



2. That the applicant either locate conforming parking sufficient for each use on the appropriate lot or secure approval for some other conforming mechanism, prior, to a request for Final Subdivision Approval; *They moved some parking around to accomplish this.*
3. That a parking plan be presented to the Board showing the proposed parking layout as part of a request for Final Subdivision Approval; *They added a third sheet, Sheet C-3.*
4. That a mechanism be presented to the Planning Department that ensures the timely demolition of a portion of the conference center [Lot B] and a non-conforming free standing structure [Lot A]; *Attorney Robert Shaines is working with City Attorney Robert Sullivan on this.*
5. That efforts to preserve/relocate the free-standing neon sign be considered and offered to the Board for review and discussion as offered by the applicant's representatives; *There is no intent to move this sign as Yokens will remain in business and the sign will remain.*
6. That a fence be constructed between this site and the property owned by Isabelle Champagne to be agreed upon by all parties and approved by the Planning Department; and, *This fence is back up in the same location. There is an agreement that the fence will remain for a minimum of one year, at which time they will negotiate with the new owner or, if MacLeod's still own the property, it will be moved to the right. Plans reflect the 12' right of way.*
7. That when all the aforementioned stipulations are satisfied that an application for Final Subdivision Approval be submitted along with documentation that all boundary monuments have been set as required by the Department of Public Works [Section V Requirements for Final Plat Number 13]. *They agree to do this, however, they will wait until the demolition is completed.*

Mr. Mikolaities then went on to address the Site Review application. Their colored plans reflect the demolition of the 9,000 s.f. conference center and they will be adding parking and pavement. They are demolishing Goody Two Shoes and adding parking and pavement. The intent is to make two conforming lots so they added greenspace to the lots as well as a buffer along the front.

TAC resulted in 7 stipulations that he addressed:

- 1) That the water lines shall be shown on the Site Plans; *Shown on utility plan.*
- 2) That the proposed parking area on the hotel lot shall have an access drive to allow traffic to drive through (the area where Goody Two Shoes is being demolished); *John Burke wanted to see that remain open and they have revised the plans.*
- 3) That all easements shall be shown on the Site Plan and be approved by the City Attorney; *They have provided an easement plan.*
- 4) That the parking spaces across from the lot line shall be converted to green space and that the spaces shall be relocated to a former parking area; *Plans have been revised;*
- 5) That fire protection shall be maintained through the demolition process; *A note has been added to the plans.*
- 6) That this project shall be referred to the Traffic & Safety Committee for review and recommendations; *Plans were forwarded to the Traffic & Safety Committee for their consideration.*
- 7) That the applicant shall work with the City to identify a bonding mechanism to insure that the demolition of the building commences no later than October 15, 2004.

Mr. Coker asked if the color plans that were handed out to them were identical to the plans dated June 6<sup>th</sup> that were in their packets?

Mr. Mikolaities confirmed that they were identical.

Mr. Sullivan advised the Chairman that he would not participate in the discussion or vote on this application as he is working for Mr. MacLeod for 15 years.

Chairman Smith asked about lighting for the parking lot.

Mr. Mikolaites indicated that they were not proposing any changes to the lighting.

Chairman Smith asked how many lighting poles they currently had and how high they were as it has been the Board's attempt to get light poles down so that they are not doing mass flooding of light.

Mr. Mikolaites indicated they currently have 8 light poles.

Chairman Smith saw on the plans where they were proposing a couple of lamp based light poles.

Mr. Mikolaites indicated that they were relocating lights 10' to 20' to get them away from the travelways.

Chairman Smith was looking for all lighting poles to be no taller than 16' and would like to see them all reduced so that there wouldn't be a mis-mash of lights. Chairman Smith asked if they would work something out?

Mr. Mikolaites indicated that the current lights were about 25'.

Chairman Smith indicated that they would get through the public hearing and then come back to this issue.

Kevin Dandry, representing RMD and Market Basket of Peverly Hill Road, adjacent to this site, addressed the Board. He had reviewed the plans on record and had concerns about traffic and access to this facility. There are a number of existing curbcuts which service this site. With the proposed subdivision it allows 2 curbcuts for the Comfort Inn and 2 curbcuts for the restaurant. Mr. Dandry indicated that traffic is often blocked by traffic signal queues so that there is no need for the northern most curbcut that serves a very small area of parking. One defined area for traffic movement would be better. There did not appear to be any issues with the Peverly Hill Road access. Mr. Dandry had spoken to NHDOT, which is the permitting agency for curbcuts for this section on Route 1, and they suggested that they had urged the consolidation of curbcuts 10-12 years ago. He would like the Board to consider a more appropriate layout of the site as it is a fresh start for the city to look at this. He reviewed some turning templates and it did not appear that trucks and buses would be able to stay within the easement areas, nor would they be able to stay within their own lanes because they are so tight. He did not find any designed loading zones nor any bus parking areas. He did not believe that the use of the hotel site was adequately described and did not feel that there would be enough parking. He called the Comfort Inn and they indicated that they have enough conference space to hold 100 people on the first floor and he did not believe that was taken into consideration with the parking calculations. He believes there are gross deficiencies in the parking. This site will probably look very different in the next couple of years as it is obvious that they are setting this up to sell the properties. There are rumors that Shaw's is looking at the parcel. The Board should consider not only what it is being used for today but what the long range plan is. He asked the Board to reject this plan and table the matter for additional details on traffic and parking. It is within the power of the Board to plan for future development.

Mr. Coker indicated that it was his understanding that they have to deal with the here and now, however, his point is very well taken. As a Board they cannot look ahead to what may happen to this spot. However, he felt that he brought up an extraordinary point that this hotel is a conference facility and that changes the calculations enormously. Hotels and motels without amenities require 1.2 spaces per room and he believed this was what the plan was being based on. Hotels and motels with amenities require one parking space per room plus individual uses.

Mr. Dandry referred Mr. Coker to further down on the chart where it mentioned meeting and function rooms. He feels they have 25 fewer parking spaces that what should be required.

Mr. Mikolaites responded regarding the parking calculation, which was based on a 1987 approval. He felt they were losing sight of the project and a lot of speculation was going on. He reiterated that this was giving his client some flexibility by making two conforming lots. It currently is a non-conforming use and doesn't conform to parking or greenspace.

Chairman Smith asked if Lot A was to be redeveloped at this time, would they meet the parking requirements. Also, he asked Mr. Mikolaites to address truck traffic that would have to come in to support both sites.

Mr. Mikolaites indicated that the truck traffic for Yokens is the same however they are improving it with islands.

Chairman Smith asked what size trucks serviced the sites?

Mr. Mikolaites indicated box trucks service the Comfort Inn and large delivery vehicles service the restaurant.

Mr. Coker asked if there is a conference facility at the Comfort Inn and is there a difference between a meeting room and a conference facility?

Ray Will reclused himself at this point as he is working with Attorney Alec McEachern.

Mr. Coker indicated that he has done consulting work for Mr. Shaines' law firm in the past but did not feel that there was a conflict.

Chairman Smith agreed.

Attorney Robert Shaines indicated that there was a meeting room on the 1<sup>st</sup> floor, with no food facilities, and he was unaware of the exact capacity. It is not a conference center but rather a meeting room.

Mr. Coker indicated that the people that attend the meeting center require a place to park.

Attorney Shaines indicated that the restaurant and hotel have never had a parking problem and he has never seen the parking lot full.

Mr. Coker referred to the dimensional requirements and he wanted to make sure that Lot A would be conforming.

Mr. Mikolaites indicated that some setbacks were conforming and some weren't. They are not changing the structure so they will not have to go to the Board of Adjustment. Those setbacks already exist. When they created the new lot line, all setbacks conform. They are not making any existing setbacks any less conforming.

Mrs. Champagne, an abutter, confirmed that the fence had been put back up and she was glad to have that done and is very happy with it. They put the old fence back up and that's fine with her, she does not require a new fence. She wants to be a good neighbor and therefore wanted the Board to know that she is happy to have the fence back and her privacy back. She would like to have everything left the way it is – the fence, the trees and the green area, until the property is sold. After the property is sold, who knows what will happen.

The Chair asked if there was anyone else from the public who wished to speak to, for or against the application. Seeing no one rise, the Chair declared the Public Hearing closed.

### **DISCUSSION AND DECISION OF THE BOARD:**

Mr. Holden indicated that they were currently getting a copy of the 1987 Zoning Ordinance to see if there was a different method of calculating parking spaces at that time. Under the current ordinance, they would calculate the uses separately.

Chairman Smith indicated that there were discussions of future use and he indicated that the Planning Board could not include those in their purview. Decisions cannot be made on rumor or hearsay.

Mr. Holden indicated that as the overall intensity of the use of the site is decreasing, they are in a very poor condition to be changing driveways and curbcuts. John Burke, Director of Parking and Transportation, reviewed this and had no problems with it. The fundamental concern with parking is a valid question but is related to Subdivision, not Site Review.

Mr. Holden suggested that the Board could deal with the Site Review application and make it contingent upon the Subdivision approval.

Mr. Savramis made a motion to grant final subdivision approval with stipulations. Councilor Ferrini seconded.

Mr. Coker asked if the final subdivision included a discussion on parking?

Chairman Smith confirmed that would be a site review issue.

Mr. Savramis indicated that he has attended many functions at this property and there is always plenty of parking. He does not feel that parking is an issue.

Chairman Smith indicated that he would agree with Mr. Savramis.

Chairman Smith asked Mr. Mikolaites if he had had a chance to think about the light poles?

Mr. Mikolaites indicated that they would agree to convert all lighting poles to 16' as a stipulation.

Mr. Holden indicated that it appears that in the older ordinance parking was handled differently but the calculations would be approximately the same. For a hotel/motel/inn, the old ordinance called for one space for each room plus one for each 2 employees. For meeting or function rooms with fixed seating, they required either a standard of 1 space for each 5 seats or 1 space for each 100 s.f. of gross floor space. He recommended that, on the Site Review request, they may wish to table so that they could meet with the applicant to see if there was any parking relief. He didn't recall any variances being granted for parking relief but they should research it.

Mr. Hopley asked if parking was part of the site review?

Mr. Holden indicated that parking was part of the zoning. Site Review is based on the Subdivision so if you don't have the subdivision the Site Review will be based on the Subdivision.

Mr. Hopley indicated that they would have to come back with a Site Review amendment if more parking was needed.

A discussion followed regarding whether it was possible to grant one application without the other and what would be the proper order.

Mr. Hayden asked if the parking calculation issue could be cleared up this evening?

Mr. Holden indicated that it was an arguable point that needed to be addressed and could not be resolved that evening. In 1980 they would have done a sum total of all of the uses and calculated it out. They need to look at the building permit application and the plans that were presented at that time. They need to see what was going on at that time and they were looking at the entire lot at that time.

Mr. Coker indicated that what happened in 1987 is the past and is irrelevant. He felt it was clear to him that there was enough of a question on the Site Review regulations which state that the site plan must comply in every respect with all pertinent ordinances and regulations. He felt there was enough of a question now so that they could not proceed with either one of them. Mr. Coker moved that they table the subdivision application for one month.

Councilor Ferrini felt it should be an amendment to the pending motion, seeking tabling of the motion that is now pending.

Chairman Smith clarified that this would be tabling everything as it stood.

As there was no second to the motion, Mr. Holden suggested that they table the subdivision until July to allow them to clarify the parking issue and that Site Review, based on that subdivision application, be approved pending subdivision approval.

Councilor Ferrini asked if he could resurrect Mr. Coker's motion with a second?

Mr. Coker confirmed that his motion still stood.

Councilor Ferrini seconded.

The motion to table the subdivision application passed with a 6-1 vote (Mr. Savramis voting in the negative).

Mr. Coker made a motion to table the Site Review application until the next regularly scheduled meeting on July 15, 2004. Councilor Ferrini seconded.

The motion passed unanimously.

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C. The application of **Joli Ann Foucher**, owner, for property located at **566 Greenland Road** where Preliminary and Final Subdivision approval is requested to subdivide one lot into two lots with the following: Lot 1 having a lot area of 1.8 ± acres and 100 feet of continuous street frontage off Greenland Road and Lot 2 having a lot area of 1.4 ± acres and 80' of continuous street frontage off Greenland Road, and lying in a zone where a minimum lot area of 15,000 s.f. and 100' of continuous street frontage is required. Said property is shown on Assessor Plan 258 as Lot 1 and lies within a Single Residence B district.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Attorney Bernard Pelech addressed the Board on behalf of Joli Ann Foucher. He indicated that the existing lot consisted of 2.3 acres and it was long and narrow. Adjacent to the property is open space, commonly called "Stokel's Field". There is a PSNH easement across the Griffin property.

This property is also on a zone line. This property is in Single Residence B. Realistically nothing can be built between this property and the PSNH easement by virtue of the fact that it is a very narrow area. This subdivision needs approval from the Zoning Board. Mr. Foucher has an elderly mother who needs care. She would like to build a second residential unit on the property and they did not want set the precedence of building two residences on the same lot. Therefore, they will appear before the BOA to obtain a variance to allow Lot 2 to have 80' of frontage rather than the required 100'. Attorney Pelech indicated that he approached Mary Griffin about conveying 20' of land to Ms. Foucher and, although Ms. Griffin supported the idea, it was not realistic for the Griffin Family Corp to convey this land.

Attorney Pelech understood that they could not approve this subdivision without a variance being granted so he was simply requesting preliminary approval, pending approval from the BOA.

Mr. Coker asked why they didn't consider two lots, both with 90' of frontage?

Attorney Pelech indicated they were trying to make at least one conforming lot.

Chairman Smith asked Attorney Pelech if he had reviewed the Departmental Memorandum, which he had not, so Attorney Pelech was given time to review it. The department recommended that the lots be subdivided into two lots, both with 90' of street frontage.

The Chair asked if there was anyone else from the public who wished to speak to, for or against the application. Seeing no one rise, the Chair declared the Public Hearing closed.

**DISCUSSION AND DECISION OF THE BOARD:**

Mr. Will indicated he would feel more comfortable with a tabling motion to allow the applicant to draw up new plans and receive approval from the BOA. Historically he did not believe they had granted preliminary approval on non-conforming lots prior to BOA approval.

Attorney Pelech indicated that he read the Memorandum and whatever the Board did, they could come back next month with an amended application with a 90-90 and in the interim they could go to the BOA.

Mr. Will made a motion to table this matter to the next regularly scheduled Planning Board meeting on July 15<sup>th</sup>. Ms. Hayden seconded.

The motion passed unanimously.

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D. The application of **Forum Development, LLC**, owner, for property located at **Stonecroft Apartments, off Lang Road**, wherein site plan approval is requested to construct a 35.5' x 48' one-story building with basement, totaling 1,630 ± s.f., with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 286 as Lot 24 and lies within a Garden Apartment district.

Councilor Ferrini recused himself from this hearing.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Anders Albertsen, of Forum Development, LLC, stated that they had appeared before TAC and had made all recommended changes to their plans. He asked that the Board recommend approval this evening.

The Chair asked if there was anyone else from the public who wished to speak to, for or against the application. Seeing no one rise, the Chair declared the Public Hearing closed.

**DISCUSSION AND DECISION OF THE BOARD:**

Mr. Sullivan made a motion to grant with stipulations. Mr. Coker seconded.

The motion passed unanimously with the following stipulations:

- 1) That the proposed water line that is not being considered be deleted from the Site Plans;
- 2) That the stone wall be rebuilt in the current condition with no additional stones.

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E. The application of **Parade Office LLC**, owner, for property located at **195 Hanover Street** wherein site plan approval is requested for the following: 1) On proposed subdivided Lot #1, construction of a 14,792 ± s.f. 5-story 131 room hotel; and 2) On proposed subdivided Lot #2, construction of a 7,576 ± s.f. 5-story mixed use building to include 1,200 ± s.f. of commercial space, residential parking and residential units, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 125 as Lot 1 and lies within the Central Business B district and Historic District A.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Jeff Johnston, of Cathartes Investments, addressed the Board. Also present were Lisa DeStefano, Dennis Moulton of Millette, Sprague & Colwell, Rob Hoover from HBLA, Robin Bousa from VHB, Mark Dubois and Greg Shinberg from Olympia Investors and Attorney Alec McEachern.

Raymond Will and John Sullivan both recused themselves from this hearing.

Mr. Johnston gave an overview of their application which includes a 131 room hotel, 20 residential condominiums and 1,200 s.f. of retail space. They have executed a franchise agreement with Hilton Hotel Corp for the Hilton Garden, a limited service hotel. The 20 residential units will be attached to the hotel but on a separate lot with ground floor retail space. It is anticipated that the residential units will share the amenities with the hotel. They anticipate breaking ground this fall with a 14 month construction period.

Lisa DeStefano indicated that this had been in the planning process for 10 months and they do not require any variances. They have been working with the Historic District Commission for several months. They wanted to create street frontage again to help the vitality of the city. They were also conscious of the Hill properties as well as the High Street properties. They have an interior courtyard which allowed them to pull the building away from the Hill properties more than 100'. She had renderings of different views of the 4-story building. They will be using traditional materials.



Dennis Moulton, of Millette, Sprague & Colwell, described the site as being 4.9 acres which was recently subdivision into 3 lots. The proposed hotel will go on Lot 1 and residential units and retail will go on Lot 2. Both buildings will have a fire protection box and fire department connections. They will work with the Fire Department to make sure they are fully protected. Mr. Moulton reviewed the entrances into the lot. All parking will be by valet and a Memorandum has been provided explaining how this operation will work. The drainage is configured to connect to an existing stormwater system off the Parade Mall site. All utility connections will be made as requested by TAC. Per City zoning codes, they will have a loading dock for off loading trucks. Sidewalks on High and Hanover Street will be reconfigured and will be addressed later in the their presentation. They are looking to reduce off street metered parking on High and Hanover Street by 8 spaces, which will require approval from the City Council. On the residential side, there will be enclosed parking for each unit with one space per unit. Again, the stormwater drainage will be connecting to an existing system.

Mr. Moulton reviewed the stipulations from TAC:

- 1) That the latest revision of the Utility Plan shall be provided to the Planning Board;  
*This has been done.*
- 2) That the 12" drainage pipes in the street must be RCP and so noted on the Site Plan;  
*This has been noted on the plan.*
- 3) That if and when Lot 2 has a restaurant, an external 1,000 gallon grease trap shall be installed and so noted on the Site Plan;  
*This has been noted on the plan.*
- 4) That the privately owned irrigation system being installed on Lot 1 and Lot 2 shall be provided with rain sensors and soil and moisture sensors so that they are not irrigating during rain periods or when the soil is already damp, with the locations to be so noted on the Site Plans;  
*This has been noted on the landscape plans.*
- 5) That water conserving fixtures (low flow toilets, faucets and showerheads) shall be used throughout the buildings on Lot 1 and Lot 2;  
*This will be done during the building permit phase.*
- 6) That an Easement Plan shall be provided and approved by the City, showing all necessary parking, mobility, utilities and view easements and that said plan shall be part of the set of drawings for the record;  
*This has been provided and is going through a review process.*
- 7) That stop signs shall be provided at all three exits as necessary and all stop signs should be MUTCD compliant;  
*They have assessed the stop conditions at all three exits.*
- 8) That details shall be provided for all work in the right of way, showing the city standards for curbing, pavement, brick, light pole conduit and light pole bases and be so noted on the Site Plans;  
*A coordination effort has resulted in all details being added to the plans.*
- 9) That a landscape plan shall be submitted to DPW and the Planning Department for review and approval;  
*This has been submitted.*
- 10) That all monuments on the site that may be disrupted shall be reset;  
*A note has been added to the plans.*
- 11) That the project shall be referred to the Traffic & Safety Committee on June 17, 2004 at 8:00 a.m.;

- They met this morning and received approval from that Committee, with 4 stipulations.*
- 12) That documentation shall be provided to the Traffic & Safety Committee that describes the proposed parking plan and valet operations;  
*That was provided to Traffic & Safety as well as this Board.*
  - 13) That a sign and landscaping plan for the proposed accessway from Deer Street shall be submitted to the Traffic & Safety Committee for their review;  
*That was provided to Traffic & Safety as well as this Board.*
  - 14) That the number of off street parking places being eliminated shall be noted on the Site Plans;  
*That has been noted on the plans.*
  - 15) That the proposed improvements to pedestrian crossings and safety at the Hanover/ Market/Bow Street intersections shall be provided to the Traffic & Safety Committee;  
*This was done.*
  - 16) That the use of the City right of way for public access/egress and the bow windows shall be subject to a license and, as appropriate the involvement of the City Council, for review and approval by the City Legal Department;  
*This is currently being worked on.*
  - 17) That all easements shall be a condition of Site Plan Approval and shall not be relinquished, amended or altered without prior approval of the Planning Board;  
*This is agreed to.*
  - 18) That all easements shall be subject to review and approval as to content and form, especially as it relates to the above conditions;  
*This is agreed to.*
  - 19) That if easements are not appropriate then some suitable and enforceable mechanism shall be approved to ensure the enforcement of all conditions:  
*They are currently working with the City Attorney on this.*
  - 20) That parking calculations shall be identified on the Site Plans along with the calculation used to determine the unmet parking need, as the City does not agree with the parking calculation presently shown on the Site Plan;  
*This has been noted on the plan.*
  - 21) That detail shall be added to the Site Plan to show that the sidewalks are appropriately ramped;  
*This has been noted on the plan.*
  - 22) That the fire hydrant located on High Street shall be eliminated and replaced with a hydrant located closer to the corner so that the Fire Department has better accessibility;  
*They will work with the Fire Department on the exact siting of that.*
  - 23) That the hotel and the residential/retail building shall both be equipped with a Master Box;  
*This has been noted on the plans.*
  - 24) That the hotel and the residential/retail building shall both be equipped with a Knox box;  
*This has been noted on the plans.*
  - 25) That pumps shall be provided to each separate lot;  
*This refers to pumps for the fire suppression system and will be provided.*
  - 26) That the issuance of a building permit is contingent upon the submission of an approved utility plan, signed off by the appropriate utility companies.  
*They are working with the utility companies on these.*

Mr. Moulton reviewed the stipulations from Traffic & Safety:

- 1) That the items in Memorandum from Jeff Johnston to David Holden and John Burke, dated June 8, 2004, be included in the stipulations;
- 2) That bumpouts be installed on both sides of Hanover Street;
- 3) The handicapped ramp issue was to provide ramps on either side of the street.
- 4) They are to work out the Fleet Street access with City personnel;
- 5) That they provide a detail of the proposed signage.

Rob Hoover, Landscape Architect with HBLA, spoke next. Mr. Hoover indicated they were working in conjunction with Sasaki Associates. They are proposing 7' brick sidewalks, to city standards. They are proposing lantern style pole mount fixtures and creating bumpouts at two key locations. The purpose of these is traffic calming and to provide a strong pedestrian link to the city. They have worked with the Public Works Department and are proposing eight painted crosswalks and are committed to curbcuts along the other side. At the corner of Hanover and High Street they will have the name of the Plaza, which will be anchored by a raised granite planter. In back of the planter there will be stairs, and a sloped paved walk that goes on the outside portion. In back of the project, via Garden Way, the parking lot will be recessed 4' – 5' from the street grade at this point so the parking sits below the retaining wall. At the landscaped portion of the island there will be 3 large shade trees. They have gone to great length to make sure that all of their trees and plantings will be successful. Mr. Hoover indicated that there will be an entrance sign on Deer Street with a planting bed.

Robin Bousa, of VHB, discussed their traffic study. This was a comprehensive study, covering the immediate area around the site, Hanover, High, Maplewood and Deer Streets. They looked at those intersections as well as the site driveways. John Burke also asked them to study the intersection of Hanover and Market Street. The study included the open air projects and forecasted 10 years into the future, to 2015, to see how this traffic would continue to operate. They looked at the three critical peak hours, weekday a.m., weekday p.m. and Saturday noontime. Without getting into a lot of detail, she gave an overview of their study. They seasonally adjusted some of their conditions. They also included pedestrian traffic as well. One of the nice things about this project is that there will be complimentary uses on the site. The hotel will peak on Saturday when the offices will be closed. What they found was that all intersections surrounding the site will continue to operate at good levels of service 10 years into the future. The only deficiency that they found was at the intersection of Market and Hanover. That type of stop approach currently experiences long delays at peak hours however by working with John Burke, they should be able to minimize the impact at this intersection. This site currently has three existing driveways and the traffic is like water flow and seeks the pattern of least resistance. Being able to disperse the traffic immediately from the site from three different driveways and various different directions will also help minimize the impact of this project.

Mr. Coker asked how they had seasonally adjusted their statistics?

Ms. Bousa indicated that they were working with two sets of data. The study that John Burke is currently doing on the Maplewood signals was based on some studies that they did last September and some of that data is included in their study. The rest of the data that they used was collected in April of 2004. They worked with the City's consulting engineer to seasonally adjust those to a July/August condition. She was unsure what factor they used to adjust their figures.

The Chair asked if there was anyone from the public who wished to speak to, for or against the petition.

Lisa DeStefano indicated she had two letters that she read and placed on record. The first was from Sheila Ghammami, who is an abutter from The Hill, who wrote in favor of the project. The second letter was from Richard Smith, of High Street, who also wrote in favor of the project.

Chairman Smith read a letter that was received from Kathy Walsh, whose office is on the corner of High Street and the entrance to the Parade Mall Parking area, who wrote in favor of the project.

Brad Alstead of 515 Marcy Street spoke in support of this project. He stated that the sketches are very nice and will be much better than an empty lot. It will generate additional tax revenue for the city. Being a limited service hotel, a lot of other small businesses and restaurants in the area will benefit.

Robert Marchewska, of 410 The Hill, spoke in favor of the project. He is pleased with the development of the project and how will integrate into their neighborhood, through traffic and pedestrian flow.

Carol Johnson, of 401 The Hill, lives and works next to this project. She is very pleased to see how this project has developed. She has some concerns over traffic & parking however it looks like those are being addressed. It looks like they will be able to come to an agreement to lease 40 spaces for 10 years. If that works out then that would take care of their concern.

Scott Logan, owner of The Blue Mermaid at The Hill, stated that he felt this was a great project and great for downtown business. He was concerned about the trees along the back of the hotel that are existing. He was concerned that the tree on the corner would impair the view to his restaurant.

The Chair asked if there was anyone else from the public who wished to speak to, for or against the application. Seeing no one rise, the Chair declared the Public Hearing closed.

#### **DISCUSSION AND DECISION OF THE BOARD:**

Mr. Coker indicated that, as a downtown resident, he recognizes how scarce parking is. He questions the need for bumpouts and the loss of eight spaces for traffic calming and pedestrian safety. He would question the need in that particular spot and whether it was absolutely necessary to eliminate those spaces.

Mr. Hoover indicated the idea was something that was developed along with the city in terms of addressing different issues. One was an inter-motive transportation system as part of future plans of the city. The city recognizes that they need safe crosswalks and need to invite people to walk on the streetscapes. This is not a new idea and is used in many places. Newburyport, MA is probably the best example of using this very successfully for identification. Not only visually showing people where they should cross but for cars as well.

Mr. Coker seriously questioned the need for this. He asked where the idea came from?

Mr. Johnston indicated that early on in the process they spoke to the abutters at the The Hill as well as John Burke as there were a couple of concerns that they wanted to address. When people come up Hanover St and take a left on High Street, with the width of that curb, people would speed up as they went up High Street. Also, with the opportunity to come out the new road behind The Hill, one of the bumpouts encouraged people to go left onto High Street. So, there were traffic reasons as well as aesthetics. He also reminded the Board that this would have to go to City Council for a vote.

Chairman Smith indicated he didn't see the parking calculations on the plans.

Mr. Moulton indicated that they were on Sheet 4.

Chairman Smith indicated that when they originally presented this for Subdivision, they talked a lot about traffic flow over the parcel. He notices that on Hanover across from Fleet Street there is still a curbcut. He had asked if that was going to be closed off and it was alluded to that it was going to

be closed off and taken care of yet it was still there. They also talked about truck movement across the property and what type of trucks would be servicing the hotel. It was indicated that only box trucks would be making deliveries and all traffic would be flowing on the existing curbcut coming onto High Street or cutting through the parking lot out to Deer Street. The plan tonight shows an additional curbcut which is just south on High Street. He indicated that he was not comfortable with this project at this time and felt that he had been misled.

Mr. Moulton clarified that Chairman Smith was talking about the 2<sup>nd</sup> curbcut.

Chairman Smith indicated that when they did the subdivision, they were told that all traffic would be flowing through the existing curbcut, using High Street, going through the parking lot, to Deer Street. Yet, the traffic engineer was talking about the traffic flow being like water and finding the least resistant flow. He was not comfortable with that.

Mr. Moulton explained that coming up High Street, the traffic flow would come into the site onto Garden Way, the cars would be unloaded and turned over to the valet and would exit onto High Street for off site parking.

Chairman Smith asked if Garden Lane was going to be a new city street?

Mr. Moulton indicated that it was a private drive that they would be calling Garden Way and the address of the hotel would be either High Street or Hanover Street.

Chairman Smith asked about the curbcut coming across from Fleet Street.

Mr. Moulton indicated that will remain due to concerns of the Fire Department and Traffic & Safety. It will remain closed at this time but may be revisited when the Parade Mall is further developed. The Fire Department wanted to be able to drive over the curb.

Chairman Smith asked if a dumpster truck coming in to unload would block the accessway.

Mr. Moulton indicated that it probably would block the accessway.

Councilor Ferrini asked about the handicapped unloading area and the island going out onto High Street. He indicated that was essentially two entrances and asked if it was it on the previous site plan?

Mr. Moulton indicated that it has been on the previous plan and has been consistent throughout the process.

Councilor Ferrini asked about backing into the delivery area. If there was a straight truck with a 24' box and a cab, it would effectively close that off.

Mr. Moulton indicated that was the case but it was not brought up at TAC or Traffic & Safety.

Ms. Hayden asked what the long time arrangement with the valet parking was. What if, in the future, there was no place to valet to? It appears that this facility is very dependent on valet parking.

Mr. Johnston indicated they will have a 10-year lease from the office building to the hotel for parking spaces, as well as leasing 56 long term spaces from the city parking garage.

Chairman Smith asked what happened after 10 years?

Mr. Johnston felt at that point there would be the availability of a garage or the development of Lot 3 may include parking for the hotel.

Mr. Holden indicated that in the Central Business District the applicant does not have any parking requirement. They are paying into the parking fee and paying monies to the City. This is more than most other developments have done and is in compliance with the city zoning. There is a parking shortage downtown that is exactly why the High Hanover Garage was built. There is not a moratorium that lots cannot be developed.

Mr. Coker asked Mr. Holden if the applicant has met all of their parking requirements.

Mr. Holden confirmed that they were in compliance. The overall Parade Mall lot was given a parking credit of a certain number of spaces. By developing a vacant portion of that lot, they assume under the minimal parking credit that there is no parking provided on the vacant portion. Therefore, the developer is required to provide to the city for each parking space that they are required to meet, depending on the number of rooms, meeting rooms, restaurant, office space, etc. Each of those is accounted for and comes to 200+ spaces that they will be paying for. In the Central Business District, loading berths are not required and most are right on the street and the applicant has met its obligation. When you have an urban setting with urban restraints where you are trying to encourage pedestrian activity and flow, there are certain trade-offs. If the Board is extremely uncomfortable with that, the Board may want to bring John Burke in to answer their questions and concerns. The Master Plan is to encourage pedestrian activity on this block. The Fire Chief has indicated that he doesn't have any concerns and he designed the curbing so that he could come in over it. This is a modern building, fully sprinkled, and is a marvelous opportunity for the city.

Mr. Coker asked when someone leased 40-50 spaces at the garage, are those dedicated spaces?

Mr. Holden indicated that they use software and can monitor the spaces to make sure they are always available. What is ironic is that this project could very well come close to maximizing the High Hanover facility. This is actually good news as this is what the garage was built for and it was always the goal of the city to maximize it.

Councilor Ferrini asked if it would be of any benefit to the city for them to have a longer lease for parking spaces?

Mr. Holden felt it was the city's perspective that they don't take the recognition of the lease but rather they look at absolute numbers. In the downtown, each space is calculated as being used three times. The leased space that is available is also available for the office owner, the person coming in for lunch as well as the hotel guest. It felt they may wish to encourage the city property be used to its full economic benefit and the lease may actually hinder that.

Ms. Hayden asked about Stipulations #17 & #18, the easements, and whether there was a difference in each one? Where does the Legal Department stand on these.

Mr. Holden indicated the easements were critical to the operation of the site and the owners agree. Due to other issues, the wording is very specific and that is what they are working out with a license agreement that will allow for the access. The reason they are putting the wording on is because they don't want the licenses or easements to disappear and the applicant understands that.

Chairman Smith asked if John Burke would be available if this matter was tabled to their next meeting to answer some questions the Board may have. He is also very concerned about the second curbcut that was not removed from the Site Review plan. He felt there were still a lot of questions that are still unanswered and it is a huge project for the downtown.

Councilor Ferrini made a motion to table this matter until the next regularly scheduled meeting on July 15, 2004. Despite some reservations, his are minor and he is pretty much favorably disposed of the plan as he sees it. He just feels that he would like a little bit more information from the City and he appreciates the painstaking work that has gone into it. His concerns may not be the same as the Chair.

Mr. Savramis seconded.

Chairman Smith indicated that he was looking for input from John Burke on the second curbcut as well as feedback from the Fire Department on how they feel about the internal parking area and making the swing onto to High Street.

Mr. Holden indicated it would be good to have all of the easements and licenses in place so that they could favorably report back, or at least have representation from the Legal Department.

Mr. Coker would like to follow up on the loss of eight parking spaces with the proper person from the City and have them address that issue and justify that loss.

Mr. Holden indicated that Mr. Burke would be able to work with them, although this is ultimately a City Council issue.

The motion passed unanimously.

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F. The application of **Brora LLC**, for property located **off Portsmouth Boulevard** wherein site plan approval is requested for the construction of a 28,884 ± s.f. 4-story 108 room hotel with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 213 as Lot 2 and lies within an Office Research district.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Attorney Malcolm McNeill addressed the Board on behalf of the applicant. Also present were Dennis Moulton, of Millette, Sprague & Colwell, Matthew LaBlante, and Mike Meyers, Project Manager. This site consists of 10.04 acres on the easterly side of Portsmouth Boulevard and is in the Office Research/Mariner's Village district. The proposal is for a 4 story 108 room extended stay hotel. This application meets with all requirements and no waivers were being requested. A setback variance has been granted by the BOA. Attorney McNeill referred to an aerial photo that he had as an exhibit. One of the reasons they are proposing an extended stay facility is its close proximity to the Commerce Center. The actual area of the site is quite well vegetated by mature tree growth and they intent to maintain a great deal of that. Access to the hotel would be via Market Street extension. This Hilton Hotel is very similar to a Marriott Residence Hotel. Guests will stay for 3-7 days and there are small kitchens in the units. There is no restaurant or bar on the facility. The 4-story building also has a lodge area, swimming pool, and 130 parking spaces, which exceeds the parking requirement for the site. As this is a rather transitional zone between office use and Mariner's Village use and there are protective setbacks on the site. There is a 100' buffer on one side of the site which is heavily vegetated, separating them from a residential area. There will be an 8' stockade fence around all of the areas that abut the residential uses as well as a chain link fence in the vicinity of the rear areas of the hotel. The site complies with the density and use requirements. The building is designed to be 45' in height.

Attorney McNeill indicated that traffic did not take a great deal of time in their discussions as when the developers put in Portsmouth Boulevard there was a contractual agreement called the

“Subdivision Site Agreement” with the City, dated Sept. 27, 2000 which provided that upon the applicant building the roadway to the city specifications as well as making other contributions and upgrades in the vicinity, the developer was assured that he could build 244,000 s.f. of units on this street provided they complied with zoning. This particular use is 85,000 s.f. and is clearly within the 244,000 s.f. allowance. Therefore, the traffic was addressed at the time of that contract. There will be roadway improvements from the Commerce Way intersection, along the frontage of the site. As part of the TAC process, they agreed to upgrade the roadway by repaving and continue the sidewalk. The building provides a smooth transition between the two zones. Their signage is in compliance with all regulations. They went through the TAC recommendations and they have very few comments on them except to say that they are acceptable to them, with one caveat. Condition #11 says that “a four way stop analysis will be completed and provided to the DPW for review and consideration.” Although they are not sure what a “four way stop analysis” is, their position is that contractually they have done the studies for the road but are willing to have this analysis done and provided to DWP but no further action should be required.

Additionally, Attorney McNeill referred to an issue of ledge on the site that related to Condition #15, and Dennis Moulton will speak to that, as well as to the drainage system.

Attorney McNeill referred to a letter from Thomas Keane which was delivered to the Planning Department today and which he was given this evening to review. In essence, Attorney Keane is asking that this plan not be processed at this time because of another case that was decided in the NH Supreme Court recently. Attorney McNeill vigorously objects to that letter as there are no legal sufficiency to this letter at all. All variances have been received and were sustained by the Superior Court. Although an appeal is pending and Attorney Keane has decided what the result of that appeal will be, he would leave that to the Judges to decide. Therefore, they have all of the relief necessary for their application. An appeal cannot stay a proceeding, they are proceeding at their own risk and their variance is in effect.

Mr. Will asked about their requested revision to Condition #11.

Attorney McNeill indicated that he could approach this by saying it was totally inappropriate as all studies have been done and the contractual agreement exists. He believes what the Planning Department is looking for are some baseline figures for that intersection. The request is not to modify the existing arrangement but just to provide a baseline for that intersection. After their project, there will still be over 100,000 s.f. left and the City would like to know what the pending impacts are.

Dennis Moulton, of Millette, Sprague & Colwell, indicated that one of the major issues in their discussions with the city was drainage. They had designed the drainage to follow the pattern that existed on the site at this time where drainage would flow in two directions from the site. The City had a concern about additional water being drained behind Demoulas so they redesigned their system so that it is a closed drainage system that exits directly out to the river. They connected all catch basins through a long thin detention area, which was designed in excess of the requirements to a 10 year drainage design. They will clean and repair the system as necessary to assure proper flow.

Mr. Moulton indicated that all utility connections will be off existing utilities. Water and sewer are existing on Portsmouth Boulevard and the electrical connection will be underground. Gas exists at the Osprey intersection and will be brought in at that point. They will have an enclosed dumpster. There will be repaving of Portsmouth Boulevard and they will be rebuilding the sidewalks with bituminous asphalt and sloped granite curbs.

Mr. Moulton addressed the ledge issue. To the rear of the building there is ledge that their study has indicated they can cut at 6:1 slope. At the highest point of that ledge cut there is a 16' drop at the corner of the site. TAC had some concerns about the steepness of this ledge. They will be constructing a chain link fence as well as a wooden fence. After discussions, it was determined that



it might be better if they visually tiered the ledge cuts so that there was a series of drops, which is what they are now showing on their plans.

Chairman Smith thanked Mr. Moulton for the motorcycle pads. He noticed that the lighting was on 24' poles and he requested that the poles be reduced to 16' poles. He asked about snow storage.

Mr. Moulton indicated that there was plenty of room for snow storage and would not cause any problems with their drainage storage.

Chairman Smith asked about the "Sport Court" as it was in two different spots on the plans.

Mr. Moulton indicated that the "Sport Court" was moved and they neglected to take it off its previous location. The Site Plan shows the correct location of the "Sport Court".

Chairman Smith asked about handicapped parking spaces.

Mr. Moulton indicated that the operational intent is that there is one main entrance where people will come in to access all rooms.

Chairman Smith indicated that it might be nice to have handicapped spaces at the other doors.

Matthew LeBonte, project architect, indicated that they will make every effort to get those handicapped spaces at the entrances. The grading on the site may make it tough but they will make every effort to accommodate them. There are three handicapped accessible doorways.

The Chair asked if there was anyone from the public who wished to speak to, for or against the application.

Attorney Thomas Keane, representing 1000 Market Street Corporation, addressed to the Board. He indicated that he had delivered a letter to the Planning Department today and he wanted to make sure that it was part of the record. The purpose of his letter was to make the Board aware that the proposed use of the applicant is contingent upon their variance request being upheld at the Supreme Court where it is now pending. Based on a recent decision, he felt there was a real question of whether or not the variance request will be upheld. Also, being an effected party on Market Street Extension he asked that the Board make sure that a very extensive traffic study be done to address the impact that this project will have on that area.

Mr. Sullivan stated that at the time that 1000 Market Street was developed, there was a stipulation that there would be a push button for people to use at the intersection to allow people to cross at the throughfare and use the sidewalk. That was brought up twice and to this date that has not been done. He asked Attorney Keane to look into that matter and report back to the Planning Board.

Attorney McNeill responded to Mr. Keane's letter. In terms of the traffic issues, Mr. Keane did not appear at TAC and raises these issues for the first time today. Mr. Keane represents a competing hotel that cannot hear, see or smell or otherwise be disturbed by this project. They believe that the request with regard to the appeal is purely for delay and not based on zoning but is entirely anti-competitive.

The Chair asked if there was anyone else from the public who wished to speak to, for or against the application. Seeing no one rise, the Chair declared the Public Hearing closed.

#### **DISCUSSION AND DECISION OF THE BOARD:**

Ms. Hayden asked for some background on the traffic study and the original agreement.

Mr. Holden explained that Green Pages started this project and it was anticipated that there would be 400,000 s.f. of development in their initial stage. Subsequently it was reduced to about 200,000 s.f.. As part of the subdivision process, they went through the TAC process and resulted in the improvements on Woodbury Avenue and Market Street. His recollection of those improvements included an additional turn lane and putting in the traffic light at Commerce Way and a connection from Commerce Way to Portsmouth Boulevard. Those improvements were supposed to be equivalent to what would be necessary for some 200,000 square feet of office space. In return for doing that as part of the subdivision, knowing that there would be future development, it was agreed that when we actually had the Site Review application we would not be looking at it again in terms of traffic, although we would be looking at it in terms of everything else. In regards to the 4-way stop analysis, Attorney McNeill was correct in saying that we are looking for base line data because that 4-way stop didn't exist at the time that they did the traffic study. There are additional lots with additional development potential so they are looking for some baseline figures for the future.

Chairman Smith reminded the Board that this project was started by Greenpages but Brora finished it.

Councilor Ferrini asked if the amount of vehicles in the traffic study relating to square footage and useage are broad enough within that subdivision to include this project?

Mr. Holden confirmed that there was an original study for 400,00 s.f. that had competing traffic studies done by abutters of interest. They finally came down to the idea that they would be looking at approximately 200,00 s.f. of development. They then decided what those improvements would be. They actually did the site review as part of the overall subdivision. They didn't look at the development of each house but were looking at the impacts of it. As part of this subdivision, knowing that they had problems out on Market Street and Woodbury Avenue, it was their idea to do the subdivision and address those parking requirements and link it to a level of development. If the development exceeds that amount, then another traffic study will be done.

Mr. Sullivan asked how Attorney McNeill had figured in the parking spaces in for the hotel, taking into consideration the meeting rooms.

Attorney McNeill indicated that the parking requirement is one space per room. There are 108 rooms and they have 130 spaces. There is only one small meeting room, to be used for training for people staying at the hotel. In terms of their own view, their parking will exceed their needs.

Mr. Sullivan asked if it would be hotel guests that would be using the meeting room?

Attorney McNeill confirmed this.

Mr. Hopley asked about the letter from JCM Management concerning the continued maintenance of the fence.

Attorney McNeill suggested that they add to Stipulation #16 that the applicant should work with the Planning Department to work on the continued fence maintenance.

Mr. Hopley made a motion to approve with stipulations. Mr. Will seconded.

The motion passed unanimously with the following stipulations:

- 1) That the Note on page 2 of the Site Plans stating "Grind wearing course to 22' and repave with 2" binder course ....." should read as follows: "Reclaim existing road, create 22' wide, grade to original grade, any leftover material to be used as fill underneath rocky areas, reset curbing to 4 1/2", binder to be 2" and 1 1/2" on top";

- 2) That the drainage system shall be cleaned and so noted on the Site Plans, along with a maintenance plan;
- 3) That hotel signage and directional signage shall be shown on the Site Plans;
- 4) That lighting shall be added to the entrance driveways and so noted on the Site Plans;
- 5) That the sewer stub that is in the current manhole shall be removed and the sewer should tie directly into the manhole with the new service;
- 6) That the sidewalks from the street shall be labeled as 5' wide on the Site Plans;
- 7) That the sidewalk that leads from the parking lot on the left hand side of the building to half way down to the main part of the building shall be 9' wide to handle a fire truck and that the sidewalk shall be maintained at all times for emergency access and so noted on the Site Plans;
- 8) That the Fire Department connection shall be located in the hotel lobby area, or an alternate area near the street, to be approved by the Fire Department, and so noted on the Site Plans;
- 9) That a Master Fire Alarm Box shall be installed and so noted on the Site Plans;
- 10) That a Knox Box shall be installed and so noted on the Site Plans;
- 11) That a four-way stop analysis shall be completed and provided to DPW;
- 12) That one yard hydrant shall be installed on the same side of the street as the hotel, with the exact location to be approved by the Fire Department;
- 13) That the hotel shall use water conserving fixtures (low flow faucets, toilets and showerheads) and shall be so noted on the Site Plans
- 14) That if the well provides insufficient water for the irrigation system, then the hotel will use water conservation practices in its place and be so noted on the Site Plans;
- 15) That sloped granite curbing shall be used everywhere on the site except along the sidewalks and curbed areas where concrete will be used and shall be so noted on the Site Plan;
- 16) That the Department of Public Works and the Planning Department shall work with the applicant to finalize plans depicting a tiered ledgecut on a portion of the rear and side yard, as well as provide DPW with a schedule for the continued maintenance of the fence;
- 17) That the vegetation to the rear of the property shall be protected and the applicant will work with the Planning Department for language to be added to the Site Plans;
- 18) That all lighting poles be lowered to 16' in height and so noted on the Site Plan;
- 19) That the Sport Court be properly located on the plans ;

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G. The application of **Boise Cascade Building Materials**, owner, for property located at **100 Ranger Way** where in site plan approval is requested for the addition of a 24' x 45' modular building to be used as office space with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 211 as Lot 2 and lies within an Industrial district.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

John Chagnon, of Ambit Engineering, addressed the Board on behalf of the applicant. He indicated that they are proposing to utilize a small modular structure. The owners were made aware of the availability of this modular structure and had to move fast so it is already on the site. There will be no new utilities with the exception of electricity. They are scheduled to appear before the BOA next week for a setback variance.

Mr. Chagnon indicated that they have completed all of the TAC stipulations and he reviewed them with the Board:

- 1) That final approval is subject to receiving the necessary variances from the Board of Adjustment and said variances should be so noted on the Site Plans;  
*They are scheduled before the BOA next week and will list those variances on the plans..*
- 2) That a note shall be added to the plan that electricity and telephone utilities will be coming directly from the existing building and there will be no additional utilities;  
*They have added note #14 that "No additional utilities are proposed at this time".*
- 3) That the fire lane shall remain open and be so noted on the plan;  
*They have added note #15 on the site plans.*
- 4) That this matter be referred to the Traffic & Safety Committee;  
*They received approval from Traffic & Safety that morning.*

Mr. Hopley asked about sewer.

Mr. Chagnon indicated that the plans show a septic system. The applicant has filed a new plan to update the septic system. The current septic approval is for 300 gallons per day and they have now reached the point where the employee level will go up so they have submitted a re-design of that septic for a 600 gallon per day system. They have submitted that to NHDES and they are awaiting approval that they expect in the next week or so. The field associated with the tank is 10' underground and they did not dig it up to locate it. The plan shows that if the system fails, they will install the new system and at that time they will have to dig it up.

Mr. Holden indicated that he did not have any problem with the change in language on one of the stipulations.

The Chair asked if there was anyone else from the public who wished to speak to, for or against the application. Seeing no one rise, the Chair declared the Public Hearing closed.

**DISCUSSION AND DECISION OF THE BOARD:**

Councilor Ferrini made a motion to approve with stipulations. Mr. Will seconded.

The motion passed unanimously with the following stipulations:

- 1) That final approval is subject to receiving the necessary variances from the Board of Adjustment and said variances should be so noted on the Site Plans;
- 2) That a note shall be added to the plan that electricity and telephone utilities will be coming directly from the existing building and there will be no additional utilities;
- 3) That the fire lane shall remain open and be so noted on the plan;
- 4) That this matter be referred to the Traffic & Safety Committee;

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H. A public meeting is scheduled in order to solicit public comment on a proposal to rezone the **Portsmouth Circle Business Center, located at 500 Spaulding Turnpike**, a 23.3 acre parcel, from an Office Research district to a General Business district. Said property is shown on Assessor Plan 238 as Lot 20.

The Chair read the notice into the record.

**SPEAKING TO THE PROPOSAL:**

Attorney Malcolm McNeill, representing the Flatley Company, spoke on this matter. Also present were Mr. Flatley, the owner of the parcel, and Richard Kane who is the Regional Director of Planning and Development for the Flatley Company. In the simplest of terms, they are asking that this site be re-zoned back to its original zoning classification from the early 1980's. The area that they are talking about is under singular ownership. The building is 188,000 s.f. and was the old Omni Mall which was short lived. There are 920 parking spaces and property to the rear cannot be further developed. They are asking the Board to consider the environment of the site. On one side is the Spaulding Turnpike, Brady Ford and another car dealership further down the street, the Hampton Inn, Home Depo, Durgin Lane Shopping Center, DeMoulas Shopping Center and B.J.'s. In terms of this particular site, everything around them is general business and they would like to "reverse spot zone" this site. They have an office research zone in a sea of general business and that zoning no longer works for this particular site.

A brief history was provided to the Board. The Omni Mall opened in 1985 and was zoned general business. For about one year, the Omni Mall attempted to operate as a retail facility but went bankrupt after about one year. In 1987 the Flatley Company purchased the property from the bankrupt funding loan and started renovating it for what appeared to be an appropriate use of office use and it was called the Portsmouth Circle Business Center. It took Mr. Flatley five years to get the facility up to 50% occupancy for office use. In 1989 Pease closed, which will become important in a few years. In 1993 Liberty Mutual came to the site and resulted in the site exceeding 50% occupancy for the first time. In 1995 the City recognized that this particular plot of land was being used for office purposes. When there was a general re-zoning of the city, this was re-zoned as office research. In 2003 Liberty Mutual, with its 100,000 s.f., moved across the street to Pease. In the interim, almost all of the office users have relocated to other locations in the Seacoast. The current occupancy rate is 7%. At the close of the first quarter of this year, Pease had 171,562 s.f. of available office space. In a general Portsmouth suburban area there is 229,622 s.f. of available office space. This site continues to be taxed for General Business. What has changed is desirable office tenants have been and will do exactly what Liberty Mutual did. At the same time, the environment of this area continues to develop and profit in retail use.

Attorney McNeill indicated that they are not asking for anything radical to be done. They are asking to revert to the roots of the original zoning, recognizing that in 2004 it is not only in the best interest of Mr. Flatley's company but also in the best interest of the City. What risks are involved in this re-zoning? There are no residential neighborhoods that will be impacted. The area is surrounded by wetlands that are unable to be developed. There is desirable access off and onto the Spaulding Turnpike. Parking for the site is already there. Anything that would be done to the site would have to go through the City Site Review process. They have been meeting with all levels of the City to discuss this matter. They completed an expansive matrix with regard to this site that has largely been agreed to by the Planning Department staff. That matrix states that "Impacts on the site should be relatively minimal due to the site having been designed originally as a retail center". Mr. Holden indicated that, "Hopefully through better design, future traffic increases can be anticipated and addressed as the site is redeveloped". Attorney McNeill indicated that they are committed to that and have already started that process. Mr. Holden went on to say that "To this end, the Site Review Process should prove to be helpful. If the rezoning is approved, the traffic study should be required (will be) as part of the City's review." Regarding environmental conditions, the summary was "Minimal impacts are expected as the site was previously disturbed". They don't anticipate any wetland impacts.

Attorney McNeill stated that the original zoning in 1985 is the most appropriate zoning. What is being proposed is not inconsistent with what the Master Plan is attempting to address. Also, a re-zoning does not mean anything other than the fact that they are now permitted to come back to the Board and go through all of the necessary reviews relative to the site. They need to be in a position

to start that process with the City. They are asking that the Board favorably recommend this to the City Council so that they may bring it before them.

The Chair asked if there was anyone else from the public who wished to speak to, for or against this matter. Seeing no one rise, the Chair declared the Public Meeting closed.

**DISCUSSION AND DECISION OF THE BOARD:**

Mr. Holden advised the Board that they have the option of tabling the action if they need more information. The Department held back on making a recommendation to see if the public had an opinion to express on this. The Department does not have any disagreement with anything that Attorney McNeill expressed.

Chairman Smith indicated that he was very impressed with the satellite picture that Attorney McNeill used as an exhibit.

Mr. Coker felt that Attorney McNeill’s description of “reverse spot zoning” was right on the money, although there are a couple of minor things that will need to be taken care of in Site Review. There are extensive wetlands and he is assuming that some, if not a significant portion of this site, will fall into the buffer zone. They will deal with that issue at Site Review. He felt that this was a good idea.

Ms. Hayden made a motion to recommend a favorable action to re-zone by the City Council. Councilor Ferrini seconded the motion.

The motion passed unanimously.

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**III. CITY COUNCIL REFERRALS/REQUESTS**

A. A public meeting is scheduled in order to solicit public comment on a proposal to construct an addition to an existing pier on property located at **67 Ridges Court**. The purpose of this meeting is to assist the Planning Board in preparing a recommendation to the City Council pursuant to RSA 482-A:3 (XIII). **(This matter was tabled at the May 20, 2004 Planning Board Meeting and the applicant has requested that this matter be tabled again until the July 15, 2004 Planning Board meeting)**

Mr. Will made a motion to take this matter off of the table. Mr. Sullivan seconded. The motion passed unanimously.

Councilor Ferrini made a motion to re-table this matter until the July Planning Board meeting. Mr. Sullivan seconded.

The motion passed unanimously.

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B. Request from City Council for a report regarding the feasibility of placing a Memorial honoring **Martin Luther King** at the site located between Dutton Avenue and Scott Avenue, bound by Wright Avenue and the approach to the Memorial Bridge. **(This matter was tabled at the May 20, 2004 Planning Board Meeting)**

A motion was made to take this matter off of the table. The motion was seconded. The motion passed unanimously.

Mr. Holden advised the Board that the Planning Department staff has met with members of the Committee and plan to meet again and finalize the request. They would also like to coordinate a site walk at either the July or August meeting.

Councilor Ferrini made a motion to table this matter until the July Planning Board meeting. Mr. Will seconded.

The motion passed unanimously.

Chairman Smith reviewed the Master Plan schedule.

Tuesday, June 22 <sup>nd</sup>	New Franklin School – Public Hearing
Thursday, June 24 <sup>th</sup>	Dondero School – Public Hearing
Thursday, July 8 <sup>th</sup>	City Council Chambers (televised) with Portsmouth Listens Study Circles
Monday, July 19 <sup>th</sup>	Worksession between Planning Board and City Council
Thursday, July 22 <sup>nd</sup>	City Council Chambers (televised) to hear from the public
Thursday, August 5, 2004	City Council Chambers (televised) for public feedback on the Future Landuse Map

**Millennium Borthwick, Borthwick Avenue:** Mr. Holden reported to the Board that the Planning Department has administratively approved an amendment for under ground utilities coming off of Highliner. This was at the recommendation of PSNH. It will also eliminate some poles.

**Manchester Square:** Ms. Tillman indicated that the Planning Department has administratively approved a request to add 17 more parking spaces back to back rather than in a single strip. This approval was given because it is on Pease and the PDA will be reviewing it as well. If it had been a city project then it would have been bought back to the Board.

**VII. ADJOURNMENT**

A motion to adjourn at 11:00 pm was made and seconded and passed unanimously.

Respectfully submitted,

Jane M. Shouse  
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on July 15, 2004.