

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

7:00 P.M.

**CITY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE
JUNE 15, 2006**

MEMBERS PRESENT: John Ricci, Chairman; M. Christine Dwyer, City Council Representative; Jerry Hejtmanek, Vice-Chairman; Cindy Hayden, Deputy City Manager; Richard A. Hopley, Building Inspector; Raymond Will; Donald Coker; George Savramis; Anthony Coviello; and alternates Paige Roberts and Timothy Fortier

MEMBERS EXCUSED:

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

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6:00 pm – 7:00 pm WORK SESSION regarding The Housing Partnership’s request for an Amendment to Section 10-1503 of the City’s Zoning Ordinance Relating to Residential Planned Unit Developments (PUD) and request for an access easement for property located on Bedford Way;

Present for the work session were: David Holden, Planning Director, Steve Bartlett, from the School Department, George Savramis, Raymond Will, Tony Coviello, Rick Taintor, of Taintor & Associates, Cindy Hayden, Deputy City Manger, Lucy Tillman, Chief Planner, Peter Britz, Environmental Planner, Steve Parkinson, Director, Public Works, David Allen, Deputy Director, Public Works, Deborah Finnigan, Traffic & Safety Engineer, Paige Roberts, Diane Hartley, THP, Bryan Wyatt, THP, John Chagnon, Ambit Engineering, Sharon Somers, Attorney, Donahue, Tucker & Ciandella, Chris Dwyer, City Council Representative, and Steve Griswold, Deputy Fire Chief.

Mr. Will indicated that he would be recusing himself when this matter is scheduled for a public hearing before the Board but as this is only an amendment to the Zoning Ordinance he would be sitting in tonight.

Mr. Holden indicated that this session was for the benefit of the Board and TAC members were present to assist. Mr. Wyatt, Executive Director of the Housing Partnership, looked forward to working with everyone. He turned it over to their attorney, Sharon Somers. She indicated that their intent was to give an overview of their report and supplemental materials from last week. John Chagnon would give the overview. Then hopefully they would have a meaningful dialogue to get a better understanding and clarification of the preliminary re-zoning report that was prepared by the City Staff. They would determine what additional information is needed and hopefully get a clearer understanding of what is expected of them to move forward and conduct a public hearing.

John Chagnon, of Ambit Engineering, referred to a letter dated June 8th from Ambit Engineering. There had been a general question about the density in the Atlantic Heights neighborhood. In response, Ambit put together information on all of the developed parcels, which allowed them to calculate average density. Average lot area per unit is 4,522 s.f., average building coverage is 20%. This information is used to compare to the conceptual design, which they did. There was a question about GRB being developed differently. There is only one other parcel in the City that meets the PUD requirements. It is located across the street, at the Portsmouth Senior Housing property. They looked

at the neighborhood and its public parking areas. Taking the neighborhood as a whole, they took the open space parcels and found that 22% of the entire neighborhood is recreational or public open space. With that, the other areas of concern were the constraints of this parcel, such as, steep slopes and soil conditions. They provided information on slopes and the soils and hopefully everyone now has had a chance to look at that.

Mr. Chagnon showed their conceptual master plan of this particular parcel and discussed the proposed densities. They will access the site via Bedford Way. He pointed out the slope of the land and how the buildings were designed to work with that. The project consists of 39 units with 5,836 s.f. of lot area per unit. The building coverage is 9% and 57% open space is proposed. They are proposing a play ground. Mr. Chagnon passed out an exhibit showing an overlay of the proposed utilities. It showed connections for electricity and sewer via Kearsarge Way and the water line is located under where the road was relocated to and which they will tap.

Attorney Somers handed out letters from the Portsmouth Housing Authority, expressing conditional support and a second letter from Shawn Mahoney, the property owner.

Councilor Dywer asked about Bedford Way and why can't they use a portion of the old road. Mr. Chagnon stated that the alignment and grade are problems to using this old road. Councilor Dywer asked if the grade would preclude any other way in? Mr. Chagnon felt that was a good question. There is quite a bit of elevation and the site distance may not be the best.

Mr. Will asked if this was a PUD amendment for 5 acres rather than for 10 acres. Mr. Holden confirmed that is the primary intent. Mr. Will indicated that at the Atlantic Heights Neighborhood Association Meeting, one of the concerns was that they want the entire project to be affordable housing and no units would be rentals. Would the City have concerns, if the whole project is affordable housing? He asked if that statement was correct. Mr. Holden felt that is part of what they were determining tonight. Mr. Wyatt indicated even the work force housing is not market rate. If they sold them at market value, the project would be similar to the Changing Places project next door. If they were to sell these units at market rate, they would be looking at closer to \$300,000 per unit and they are well below that amount. Work force housing is around \$260,000 - \$270,000. They are considering controlling the prices on all units, but some are more controlled than others. The controlled units are being used to cross subsidize, since they have no public subsidized funds. If we have HUD Federal or State subsidizing, they would need to follow strict Fair Housing Laws. But, they recognize this as an asset to the City and they are willing to consider all options. They may consider looking at only Portsmouth residents or, for instance, only those applicants eligible for the Homeward Bound Program.

Mr. Coviello asked if this was a typical PUD where residents would pay for trash and snow removal? Mr. Wyatt confirmed that it was. Mr. Coviello asked if they will be pumping the sewer up hill? Mr. Chagnon indicated that that sewer is quite deep so they are able to get a gravity feed. Mr. Coviello heard that a common complaint is that the fees, similar to a Condo Association, will be assessed and asked how that would work between a fair market vs. a controlled market. Mr. Wyatt indicated they have not decided that yet and are open to different strategies. They are trying to down play any differences in the units.

Deputy City Manager Hayden felt it would be helpful to talk about the affordability component and how long term affordability is assured. Mr. Wyatt described how work force housing and affordable housing was determined. Half of all units will be for people whose incomes are 80 - 120% of the area median, or roughly up to \$84,000 for a family of 4. The affordable units are the standard HUD definition of low and moderate income or below 80% of the area median. They could go down to people who are as low as 50 - 60% but they will most likely stay around 80% of the area median. The NH Housing Finance Agency is looking to work with them. It is basically 30 years per buyer so unless someone stays for 30 years, it will remain affordable in perpetuity. The price would be set at the time of sale. This process has worked in other states.

Councilor Dwyer asked about resale. The next buyer would have to be qualified and there would be a scale of equity that would have to be pre-determined. In other housing partnerships, who monitors buyers? Mr. Wyatt indicated this was their first home ownership project, but in all rental projects a private management company would oversee affordability and does an income certification on a yearly basis. It would be a heavily regulated area.

Mr. Will asked if the proposal is to change the overall PUD ordinance as a whole or just this property? Mr. Holden indicated it would be just for multi-family districts. Mr. Will indicated that he would feel uncomfortable introducing that density and there should be some caveat that there is a need in the City for such a project as affordable housing or assisted living or something where there is a public need. Attorney Somers indicated there is only one other parcel in the City that would even qualify. So, his concerns are legitimate, but there aren't any other qualified or eligible parcels in GRA or GRB that would be subject to the amendment. Mr. Will added that there aren't any right now while lots are configured the way that they are now. His concern is 20-30 years from now, when someone buys up lots of parcels and has more than 5 acres. Mr. Chagnon added that a PUD is good for zoning as it allows them not to divide up parcels into single family lots and they can maintain open space.

Mr. Holden asked them to address some of the constraints that the Board identified such as the topography, the slopes and the play areas. Mr. Chagnon referred to their exhibit showing boring locations and reviewed the topography. He stated that 57% is open space but 10% is accessible to children and they may develop some trails. The road would be graded at no more than 6% and it would be 22' of travel-way with parking spaces. The highest retaining wall would be 10'.

Deputy City Manager Hayden stated that this was close to the Atlantic Heights neighborhood. How would financing be affected if they tried to make this fit in with the neighborhood with brick structures? Mr. Wyatt stated that they are looking at facades and are considering putting brick half way up the buildings on the exposed sides. They are looking at some architectural features to match what is going on in the neighborhood. An entire brick façade would be financially prohibitive.

Deputy Fire Chief Griswold indicated that he would love to see an automatic sprinkler system in all buildings. A 24' pavement width is more in line throughout the city. The hydrant location is fine; however, the City prefers two hydrants. The turnaround at the end would have to be adequately size to handle fire trucks and ambulances.

Ms. Finnigan looked at it from a safety standpoint and indicated that she would prefer an outlet at Bedford Way rather than Kearsarge Way. She would also need to review trip generations to see what the effect on the road would be.

Mr. Allen indicated that the connection to the water line would have to be located in an accessible location and within the street right of way. He would want to verify whether the sewer connections would be acceptable. The ledge will require blasting, as it is significant, and they would review fire and water flows.

Mr. Parkinson asked if the roadway network would be owned privately. It was confirmed that it would be. Therefore, solid waste collection would be private? Mr. Chagnon confirmed that was correct and they would contract with a waste management company.

Mr. Allen indicated that 6% would be the maximum slope on the driveway.

Bob Sullivan, City Attorney, indicated that State law requires, before building permits are issued, that the lot has to have access from a public road, with some exceptions. This project would be from a private road to a private road and that situation needs to be addressed. Secondly, on the question of affordability, he feels it is clearly in the City's interest, in entertaining this proposal, that the affordability proponent should serve the public benefit. The City would like some voice in making sure that that public benefit stays in place and doesn't go away. In the proposal, without having

contract zoning, they would hope that the developer would be thinking of a way to put the City's mind at ease. Mr. Wyatt indicated that they would be happy to work with the City officials on that matter. Attorney Somers felt this could be done through a number of ways and they will work on that. They are also aware of the access issue and they will have further discussions with City Staff.

Councilor Dwyer asked who owns Bedford Way? Attorney Somers indicated that it is an easement over City property and the easement benefits the Portsmouth Senior Housing. They are asking the City to allow them to share that easement. It is not a public road. Mr. Holden added that the City abandoned the road and it used to be located elsewhere. Mr. Coviello asked if there was a chance of turning Bedford Way into a public road? Mr. Holden indicated it was highly unlikely due to cost.

Deputy City Manager Hayden stated for the record that George Robinson, Executive Director of the Portsmouth Housing Authority is present in case anyone has any questions for him. She asked what could they build without a PUD? Attorney Somers indicated that they could build 12 houses. Deputy City Manager Hayden understood that they looked at the average density but asked if they looked at the median density? Mr. Chagnon stated that they did not, but they could, and it would be considerably less.

Mr. Bartlett, Business Administrator School Department, indicated that he was reviewing the data and in the process of completing their analysis. He did not have any questions at this time.

Andre Cardoso, resident of Atlantic Way, stated that there was a very steep slope with a lot of ledge and he felt that drainage will be an issue, along with snow removal and parking.

Acting Chairman Hejtmanek suggested to the Board that they have a public hearing in July. Mr. Will asked if they will merge the two questions. Acting Chairman Hejtmanek confirmed they will. Attorney Somers understood they were looking at the rezoning report and asked what additional information they would need to provide to the Planning Board? Mr. Will felt it was a very narrow question, but it's for the whole district. Mr. Coviello felt it would be helpful to identify parcels that have a high likelihood of being changed, for example the Islington Woods property. Attorney Somers felt that they might be able to take a stab at speculating at what those effects might be. Mr. Will would look for some type of public benefit clause. Deputy City Manager Hayden felt it would be very helpful to really explain the affordability aspect as that is the public interest. Mr. Britz felt that some of the benefits of PUD's are environmental benefits. Some type of analyze of the functions and values of this property and how it will function from a conservation standpoint, such as potential wildlife corridors that might be disturbed or preserved, current species vs. what they might plant to enhance the wildlife habitat, etc. He would like to see them look more comprehensively at the conservation aspects of the property.

Mr. Holden would like to see them show some building elevations and a conceptual plan. Given what Deputy Fire Chief Griswold was saying about the access road, they should get with him to show the increase in pavement now rather than later.

Attorney Somers indicated they were happy to provide some level of analysis as to what potential impact may be, given what they know. Mr. Britz indicated he was talking about from a zoning standpoint of going from 10 acres to 5 acres and what does that mean from a conservation standpoint.

Deputy City Manager Hayden asked them to explain why 39 units is a required number and whether there is any play in that number of units. Mr. Wyatt confirmed that it was very tight.

Mr. Holden confirmed that they will not update the Zoning Report, until after the public meeting.

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Jerry Hejtmanek indicated that John Ricci was not present so he was filling in as Chairman.

I. PUBLIC HEARINGS

A. The application of **Stephen Kelm, Owner**, for property located at **46 State Street, March Twenty Two, LLC, Owner**, for property located at **58 State Street**, and **Jason N. and Barbara L. Theodore, Owners**, for property located at 449 Court Street, wherein Preliminary and Final Subdivision approval (Lot Line Revision) is requested between two lots having the following: Lot 11 as shown on Assessor Plan 105 decreasing in area from 4,303 s.f. to 2,733 s.f. and decreasing in continuous street frontage off of State Street from 60.51' to 38.10' and Lot 12 as shown on Assessor Plan 105 increasing in area from 1,810 s.f. to 3,380 s.f. and increasing in continuous street frontage off of State Street from 26.00' to 48.41'. Said lots lie in a zone where a minimum lot area of 1,000 s.f. and no continuous street frontage is required. Said properties are shown on Assessor Plan 105 as Lots 6, 11 & 12 and lie within a Central Business B and Historic District A District. (This application was tabled at the May 18, 2006 Planning Board Meeting.)

The Chair read the notice into the record.

Deputy City Manager Hayden made a motion to take the application off of the table. Councilor Dwyer seconded the motion. The motion passed unanimously.

Mr. Coviello stepped down from the hearing.

SPEAKING TO THE APPLICATION

John Chagnon, of Ambit Engineering, reviewed the plan. They propose to relocate the lot line easterly creating a new lot. #58 State Street is scheduled for demolition and there will be future site review. They have worked on the easements to resolve any outstanding issue. The only issue that they haven't resolved is open space. Proposed Lot #11 will have 18% of open space. Staff recommended approval with 6 conditions. Mr. Chagnon indicated that they have no problem with any of the conditions.

Ms. Roberts asked about the curb cut on Court Street? Mr. Chagnon indicated it will be between the existing garage on Lot 7 and the structure on Lot 6 that is under construction.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Will made a motion to approve preliminary and final subdivision approval with the six conditions. Mr. Savramis seconded the motion.

The motion to approve preliminary and final subdivision approval passed unanimously with the following stipulations:

1. That all necessary review/approvals shall be received from the Historic District Commission to allow for a 0 yard and as otherwise may be required;
2. That this application shall comply with the relevant requirements of the International Building Code to allow for a 0' side yard as determined by the City's Inspection Department;
3. That cross easements for vehicular access and egress shall be approved as to content and form by the Legal and Planning Departments;
4. That the curb cut on to State Street shall be eliminated;
5. That boundary monuments shall be placed in accord with the requirements of the Department of Public Works; and,
6. That appropriate GIS information shall be provided to the City's Department of Public Works for the purpose of updating the Tax Maps.

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B. The application of **Strawbery Banke, Inc., Owner**, for property located at **17 Hancock Street**, wherein Preliminary and Final Subdivision approval is requested to subdivide one lot into two with the following: Proposed Lot 000 having 6,245 ± s.f. and 100' of street frontage on Hancock Street and Proposed Lot 001 having 4,116 ± s.f. and 83.49' of street frontage on Hancock Street and 43.57' of street frontage on Washington Street, and lying in a zone where a minimum lot area of 7,500 s.f. and 100' of street frontage is required. Said property is shown on Assessor Plan 103 as Lot 88 and lies within a Mixed Residential Office and Historic District A. (This application was tabled at the May 18, 2006 Planning Board Meeting.)

The Chair read the notice into the record.

Deputy City Manager Hayden made a motion to take the application off of the table. Mr. Will seconded the motion.

The motion passed unanimously.

SPEAKING TO THE APPLICATION

Mr. Holden recommended that this matter be tabled to the July meeting so that the applicant can appear before the Board of Adjustment.

Mr. Will made a motion to table this matter to the July Planning Board meeting. Deputy City Manager Hayden seconded the motion.

The motion to table to the July Planning Board meeting passed unanimously.

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C. The application of **Strawbery Banke, Inc., Owner**, for property located **off Marcy Street**, wherein amended site review approval is requested to relocate the entrance to the existing parking lot, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 104 as Lot 7 and lies within a Mixed Residential Office District and Historic District A.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Attorney Peter Loughlin appeared on behalf of Strawbery Banke, and indicated that they were seeking amended site review approval to relocate the entranceway from Marcy Street to enlarge the parking lot, create a turn around, and to remove one entranceway, create landscaping. They will use the existing entranceway in front of the Dunaway Restaurant.

Ms. Roberts asked where the developed pathway is? She was thinking about archeological issues. Attorney Loughlin stated there is a pathway in that general area. He does not know if they have to excavate, however, he was sure they dealt with that issue.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Deputy City Manager Hayden made a motion to approve as presented. Mr. Will seconded the motion with the two recommended stipulations. Deputy City Manager Hayden indicated that was acceptable.

The motion to approve amended site review approval with the following stipulations passed unanimously.

- 1) Approval of a Site Review Agreement by the Planning Department; and,
- 2) If appropriate the posting of a bond.

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D. The application of **Joseph D. & Joyce W. Ciancarelli, Trustees, Owners**, for property located at **45 Gardner Street** and **Steven Webb & Karen Butz-Webb, Owners**, for property located at **51 Gardner Street** wherein Final Subdivision approval (Lot Line Revision) is requested between two lots having the following: Lot 21 as shown on Assessor Plan 103 increasing in area from 1,107 ± s.f. to 1,203 ± s.f. and increasing continuous street frontage off of Gardner Street from 31.42' to 37.27' and Lot 22 as shown on Assessor Plan 103 decreasing in area from 1,442 ± s.f. and decreasing continuous street frontage off of Gardner Street from 40' to 34.15', and lying in a zone where a minimum lot area of 5,000 s.f. and 80' of continuous street frontage is required. Said properites shown on Assessor Plan 103 as Lots 21 & 22 and lie within a General Residence B District and Historic District A.

The Chair read the notice into the record.

Ms. Roberts stepped down from this hearing.

SPEAKING TO THE APPLICATION

Attorney Tom Watson appeared on behalf of both applicants. He indicated that they received preliminary approval in April. They are asking the Board to grant the subdivision to acknowledge a wedge that has been a long standing use for some time. They attended the BOA in May and obtained all required variances. The Board conditioned final approval on obtaining the variances and DPW approval for monumentation where they have done metal spikes as they sit in a paved area. They submitted a revised plan that complies with all plat requirements. Attorney Watson indicated this was a very straightforward request.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Will made a motion to approve final subdivision approval with the two recommended stipulations. Deputy City Manager Hayden seconded the motion.

The motion for final subdivision approval with the following stipulations passed unanimously:

- 1. That boundary monuments shall be placed in accord with the requirements of the Department of Public Works;
- 2. That appropriate GIS information shall be provided to the City's Department of Public Works for the purpose of updating the Tax Maps; and,

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E. The application of **Jonathan W. Sobel Revocable Trust, Owner**, for property located at **49 Sheafe Street** and **John C. Russo, Owner**, for property located at **99 Daniel Street**, wherein Preliminary and Final Subdivision approval (Lot Line Revision) is requested between two lots having the following: Lot 21 as shown on Assessor Map 107 increasing in size from 5,157 s.f. to 5,388 s.f. and Lot 6 as shown on Assessor Map 107 decreasing in size from 1,927 s.f. to 1,696 s.f.. Said lots lie in a zone where a minimum lot area of 1,000 s.f. and no continuous street frontage is required. Said properties are shown on Assessor Plan 107 as Lots 6 & 21 and lie within a Central Business B District and Historic District A.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Jonathan Sobel, owner of 49 Sheafe Street appeared on his own behalf. He explained that 36 years ago the lots on Daniel Street numbered 99 and 103 were subdivided and they had access over Custom Court. The words describing the right of way was imperfect to assure continued access for the subordinate lot that was subdivided. As a result, there has been an ongoing dispute with abutters. He hopes to permanently solve that problem. This will allow for additional access to a garage that will provide 3-4 additional parking spaces and it will hopefully end decades of dispute. The request complies with all regulations and the usage of the property being conveyed will be the same. There is also no specific major change in intensity in the area.

Deputy City Manager Hayden asked about Note #5 and asked Mr. Sobel to explain why it was on the plans? Note #5 read "The Planning Board for the City of Portsmouth by approving the within lot line adjustment request and plan makes no judgment and gives no opinion regarding any property lines and gives approval based on compliance with the subdivision regulations". Mr. Sobel explained that the subject property had an additional Lot Line Relocation in 2001 and even at that time there was some dispute over the rights of the individual properties. That wording was added to the 2001 Lot Line Adjustment plan to protect the Board from having an opinion about the actual rights that were apparent in the Lot Line Adjustment. He believed it was actually unnecessary to include the note on this application however if you review the two plans that were prepared by Easterly Surveying, it is the exact same verbiage. It basically exonerated the Board from any responsibility.

Deputy City Manager Hayden asked about Note #6, which read "Tax Map 107 Lot 6 will retain an easement to pass and repass over "Area A" as shown". She asked who benefits from that easement? Mr. Sobel indicated that the way the Settlement Agreement was written, it will allow access to Lot 99, across "Area A", unimpeded. There is a parking space that straddles a lot line, so that is also included in the Settlement Agreement. He felt that they have a very amicable agreement such that any car or person that needs to access the property can use "Area A" to access it. All parties are completely agreeable about the circumstances to allow 99 Daniel Street to have access. Deputy City Manager asked if the benefit was to the lot owners and not the general public? Mr. Sobel indicated that was correct.

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

Jack McGee, Attorney, representing John Russo, indicated that they echo the sentiments expressed by Mr. Sobel and this should resolve issues that have existed in this area for many years. They have worked out an agreement and this is the end result of that agreement. Mr. Holden assumed he would have no problem with the elimination of Note #5? Attorney McGee agreed that note was carried over from their last visit before the Board and they wanted it on the plan as it involved another lot line. Therefore, from his viewpoint there was no problem removing it. Mr. Holden asked if there would be a problem with the Planning Department and the Legal Department reviewing the easements so they can avoid another 20 year dispute? Attorney McGee did not object provided it could be done quickly

and within the next two weeks. This is a court arranged settlement by the Rockingham County Superior Court.

The Chair called for speakers again. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Savramis made a motion to grant preliminary and final subdivision approval with the 5 recommendations. Mr. Will seconded the motion.

Deputy City Manager Hayden asked that they remove Note #5 from the plan as an additional stipulation.

Deputy City Manager Hayden asked if they needed to modify Note #6 and give any direction or does it capture what the applicant explained to them? Mr. Holden suggested that they keep it as to content and felt it would be appropriate. It is also a court settlement which will also provide additional coverage.

The motion to approve preliminary and final subdivision approval passed unanimously with the following stipulations:

- 1) That the Board approves the rational for the easement area;
- 2) That the proposed easement shall be approved as to content and form by the Planning and Legal Departments;
- 3) That the need for Note #5 shall be considered anew and modified as may be appropriate and as determined by the Planning and Legal Departments;
- 4) That appropriate GIS information shall be provided to the City's Department of Public Works for the purpose of updating the Tax Maps;
- 5) That boundary monuments shall be placed in accordance with the requirements of the Department of Public Works; and
- 6) That Note #5 shall be removed from the Plat Plan prior to recording in the Rockingham County Registry of Deeds.

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F. The application of **Robert J. Chaffee and Barbara A. Trimble, Owners**, for property located at **32 Miller Avenue**, wherein Preliminary and Final Subdivision approval is requested to subdivide one lot into two with the following: Proposed Lot 1 having 22,357± s.f. and 151' of continuous street frontage on Miller Avenue and 127' of continuous street frontage on Merrimac Street and Proposed Lot 2 having 10,370± s.f. and 100' of continuous street frontage on Merrimac Street, and lying in a zone where a minimum lot area of 7,500 s.f. and 100' of continuous street frontage is required. Said property is shown on Assessor Plan 136 as Lot 18 and lies within a Mixed Residential Office District and Historic District A.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Attorney Bernard Pelech appeared on behalf of the owners. This is a relatively simple subdivision. They meet all requirements of the Zoning Ordinance. He reviewed the recommendations from the Planning Department and they have no problem with any of them. The first recommendation is that the Board should determine the existing uses of Lot One to determine compliance with the Zoning Ordinance. Attorney Pelech indicated that the use of Lot One is The Governor's House, a four room bed and breakfast. There formally was a home occupation in the building which has moved out. The Governor's House Bed & Breakfast complies with all requirements of the Zoning Ordinance and is an

allowed use and all of the parking meets the setback requirements. The second recommendation was that the existing use should be memorialized on the final plat which they have no problem with. The third recommendation was that, assuming compliance, that preliminary and final approval be granted. Mr. Verra is prepared to install permanent boundary markers & provide the appropriate GIS information. Attorney Pelech was unsure what the Department meant by “the Board should direct staff to bring the issues raised by this application into further consideration” and he indicated that Mr. Holden would have to address that.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Will made a motion to grant preliminary and final subdivision approval with the three recommendations. Ms. Roberts seconded the motion. Deputy City Manager felt that they only needed condition #2 and #3. Mr. Will indicated that was agreeable to him. Mr. Will asked the they should include in the same motion to approve the Department’s recommendation to add perpendicular side yards to their discussions. Mr. Holden felt a general consensus would be acceptable.

The motion to grant preliminary and final subdivision approval passed unanimously with the following stipulations:

1. Assuming compliance with the *Ordinance*, that the existing use should be memorialized on the Final Plat;
2. Again, assuming compliance, that Preliminary and Final Subdivision Approval should be granted when -
 - Permanent boundary monuments are placed in accord with the requirements of the Department of Public Works; and,
 - That appropriate GIS information is provided to the City’s Department of Public Works for the purpose of updating the Tax Maps.

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G. The application of **Harold J. Henry, Owner**, for property located at **235-245 Islington Street**, wherein amended site review approval is requested to increase the size of the proposed 3-story free standing building to 20’ x 40’, with related paving, utilities, landscaping, drainage and associated site improvements. This application was previously approved on February 17, 2005 for a 20’ x 38’ 3-story free standing building and a one-year extension was granted on September 15, 2005. Said property is shown on Assessor Plan 138 as Lot 45 and lies within the Central Business district and Historic District A.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Harold J. Henry, of 250 Northwest Street, is the owner and addressed the Board. It was discovered that the Site Review application was based on a 20 x 40 footprint but his original application and subsequent legal notices were for a 20 x 38 approval. Mr. Henry indicated that all planning has been done on an 800 s.f. footprint.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Ms. Tillman indicated that this is a housekeeping matter. The application said 20 x 38 and the plans reflected a 20 x 40 building. This will bring the legal notice and approval together.

Mr. Will made a motion to reaffirm the Board’s past approval. Deputy City Manager Hayden seconded the motion.

The motion passed unanimously. All prior stipulations shall remain in effect.

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H. The application of **Searay Realty Trust, Owner and Jack Kimball, Applicant**, for property located at **445 Route One By-Pass**, wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* to demolish and rebuild an existing garage and add a 10’ concrete curb in the garage bay area within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 234 as Lot 3 and lies within an Office Research District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Steve Lorenzin, of Lorenzin & Associate, appeared on behalf of Jack Kimball, the applicant and Searay Realty Trust, the owner. Mr. Lorenzin indicated that this property is commonly known as the Griffin property. It has a 3 car garage in the rear of the property and is existing non-conforming in several areas. The building has fallen in disrepair and they would like to rebuild it on the same footprint. Dr. Leonard Lord, NH Certified Wetland Scientist, provided impact statements in their packet. If they demolish they can improve the safety and protect the adjacent wetlands.

Chairman Hejtmanek was at the Conservation Commission meeting yesterday and there were two stipulations and he asked if they were agreeable to adding those stipulations. Mr. Lorenzin was agreeable. Chairman Hejtmanek read the stipulations.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Holden indicated that Peter Britz, from the Conservation Commission, was available for questions. Deputy City Manager Hayden asked if Mr. Britz felt he needed to weigh in on anything?

Mr. Britz felt that his Memorandum, which was provided to the Board members, covered all of his concerns.

Deputy City Manager Hayden made a motion to approve with the two Conservation Commission stipulations. Mr. Will seconded the motion.

The motion to approve passed unanimously with the following stipulations:

- 1) That a garage floor drain be installed that is connected directly to City sewer, and,
- 2) That orange construction fencing and/or an erosion and sediment control barrier be placed in such a way as to prevent construction vehicles from encroaching on the buffer any further than is necessary for completion of the project.

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I. The application of **Portsmouth Farms, LLC, Owner, and Starbucks Coffee Company, Applicant**, for property located at **1855 Woodbury Avenue** wherein Site Review approval is requested to construct a 1,815± s.f. 1-story building with a drive through facility after the demolition of an existing structure, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 215 as Lot 11 and lies within a General Business District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Attorney Bernard Pelech appeared on behalf of Starbucks. He indicated that they have worked on this since last August, working with the Conservation Commission, the Technical Advisory Committee, the Traffic & Safety Committee and Department staff. They originally were going to use the existing building however that was scraped and they started over by proposing a new, smaller building. After receiving a favorable recommendation from the Conservation Commission and the Planning Board for Conditional Use, they then appeared before TAC and the Traffic & Safety Committee on their new proposal and they are now seeking final site review approval. They have proposed elevations for the Board. He introduced Luke Distefano of Bohler Engineering.

Mr. Distefano ran through the major portion of the project. They are seeking approval to raze and rebuild the existing site at 1800 Woodbury Avenue. Specifically they look to demolish the existing 2500 sf Pizza Hut facility and reconstruct it with an 1800 sf Starbucks facility. They have worked very closely with City officials and the neighbors and this is a major improvement of the current site conditions. There will be a 30% reduction of square footage with the new building. There will be major improvements in the landscaping and Starbucks will enhance the landscaping for the long term as they are looking to develop a site that will be nice to look at for the long haul. There will be major improvements with lighting, the infrastructure and stormwater management. Great care was given to stormwater runoff treatment. There is currently no treatment and the site sheetflows into an existing culvert which runs across the northern section of the site and discharges directly into wetland. They would implement stormwater treatment and stormwater detention devices to reduce peak runoff rates and to pre-treat the run off. They will have one-directional traffic on site. Vehicles will have the ability to enter the drive through, around the back and back out to Woodbury Avenue. They are providing 25 parking spaces which is compliant with the Zoning Ordinance and they propose one van accessible space adjacent to the west side of the building with a handicapped accessible entrance. They have four employee-only parking spaces in the areas recommended by TAC. They have addressed all concerns from TAC. He turned the presentation over to Giles Ham, Traffic Engineer, from Vanesse Associates.

Mr. Giles indicated that their main focus was site circulation and the drive through. They proposed a straight forward, counterclockwise circulation with a single curbcut. The critical thing is on site queues. Nine vehicles queue storage from the order window back to the street. They have marketed a number of Starbuck sites and they monitored the on site vehicle queues. It's usually 1 –4 vehicles in the queues so they have plenty of storage at this site. The busiest time is the morning commuter time. They believe the project will proceed safely as proposed.

Councilor Dwyer noticed a note that had a suggestion that they are expecting a much lower drive through volume than other shops. Mr. Giles felt relative to other donut facilities it is lower but it is consistent with other Starbuck facilities.

Deputy City Manager Hayden asked about the turning movement. Coming into town, there is no concrete barrier so someone could turn directly into the site? Mr. Ham indicated that there is a center turn lane on Woodbury Avenue. Deputy City Manager Hayden referred to the Dunkin Donuts activity across the street and indicated that she witnesses a lot of competition in that central turn lane. She

asked if Starbucks had looked at how many people are turning east or west into the site and how many leaving are going east or west? She felt that most of the morning traffic is coming into Portsmouth. Mr. Ham indicated there are about 1,000 cars coming into Portsmouth and 600 going out. There is a huge difference between Starbucks and Dunkin Donuts. Dunkin Donuts has 3-4 more customers using their drive through and this site would not be appropriate for them. Deputy City Manager Hayden asked why that was so?

Kevin Petruie, of Starbucks Company, addressed the Board. He stated that trying to make a comparison with Dunkin Donuts is like comparing apples and oranges. Starbucks transactions are more inside the store. Dunkin Donuts is not set up for that and as a byproduct they do more through the drive through. Deputy City Manager Hayden if the data on their other stores are in a commercial strip? Mr. Petruie stated that several stores are on much higher traveled thoroughfares. He does not have specific information on drive through stores vs. non drive through stores other than Mr. Ham's comparison.

Mr. Savramis asked if they had considered a right hand turn only? Attorney Pelech indicated that they discussed this at Traffic & Safety and they felt it was not necessary to limit turning and after discussion it was decided to allow for all turn movements.

Mr. Coviello asked what type of delivery vehicles will they have? Mr. Petruie confirmed they will have 6 wheel trucks, like a bread truck.

Mr. Will asked if one TAC recommendation was that the microphone is okay with noise? Mr. Holden indicated they will make sure the microphones were not directed at the neighborhoods. Mr. Distefano confirmed that the drive through speaker was originally pointed northbound however they realigned it to face to east where there is a substantial landscape buffer. The speaker manufacturer indicated they could comply with City noise regulations.

Deputy City Manager Hayden stated that they appreciate the elevations. She referred to the north elevation on the drive up side and asked why the brick area on the façade was only half way? Mr. Petruie brought brick samples to the meeting and indicated the reason the brick only goes up one half of the façade is that on the drive through and entry side those are bump outs. The burgundy color brick ends at the bump out area and is meant to accentuate the area.

Deputy City Manager Hayden asked what their hours of operation would be? Mr. Petruie stated that normally they would open around 6:00 am and close around 10:00 pm, and weekends would run a little bit later.

Mr. Coviello referred to the lighting plan and asked if it included lights on the building? Mr. Distefano indicated that it included bollard lights. There are very limited lights on the building so they do not have a major impact on the overall lighting plan. They modeled their lighting plan on the 9 yard lights and 15 bollard lights that are shown. Mr. Coviello asked for an explanation of the diagram in the top corner. Mr. Distefano explained that was showing how the light projects and that is a yard light fixture. They are also proposing light shields as shown on the lighting plan. The heavy line on the plan is the foot candle line and other than a very small portion, all light in this design is contained on site, focused on the areas where they want it. They reconfigured these as part of TAC review. Mr. Coviello asked if the signs were illuminated? Mr. Distefano indicated they were internally illuminated.

Mr. Coviello felt that snow storage seemed very minimal. He asked if a stipulation was appropriate? Mr. Holden felt that was a legitimate question. Mr. Distefano felt there was sufficient space. They would not store any snow on the eastern portion of the site, adjacent to the wetlands. Mr. Coviello asked if they would be agreeable to a stipulation that any snow storage that blocks the parking spaces must be removed? Mr. Distefano did not believe they would have a problem with that.

Mr. Coviello asked about street sweeping. He was uncomfortable with the stormwater system as it does not take out soluble pollutants. Mr. Distefano stated that they have included a maintenance plan on Sheet 7 and the last note says parking lots will be swept twice a year and more if necessary. They don't see the need for additional sweeping.

Mr. Will asked Mr. Coviello if he would be comfortable with more street sweeping? Mr. Coviello wanted Mr. Britz's opinion on street sweeping. Mr. Coviello was uncomfortable with the stormwater systems itself. Mr. Distefano stated that this is a typical amount of sweeping on lots of this size. Along with the vortex and deep sump batch basins, the detention system, the street sweeping two times a year is warranted for this particular use. Other lots may require more sweeping but he felt this is adequate for this lot.

Deputy City Manager Hayden asked Mr. Distefano to describe why that was the best place for a handicapped ram. If she comes in and needs the handicapped space, she has to drive all around the building. Mr. Distefano stated that spot was just on the edge of the one directional traffic so that spot is pivotal to the access with someone that doesn't have to make the trip all the way around. Deputy City Manager Hayden asked if she could she get out of the space if cars are queued all the way around the building? Mr. Distefano did not believe there would be any interference. Deputy City Manager Hayden asked if cars are waiting to pull out onto Woodbury Avenue, they would have to wait to get out of the handicapped space. She asked how many cars can queue on the exit side between the exit sign and the pick up window. Mr. Ham indicated that 7 cars can queue and added that they would have 1 ½ cars per minute exiting and they will not all leave at once.

Mr. Coviello asked if there is a design storm frequency interval that they used? Mr. Distefano indicated that they looked at the 2-100 year 24 hour storm. Mr. Coviello had a fact sheet on street sweeping from Federal Highway Administration and one of the recommendations is that the sweeping interval should be less than two times the average interval between storms. Mr. Distefano was unclear on what they were referring to and he would need more information. Mr. Coviello asked if Starbucks was objectionable to more sweeping? Mr. Holden indicated that he felt TAC looked at this very closely. He suggested maybe having them have TAC review it again rather than them arbitrarily trying to come up with a number.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Holden addressed two concerns. First, he referred to Mr. Coker's note about exiting onto Woodbury Avenue. He felt there were other ways to approach this if the Board wants to go that route. He pointed out that both the Traffic & Safety Committee and TAC explored this issue and did not see a concern. If the Board wishes to go somewhere with it, they might want to explore a trial period with the applicant. Mr. Will felt that this is Woodbury Avenue and the applicant has done a good job with this drive through. Any other place in the City, he would feel more comfortable but based on the Site Review criteria he would deny the application based solely on the basis of the drive through. He stated that was a motion. There is a criteria for traffic flow and access. He doesn't believe a business needs a drive through on Woodbury Ave to be successful. Chairman Hejmanek called for a second to the motion. There was no second to the motion.

Deputy City Manager Hayden asked that on Condition #12, regarding the applicant working with the Trees and Greenery Committee, is that prior to approval? Mr. Holden indicated they have worked a fair amount with the applicant on the area in front. This would be an outstanding condition. Attorney Pelech stated that they will attempt to relocate any trees on the site. The front section will not have any trees. NHDOT does not have a problem with the landscaping unless it endangered life and limb. Attorney Pelech indicated that nothing will impair vision.

Deputy City Manger Hayden asked about sound levels. Is it the intent that this be provided to the City before Building Permit issuance? She would like to see it before the building permit was issued. Mr. Holden envisioned that working by having a spec sheet to determine compliance. If there was an issue, they would address it at that time. Deputy City Manager Hayden asked when are they expecting the information? Mr. Holden confirmed it would be following approval and before a building permit.

Mr. Coviello wanted to clarify before he made a motion to approve with the 17 stipulations, whether they might want to go with a straw vote on whether they should go with what Mr. Holden suggested about a trial period for the turning. Mr. Holden suggested making the motion and then work with it. Mr. Coviello made a motion to approve with the 17 stipulations and added the snow removal and that they meet with TAC to reassess street sweeping frequency. Deputy City Manager Hayden seconded the motion and added a stipulation that the elevations that were provided tonight be tied to this approval and a modification to #14 that the applicant shall provide sound levels prior to the issuance of a building permit and in the future upon demand by the City for evaluation.

Mr. Will asked the Chair how the Board felt about the right hand only turns? He would feel better with a stipulation. He made a motion to move to amend the motion to include a right turn only onto Woodbury Avenue. Deputy City Manager Hayden indicated that her only concern with that was that the Traffic & Safety Committee was against that.

Mr. Holden confirmed that he suggested his alternative to that other agencies could be involved. The peak hour demand does not seemingly justify that restriction. This would be the first business that would be so restricted. The City's experts have already reviewed this. As Chairman of TAC he recommends that they go forward as they designed it with an option to revise it down the road if it doesn't work.

Mr. Will stated he would feel more comfortable with a right turn only lane. They need to make it as safe as possible. Deputy City Manager Hayden stated that the City experts have advised against it. She asked what makes him think he knows better? Mr. Will stated that they are empowered to make this decision whether they are experts or not. Councilor Dwyer also believed it was reasonable. Her concern is that there were so many assumptions that makes it different from the other Starbucks. She is not a traffic expert but she is a Woodbury Avenue expert and it is hard for her to think they are not going to have a queuing problem. She's not sure whether TAC needs to take another look at this or not. Mr. Holden reminded the Board that they would not know what would happen if they did this because what may end up happening is having all those vehicles looking for a convenient driveway to change their course. At the risk of delaying the application, it may be appropriate to have someone else look at that and come back and report to the Board. The City's advisory group felt this was a minimal impact. Deputy City Manager Hayden stated that was her concern also. They have the option to table and go to TAC. The Board is also within it's rights to vote for it. Attorney Pelech stated they felt they had already satisfied TAC, Deborah Finnigan and the Traffic & Safety Committee. Those are the City experts who he hopes the Board will listen to.

Mr. Hejtmanek asked if they preferred to table the matter or vote tonight? Attorney Pelech indicated they would like to vote tonight

Mr. Will made a motion to amend the motion for a right turn out only. Mr. Savramis seconded the motion.

The motion to amend the motion on the floor passed with Mr. Coviello, Deputy City Manager Hayden and Chairman Hejtmanek voting in the negative. (Voting for the motion were Councilor Dwyer, Mr. Will, Mr. Savramis and Ms. Roberts.)

Mr. Coviello asked if the Chairman should ask the applicant again whether they would prefer to have this matter tabled? Attorney Pelech assumed that the purpose of tabling would be to go back to TAC, Deborah Finnigan or Traffic & Safety when they have already passed on it.

Deputy City Manager Hayden stated that she would like to table this to have Deborah Finnigan report back to the Board. She is not comfortable with the condition. Mr. Coviello would like to table it to hear from Deborah Finnigan.

Mr. Coviello moved to table to next week to have staff present to address issues. Deputy City Manager Hayden seconded the motion.

The motion passed with Mr. Will voting in the negative. Deborah Finnigan will be invited to attend.

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J. The application of **Frank Perrone and John Giacalone, Owners** for property located **off Falkland Place** and the **City of Portsmouth, Owners** for property located **off Ranger Way** and City property identified as **“Alley #1 and Alley #2”**, wherein Site Review approval is requested to construct one 44’ x 30’, 2 ½ story, 1,320± s.f 2-unit. townhouse and one 88’ x 30’, 2 ½ story, 2,640± s.f. 4-unit townhouse, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 212 as Lots 26-1 and 27 and lie within General Residential B and Mixed Residential Business Districts.

Mr. Will stepped down from the hearing as he is active in the neighborhood association.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Attorney Bernard Pelech appeared on behalf of the applicants. The Board has seen this plan as part of a recommendation to the City Council with regards to the conveyance of the land to his client by the City. This project has a long history and they have been before the BOA for variances because part of the residential development was part of a municipal zone. They come to the Planning Board after going to TAC, the Board of Adjustment and the Traffic & Safety Committee. An interesting aspect is that they will construct and give to the City an 11 space parking lot as part of their representation to the City Council to have the property sold. The neighbors wanted a municipal parking lot in the neighborhood. Once constructed, an easement will be granted to the City.

John Chagnon, of Ambit Engineering, reviewed the 24 TAC stipulations. They either have or will meet all stipulations. He pointed out that the parking shown is the correct parking as approved by Traffic & Safety. Additionally, there is a lighting plan in the packet which shows one fixture in the parking area however they have an alternative lighting plan which is two fixtures of lower wattage. They have a two unit building and a four unit building with associated parking in the back, sidewalks along the front and new utilities.

Councilor Dwyer stated that the minutes suggest concern was raised that the parking spaces were not appropriate as they were backing out onto Ranger Way. Mr. Chagnon indicated that an alternative plan had the same configuration but they were closer to the property line. Some people on TAC felt that was more appropriate and some were concerned about snow plowing. As a group this was voted as a preferred alternative.

Deputy City Manager Hayden asked how the green area would be maintained? Mr. Chagnon indicated that currently there is a line of maple trees that they are preserving. There are a few apple trees closer to the road that will be taken out. They will save as many trees as they can, which will be most of them.

Chairman Hejtmanek referred to the stipulation that they will see exterior elevations? Mr. Chagnon stated that Sheet C-3 shows exterior elevations. The brick is going to be full brick and clapboards will be wood clapboards.

Deputy City Manager Hayden asked Mr. Chagnon to walk through it and put it on the Board. Due to the unique nature of project, she asked for him to review it with the Board.

Mr. Chagnon showed the elevations. He indicated that they are all wooden clapboards and brick. Councilor Dwyer asked, in the discussion at TAC, given the concern of the look, she inferred from their answers that all sides would be brick because of the clear visibility of the structures. Councilor Dwyer stated that the minutes reflect that the answer that was given by Attorney Pelech stated that all sides would be brick. Attorney Pelech indicated that they would be agreeable to have all sides brick. Councilor Dwyer felt it would be good to hear from the Neighborhood Association on that as well.

Mr. Holden asked Mr. Chagnon to review all stipulations and Deputy City Manager Hayden asked for a plan sheet reference as well.

- 1) That the Technical Advisory Committee is recommending a waiver of Site Review Regulations for the above overhead transmission line to remain above ground however all service connections for this project shall be underground;

Mr. Chagnon indicated that the site has an existing transmission service. They will relocate the electrical transmission to a new pole and tie it into where the pole is now. As it is a transmission line, it cannot go underground however the individual service will be underground, as shown in a Note on Sheet C-3. Mr. Chagnon confirmed that TAC recommended that the Board grant a waiver on that.

- 2) That a note shall be added to the Site Plans that all snow shall be trucked off of the site as there are no snow storage areas;

Mr. Chagnon indicated that Note 5 on C-2 has been added to the Site Plans to address this.

- 3) That the applicant shall apply for pole licenses as soon as possible.

Mr. Chagnon stated that all information has gone into PSNH, who has to apply for the pole license.

- 4) That a Site Lighting Plan shall be prepared, showing lighting in the back parking lot, all lights shall be Dark Sky Friendly and there shall be no spillage off of the lot

Mr. Chagnon referred to Sheet L-1 where he has added a note for Dark Sky Friendly.

- 5) That either catch basins down to the proposed leaching basins shall be tested to confirm that they will work properly or they shall be hard piped to the nearest drainage system;

Mr. Chagnon indicated that TAC had concerns about soil to absorb water so they did test pits which came out favorable. They will submit additional information to Public works. Either way the stipulation covers them. During heavy rains, he inspected the site and there was no excess water.

- 6) That the sidewalks shall be swept around the corner, behind the hydrant and that the sidewalks shall also terminate back out to the street near the proposed parking spaces;

Mr. Chagnon confirmed that the sidewalk is now swept and the plan shows the new proposed sidewalk.

- 7) That the applicant shall work with the City to determine whether a license or an easement is required for the sidewalk which is located on City property, and said document shall be prepared by the applicant for review and approval by the City Attorney;

Mr. Chagnon indicated that relates to the existing sidewalk on Falkland Place and that the proper vehicle is an easement.

- 8) That the Technical Advisory Committee recommends to the Planning Board that they approve vertical curbing to match the rest of Atlantic Heights;

Mr. Chagnon pointed out that the Site Plans show that.

- 9) That curbing shall be added to the frontage along the 4-unit building;

Mr. Chagnon confirmed that they have added curbing and that is shown on the Site Plan.

- 10) That the applicant shall work with Steve Parkinson and Deborah Finnigan to determine which parking plan shall be reflected on the Site Plans;

Mr. Chagnon stated that they worked with Steve Parkinson and Deb Finnigan and this is displayed correctly on the Site Plan.

- 11) That the zoning district shall be corrected on the Site Plan;

Mr. Chagnon stated that this has been corrected on Sheet C-1.

- 12) That the applicant shall prepare a request for re-zoning and the Planning Department shall include said request in the current on-going Zoning Ordinance Re-Write project;

Mr. Chagnon indicated that Attorney Pelech can speak to this. As part of the approval of the sale of land, the re-zoning will not go through the normal process and will happen automatically.

- 13) That a note shall be added to the Site Plan that the BOA did not approve backing into the street from the public parking spaces;

Mr. Chagnon stated that the applicant received a variance from the BOA to construct 6 units. The 11 parking spaces was a condition of that approval.

- 14) That the water line should be tapped at the 10" line, with one service for the entire lot and sized accordingly to accommodate both buildings;

Mr. Chagnon confirmed that the Site Plans have been revised to show one tap.

- 15) That all outstanding conditions of the City Council shall be clarified prior to the Planning Board meeting;

Attorney Pelech confirmed that was the zoning issue and they are still waiting for the City Assessor to put a value on the property.

- 16) That the following language shall be added to the Site Plan;
“Landscaping is a critical component of site plan approval. It is one of the key reasons why a project fits into a neighborhood in a positive and aesthetically pleasing manner. This plan would not have been approved without the landscaping shown on the plan. All landscaping shown on this plan is to be maintained in a healthy state and replaced if it dies or is damaged. No landscaping shown on this plan shall be removed or altered without the prior approval of the Portsmouth Planning Department. Failure to maintain the landscaping may result in revocation of site plan approval.”;

Mr. Chagnon confirmed that a note has been added on Sheet C-2 under the schedule of landscaping. They are proposing tree plantings on City property.

- 17) That the curbing that runs along Falkway Place shall continue straight and tie into the existing curb;

Mr. Chagnon pointed out that the curb has been revised on the plan.

- 18) That additional information on the exterior elevations of the buildings shall be provided prior to the Planning Board meeting;

Mr. Chagnon indicated that these have been provided.

- 19) That the row of maple trees in the parking lot area shall be protected by a snow fence;

Mr. Chagnon stated that they have added a note on Sheet C-2.

- 20) That a Knox box and automatic notification of emergency services shall be added to the Site Plans;

Mr. Chagnon stated that they added a note to Sheet C-3 under the fire protection note.

- 21) That after final Planning Board approval, an annotated set of Site Plans shall be prepared for the Planning Department, highlighting all stipulations on the Site Plans with corresponding stipulation number and description;

Mr. Chagnon confirmed this will be done after final approval.

Mr. Coviello asked if the lighting of the 9 spaces were cobra lights? Mr. Chagnon stated they propose a pole in the public right of way and the City might consider a cobra light on the PSNH pole. It was talked about but was not a stipulation. Mr. Coviello asked about the lighting now? Mr. Chagnon confirmed it is dark. Mr. Coviello stated he would like to add that as a stipulation.

Stephanie Krenn, of 13 Porpoise Way and Co Chair of the Neighborhood Association. She asked that the project design be kept consistent with the neighborhood and asked for brick on all sides. She is confused about the parking spaces. She was concerned about the lighting in the parking lot area and asked who would plow the lot? She asked that no more Norway maple trees be planted as they are causing problems. In the original agreements between Avanti and the City there were discussions about the height of the buildings. She recollected that the tallest structure of Avanti could not be more than 6' higher than the height of the highest Heights building. She is not sure if that has been honored. She also felt that the window size did not appear to be consistent with the size and shape of the Heights

windows, as well as the over hangs over the doors seems to be lip service to replicate the Heights design and she wondered if there was a way to refine that.

Christy Cardoso, of 199 Concord Way. She asked what are the next steps for enforcing brick on all sides of the buildings?

Ray Will, of 125 Preble Way. He had concerns about the heights and scope of the buildings. He felt the very size of the building is an issue. He was also concerned about the request for greenery to screen the neighbor's house from the project. He wondered if the facade was what the City Council was asking for or was it more to make sure it was in line with affordable housing 40 – 50 years ago.

Attorney Pelech stated that when he submitted his April 21, 2005 letter to the City Council he also attached the renderings, which were the same that were displayed that evening. Nothing has changed. The parking spaces are now backing out, although they originally showed spaces that did not back out however Traffic & Safety and Mr. Parkinson were adamant that the parking should be as presented tonight. Mr. Parkinson didn't want a vast amount of pavement to plow and maintain nor did he want to decrease the buffer between the parking and the residence. Attorney Pelech also confirmed that the square footage is of the buildings and not the units.

Mr. Holden suggested a stipulation that snow storage will be off site and confirmed that the City will maintain the parking lot. Mr. Holden asked how they will be enforcing the brick?

Attorney Pelech stated that the City inspector will review the plans to insure it is brick. Mr. Holden stated that the plans will show brick and a bond will be in place to cover that construction. Mr. Holden asked about lighting. Attorney Pelech indicated they will be putting the cobra head on the pole. Mr. Holden asked about window size and the overhangs. Attorney Pelech did not know what the concern was regarding window size. They will be what they presented to the Council. And, there will not be any Norway maples.

Deputy City Manager Hayden asked about the screening on the north side of the parking lot. Mr. Chagnon stated they could put a solid fence. Deputy City Manager Hayden asked about having the screening be planting materials? Mr. Chagnon did not feel there was a lot of room. Deputy City Manager Hayden asked if they could shift the parking area to accommodate the buffer area. Mr. Chagnon felt that would effect their parking count.

Michael Power, 105 Saratoga Way. He thanked the developer for working with them. He was concerned with the height stipulation and the overhangs over the doorways. He stated that they are finalizing their acceptance with the National Historic Registry and he wants this project to conform.

Mr. Will stated that he wants the windows to look similar to what the windows in the heights look like and would like to have them fit into the neighborhood.

Christy Cardoso stated that the edge with the screening is a concern because their bedroom and bathroom windows face the project. There was a meeting this weekend and cars were parking all down the street.

Attorney Pelech didn't know how to address the question of windows. They need to stay with what they have presented to the City Council. They will make the overhangs consistent with Atlantic Heights. He did not recall where the 6' height came from.

Stephanie Krenn stated that it was her recollection that it was at the initial meeting when they were discussing if the City would sell the land to Avanti. That was one of 6 – 7 stipulations that were part of the deal.

Attorney Pelech mentioned that he was not sure that those windows would meet current building codes.

Mr. Holden read the City Council conditions from the Action Sheet. He noted there was no reference to height or windows.

Mr. Will felt it would be adequate to add a stipulation that they would not be more than 6' taller than other buildings. Otherwise it would be very different from other houses in the neighborhood.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Holden stated there is nothing addressing the height issue from the City Council. He was not sure they have the ability to weigh in on that and he agrees with Attorney Pelech that they are probably no longer code compliant.

Attorney Pelech pointed out that there are different windows in the Heights but they will try to be consistent with the neighborhood. They will work with the building inspector on this.

Deputy City Manager Hayden indicated that she would like to see the Board go back over the City Council letter to review overhangs and heights to see exactly what the City Council approved. This is not like other Site Reviews and she wants to make sure they get what they thought they were getting.

Deputy City Manager Hayden made a motion to table this matter to next week. Councilor Dwyer seconded the motion.

The Motion passed unanimously.

Councilor Dwyer stated that she would like someone with a lot of knowledge to speak to the specific features that they are looking at. She needs a better handle on what they are talking about so that they can have an agreement on the feature details.

Deputy City Manager Hayden stated that she was disappointed to see the drawing in the plans that were not all brick.

Attorney Pelech has not heard anything specific yet. His problem is that the stipulation was that the architectural rendering would be approved by this Board but this Board is delegating it's authority to the neighborhood group.

Mr. Holden felt it might be helpful to go through the specifics. He heard discussion regarding the overhangs and strong gable features that appear on the buildings.

Attorney Pelech reiterated that the City Council approval is based on the renderings that they submitted. If they start changing those, will they negate the City Council approval because they are now looking at different renderings.

Councilor Dwyer stated that she was not on the City Council at that time but she thought that sounded like an over interpretation of that point. They need to better understand what the City council is actually approving.

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K. The application of **Mark H. Wentworth Home for Chronic Invalids, Owner**, for property located at **346 Pleasant Street**, wherein Site Review approval is requested to renovate and upgrade the existing facility by adding four additions as follows: 1) a 190 s.f. addition on the Melcher Street side; 2) a 560 s.f. addition on the Melcher Street side; 3) a 225 s.f. addition on the Melcher Street side; and 4) a 215 s.f. addition on the Wentworth Street side, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 109 as Lots 6-10 and 16 and lie within a General Residence B and Historic District A Districts.

Anthony Coviello stepped down from this hearing.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Eric Weinrieb, of Altus Engineering, appeared on behalf of the applicant. Also present was Kristopher Tiernan, of JSA and Mike Iafolla.

Mr. Weinrieb stated that they are proposing a complete renovation and minor expansion. They have been serving the community for 94 years. They have been through a long process to get before the Planning Board. They have had meetings with the Planning Department, they have had neighborhood meetings to work through the site issues, they have appeared before TAC twice, they have appeared before the HDC and the BOA for variances and they have appeared before the Traffic & Safety Committee. The Home is located on Pleasant Street and it abuts Melcher and Wentworth Street and the pond to the south. The Home owns all of the property on Melcher Street and one lot on Wentworth Street. Whidden Street abuts the project. They are proposing two building infill areas and two small building addition areas. From the Site Plan standpoint, they have an existing parking lot where they are changing the direction of traffic flow. They plan to direct the traffic to the main entrance to the other side, away from the public right of way. The main access would come in off Melcher Street with a small turn around area. They would have some head in parking on the abutting parcels. They are proposing a raised island on the Wentworth Street side. They are providing a loading area as there is no place to load currently and they block the street. To eliminate the massive pavement surface, some area will be architectural surface to break up the pavement areas for a softer look. They will increase the landscape buffer. There is currently no grease trap in the kitchen and they are proposing to install one. With discussions with TAC and Peter Rice it is acceptable to come out of the kitchen with the new grease trap and then go back in the building and out the back. They will be replumbing internally.

Mr. Weinrieb talked about the construction process. Part of the variances were to allow the nursing home administrative offices to move across the street temporarily as well as allowing construction trailers to be on site to speed up the construction process. There will only be activities on one side at a time, to lessen the impact to the neighborhood.

Mr. Weinrieb stated that there were 11 stipulations from TAC and he felt they had addressed all of them.

Mr. Weinrieb indicated that they have revised the handicapped ramps to meet the current design requirements. They added a cross walk and cross bar and a single white line at Melcher St. During the sidewalk reconstruction along Pleasant Street they are keeping the herringbone design and using old bricks where possible. He had a stray label which has been removed. They have redesigned the sewer on Melcher Street to eliminate sewer issues that were identified at TAC. They relocated the Do Not Enter signs and they added notes clarifying that there will be an open area at the corners for propose landscaping. They have also added a note that they will be maintaining the lot and will work with Public Works on what those requirements will be. A Construction Management Plan will be filed with the City as required.

The Chair asked if anyone else was present from the public, wishing to speak to, for, or against the petition. Seeing no one rise, the public hearing was closed.

DISCUSSION AND DECISION

Mr. Savramis made a motion to approve with stipulations. Deputy City Manager Hayden seconded the motion.

The motion to approve passed unanimously with the following stipulations:

- 1) That the sidewalk standards have changed since the last approval so the handicapped ramps shall be revised to meet the new City standards;
- 2) That all armor-tile shall be light grey, measure 2' x 3' and the whole tip down shall be concrete;
- 3) That a cross walk shall be added at Melcher Street, stop bars shall be added at both streets, all revised to met City standards;
- 4) That the sidewalk shall be replaced with similar herringbone brick with a stretcher of old brick along the edge, to be reviewed and approved by DPW;
- 5) That the "Proposed Parking Lot" label on Sheet C-1 shall be removed;
- 6) That the water and sewer lines running down Melcher Street shall be reviewed by David Allen to determine what they service and all work shall be coordinated with the City Water Division;
- 7) That the "Do Not Enter" signs shall be moved closer to the street;
- 8) That the landscaping coming into the parking lot shall not exceed 2 ½' to maintain good visibility;
- 9) That a note shall be added to the Site Plans that requires notification of routine parking lot maintenance, and said language shall be reviewed and approved by David Allen and David Desfosses;
- 10) That a Construction Management Plan shall be prepared for review and approval by the City Manager, City Attorney, Planning Director, Chief Building Inspector, and the Director of the Department of Public Works, prior to the issuance of a building permit;
- 11) That after final Planning Board approval, an annotated set of Site Plans shall be prepared for the Planning Department, highlighting all stipulations on the Site Plans with corresponding stipulation number and description;

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II. CITY COUNCIL REFERRALS/REQUESTS

A. Motion for Rehearing filed by Attorney Douglas Macdonald regarding Driveway Permit Application for property located at 62 Deer Street. (Referred from the March 20, 2006 City Council Meeting. Planning Board voted to recommend a denial of the request for a driveway permit on April 27, 2006);

Mr. Holden stated that the Board should look at the information presented to them and make comments. If a rehearing were granted, it would be scheduled for the next meeting.

Deputy City Manager Hayden recommended that a re-hearing not be scheduled as there was no reason presented to do so. Mr. Will seconded the motion. He felt this was a good example of some of his fears about traffic studies but in this case he felt that logic won out and there was a mountain of technical evidence. There was a lot of development in this area and he felt the Board made the right decision.

The motion passed unanimously.

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III. OLD BUSINESS

A. Planning Board appointment to the Historic District Commission;

This matter was tabled to the next meeting.

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V. ADJOURNMENT

A motion to adjourn at 10:10 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 at the September 21, 2006 meeting.