

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

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

**7:00 P.M.**

**JULY 26, 2007**

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

**MEMBERS EXCUSED:** MaryLiz Geffert, Timothy Fortier, Alternates

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

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**II. PUBLIC HEARINGS**

E. The application of **Parade Office, LLC, Owner**, for property located at **195 Hanover Street** (aka Parade Mall) wherein Site Review approval was requested to construct four buildings and an underground parking garage, consisting of the following: 1) a 52,138 ± s.f. (10,900 ± s.f. footprint) 5-story building, consisting of retail and 28 residential units; 2) a 98,303 ± s.f. (25,800 ± s.f. footprint) 5-story building, consisting of retail, restaurant and a hotel; 3) a 128,267 ± s.f. (45,600 ± s.f. footprint) 4-story building, consisting of retail, restaurant and office space; 4) a 95,490 ± s.f. (24,600 ± s.f. footprint) 4-story building, consisting of retail, restaurant and office space; and 5) a 135,859 ± s.f. underground parking garage, after demolition of the existing building, all with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 125 as Lot 1 and lies within the Central Business B (CBB) District, the Historic District A and the Downtown Overlay District (DOD);

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Mr. Jeff Johnston, of Cathartes Private Investments, spoke to the project. He stated that he and his team felt that the redevelopment of the Parade Office Mall was a very positive project for the city. The thoughtfulness of the site plan and the quality of the design were a direct result of the collaboration with abutters, City staff, and several neighborhood and advocacy groups. He explained that their goal was to create a vibrant, exciting, pedestrian friendly, mixed use development where people could live, work, and play. The project features a broad walk that will connect the Northern Tier to other parts of the City, new pedestrian walkways that provide access to The Hill, the Hilton Garden Inn, the Harbor Hill Condominiums, underground parking that will be available to the public, shops, cafes, restaurants, office space, a Starwood branded extended stay hotel, and residences. He added that it would create 800 new jobs and an additional \$1 million dollars in tax revenues. He then introduced the development team members: Ms. Lisa DeStefano of DeStefano Architects, Mr. David Manfredi and Mr. Tom Kinslow of Elkus Manfredi Architects, and Mr. Gregg Mikolaities of Appledore Engineering.

Mr. Stuart Dotson of Sasaki Associates was not present because of a prior commitment. He added that representatives from Vanasse-Hangen Brustlin, Inc., and Olympia Equity and Hotel Management were present as well.

Ms. DeStefano said that she has been working with Cathartes Private Investments since the beginning of the Phase One project, the Hilton Garden Inn and Harbor Hill Condominiums. She felt fortunate to be on the team working as an advocate for the city as well as an advocate for the development team. She pointed out that no variances were required for the project and they have already received Historic District Commission approval. Ms. DeStefano explained that the broad walk was the major feature of the development because it would create access to the Northern Tier. She continued to say that the sidewalks would meet city standards with some wider sidewalks in places and that the streets would be tree lined. She concluded by informing the Board that their lot coverage was 59% where 95% was allowed and their minimum open space was 19% where the minimum was 5%.

Mr. Manfredi led the Board through the urban design of the lot. He said that what they were really trying to accomplish was to create connections to other parts of the city. He pointed out that according to an 1877 drawing of the area, it showed Vaughn Mall in its original configuration and it looked much like what the team was proposing today. One of their goals was to activate all of the edges by wrapping the four buildings around the corners. The buildings would not have a defined front or back so that all sides may be utilized. Mr. Manfredi said that they did not only look at how people would arrive to the site by foot, but also by car. He explained that it was a simple circular pattern with mostly right hand turns. He showed the Board the location and uses of the four buildings. The first floors in all of the buildings would be used for either retail or restaurants with the upper floors on two of the buildings being office space, the third building being residential space, and the fourth building containing the hotel.

Mr. Mikolaities of Appledore Engineering explained that they had dozens of meetings with City staff. He said that formal discussions with the City started in February. Since then they have gone before the Technical Advisory Committee, the Historic District Commission, the Parking Committee, and the Traffic and Safety Committee. He explained the three sets of plans before them this evening: the first plan showed the site as is, the second plan was the site plan, and the third plan was an access and easement plan. At this point in the meeting, Mr. Mikolaities walked the Board through the 50 stipulations recommended by the Technical Advisory Committee and informed them on the status of each one:

**1) That the connection to the Vaughn Mall shall be detailed and the applicant should attempt to make it more “seamless.”**

There was extensive discussion with Dave Desfosses concerning a particular crosswalk. They have agreed to tie that crosswalk into an existing crosswalk.

**2) That the applicant shall meet with Tom Cravens regarding water issues.**

A final meeting with Tom Cravens was held on June 7, 2007.

**3) That a detailed Construction Management Mitigation Plan shall be required, including demolition and the effect on City Streets. Said Plan must be approved prior to commencement of any demolition or construction on site.**

This will be completed prior to construction.

**4) That a plan of trash removal, including hours, shall be identified on the Site Plans.**

A letter was submitted by Waste Management on July 11, 2007 indicating when trash pick up would not occur. Mr. Mikolaities pointed out that there would be a utility room to the right of the garage exit where the receptacles would be located.

**5) That a detail showing the type/location for trash receptacles shall be added to the Site Plans.**

The same trash receptacles that the City uses will be used along the broad walk.

- 6) **That a plan delineating truck movements to access loading areas shall be submitted for review and approval by Deborah Finnigan.**  
They have provided for adequate truck traffic flow, particularly for loading and unloading. Mr. Mikolaities added that the new fire truck would be able to gain access to the site and that the Fire Department was satisfied with the plan.
- 7) **That all tip downs shall be identified that are located on private property and so noted on the Site Plans.**  
The applicant agreed to put in eight parking spaces on Deer Street. In addition, all tip downs have been identified on the Site Plan. Mr. Mikolaities said that there was an easement plan to accompany this detail.
- 8) **That the applicant shall coordinate with Gil Emery, City Communications Supervisor, regarding the use of a digit other than "9" for outside calls.**  
The applicant will continue to coordinate with Gil Emery.
- 9) **That testing shall be done at the expense of the applicant to determine whether a repeater needs to be installed and said analysis shall be coordinated with Gil Emery, City Communications Supervisor.**  
The applicant has agreed to the testing and to put in a repeater if needed.
- 10) **That any outdoor screening required by the State Liquor Commission shall require HDC review.**  
The outdoor seating areas will be alcohol free so no screening will be required. Individual tenants will be required to obtain the appropriate permits concerning alcohol.
- 11) **That the physical tie in, including the sidewalk, to the Vaughn Mall, as well as on the Maplewood side, shall be added to the Site Plans.**  
This stipulation ties in with stipulation #1.
- 12) **That the applicant shall report back on Mass Transit Facilities and accommodations for bicycles.**  
There will be three surface bicycle racks provided; one adjacent to the garage entrance on Hanover Street, the second one located adjacent to Harbor Hill Condos on Hanover St. and the last one located behind the proposed hotel. Another bike rack will be located in the underground parking garage. The existing bus stop is currently located across from the High Hanover garage.
- 13) **That the applicant shall review the Site Review Agreements and approved Site Plans for the Hilton Garden Inn so as to avoid and address any potential conflicts with prior stipulations.**  
A letter dated July 18, 2007 explained the termination of the existing easement. Mr. Mikolaities said that action would need to be taken by the Board to terminate the existing easement and to grant a new easement.
- 14) **That the applicant shall list all State and Federal permits on the Site Plans.**  
This has been completed and a list has been provided on the Overall Site Plan.
- 15) **That the applicant shall report on how they shall handle the closings of the private street for special events.**  
There has been extensive discussion about how the applicant shall handle the closing of the private street for special events. This is still ongoing.
- 16) **That a Memorandum of Understanding relative to the private street between the Police Department and the applicant shall be presented to the Planning Board for their July 19<sup>th</sup> meeting.**  
This is ongoing. A draft Memorandum of Understanding was submitted on July 11, 2007 with a meeting held on July 17, 2007.
- 17) **That the private right of way name and labeling of the right of way shall be approved by the Emergency Operation Center and Deputy Police Chief Len DiSesa.**  
The street name has not been determined but will be coordinated with the Emergency Operation Center and the Police Department.

- 18) **That a meeting shall be held with David Desfosses, David Allen, Peter Rice, Deborah Finnigan, Thomas Cravens and David Holden at DPW to discuss final details of the Site Plans.**  
There has been a follow up meeting with Dave Desfosses and Deb Finnigan but they will need to have a meeting with the entire Public Works staff to talk about the Construction Management Plan.
- 19) **That the signals at High Street and Deer Street where they meet Maplewood shall be shown on the Site Plans.**  
This has been completed.
- 20) **That a final paving and street marking plan shall be presented for final review to David Desfosses prior to the Planning Board meeting.**  
There has been discussion with Dave Desfosses regarding final paving, street markings, and tie- ins to utility connections.
- 21) **That a final electrical plan for street lighting on City property, showing where the electrical meter will be located, shall be reviewed and approved by David Desfosses.**  
An electrical plan has been provided to show how all of the light poles on City property would be connected.
- 22) **That the applicant review the on street parking and the transition in front of the Hill with David Desfosses.**  
This has been completed and has received a positive recommendation from the Parking Committee.
- 23) **That the applicant shall consider extended hours for one of their loading areas to accommodate tenants who are not open before 9:00 a.m.**  
The conclusion was that the loading time will remain from 6 – 9 a.m. The entire east side of the private way will be the loading area with posted signs.
- 24) **That the Left Turn Lane Sketch for Deer Street be further reviewed and approved by Deborah Finnigan.**  
This has been completed.
- 25) **That once construction is completed, all pavement markings shall be repainted on Deer Street, Maplewood Avenue and Hanover Street and if any roadway is damaged due to construction, it shall be repaired to City standards.**  
The applicant has agreed to complete this once construction is completed.
- 26) **That all crosswalks shall be City standard and so noted on the Site Plans.**  
The crosswalks in the City right-of-way will be to City standard and is noted on the Site Plan.
- 27) **That the three parking spaces near the relocated crosswalk need to be removed due to a 20' minimum requirement from sidewalk to parking stall.**  
The applicant has agreed to provide for 20 feet distance from the crosswalk and the next parking space on Hanover Street.
- 28) **That on Sheet C-6A, Note 4 shall be changed to require an 18" Stop Bar.**  
This has been completed and noted on the Site Plan.
- 29) **That the traffic control signs on the pedestrian paths shall be relocated as they are in the way of pedestrians.**  
Traffic signs have been relocated outside of pedestrian ways.
- 30) **On Sheet C-16 pavement markings need to be restriped in their entirety on Maplewood Avenue.**  
This has been completed and noted on the Site Plan.
- 31) **On Sheet C-7 the Left Turn Only sign should be moved closer to the inside of the garage.**  
This has been completed and noted on the Site Plan.
- 32) **That the right of way name should be added to the "street legend" on the site Plans.**  
This will be coordinated with the Emergency Operations Center and the Police Department.
- 33) **That the handicapped signs need to be labeled consistently in the Site Plan details.**  
This has been completed and noted on the Site Plan.
- 34) **On Sheet L-1B, the applicant should verify that the meter next to the light pole is acceptable and there is enough room for manholes and wires.**

- They have relocated all meters that are in the way of light poles.
- 35) **That a note shall be added to the Site Plans that all trees shall be a minimum of 5' from the ground to the bottom of the leaves.**  
This note has been added to the planting details.
- 36) **That all loop detectors shall be identified on the Site Plans and that when the curbing is reset around the entire block the applicant shall be responsible for replacing them.**  
This has been completed and noted on the Site Plan.
- 37) **That the applicant shall continue to work with PSNH and the City on the development of temporary power and the relocation of the switches.**  
A meeting was held on June 26, 2007 with PSNH and Dave Allen. The applicant continues to coordinate with them.
- 38) **That if the PSNH switches extend all the way across the street, then the applicant shall be responsible for paving the entire street section to avoid finger trenches.**  
This was associated with stipulation #37 and will be coordinated appropriately.
- 39) **That the fire service be upgraded to 8" and labeled as a fire service only on the Site Plans.**  
This has been completed and noted on the Site Plan.
- 40) **That the applicant meet with Peter Rice to review the grease trap locations and details to confirm appropriate covers and access.**  
A number of meetings were held with Peter Rice to address this.
- 41) **That every entrance where there is access to a fire alarm enunciator or fire alarm system shall require a knox box; and every building shall provide automatic notification for emergency forces.**  
The applicant will be coordinating these details with the Fire Department.
- 42) **That the cost of the traffic light at Market Street and Deer Street shall be shared between the applicant and those of the Westin project. The design and the construction shall be a City project and cost allocations shall be part of the agreement.**  
The applicant will be coordinating with the Westin project to discuss sharing the cost of the traffic signal at Market Street and Deer Street. Several memos were written: memo one dealt with that coordination, memo two dealt with traffic flow, and memo three dealt with what happens when the private way is closed. All of the memos were written when the applicant was going through the Traffic Safety process.
- 43) **That an independent consultant shall be retained to look at the timing and coordination of the Maplewood and Deer Street corridor and the cost shall be shared between the applicant and those of the Westin project.**  
An independent consultant will be brought in when both the Parade Office Mall and the Westin are in business.
- 44) **That the type of brick being used shall be coordinated with DPW to insure continuity.**  
A clay brick paver in herringbone pattern will be used and will be installed per city standard.
- 45) **That parking spaces in the indoor parking garage shall be identified as to which are contributing to the parking count and which can be dedicated for another non-public use, i.e. substandard size.**  
All of the parking spaces in the underground parking garage will meet city standards. They have excluded parking spaces (valet) that do not meet city standards. They have included parking for the outdoor seating area.
- 46) **That BOA and HDC approval may be required for public or private substations, to be considered as the plan further evolves.**  
They will address this if it is required.
- 47) **That all easements and licenses shall be approved as to content and form by the Planning Department and City Legal Department.**  
The Memorandum of Understanding will be finalized with the city.

- 48) That the TAC Committee recommends to the Planning Board that there should be a Memorandum of Understanding between the abutting properties and that the Planning Department and the City Legal Department will assist the parties.**  
An agreement has been reached between The Hill Condominium Association and Parade Office Mall.
- 49) That the Landscape Plan shall be reviewed and approved by the Planning Department Chief Planner.**  
The Landscape Plan and Details have been submitted to the Chief Planner.
- 50) That any trees on public property shall require review and approval by the City Trees and Greenery Committee.**  
The Landscape Plan and Details have been submitted to the Chief Planner.

In summary, Mr. Mikolaities stated that to date, 33 stipulations have been completed with 17 in the process of being completed. He added that there are a number of stipulations that relate significantly to one another so he felt that they were really down to about five stipulations that were yet to be completed.

Mr. Johnston indicated that that concluded their presentation. He added that they were hoping for an approval this evening and would answer any questions that the Board may have.

Mr. Coker commented that as a downtown resident, he was concerned with the contents of the Waste Management letter dated July 11, 2007. The letter stated that "Waste Management service personnel would service the building outside the peak hours of 7:00 – 9:00 a.m. and 4:00 – 7:00 p.m." He asked if that could mean prior to 7:00 a.m. Mr. Mikolaities replied yes, it could mean that and added that those specified hours were a specific requirement of TAC. Mr. Coker noted that there was no louder noise than a waste management truck picking up trash and urged Mr. Mikolaities to make a minor change to the hours to include not before 7 a.m.

Mr. Kinslow interjected and said that they will be using carts on wheels that will be rolled from a utility room out to an exit where the waste management truck will empty them.

Mr. Johnston stated that they were fine with adjusting the time to after 7 a.m. Mr. Holden pointed out that Mr. Coker had a good point. He added that the Waste Management letter indicated what the Technical Advisory Committee wanted but he felt that the letter could be amended so that the contractor acknowledges in writing what the city ordinance time requirements are. That was acceptable to Mr. Coker and Mr. Mikolaities.

Councilor Dwyer asked for clarification concerning the two left turn lanes from Russell Street onto Market St. for keeping traffic at acceptable levels. Mr. Mikolaities asked which left turn, before or after the Westin she was inquiring about. He said that if it was after the Westin, the second left would increase the level of service. If it was the turn before the Westin, it would just be what was approved with the Westin project. Councilor Dwyer asked that if the Westin does not get built, does this project require the two lefts after the 20 year increments. Mr. Marty Kennedy of VHB, Inc. said that their analysis showed that a traffic signal at Russell Street and Market Street was needed today and that they will operate like that acceptably in twenty years. Councilor Dwyer asked if the two lefts go with this project whether or not it comes before or after the Westin is built. Mr. Kennedy replied that was correct.

Mr. Coviello asked who would be responsible for plowing the private way. Mr. Mikolaities responded that there would be a Memorandum of Understanding regarding the plowing and maintenance of the private way. He added that the City will not be doing the snowplowing.

Mr. Coviello asked if the loops that would be added would be activated by bicycles as well. Mr. Mikolaities replied that he did not know but it was his understanding that anything that got disturbed would be replaced.

Mr. Coviello asked if they would be installing the new or current parking meter system. Mr. Mikolaities said that there would be no parking meters on the private way. He added that the city was going through a trial period with new meters and they would be using the same meters as the city.

Mr. Coviello asked if the brick would be real brick. Mr. Mikolaities replied yes.

Mr. Coviello asked if the underground parking would be public or private. Mr. Mikolaities said that it would be both public and private. Councilor Dwyer asked what the proportion of public to private spaces was. Mr. Mikolaities said that he did not have that answer.

Mr. Coviello thought that the plantings along Maplewood Avenue seemed sparse. He asked why. Mr. Mikolaities replied that they followed the city spacing on lighting and plantings. He thought that it may look different because the sidewalks are wider. Mr. Holden pointed out that the landscaping plan was subject to review by the Trees and Greenery Committee.

Mr. Coviello asked Mr. Mikolaities to comment on the memorandum regarding street closings. Mr. Holden interjected and said that the preparation of the Memorandum of Understanding was proceeding well and there was agreement on all of the principle procedures. Mr. Coviello asked if the applicant would have to go before a board to close it. Mr. Holden responded yes.

Councilor Dwyer asked what the thinking was about pedestrian safety on the broad walk. Mr. Mikolaities said that a lot of thought was given to the issue. He pointed out that the sidewalks are very wide. At both the entrance and the exit, the street narrows. The crosswalks will be textured as well. Mr. Manfredi interjected and said that the advantage to the street was that it had parallel parking. The parking would serve as a kind of fence as the pedestrians are funneled to the crosswalks.

Councilor Dwyer asked about the one story roof between the two office buildings. Mr. Manfredi replied that it would be occupied by office tenants. There would be pavers on it and it could serve as a food service area for employees of the two buildings.

Councilor Dwyer commented that we have a distinctive downtown that attracts lots of people. She said that we are now shifting the downtown to this area. She felt that a challenge that this project bears is that it will define Portsmouth. She asked how the project would communicate the distinctiveness of it. Mr. Manfredi responded by saying that this block of the city has a very significant obligation as it is a front door to the downtown. He said that they have taken it very seriously when designing the buildings. But he said that he felt her issue was more to the character of the retail. The retailing is not in place but what they would have was a scale of smaller shops that would be different than downtown. And there will be a true mix of different tenants. The storefronts are distinctive and create identity. There will also be spilling out onto the sidewalks to create an inviting atmosphere. He concluded by saying that it would be difficult to give a real answer at this time until they can come forward with a merchandising plan.

Ms. Hayden asked Mr. Mikolaities if he knew PSNH's timing on the substations and upgrades. Mr. Mikolaities said that they are currently working down by the Portsmouth Herald. He showed the Board on the site map where two switching stations would be located. He said that PSNH wants to do a combination of underground and above ground systems and they are progressing with the project.

Mr. Coker said that if he understands the parking calculation correctly, 1,072 spaces are being proposed. The parking spaces credits were 660 spaces. Mr. Holden explained that under the parking

credits, there is an initial parking credit for the entire development. He said that the Hilton Garden Inn paid in but the credits that remain on the lot still go with the lot. They have a built in credit.

Mr. Coker asked about the garage credit. Mr. Holden explained that if you create a covered parking space that is attached to a structure, the parking space that is created in that space is equivalent to three. If you provide 100 spaces, that would be equivalent to 300 spaces.

Mr. Coker asked about ground level credit. Mr. Mikolaities replied that the garage credit was 333 spaces so that was how they got the 999 spaces because it was covered parking. Ground level credit was 52 spaces. Mr. Coker said that the parking spaces that were required by the zoning ordinance were 1,072. He asked how many physical parking spaces would be in the garage and on the property itself. He said that if this was a public garage but because of parking credits there are only 300 spaces provided, he was having a hard time understanding how the public would every have access to it. Mr. Mikolaities replied that there would be 333 spaces in the garage and 52 spaces on site on the ground. Mr. Kinslow explained that what Mr. Coker was talking about was a zoning requirement which parks every use up to the anticipated amount. In a mixed use environment, there is a switch over that takes place. Some of the uses will need more parking at certain times when others will not. He pointed out that office parking will not be needed on nights and weekends when restaurant and retail establishments will be utilizing a higher volume of parking. He also added that there are times when hotel occupancy is down. In addition, there are no restaurants or meeting spaces in the hotel to add volume. When demand goes down with one use, it goes up with another use. Mr. Kinslow reiterated that the parking is at City standards. Mr. Coker thanked him for his explanation.

Mr. Holden added to Mr. Kinslow's explanation. He said that in no downtown is there one to one parking required. Prior to 1985, the city did not require any parking. Now, in the downtown, each parking space will assume three uses. He added that under the ordinance, the applicant meets all of the requirements. Mr. Coker said he was just looking at the bigger picture with the development of the Portsmouth Herald building coming in the near future. He felt that they were going to find themselves one day with no parking. Mr. Holden said that that was a valid concern. He felt that Portsmouth was a rather unique city where they have gone out of their way to create public parking. Not many municipalities of their size have an almost 1,000 car parking garage.

Mr. Coviello asked if the parking garage would require a fee. Mr. Johnston replied that it would be paid parking. Mr. Coviello asked if the fee would be similar to what the City charges. Mr. Johnston said that they would charge the market rate. Mr. Holden explained that it is private money going into a private facility but it is available to the public. He added that this was not a City issue. Deputy City Manager Hayden added that she thought the developer would probably want to market to the tenants that are going to want to park on site.

Mr. Will said that he has been against a parking impact fee, however, he feels more comfortable knowing that the use of the buildings will have multiple uses and that there will be different uses for the parking as well.

Councilor Dwyer said she thought the Board should meet with the Economic Development Committee to talk about these larger issues from a policy standpoint as it relates to other projects in the future.

Chairman Ricci asked who the 20 to 30 spaces on the private street were for. Mr. Mikolaities said they would be public spaces but would be controlled by the applicant.

Chairman Ricci asked if there were any more questions for the applicant. Hearing none, he asked if anyone from the public wished to speak to, for, or against the application.

Ms. DeStefano, speaking as a private citizen, of 130 Clinton Street, stated that included in the Board's packages were twelve letters from people, business as well as residential, in support of the project.



Mr. Corey Colwell of 403 The Hill, a direct abutter, spoke in support of the application. He stated that he was speaking as the representative of The Hill Unit Association. It is a twelve unit condominium association. He said that initially they had concerns about visibility, access, and parking and expressed those concerns to Mr. Johnston. To date, they have had several meetings and the Association feels confident that this will be a fantastic process and they enthusiastically endorse it.

Mr. Fred Cotella of Points Nor'east Properties, 400 The Hill, stated that he wished to support the Parade Office Mall project. He said that the developers have demonstrated their good intentions with the Hilton Garden Inn. He added that he hoped the Board would approve the project.

Ms. Kathy Rush of Prudential Rush Realty said she was a direct abutter and was speaking in support of the project. She added that she was enthusiastic about the underground parking, the increased traffic flow, and the aesthetic value to the area.

Ms. Leanne Speads, Manager of the First National Bank of Ipswich at 77 Hanover Street spoke in favor of the project. She felt that the retail shops, offices, and hotel would expand the tax base. She was also excited about the vitality it will bring to the Northern Tier.

Mr. Ryan Baker of 445 Ocean Road expressed his support. As someone who likes to go downtown to enjoy the restaurants and shops, he thought this project would be a great addition to the town and would tie everything together.

Mr. Bob Reynolds, no address given, stated that he was not for or against the project but instead had a question. He asked who was paying for the garage. Mr. Holden responded that it would be owned and operated by the applicant. Mr. Reynolds responded by saying that was the best news he had heard all week.

Mr. Richard Johnson, a resident of Nobles Island spoke about the project. He said the mixed uses of the buildings would enhance his views. He added that he works for Cabot House and the owner offers his support as well.

Mr. Arthur Garretson of 77 Hanover Street stated that he appreciated the time that was put into the project. He said that he was excited about the project because it would create a wonderful city block. He pointed out that the Historic District Commission put numerous hours into the design review and felt they did a thorough job.

Mr. Bill Eley of 188 Dennett Street had a concern about sewage and water. He said that the current system is inadequate. He added that in six days, the City of Portsmouth will be out of conformance regarding the permitting of the Peirce Island treatment station. He explained that the City received a waiver in 1985 and was given 10 years to address it. Mr. Eley said that the City has applied for another waiver and as of August 1, the City will be out of compliance with the law and so he was wondering how the Board could approve this dramatic expansion downtown with these issues. He complimented the developers for proposing a quality project. In summary, Mr. Eley thought that the brick façade on the Hilton was beautiful and he hoped that that could be duplicated on the proposed buildings.

Mr. John Doucy, one of the new owners of the Sports Page at 172 Hanover Street spoke in favor of the project. He said that he applauded the Board and the development team for a strong approach to the site. He also thanked the team for being open to discuss their concerns.

Chairman Ricci asked if anyone else from the public wished 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. Coviello asked if Mr. Parkinson would come forward to answer some questions.

Mr. Coviello said that it was his understanding that the sewage plant did not have a capacity problem. He asked Mr. Parkinson if that was correct. Mr. Parkinson replied that the current plan has capacity to handle flow. He said that they are currently in negotiations with the EPA on their permit to determine how and when they need to proceed in the future. There are a lot of issues with the plant but there was no capacity problem.

Deputy City Manager Hayden asked if the capacity system of the water plant was adequate as well. Mr. Parkinson replied yes.

Mr. Coker asked if the City would be in non-compliance on August 1. Mr. Parkinson said that the City's permit ran out a number of years ago and so they have been operating under an application process with the EPA for many years. With that current permit, they will continue to operate until the EPA should issue a directive or a direction for the city to go. Mr. Parkinson said that on August 1 nothing changes as they will still be operating under the old permit.

Chairman Ricci asked if the four traffic memorandums with their conditions and recommendations have been incorporated into the site plan. Mr. Parkinson said that there were a number of stipulations from Traffic and Safety dealing with intersections and lighting and controls. He advised that they include what was required from Traffic and Safety.

Mr. Holden said that he had some comments that might assist the Board with a motion. He said that they might want to add the stipulation that the Waste Management letter reflect the City Ordinance. He also asked Mr. Mikolaities if he was okay with adding the stipulation that the loading area off of Garden Way be shown on The Hill plan. Mr. Mikolaities replied that he was agreeable to that. Lastly, Mr. Holden indicated that the recommendations of the Traffic and Safety Committee should be included as well.

Mr. Coker made a motion to approve the application as presented with the 50 TAC stipulations and the following three additional stipulations:

- 1) That the letter dated July 11, 2007 from Waste Management be revised to reflect the City's noise regulations;
- 2) That the loading area off of Garden Way be reflected on The Hill Site Plan;
- 3) That the recommendations of the Traffic & Safety Committee be included as part of this approval.

The motion was seconded by Deputy City Manager Hayden. Chairman Ricci asked for discussion.

Mr. Coviello stated that he would like to add a stipulation that more trees be added to the plan, as directed by the Trees and Greenery Committee. Mr. Coker said he was fine with the addition.

Councilor Dwyer said that she would urge a more contemporary use of landscaping to create distinctiveness of the site. Chairman Ricci said that her request would fall under Mr. Coviello's stipulation.

Chairman Ricci called for the vote. The motion to approve Site Review Approval with the following stipulations passed by a unanimous (9-0) vote.

**Stipulations from the July 3, 2007 Technical Advisory Committee Meeting:**

- 1) That the connection to the Vaughn Mall shall be detailed and the applicant should attempt to make it more “seamless”;
- 2) That the applicant shall meet with Tom Cravens regarding water issues;
- 3) That a detailed Construction Management Mitigation Plan shall be required, including demolition and the effect on City Streets. Said Plan must be approved prior to commencement of any demolition or construction on site;
- 4) That a plan of trash removal, including hours, shall be identified on the Site Plans;
- 5) That a detail showing the type/location for trash receptacles shall be added to the Site Plans;
- 6) That a plan delineating truck movements to access loading areas shall be submitted for review and approval by Deborah Finnigan;
- 7) That all tip downs shall be identified that are located on private property and so noted on the Site Plans;
- 8) That the applicant shall coordinate with Gil Emery, City Communications Supervisor, regarding the use of a digit other than “9” for outside calls;
- 9) That testing shall be done at the expense of the applicant to determine whether a repeater needs to be installed and said analysis shall be coordinated with Gil Emery, City Communications Supervisor;
- 10) That any outdoor screening required by the State Liquor Commission shall require HDC review;
- 11) That the physical tie in, including the sidewalk, to the Vaughn Mall, as well as on the Maplewood side, shall be added to the Site Plans;
- 12) That the applicant shall report back on Mass Transit Facilities and accommodations for bicycles;
- 13) That the applicant shall review the Site Review Agreements and approved Site Plans for the Hilton Garden Inn so as to avoid and address any potential conflicts with prior stipulations;
- 14) That the applicant shall list all State and Federal permits on the Site Plans;
- 15) That the applicant shall report on how they shall handle the closings of the private street for special events;
- 16) That a Memorandum of Understanding relative to the private street between the Police Department and the applicant shall be presented to the Planning Board for their July 19<sup>th</sup> meeting;
- 17) That the private right of way name and labeling of the right of way shall be approved by the Emergency Operation Center and Deputy Police Chief Len DiSesa;
- 18) That a meetings shall be held with David Desfosses, David Allen, Peter Rice, Deborah Finnigan, Thomas Cravens and David Holden at DPW to discuss final details of the Site Plans;
- 19) That the signals at High Street and Deer Street where they meet Maplewood shall be shown on the Site Plans;
- 20) That a final paving and street marking plan shall be presented for final review to David Desfosses prior to the Planning Board meeting;
- 21) That a final electrical plan for street lighting on City property, showing where the electrical meter will be located, shall be reviewed and approved by David Desfosses;
- 22) That the applicant review the on street parking and the transition in front of the Hill with David Desfosses;
- 23) That the applicant shall consider extended hours for one of their loading areas to accommodate tenants who are not open before 9:00 a.m.;
- 24) That the Left Turn Lane Sketch for Deer Street be further reviewed and approved by Deborah Finnigan;
- 25) That once construction is completed, all pavement markings shall be repainted on Deer Street, Maplewood Avenue and Hanover Street and if any roadway is damaged due to construction, it shall be repaired to City standards;
- 26) That all crosswalks shall be City standard and so noted on the Site Plans;

- 27) That the three parking spaces near the relocated crosswalk need to be removed due to a 20' minimum requirement from sidewalk to parking stall;
- 28) That on Sheet C-6A, Note 4 shall be changed to require an 18" Stop Bar;
- 29) That the traffic control signs on the pedestrian paths shall be relocated as they are in the way of pedestrians;
- 30) On Sheet C-16 pavement markings need to be restriped in their entirety on Maplewood Avenue;
- 31) On Sheet C-7 the Left Turn Only sign should be moved closer to the inside of the garage;
- 32) That the right of way name should be added to the "street legend" on the site Plans;
- 33) That the handicapped signs need to be labeled consistently in the Site Plan details;
- 34) On Sheet L-1B, the applicant should verify that the meter next to the light pole is acceptable and there is enough room for manholes and wires;
- 35) That a note shall be added to the Site Plans that all trees shall be a minimum of 5' from the ground to the bottom of the leaves;
- 36) That all loop detectors shall be identified on the Site Plans and that when the curbing is reset around the entire block applicant shall be responsible for replacing them;
- 37) That the applicant shall continue to work with PSNH and the City on the development of temporary power and the relocation of the switches;
- 38) That if the PSNH switches extend all the way across the street, then the applicant shall be responsible for paving the entire street section to avoid finger trenches;
- 39) That the fire service be upgraded to 8" and labeled as a fire service only on the Site Plans;
- 40) That the applicant meet with Peter Rice to review the grease trap locations and details to confirm appropriate covers and access;
- 41) That every entrance where there is access to a fire alarm enunciator or fire alarm system shall require a knox box; and every building shall provide automatic notification for emergency forces;
- 42) That the cost of the traffic light at Market Street and Deer Street shall be shared between the applicant and those of the Westin project. The design and the construction shall be a City project and cost allocations shall be part of the agreement;
- 43) That an independent consultant shall be retained to look at the timing and coordination of the Maplewood and Deer Street corridor and the cost shall be shared between the applicant and those of the Westin project;
- 44) That the type of brick being used shall be coordinated with DPW to insure continuity;
- 45) That parking spaces in the indoor parking garage shall be identified as to which are contributing to the parking count and which can be dedicated for another non-public use, i.e. substandard size;
- 46) That BOA and HDC approval may be required for public or private substations, to be considered as the plan further evolves;
- 47) That all easements and licenses shall be approved as to content and form by the Planning Department and City Legal Department;
- 48) That the TAC Committee recommends to the Planning Board that there should be a Memorandum of Understanding between the abutting properties and that the Planning Department and the City Legal Department will assist the parties;
- 49) That the Landscape Plan shall be reviewed and approved by the Planning Department Chief Planner;
- 50) That any trees on public property shall require review and approval by the City Trees and Greenery Committee;

**Stipulations from the July 26, 2007 Planning Board Meeting:**

- 51) That the letter dated July 11, 2007 from Waste Management be revised to reflect the City's noise regulations;
- 52) That the loading area off of Garden Way be reflected on The Hill Site Plan;

- 53) That the recommendations of the Traffic & Safety Committee be included as part of this approval and are as follows:
  - a. That the Police Private Street Enforcement Agreement and Memo of Understanding For Closing Off The Private Street will be completed and approved by the City.
  - b. That the four items from page 1 of Attorney Somers' letter are included in this approval (see attached letter dated June 28, 2007 and this letter was read in its entirety into the minutes beginning on page 4)
  - c. In the event that a site plan presented by the Hill Condominiums Association and which depicts a truck loading area serving the Hilton Garden Inn and the Hill Condominium fails to obtain approval, then Parade Office, LLC shall present an alternative truck loading plan for review by the Traffic & Safety Committee, which shall be a proposal to resolve truck delivery issues which exist on Garden Way.
  - d. The loss of parking spaces on Hanover Street as well as the additional spaces on Deer St. is referred to Parking Committee for approval.
- 54) That the Trees & Greenery Committee shall be involved in the Landscaping Plan.

Chairman Ricci commended the applicant for presenting a thorough application.

Mr. Holden stated that another vote was needed regarding the easement. He said that the Planning Department recommends that the existing condition on the Hilton Garden Inn should be superseded by this approval.

Mr. Mikolaities pointed out the area to the Board on the easement plan. He read the stipulation from the last approval to refresh the Board's memory.

Mr. Coker said that he would like to make the approval subject to legal review. Mr. Holden told him that the legal department was aware of it.

Attorney Alec McEachern stated that to his knowledge, the easement would be granted to the City for the sidewalk on the applicant's property along Deer Street. The other easements involved with the project were private easements and were internal to the project.

Mr. Holden explained that the only easement in question for the Board was the condition put on the Hilton Garden Inn and was reviewed by TAC and Traffic and Safety. They are making a formal acknowledgement that the condition placed on the Hilton Garden Inn is now superseded by this approval.

Deputy City Manager Hayden made a motion to recommend that the easement placed on the Hilton Garden Inn be superseded by this approval. The motion was seconded by Ms. Roberts. Chairman Ricci asked for discussion.

Mr. Coker said that he did not remember the specifics of the easement. Mr. Holden suggested that the maker of the motion recommend that it be reviewed and approved by the Legal Department. That was acceptable to Deputy City Manager Hayden. Chairman Ricci asked if there was any further discussion. Hearing none, he called for the vote.

The motion to recommend that the easement placed on the Hilton Garden Inn be superseded by this approval, subject to review and approval of the Legal Department, passed by a unanimous (9-0) vote.

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Chairman Ricci asked the Board if they would be agreeable to taking item B of Old Business out of order and hearing it next.

Mr. Will made a motion to take the application out of order. The motion was seconded by Deputy City Manager Hayden. The motion passed by a unanimous (9-0) vote.

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**OLD BUSINESS**

B) 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. Relevant materials are available for public inspection in the Planning Department;

Mr. Holden stated that the applicant requested that the application be tabled to the August 16, 2007 meeting.

Mr. Will made a motion to table the application of Borthwick Forrest, LLC to the August 16, 2007 meeting. The motion was seconded by Mr. Coker. The motion passed by a unanimous (9-0) vote.

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D. The application of **David F. Mahoney Marital Qtip Trust, Owner, and Granite State Minerals, Applicant**, for property located at **227 Market Street**, wherein in Site Review approval was requested to relocate an existing 24’ x 58’ scale building and to install a second scale, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 119 as Lot 6 and lies within the Waterfront Industrial (WI) District;

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Attorney Bernard Pelech, Mr. Bill Creighton, General Manager of Granite State Minerals, and Steve Miller, site engineer, were present to speak to the application. Attorney Pelech stated that the project began in April and in May they received Board of Adjustment approval to install a second weighing scale and to move the existing scale house from one side of the property to the other. He said that the reason for the second scale was a change in regulations of the Bureau of Weights and Measures. Trucks now need to be weighed when empty and again when full.

Attorney Pelech said that they appeared before the Technical Advisory Committee who placed eight stipulations on the project. He ran down the list for the Board:

- 1) **That the applicant shall comply with the Site Review Regulations. See Page 5 which lists a minimum of 16 items that should be included.**  
This stipulation was tied to stipulation #8 and he has since had a meeting with Mr. Holden and Ms. Tillman to make sure that all of the requirements were specified on the plans.
- 2) **That the applicant add the drainage easement for the drainage pipe to the Site Plans, and that they work with the City Attorney to have appropriate language so that the City would not be responsible for relocating the scale, which is located over the easement, should any work be required by the City.**  
That has been added.
- 3) **That the applicant shall schedule a meeting with Deborah Finnigan to discuss traffic patterns coming in and going out of the site, as well as truck turns, prior to the Planning Board meeting.**

- A meeting has occurred at the site and Ms. Finnigan has endorsed the plan.
- 4) **That the edge of the Piscataqua River should be identified on the Site Plan (i.e. high tide line or low tide line).**  
That has now been shown on the site plan.
  - 5) **That the two water services need to be identified on the Site Plans, that the shut offs need to be added and the rest of the line needs to be shown on the Site Plans.**  
That has been completed.
  - 6) **That the proposed electric and telephone services shall be underground and added to the Site Plans.**  
That has been completed.
  - 7) **That the applicant will be responsible for upgrading the sidewalk in front of the site.**  
Attorney Pelech stated he would like to have further discussion on this following the review of the stipulations.
  - 8) **That the applicant shall meet with Mr. Holden and Ms. Tillman to review the revised Site Plans prior to the Planning Board meeting.**  
This stipulation tied in with #1 and the meeting has taken place.

Attorney Pelech spoke to stipulation #7. He said that the City, at their expense, is upgrading the sidewalks on Market Street down to the Granite State Minerals site. Attorney Pelech explained that he did not feel that this should be an expense of Granite State Minerals since they do not use the sidewalk nor does anyone else doing business at Granite State Minerals. He said he could not understand why the City would not do it since they are planning to continue the sidewalk down to the State Pier. In addition, he pointed out that with the new Westin project, there will be a lot of construction at the corner of Market Street and Deer Street. He stated that Granite State Minerals would be willing to give a contribution toward it but he asked that stipulation #7 be amended or removed.

Chairman Ricci asked if anyone had any questions.

Mr. Coker asked why, from the City's perspective that Granite State Minerals should pay for the sidewalk. Mr. Holden replied that when an applicant does a project of this nature, they would make sure that the sidewalk was reconstructed. In this case, he agreed with Attorney Pelech. He said if the Board wished to amend it, one way to do that might be to consider changing the wording from "upgrading" the sidewalk to "reconstructing" the sidewalk where it is damaged.

Mr. Coker stated that Attorney Pelech said they would be willing to give a contribution toward it. Mr. Holden said that it was whatever the Board wished. He said that there was going to be a fair amount of work done in that area in the near future.

Attorney Pelech commented that they were thinking of a percentage of whatever the cost would have been and had settled on 25% of that cost. Mr. Holden felt that was a good deal and that Granite State Minerals has stepped up to the plate. He said that Attorney Pelech could speak to Department of Public Works if this was the way the Board wanted to deal with it.

Mr. Coviello asked if there was any site lighting involved. Attorney Pelech replied that there was none proposed, only the one light that is currently mounted on the side of the building.

Mr. Coviello asked if the front entrance was gated. Attorney Pelech replied that there was no unobstructed access.

Chairman Ricci asked if there were anymore questions for the applicant. Hearing none, 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. Will made a motion to approve the application with the seven TAC stipulations and one amended stipulation: The motion was seconded by Mr. Coviello. Chairman Ricci asked for discussion.

Mr. Coviella asked to include the stipulation that the site lighting will conform to the site review regulations. That addition was acceptable to Mr. Will.

Hearing no more discussion, the Chairman called for the vote.

The motion to approve the application with the following stipulations passed by a unanimous (9-0) vote:

**Stipulations from the July 3, 1007 Technical Advisory Committee Meeting:**

- 1) That the applicant shall comply with the Site Review Regulations. See Page 5 which lists a minimum of 16 items that should be included;
- 2) That the applicant add the drainage easement for the drainage pipe to the Site Plans, and that they work with the City Attorney to have appropriate language so that the City would not be responsible for relocating the scale, which is located over the easement, should any work be required by the City;
- 3) That the applicant shall schedule a meeting with Deborah Finnigan to discuss traffic patterns coming in and going out of the site, as well as truck turns, prior to the Planning Board meeting;
- 4) That the edge of the Piscataqua River should be identified on the Site Plan (i.e. high tide line or low tide line);
- 5) That the two water services need to be identified on the Site Plans, that the shut offs need to be added and the rest of the line needs to be shown on the Site Plans;
- 6) That the proposed electric and telephone services shall be underground and added to the Site Plans;
- 7) That the applicant shall meet with Mr. Holden and Ms. Tillman to review the revised Site Plans prior to the Planning Board meeting.

**Stipulations from the July 26, 2007 Planning Board Meeting:**

- 8) That the applicant shall meet with representatives of DPW regarding replacement of the sidewalk and shall be responsible for 25% of the cost of the sidewalk replacement;
- 9) That all site lighting shall conform to the Site Review Regulations.

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E. The application of **C. Frederick Lowell and Alfred J. McElaney, Owners**, for property located at **62 Deer Street**, and **The Hill Condominium Association, Owners**, for property located **off Deer Street**, wherein Site Review approval was requested for the installation of a trench drain to facilitate site drainage, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 118 as Lots 26 and 27 and lies within the Central Business B (CBB) District, the Historic District A and the Downtown Overlay District (DOD);

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Mr. Corey Colwell of AMES, MSC spoke on behalf of the applicant. He said that the proposal was to construct new drainage improvements at 62 Deer Street and on the property of The Hill Condominium Association. He pointed out that Mr. Lowell's lot was not part of The Hill. It was a separate lot.



Mr. Colwell explained the submitted plans to the Board. He said that Page 1 was the drainage unit plan and it proposed an easement encompassing the proposed improvements. The easement would be over land of The Hill Condominium Association and it would benefit Mr. Lowell. The plan would be recorded at the Rockingham County Registry of Deeds.

Page 2 showed what they would like to do. They plan to construct a channel drain north of the property line between the Lowell property and The Hill property. Mr. Colwell explained in detail how the drain would work. He added that what was happening was that storm water was running down from a brick courtyard, down a brick sidewalk and running into Mr. Lowell's basement. He said that the trench drain is designed to intercept that flow before it gets to the basement and divert it back into the catch basin and then into the city system. Page 3 showed the details of the channel drain.

Mr. Colwell pointed out that the project was approved at the Technical Advisory Committee meeting with one stipulation explaining that their review was limited solely to the drainage and that no other issues were considered.

Chairman Ricci asked if there were any questions for the applicant.

Chairman Ricci asked Mr. Colwell if he had looked at the capacity of what would be going into the trench drain. Mr. Colwell said yes, and they have met with Dave Allen and they see no problems.

Ms. Hayden stated that the brick walkway was owned by The Hill. She asked if there was any stipulation regarding any possible damage to that during installation. Mr. Colwell replied that in conjunction to an easement deed, they are doing a Memorandum of Understanding between Mr. Lowell and The Hill and that will be spelled out in it. Deputy City Manager Hayden wondered if the Planning Department should have a copy of that agreement. Mr. Holden replied that it was really an agreement between the two parties but it would be helpful to have a copy for the file.

Mr. Holden asked if the pervious surface on the Lowell lot and The Hill lot has contributed to the drainage problem. Mr. Colwell replied no. He explained that the new pavement flows away from the Lowell property and so it was not a contributing factor. The courtyard was the problem. Deputy City Manager Hayden asked if this has always been an issue. Mr. Colwell said no, that when an elevator was put into the Lowell building, the excavation opened up areas for water to get in.

Mr. Coker asked about litigation on the property. Mr. Colwell explained that he understood that there was some litigation regarding access on the Lowell property. He wanted the Board to know that this drainage has nothing to do with that access.

Chairman Ricci asked if there were any more questions. Hearing none, 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. Coviello made a motion to approve the application as presented with the TAC stipulations: Deputy City Manager Hayden seconded the motion.

The motion to grant Site Review Approval with the following stipulations passed by a unanimous (9-0) vote:

**Stipulations from the July 3, 2007 Technical Advisory Committee Meeting:**

- 1) That the review of this Committee is limited solely to the drainage and no other details were considered;
- 2) That a note be added to the Site Plan confirming #1 above.

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F. The application of **85 Heritage Avenue Holdings, LLC, Owner, and Mike MacDonald, Applicant**, for property located at **85 Heritage Avenue**, wherein Site Review approval was requested to modify the existing building by increasing the gross floor area from 7,200 s.f. to 9,000 s.f. by adding a second floor to the northern half of the interior of the building, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 285 as Lot 5 and lies within the Industrial District;

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Mr. Dirk Grotenhuis, of Kimball Chase, spoke to the application. He stated that they would like to modify the internal structure of the building by adding a second floor. The square footage would increase from 7,200 square feet to 9,000 square feet. He said that by adding a second floor, it required a second means of egress. An external stairway and landing will be added to the building.

Mr. Grotenhuis said that parking has increased since the approval in 1992. They currently have 8 spaces and have delineated 11 additional spaces and one ADA compliant space on the plans. He said that they have also updated the current conditions of the site plan. He added that there are no drainage issues.

Chairman Ricci asked if there were questions for the applicant.

Mr. Coker stated that there were no details on Lot 4 or Lot 12, which are on both sides of this lot. He asked there were any wetlands on those lots. Mr. Grotenhuis said that he did not see any but they are not making any external changes along the property lines. Mr. Coker asked the staff if they were aware of any wetlands on either lot. Mr. Holden replied no, not jurisdictional ones.

Deputy City Manager Hayden asked if there was a tip down into the new handicapped space. Mr. Grotenhuis replied that it was at grade.

Chairman Ricci asked if there were any more questions for the applicant. Hearing none, 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. Coviello made a motion to approve the application with the TAC stipulations: Mr. Coker seconded the motion.

The motion to approve Site Review Approval with the following stipulations passed by a unanimous (9-0) vote:

**Stipulations from the July 3, 2007 Technical Advisory Committee Meeting:**

1. That a sidewalk be provided from the bottom of the emergency stairwell to the nearest paved area and added to the Site Plans;
2. That the applicant provide the Planning Board with full size site plans;
3. That the side and front set backs shall be added to the plans to confirm that the stairs meet the zoning requirements.

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G. The application of **Bellwood Associates Limited Partnership, Owner**, for property located at **2300 Lafayette Road**, wherein Site Review approval was requested for the installation of a new water park slide and pool, with related paving, utilities, landscaping, drainage, and associated site improvements. Said property is shown on Assessor Plan 273 as Lot 5 and lies within the General Business and Industrial District;

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

Mr. Dick Samuels of Bellwood Associates spoke to the application. He stated that he was seeking approval to install a new water slide called The Tornado. The site plan showed that it was a funnel shaped tube, four person water slide. It would also include the pump and filter, walkways, and landscaping.

Chairman Ricci asked if there were questions for the applicant.

Chairman Ricci asked if the applicant had met with NHDOT. Mr. Samuels replied yes and that they said that they cannot do anything at this time since they were not impacting the driveway. Mr. Samuels said that they would be willing to grant an easement when the issue arises.

Mr. Coviello asked how the Planning Department addresses parking in regards to an increase in amusements. Mr. Holden said that the applicant has overflow parking and they currently have a surplus of parking. He continued to say that they would be talking with the City's Zoning Consultant on how to handle it in the future. Ms. Tillman added that they did take one amusement away last fall.

Chairman Ricci asked if there were any more questions for the applicant. Hearing none, 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. Coviello made a motion to approve the application with the three TAC stipulations. Vice Chairman Hejtmanek seconded the motion.

The motion to approve Site Review Approval passed with the following stipulations by a unanimous (9-0) vote:

**Stipulations from the July 3, 2007 Technical Advisory Committee Meeting:**

1. That the applicant's site engineer shall contact NHDOT to verify whether land is needed at Division Six in Concord, in anticipate of the widening of Route One;
2. That the Site Plans shall show where the gate is on the fence and that a sign be posted stating it is for employees only.

- 3. That the applicant’s site engineer show the hydrant on the plan and coordinate with the water department for the installation;

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I. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 500 of the Pease Development Authority Subdivision Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **177 Corporate, LLC, Applicant**, for property located at **177 Corporate Drive**, wherein Preliminary and Final Subdivision approval is requested with the following: Proposed Lot 1 having an area of 5.001± acres (217,859 ± s.f.) and 648’ of continuous street frontage off Corporate Drive; and the remaining land area being decreased by 5.001 ± acres and constituting a portion of the Tradeport. Said lot lies within a Business/Commercial District where a minimum lot area of 5.0 acres and 200’ of continuous street frontage is required. Said property is shown on Assessor Plan 314, as Lot 0001. (Plat plans are on file in the Planning Department Office and are identified as #08-01-07).

J. The Portsmouth Planning Board, acting pursuant to NH RSA 12-G:13 and Chapter 400 of the Pease Development Authority Site Review Regulations, will review and make a recommendation to the Board of Directors of the Pease Development Authority regarding the following: The application of **177 Corporate Drive, LLC, Applicant**, for property located at **177 Corporate Drive**, wherein site review approval is requested for the construction of a 10,400 ± s.f. 1+ story building, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 314 as Lot 0001 and lies within a Business/Commercial District;

The Chair read both notices for the record. He explained that they would discuss them together but would vote on them separately.

**SPEAKING TO THE APPLICATION:**

Mr. Gregg Mikolaities of Appledore Engineering spoke to the application. He stated that they are constructing a building for themselves. It will be on a five acre parcel of land. There is a wetland on the property but they have maintained the 100 foot buffer from that wetland. They are proposing a 10,400 square foot building. He added that they plan to incorporate some site design features in the project. They are working with the UNH Stormwater Center and plan to bring in a gravel wetland and will be doing porous pavement on half of the parking lot. They will monitor both and hope to share the features with their clients.

Mr. Mikolaities explained that it would be a one story residential type, shingle style building. They are going for LEEDS points and they are between 25-30 LEEDS points currently. It will be a very energy efficient, green building.

Mr. Mikolaities stated that there were four stipulations that came from the July TAC meeting. He explained to the Board where they were in regards to meeting the stipulations:

- 1. **That the applicant shall work out a sidewalk contribution with the PDA regarding the sidewalk that is already constructed in front of their site.**  
They are working with Maria Stowell on this.
- 2. **That the applicant shall contact Scott Hilton at DES to verify whether the existing monitoring well is active. If it is not being used, that it should be properly decommissioned.**  
There was some confusion at TAC about this one. The “M” identified a manhole cover.
- 3. **That the applicant make an appropriate contribution to the transportation fund at the PDA.**  
They plan to make a contribution to the transportation fund.

**4. That automatic notification of emergency services and a knox box shall be added to the Site Plans.**

This has been completed.

Mr. Mikolaities said that they planned to start construction this fall and move in next June.

Chairman Ricci asked if there were any questions for the applicant.

Mr. Coviello asked what the history of the site was. Mr. Mikolaities replied that there used to be four buildings on the site. Mr. Coviella said that he worked on a site in the area that had a problem with the soil contamination. Mr. Mikolaities said that they did a study and theirs came back clean.

Mr. Hopley asked what the “one plus story” meant on the plans. Mr. Mikolaities said that they would have a partial second floor that would contain a yoga room for employees.

Mr. Coker asked Mr. Hopley that when buildings are built at Pease, does the City still do the same inspections. Mr. Hopley replied yes. Mr. Holden added that when they go through the TAC process, it is a vigorous one with Pease Development Authority.

Chairman Ricci asked if the monitoring of the design features would be a partnering effort with UNH. Mr. Mikolaities said that plans are still evolving but yes, they will be monitoring it. Chairman Ricci said he would be curious to get feedback on the design features.

Chairman Ricci asked if there were any more questions for the applicant. Hearing none, 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**

**Subdivision Application:**

Mr. Will made a motion to recommend Preliminary and Final Subdivision approve as presented. Deputy City Manager Hayden seconded the motion. There was no discussion.

The motion to approve Preliminary and Final Subdivision Approval passed by a unanimous (9-0) vote.

**Site Review Application:**

Mr. Will made a motion to recommend approval of the Site Review application with the TAC stipulations. Mr. Coviello seconded the motion. There was no discussion.

The motion to recommend approval of Site Review approval with the following stipulations passed by a unanimous (9-0) vote.

**Stipulations from the July 3, 2007 Technical Advisory Committee Meeting:**

- 1) That the applicant shall work out a sidewalk contribution with the PDA regarding the sidewalk that is already constructed in front of their site;
- 2) That the applicant shall contact Scott Hilton at DES to verify whether the existing monitoring well is active. If it is not being used, that it should be properly decommissioned.
- 3) That the applicant make an appropriate contribution to the transportation fund at the PDA;
- 4) That automatic notification of emergency services and a knox box shall be added to the Site Plans.

Mr. Will commented that this would be his last PDA application.

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**III. NEW BUSINESS**

- A. Request for One Year Extension of Preliminary Subdivision approval granted on July 20, 2006 for property located at 235 Commerce Way;

Mr. Holden explained that the request was received in a timely fashion and this was their first request. He added that the big condition outstanding with this project is how Commerce Way will be upgraded.

Mr. Will made a motion to approve the one year extension of the Preliminary Subdivision approval. The motion was seconded by Mr. Coviello. There was no discussion.

The motion to approve a one year extension of Preliminary Subdivision Approval passed by a unanimous (9-0) vote.

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**IV. OLD BUSINESS**

- A. Proposed amendment to the City’s 1995 Zoning Ordinance, as amended, as it relates to the following section: Nonresidential Planned Unit Development (NR-PUD) which would function as an overlay in the Office Research (OR) and Industrial (I) Districts;

Chairman Ricci stated that the Board would not be taking public comment this evening.

Mr. Holden said that after receiving the Board’s comments, Mr. Taintor was asked to continue his work on the proposal. Mr. Taintor has defined it further by strengthening landscaping requirements, strengthening planned use requirements, and correcting some language. Mr. Holden reminded the Board that they received a copy of the marked up version as well as a copy of the latest version. In addition, the Board was given copies of photos of a Shoppers World to show the Board what they are trying to do with the landscaping in creating an expansive buffer. He said that another big change was the creation of a table to show the various standards. The uses were also expanded in the OR district to include media and publishing facilities.

Mr. Holden said he would respond to any questions.

Mr. Coviello asked if they would be showing a graphic on current uses. Mr. Holden said that they gave the Board something along those lines at the last meeting and they could have that available at any public forum.

Councilor Dwyer suggested that in regards to the dimensions, they might want to make the table parallel. She felt it should be explicit that it is the parcels on the lot line.

Mr. Will said that they could make it more user friendly for people who do not read land use ordinances everyday.

Chairman Ricci stated that they could be more clear and specify “front line of property.”

Deputy City Manager Hayden explained that G6 was deleted from the plan. Mr. Holden said it would make it more regulatory.

Councilor Dwyer discussed page H3C which dealt with the spacing of plantings. Mr. Holden replied that it has been indicated that plantings can be clustered or spaced appropriately. Councilor Dwyer said that she did not want to mislead people as to the flexibility of landscaping. Deputy City Manager Hayden added that there may be applications where they might want the plantings equally spaced. She said that H4 was for parcels that faced residential areas. Councilor Dwyer said that as section H is introduced, there could be something that shows flexibility and context appropriateness. Mr. Holden said that they have that in the entire ordinance and to emphasize it could take it away from somewhere else.

Mr. Will stated that this Board will always be using this ordinance. He continued to say that all of them will leave someday and so having a three page ordinance on landscaping will help future boards.

Mr. Coker said that one of the major concerns expressed by those who spoke in front of this Board and the City Council was the car, headlight, and the visual look. He felt that this buffer was built to cushion that. He had a question about the 50 foot setback. He asked if the building could be built 50 feet from the lot line with a 50 foot buffer in depth. Ms. Hayden replied yes, she thought so. Mr. Coker thought the buffer was extremely important in this case.

Deputy City Manager Hayden commented that the only permitted uses that were added were restaurants, galleries, museums, arts and crafts studios, media, and publishing. She said that the ones that are allowed by special exception in the OR district are research and testing, chemical labs, hotels, and motels. A special exception would come from the Board of Adjustment.

Deputy City Manager Hayden said that less than desirable uses, such as biological and chemical labs are allowed in OR by special exception. Under this ordinance, they are not allowed in a PUD.

Ms. Tillman clarified that in regards to hotels, the combined occupancy of 250 persons is a permitted use in the OR and the combined occupancy of less than 500 persons is allowed by special exception. Mr. Holden added that in the OR where the larger hotels are not allowed, it also specifies that they have to be within a mile of certain roads.

Deputy City Manager Hayden stated that what they are ultimately trying to do with this proposal is to find creative ways to develop OR parcels in town so that they are better for the community than if they were developed under our current Zoning Ordinance. She thought that maybe parts of the proposal are now so restrictive that no one will want to develop them.

Mr. Coviello asked what was wrong with the current OR district. Mr. Holden replied that a lot of the lots do not conform to the current OR standards. They were subdivided many years ago to other standards. The Board has discouraged residential and retail. He said that if you are going to get something to develop out there that meets what the Master Plan is looking for, you have to do something creative and so that is what the Board is charged with.

Mr. Coviello asked Mr. Holden if the lots are so poorly zoned now, did he think they were at risk for litigation. Mr. Holden replied that he would not let that bother this Board. The Board is doing the Master Plan and long range planning and this proposal is workable. He said that whether it works in the marketplace, time will tell. He advised him to not be overly concerned about litigation. He added that they have addressed a lot of the public concerns as well as Council concerns. He said that it is not going to be a perfect fit for everybody. Given all of that, Mr. Holden said he would send it forward to the City Council.

Mr. Coker asked Mr. Coviello why he was concerned about litigation. Mr. Coviello replied that he was wondering if they did nothing and left it the way it was, is it so poorly zoned that an applicant would take it to court and get approval for something that we do not permit. Deputy City Manager

Hayden said that the greater fear was that something is going to get developed there that they do not like.

Mr. Will stated that all they are doing is approving an amendment to the ordinance. Someone still has to make a proposal for a PUD and has to come before the Board at which point there will be another public hearing and another opportunity to discuss specifics to the site. He said that what he was most concerned about with the current ordinance was someone consolidating a bunch of OR lots and then try make a campus over the course of 10-15 years.

Deputy City Manager Hayden commented that this ordinance gives the Board a lot more control because it is a Conditional Use Permit, a whole new level of use.

Mr. Holden explained to the Board that this proposal was sent back to them by the City Council. The Board has worked on it, they have changed it, and they have done their best to address the concerns. He said the Board had a number of options which included recommending it back to the Council, recommending that it not go forward to the Council, or take more time to work on it.

Mr. Coviello made a motion to move the proposal on to the City Council. The motion was seconded by Mr. Will. Chairman Ricci asked for discussion.

Mr. Coker said that he would like to add a stipulation that he would like the proposal to be written in an easy to read format.

Councilor Dwyer asked staff if they felt that they were close enough to apply this to other areas. Mr. Holden said that they were a fair distance away on the ordinance and he thought it would be better to incorporate it into the working draft. He felt it would not be good to try to rush it into the existing ordinance.

Ms. Roberts asked who presents this to the City Council. Deputy City Manager Hayden replied that staff will do a summary pointing out the concerns and how they have been addressed. She said that the big issues were the setbacks, landscaping, and buffers. Chairman Ricci added that when they get to the permitted uses and special exceptions, Mr. Taintor would be a big help.

Councilor Dwyer suggested that Chairman Ricci and Vice Chairman Hejtmanek present it to the Council. She said that it was easy to not pay attention to staff. Chairman Ricci said that that was appropriate.

Mr. Coviello said that came about because of Smuttynose but they all know that it is not attached to that project. He felt that it was a good thing that it came from Smuttynose in that it let the public know of a potential use that they are looking at. He asked how the public will hear about this.

Mr. Coker stated that they could not have done this in a vacuum. He agreed with Mr. Coviello that it was there. He said it is not spot zoning because it applies to more than one piece of property. He added that they now have to go back and explain to the Council in very clear terms what they have done and that they have addressed their issues.

Mr. Coviello asked what opportunities the public will have to see what other changes the Board has come up with. Mr. Holden replied that every work session is open to the public.

Chairman Ricci asked if there was any more discussion. Hearing none, he called for the vote.

The motion to recommend approval of the PUD proposal and forwarding it on to the City Council for approval with the stipulation passed by a unanimous (9-0) vote.



- 1) That it be written in an easy to read format.

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Chairman Ricci acknowledged the service of Raymond Will who was leaving the Board after twelve years of public service. He wished him success in his professional endeavor. Deputy City Manager Hayden thanked him for always coming to the meetings prepared with good questions that furthered discussion.  
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**V. ADJOURNMENT**

A motion to adjourn at 10:45 p.m. was made and seconded and passed unanimously.

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Respectfully submitted,

Liz Good  
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on August 16, 2007.