

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

7:00 P.M.

**CITY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
AUGUST 19, 2004**

MEMBERS PRESENT: Kenneth Smith, Chairman; John Sullivan, Thomas Ferrini, City Council Representative; Richard A. Hopley, Building Inspector; George Savramis, Raymond Will; Donald Coker, John Ricci, and Alternate, Jerry Hejtmanek;

MEMBERS EXCUSED: Deputy City Manager Cindy Hayden, John Ricci

ALSO PRESENT: David M. Holden, Planning Director
Lucy Tillman, Planner I

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I. APPROVAL OF MINUTES

- Meeting of October 16, 2003
- Meeting of October 23, 2003
- Meeting of November 20, 2003
- Meeting of May 27, 2004
- Meeting of July 15, 2004
- Meeting of August 5, 2004

All minutes were approved unanimously.

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II. 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 July 15, 2004 Planning Board Meeting)

The Chair read the notice into the record.

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

SPEAKING TO THE APPLICATION:

Attorney Bradley Lown, representing the McLeod's, indicated that they have modified and submitted a new plan. The difference is that the new dock has been moved over to the west. The original proposal was to have the dock coming further to the east, where it would infringe on the public way, which is an extension of Fernalds Court. The new design extends it further to the west where it is completely outside of the extended lines of Fernald Court. The Statute sets the standard and the Board should look at those standards: Whether the dock will interfere with the navigation or the abutters use of the property or represent a danger to waterfront activities. The issue is not whether the dock is going to

impair someone's view or whether it is aesthetic. Attorney Lown indicated that at the last hearing there were two speakers, both of whom insisted that public access be maintained and preserved. Attorney Lown was asking the Board to look at their revised plan and determine whether or not it was the proper balance between the rights of the waterfront owner and the rights of the public to access.

Mr. Will asked about the request of the Department for a more accurate drawing and whether they needed something drawn by a PE?

Mr. Holden indicated that they had worked with the applicant and deemed their drawing adequate.

Mr. Coker indicated that the dock was 10' x 18' and if someone was to tie up their boat on the side of the dock, it would actually go into the City right-of-way. He didn't know how that could be enforced but he asked how many boats they planned to moor to the dock.

Attorney Lown indicated that they would stipulate that any boat moored to the dock would be on the outer side of the dock and would be within the extension of Fernald Court. The whole purpose is to not infringe on the public right-of-way.

Mr. Sullivan asked why the dock platform was so large?

Attorney Lown indicated it was previously 10' x 20' and it was reduced to move it away from the extended line. It is strictly a residential use.

Melvin Trefethan (Sandy), of 49 Ridges Court, is an abutter to the McLeod property and spoke at the last hearing. The only concern that he had was that access remain unobstructed to the original use of public access. He reviewed the new plans and they do not appear to obstruct anything. Also, in response to Mr. Coker's concern, if a boat were to be tied up on that side of the deck, it would not obstruct the right-of-way and he felt that was a non-issue in this case.

Steve Barndollar, of 120 Ridges Court, reviewed the new plans and indicated that he would support them.

Steve Gray, 51 Baycliff Road, two houses over from the applicant, reviewed the plans and had no problems with them.

Bob Gunning, 43 Humphrey's Court, reviewed the plans and felt there was plenty of room for a dock and he didn't have a problem with it. He was present to support the project.

Pat Palen, 46 Ridges Court, reviewed the plan just prior to the meeting and would object to anything that would block the lane going out to the water but other than that she has no problem with the plans.

Heidi Thomson was present for her family. She indicated that a lot of people in the neighborhood have strong feelings about this dock, which is larger and higher than other docks. They are very sad to see their view taken away and just wants to make sure that it doesn't impact public access

Paul Harvey, Jr., of 48 Ball Street, directly behind the McLeod property, felt that most neighbors realize that as long as the right-of-way is maintained, their rights are not being effected and do not have a problem with the project.

Charles McLeod, the applicant, stated that he was glad to see the turn out at the meeting as it's important to talk about the issues and communicate to get advice. He felt the process had been interesting as what they originally proposed was off the original dock and it was his thinking that the dock was already there so it made the most sense to keep it there. The Board objected so they went to a compromise process. They pulled the dock in a little but and made it smaller. When their boat is tied up at the dock it will be much more manageable and successful for everyone in the neighborhood. He felt it was a good compromise. They enjoy all of the community activity at the right-of-way.

Mr. Will asked how long his boat was.

Mr. McLeod indicated his boat was 17' long and he did not intend to get a larger one.

Jim Fernald, of 21 Fernalds Court, indicated he had no problem with the dock.

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 Meeting closed.

DISCUSSION AND DECISION OF THE BOARD:

Mr. Coker indicated that the Public Hearing was advertised as an addition to an existing pier. The applicant just stated that they had moved the pier over 17'. He was confused about how they had an addition to a pier if it was moved over 17'.

Mr. Holden indicated that advertisement could have been a little more specific, however, all the Board is doing is making a recommendation to the City Council and everything they are doing is over and above what was required.

Mr. Coker was not clear if this was an addition to a pier or a new pier?

The Chair clarified that it was a new pier but this meeting was to ascertain information to make a recommendation to the City Council rather than their normal procedure of going through a public hearing.

Mr. Coker made a motion to make a favorable recommend to the City Council with the following stipulations:

1. That no boats be tied up on the City right-of-way side on the dock.
2. That the right-of-way as it extends into the water shall be maintained free and open so that the use of the dock does not obstruct this area;
3. That the applicant convey to the City any fee simple ownership rights under the City's right-of-way;
4. That the applicant agrees to allow the City to construct a dock within the right-of-way; and,
5. That the City Attorney approve any necessary agreements for the content and form.

The motion was seconded.

The motion to recommend approval with stipulations passed unanimously.

Councilor Ferrini asked if this would be submitted to the City Council and then will have to be voted on by the City Council?

Chairman Smith indicated that was correct. It will be up to the Council whether or not they have a public hearing.

Councilor Ferrini asked Mr. Holden if all of the letters in the file will also be turned over to the City Council?

Mr. Holden indicated they would normally give just the Council the Board's action. If the Planning Board wishes they could make a request to submit everything to the Council.

Councilor Ferrini felt it might be more persuasive to have everything.

Mr. Holden indicated they would submit everything with the recommendation.

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III. OLD BUSINESS

A. The application of **Joli Ann Foucher, Owner**, for property located at **566 Greenland Road** where 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. (This matter was tabled at the July 15, 2004 Planning Board Meeting)

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

Chairman Smith indicated he had a letter from the applicant requesting that it be rescheduled until the September 23, 2004 Planning Board Meeting.

A motion was made and seconded to table this matter to the September 23, 2004 regular Planning Board meeting.

The motion passed unanimously.

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Chairman Smith indicated that he would be opening both hearing relative to 1390 Lafayette Road so that they could be heard at the same time, however, they will be voted on separately. There were no objections from the Board.

B. The application of **MacLeod Enterprises, Inc., Owner**, for property located at **1390 Lafayette Road** where Final Subdivision Approval is requested to subdivide one lot into two lots with the following: Lot A having a lot area of 108,256 ± s.f. and continuous street frontage off Lafayette Road and Lot B having a lot area of 221,743 ± s.f. and continuous street frontage off Lafayette Road and Peverly Hill Road, and lying in a zone where a minimum lot area of 43,560 s.f. and 200' of continuous street frontage is required. Said property is shown on Assessor Plan 252 as Lot 8 and lies within a General Business district.

Mr. Will and Mr. Sullivan both stepped down from this hearing.

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

H. The application of **MacLeod Enterprises, Inc., Owner**, for property located at **1390 Lafayette Road**, wherein site plan approval is requested to demolish and remove 48,500 ± s.f. of existing buildings and 12,700 ± s.f. of existing pavement, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 252 as Lot 8 and lies within a General Business district.

Mr. Will and Mr. Sullivan both stepped down from this hearing.

SPEAKING TO THE APPLICATION:

Greg Mikolaities, of Appledore Engineering, addressed the Board and thanked the Board for combining their two applications for hearing. They passed out colored plans for the Subdivision to the

Board members to assist them. They have received Preliminary Subdivision approval, came back on June 17th for final approval however were tabled due to parking issues. On July 2nd they submitted a letter regarding parking calculations and clarified how the parking was calculated originally vs. how it is calculated now. That issue is now resolved and they are before the Board for final subdivision approval.

Mr. Mikolaities stated that the lot is currently 7.5 acres and they are attempting to create two lots with Lot A being 2.49 acres and Lot B being 5.09 acres. Lot A retains the Comfort Inn with the required parking and added green space.

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

Attorney Rob Ciandella, introduced himself as Land Use Counsel for Demoulas Market Basket, a direct abutter to this site. He first indicated how long and how well the MacLeod family has served the community at this site. DeMoulas is directly across Peverly Hill Road from this location and has a direct interest in this application. They raised access issues, traffic issues and have concerns about the procedural context in which this project is proceeding. This is a very congested area of the city and the current Master Plan identifies that intersection as a site that fails. The site currently has three curbcuts on Route One which has interfered with the traffic. He believed this meant they had to defer some planning issues with respect to this project. In the draft Master Plan it talks about making an impact on the transportation issues in the City and they felt this was an opportunity to address some of those issues. He felt that TAC did a good job paying attention to those issues but they have a few areas that should go beyond the TAC recommendations.

Attorney Ciandella first addressed the consolidation of accessways onto Route One. The properties currently are under common ownership and intergrated access. Lot A drives over part of Lot B. The TAC approval made a recommendation that the subsequent owner would agree to revisit the issue of curbcuts when Lot B was developed. They feel it would be appropriate at this time to design a single road access to Lots A & B, rather than defer that issue. They felt by virtue of the Subdivision regulations, the driveway should be required to insure that there is no danger of safety or impede the traffic flow. By having that design at this time would also help with the parking requirements.

Attorney Ciandella then addressed the demolition conditions, that in the fall there will be loaming and seeding in place of the demolished building until the spring. They would suggest a further requirement that if there is not an application for redevelopment with in a certain amount of time, there should be a limitation on how long the site could remain that way.

Attorney Ciandella addressed the 40' vegetative buffer along Route One. There was an issue of whether zoning would apply at the current time or when the original zoning was sought. They believe the Board should adopt a condition that the subdivided lots are subject to all current City zoning regulations.

Attorney Ciandella then turned his presentation over to Kevin Dandrade of Transportation Engineering & Construction, Inc. (TEC).

Mr. Dandrade elaborated on a few of the issues, access and some of the site features. He felt the consolidation of curb cuts at this time is very important. A curb cut could always be opened at the time of the re-development of the site. He indicated that if a new driveway is located to satisfy the queuing on Peverly Hill Road, and if it extend onto the Comfort Inn Lot, it would be impossible to determine whether the parking requirements will be met on the Comfort Inn Site. He was glad to see this matter tabled to address some of his concerns. They have provided the 40' buffer along the Route One frontage but he wants to make sure that proper planning takes place now before the property line is defined and the approvals are in place.

Mr. Dandrade pointed out some benefits to consolidating curbcuts. There would only be one defined conflict point on Route One rather than three. An exclusive left hand lane could be created on Route One and would be a safety move.

Mr. Dandrade indicated that TAC was receptive to the concerns that once the building was gone, the lot might be used as a short cut but that was addressed with barriers. They want to make sure that that takes place. He wanted to Board to consider what was a reasonable timeframe to allow the re-development and submit an application before requiring full restoration. Another request is that there be a continuation of sidewalks on Route One and Peverly Hill Road. Another issue was access in between the sites in the interim period. They would suggest temporary barricades to define the only use at the current time, the Comfort Inn. They want to make sure that, in moving forward, they landscape the 40' buffer, somewhat like they did on the Demoulas site.

Mr. Coker asked if he wanted to see the curbcuts that were there go away? He was confused over exactly what Mr. Dandrade meant.

Mr. Dandrade stated that the three driveways being proposed on Route One should become one to better define turning movements.

Mr. Coker asked if felt that should be done as part of the subdivision?

Mr. Dandrade suggested that the appropriate design work take place now so that they can be assured that the consolidation of the curbcuts can satisfy the zoning requirements.

Mr. Coker asked, for the sake of discussion, if Yokens is taken down and those curbcuts are still there, would it not make more sense for the Board to deal with that issue when they have something to deal with? A flower shop would have a completely impact than a McDonald's.

Mr. Dandrade felt it was important because the curbcut could be re-examined at the time of development. Also, as a result of TAC, there was an agreement that the meeting space that was within the Hotel was going to be removed and he wanted to make sure that was being done to comply with the parking requirements.

Mr. Coker said that he was having a hard time understanding the justification for removing the curbcuts.

Attorney Ciandella indicated that subdividing the property into two lots with shared access creates problems as identified by the Traffic Engineer. The Subdivision Regulations require the Board address this matter at this time.

Councilor Ferrini asked what part of the Subdivision Regulations require them to look at this issue?

Attorney Ciandella referred to paragraph 6 of the general Purpose of the Subdivision Authority and Section VI-5, dealing with driveways.

Mr. Mikolaities stated that they submitted on April 29th a subdivision application and they have worked with staff and done everything that has been requested of them. This matter has dragged on and on and he felt that everyone should understand that when an application comes in to develop the vacant lot, they will have to conform with the regulations. He did not think they should be talking about speculation.

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

DISCUSSION AND DECISION OF THE BOARD:

Chairman Smith asked for questions on Item B.

Mr. Holden indicated that he felt the Board was being presented with a bit of a dilemma and Mr. Coker had the right approach. The Board did not have an application before them in regards to a vacant lot. The Technical Advisory Committee, the applicant and the abutter worked out something that addresses the primary concern regarding the subdivision application which is listed as Stipulation #1. The NH DOT did not have any concerns as the traffic being generated on both lots was being reduced. This Board granted Preliminary approval and they are looking at the total elimination of any traffic generation on the second lot and he felt that the applicant has more than met their responsibility to this Board. The department would strongly recommend that you grant final subdivision approval in this matter.

Chairman Smith asked if they subdivided the lot, are there adequate parking spaces for the Comfort Inn?

Mr. Holden indicated that they had the applicant run their parking under both standards, being the standards with amenities and without amenities and applying the strictest standards, they are in compliance. This included the meeting space being reduced as some of the space is also included with the breakfast area. This conforms with the current parking ordinance and has always complied with past parking ordinances.

Chairman Smith believed the Goody Two Shoes location might have been a gas station at one time. Are there any tanks that need to be removed?

Mr. Mikolaities indicated they were all removed and they have documentation confirming that, which had been provided to the Planning Department.

Chairman Smith asked if any additional lighting would be added?

Mr. Mikolaities indicated that per the request of the Planning Board, they are reducing all light poles to 16'.

Chairman Smith asked if the light poles on the Yoken's lot will be reduced as well?

Mr. Mikolaities indicated they will not be taken down but the power will be off.

Chairman Smith asked if they will be putting up barricades on the adjacent lot?

Mr. Mikolaities indicated that was shown on the plans.

Mr. Coker asked about Mrs. Champagne's fence and wanted to confirm with Mrs. Champagne that everything was all set with her.

Chairman Smith indicated for the record that Mrs. Champagne nodded in agreement.

A motion to approve Final Subdivision Approval with stipulations was made and seconded.

Mr. Coker commended Mr. Ciandella in his representation of his client however he disagreed with his points of view with the exception of having some sort of stipulation regarding if the lot were to remain undeveloped for X amount of time, that something be done to keep it presentable.

Chairman Smith was not aware of ever putting a restriction like that on an application and he would probably want to speak to the City Attorney to see if they had that power to do so. He felt that they should probably ask the applicant if they had any plans for redevelopment or greening the space.

Mr. Mikolaities indicated they were intending to seed and loam the lot in the spring. He indicated that they could stipulate that they would maintain it up to 2 years of the filing of an application to develop the lot.

Chairman Smith asked the Department to go to Legal to see if they had the power to do that.

Mr. Holden stated that as part of the Site Review application they could stipulation something to that effect. The real question was what will be done with all of the pavement.

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

1. 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];
2. That all easements be approved as to content and form by the Legal and Planning Departments and their recording shall be coordinated with the recording of the final plat;
3. That efforts to preserve/relocate the free-standing neon sign continue with the Planning Department as offered by the applicant [not a condition of approval as this effort has been voluntary on the part of the applicant];
4. That the applicant or the owner of the property [Lot A] agrees that with the development of Lot B, the issue of the existing curb cuts for Lots A & B out onto US Route 1 shall be re-evaluated and re-configured as appropriate.
5. That the Board should encourage the parties to work cooperatively and incorporate the Yoken's logo into development plans and thereby affirm the heritage of this piece of Portsmouth;

Chairman Smith then asked for questions or discussion regarding the Site Review Application for demolition.

Chairman Smith asked the applicant what they intended to do with the sign? He indicated that he has received calls from the public indicating that it was felt the sign was a landmark of the city.

Mr. Mikolaities indicated that Mr. MacLeod has agreed to donate the sign to the City or work with the City to preserve the sign.

Mr. Holden clarified that it was agreed that Mr. MacLeod was willing to work with all parties including the applicant and abutting properties to find a disposition of the sign, with is included as a Subdivision Stipulation.

A motion to grant Site Review approval and demolition with stipulations was made and seconded.

The motion to **grant Site Review approval** and demolition passed unanimously with the following **stipulations:**

Stipulations from the August 3, 2004 Technical Advisory Committee Meeting:

- 1) That as a condition of the Final Subdivision approval, the applicant or the owner of the property agrees that with the development of Lot B, the issue of the existing curbcuts for Lots A & B out onto Route 1 will be re-evaluated and re-configured as appropriate;

- 2) That the Applicant will work with the evaluation of the 40' wide grass easement to the effect of determining whether it is a zoning issue or a potential modification to the Site Plan;
- 3) That mulch will be placed to stabilize the ground over the winter and shall be so noted on the Site Plan and that a suitable vegetative material (grass) will be planted in the spring;
- 4) That semi-permanent barriers shall be installed at the beginning of demolition at the two most southerly accessways closest to the intersection (one on Peverly Hill Road and one on Lafayette Road/Route 1) and that they will remain in place as traffic control devices;
- 5) That the water service coming up Peverly Hill shall be terminated at the main and the one coming off of the feed into the Comfort Inn would be terminated at the Comfort Inn feed and be so shown on the Site Plans;
- 6) That at the time of demolition, all utilities will be pulled out of the ground and the cutting and capping of the sewer line shall be witnessed by Public Works;

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IV. PUBLIC HEARINGS

A. The application of **Debora Panebianco, Applicant, William Ashley, Owner**, for property located at **308 Oriental Gardens** wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* for the placement of a 13'4" by 56' mobile home within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 215 as Lot 907 and lies within an Office Research district.

SPEAKING TO THE APPLICATION:

Debora Panebianco addressed the Board. She has lived at Oriental Gardens since 1987 and her mobile home is 42 years old. She is in a situation where she is abutting wetlands. Her lot is less than 100' from the wetlands and coverage is greater than 25% so she had to appear before the Board for approval. The new proposed mobile home is 40% larger than her current mobile home. What makes it so much bigger is that the current mobile home is old and it was very small. The standard used to be 10' wide. The newer homes are 12' wide. Her proposed Mobile Home is only 747 s.f. which is only 1/4 of the homes that most people live in. Most single-wides are 14' x 70' and she is proposing 13' x 56'. Even at today's standards, her proposed mobile home is quite small and therefore this is a very reasonable request. There are several other homes in the part that abut the wetlands and hers is the narrowest and those are almost 25 years old. When she went to the Conservation Commission meeting that there have been other similar situation in the city like hers and they have received approvals to put double-wides on their lots, once again, showing how reasonable her request was.

Mr. Will asked what year her home was?

Ms. Panebianco indicated it was a 2005.

Mr. Will asked if it had a pitched roof?

Ms. Panebianco indicated that it had a pitched roof.

Mr. Will indicated he has very little experience with mobile homes with the exception of Conditional Use applications. He asked if the modern mobile homes had any benefits with the pitched roof for stormwater treatment? He clarified by asking is there was anything special about a mobile home vs. any other impervious surface, such as a home or shed, in terms of water run-off?

No benefit was known.

Mr. Coker had a concern about the water coming off of the roof as she is very close to the wetland however it was perfectly clean water that comes off the roof so it should not be a problem.

Mr. Holden indicated it was almost a bit of an unfairness to a mobile home as most mobile homes don't get upgraded piecemeal but rather they get taken away and replaced by an entirely new one. There seems to be a minimal impact as the Conservation Commission indicated.

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

Jack Copeland, 306 Oriental Gardens, lived right next door to Mr. Panebianco. He indicated that the new mobile home is already there but she had not moved in. He felt that the Board should consider mailing something to the mobile home park advising them of the City's regulations concerning the park. He was speaking in favor of the petition. It seems to him that this has turned into nothing more than a technicality. He also has an old trailer and he would like to replace his as well. Her trailer is going exactly where her old trailer was and it is simply helping to beautify the park. The new homes have all of the new safety features built in so it's much safer for everyone. He did not see any impact whatsoever.

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 grant the Conditional Use Approval. The motion was seconded.

The motion to **grant Conditional Use Approval** passed unanimously.

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C. The application of **April Weeks, Owner**, for property located at **115 Pinehurst Road** where Preliminary and Final Subdivision approval is requested to subdivide one lot into two lots with the following: Lot 1 having 71,035 ± s.f. and 130.98 feet of continuous street frontage off Pinehurst Road and Lot 2 having 13,049 ± s.f. and 100 feet of continuous street frontage off Pinehurst Road, and lying in a zone where a minimum lot area of 7,500 s.f. and 100' of continuous street frontage is required. Said property is shown on Assessor Plan 221 as Lot 75 and lies within a General Residence A district.

Mr. Coker and Mr. Hejtmanek, both being former abutters to this property, stepped down.

SPEAKING TO THE APPLICATION:

Attorney Bernie Pelech appeared on behalf of the applicant. He clarified the figures that were in the legal advertisement which stated Lot 1 had 71,000 when it was actually 17,000. He stated that this lot which is roughly 30,000 s.f. lies within a General Residence A district which requires a 7,500 s.f. lot. The proposed lots comply with the lot requirement, the frontage requirement and the setback requirements. The lot would be City water and sewer. It is a pretty forward request and no variances are required. They are simply asking the Board to approve the plan as presented.

The Chair asked if there was anyone 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 moved to grant Final Subdivision approval subject to the stipulations recommended by the Department. The motion was seconded.

The motion to **grant Final Subdivision approval** passed unanimously with the following stipulations:

- 1. The placement of required monuments as per the requirements of the department of Public Works; and,
- 2. The submission, to this department of electronic data, suitable for updating the City Assessing Records.

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D. The application of **Michael R. Clark, Owner**, for property located at **325 Little Harbor Road** where Preliminary and Final Subdivision approval is requested to subdivide one lot into two lots with the following: Lot 1 having 175,550 ± s.f. and 154.43 feet of continuous street frontage on Little Harbor Road and Lot 2 having 287,292 ± s.f. and 151.38 feet of continuous street frontage on Little Harbor Road, and lying in a zone where a minimum lot area of 1 acre and 150’ of continuous street frontage is required. Said property is shown on Assessor Plan 204 as Lot 5 and lies within a Single Residence A district.

SPEAKING TO THE APPLICATION:

Attorney Bernie Pelech appeared on behalf of the applicant, Michael R. Clark. He received a copy of the Planning Departments memorandum the day before and after a discussion with David Holden, along with the fact that Mr. Clark was ill and unable to attend, he had no objection to the Board taking Mr. Holden’s recommendation and tabling this matter until the September Planning Board meeting.

Chairman Smith asked the Public if they would like to comment on this request.

There being no speakers, the Chair asked the Board how they would like to proceed.

DISCUSSION AND DECISION OF THE BOARD:

A motion to table the application to the September Planning Board meeting was made and seconded.

The motion to **table to the September Planning Board** meeting passes unanimously.

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E. The application of **Eric & Martha Stone, Owners, and Sierra Construction, Applicant**, for property located at **1039 Islington Street**, wherein site plan approval is requested to construct two 3-story buildings as follows: 1) a commercial building totaling 11,520 ± s.f. and 2) a 10-unit residential building totaling 13,320 ± s.f., with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 171 as Lot 14, and lies within a Business district.

SPEAKING TO THE APPLICATION:

Attorney Bernie Pelech appeared on behalf of Sierra Construction. He indicated that this matter has gone before TAC on numerous occasions and received a recommendation for approval, along with appearing before the Traffic & Safety Committee. He thanked the Planning Department and Mr. Holden for working very hard for many months with the applicants to come up with a plan that everyone was satisfied with. Attorney Pelech reminded the Board that this project was the subject of a devastating fire a few years ago and has remained in that condition ever since. The redevelopment will provide median income housing units, artisan space and some commercial uses. He felt it was a plan that would benefit the City and would enhance the gateway to the City. With Attorney Pelech was Brad Richards of Sierra Construction and Michael Sievert, the Site Engineer and Steve Pernaw, Traffic

Engineer. Attorney Pelech felt some of the site challenges were traffic and the overall site plan. Mr. Sievert has worked very diligently and this is probably the 10th version of the site plans. Attorney Pelech turned the presentation over to Mr. Sievert.

Michael Sievert, of MJS Engineering, was the site engineer for this project. Their plan is to remove the existing building and redevelop the site with 10 residential units and a commercial building. They are reconfiguring the entrance for better site distance. There will be some work on the slope out front and the guardrails to make the site distance longer. The landscaping plan is fairly intensive. They are pulling the pavement back from the front and landscaping in its place. The traffic pattern on the site is one way and they have met their parking requirements.

Mr. Coker asked about the artisan space.

Mr. Sievert indicated it would be in the basement and there would be 2-3 units in the building. Not living space but simply work space for a crafts. The studios would be leased.

Councilor Ferrini asked if the artisan space would be leased at market rate?

Mr. Sievert indicated it was his understanding that it would be at market rate.

Mr. Will asked if he could define the median priced housing?

Mr. Sievert could not define that.

Attorney Pelech indicated they did not have any dollar figures but they hope to have it accessible to people with median incomes.

Chairman Smith asked if they were going to be luxury condominiums?

Attorney Pelech indicated they would not be.

Mr. Will indicated that Master Plan was recommending combining artisan space and living space. He didn't think having to rent both units would be affordable to most artisans. He was concerned about what would preclude these units as artisan space as opposed to any other type of commercial space?

Attorney Pelech indicated that the fact that they are designated as such and the parking for the site is designed under the presumption. The plan sets forth the amount of artisan space and that will have to be adhered to by the applicant. Artisan space cannot be used for retail sales as there are two different parking standards.

Mr. Sullivan referred Attorney Pelech to the process that they went through for the old Morley Button Factory where they required some consideration to the people living in those houses and the children that may be there to insure that they could get out of there safely and get across the street to a sidewalk safely. He felt the traffic was fairly heavy going both ways at this site. He asked how pedestrians were going to get out of the site.

Mr. Sievert indicated they have made provisions for crosswalks and sidewalks all the way down the front of both buildings, as well as a cross walk over to the sidewalk which the pedestrians can access. They also will have a handicapped accessible ramp.

Mr. Sullivan asked if they were attempting to get the speed on Islington Street reduced?

Mr. Sievert indicated that they discussed this at one of the TAC meetings. They have done a speed study and they have taken that all into account.

Chairman Smith asked about snow storage. He asked if the two areas shown on the plan were going to be adequate for the site or were they planning to take some snow off of the site?

Mr. Sievert felt that during an excessive winter the snow would have to be removed.

Chairman Smith thanked them for their 12' light posts. He asked about the dumpster area and whether it could be enlarged to handle a dumpster as well as recycling bins.

Mr. Sievert indicated they could take care of that.

Chairman Smith asked if the area at the end, next to the dumpster, was intended for anything?

Mr. Sievert indicated it was extra use for the truck traffic.

Chairman Smith was wondering if it could be used for a motorcycle parking area done in concrete?

Mr. Sievert indicated that could be done.

Chairman Smith asked about the front snow storage area which was green space and whether it could be used for a children's play area?

Mr. Sievert indicated it would be grassed and could be used for a small play area.

Councilor Ferrini asked if the parking spaces next to the snow storage area could be angled in, giving more space to that area which could be used for a play area?

Mr. Sievert felt the area that was being considered to give truck more maneuvering area could be used. As the building has been pared down, it wouldn't be needed as much.

Mr. Will felt there was a serious need for a recreational site as it is included in their regulations. As these are 3,500 s.f. units being built, there will definitely be families. He would like to see a more defined and codified area for children to play.

Chairman Smith stated that he was not looking for a playground but rather a green space where they could play.

Mr. Coker asked them to review the drainage quickly.

Mr. Sievert indicated that the drainage currently comes down Islington Street, comes into the entrance and it then splits into two direction. They are attempting to keep everything together so anything coming off Islington Street as well as the drainage in the center will come together. There is a large swale that takes water and roof drainage.

Mr. Coker asked what prevents drainage from going onto the abutter's property.

Mr. Sievert indicated that there is nothing at the present time that prevents that and more drainage goes in their area. The water flowing off of this property is going into two catch basins. They will be lowering the drainage because there is more impervious area today and once the project is completed.

Mr. Sullivan wanted the applicant to be aware of what was happening with the present conditions. If they have any sheet flow go into the ditch on the side of the Route One By-Pass they are very apt to have some problems. Currently, in the wintertime, when everything freezes and everything comes down that hill, the overflow from the new water tower empties into that ditch, they might be increasing

the problems that are developing there. Last year they had to close the Route One By-Pass several times to get the ice off of the road. He just wanted the applicant to be aware of that.

Mr. Sievert indicated that they were decreasing the flow coming off of the lot but they were aware of that.

Brad Richards addressed the Board and indicated that they have been concentrating on all of the required items, such as drainage, traffic, parking, etc., but he certainly didn't have any problem earmarking and putting in a play area specifically for the residents on site. It was his feeling that with the site so concentrated he would like to fence in a small area.

Mr. Will indicated that there is 1,300 s.f. and 300 s.f. is the garage space. He wanted to make it clear that his earlier assumption of 3,500 s.f. is upper end housing and he wanted to point out that around the 1,000 s.f. range was historically a more affordable unit.

Mr. Richards indicated that, according to NH Housing & Finance, a couple can go up to \$301,000 with an income of \$80,000. So they are certainly trying to be under that.

The Chair asked if there was anyone 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:

There was a discussion about where the small recreation area could be situated. It was agreed that they would leave the power to the Department to work out the details with the applicant.

Mr. Will made a motion to grant Site Review Approval with stipulations. The motion was seconded.

The motion to **approve Site Review Approval** passed unanimously with the following **stipulations**:

- 1) If the Applicant does not meet the sight distance standard, then the application will have to be amended to reflect less of a use so as to bring the intensity of use in conformance with existing conditions (the existing conditions must be verified);
- 2) That the profile showing the sight distance should be revised to show the measurement from 6' behind the stop bar so that conditions can be verified, and made available for the Traffic & Safety Committee on August 19th (On Site review on August 17th);
- 3) That approvals of the Public Works Department and NHDOT for the change in the guardrail be obtained;
- 4) That a landscaping plan be submitted and approved by Lucy Tillman of the Planning Department;
- 5) That any damage caused by the slope by-pass is the responsibility of the applicant to repair and if erosion does occur, NHDOT compliance will be required to determine how to address the situation;
- 6) That subject to the release of Bond, slope stability shall be inspected by David Desfosses, (a copy of this letter will be forwarded to NHDOT to put them on notice);
- 7) That the existing sidewalk should be shown on the Site Plan;
- 8) That the Site Plan should include notes for the appropriate termination of utilities;

- 9) That the sidewalk in front of the residential units will be concrete with monolithic curbing, and with a detail provided on the Site Plans;
- 10) That a Lighting Plan be submitted and approved by David Desfosses and David Holden;
- 11) That a street light detail be shown on the Site Plans;
- 12) That the letter from Maguire Group to the City of Portsmouth, dated July 30, 2004, which includes very specific instructions for the guardrail section, shall be referred/addressed at Traffic & Safety Committee meeting;
- 13) That recycle bins be located near the dumpster;
- 14) That a small scale recreational area be designed for children on the lot.

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F. The application of **SGB & RGB Ventures, LLC, Owners**, for property located at **1800 Woodbury Avenue**, wherein site plan approval is requested to construct a 1-story 2,292 ± s.f. brick building, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 239 as Lot 7-3 and lies within a General Business district.

SPEAKING TO THE APPLICATION:

Attorney Bernie Pelech appeared representing the applicants. He indicated that they had been before the Board a few months back for a Conditional Use Application that was approved. They have received the necessary variances from the Board of Adjustment and have appeared before the Conservation Commission, TAC and Traffic & Safety and all have given this project their blessing. Attorney Pelech turned this presentation over to Dan Balfour from Millette, Sprague & Colwell.

Mr. Balfour stated that this plan proposed to remove 3100 s.f. of asphalt pavement and replace it with a 2,300 s.f. building and 900 s.f. of green space. The drainage pattern will not change very much. They will drop in an inlet to catch the water off of the pavement, install a drip edge drain to hold approximately 1' of run off and they are proposing to lower the volume running off of the site.

Mr. Will asked if the "Welcome to Portsmouth" sign could be moved as it is blocked by another sign and doesn't give a good impression.

Attorney Pelech indicated that they would be happy to have the sign relocated. Attorney Pelech asked who would be in charge of the sign?

Mr. Holden indicated that the Planning Department would work with the applicant to get the sign moved.

Chairman Smith asked if there were any doorways coming off the back of the building.

Mr. Sievert indicated that a condition of TAC was to show where the emergency exits were on the building.

Chairman Smith asked if there was any requirement for additional handicapped spaces due to the addition to the building?

Ms. Tillman indicated that would be handled through the Inspection Department with an up-right sign.

Chairman Smith confirmed that all trash removal will be maintained inside the permitted spaces and no storage of trash or dumpster facilities on the exterior of the building.

The Chair asked if there was anyone 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:

A motion was made to grant Site Review approval with stipulations. The motion was seconded.

The motion to **grant Site Review approval** passed unanimously with the following **stipulations**:

- 1) That the Site Plan be revised to reflect the water service for the new building going through the meter for the existing building and then being tapped off;
- 2) That the 6" water main be shown on the Site Plan;
- 3) That all access, drainage, water and "Welcome to Portsmouth" sign easements be shown on the Site Plan;
- 4) That the guardrail be removed behind the building and so reflected on the Site Plan;
- 5) That the island located in front of the existing building be modified so that handicapped people do not have to go into the travel aisle and that this condition shall be shown on the Site Plan;
- 6) That a snow storage area be shown on the Site Plan;
- 7) That the walkway for the proposed second door be shown on the Site Plan;
- 8) That a dumpster pad with screening be shown on the Site Plan (not to be placed within the 70' front setback; if placed between trees, wire height must be checked and utilities may have to go underground);
- 9) That the guardrail be relocated so that the chain link fence can be replaced with it and shown on the plan;
- 10) That a landscaping plan to be submitted and reviewed by Lucy Tillman of the Planning Department;
- 11) That this application be reviewed by the Traffic & Safety Committee relative to concerns about the turning radius;
- 12) That vertical granite curbing should be replaced with sloped granite curbing.

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G. The application of **Parrott Avenue Place, Inc., Owner**, for property located **at 127 Parrott Avenue**, wherein site plan approval is requested to construct a 30' x 18', 540 ± s.f., 2-story addition, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 115 as Lot 3 and lies within a Mixed Residential district and Historic District A district.

SPEAKING TO THE APPLICATION:

Robert Iafolla addressed the Board, seeking approval for an addition to Parrott Avenue Place. They were permitted for a Senior Center in 2001 and since that time they have found that have had a greater need for people with wheelchairs and walkers and they just don't have the space to accommodate them. This went before the Board of Adjustment for a variance regarding additional parking which was granted. They also appeared before the HDC and received approval.

Chairman Smith asked about exterior lighting.

Mr. Iafolla indicated there would be one additional light.

Mr. Coker asked about the gate and indicated he was confused because it was represented to the Board, after it was accidentally put in, that it was only to be used for police and fire access. Now he is being

told that it is being used for snow removal. He disagrees with the gate being used for snow removal. He lives right by there and walks by it every day and people park their cars in front of it every day.

Mr. Iafolla indicated that stipulation was added to the plan at the request of TAC. The gate was installed at the request of the fire department and they have absolutely no objection to any stipulation that the Board would like to make.

Mr. Holden indicated that stipulation was added to help ease snow removal on the site.

Mr. Coker would like to leave the gate for police and fire emergency use only.

Mr. Iafolla indicated that they could probably get along without opening the gate for snow removal but it certainly would be much easier with it being opened for that purpose. Rather than take their equipment and drive it all around the block it was probably much easier for them to just drive through the gate.

Mr. Hopley felt it was a two fold issue. Mr. Hopley indicated that the gate also has some interest in the lot on the other side of the fence. By keeping the gate open it will keep the driveway open thereby allowing the fire department to use it in the winter.

The Chair asked if there was anyone 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 grant Site Review approval with one Stipulation. The motion was seconded.

Mr. Coker agreed that he would withdraw his request to keep the gate closed for snow removal purposes.

The motion to **grant Site Review approval** passed unanimously with the following **stipulation**:

- That the gate shall be used solely for emergency ingress and egress for the Fire Department and for snow removal.

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V. AMENDED SITE PLAN REVIEW

A. 225 Borthwick Avenue, Liberty Mutual.

Mr. Holden explained that the applicant is working on site and they came up with a way that reduces the impact of the plan. They will not be moving the generator and the net result is there is more impervious surface and less of an impact on the wetlands. He wanted to let the Board know that this was happening.

The Board was in consensus with this action.

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VI. ELECTION OF OFFICERS

Election of Vice-Chairman to serve for remainder of year.

Chairman Smith indicated that there was an opening Vice-Chair to replace Paige Roberts.

Mr. Will nominated John Sullivan to serve. Councilor Ferrini seconded.

The motion to nominate John Sullivan to serve as Vice-Chairman through the rest of the year passed unanimously.

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Mr. Holden also advised the Board that the Hilton Garden Inn at High/Hanover Street has made some very minor modifications. For example a manhole is being shifted 1.3 feet, some doors are being relocated. The Department reviews these as field modifications and is just keeping the Board advised of them.

The Board was in consensus with this action.

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Mr. Holden reminded the Board that a notice will be going out notifying them of a work session that will be scheduled on September 2, 2004 at 6:30 pm

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VII. ADJOURNMENT

A motion to adjourn at 9:30 pm was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on November 18, 2004.