

SPECIAL CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JULY 17, 2006

PORTSMOUTH, NH
TIME: 7:00PM [or thereafter]

I. CALL TO ORDER

Mayor Marchand called the meeting to order at 7:05 p.m.

II. ROLL CALL

Present: Mayor Marchand, Assistant Mayor Ferrini, Councilors Grasso, Dwyer, Raynolds, Pantelakos, Whitehouse, Smith and Hynes

III. INVOCATION

Mayor Marchand asked everyone to join in a moment of silent prayer.

IV. PLEDGE OF ALLEGIANCE

Councilor Raynolds led in the Pledge of Allegiance to the Flag.

V. PUBLIC HEARINGS

Mayor Marchand read the legal notice, declared the public hearing open and called for speakers. He advised the public that the purpose of this public hearing is to discuss the zoning amendments and he will make sure that the topic stays germane to the amendments.

City Manager Bohenko asked City Attorney Sullivan to address having all four public hearings combined at once to allow the comments by the public. He advised the public however, that the City Council would vote separately on each ordinance. City Attorney Sullivan reported that the City Council has indicated that they want to vote separately on each of the ordinances but they would like to combine the ordinances for the purpose of the public hearing. He advised the City Council that this may be the desirable way to hold the public hearing and conduct the business this evening. City Attorney Sullivan recommended that a motion be made to combine the ordinances for the purpose of the public hearing only.

Councilor Grasso moved to combine the ordinances for the purpose of the public hearing only. Seconded by Councilor Smith and voted.

City Manager Bohenko advised the City Council that all four ordinance amendments are before the City Council. He spoke regarding the report received by the Planning Board dated May 25, 2006 regarding the amendments. He also advised the City Council that the Planning Board acted favorably to recommend the adoption of three of the four requested amendments to the Zoning Ordinance. The Board did not recommend favorably allowing by right, rather than as a special exception, a hotel convention center and related uses with occupancy of more than 500 people in the CBB district. Under the Board's recommendation, the requirement for a

special exception would continue. He requested that representatives from HarborCorp come forward and provide a presentation relative to their requests. He advised the City Council that their representatives have been advised to keep their remarks to 30 minutes. He also reported that he is requesting that the City Council allow remarks from Dana Levenson, Economic Development Commission Chair.

- A. ORDINANCE AMENDING CHAPTER 10, ARTICLE II, SECTION 10.202 – LOCATION OF THE ZONING ORDINANCE AND ZONING MAP BE AMENDED BY REZONING THE PROPERTIES LOCATED OFF HANOVER STREET AND MAPLEWOOD AVENUE AT ASSESSORS MAP 124, LOT 12, MAP 118, LOT 28, MAP 125, LOT 21 FROM CENTRAL BUSINESS A (CBA) TO CENTRAL BUSINESS B (CBB)
- B. ORDINANCE AMENDING CHAPTER 10, ARTICLE XII, SECTION 10-201 – OFF-STREET PARKING – TO ALLOW OFF-STREET PARKING FACILITIES TO BE LOCATED ON LOTS OTHER THAN THE SAME LOT AS THE PRINCIPLE USE WHERE THE APPLICANT AND THE CITY AGREE ON THE TERMS AND CONDITIONS UNDER WHICH A MUNICIPALLY OWNED COVERED PARKING FACILITY SHALL BE CONSTRUCTED AS PART OF THE OVERALL DEVELOPMENT PROJECT
- C. ORDINANCE AMENDING CHAPTER 10, ARTICLE XII, SECTION 10-1202 – OFF-STREET PARKING INNOVATION: INTER MODAL TRANSPORTATION CREDIT FOR CENTRAL BUSINESS A AND CENTRAL BUSINESS B DISTRICT – TO ALLOW THE INTER MODAL PARKING CREDIT TO BE APPLICABLE WHEN THE APPLICANT AND THE CITY AGREE ON THE TERMS AND CONDITIONS UNDER WHICH A NEW, MUNICIPALLY OWNED COVERED PARKING FACILITY SHALL BE CONSTRUCTED AS PART OF THE OVERALL DEVELOPMENT PROJECT
- D. ORDINANCE AMENDING CHAPTER 10, ARTICLE II, SECTION 10.208 – TABLE 4, PARAGRAPH 16, USES IN BUSINESS DISTRICT, CENTRAL BUSINESS B ZONE, TO ALLOW SAID USES AS PERMITTED USES RATHER THAN AS A SPECIAL EXCEPTION

Mayor Marchand declared the public hearing open on all four ordinances.

Attorney Malcolm McNeill, Representing HarborCorp, LLC, said he is requesting the City Council to make land use policies to facilitate the long standing goals of planners to develop the Northern Tier. He advised the City Council that the Joint Development Agreement with HarborCorp and these proposed zoning changes are the guides to the fulfillment of the City's long standing goals for the Northern Tier. He spoke to the need to encourage public/private partnerships and that they do not create conflicts of interest. Attorney McNeill advised the City Council that no other body under the City Charter is empowered to make these decisions and that your actions on this request are legislative and policy making and is the very reason you exist at all. He said that the rezoning report prepared by the Planning Board is the most comprehensive zoning review he has seen in his years of practice. It considers the extended past history of this site, it reviews every component of land use criteria related to the

development of the site, it consults with every department head within their relevant jurisdictional areas in the City and it scores the project on each criteria prior to making these recommendations. It recognizes that there will be further review by the Historic District Commission and Planning Board but clearly concludes that the infrastructure is there to service the project and there is reasonable consistency between past zoning, present zoning, master plans, studies, and more importantly the public purposes of this City to support the Planning Board's decision to recommend 3 of these 4 zoning changes. Attorney McNeill said that the City's response to the lawsuit is very important to the zoning policy statement regarding the bonding issue. He said that two of the zoning changes being requested affect the height of a building in that zone and the use of a hotel as a conference center for over 500 as a matter of right. He said that the four changes stand on their own merits. He also advised the City Council that this is not spot zoning. It is consistent and common for zones to collect together when their common characteristics about the zoning which clearly exist with regards to this site. He said that the area should be rezoned from CBA to CBB. He said the difference between the CBA and CBB is height, and in this case it is 10 feet. He said the original plan for this building was 72 feet and it cannot be lowered any further. He said in order for this project to be economically viable the building must be 60 feet. Attorney McNeill said that they are asking that in the CBB zone only and only with hotels and motels that this use would be allowed as a matter of right and not require a special exception. He said that the parking amendments are housekeeping in their view to permit ownership of the parking garage by the City. He said it does not change HarborCorps obligation to pay the going rate for any parking shortage per the ordinance if a shortage was to occur. He said that HarborCorp is requesting the City Council to accomplish these goals to go forward with a legislative result in this case. He said that HarborCorp has worked with the City over the last 8 years and shows that it is a good corporate citizen in this community and has a vested interest in continuing to do that. Attorney McNeill requested that the City Council support these amendments and carry the project forward.

Nancy Ludwick, HarborCorp Architect, spoke to the model prepared of the downtown area with a view of the components of the proposed conference center, hotel and parking garage. On the lower levels of the hotel there will be conference centers, health club, and restaurant. The garage would accommodate 766 cars with a lower level to enter from Maplewood Avenue. The proposed hotel would have 207 rooms with 21 condominiums. She advised the City Council that they were the architects for the Sheraton as well.

Russ Thibeault, Applied Economic Research, reviewed his report to estimate the economic impact of a proposed 200-room hotel and conference center in the downtown. The synopsis of findings are as follows:

- It will support 144,000 visitor days a year
- It will generate over 300 full and part-time jobs on a sustained basis, plus nearly 500 yearly equivalent jobs during the construction phase
- At current wage rates the facility will sustain annual wages of \$6.8 million and \$18.8 million during the construction phase
- It will generate \$700,000.00 in annual property tax payments
- It will generate \$16 million in local offsite spending in restaurants, attractions, retail stores and suppliers
- Conference attendees may elect to stay at other area lodging facilities

Mr. Thibeault advised the City Council that this project will have a significant positive impact on the City and downtown.

Steve Griswold, Owner of Sheraton Hotel, advised the City Council that the rezoning requests are just another step in the process. He spoke to the development of the Sheraton which helped to regenerate and make a vibrant downtown. He discussed the Northern Tier Study that was conducted. He said all of the discussions on how and why the project has been put together have been public. He also advised the City Council that this is a policy decision and the rezoning request belong in front of the City Council. He thanked the City Council for listening to the comments this evening.

Dana Levenson, Chair of Economic Development Commission, said the City Council has many factors to consider with the rezoning requests this evening. The Economic Development Commission has worked to explore public/private partnerships and the zoning proposal would ensure the long time vitality and serve as an anchor to the development of the Northern Tier property and create additional parking and create conference space that has been lacking since the closure of Yokens. He said the Economic Development Commission is requesting that the City Council support the zoning requests for the project.

Attorney Thomas Keane, representing 976 Realty Trust and Ocean Properties, said that HarborCorp agreed to follow the normal regulatory land use process through the Joint Development Agreement. He advised the City Council that the Joint Development Agreement does not require the Sheraton to build a hotel. He asked the City Council if you knew the Sheraton was never going to build a new hotel would you have voted in favor of the project. Attorney Keane told the City Council that if HarborCorp wants to do this project with their own money and not with our tax dollars and within the zoning ordinances as they are laid out in the City then there is no objection by his clients with this project. He reported if the City Council supports the zoning changes you will potentially impact the face of Portsmouth forever. HarborCorp is asking for the CBA district in that one area only and to increase the height from 50 feet to 60 feet. The developer represents that the zoning change only make this lot consistent with the surrounding area and, that is simply not true. He advised the City Council that this is spot zoning and in order to create the zoning change you need to show a public benefit. He asked where the public benefit is for the developer to build 21 luxury condominiums. The additional 10 feet is only being asked to build the condominium units. One of the economic factors that HarborCorp does not tell you is that the study done on the economics of this project show a \$4 million dollar profit in year one that does not take into effect the sale of the 21 condominium units which can only be achieved with the increase height of 10 feet. This project can sustain its self very comfortably on its own with the 50 feet. He requested that the City Council take a careful look at these rezoning requests and consider the impact a 60 foot building will have on the downtown.

Ralph DiBernardo, Portsmouth resident, said that a community creates zoning ordinances and the master plans. In their creation they take the broader view of what is good for the City in the use of land as a whole. He said changes are driven by projects and projects point out errors and inconsistencies in zoning. He said he supports the amendments as proposed and they will correct inconsistencies and would not create any hardships in the community. He requested that the City Council give the opinion of a taxpayer more merit than the one page ad taken out by Ocean Properties.

Anthony Salardo (? spelling), business owner, spoke in support of the parking garage, conference center and rezoning requests. As a business owner he supports this project mainly for the additional parking spaces and as a means to fulfill the needs for a conference center. The parking issues have a past and present. He said that more parking is needed in the City. He also said that this would improve the City's vitality and economic structure. Projects such as this would have a far greater impact in the tax base allowing for further constraints on the City budget to be alleviated. He said that the conference center will be a benefit to the City and create a new economic asset to the City.

Angela Carter, Portsmouth resident, spoke in favor of the project. She said that this would be beneficial with the additional parking, the conference center and beautification of the downtown. She encouraged the City Council to approve the rezoning requests.

Karen Jacoby, Portsmouth resident, spoke opposed to the zoning amendments. She said if the parcel was originally zoned CBB there was a reason for that and it should remain as such. She advised the City Council that she is not in favor of the increase in height. She also said that when you make changes such as this you are setting precedence.

Christine Mayuex, Portsmouth resident, she spoke to the CDC Engineering Consultants report regarding the parking analysis of the conference center. She advised the City Council that she is opposed to the proposed zoning amendments. If HarborCorp owned the garage they would be eligible for the inter modal parking credit but they do not own the garage therefore these amendments are necessary. She said that this project is being subsidized by the taxpayers. She advised the City Council that the City owning the garage allows HarborCorp to avoid paying over \$250,000.00 each and every year in property taxes on the \$15 million parking structure. In addition to avoiding all maintenance costs, she urged the City Council not to approve the amendments. She said that Deer Street is the approximate dividing line between CBA and CBB for the area. She also spoke opposed to the Joint Development Agreement entered by the City with HarborCorp. She urged the City Council to consider what they want the City to look like in the future.

Nancy Beach, Portsmouth resident, spoke to the lack of facilities to hold a conference with 300 participates or more. She said that she is in support of the rezoning request and said that we are not talking about 60 feet we are talking about 10 feet of additional height from the 50 feet that is allowed. She also spoke in support of the construction of a parking garage. The entire process has been transparent. She asked the City Council to consider approving the rezoning requests as presented.

James Horrigan, Portsmouth resident, expressed concern with changing the zoning ordinance. He said that the worst thing you can do is create the feeling that there is one zoning ordinance for one group and another for people that are able to spend money to oppose the ordinance. He said that he supports the concept of a conference center but has concerns with the zoning. He said that the height is a concern for the conference center and the possibility of obstructing views. He advised the City Council if they want to protect the sky line they should either table or refer the zoning amendments to the Board of Adjustment.

Harold Ecker, Portsmouth resident, spoke opposed to the rezoning requests. He expressed concern with the loss of the view of the North Church steeple. He also spoke opposed to the City contributing funds to build the parking facility and questioned the estimated economic figures. Mr. Ecker spoke opposed to the increase in height and asked what benefits the taxpayers will receive from this project.

Anna Rainey, Portsmouth resident, spoke in support of the rezoning requests and the construction of a conference center.

George Carlisle, Portsmouth resident, spoke in support of the amendments and the conference center. He said that he cannot find a negative for any one involved and the benefits outlined are compelling. He also addressed the economic benefits to the taxpayers.

Bill St. Laurent, Portsmouth resident, said that he feels this is the biggest example of spot zoning he has seen in the City. He urged the City Council to proceed with caution. He spoke opposed to the height increase to 60 feet and increasing the capacity for a conference center. He also said he does not see a benefit to the taxpayers from this project. He urged the City Council to move slowly on these proposed amendments.

Kelly Whalen, Portsmouth resident, spoke in support of the project and said that there are many benefits to the residents and downtown merchants. She said that she is impressed with HarborCorp and their consideration of all concerns expressed. She also spoke in support of the height increase.

Carolyn McGee, Portsmouth resident, spoke to the changes that have taken place on Deer Street. She said that the area has developed and changed over the years. She said that the Sheraton has been an excellent neighbor and the area has become a community. She advised the City Council that all the businesses in the area are in support of the zoning requests as presented.

Patrick Hynes, Portsmouth business owner, said that he believes strongly in the project. He said that this is a benefit to the community. He urged the City Council to approve the four zoning amendments as presented.

Judy Strubel, Portsmouth resident, spoke in support of the zoning amendments as presented. She advised the City Council that there are nothing but benefits with this project. She spoke to the parking issues downtown and the new parking facility would assist residents and visitors.

Kim Perry, Portsmouth resident, spoke in support of the project and the zoning amendments as presented. She also advised the City Council that she is in favor of the parking facility and the project as a whole.

Ray Will, Planning Board member and resident, said that he agreed with the Planning Board's recommendation to support 3 of the 4 amendments. He advised the City Council that the entire zone change from CBA to CBB was a concern for him. He spoke to the inter modal parking credit and expressed concern with the height request. He said having the rezoning request in this narrow area might encourage people near by to also propose rezoning requests.

Barbara Ward, Portsmouth resident, spoke concern with the changes proposed to the zoning ordinance. She discussed her concern with the increased height request. She said that this is a wonderful City and it is very fragile and the historic character of the City sells itself. She advised the City Council that the proposed condominiums will not benefit the City. She urged the City Council to consider the character of the City prior to voting on these amendments.

Carol Dow, Portsmouth resident, voiced her support for the project and the requested zoning amendments as presented.

Sean Tenant, business owner, spoke in support of the amendments. He said that this is a great opportunity and will greatly enhance the businesses in Portsmouth. He said that a conference center is a low impact business and will create tax revenue and is a benefit to the City. He advised the City Council that Mr. Griswold has been a great corporate citizen and has added a lot to that area of the City.

June Gallagher, Portsmouth resident, spoke in support of the amendments as presented. She said that the project will be beneficial for the downtown and businesses in the City.

Nathan Tenant, business owner, spoke in support of the zoning amendments as presented. He said that the developer has integrity and voiced his support of the project.

Allen Nelson, Portsmouth resident, expressed concern with the skyline and its effects on the downtown. He feels that the additional 10 feet would create a barrier from the downtown area. He said that the use affects the northern end of the City and the additional visitors would impact our infrastructure. He recommended that the City Council table the ordinances and allow open comment on how this project will impact the residents as a whole.

Marylou McElwain, Portsmouth resident, spoke opposed to the requested zoning changes. She expressed concern with the additional height request and asked how many cities with our population have this type of building and conference center in the middle of their City and what effect does it have.

Richard Ade, Ocean Properties, spoke opposed to the zoning amendment to allow the additional height for the proposed conference center and that the building can be built within the 50 foot requirement. He said he feels that this is truly spot zoning and provided the City Council with a handout on the economic benefits. He said in year one after debt service the cash flow projected is \$1,600,000.00 with a 10% return for Mr. Griswold from this hotel. He said that the projections provided by Mr. Crawford are very conservative and the rates for the hotel will increase with this being a Westin hotel. He urged the City Council to look at the numbers and facts prior to voting on these amendments. He advised the City Council that this will change the view of the City forever.

Attorney John Ryan, representing Dover Realty Trust, spoke opposed to the 21 condominium units for the project and said that they are not needed to make the project economical. He addressed the Joint Development Agreement with the City of Portsmouth. He said what is happening here is you have the private partner turning to its contract partner for zoning relief which creates a conflict of interest. He also advised the City Council that HarborCorp is requesting this assistance from their partner so they do not have to go before the Zoning Board of Adjustment. Attorney Ryan stated that the City Council would be setting precedence by approving the zoning amendments and there is no benefit to the taxpayer. He indicated that the only people that benefit from the condominium units are the developer and the owners of the units. He recommended that the City Council decline acting on the zoning amendments and let the process go to the Zoning Board of Adjustment for action.

Tom Nies, Portsmouth resident, thanked the City Manager and staff for putting the report on the website for public review. He advised the City Council that they can influence the boards by granting these zoning amendments. He said what is driving this request is an urge to create a stronger legal case which is bound to follow. He said that these requested changes should go before the Zoning Board of Adjustment and not the City Council. He urged the City Council not to waive third and final reading of the proposed ordinance and to give the comments careful consideration. He also said that each ordinance should be considered individually. Mr. Nies said that the City Council can be in favor of the conference center and parking garage but opposed to the rezoning requests. He spoke opposed to the requested height increase and that he feels the developer can make the project work within the 50 feet requirement. He spoke to the zoning changes back in 1995. He said that a great deal of work sessions were held on the zoning ordinance changes and the City Council voted unanimously to change the area from CBB to CBA. Discussion also took place concerning the increase in the height of the building. Mr. Nies advised the City Council that he does not feel that the parking amendments are housekeeping issues. He said that the inter modal credit will allow HarborCorp the spaces at a lower fee which have an impact on City revenues. He urged the City Council to consider the social costs and the effects on the character of the City.

Paul Young, business owner, submitted to the City Council a petition with 300 signatures in support of the zoning changes. He advised the City Council that both residents and business owners signed the petition. He said that there are many public benefits from the project and asked the City Council to act with the interest of the City as a whole.

Sean Joyce, Portsmouth resident, spoke in support of the conference center. He urged the City Council to grant the zoning amendments. He advised the City Council that HarborCorp are quality developers and have an excellent reputation with the City.

At 9:45 p.m., Mayor Marchand declared a brief recess. At 10:05 p.m., Mayor Marchand called the meeting back to order.

Harold Ecker, Portsmouth resident, asked the City Attorney if you approve the changes would it set precedence for residential or commercial properties that wish to request zoning changes. City Attorney Sullivan advised Mr. Ecker depending upon the action taken this evening by the City Council relative to the questions in front of them that he would in all likelihood be in litigation and for that reason he would like to decline answering these questions in this forum.

Bob Crawford, Hospitality Resolutions, Inc., advised the public that his report is also on the website and urged individuals to review the report in its entirety. He said if the hotel, conference center and condominiums excluding the garage are predicted to provide returns that are sufficient to attract project financing. He advised the City Council if the project was required to carry the cost of the parking garage in his opinion and an expert in this case, this project would not be financially able to take on the \$15,000,000.00 cost of the garage. He said with the condominium residence component not included in the project the project's financing would be at risk. He reported that there are 30 Westin hotels under construction in the country, of the 30 there are 11 with private residence.

Attorney Malcolm McNeill, representing HarborCorp, said that this project comes before the City Council by a majority vote of 7-2 by the Planning Board. He advised the City Council that following the master plan process the Planning Board came to the conclusion that to add 10 feet was reasonable. He referred to the model of how the building would appear. He discussed the transparent process that has taken place. He urged the City Council to look at the quality of the review that has been done.

Christine Mayeux, Portsmouth resident, if public hearings are meant for home owners then it should not be influenced by the public relation firm HarborCorp has retained to advocate on its behalf. She asked the City Council to consider the sources where the comments are coming from when making a decision relative to these rezoning requests.

Marylou McElwain, Portsmouth resident, asked the City Council to table this issue. She said that the public does not have the full focus of what this project will look like. She said the building will have negative dimension on the City.

Richard Ade, Ocean Properties, said that the Westin hotel will get higher rates than the Sheraton. He said that Mr. Griswold will get all the revenue profits from the condominiums and the hotel can be built without the additional 10 feet requested by HarborCorp. He said the debt that Mr. Griswold will put on the hotel to build will remain there a long time.

Tom Nies, Portsmouth resident, advised the City Council not everyone supports the scale of the project. He said there is nothing in the Joint Development Agreement that the City Council will agree to the zoning amendments. He said the agreement does not impose anything on the City Council to approve the requested rezoning amendments.

Attorney John Ryan, representing Dover Realty Trust, said we do not change zoning ordinances in the State of New Hampshire because the developer wants favorable financing. He advised the City Council that changes are made because the land can no longer support the zoning of the area for the property. He urged the City Council not to approve the amendments.

Allen Nelson, Portsmouth resident, said he wants to continue to live here but is concerned with the infrastructure in the City with the ongoing development taking place. He said he wants to make sure that this project is in the best interest of the City. He advised the City Council that the 10 feet is an important issue and asked the City Council to table the ordinances.

Attorney Tom Keane, representing Ocean Properties, spoke to the Performa's provided by the City and Ocean Properties is concern what this project will cost the taxpayers. He requested the City Council to review the numbers provided and that it will cost the City money to operate the garage. He asked why HarborCorp will not build the parking facility themselves. He urged the City Council to table second reading this evening.

Paul Young, business owner, said he has reviewed the Performa's provided and feels this project will benefit the residents. He asked how much it has costs the City to defend the lawsuit regarding the project.

Barbara Ward, Portsmouth resident, said she wants the City to keep its historic character. She said that the developer is asking for something that goes beyond their building. She advised the City Council that these amendments are not necessary.

Councilor Pantelakos moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Seconded by Councilor Whitehouse and voted.

Steve Griswold, Sheraton, said the height requirement does not relate to the condominiums. The Joint Development Agreement requires him to build a 657 space parking garage and he can not do that without the additional 10 feet. He advised the City Council that this area was always zoned to CBB and this rezoning request to restore it back to CBB. He also advised the City Council that this rezoning request is a land use board appropriate to the City Council.

Christine Mayeux, Portsmouth resident, said that the High Hanover Parking Garage holds over 900 spaces and believes that it is not higher than the 50 feet required.

Attorney Tom Keane, representing Ocean Properties, said no where in the Northern Tier study will you find any suggestion of a zoning change.

Malcolm McNeill, representing HarborCorp, said if this change was as significant where are the people that normally object to zoning changes. He said the facts support the results.

Jeff Ward, Portsmouth resident, said that he is concerned with the changing nature of the City and that the look and feel of the City is changing. He advised the City Council that he and others are concerned with subsidizing handouts to developers.

Tom Nies, Portsmouth resident, advised the City Council not to expect to grow yourselves out of budget troubles. He requested that the City Council remember that the Planning Board did not recommend all 4 amendments as requested by HarborCorp.

Councilor Whitehouse moved to recess the public hearing to a date that is acceptable to the majority of the City Council. This motion received no second.

After three calls and no further speakers, Mayor Marchand declared the public hearing closed.

Councilor Whitehouse moved to table the decision of the second reading until a majority of the City Council can determine a date. This motion received no second.

Councilor Hynes said we have sat through a long and educational public hearing and the City Council is ready to deal with the issue. He said it will cost money to build the parking facility but the City will make money.

VI. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Ordinance amending Chapter 10, Article II, Section 10.202 – Location of the Zoning Ordinance and Zoning Map be amended by rezoning the properties located off Hanover Street and Maplewood Avenue at Assessors Map 124, Lot 12, Map 118, Lot 28, Map 125, Lot 21 from Central Business A (CBA) to Central Business B (CBB)

Councilor Hynes moved to pass second reading of Ordinance amending Chapter 10, Article II, Section 10.202 – Location of the Zoning Ordinance and Zoning Map be amended by rezoning the properties located off Hanover Street and Maplewood Avenue at Assessors Map 124, Lot 12, Map 118, Lot 28, Map 125, Lot 21 from Central Business A (CBA) to Central Business B (CBB) and hold third and final reading at the August 7, 2006 City Council meeting. Seconded by Councilor Pantelakos.

Councilor Whitehouse provided the City Council with a report on this matter and the Planning Board Master Plan from 1991-1993. He referred to comments in that plan which state the following:

- Two Central Business designations, CBA and CBB, are proposed. Which will increase flexibility in controlling development in the DBD. The CBA designation is for areas that are located either on and/or immediately adjacent to the waterfront. The other designation, DBB is for remaining CBD areas and areas where it should be expanded into.

He referred to the following also indicated in the report under Central Business A:

- The area contains visual factors relating to the waterfront, Market Square, Market Street, Congress Street, and/or State Street; and,
- The area is suitable for only limited increased development activity

He also referred to the following also indicated in the report under Central Business B:

- Revise dimensional requirements so as to clarify height regulations as it relates to both designations and with a more restrictive height limitation being applied to the CBA designation

He cautioned the City Council to not block the view of important land marks in the City by the increased height proposed for the project. He said it is his opinion that we are changing things drastically and that he would vote opposed to the height amendment.

Councilor Pantelakos said she is hard placed at seeing how we will not be able to see the church steeple. She said that we do not need any further public hearings or to go beyond this evening to vote on this matter.

Councilor Smith thanked Councilor Whitehouse for putting this report together. He said the first 1993 master plan said the designation was supposed to be the areas on or immediately adjacent to waterfront. He said that this area is not on the waterfront. The Planning Board intended to allow those exceptions only to protect water views. He said he is in support of approving the change to CBB.

Councilor Whitehouse referred to an aerial photograph he has provided in his report identifying select sites dated April, 2006 Planning Department Rezoning Report. He said if the Council allows the 10 feet additional height there could be requests for this at the Portsmouth Herald, Parade Mall and 31 Raynes Avenue sites and use this rezoning request as a comparison to allow for that.

Assistant Mayor Ferrini moved to recess and continue the meeting to a date certain. Seconded by Councilor Whitehouse.

Assistant Mayor Ferrini said because the deliberations regarding the requested rezoning requests will take some time he is recommending continuing the meeting to another date.

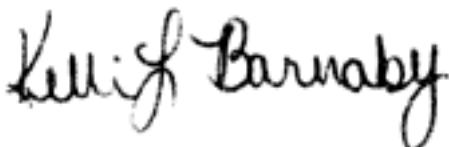
City Attorney Sullivan said that the motion is in order and if the motion passed the meeting would be reopened with Councilor Hynes' motion on the table in front of the City Council.

Assistant Mayor Ferrini added the date of Wednesday, July 26, 2006 at 7:00 p.m. to reconvene the meeting with Councilor Hynes motion on the floor. Councilor Whitehouse agreed to add this language to the motion.

Councilor Pantelakos asked Assistant Mayor Ferrini if he feels it is in good order to recess the meeting. Assistant Mayor Ferrini said he does and we want to make sure any decision is a well crafted one.

On a roll call 7-2, voted to recess and continue the meeting to Wednesday, July 26, 2006 at 7:00 p.m. to reconvene the meeting with Councilor Hynes motion on the floor. Assistant Mayor Ferrini, Councilors Grasso, Dwyer, Raynolds, Pantelakos, Whitehouse and Mayor Marchand voted in favor. Councilors Smith and Hynes voted opposed.

At 11:30 p.m., Councilor Pantelakos moved to recess the meeting. Seconded and voted.



Kelli L. Barnaby, CMC
City Clerk