

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

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 P.M.

JUNE 21, 2007

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

MEMBERS EXCUSED: Raymond Will and MaryLiz Geffert, Alternate;

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

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I. APPROVAL OF MINUTES

1. Approval of Minutes from the May 10, 2007 Planning Board Work Session – Not submitted, no action.
2. Approval of Minutes from the May 17, 2007 Planning Board Meeting – unanimously approved.

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II. CITY COUNCIL REFERRALS/REQUESTS

A. Proposed conveyance of interests in real estate (Riverwalk) between the City of Portsmouth and DiLorenzo Real Estate LLC;

Mr. Holden stated that this is a City Council referral. It addresses the proposed land conveyance between the City and DiLorenzo Real Estate. Some land would be provided to DiLorenzo to be used for the relocation of the current deck on City property and land would be conveyed from DiLorenzo to the City to use towards the Riverwalk. This is supported by the Master Plan and many past and present CIP's. Additionally, over the last several years, the City has acquired Federal Funds that have a time requirement. They would be completing a long time objective. If favorably recommended the Board would see it again as there would be a lot line relocation before them.

Deputy City Manager Hayden felt the Mr. Holden had described the request and she would be available for questions.

Mr. Holden added that they are being asked for a recommendation back to the City Council. It is before them because it involves City owned property.

Vice Chairman Hejtmanek made a motion to recommend to the City Council that the conveyance takes place as described. Mr. Holden suggested including the Department Memorandum that was provided. Vice Chairman Hejtmanek agreed to include the Memo. Mr. Hopley seconded the motion.

The motion to make a favorable recommendation to the City Council passed unanimously.

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III. OTHER BUSINESS

A. Prime Wetland Update with Mark West, of West Environmental Services;

Peter Britz, City Environmental Planner, gave a quick update. The reason they are doing this is to designate prime wetlands in the City with the State. They had a 2003 report by Gove Environmental which was followed up by Mark West. The one outstanding question was the hand out which shows the Jones Avenue wetland. The Gove report from 2003 seriously over-counted the wetlands in that area and the current map shows it more accurately. It is fragmented. Mark West and staff recommend that this not be recommended as Prime Wetlands. Mark West was present for questions.

Deputy City Manager Hayden asked to clarify on the handout provided, the red area and the blue area combined is what Gove over-mapped in 2003. The true area that has subsequently been mapped is just the blue area. Mr. Britz stated that there are four wetland complexes, labeled as 13A, 13B, 29 and 22, and they are not connected. Deputy City Manager Hayden asked why were those over-mapped? Mr. Britz explained that part of the mapping looked a lot closer when there was potential development in there and it was not followed up on. Deputy City Manger Hayden asked if the West report is much more accurate. Mr. Britz confirmed that it was and they are confident that the new map shows the actual boundaries.

Councilor Dwyer felt that this is clearly not an exact science. She expected a plus/minus on the margins. Mr. Britz indicated this is probably the worse area that was mapped in the City. Councilor Dwyer indicated that the Councilors received the vernal pool assessment as part of the Jones Avenue site regarding the PMS project. Because of the different scale of the mapping, it is difficult to tell where the six important vernal pools would fall on the new mapping that West did. Because other Board member do not have that report it would be important for them to know where the six of the ten vernal pools that were so classified are in relation to this piece. Also, in checking the law, the City has the opportunity to add criteria to the criteria of the State. She thought the City might consider important vernal pools as one of our criteria. She asked to what extent to they know of the cross over between the two reports.

Mr. Britz addressed the location of the vernal pools. They are all within wetland #29 in the south part of the Jones Avenue area (shown in red). The vernal pools are a much smaller area and are less than an acre. The State requires certain thresholds that have to be met.

Mark West felt they were talking about two different types of wetlands. A vernal pool would not qualify as a prime wetland. Councilor Dwyer realized that but wanted to consider adding the criteria of vernal pools to how they determine whether it is a prime wetland. Mr. West indicted that the issue of having a vernal pool complex within an area of a prime wetland may increase the habitat value as amphibians may come from the prime wetland and go into a vernal pool. He did not believe it raises the value of any of the individual wetlands to the status of prime. If you look at the results of the prime wetland designations, the smallest fresh water wetland proposed by the City is the 19 acre wetland that drains into the Sagamore Creek, in a relatively undeveloped area because of all of the protected lands surrounding it. The presence of vernal pools increases the habitat value but does not raise the value to prime.

Councilor Dwyer noted that there are other smaller areas being designated. Mr. West confirmed they are salt water wetlands.

Deputy City Manager Hayden thought they might want to look at protecting those pools but designating them may not be the way to do it. Mr. Britz indicated that the City Council is beginning a process to update the Conservation Commission section in the Zoning Ordinance and part of that will be protecting vernal wetlands.

Councilor Dwyer thought it was very important that wildlife habitat should be considered and it is hard to see a consistent use of criteria to determine what is prime and what is not.

Deputy City Manager Hayden felt the best source of information is the score sheets that show how all items come together. She felt that vernal pools are different and should receive more protection than designating them as prime wetlands.

Mr. Britz stated that studies looked at the areas to be designated as prime and they have to meet certain criteria. Beyond those you have to use professional judgment.

Mr. Coker found it curious that wetlands 13A, 22, 13B and 29, which are all in the area of the Jones Avenue old dumpsite, the data sheet says that the wetlands qualify for prime yet the prime wetland recommendation does not recommend them. He asked for an explanation.

Mr. West indicated that over the past 5 years he has worked in 7 different communities so he is bringing experience to the table. In every town they do not designate every wetland that qualifies. The fragmented pieces of degraded wetlands with invasive species with disconnection are performing at a lower level than the undisturbed wetlands. These recommendations are based on his experience from research in other communities. There is a lot of leeway as to what they want to designate. The Town of Salem has gone through four different sets of wetland studies but he received guidance from the Conservation Commission and Peter Britz and came up with a reasonable assessment of what should be designated as prime.

Mr. Coker asked if this moves forward without designation at Jones Avenue, what would the process be to change that down the road. Mr. West indicated they would need to do a follow up study and make a decision as a City. They would have to meet the thresholds and then do a study and select the highest functioning wetlands. It would be a decision between the Conservation Commission, the Planning Board, the City Council and the Planning Department. Mr. Coker asked if this was a political decision. Deputy City Manager Hayden stated it is a City Council decision under State law just like zoning changes. Mr. Coker asked if the difference between prime and non-prime is that it requires a more detailed review? Mr. West explained it requires a mitigation plan to replace and compensate for any disturbed functions and it makes it harder to have direct impacts. Mr. Coker asked if the Board felt that 13A should be a prime wetland, they could make that recommendation to the City Council. Mr. West agreed they could do that but would have to explain to the State why the lower level wetlands were being designated. Typically the State of NH does not turn down a municipal designation unless it does not meet the threshold. There is a difference between qualification and recommendation.

Mr. Coviello felt that Mr. West was drawing his experience from what other communities have done but maybe that's not good enough for Portsmouth. He asked about the question of connectiveness and how he defined that. Mr. West indicated that a prime wetland area must be jurisdictional wetlands, have the three parameters (soil, vegetation, hydrology) and must be connected as one whole system. It also has to have a good enough hydrologic and biologic connection to be designated as one. The wetlands around PHS have to do with connection and it is not biologically connected as a system. Berry's Brook has a more connected system. He mentioned other towns as he has seen what is successfully accepted by the State. Every municipality is different but he used all available

information. Mr. Coviello felt there was more to it than just a prime wetland evaluation. He sees this area as being valuable. Mr. Britz indicated that some areas meet the criteria but aren't recommended and those are good areas for grants to improve and protect them.

Deputy City Manager Hayden did not want to lose site of what they are doing. They are designating prime wetlands. The Conservation Commission has spent a lot of time on this and she would be willing to go forward with the Conservation Commission recommendation and have a public hearing in July to hear from the public. She confirmed that was a motion. Mr. Coviello seconded the motion.

Councilor Dwyer noticed area 007 was recommended for not being a prime wetland because it is on Pease however this Planning Board addresses planning site issues that are on Pease, we have a well on Pease, and the City collects taxes. She is having trouble with the designation of whether this is or is not prime. She felt they may want to keep 007 as a prime wetland designation. Deputy City Manager Hayden confirmed that they do not have the land use authority to do that and based on their cooperative relationship with Pease, it was recommended by the Conservation Commission to send a letter to the PDA regarding this wetland. Deputy City Manager Hayden confirmed that a stipulation of the Conservation Commission was a letter to the PDA. She read all of the recommendations to the Board:

- 1) That all of the areas designated in green in the prime wetlands study be nominated as prime wetlands by the Planning Board and approved by the City Council;
- 2) That the City Council recommend to the Pease Development Authority that they designate the eligible areas (shown in green in the West Report) as prime wetlands;
- 3) That the Commission invites the Planning Board to join them in accepting the recommendations for prim wetlands as provided by Mark West's report and invite the Planning Board to join them in requesting these go to the City Council with a strong recommendation from all three boards to the State.

Councilor Dwyer also added a note that they understand that #29 has unique values and they would be seeking additional protection for #29, but not designating it as a prime wetland. Deputy City Manager Hayden felt if that was because of the vernal pools then she would be agreeable to that stipulation. Mr. Britz confirmed they should say the vernal pool complex for clarification. Mr. Coveillo confirmed that was all acceptable to the 2nd.

The motion to conduct a public hearing in July with the following recommendations passed unanimously:

Recommendations from the Conservation Commission:

- 1) That all of the areas designated in green in the prime wetlands study be nominated as prime wetlands by the Planning Board and approved by the City Council;
- 2) That the City Council recommend to the Pease Development Authority that they designate the eligible areas (shown in green in the West Report) as prime wetlands;
- 3) That the Commission invites the Planning Board to join them in accepting the recommendations for prim wetlands as provided by Mark West's report and invite the Planning Board to join them in requesting these go to the City Council with a strong recommendation from all three boards to the State.

Recommendations from the Planning Board:

- 4) That area #29 has unique values and they would recommend seeking additional protection for area #29 due to the vernal pool complex, but not designating it as a prime wetland.

The Board agreed that the Chairman of the Conservation Commission should be invited to attend the public hearing.

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A motion was made by Deputy City Manager Hayden to take Item B out of order. Mr. Hopley seconded the motion. The motion passed unanimously.

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B. The application of **Richard and Linda Harding, Owners**, for property located at **1808 Islington Street**, wherein Preliminary and Final Subdivision approval is requested to subdivide one lot into two lots with the following: Proposed Lot 1 having 20,548 ± s.f. and 100’ of street frontage on Islington Street and Proposed Lot 2 having 61,803 ± s.f. and 124.17’ of street frontage on Islington Street, and lying in a zone where a minimum lot area of 15,000 s.f. and 100’ of street frontage is required. Said property is shown on Assessor Plan 241 as Lot 15 and lies within a Single Residence B (SRB) District; (This application was postponed at the May 17, 2007 Planning Board Meeting)

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

Mr. Holden advised the Board that the applicant indicated that they do not wish to proceed forward at this time. The Department recommended that the Board postpone this to a time uncertain.

Deputy City Manager Hayden made a motion to postpone to a time uncertain. Ms. Roberts seconded the motion.

The motion to postpone to a time uncertain passed unanimously.

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Chairman Ricci recused himself from items A & B. Vice Chairman Hejtmanek took the chair.

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IV. PUBLIC HEARINGS

A. A public hearing is convened to consider the request of Borthwick Forrest, LLC, for two proposed zoning amendments to the City’s 1995 Zoning Ordinance, as amended, to facilitate the development of an Elderly Congregate Care Facility. Amendments would include adding a definition for Elderly Congregate Care Facility and a revision to the Table of Use section to permit Elderly Congregate Care Facilities by Special Exception. The purpose of this hearing is to solicit public comment on this request. Relevant materials are available for public inspection in the Planning Department;

Malcolm McNeill, Attorney for Borthwick Forrest, LLC, addressed the Board. He confirmed that the applicant and their team was present. Since December they have petitioned for their rezoning request to be processed and this is a hearing to decide whether this proposal will go forward for their consideration. The parcel of land is located off Islington Street and Borthwick Avenue, in the vicinity of the Portsmouth Hospital, Liberty Mutual and Jackson Gray, and is a 37 acre undeveloped parcel of land. There is access to Islington Street. The City Council referred this to the Planning Board on March 7th. The present zone is Office Research (OR). There has been some significant office development off Borthwick Avenue, including Portsmouth Hospital and a letter is included in

their packet which is an endorsement from Portsmouth Hospital. The developers of this site are Kane & Company and Pro Con Construction. In combination with their team, the developers feel the best use of the site is for their proposed age restricted independent living facility.

The proposed project will consist of 482 units, of which 412 will be independent living units and 70 will be assisted living units. Occupancy will be limited to 62 years or older. They will presume a 3-5 year build out of this project. Each unit will be on a single floor, elevator access and residential parking will be underground. There will be a pool, fitness room and dining facilities. Access will be from Borthwick only. All streets will be private streets so City road service will not be required. Residents will pay an entry fee of \$270,000 and \$450,000 per unit, with a portion refundable when they exit the facility. The monthly fee would include emergency responses, social and recreational activities, flexible food plan, housekeeping, home maintenance and utility services. There will be a significant amount of green space. The Master Plan of 2005 says that this area should be studied further for rezoning or other considerations. In December of 2006 the developers started requesting the rezoning of this site. The question is what has the applicant done in the mean time to cause the City to consider this.

They filed a matrix of this dealing with all issues regarding zoning. In terms of the usual processing, the Planning Department would respond to that matrix and bring it forward to a public hearing. They did a preliminary traffic study and a fiscal impact analysis of the site. They conducted an environmental analysis of the site. They completed a feasibility study regarding the feasibility of an operation of this type. Proximity to the Hospital is an important link. If they leave the zoning as is it would allow them office space with parking or they could consider this project which allows 450 units. All of their studies support their proposal and the Master Plan.

They are proposing a definition change, to allow this use within 1 mile of Portsmouth Hospital. They would also need a special exception. The BOA would have to find certain criteria as well which would be an additional level of control.

Attorney McNeill stated their goal is for the Board to feel there is merit to consider this. They have provided the Board with the following reports: A fiscal impact analysis done by Russ Thibeault of Applied Economics Research, an environmental report by NH Soil Consultants, a market and benefits report by Gerontological Services, Inc. and a traffic report by Greenman-Pederson, Inc.

Attorney McNeill stated that traffic has been a major concern on Islington Street. They compared traffic between office use and their proposed use. Their comparison was for 175,000 sf for office and 400 senior housing units. All traffic will go out to Borthwick Avenue. The difference in the weekday total between office and the housing that they propose is a difference of 384 trips a day, and it is significant to the a.m. and p.m. peak hours. With office use, the a.m. peak hour had a trip total of 293 and senior housing had a total of 90. The p.m. peak hour was 275 for office and 117 for senior housing. They represent if they build an office complex they would be requesting access onto Islington Street. For this proposed campus age restricted use they wish to have one means of access via a private road to Borthwick.

Mr. Coker wanted to confirm that there would be no access on to Islington. Attorney McNeill indicated there will be emergency access to Islington Street but would only be used for fire and police.

Deputy City Manager Hayden asked why they would use Islington Street if it was office use? Attorney McNeill explained it was because of the volume and timing of the site for easy access into the site. Deputy City Manager Hayden asked what approvals will they need from the railroad? Attorney McNeill confirmed they have a right to pass both railroads and there will be no bridges. They have received a right to pass at grade.

Russ Thibeault, President of Applied Economic Research, addressed the Board. He did a fiscal impact analysis using fundamentally the same methodology that he used for the Hilton Hotel project. He tried to eliminate as many judgments as he could and systemize it as much as possible. In this instance they are concerned with the difference in the two proposals. He based the revenues on actual assessments and what the City assessed on Borthwick Avenue offices buildings. He look at projects in Exeter and Laconia as well. The comparative assessed values are around \$24 million. Residential is \$130 million. There are very few children coming out of the age restricted housing and, based on other projects, there essentially will be no school children. He loaded the municipal costs on a per capita basis for the office space and on a per unit for the residential space. So, he based the municipal service cost and deducted those costs. After deducting the costs from the revenues, the office space would more than cover its cost by an amount of \$150,000 and is a good deal for the City. The residential covers costs its costs by \$1.2 million, a much better deal for the City. The reason for this is that this is a fairly high value residential development and not generating school children. There would be other economic benefits to the residential space, including the restaurants in the City. While if they had five different analysts they would all come up with different figures, there is no way they would come up with a different conclusion.

Mr. Coker asked what the estimated municipal costs are made up of. Mr. Thibeault took a portion of the City that is residential and applied that towards the total municipal cost and then divided that by the number of housing units. He tried to avoid judgments. Being age restricted, it is hard to argue whether the costs would be higher or lower. He estimated it to be about \$1,200 per unit.

Councilor Dwyer assumed this was a for profit structure? Mr. Thibeault confirmed it would be taxed for profit, like Riverwoods. Councilor Dwyer thought that Riverwoods was a non-profit. Mr. Thibeault agreed that was correct but he used the assessed valuation based on Riverwood and not the tax they were generating. Attorney McNeill also stated that they intend to have it as a for profit project.

Mr. Coviello stated that the Master Plan identified this area for a change in zoning. He is comparing this proposal from what it wants to be changed from but Mr. Coviello asked what if they were to put single residences on the site? Mr. Thibeault agreed that the scope of his study was between what was allowed and what was proposed. He felt that was a very broad question. If it was single family they would get school kids. Depending on the value of the residences, high end tend to pay their way and low end tend not to pay their way. Mr. Coviello felt that this type of facility doesn't contribute to the buying contribution to the City. A family of four would contribute more spending to the community than the elderly. Mr. Thibeault stated that he has not seen any studies on that.

Deputy City Manager Hayden noted that his analysis used 450 units as a baseline but 481 units are proposed. Mr. Thibeault confirmed that the plan has changed since he started his study.

Adele Fiorillo, Wetland Scientist from NH Soil Consultants indicated that she was the environmental consultant for the project. She was to discuss environmental aspects of the site. The Master Plan recognized criteria for future development for this site. The issues included traffic, wetlands, stormwater, drainage and groundwater. NHSC did tests and delineated wetlands on the property. They performed a functions and value assessment on the wetlands and did surface and ground water evaluations. She gave the Board a written summary of those studies. Under the current zoning which is Office Research, they put together certain things that they can anticipate including office space and parking requirements. A special exception for senior housing would change those requirements. They would have a campus cluster and a residential environment associated with the facility. Regarding wetlands, any developments would hold the 100' buffers and protect wildlife habitat. They would design to protect surface and groundwater.

Ms. Fiorillo stated that the Master Plan triggered groundwater. They know that very little lies in an aquifer protection area. Another component to the site is that it is predominantly clay so groundwater

protection was not a criteria that would be a red flag. Surface water can be handled through engineering design. The majority of the watershed flows away from the well sites. Comparing the use and the need for parking, office use would require considerably more parking than assisted living. The amount of pavement keys into the amount of infrastructure they would be required to maintain. If you are limiting the amount of pavement and reducing the amount of stormwater management, they are reducing the amount of infrastructure and would have more open space. This will allow for less run off. Parking for assisted living would be underground which is a gain for surface water protection. She pointed out that they have a recreation area which an office park would not provide. The developers on this project are very interested in protecting the existing conditions.

Deputy City Manager Hayden referred to the comparison chart for wildlife where it indicated that if this was developed as OR, one wetland crossing would erode because they would propose a road across the wetland. Ms. Fiorillo confirmed that the property would be a roadway crossing.

Karen Adams, from Gerontological Services, Inc. indicated that they are a national consulting practice for older adults. They did a preliminary feasibility study for the project. They looked at 3 components – demographics of the area, competition for older adults for living in the area and they generated a demand analyses. They have a strong sense of what is happening over time with adult facilities. In terms of key finding, they found that options for older people and the availability of options is very limited. Riverwoods is the only other option. They are a light care facility with a contract component and they are a very traditional model for assisted living. Portsmouth does not have any other options. They found growing markets and looked at households. They see growing populations of 70 and older. They anticipate that their market will change significantly and the baby boom will change things. The future looks to menus of services rather than a package of services. This campus would not have a skilled nursing facility as assisted living has emerged as the more popular option. This offers an opportunity for people to stay in Portsmouth and provides an additional type of option to seniors in the area. She felt the location is very desirable. She addressed the issue of spending and these projects are known to bring in extraordinary assets in entertainment, restaurants, travel, the arts and spending on grandchild.

Deputy City Manager Hayden was surprised that 15% are assisted living as that seemed like a low percentage. Ms. Adams explained that it is not low as services will be provided to the units over time. People want to stay in their own residences and the facility brings services to them. Deputy City Manager Hayden asked about the concierge services? Ms. Adams indicated that it provides someone to find services and import services, such as banking. Deputy City Manger Hayden asked what percentage need skilled nursing? Ms. Adams stated that their monthly service fees pay for a base service package, such as meals, maintenance, wellness programs, transportation, etc. The skilled nursing would be on a separate fee basis. Deputy City Manager Hayden asked what income range this would be for? Ms. Adams responded between \$50,000 - \$100,000 as their secondary and over \$100,000 as their primary. You can't depend on just income as the entry fee would be part of the equation. People whose home values have increased are now able to afford this. Ms. Adams thought the entry fee would be between \$270,000 - \$450,000 and the monthly fee will take a lot of refining.

Councilor Dwyer asked what the staff to household ratio was? Ms. Adams was unable to answer at this time. Staffing for housekeeping, dining services, and health care will be provided at a variety of levels. Councilor Dwyer felt that will be an important point to get a handle on. The impacts don't come from the residents but from the staff, concerning noise and traffic.

Mr. Coviello asked about the average age in the facility? Ms. Adams stated at entry they are looking at it being the low 80's. The average age at Riverwood now is probably around 85 – 87. She estimates that this community will have a higher ratio of couples and the entry age will be 74.

Councilor Dwyer asked if there are any models that deal with scaled affordability, with a range? She is very familiar with the fees in other parts of the country. She is concerned about the fees here without any life benefits. Will there be some that are more affordable? Ms. Adams indicated that construction costs have risen drastically so all costs are higher. She cannot defend any fees as it is too preliminary. The scale for affordability would have to be addressed by the applicant. Councilor Dwyer stated that a challenge of this community is they have nothing in the middle. They have lower income housing and high priced housing but nothing in the middle. Ms. Adams stated this would free up housing in the community.

Deputy City Manager Hayden noted that the zoning change will effect OR one mile from the hospital and asked if there are other zones within 1 mile from the hospital? Attorney McNeill confirmed that there are. Deputy City Manager Hayden asked how the age restrictions will be locked in place? Attorney McNeil felt that would be part of the admission process. The developer is highly sensitive to this and the parties who are most concerned are the people who live in the project.

Attorney McNeill indicated that their presentation was done. They have submitted their request, have attempted to complete the matrix, they have put together a team to inform them and they would like to move together with the Board to bring this into the City.

Vice Chairman Hejtmanek opened the public hearing and called for speakers.

Robert Padian, of 312 Cabot Street, felt this should move forward but the City has some work to do. Can the City address the impact of this project? How much City service will be consumed by the residents of the complex needs to be better identified. He felt the City should know that before they go into a project like this. He suggested making an access to Islington Street to access the stores and banks nearby. He would like them to give this strong consideration.

Al Romano, Coakley Road, felt an entrance on Islington Street should be considered. That would alleve the traffic on Borthwick Avenue.

Rick Beckstead, Islington Street, lives very close to the parcel of land and his neighborhood is a residential neighborhood with a very busy street. He does not want to see any more traffic on Islington Street. All of the employees and service providers would be using Islington Street in addition to the residents. He asked if people living in the complex will own their property.

Attorney McNeill stated it was a land/lease type of program, similar to Riverwoods. Mr. Beckstead asked if the people living in the units be eligible for tax rebates? Mr. Thibeault stated they would typically not because ownership will be in the LLC.

Colleen Romano, Coakley Road, attested to the traffic on Borthwick as she works at Jackson Gray. There are no streetlights and no sidewalks. The City is considering the redevelopment of the traffic circle and that should be a consideration.

Kevin McLeod, owner of the Comfort Inn on Lafayette Road, is a lifelong resident of Portsmouth. He will be looking for a facility like this for himself. There is no impact on the school system. As they are individually owned, it will increase the tax base, although there may be an increase for ambulance and fire. Pro Con Construction built his hotel and they do quality work. He asked the Board to move this on.

Ruth Griffin, resident of Richards Avenue, was in favor of this request for a zoning change. She felt it was a breath of fresh air. She is on the Portsmouth Housing Authority Board and has knowledge of the demographics of the City. Most elderly people have had to go to Hanover or to Riverwood. This proposal will take care of the people of Portsmouth so they can stay in Portsmouth. She hoped the Board would look favorably on this proposal.

D.A. Bernard, 1500 Islington Street, was not in favor or against. He had questions relating to the area. From Islington Street, there is no city sewerage and no stormwater drainage. His property takes about 90% of the stormwater that flows along Islington Street which creates a health problem. It creates a mosquito problem also. He asked how they will handle the sewer? This would be a good time for the City to correct some of the problems on his end of Islington Street. The curve on Islington Street is a very dangerous area and they have had a lot of accidents. Sewerage, stormwater drainage, proximity to city wells, and the effects of the radio tower on residents are all considerations for the developers. He mentioned other items that the developer might want to consider.

Rick Beckstead, Jr., 1395 Islington Street, has two small children and the traffic on Islington Street is a concern. He does not want an access on Islington Street. He also has a drainage problem and he would hope they would address that.

John Crisp, 1414 Islington Street, would like to leave the property open as it is but if it has to be developed, this is the best plan he has seen so far. He applauds them for not proposing a regular entrance on Islington Street.

Vice Chairman Hejtmanek pointed out that tonight's hearing was a rezoning issue and they were not addressing traffic and sewer.

Mr. Coker added that the issue of drainage and sewer are site review issues so those will be addressed at a different public hearing.

Paul Mantel, 1490 Islington Street, stated that this property has been zoned OR and is zoned for a reason. It was never meant to be developed in any other way. The applicant stated that this would be less impact however an office building could also have a campus style with underground parking. They were talking about 500 residential units. The City is already talking about building a second sewerage plant. He suggests charging them \$15 million up front to pay for the new sewerage plant. These units will add to the problem. If it were an office park, traffic would only be going to and from work like all of the other offices on Borthwick Avenue. This is about money. They would make less money by building an office park. He wants to see the real impact figures. He does not believe the City should change zoning for someone to make more money.

Richard Rash, 1507 Islington Street, indicated that his property abuts the WBBX right of way. This sounds like the most credible proposal for this property since he has lived there. He could live with the Islington Street right of way only being used for emergency access but he would not want to see construction vehicles using the right of way.

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

Deputy City Manager Hayden thought the Planning Staff should prepare the zoning matrix and for them to move forward with that. That would allow the Board to digest tonight's information.

Mr. Coker asked to address some comments. He never understood why office research existed as it just doesn't work. They are looking at this because they have a specific proposal in front of them. He is more than happy to move this forward and felt that there is a long way to go.

Mr. Coviello made a motion to move this forward and asked the Planning Department to prepare the matrix. Deputy City Manager Hayden seconded the motion.

Mr. Coviello felt they were asked by the Master Plan to look at this for rezoning and when they move it forward he hopes they don't take a myopic view and only look at elderly care facilities. He felt members of the public had great points which he wrote down.

Councilor Dwyer thought what was being requested would be a change to the table of uses rather than rezoning of the property. Deputy City Manager Hayden confirmed it is still a zoning change. Councilor Dwyer asked why a zoning matrix would be done when they are clarifying a use and a definition. Whenever they do this they confuse the public and themselves and, as recently happened, they lose their case.

Deputy City Manager Hayden explained that they have used the matrix for more than just rezoning. Councilor Dwyer felt that it doesn't fit. Deputy City Manager Hayden felt they will consider this for more than just what the applicant is asking for. This Board may not do the matrix and recommend specifically what they are asking but may come up with something more detailed. Mr. Holden added that the matrix is the way to identify areas of questions. Councilor Dwyer felt they were looking at two different things. Mr. Holden felt that Councilor Dwyer was correct but the request from the City Council was narrow so they need to look at it in the narrowest sense.

Mr. Coviello confirmed that his motion was just to look at the City Council request for what is written down. Hopefully, sometime in the process, they can look at the broader view.

Mr. Coker thought that they need to ask why they need the zoning change. He felt that Councilor Dwyer made a good point when she referenced the rezoning for the Non Residential PUD. They looked at it from a planning perspective and they did their job very well. It got to the City Council who reacted from a political perspective which is a very different point of view. He is very comfortable with this process and would be less comfortable with them asking to rezone the area. Councilor Dwyer indicated that when she looks at the table of uses and what types of uses are permitted, some are similar to what is being requested. What is before them tonight is a very simple thing. She wants to make sure they are not changing the zoning of this but rather they are changing their table of uses.

Mr. Coviello agreed with everything that was stated but he believes they have to have their broader conversation first.

Vice Chairman Hejtmanek asked why they couldn't do them simultaneously. Deputy City Manager Hayden stated that the motion is just to direct staff to prepare a Zoning Matrix on the specific request that is before them. Staff needs to do some homework for them first. Mr. Holden also understands it that way. There may be a zone change down the road and they would have already done their homework. They need to keep it focused on what the request is as that is what the City Council requested.

Councilor Dwyer asked if they can they do these things simultaneously.

Vice Chairman Hejtmanek suggested amending the motion to deal with both simultaneously.

Mr. Holden indicated they would get to work on their request and then address other issues at a later date. They would bring the matrix back at the next meeting, and then the Board would need time to review the material.

Mr. Coviello asked if other members of the Board would like to review other uses?

Ms. Roberts felt it was important to look at other uses. They are assuming that they all agree with the definition or the need for a definition by discussing the need to have a vote on this referral. She has mixed feelings about this in terms of demographics. The elderly population is growing and they have

a need for this type of facility however there was a very clear message in the Master Plan that they look for a diverse population. The age of the residents are all over age 62 and it is increasing. In a Master Plan sense they need the middle age people with children. Secondly, regarding income diversity, people with incomes over \$100,000 does not address the affordable housing aspect of the Master Plan which was a very strong message also. She was feeling ambivalent about the concept.

Deputy City Manager Hayden indicated that all she is looking for to is having staff work on this and schedule another meeting.

Councilor Dwyer felt that the table of uses is a simple thing but they need a good definition and then they need to decide whether it is appropriate for a N, P, S listing. That is what she would like to see the staff bring to them first.

The motion to have the Planning Staff prepare a Zoning Matrix and schedule a work session passed unanimously.

Councilor Dwyer made a second motion that staff will do work on the definition of congregate housing as well as how it relates to their existing zones and table of uses. Mr. Coker seconded the motion.

Motion passed unanimously.

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The Board took a 5 minute break.

Vice Chairman Hejtmanek stated that the Board will decide at 10:15 how many applications they will finish tonight and the rest will be postponed to next Thursday.

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C. The application of **Key Auto Group, Inc., Owner**, for property located at **549 U.S. Route One By-Pass (Traffic Circle)**, wherein a Conditional Use Permit is requested as allowed in Article IV, Section 10-608(B) of the *Zoning Ordinance* to develop the site to include a new hotel, retail buildings, two restaurants and a convenience store/gas station, within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 234 as Lot 51 and lies within a General Business District. This application was filed on April 30, 2007 and is intended to replace a previous application filed on December 28, 2006; (This application was postponed at the May 17, 2007 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. Coviello seconded the motion.

SPEAKING TO THE APPLICATION:

Vice Chairman Hejtmanek asked the applicant to concentrate on the Conditional Use criteria. Mr. Holden stated that Steve Miller, Chairman of the Conservation Commission, and Peter Britz, City Environmental Planner, were present.

Attorney Malcolm McNeill was present with Anthony DiLorenzo, the applicant, engineers from VHB, Irving Oil Company representatives and Mike Parsont from NH Soils. He felt this process was very important. This Conditional Use permit has been reviewed twice by the Conservation

Commission. The City requested an independent analysis of the site which concluded that the wetlands would be protected from stormwater run off and would continue to provide wildlife habitat for this project. On 3/14/07 the Conservation Commission denied that application by a vote to 4-3. The applicant had worked with the Hodgson Brook Committee for over a year. They made revisions to the plan and went back before the Conservation Commission and representatives from Hodgson Brook were present. All criteria was addressed at that meeting, including #4, and the Conservation Commission voted unanimously to recommend this proposal. The Conservation Commission is not cavalier and does a complete review of applications. The Planning Board has a number of concerns regarding the gas station and uses on the site. All uses are permitted in this zone. The comments last time were that they wanted a letter from the Hodgson Brook Committee which they have obtained. They have made every effort from the beginning to cooperate with that group. He felt the Board should follow the advice of their own Conservation Commission. Mr. Miller presided over both hearings and he is present tonight. Their review was thorough, comprehensive and they visited the site.

Mr. Coker asked if the plans that they handed out this evening were identical to the plans they received in their packets? Gordan Leedy, of VHB, stated they were not identical.

Gordan Leedy, Landscape Architect and Planner with VHB, indicated that there were several issues that came up at the last meeting. In answer to Mr. Coker's question, the only change to the plan is that there was a modification to change the drive thru configuration to the coffee shop. They also did some design work and redesigned the infiltration system. The plan also has an indication of a preliminary drainage system design. They are proposing to relocate the entrance to the site to a safer location and redevelop it into a hotel, retail use, restaurants and a gas station. He addressed the questions from the last meeting.

He handed out a graphic illustration of the buffer conditions. He compared the present buffer intrusion with the proposed intrusion which is smaller by 4,000 s.f. They are proposing to move the entrance further to the westerly direction on Coakley Road. Currently, the exit from the site is only 50' from the intersection and it is very dangerous. Modern intersection design dictates that they have 200' from the stop bar. That would be required for any modern re-use of the property.

They have 28,000 s.f. in the buffer that was previously disturbed in the proposed condition and 30,400 s.f. is for the access area, leaving 18,800 s.f. in the tan area identified on the plan, which includes the gravel wetland area. They are proposing 77,200 s.f. of impacts to the buffer. They are also proposing 69,549 s.f. of restoration to the natural habitat. They will use all native vegetation. That leaves a 7,660 s.f. net buffer impact, taking out the access and the previously disturbed and account for the restoration they are doing, it really puts their buffer impacts into perspective. This represents a major change from the previous proposal that the Conservation Commission denied.

There was a letter from the Hodgson Brook Advisory Committee that enumerated several concerns. One concern was that there was grading impact in the buffer. Mr. Leedy stated that regrading the site allows them to raise the rear of the site to accommodate drainage infrastructure and water quality techniques. The rear of the site is 8' – 12' lower than the front section of the site. By raising the back of the site they can bring in good permeable materials and get their pipes lower in the ground and high enough off the groundwater table to accommodate the infiltration area they are creating. In any scenario it would be necessary to re-grade the site. Also, that portion of the buffer disturbance is a lawn area and lawns are notoriously bad vegetation to have in the buffer as it has quick run off and lawn chemicals are often used. By re-grading they are impacting a lawn area. It allows them to construct additional water quality treatment and also to re-vegetate the area. They are proposing to restore some of the natural hydrology on the site by allowing infiltration of the water. The second item was gas station safety and they will address that later. The third issue is that they are treating a 1" water quality mark. The standard is that you want to treat very well the 1" storm event. That would include 92% of all precipitation that would fall on the site. There is a bypass system that

allows a higher intensity storms, higher than 1" in volume, to bypass the treatment. That is a standard way of doing that as the vast majority of pollutants get carried off in the first flush of drainage and gets treated in their treatment system. If they exceed that quantity, it bypasses the treatment and runs off and it also serves the benefit of preventing re-suspension of the solids and pollutants that you are removing from the treatment system. The 1" treatment volume is entirely appropriate.

Another issue was raised that by reducing the buffer and by having steeper areas within the buffer, they are endangering water quality. The site design prevents direct run off into that buffer area in normal events. The site design contains the drainage that falls on the site, takes them into a distribution system, treats them and the only water that should be going over the buffer area is what falls from the sky. They don't believe that should be a major issue. Lastly, there was mention of site operation and maintenance and they couldn't agree more and agree that is a critical piece to this plan.

In previous correspondence that they received from the Hodgson Brook Committee was less critical and they have worked very hard with them.

Mr. Leedy addressed safety and operation of the gas station. He introduced Rob Wilson and John Casey, from Irving Oil.

Rob Wilson, Public Affairs Manager for Irving Oil, indicated that they were a regional energy company. Irving has a good relationship and compliance record with the State of NH. Irving became the first to receive the environmental award for excellent. Irving is a local company and is committed to using the best proven technology for the construction of this site. They are interested in making this store their flagstore.

John Casey, Health Environmental Coordinator, stated that all tanks are double walled and made out of fiberglass. The space between the two walls is continuously monitored and they also monitor the inventory of the tank daily. All underground piping is fiberglass and double walled. The hoses have breakaway values to prevent leaks. All associates receive training on spills. The dispensing pad is covered by a canopy. There are grooves in the concrete surrounding the dispensers that will contain any small spills.

Vice Chairman Hejtmanek indicated that most accidents happen just because they are accidents. How can they avert potential accidents? Mr. Casey felt that an accident would be someone driving way without releasing the hose and they have breakaway values. Also, tanks cannot be filled over 90%. Mr. Coviello asked if in May of 2005 would there have been the breakaway values? He asked that because there was a car accident with a 1,000 gallon spill. Mr. Casey stated that was contained on site. Deputy City Manager Hayden asked what happens after an accident with a spill? Mr. Casey confirmed it is designed to contain 5 gallons for every dispenser, and they have 12 dispensers. It goes into the grooves and then into the drainage system, to the catch basins, and to the oil/water separator. Mike Leo can better address those.

Mike Leo, of VHB, gave a quick overview of the stormwater system. It is designed to handle a 50 year storm event. They propose to increase the size of the pipe in the gas station area to a 100 year storm event. They will incorporate a sweeping system as needed. Water that collects off the pavement will go to catch basins and then to the sump basins. They will also put hoods into the system. From all paved areas on the site, the water will be diverted to a gravel wetland area which gets 95% efficiency. It has subsurface gravel with an above grade section that is dry. As the water works its way through the system you get a subsurface anaerobic digestion. Additionally roof run off from the hotel and retail store will be conveyed to an underground stormwater system to a low recharged filter into the ground. It is a perforated system with overflow. In the vicinity of the gas station, they are proposing four catch basins around the pump, isolated from the other drainage system. They will be diverted to an oil/water separator. They have four catch basins, 4' in diameter. They can also put a valve on that drainage system that is open most of the time but employees could

turn that value off creating chambers to collect a spill. Small spills stay in the small groves and any water that makes it through the oil/water separator will be directed to the gravel wetland system. They are treating a 1" event which covers 95% of the rainfall.

Mr. Coker understood that the first 1" gets treated. He asked about the second and third inch. Mr. Leo felt that most annual events are 1" or less. The idea is that most gutters run off in the first inch of rain. Data shows that the first inch of rainfall accounts for 92% of the total rainfall. Mr. Coker again asked about the second and third inch? He also asked Mr. Leo about the bypass that he mentioned and if that would open after 1" and heads towards the river. Mr. Leo indicated there are two bypass locations with an oil water separator and a manhole next to it. They would have a 12" pipe going out of the manhole to the stone riprap section and then to the river. Mr. Coker felt it would not get any treatment whatsoever and it goes into the river. Mr. Leo confirmed that was correct. Mr. Coker stated that Portsmouth has had two 100 year storms in the past two years.

Mr. Coker asked if Mr. Leo would disagree with the letter from the Hodgdon Brook letter dated June 14th that estimates that 40 – 50% of tank refill devices eventually will leak? This was from the NH Dept. of Environmental Services. Mr. Casey stated they were referring to different tanks and he felt that was very high. Mr. Coker also stated that accordingly to a 2001 report, 29% of regulated equipment are not being operated properly. Mr. Casey could only tell him what they do and their associates are highly trained.

Mr. Coviello referred to Mr. Coker's original questions. If they have 100 pollutants on the ground, how many are left after 1" of rain? Mr. Leo responded that the first inch will go through their system. Mr. Coviello asked about after the first inch. Mr. Leo stated that around 90% of pollutants run off with the first inch of rain.

Mr. Coviello noted that the pollutant loading calculations came from a spreadsheet from NHDES. There are only three variables? Mr. Leo stated it was based on land use and types. Mr. Coviello asked what the variables are? Mr. Leo stated variables are land use type, area, or rainfall from the region. Mr. Coviello felt that pollutants come from vehicle trips and their analysis does not take into consideration that a hotel has much less pollutants than a restaurant. Mr. Leo felt that Mr. Coviello has a very good point but there are a number of variable they use. Mr. Coviello was hung up on them saying the use is less than the previous use. What they are proposing involves considerably more vehicle trips and their analysis doesn't distinguish that. Mr. Leedy stated that it is the parking area that the pollutants are coming from and the amount of traffic may not necessarily be a factor. Mr. Leo added that the only variables are the total suspended solids. The only real difference is metal from cars and they are not as measurable in the wastewater system. Mr. Leedy stated that in the data he has seen, there is another analysis they could do for hydrocarbons which shows a similar reduction over similar treatment systems. There is no treatment under the existing conditions. They can produce that data but it is similarly high. Mr. Leo stated that the system is designed for the site. If they had a less intensive use on the site the efficiency levels would go up. Mr. Coviello stated that was his point.

Deputy City Manager Hayden asked if 60 gallons of gas spills and goes into a closed grate system, over that it goes into tanks that Mr. Leo referred to as being contained. How does it get out? Mr. Leedy stated it gets cleaned out of the drainage system. There are several steps before it even gets to that value. The catch basins have deep sumps and a hood. There are multiple stages to the drainage system, apart from it being isolated and shut off from the rest of the site. There is a trained response for spill events and they do everything they possibly can to limit the release of the product.

Mr. Coviello asked what if the concrete system cracks? Mr. Casey stated they have an annual contractor that goes around and does inspections. They do a complete top to bottom check and that would be included. Vice Chairman Hejzmanek asked if anything gets into the Brook, who is

responsible? Mr. Casey felt if it was due to failure of their equipment it would be their responsibility but if someone drove off with a hose, it would not be their responsibility. So, it would depend.

Vice Chairman Hejtmanek suspended the hearing to deal with the agenda. He suggested that they finish this matter and do one more. Coviello made a motion to act on Vice Chairman Hejtmanek's recommendation. Mr. Hopley seconded.

The motion to adjourn after Item D and reconvene next Thursday, June 28th at 7:00 pm passed unanimously.

Attorney McNeill stated that, given the lateness of the hour and the concerns that have been raised, he asked them not to vote on this tonight. He asked them to put it on the next agenda.

Councilor Dwyer indicated that at some point she wants to hear from the Conservation Commission tonight. She felt that an element of the Hodgson Brook letter had not been addressed and she read it to the public "The gas station is situated in the drainage area of the brook no matter where it is situated on the parcel and poses a contamination risk to the brook both directly through accidental spills and indirectly through increased traffic onto the site." Councilor Dwyer has trouble interpreting their condition #4 where the applicant has to demonstrate that their application has the least possible impact under the jurisdiction of the ordinance. She does not want the Conservation Commission to think they do not consider their advisory role but she would like to hear Mr. Miller's rational.

Steve Miller, Chairman, Conservation Commission, indicated that the Conservation Commission worked with the applicant and there were concerns about the gas station. Is it the alternative with the least impact? That is not a Conservation Commission question. They listened to the applicant and felt their concerns were addressed. Realistically, there are two gas stations within the area of this gas station all within the same watershed. For him personally, the question of whether the gas station could be there was not his decision, but his concerns were addressed. Councilor Dwyer advised him that his answer clarified for her how the Conservation Commission came to their decision. Mr. Miller stated that the Conservation Commission consists of 9 very different individuals with different opinions and they had many discussions regarding this. Sometimes the least impact is just not an option and the Commission was satisfied with their answers.

Mr. Coker indicated that one criteria is that the land is reasonably suited to the use and the wetland values are not adversely impacted. Mr. Coker had some real problems with that. He questions that the Hodgson Brook Association does constant water quality monitoring. Mr. Miller agreed that they did and this was their second full season and the Brook is also monitored by another program. Mr. Miller felt they have been doing a much more thorough job. Mr. Coker was very concerned with Criteria #4 and he would be much more supportive of this application if the gas station was not there. A lot of people are doing a lot of work to restore Hodgson Brook.

Deputy City Manager Hayden understood why the driveway is in the buffer but she was curious about what the Conservation Commission thought about the building in the buffer. Mr. Miller indicated this was an interesting proposal for many reasons. The current site has a building and swimming pool in the buffer. If it were an undeveloped site it would be different. They are talking about a site that is mostly lawn area and from a functional standpoint the buffer is meant to protect the surface water. It wasn't black and white. Most of the buffer had already been disturbed and all the water on the asphalt sheetflows off the site to the brook. The proposal was interesting with the stormwater technology and water quality proposal. They will get better water quality from the site with what they are proposing. The buffer is not a high functioning buffer. If this had been an undeveloped site, they would not have voted for this application. However, this is much better than what is there.

Mr. Coviello asked when the Conservation Commission gets a proposal for four buildings on the lot, do they look at it as a whole or do they consider removing one building? Mr. Miller confirmed that the Conservation Commission is not in charge of density issues. Mr. Coviello was not talking about density but rather do they consider removing a section of a project? Mr. Miller indicated that was all discussed. Several had strong feelings about the gas station and density. Regarding the pollution analysis, they asked them to do that for them and it gave them a tool to consider alternatives. He felt it was the apples to apples comparison and what is better for the site. Mr. Miller felt the numbers were more accurate than Mr. Coviello may think. He doesn't know how they could answer Mr. Coviello's questions to the degree that he wants them to.

Vice Chairman Hejtmanek opened the public hearing and called for public speakers.

Al Romano, of Coakley Road, had no concerns with the hotel but had concerns with the gas station and the traffic. He is concerned about gas spills on the ground. His other concern is traffic. As they are selling diesel fuel, the 18 wheelers will be in there. With all of the different uses, there will still be a queue with traffic backing up. They walk along Coakley Road a lot and there are a lot of children down there. He is also concerned about the traffic traveling down Coakley to cut cross to Borthwick Avenue.

Candice Dolan, Coordinator of the Hodgson Brook Restoration Project. They are working on a restoration plan with the assistance of the City, UNH and the environmental committee. They are not anti-development and this project is a gateway project for the City. Their mission is to protect and restore the brook. Their big concern is the gas station as accidents do happen and the intensity of development with impervious surfaces. The brook is impaired due to all of the traffic in the area. Their other big concern is that the installation of the gas station is critical to having it operate properly, regarding maintenance and inspection. They want to make sure that there is a maintenance and inspection plan and it is critical that whoever is in charge of that is identified. This is like a marriage as it is a long term thing. They want to make sure this is done properly and that the best interests of the brook are preserved.

Colleen Romano, Coakley Road, did not object to the hotel and restaurant. She is afraid of gas leakage and there will be fumes from cars idling. There will be noise 24/7 with no buffer. Like a lot of people, she walks in the neighborhood and it is dangerous now and will get worse. She also would like to see them considerate of the brook.

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 Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Mr. Coker made a motion to postpone to the July 19th Planning Board meeting. Ms. Roberts seconded the motion.

The motion to postpone to the July 19th meeting passed unanimously.

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D. The application of **Michael DeLaCruz, Owner** for property located at **75 Congress Street**, wherein Site Review approval is requested to convert 4th floor attic space to storage, office and residential, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 117 as Lot 5 and lies within the Central Business B (CBB) District, the Downtown Overlay District (DOD) and the Historic District A; (This application was postponed at the May 17, 2007 Planning Board Meeting)

The Chair read the notice into the record.

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

Mr. Coker stepped down as he was an abutter.

SPEAKING TO THE APPLICATION:

Mr. Holden advised the Board that the reason they postponed this at the last meeting was due to some confusion about some of the information. The Department has met with Mr. Delacruz and those issues have been addressed. He encouraged the Planning Board to approve this project after the presentation.

Michael Delacruz, Owner, agreed with Mr. Holden’s statements. He indicated that they are converting the fourth floor at the Franklin Bock to mixed use.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Holden indicated that TAC recommended approval subject to stipulations. He would add that the Department worked with the applicant to make his site plan conform.

Deputy City Manager Hayden made a motion to approve with stipulations. Vice Chairman Hejtmanek seconded the motion.

The motion to approve passed unanimously with the following stipulations:

Stipulations from the April 3, 2007 Technical Advisory Committee Meeting:

- 1) That the applicant shall prepare a Construction Management Plan for review and approval by the City Legal Department, Planning Department, City Traffic Engineer and City Manager, prior to permit approval;

Stipulations from the May 1, 2007 Technical Advisory Committee Meeting:

- 2) That the applicant shall contact DPW to work out a formula for a contribution towards sidewalks along Fleet Street;
- 3) That the Site Plans shall note any easements or licenses for the alley extending off of Fleet Street and along the rear of the building.

Stipulations from the June 21, 2007 Planning Board Meeting:

- 4) That the applicant shall work with the Planning Department to revise the Site Plan to conform to Site Review Regulations.

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Councilor Dwyer mentioned the City Council meeting that the Board was invited to join on Monday. She was concerned that some of the City Council members had lost the point of the Master Plan and confused it with the Study Circle process. She asked for an opportunity to have an update on the

Master Plan and for the City Attorney to discuss what is a Master Plan in the State and what role does it have in their government. She felt it was a good opportunity to clarify City Council questions about what was recently defeated. Some Councilors felt it could go back to the Planning Board for further work. She felt that this was an opportunity to ask if City Council members would like to make clear what changes they would have liked the Planning Board to make in the NR-PUD. She does not want to see it just die and she hopes some people will be able to come and she saw this as a chance to help move that forward.

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V. ADJOURNMENT

At 11:10 pm a motion to adjourn, and reconvene next Thursay, was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on July 29, 2007.