all of the recommended stipulations and have noted them on the revised plans.

Ms. Paige asked about drainage from the snow storage area which appeared to back up to the 25' buffer from the wetlands.

Mr. Grotenhuis indicated that it was placed there in conjunction with other comments and that area was not specifically needed but lended itself as a convenient snow storage spot. It would be within the 25' buffer and the grade in that area drains towards the catch basin.

Ms. Paige indicated her concerns were due to the small buffer of only 25' and felt that the snow storage could be placed further away from the buffer.

Mr. Grotenhuis indicated that they could remove it from plan. He will calculation to make sure there is enough snow storage on the plan but believes it will not be a problem.

Chairman Smith asked about motorcycle pads.

Mr. Grotenhuis indicated that they already existed at other locations on the property.

Chairman Smith asked how tall the light posts were?

Mr. Grotenhuis indicated they were 25' and as this lot abuts an existing parking lot they should keep them all the same height for consistency.

Mr. Holden indicated a concern of the department about how they were showing the 1.29 acre addition. He asked for assurance that they were consolidating with the existing lot and also asked for a metes and bound description.

Mr. Grotenhuis indicated he would provide a meets and bounds description. He indicated it would be a lot line consolidation.

There being no further speakers, the public hearing was closed.

**DISCUSSION AND RECOMMENDATION OF THE BOARD:**

Mr. Sullivan moved to approve Final Subdivision Approval, subject to the noted stipulations. Mr. Will seconded. The motion to approve subject to the following stipulations passed unanimously:

- 1) That the applicant provide a metes and bounds description to the Planning Department, for clarification of this conveyance;

Mr. Sullivan moved to approve Final Site Plan Approval, subject to the notes stipulations. Councilor Lown seconded.

Mr. Will indicated that he was voting against the motion as he did not feel that the PDA had a large enough restriction on the wetlands. Because they are an advisory Board and even a vote of no by the entire Board would not stop this project, he advises the PDA to get a bigger wetland buffer.

Ms. Paige wanted to reiterate the comment made in the Planning Department Memo that the PDA should be striving for consolidating vehicular parking lots serving various tenants and encouraging the construction of centralized parking facilities. Land is too valuable having its dominant long term use be limited solely for vehicular parking.

The motion to approve the site plan with the following stipulations passed with an 8-1 vote.

- 1) That a note be made assuring that the applicant, upon completion of the project, clean and televise the drainage system in the area to assure that it is not adversely effected by the construction project;
- 2) That IT trip generation rates be provided to John Burke, Parking & Transportation Director, prior to the Planning Board meeting or the application will be tabled;
- 3) That, based on the traffic impact report, if there is an adjustment required on the formula, the applicant work with the City of Portsmouth and the PDA to determine the traffic impact;
- 4) That the applicant work with the City of Portsmouth and the PDA to determine whether a formula towards a contribution will be necessary for the sewer impact;
- 5) That the main snow storage area, in the middle, be eliminated as it is in the 25' buffer zone, however, calculations must be provided to the Planning Department to reflect adequate snow storage on the plans;

.....

I. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 500 of the Pease Development Authority Subdivision Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **The Kane Company and Pease Development Authority** for property located at **231 Corporate Drive** wherein Preliminary/Final Subdivision Approval is requested with the following: Lot 0000 having an area of 7.7 acres and with continuous street frontage off Corporate Drive; and the remaining land area being decreased by 7.7 acres and constituting a portion of the Tradeport; and, lying in a zone where a minimum lot area of 5.0 acres and 200' of continuous street frontage is required. Said properties are located in an Airport Business Commercial district and are shown on Assessor Plan 314 as Lot 0001. (Plat plans are on file in the Planning Department Office and are identified as 15-01-03.)

J. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 400 of the Pease Development Authority Site Review Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **The Kane Company** for property located at **231 Corporate Drive** wherein site plan approval is requested [subject to Subdivision Approval] for the construction of a 24,000 s.f. two story building, along with vehicular parking for the proposed building with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 314 as Lot 1 and lies within an Airport Business Commercial district.

**SPEAKING TO THE APPLICATION:**

Dirk Grotenhuis, of Kimball Chase, representing the Kane Company, addressed the Board regarding this project. He indicated that this project was in the business/commercial zone. The intent of the application was to describe a new educational facility to be used by the Southern New Hampshire University for graduate and post-graduate studies. They appeared before the TAC in December and have provided revised plans reflecting all of the stipulations recommended by that Committee. The existing site is where base housing used to be. There is a small cluster that remains there. The residential units were removed and the land was re-graded. There is still existing drainage in the cul-de-sac within the catch basis and closed drainage pipes that go directly to the wetlands. The wetlands were delineated by a certified wetland scientist in September and the site was surveyed in September also. There is a natural buffer zone at the rear property zone which they are respecting. The proposed use is a 24,000 educational facility, primarily classroom buildings. The minimum lot size for this zone is 5 acres and they are providing 7.7 acres. The front is approximately 500', the front yard is 70', the parking setback is 50', the side yard is 30' and the rear yard is 50' and they meet all of those and exceed them. There are two driveway accesses to the site. They are providing 170 spaces. The parking lot and roof drainage will flow into vegetative treatment swales and then into a detention pond in the rear of the site. The drainage pond for the new development has been designed so that it will not

be impacted above the pre-condition. The school has a maximum seating capacity of 350 students and that is sized for 10 gallons per student. The infrastructure is in place and the impact fee will be coordinated with the PDA. Mr. Grotenhuis indicated that they met with the TAC which provided stipulations. They provided responses to those and feel they have complied with all of the recommendations of TAC.

Mr. Coker asked Mr. Grotenhuis to elaborate on the drainage of the parking lot, particularly on the eastern side.

Mr. Grotenhuis stated that the drainage proposed is basically an overland system. They are not intending on providing closed drainage system. The parking lot drainage will run into the vegetative swales which are directed to a detention pond to the rear of the site, effectively treating all of the impervious surface. That detention pond then has an outlet to the rear towards the wetlands.

Mr. Coker asked about some of the runoff that will not make it to the detention pond.

Mr. Grotenhuis indicated that the swales covered all of the run off. He confirmed that they would have maintenance scheduled.

Mr. Coker asked about snow storage and whether it would just melt and flow away.

Mr. Grotenhuis indicated that the snow storage was primarily in the rear so that when it melted, it would melt into the detention pond.

Mr. Hopley asked about curb ramp detail.

Mr. Grotenhuis indicated that they did not currently show that on their plan but would as a stipulation.

Mr. Ricci asked about the detention pond and the riprap apron.

Mr. Grotenhuis indicated that the size and details of that would be in their drainage report that was provided.

Mr. Ricci indicated that typically people in the field did not have the drainage reports and asked that they add that to the plan. He also did not see an emergency overflow outlet on the detention basis.

Mr. Grotenhuis indicated that there was intended to be one and that would be the top elevation ,would act as a spill way and will provide a riprap detail.

Mr. Ricci asked them to re-look at the erosion control details of Best Management Practices.

Mr. Ricci asked about the amount of fill they are bringing onto the site.

Mr. Grotenhuis indicated that he did not have that calculation but they were raising the building pad site approximately 3'.

Chairman Smith asked that they add concrete pads for motorcycles. Also, asked if their dumpster area was large enough to handle recycling bins. Chairman Smith asked him to work with Silka Psula at DPW to come up with the proper size.

Mr. Holden indicated that David Desfosses will need to see the photometrics and the master box needs to be verified by the Fire Department. Also, they wanted to see the light poles moved off of the utility lines.

Chairman Smith asked them to try and reduce the height of the lighting, although he would not make that a stipulation.

There being no further speakers, the public hearing was closed.

**DISCUSSION AND RECOMMENDATION OF THE BOARD:**

Councilor Lown moved to approve Final Site Plan Approval, subject to the noted stipulations. Sullivan seconded.

Mr. Will indicated that he was voting against the motion as he did not feel that the PDA had a large enough restriction on the wetlands. Because they are an advisory Board and even a vote of no by the entire Board would not stop this project, he advises the PDA to get a bigger wetland buffer.

The motion to approve the site plan with the following stipulations passed with an 7-2 vote.

- 1) That the curb detail be shown on the plan;
- 2) That the application review erosion control for Best Management Practices and add details to Erosion Control Plan;
- 3) That concrete pads be added for motorcycles;
- 4) That the dumpster area be enlarged to include recycling bins and coordinate with Silke Psula, Solid Waste Foreman;
- 5) That photometrics to be approved by David Desfosses, Engineering Technician;
- 6) That the Master Fire Box location to be verified by the Fire Department;
- 7) That handicapped parking signs be added to the plan;
- 8) That the light poles be moved off of the utility lines.

.....

K. The application of **Millenium Borthwick, LLC** for property located off **Borthwick Avenue** wherein an amendment to a previously approved site plan is requested to allow interior vehicular parking in one of the two (2) three story buildings that are to be built, each having a footprint of 50,400 s.f. for a total of 100,800 s.f. along with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 259 as Lot 14A and lies within an Industrial district.

Richard Millette, of Millette, Sprague and Colwell, spoke on behalf of Millenium Borthwick LLC. He indicated that this was a fully approved proposal which received conditional use approval as well as variances and site review approval, all of which remain current until the summer of 2004. All State permits are also still current. Today they are proposing two changes. First, it is to provide a parking garage under building one. The reason for this is because when the architect went out to do the borings for the building foundations, he found a very thick layer of very soft material under where the building is to be located. Rather than excavate and refill that site, they would rather just excavate and build a full basement with concrete walls. It was determined that a good use for that basement would be a parking area. The revision to the site is that there is a ramp on the southeast corner of the building that leads down and under the building. The garage would provide 43 parking spaces. 11 spaces were lost in the construction of the ramp so they would then end up with a total of 437 spaces on the site where 282 are required.

Mr. Millette indicated that the second change that they are requesting is regarding the original approval of the sewer. This was supposed to be relocated to the south side of Borthwick Avenue and then run down Borthwick Avenue. No one can remember why it has to be on the south side of the road, however, that would cause them to cross Borthwick and then be forced to patch and repave the road and end up with a trench patch. In conversations with DPW, they would like that sewer to now be

relocated to the north side of Borthwick and run down Borthwick on the north side and will have to cross the street.

When they came through TAC, there were conditions. They were to make an agreement with Highliner Foods stipulating that their sewer service would remain uninterrupted during the construction and that they would retain access on Highliner Drive during construction. Mr. Millette indicated he had done that by a series of correspondence, copies of which were provided to the Planning Department. Another condition was a redesign of the drainage at the bottom of the ramp. They have proposed to tie that drainage into the floor drains which are required to tie into the city sewer system. TAC felt that since that runoff was coming down an outdoor ramp it was still considered stormdrain and would not allow them to put it into the sewer system. They are now pumping it into the nearest catch basin. They also must comply with all of the previous conditions.

Mr. Sullivan asked if the sewer line was the one that came from Panaway Manor?

Mr. Millette indicated it came down Borthwick, picks up Highliner and the other people up the line and goes perpendicular into the Panaway line. It goes under 95, down the side of their property and they intersect right at Borthwick Avenue.

Mr. Sullivan was concerned about prior problems with the sewer line from Panaway right down to the brick box. He wondered if they were getting to the maximum use at the present time.

Mr. Holden indicated that they had done work at Panaway Manor last summer but he would be willing to chat with David Allen about the sewer line.

Mr. Ricci asked, with the increased spaces in the parking lot, would they decrease their existing spaces?

Mr. Millette indicated that they did not ask him to do that and he suspected that most tenants like to have 5 spaces per 1,000 s.f. where the ordinance required significantly less than that. Over 20,000, the ordinance only requires 2 spaces per 1,000 s.f.

There being no further speakers, the public hearing was closed.

**DISCUSSION AND RECOMMENDATION OF THE BOARD:**

Councilor Lown moved to approve Final Subdivision Approval, subject to stipulations. Mr. Jankowski seconded. The motion to approve the amended site plan with the following stipulations passed unanimously.

- 1) That an agreement be worked out between the Applicant and Highliner Foods regarding a construction/work schedule to that access to their facility will not be blocked during normal business hours and that there will be no interruption in their general business (this agreement to be provided to the Planning Department);
- 2) That the parking spaces on Highliner Avenue be eliminated;
- 3) That the ramp be redesigned and a canopy be added to the plan to address drainage issues, with said plan being reviewed by the Public Works Department prior to the Planning Board meeting;
- 4) That the applicant is required to use Highliner Street as a construction entrance/exit;
- 5) That at the conclusion of the project, the applicant agrees to bring Highliner Street back to City standards, subject to the review of the Public Works Department;
- 6) That all other requirements from the previous Site Review Approval of July 18, 2002 shall continue to apply.

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III. CITY COUNCIL REFERRALS/REQUESTS

A. Request from Steven McHenry, Architect to use a portion of the Ceres Street Right-of-Way for property located at 51 Ceres Street.

Mr. Holden indicated that there are a number of encroachments on Ceres Street and this request is not out of line but the City does not have a definite procedure. They are proposing a procedure that can be followed when they have such requests. That would have the Planning Board determining whether the request was in the public's interest or whether it encroached on the public's interest. By a finding of no impact, and if the council wishes to offer authorize, then there would be a license agreement which would allow the City to enforce its right-of-way at some future point and have the encroachment removed. It would be up to the council of whether or not they wanted to do a fee.

In this particular case, the Planning Department recommends that a finding of no adverse impact should be made, provided the Public Works Department concurs in that and would be the basis of the recommendation.

Wendy Klote, owner of 51 Ceres Street, which is also 129 Market Street, spoke briefly to the Board. She indicated that all of the buildings on Ceres Street have exterior staircases. Usually there are apartments on the 2nd floor and the stairs provide access to the apartments. Without that staircase there is no second means of access/egress.

Mr. Holden asked that the Board favorably offer to the council that this request be approved subject to the Public Works Department. Also, that this process is recommended to address future and existing encroachments on Ceres Street.

The Board voted unanimously to approve this request as well as recommend the process for future and existing encroachments.

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B. Request from Lawrence and Elizabeth Marcotte for permission to cross property, located at 234 Littleworth Road, Madbury.

Mr. Holden indicated that the essential facts are that the Marcottes have been using an existing driveway for some 20 years and the driveway actually crosses over some land that the City has access to. In this case they are recognizing the crossing of the City's property by granting some form of easement, subject to the City Attorney. They are basically recognizing an existing situation.

A motion was made to recommend to City Council to accept an easement acceptable to the City Attorney.

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C. Request from Paul R. Bacon to purchase city owned property located on Edmund Avenue.

A motion was made to table the matter to the January 22, 2003 meeting, which passed unanimously.

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Mr. Holden indicated that during the Master Plan work session, they addressed the zoning issue of prohibiting certain types of signs. They are asking that the Board give a favorable recommendation to the Council so that they consider holding a public hearing.

Councilor Lown voted to amend the Agenda to add this issue and to pass it on to the City Council with the recommendation that they amend the sign ordinance.

The motion passed unanimously.

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Mr. Holden advised the Board that PSNH is approaching the City for a major project at the Schiller Plant. This would incorporate changes in their generating system where they will shut down one coal burner and built a new wood chip burner. Given that the primary access to the site is Gosling Road, the Department is recommending that the Planning Board declare this a Notice of Regional Impact. Under the statute this afford abutter status to the Town of Newington and its residents and other effected properties. They are doing this with the Board of Adjustment currently and he read that Legal Notice into the record. Under the statute, they need a finding by the Planning Board that this is a significant project and of Regional Impact.

A motion was made and seconded to declare a Regional Impact on this matter. The motion passed unanimously.

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Chairman Smith thanked Councilor Brad Lown for his service on the Planning Board for the past two years.

Mr. Sullivan made a motion for the Planning Board to formally thank Councilor Lown for his service on the Planning Board and his excellent effort. The motion was seconded.

The motion passed unanimously.

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**IV. ADJOURNMENT**

Respectfully submitted,

Jane M. Shouse  
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on January 22, 2004.