

**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.

OCTOBER 16, 2008

MEMBERS PRESENT: John Ricci, Chairman; Paige Roberts, Vice Chairman; Donald Coker; Anthony Coviello; John Rice; Anthony Blenkinsop; Cindy Hayden, Deputy City Manager; Richard A. Hopley, Building Inspector; and MaryLiz Geffert, Alternate

MEMBERS EXCUSED: M. Christine Dwyer, City Council Representative and Norman Patenaude, Alternate

ALSO PRESENT: David M. Holden, Planning Director;
Lucy Tillman, Chief Planner
Peter Britz, Environmental Planner
Robert Sullivan, City Attorney

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6:30 – 7:30 pm WORK SESSION on Draft Zoning Ordinance Uses, Definitions and other related matters

Chairman Ricci turned the meeting over to the City's consultant, Rick Taintor. They picked up on Page 21 of the Use Table at the Industrial Use Section.

Last month they had a discussion to fine tune or eliminate some of these uses. In a lot of them the first line has use regulations that may prohibit something in the waterfront business or waterfront industrial and then the only change in the next line is to change the N to a P or S in the waterfront business or waterfront industrial. Other changes from the existing ordinance is they have defined light industry as something separate from a general industrial use, revised the definition of research and development, defined food processing and they looked at the hazardous use situation. They are pretty straight forward and are mostly focused on the industrial districts.

Mr. Hopley asked if they were going to try to take a look at electronic manufacturing and what could be different about marine and non-marine. Mr. Taintor confirmed they would be marine dependent. They talked about it last time and it had to do with an independent office. Seafood processing could be marine dependent. Mr. Hopley asked if it has to be on the water? Deputy City Manager Hayden felt this encourages them to be in WB and WI yet if they were going to have an electronic manufacturing use, why would they want it to be in WB or WI? Mr. Coviello wondered, under the recycling plan, if they shouldn't have an exception for waterfront industrial. They have it now on State property. Mr. Taintor notes that the port is a type of recycling facility. Deputy City Manager Hayden thought their definition of recycling says separate and process. Mr. Taintor felt it was more like a storage venture. Should they eliminate the electronic manufacturing? Mr. Coker indicated that the port is recycling in massive quantities so why wouldn't it be allowed in waterfront industrial? Mr. Taintor was not saying it wasn't allowed but that it doesn't meet their recycling facility definition as there is no processing that goes on there. Mr. Holden thought they should keep their port for exactly what it is, serving a

port. That would be a use that might not be a very appropriate one in that area, to encourage recycling. Whereas the material that is coming in and getting loaded onto the ship is taking advantage of the one thing they have, deep water access. Recycling can be done somewhere else. Mr. Hopley thought it could also be done on the waterfront if one mode of transportation was by ship. Would a special exception be in order? Mr. Holden noted that the recycling plant in the downtown, right next to the condos that are going there, were trying to emphasize getting the product loaded and out of there. Recycling could open up a pretty big range and would be a very significant change. The consensus was to leave it the same.

Section 14.80 High Hazard Uses. What is in the existing ordinance is on page 23 and they are essentially combined into one statement. It seemed somewhat ambiguous and he felt it was easier to break it out and it becomes very clear that they are prohibiting all of the uses. It seems that their existing ZO prohibits oil tanks as a primary use, as an example. And it almost seems to prohibit the kind of things they were just talking about. Now they are back to storage and transfer of these types of things. Looking at the list and thinking about future uses, do they want to prohibit or perhaps allow through special exception in the WI? Mr. Holden explained that it came about because of a proposal in the late '70's and early '80's to do a gasohol plant in the area of PSNH. There was a whole host of issues that came up because of that. This would be a good exercise to go through the uses and they may find that some uses may be too broad. Mr. Taintor thought maybe they could break out the storage and transport from processing and disposal. Deputy City Manager Hayden felt they should take a closer look at that because she is thinking about a waste water treatment plant. Mr. Holden felt they should be looking at some of these uses for an energy center such as Sprague for gas and coal. Deputy City Manager Hayden felt they should simplify if from their current ZO. Mr. Hopley assumed that 14.8 would include all three sub categories? Mr. Taintor confirmed it would not and should only be sub category. Mr. Hopley encouraged them to have staff look at this to clean it up.

Section 15, Transportation and utilities. The existing ordinance allows a smaller facility in certain neighborhoods, like a pumping station that is just to serve a particular neighborhood. They tried to break this out so it was clear. One line indicates these uses are allowed if they are central to the service area where it is located and another line if they are community wide for community service. They have heliport as an accessory use and is only allowed in the industrial districts. Mr. Holden stated that they had a couple of people who wanted to have private helicopters and that was before Pease became more public so that was to handle that issue. He doesn't see much of an issue now except the hospital. He felt the demand for it is gone and they might want to regulate it and look at it again and keep it as N or S. Mr. Coviello stated that the hospital can't have a helicopter pad because of the power lines and they land at the Coast Guard station.

Mr. Rice felt they might need a definition for a heliport as some neighborhoods might want a pad somewhere. Mr. Taintor felt it was for landing helicopters and if it is a terminal then it would be at Pease.

Section 16, Wireless Telecommunication Facilities. This comes under Federal Law and preempts local zoning. It lets them regulate 42" or smaller. Some things they can exempt and some they cannot. This first category is for the domestic small satellite dishes and they have to comply with setbacks but if they are larger than 42" they are regulated in a different way and the intent of the law is that you cannot preclude coverage. Between allowing them in the municipal district and perhaps in certain areas by SE, then they could get coverage of the City. Mr. Hopley asked for the Board's take on the first category, smaller than 42" and specifically the ground mounted that comply with all the yards and none have ever gone through a special exception and is that over regulation? Mr. Coviello asked if they were a TV dish or telephone dish? Mr. Taintor thought it should be listed as a telecommunication dish. Deputy City Manager Hayden asked if this was a homeowner item? Mr. Taintor confirmed they were and referred to 16.20 regarding the dishes that are 42" or larger. Chairman Ricci felt it goes to enforcement. Mr. Hopley added that every single one would have to go to the Board now. Mr. Taintor pointed out that this was not changing the existing ZO but Mr. Hopley was suggesting that it should

say P for all districts. They could say satellite dish smaller than 42" was permitted and refer to another section about mounting. Mr. Hopley thought the ground mounted dishes were about 4' or 5', if that.

(ML Geffert arrived at 6:50 pm)

Mr. Coker was concerned about the term Wireless Telecommunications Facility. Mr. Taintor felt the word wireless may be wrong there but the Telecommunications Act of 1986 defines this. Mr. Coker felt that says cell phone tower to him. Deputy City Manager Hayden referred to their telecommunications definition they refer to the federal regulation. Mr. Coviello asked if HDC regulates these? Mr. Holden indicated they do but they don't catch them all. Mr. Coviello asked about multi family buildings where everyone has their own dish.

(Paige Roberts arrived at 6:55 pm)

Mr. Coker asked if this was over regulation? If he wants to put a small dish outside his window, why not? Deputy City Manager Hayden thought this was probably put in the current ZO when they didn't know what would happen. Mr. Holden confirmed that they were concerned about the Historic District impact. It hasn't been a major issue and they have not been denied. Deputy City Manager Hayden asked if they care about these outside the HDC? Mr. Taintor suggested changing 1612 to all P's so everything under 1610 would be a P. Mr. Hopley added that they would have to meet the yard requirements. Mr. Taintor indicated he could consolidate them so that anything that is listed in the 1610 box is a P and anything that is not listed is a ground mounted one that doesn't comply with the yard requirements or a building mounted one that is more than 4' above the surface. The same thing basically happens in 1620 so what they could say is put those requirements into the section on telecommunications facilities. Mr. Hopley then suggested that the 1620 N's be S's and then the Board can review them as they could be big. Mr. Taintor stated that the only difference in 1620 is in CBB and WB where large ones are prohibit. Mr. Taintor went on to say that in the residential districts they would all be S. Section 16.30 and 16.40 need to be changed considerably as there are other types of antennas that need to be covered unless the intent was to put them all in the municipal district? Mr. Holden confirmed that was correct. 1640 is saying if they want a microwave transmission facility or cell tower repeater it would have to go in the municipal district.

Mr. Coker used to live on Middle Street and his neighbor was a ham radio operator and he had a tower. Mr. Taintor thought that was a good point and that is missing in the existing Ordinance. They could look at the definition of 1630 to see if that covers it. Mr. Hopley thought that Mr. Coviello's point was good, is it the antennae or the tower? Mr. Taintor confirmed it was the tower. Mr. Coviello asked, under 1630, would Verizon on Islington Street be allowed today? Mr. Taintor indicated that a lot of communities allow churches to put things in their towers but this is prohibited in this draft. Same as the sides of large buildings where they want to prohibit it. Mr. Holden confirmed the intent was to encourage production facilities and the tower was a companion use.

Mr. Hopley asked for help with the history as he remembered a couple of installations were allowed in church towers. Ms. Tillman confirmed they went to BOA. Mr. Coker stated that 55 Congress has a cell tower on top of it and they get \$45,000 a year for it. Deputy City Manager Hayden asked if the cell tower on 55 Congress went to BOA? Ms. Tillman confirmed it did and that they also have them on Harbour Place, the hospital and in the tower at the Advert Church on Summer Street and one other church. Mr. Holden noted that this was a real problem at the beginning of the ordinance but it settled down. Ms. Tillman added that the equipment has downsized a lot. Mr. Taintor confirmed the policy is that the zoning says it should only be on City property but there are other situations that have been approved. Mr. Hopley referred to 1640 and asked if they should look at some of the zones for the wireless communications not included above and consider a S. Section 1640 is everything except for a small satellite dish. Mr. Coviello asked if they could duplicate the Verizon building downtown? Mr. Taintor confirmed that was correct, except by variance which sounds like they are not too difficult to get. Mr. Holden reminded the Board that they will look to see if they can broaden the media

publishing item as it was intended to allow a co-mix but the terminology is out of date. Ms. Geffert asked if there are special facilities for WiFi? Mr. Taintor assumed that did not exist at the time of the existing ZO so it is probably prohibited. Mr. Coviello noted that it is about the size of a book now. Mr. Taintor confirmed that they don't want to prohibit that.

Section 17, Agricultural uses. They moved this to the end. Mr. Coker read that the farm definition limited it to on-site retail sales of less than \$1,000 and he asked where that came from? Mr. Holden felt this seems to have worked fairly well. Mr. Coker was trying to understand the definition of farm and he felt it was contradictory. It sounds like it limits on site retail sales. Mr. Taintor agreed they need to look at that. Ms. Tillman stated that the existing definition works pretty well. Animals raised for production of food or other byproducts such as poultry, horses, goats, cattle, sheep, swine and the boarding and keeping of pleasure horses. Mr. Coviello liked the definition of any animal other than household pets. Mr. Coker stated that goats could be a household pet. Deputy City Manager Hayden felt they needed to look at farm, farm animal and household pet. Ms. Geffert was concerned about the enforceability of a monetary limit from a zoning perspective. Mr. Holden explained what they have done in the past has worked and it only turns into a problem when they have abutters complaining about an issue. Mr. Rice felt that, according to this definition, someone could grow corn in a densely populated neighborhood on the front lawn and he wondered if they should be regulating that. No one felt this was a problem as people could grow corn right now. Mr. Rice sees this leading towards some mischief. Mr. Taintor confirmed they will review this section.

Section 18, Temporary uses. Currently, each section of the ordinance allows temporary structures to be there for progressively longer periods of time. Temporary structures are allowed up to 30 days as a right, a special exception is allowed for 31 to 90 days and 91 to 180 days is not permitted. Mr. Coviello asked for a definition. Mr. Taintor indicated it was under structure and they should have a cross reference. Mr. Hopley felt these structures might support a construction project. Deputy City Manager Hayden mentioned they would be used at a major reconstruction, like the hospital. Mr. Hopley thought they had un-regulated temporary structures with construction but non-construction projects need a permit. Mr. Coviello stated there is a boat structure in the Maplewood Avenue area that has been there for years. Mr. Hopley confirmed that has been an enforcement issue. Mr. Coviello asked about canvas car ports? Mr. Holden said they would be viewed as a structure rather than a homeowner setting up a smoking tent for a BBQ shelter. He encouraged them not to read more into this. This is coming from a construction trailer which would stay there forever so they tied it to the construction activity and when they are done they have to get rid of it. But, they may have someone who wants to sell patio furniture and under this section they are limited to a certain amount of time. Mr. Coviello asked if they are okay with somebody who has a carport or a boat in a front yard? Deputy City Manager Hayden asked if it has been an issue? Mr. Holden confirmed this has been an issue in rare instances and they are pre-existing. Ms. Geffert thought they might want to take the phase from the old definition about excluding construction structures. Mr. Taintor asked if they have a different policy for the structure if it meets the same dimensional requirements as if it were a permanent garage? Mr. Coviello asked if there would be an enforcement measure under the new regulations? Mr. Holden confirmed there would be. Mr. Taintor felt that another question is what happens the way the zoning currently works, as you go down further to the right of the table, and given their discussion, does it make sense that something in the OR is 90 days longer than something in the GB. Is there something about those districts that makes them different? Mr. Holden indicated that their big problem was that by the time they got someone through with a special exception for 90 days, they had already used up the 90 days and then they had to make their request to extend it for an additional period of time. Also, Pods are the new thing and when they put it on the property boundary in a residential district it becomes a problem.

Deputy City Manager Hayden referred to yard sales and asked if it should it say second hand goods? Mr. Hopley thought they might say every six months instead of once a year as 12 months might be overly restrictive?

Chairman Ricci confirmed that they will start on page 26 at the next work session.

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I. APPROVAL OF MINUTES

- A. Approval of Minutes from the September 18, 2008 Planning Board Meeting – Unanimously approved.
 - B. Approval of Minutes from the September 25, 2008 Planning Board Work Session – These minutes were not available at the time of this meeting.
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II. PUBLIC HEARINGS

Chairman Ricci recused himself from Items A, B, and C due to a conflict. Vice Chairman Roberts chaired the meeting. She read all three applications into the record and advised the Board they will hear them together but they will vote on them separately.

A. The application of **Harborcorp, LLC, Harborside Inn, Inc., and Harborside Associates, Owners**, for properties located **off Deer Street, Green Street, Russell Street, Market Street, and Maplewood Avenue** wherein amended Preliminary and Final Subdivision approval (Lot Line Revisions) is requested for the purpose of eliminating any reference to ownership by the City of a parking garage to allow for the following: 1) the consolidation of Harborcorp, LLC lots 12, 21 and 28 into one lot consisting of 2.36 ± acres with conforming area, street access and frontage and including approximately 17,446 ±s.f. of land to be conveyed from the City to this lot (collectively these lots comprise the existing surface parking lot in the area bounded by Russell, Deer, Green Streets and Maplewood Avenue) and the City owned land is currently part of the Russell and Green Street right-of-ways and these two right-of-ways will be reconfigured as part of this application and subsequent development project; 2) Harborside Associates, Lot 1-1C (existing hotel and condominium lot) is conveying approximately 434 ±s.f. of land to the City for use within the proposed relocated Russell Street right-of-way; 3) Harborside Inn, Inc. Lot 1-1A with an area of approximately 2,640 ±s.f. is being conveyed to the City for use within the proposed relocated Russell Street right-of-way; and, 4) a conveyance from the City of a portion of the Russell and Market Streets right-of-ways totaling approximately 4,220 ± s.f. to Map 119, Lot 4 for the proposed realignment of the intersection of Russell and Market Streets. All resulting lots are in conformance with the Zoning Ordinances and Subdivision Rules Regulations. Said lots are shown on Assessor Plan 118 as Lot 28, Assessor Plan 119 as Lots 1-1A, 1-1C and 4, Assessor Plan 124 as Lot 12 and Assessor Plan 125 as Lot 21 and such other land of the City as shown on the subdivision/lot line revision plan and lying within the Central Business A (CBA) and the Central Business B District (CBB), the Downtown Overlay District (DOD) and the Historic District A. *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.)*

B. The application of **Harborcorp, LLC, Owners**, for properties located **off Deer Street, Green Street, Russell Street, and Maplewood Avenue** wherein amended Preliminary and Final Subdivision approval is requested for the purpose of eliminating any reference to ownership by the City of a parking garage to reconfigure three existing lots into two proposed lots, as follows: 1) Eliminate lot line between lot 12 as shown on Assessor Plan 124 and as Lot 28 as shown on Assessor Plan 118; 2) Eliminate lot line between Lot 28 as shown on Assessor Plan 118 and Lot 21 as shown on Assessor

Plan 125; 3) Subdivide the aforementioned lots into two proposed lots, with proposed lot 1 consisting of 38,084 ± s.f. and proposed lot 2 consisting of 65,011 ±s.f. Said lots are shown on Assessor Plan 118 as Lot 28, Assessor Plan 124 as Lot 12 and Assessor Plan 125 as Lot 21 and such other land of the City as shown on the subdivision plan and lying within the Central Business A (CBA) and the Central Business B District (CBB), the Downtown Overlay District (DOD) and the Historic District A. *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.)*

C. The application of **Harborcorp, LLC, Owner** for property located **off Deer Street, Green Street, Market Street, Russell Street and Maplewood Avenue**, wherein amended Site Review approval is requested for the purpose of eliminating any reference to ownership by the City of a parking garage to construct an 83,118 ± s.f. 6/7-story structure consisting of a hotel, convention center, parking garage and 21 residential condominiums, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 118 as Lot 28, Assessor Plan 119 as Lot 1-1A, Lot 1-1C and Lot 4, Assessor Plan 124 as Lot 12 , and Assessor Plan 125 as Lot 21 and lie within the Central Business A (CBA) District, the Central Business B (CBB) District, the Downtown Overlay District (DOD) and the Historic District A. *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.)*

Before opening the public hearing Mr. Holden reminded the Board that the reason this is before them is a follow through to the previous three approvals for a lot line revision, a subdivision and site review approval. The only reason this is before them now is because the terms of the partnership which included the City has changed so the conditions that they approved need to be revisited. Not a line, not a building or not a foundation has changed on the plan. The only thing they are actually looking at it is which conditions are changed by the change in partnership. In many ways this is administrative but it is significant enough to go through a public hearing.

SPEAKING TO THE APPLICATIONS:

Attorney Malcolm McNeill, representing the applicant, addressed the Board. Also present were Lee Griswold of Harborcorp, Dennis Moulton and Corey Colwell, both of MSC Civil Engineers and Land Surveyors. He handed out a paper correlating the agenda items that are marked A, B&C, to link them to the items that have changed. Despite the fact that a great deal of the testimony that went before them dealt with the interplay between the City and the developer, those discussions did not result in a large number of conditions or plan markings that require change now that the City is no longer a participant in this project. The parking garage that was previously was to be a municipal parking garage will now be a private garage. Other than the nominal change in the deletion of the City in this project, nothing else will change. In terms of Item A, Subdivision Lot Line Revision, this was for the purpose of an exchange of landscape between the City and the developer to effectuate the project. There were land swaps necessary to accomplish that. Item B was also a subdivision and the purpose of that action was to provide for the ultimate conveyance of the parking garage to the City because the arrangement was that the garage would be conveyed to the City. They are not changing the subdivision itself and it will remain two lots but the City will no longer be the party that acquires the lot. Item C is the Site Plan Approval, which showed all of the nuts and bolts of the project. After it became apparent that the City would no longer be a participant in his project, they wrote a letter to adjust the approvals to delete references that could be attributable to the interest of the City to the garage. He marked items C, A and B on his exhibit just to line them up with the Agenda.

Attorney McNeill addressed Agenda Item A first regarding the street exchanges. He requested that Stipulation #4 be deleted, which says “That as a public improvement the cost for constructing the parking garage shall be part of the Site Review Bond”. The parking garage is no longer a public

improvement so they are seeking deletion of the reference as the garage as a public improvement. That is the only change they could envision that makes reference to the City's interest.

Regarding Item B, Attorney McNeill there was one condition which indicated that any property transfers shall occur only by mutual consent between Harborcorp, LLC and the City Legal Department. That provision was contained as a provision as this was going to govern the conveyance of the garage to the City. This will no longer occur. As such, the property has become completely private and the City is not in the middle of any conveyances that the developer may make if they elect to. The Site Review Plan has already been approved which is entirely a dimensional consideration and not a use consideration.

Item C. is the Site Review Approval and there were many conditions attached. They are seeking the deletion of stipulations 20, 21 and 25. Though City Council actions, the City is part in this application. The City is no longer part of the site review development for this project. As to the site development, after the effectuation of the subdivision, the city is no longer involved in this project. They are asking for the deletion of the indication that the City is part of this application. Secondly the proposal is in conformance with the Joint Development Agreement. The Joint Development Agreement preceded this project by City Council action regarding the operation of the garage. There are some remaining conditions to be worked out with the City regarding the Joint Development Agreement but they deal with a grant and possible minor provisions that do not give rise to issues regarding land use. The Joint Development Agreement will stand on its own merit but had no control over the development of this parcel any longer. Most graphically, stipulation 25, that the Site Review Agreement shall compel the construction of a public parking garage and that clearly is not going to happen. On the site plan, they could only find one entry that made reference to a City garage. They have changed that to a new garage and have struck the word City.

Attorney McNeill summarized that very simply stated, the one thread that runs through everything the Chairperson read is the phrase, for the purpose of eliminating any reference to ownership by the City of a parking garage in regards to these approvals. That is all they are doing and it is entirely administrative given the nature of this case, however, it felt it was in everyone's best interest that it be publicly described and that is what they have done.

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

Motion on Item A:

Mr. Rice made a motion to approve amended final subdivision approval with the original stipulations except the deletion of stipulation #4. Deputy City Manager Hayden seconded the motion. The motion was unanimously approved with the following stipulations:

- 1) That this Board recommends to the City Council that it should allow for Deer, Russell, Green and Market Streets to each be reconfigured as presented/proposed;
- 2) That all necessary plat plans, deeds, easements and/or licenses necessary for the above should be prepared by the applicant for review and approval by the City Legal Department as to their content and form;
- 3) That property transfers and the issuance of a Building Permit shall be done simultaneously;
- 4) That boundary monuments shall be placed in accord with DPW requirements; and,
- 5) That electronic data, suitable for updating the City Assessing records shall be submitted to the Department of Public Works.

Motion on Item B:

Mr. Rice made a motion to grant amended Final Subdivision approval with the deletion of Stipulation #1. Deputy City Manager Hayden seconded the motion.

The motion to approve amended final subdivision approval passed unanimously with the following stipulation:

- 1) That electronic data, suitable for updating the City Assessing records shall be submitted to the Department of Public Works.

Motion on Item C:

Deputy City Manager Hayden made a motion to approve amended Site Review approval with the deletion of original stipulations #20, #21 and #25 and with the word "City" being changed to "new" on the approved Site Plan. Mr. Rice seconded the motion.

The motion to grant amended Site Review approval with the deletion of original stipulations #20, #21 and #25 and with the word "City" being changed to "new" on the approved Site Plan passed unanimously. The stipulations are as follows:

- 1) That the applicant shall meet with David Desfosses of DPW to finalize construction details to make sure they meet City standards;
- 2) That the additional 2" water service to the garage shall not be activated until the subdivision is approved;
- 3) That the applicant shall arrange to have the USGS monument off the ledge at Russell Street relocated during construction;
- 4) That the applicant shall work with DPW regarding drainage;
- 5) That the applicant shall work with Peter Rice, DPW, to review the proposed 1,000 gallon grease trap to determine whether their flows from their cooking facilities are adequate;
- 6) That the applicant shall work with the City's Police and Fire Departments to verify that they can communicate with their base station inside the proposed buildings;
- 7) That the applicant shall coordinate the VAI plans with the AMES plans;
- 8) That the landscape plan should be subject to review by the Trees and Greenery Committee and coordinated through Lucy Tillman;
- 9) That the applicant shall review and work with the City Traffic Engineer to coordinate the timing systems at the intersection of Maplewood and Deer Street;
- 10) That a meeting be set up between the applicant and David Desfosses to review final street geometry, paving and side crosswalks;
- 11) That a signage plan will be required and subject to review by DPW and the City Traffic Engineer;
- 12) That the applicant shall prepare a Construction Management and Mitigation Plan for review and approval by the City Legal Department, Planning Department, City Traffic Engineer and City Manager, prior to permit approval;
- 13) That this project shall be reviewed by the Parking Committee;
- 14) That automatic notification of emergency services and a knox box shall be installed;
- 15) That the first and last angled parking spaces be shall be reviewed for safety purposes.

- 16) That the final lighting plan shall be reviewed and approved by David Desfosses. Included in that review would be type of fixture and spacing;
- 17) That the City and the applicant shall work together to identify areas where brick sidewalks shall be installed along the perimeter of the property.
- 18) That the applicant shall provide anticipated water demand for the project and include references of where that demand came from, ie., a similar type of store in another area or industry standard, and said report shall be stamped by a licensed engineer;
- 19) That DPW shall review and approve the design of the proposed signal design of Market Street at Russell Street intersection.
- 20) The overall development scenario encompassed by this site plan has been extensively vetted by a variety of municipal agencies as is demonstrated by prior site plans, architectural designs, development scenarios, etc.;
- 21) The Site Plan now before the Board represents the culmination of those efforts and demonstrates an active collaboration with other interested parties, including, abutting property owners in terms of vehicular movements and parking resources;
- 22) In presenting its findings, the Technical Advisory Committee has found this proposed project to be in conformance with the Board’s Site Review Regulations, therefore, the approval of this project, subject to relevant TAC and Planning Board stipulations, is recommended;
- 23) That a sign shall be added to the Site Plans for the service road at its intersection with Maplewood saying “no right turn for large trucks” or other language that is agreeable to DPW;
- 24) That DPW shall work with the applicant for additional traffic calming measures at the intersection of Deer and Market Streets;

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D. The application of **Karen E. Kapelos Revocable Trust of 1995, Owner**, for property located at **3310 Lafayette Road** wherein Preliminary and Final Subdivision Approval is requested to subdivide one lot into two lots with the following: Proposed Lot 1 having 18,844 ± s.f. and 140’ ± of street frontage on Winchester Street and Proposed Lot 2 having 22,448 ± s.f. and 160’ ± of street frontage on Winchester Street; and lying in a zone where a minimum lot area of 15,000 s.f. and 100’ of continuous street frontage is required. Said property is shown on Assessor Plan 292 as Lot 164 and lies within a Single Residence B (SRB) District; *(The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.)*

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Joseph A. Coronati, of Jones and Beach Engineers, appeared on behalf of the applicant. He explained that this property is a left over piece of property from a subdivision of Nathaniel Drive in the Maple Haven section of town. This property owned by Karen Kapelos. The property has frontage on two roads and the house is set back from Lafayette Road. They are looking to subdivide a front lot and both lots would have revised access from Winchester Street. The long driveway going out to Lafayette Road would be discontinued which is a good thing for Lafayette Road. The site has utilities on two sides. Mr. Coronati did not believe there was much involved with this little two lot subdivision.

Mr. Rice asked why they wouldn’t draw in a curb cut for the existing single family residence on Winchester Street. Mr. Coronati explained they would like to keep the driveway going in the current location until a building permit is pulled as the existing house may remain or it may be removed when the property is sold. It will be abandoned once the lot in front is built on. Mr. Rice understood that once the subdivision was approved, the single family dwelling will be abandoned? Mr. Coronati

explained that it would not be abandoned and the owner's mother would remain in the house. Once the new lot is built on they will abandon the driveway going out to Lafayette Road.

Mr. Holden added that before there is a building permit issued the subdivision would have to be filed. Assuming they grant approval, subject to those requirements and #2 would indicate that the driveway would have to be off Winchester Street with a curbcut from DPW. The deed may not be recorded immediately and they have one year to do that. The important part is that there would be no construction on the proposed lot until that was done.

Deputy City Manager Hayden asked Mr. Holden about the first recommended stipulation regarding the project parcel ID block. Mr. Holden explained that the plan references the Town of Hampton rather than City of Portsmouth,

Mr. Hopley stated that there is a sequencing issue which they see all the time and maybe some notes on the subdivision plan may assist concerning the curb cut and driveway permit for both lots and then the assignment of new street numbers. Mr. Holden felt that would be part of it but it would not hurt to make it a condition. Mr. Hopley indicated that, assuming the current house stays the same, how would they get the proposed driveway to the existing garage? Mr. Coronati confirmed that was difficulty with the location of that house. They would have to reverse the garage and put a garage door on the rear of the existing building but the building is old so he's not sure they will do that. Mr. Holden explained what they were doing with this was taking a house off of Lafayette Road and putting onto Winchester.

Mr. Coviello felt that Winchester Street is pretty narrow. Will DPW consider that and not place the driveways across from other driveways? Mr. Holden confirmed that they will and that is part of the process.

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 Preliminary and Final subdivision with the four stipulations in the Department Memorandum plus an additional stipulation requesting two driveway permits and two new house number designations. Mr. Rice seconded the motion.

Ms. Geffert felt that the note on the plan should be revised Note #10 because they are not going to abandon this when they get their subdivision approval but rather they will abandon it for residential use when they pull their first permit. That was acceptable to the maker of the motion.

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

- 1) That the typographical errors in the "Project Parcel" identification block should be corrected (so as to identify the true center of the universe);
- 2) That the Board observe that Note: 10 on the Plat requires driveways to both lots shall be to Winchester Street and that the Board concurs in this requirement;
- 3) That the Plat should identify approximate locations of existing utility services and if an easement(s) is/are required that it be approved by the City Attorney as to content and form;
- 4) That the applicant shall submit to Department of Public Works, electronic data which is suitable for updating the City's Assessing Records;

- 5) That Note #10 on the Plat shall be revised to add that the applicant shall obtain two driveway permits from DPW; and
- 6) That the applicant shall obtain two new house number designations from DPW.

.....
Mr. Coviello recused himself from this application.

E. The application of **7 Islington Street, LLC, Owner**, for property located at **29 Tanner Street**, and **7 Islington Street, LLC, Owner**, for property located at **40 Bridge Street**, wherein Final Subdivision approval (Lot Line Revision) is requested between two lots having the following: Lot 49 as shown on Assessor Plan 126 decreasing in area from 3,342 ± s.f. to 3,025 ± s.f., with 48.96'± of continuous street frontage on Tanner Street and Lot 52 as shown on Assessor Plan 126 increasing in area from 7,111 ± s.f. to 7,428 ± s.f. and with 119.47'± of continuous street frontage on Bridge Street, and lying in a zone where a minimum lot area of 7,500 s.f. and 100' of street frontage is required. Said properties are located in a Mixed Residential Office District, Central Business B District and Historic District A and are shown on Assessor Plan 126 as Lots 49 and 52. (Plat plan is on file in the Planning Department Office and is identified as Plan #05-03-08). *The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.*

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

John Chagnon, of Ambit Engineering, represented the applicant. He explained that this project was granted Preliminary Subdivision approval and subsequent to that they have obtained the necessary variances to move forward. They are simply straightening out a lot line between the two lots and squaring them off. They are transferring 317 s.f. They have no problems with the four recommended conditions and he was available for questions.

Mr. Rice noted in the legal description that they refer to Lot 126, Map 49 as being in the Historic District but the wood frame building is not in the historic district? Mr. Holden confirmed that was correct. The district is only one lot deep.

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

Deputy City Manager Hayden made a motion to grant final subdivision approval with the four stipulations. Mr. Rice seconded the motion.

Mr. Hopley commented that with Stipulation #1, saying that prior to the plat being signed the removal of the back L from 29 Tanner has to be accomplished, so they have to go through the demolition permit process which includes a 30 day posting so they want to plan ahead on all of that. Mr. Chagnon stated that was not a problem as they will be coming back for Site Review approval for 40 Bridge Street. Mr. Holden stated that the only reason the subdivision can go forward is if that structure is removed as it makes a non-conforming yard. It goes on the Plan to make sure it doesn't get forgotten. The key to the subdivision is the removal of that structure. Mr. Chagnon reminded the Department that they have given the Department the plan already. Mr. Holden confirmed that they need the deed as well as the plan.

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

- 1) That the structure detailed "TO BE REMOVED" is demolished before the Final Plat is signed by the Chair;
- 2) That a condition prohibiting a through driveway over 29 Tanner to 7 Islington Street shall be added to the Plat;
- 3) That property monuments shall be set as required by the Department of Public Works; and,
- 4) The submission, to Department of Public Works of electronic data, suitable for updating the City's Assessing Records.

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Mr. Rice made a motion to hear Items F and G together and vote on them separately. Deputy City Manager Hayden seconded the motion. The motion passed unanimously.

F. 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 **Summit Land Development, Applicant**, for property located at **183, 185, and 187 International Drive**, wherein Preliminary and Final Subdivision approval is requested with the following: Proposed Lot having an area of 8.777 ± acres (382,332 ± s.f.) and 382' ± of continuous street frontage off International Drive and 878' ± of continuous street frontage off of Oak Avenue; and the remaining land area being decreased by 382,332 ± acres and constituting a portion of the Tradeport. Said lot lies within the Airport Business and Commercial District where a minimum lot area of 5 acres and 200' of street frontage is required. Said property is shown on Assessor Plan 313 as Lot 17 (Plat plan is on file in the Planning Department Office and is identified as #09-01-08). *The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.*

G. 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 **Summit Lane Development, Applicant**, for property located at **183, 185, 187 International Drive**, wherein site review approval is requested for the construction of three multi-story buildings totaling 95,500 ± s.f., with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 313 as Lot 17 and lies within the Airport Business Commercial District; *The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.*

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Bob Stowell, of Trittech Engineering, was present with Barry Gier and Chad Kageleiry. Mr. Stowell stated that the proposal is to create a 8.8 acre parcel of land, and the description had a square footage reference rather than an acreage. It would involved the elimination of Pinecrest Drive, which is a stipulation. The second stage is for the site development and they are proposing a 3 building development, multi story, totaling a little over 95,000 s.f. and the project would be constructed in phases. Building one is a little over 50,000 s.f and they will begin construction immediately upon approval. Currently, Pinecrest comes in and out off pf Oak Street. They will have a new access off of International and a second access on to Oak Street. There are approximately 450 parking spaces, including spaces underneath the building. Service is by city services as part of this approval the

existing utilities on Pinecrest would be abandoned and a new water main connecting along Oak Street would be constructed. The sewer is serviced off of existing sewer at the site and they have service by underground electric, telephone and gas.

They displayed an elevation of proposed building #1. The other two buildings will be of a similar nature.

Mr. Coker indicated that he may have missed it in the notes of the TAC meeting, but he does not see traffic discussed anywhere. Mr. Stowell confirmed that they provided a traffic generation memo from their traffic engineer and there were comments raised at TAC about providing some back up to that information but no concerns were raised. There was a stipulation #11 that spoke of the traffic fee contribution to the PDA. Mr. Coker indicated his point was that the Town of Greenland had expressed some very strong concerns about traffic and he asked the Department about the declaration of a regional impact. Mr. Holden confirmed that Greenland did not declare a regional impact. They asked that it be considered and that is one of the things that TAC was looking at to make sure the appropriate contribution was made so that improvements can be done. Impacts from this project are not significant but to the overall picture there was to be a contribution and Maria Stowell, of the PDA, can address that. Mr. Coker indicated he would like to hear more from Maria Stowell.

Mr. Hopley asked if the engineering firm will be stamping the plans? Usually he would have expected to see that tonight. Mr. Stowell stated that they usually try to hold that back until construction time.

Mr. Coviello asked if Pease allows for covered parking to use the 3 to 1 ratio? Mr. Holden responded that they have a number of ways to address parking including that not all parking needs to be build and can be designated areas. It is his understanding that the project meets their ordinance. Mr. Coviello thought that it seems like a tremendous amount of parking. Mr. Holden confirmed that it depends on what the uses might be. A call center would demand a tremendous amount of parking. Mr. Stowell confirmed that the intended use of building #1 is occupied by general office space. Mr. Coviello asked if they looked at pervious pavement? Mr. Stowell stated that they did test pits but the ultimate design required a significant amount of cut to the site where they get down low enough so that that would not function. They were able to incorporate some bio-retention swales and bio-retention basin in the project but the pervious pavement didn't seem to be appropriate. Mr. Coviello asked them to explain the abbreviations for the parking areas that they used on the plans?.

Barry Gier, of Tri-Tech, explained that they have several parking designations including a compact parking area, a car pool area, van pool and fuel efficient and low emission vehicles, which all have to do with LEED certification issues. Ms. Geffert asked if the translations are somewhere on the plans? Mr. Gier pointed them out on Sheet C-10.

Vice Chairman Roberts had a question about the subdivision. She noted it was a strangely shaped lot and she asked how that fits with Pease and how it fits together. Mr. Stowell explained that was an existing boundary line between the Flextronics building but it mirrors the Pinecrest Road. They are creating one line which is fairly regular. It is the existing line that is irregular. Vice Chairman Roberts wondered why there was no interested on the part of the PDA to straighten that line out. Mr. Stowell stated it was never discussed and it did not affect the functionality for their site design.

Mr. Coker had a site review question. He read the stormwater drainage calculations and a lot is Greek to him but a lot jumped out. He believes the City of Portsmouth's requirements are to size stormwater run off to 25 year storms. Does he understand the stormwater drainage calculation to be based on a 10 year storm? Mr. Geir confirmed they included the 2, 10, 25 and 50 year in their storm. Their closed water system is based on a design for a 25 year storm. He is not sure that it is specifically stated in the calculations. Mr. Coker felt that it looked like it was based on a 10 year storm. Mr. Gier felt that the details for the watersheds for the concentrations are in the 10 year storm event but the 25 year storm event is included. Mr. Coker wanted to clarify that they are proposing a drainage system for the site

and what is that sized for? Is that sized for 10 year or 25 or 50 or 100? Mr. Geir confirmed the closed drainage system is designed to handle the 25 year storm event.

Deputy City Manager Hayden asked for a lighting plan and detail? Mr. Gier stated that he did not detail the light fixture but he can provide the light fixture cut sheet. The Lighting Plan is SP-10. They are a closed lighting fixture, full cut off, dark sky friendly.

Deputy City Manager Hayden noted the sidewalk that leads to the central circle and she asked if they had any plans for benches as it looked like a good gathering place? It was just a thought and not a requirement. Mr. Stowell assumed at some point they will get creative there. It was designed to have a focal point there and as the site gets built it will probably take on an identity in the future.

Mr. Coviello asked if they are going for LEED certification? Mr. Stowell indicated they are trying to meet some LEED standards but they are not going for LEED certification. Mr. Coviello asked about recycling. He noted the dumpster enclosures but no extra space for recycling bins. Mr. Stowell explained there are not any on the exterior but there may be room in the underground area. From the site end, there were about six different opportunities that they picked but recycling wasn't one of them.

Mr. Coviello asked if there are any bike pads? Mr. Stowell indicated they have the connectivity on the sidewalk but they don't have anything specific for biking. They do have some parking for motorcycles. Mr. Coviello asked if they would have a problem providing some bicycle racks? Mr. Gier confirmed that they do have bicycle racks. They have one for each of the three buildings. He pointed them out on SP-4, SP-6 and SP-8. They are shown on the individual sheets.

Mr. Coviello asked if there is any landscaping plan to hide the generators? Mr. Stowell indicated that nothing was specifically outlined for that. Mr. Holden felt it was an appropriate recommendation. Mr. Coviello asked if they would have any objection to provide landscaping around generators to block the view. Chairman Ricci supported that as well.

Mr. Coker asked to revisit the 25 year storm. He could not find anywhere that it says the drainage is sized for the 25 year storm. Mr. Stowell was not sure they have that definitive statement. If they go to each design structure, and look at the numbers for the 25 year storm, they will find that that culvert is functioning properly. Mr. Coker stated that he will rely on the Planning Board engineers.

Chairman Ricci referred to Note 33 where it says install 6" thick reinforced motorcycle parking pad and he asked that it say install 6" thick concrete reinforced motorcycle pad.

Chairman Ricci also wanted to bring up recycling. He asked what their plan was to recycle paper products. He knows this is not their purview but he was just curious from a means and method standpoint if there are any plans to recycle aluminum, plastic or paper? Mr. Stowell does not believe they have a plan for recycling on the inside. Outside they have the dumpster pad which is suitable for your traditional dumpster. At the end of their parking area they would have an opportunity to do some recycling but that is beyond what they have done so far. Chairman Ricci felt that they are putting in the car pool and compact parking spaces for LEED points but, to him, recycling has far more value. Going for LEED certification is great but recycling is more important.

Deputy City Manager Hayden understood that they are not going for LEED certification but they are following some LEED standards and she asked them to highlight the LEED protocols they are following? Mr. Stowell stated the parking space designations and the location of those spaces are what they have done to meet a certain number of standards. Deputy City Manager Hayden acknowledged it is not a requirement but they were trying to get more information on what they looked at. Mr. Stowell again indicated that was a little outside what they have done. This is a redevelopment of the site as it was an area of officer housing at the base and he is sure there are many other points but he's not aware of them.

Mr. Coker asked, so that he is comfortable with Greenland's concerns, specifically how does this comply with the PDA traffic plan and regulations and the off site improvements should be considered.

Maria Stowell, Pease Development Authority, stated that a few years ago they did a comprehensive traffic study of the Tradeport and looked at the developable land. They projected the size of the building and amount of traffic from those uses. Rather than have each proponent do a traffic study they did a tradeport-wide traffic study. The development at this site along with other sites were included in that. They looked at the intersections where Grafton Road comes out to Route 33 at the back gate and the intersections towards Greenland, heading south, and the intersection at the Sunoco station. They are not at build-out yet. They also looked at extra traffic generated on Route 33 and none of those intersection failed with the entire build-out so they feel they have addressed it that way. She does not believe this project is going to have an impact. She lives in Stratham and she knows Route 33 is heavy traffic and it has been that way for a while. Mr. Coker asked about her comment that none of the intersections failed, does that use the standard traffic measurements of delays, etc. Ms. Stowell confirmed that was correct, using the A,B, C rating system. The PDA did the study with their traffic consultant, VHB. Mr. Coker confirmed that he just wanted to make sure the concerns of the Town of Greenland were addressed.

Ms. Geffert asked if the Town of Greenland had talked to them about their concerns? Ms. Stowell confirmed that they have not. She did not receive a letter from them directly but rather received a copy from the Planning Department.

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. Hopley referred to one of Mr. Coker's questions regarding the Drainage Study. He pointed out that under the methodology it states that they were performed for the 2 year, 10 year, 25 year and 50 year storm event. Mr. Coker confirmed that he saw that but didn't see what they settled on.

Motion on Preliminary and Final Subdivision approval:

Mr. Coviello made a motion to recommend Preliminary and Final subdivision approval with six stipulations. Deputy City Manager Hayden seconded the motion.

The motion to recommend Preliminary and Final Subdivision approval passed unanimously with the following stipulations:

- 1) That the Plat plan should be stamped per Regulation requirements;
- 2) That a Report with the recommendation that Pinecrest Terrace should be removed from the MSA shall be provided to the City Council assuming concurrence in this action by the Department of Public Works;
- 3) To provide access and egress to the municipal water tank from this lot that either a general vehicular access easement over the entire lot or a specific vehicular access easement as shown on the plat shall be prepared to the benefit of the City;
- 4) That whatever the preferred form this easement takes, it shall be approved as to content and form by the City Attorney;
- 5) That the existing access to the water tank shall be so labeled on Sheet S-1; and,
- 6) That the applicant shall submit to Department of Public Works, electronic data which, is suitable for updating the City's Assessing Records.

Motion on Site Review:

Mr. Coviello made a motion to recommend site review approval with the 29 stipulations outlined in the Department Memorandum and two additional stipulation. #30 would be that the site plans reflect some landscaping around the generators, arborvitae or equivalent, to a height of the generators or outdoor mechanical equipment. #31 that a note change on the Construction Notes on SP-4 that the motorcycle pad be reinforced concrete.

Chairman Ricci asked that they put a detail on light fixtures on the plan.

Chairman Ricci asked the Board if they wanted to do anything with recycling or did they just want to leave it as a comment that was made? Mr. Coveillo indicated he was comfortable with the comment.

Deputy City Manager Hayden seconded the motion.

Deputy City Manager Hayden felt that the arborvitae around the generator should be broader so that they don't get a wall of green. Chairman Ricci suggested that landscape screening be placed around the mechanical units to a height equivalent of the units with a goal of aesthetic improvement.

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

Stipulations from the September 20, 2008 Technical Advisory Committee Meeting:

- 1) That DWP shall report to the Planning Board whether a section of the sewer line will need to be replaced by the applicant;
- 2) That a Drainage Plan shall be approved by DPW prior to the Planning Board meeting;
- 3) That the applicant shall be responsible to perform a radio-strength test with a Motorola Service Shop to ensure sufficient signal strength within any structure included in this project to support adequate radio coverage for emergency personnel. The expense for the test shall be the responsibility of the applicant, whether or not the test indicates that amplifiers are necessary to ensure this communication. If the test indicates that amplifiers are required, that cost shall also be the responsibility of the applicant (contact person: Gil Emery, Communications Supervisor, 610-7411);
- 4) That a Knox box shall be required on each of the three buildings and the Site Plan shall reflect the Knox box, the wiring and the connection. Also, the applicant shall contact the Fire Alarm Division prior to laying any cable or the conduit;
- 5) That a new hydrant shall be installed at the intersection of Oak Avenue and the proposed driveway, in the City right-of-way;
- 6) That a report shall be provided to the Planning Board relative to the process for discontinuing Pinecrest Terrace so that the appropriate process can be confirmed by the PDA;
- 7) That either a general easement or a specific easement shall be prepared and approved as to content and form by the City Attorney for access and egress to the water tank;
- 8) That the existing access to the water tank shall be labeled on Sheet S-1;
- 9) That the street lighting on Oak Avenue shall be set at intervals of 300' with conduit and bases according to the PDA specs and shall be reviewed and approved by DPW;
- 10) That a detail and reference shall be added to the Site Plans that all handicapped ramps shall be to City standard within the right-of-way;
- 11) That the traffic fee contribution shall be coordinated with the City and the PDA for the appropriate amount to go into the Traffic Impact Fund;
- 12) That the Landscaping Plan shall be favorably recommended to the Board by Deborah Finnigan and Lucy Tillman;
- 13) That the W-2 extension of the water main should be a 12" cement lined ductile iron pipe as it will eventually tie into the one on Corporate and Oak;

- 14) That the hydrant detail shall be revised to eliminate the “Eddy” hydrant and insert “the hydrant shall be installed according to Portsmouth Water Division standards” (the City uses a Kennedy hydrant);
- 15) That the wording in Note W-7 shall be revised from “4” type K copper domestic water service” to read “4” cement lined ductile iron domestic water service”;
- 16) That the Irrigation Plan shall include a note stating that all loam installed shall be 6” thick;
- 17) That the Irrigation Plan shall include a note stating that the irrigation system shall be set to run between 10:00 p.m. and 5:00 a.m. and that a Smart Controller shall be used;
- 18) That on Sheet T-2 Construction Note 1 shall be revised to replace “2006” with “current New Hampshire Department of Transportation Manual”;
- 19) That on Sheet T-2 Construction Note 4 shall indicate that Jason Wise, City GIS Manager, shall be contacted to determine the proper format for the as-built plans for the City;
- 20) That the gravel access referred to in Note 5 on Sheet T-2 shall be shown on the Site Plans;
- 21) That the silt fence referred to in Note 9 on Sheet T-2 shall be shown on the Site Plans;
- 22) That details shall be provided for any and all signs and pavement markings, including dimensions and color;
- 23) That snow removal shall be labeled on the Site Plans and a note shall be added that if there is not adequate room for snow storage on the site, then it shall be trucked off site in a safe and legal manner;
- 24) That the Traffic Report received at the September 30, 2008 TAC meeting shall be reviewed and approved by Deborah Finnigan;
- 25) That a Construction Management and Mitigation Plan (CMMP) shall be prepared by the applicant, which shall include traffic management plans for work being done in City streets, for review and approval by City Staff prior to the building permit being issued;
- 26) That the Sheet SP-1 shall show how the van spaces will be designated;
- 27) That truck turning movements shall be reviewed and approved by Deborah Finnigan prior to the Planning Board meeting;
- 28) That all dimensions on the Site Plans shall state “typical” or else they should be labeled;
- 29) That the following Site Notes shall be added or revised as necessary on the Site Plans to make sure they are meeting actual standards:
 - a. Pavement markings shall be installed as shown on the plans and detail sheets. Thermoplastic pavement markings shall include arrows, crosswalks and stop bars shall meet the requirements of AASHTO M249. All painted pavement markings shall meet the requirements of AASHTO M248 Type “F”;
 - b. All pavement markings and signs to conform to the current “Manual on Uniform Traffic Control Devices”, current “Standard Alphabets for Highway Signs and Pavement Markings”, and the Americans with Disabilities Act Requirements, latest edition;
 - c. See Detail Sheet (insert) for parking stall markings, accessible symbol, signs and sign posts;
 - d. Centerlines shall be four (4) inch wide painted yellow lines. Stop bars shall be eighteen (18) inch wide painted lines;
 - e. Painted islands shall be four(4) inch wide diagonal lines at 3’ -0” O.C. bordered by four (4) inch wide painted lines (if required);
 - f. All work performed shall conform to the requirements of the latest edition of the City of Portsmouth Construction Standards;
 - g. The contractor shall employ a licensed engineer/surveyor to determine all lines and grades;
 - h. All materials and construction shall conform with applicable City, State and Federal codes;
 - i. Contractor is to provide an electronic copy (per City standard), of the as built to City, owner and engineer as soon as construction is complete;
 - j. Coordinate all off-site work with the City of Portsmouth.

Stipulations from the October 16, 2008 Planning Board Meeting:

- 30) That landscape screening be added to the Site Plans around the generator, said landscaping to be to the height of the units, to aesthetically improve the site;

- 31) That Construction Note #33 on Sheet SP-4 shall be revised to read “reinforced concrete motorcycle pads”; and
- 32) That a light fixture detail shall be added to the Site Plans;

Chairman Ricci asked that the Letter from the Town of Greenland be forwarded along to the Pease Board of Directors. Mr. Holden added that he will indicate that the Board has considered this and would like to forward it to the PDA Board for their information.

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Mr. Coker recused himself from this hearing as he thought he may be an abutter.

H. The request of **Fleet Street Properties, LLC, Owner**, for property located at **154 Fleet Street**, for a third additional one year extension of Site Review Approval which was granted by the Planning Board on October 20, 2005, to construct a 3,246 ± s.f. 4-story building with basement, after removal of the existing building, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 117 as Lot 6 and lies within a Central Business B, Historic A and Downtown Overlay Districts. *The Board action in this matter has been deemed to be quasi judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.*

The Chair read the notice into the record.

Mr. Coviello stated that when this originally came before the Board he was working on the project and recused himself but he is no longer working for them and he sees no reason he cannot sit now.

SPEAKING TO THE APPLICATION:

John Chagnon, Ambit Engineering, explained that this is an extension of a previous site review approval however some Board members may not have been on the Board for the original approval. The project required HDC approval which has been extended. The project entails removing the existing building and constructing a new 3,246 s.f. four story building which will be retail on the first floor and dwelling units above. They are asking for an extension of their approval for another year.

Mr. Holden added that when this went through TAC there were no changes in the conditions for the past two years. TAC has favorably recommended this with the same conditions.

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. Rice made a motion to approve the request for a third additional one year extension subject to the stipulations from TAC. Deputy City Manager Hayden seconded the motion.

The motion to approve a third additional one year extension of site review approval passed unanimously with the following stipulations:

Stipulations from the October 20, 2005 Planning Board Meeting:

- 1) That an oil/water hood be installed on the catch basin located on Fleet Street, subject to review and approval by David Allen;

Stipulations from the October 4, 2005 Technical Advisory Committee Meeting:

- 2) That the armor-tile panel shown on the Sidewalk Tip Down detail on Sheet D-1 be removed;
- 3) That the sidewalks be shown as a minimum of 5’ and so noted on the Site Plans;
- 4) That the City Attorney review the grease trap issue (See previous Stipulation #4 below) to determine how to address this issue for future potential restaurant use (perhaps as part of the deed);
- 5) That all parking space striping and installation of parking meters shall be coordinated with DPW;
- 6) That the Construction Management Plan, including but not limited to all licenses and easements, shall be approved by the City through the City Attorney, Planning Department and DPW, and shall be presented and approved by the City Council prior to the issuance of a building permit;
- 7) That the parking fees shall be calculated in conjunction with the Planning Department and the applicant;
- 8) That the engineer design the drainage line in such a way that future catch basins on the other side of Congress Street could be adequately drained using this new drain pipe;
- 9) That the applicant shall sign the Site Review Application;

Stipulations from the August 30, 2005 Technical Advisory Committee Meeting:

- 10) That a detail be added to the Site Plans regarding the front awning;
- 11) That details be provided relative to footings and building protrusions and that all footings either under or on the City right of way shall require approval from the City Council;
- 12) That the drainage line be extended from the building to the end of the City drainage line;
- 13) That a grease trap be installed for any potential restaurant use;
- 14) That a knock box and fire alarm box be installed;
- 15) That a Construction Management Plan be prepared for review and approval by the City;
- 16) That if a determination is made that blasting will be required, a plan will be submitted for approval prior to a blasting permit being issued;
- 17) That a note be added to the plan explaining the use of the shared driveway; and
- 18) That a note be added to the Site Plans reflecting that the replacement of the fence in the rear is “replacing in kind”;

Stipulations from the October 18, 2007 Planning Board Meeting:

- 19) That the hours of construction as allowed by City Ordinance be noted on the Site Plans;
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III. CITY COUNCIL REFERRALS/REQUESTS

Chairman Ricci recused himself from this item as well as the next item.

A. Request of Brora, LLC, to erect a free standing pylon sign on a public right-of-way at the intersection of Market Street and Portsmouth Boulevard;

Mr. Holden stated that the Planning Board heard this referral some time ago and approved it subject to stipulations. The last stipulation was for the Planning Department to review wetlands to see if they were jurisdictional. The Department’s materials were not that accurate but plans had been developed on an adjacent lot and it was ultimately found that the original proposed location was approximately 9’ in the buffer. The applicant has agreed to move the sign outside the buffer and the Department recommends approval with the same conditions as last time, except #6, because they can confirm that it is outside the buffer.

Attorney Malcolm McNeill felt that Mr. Holden had covered everything nicely. The Board originally approved this on May 15, 2008. This was a referral from the City Council as it is a proposed sign on municipal property. Mr. Coker raised the question of whether there was a wetland or buffer issue. After investigation, the sign location in the original proposal was slightly in the buffer so the sign has been moved 9' southwesterly. The original sign was 26.4' from the edge of pavement and this one is 20.49'. There are no other modifications to the plan. The entire purpose of this is to take the sign out of the buffer area.

Deputy City Manager Hayden referred to Attorney McNeill's recent letter of September 26, 2008 and attachment A. She asked if he had any problem adding the word "externally" to proposed illuminated pylon sign. Attorney McNeil did not mind that at all and pointed out that it was in their conditions as well.

Mr. Rice noticed that they have two existing trees to be removed inside the jurisdictional wetland. Attorney McNeill stated that came under the original plan that came in and he was not sure whether they needed to get any relief for that. Mr. Hopley asked, now that the sign is moved, maybe they don't have to take the trees down. Attorney McNeill believed they do because of the visibility from the other direction. This is not a conventional type of request as they are asking to be placed on municipal property so in one sense, municipal property is not subject to the Zoning Ordinance although the trees are in the private property owned by the applicant. He did not presume it to be an issue because it was previously approved in the same location. Deputy City Manager remembered the tree removal was discussed when this first came before them. Attorney McNeill confirmed that the tree removal was always on the plan.

Mr. Coviello asked if they should weigh the public benefit of wayfinding vs. the public benefit of two trees and some bushes in a not so high value wetland. Attorney McNeill indicated that they initially concluded it was not in the wetlands at all.

Mr. Coker agreed with Mr. Coviello. The public benefit far outweighs the value of the trees. To their credit, the applicant went way out of their way to admit it was in the wetland buffer.

Mr. Rice made a motion to approve the request with the recommended stipulation and an additional note to add the word "externally" illuminated sign. Mr. Coviello seconded the motion.

The motion to recommend the approval to the City Council passed unanimously with the word "externally" added to illuminated sign.

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IV. AMENDED SITE PLAN REVIEW

A. Amendments to Site Review Approval for Property Located at 549 Route One (Traffic Circle), The Meadowbrook Inn Corporation, Owner;

Mr. Holden indicated that the Department has brought this in as the Department has been working on the Site Review conditions as a result of the Board's approval. One item deals with the stormwater system that there would need to be some sort of reporting mechanism and the word that was used was "deed". They met and they have agreed that there will be a recorded instrument that will be reviewed and approved by the City Attorney and recorded at the Registry. It is being drafted and will be provided to the Board when it is finalized. The second item was that they required a CIP contribution for the pedestrian access across Route One so that in the future the City would be able to install something. The applicant is making the full cost commitment to put in the traffic light, pedestrian controls and sidewalks. They see this as meeting or exceeding the CIP contribution so they are considering this to be satisfied. They plan to issue a building permit shortly.

Attorney McNeill spoke with regard to the issue of the contribution. That was an item that was discussed early in the process but it evolved into a serious discussion of a pedestrian crossing. The cost will far exceed the anticipated CIP contribution. Also, they are doing a transfer notice for recording, making it a permanent public record, so that anyone would be aware of the condition. Mr. Coker asked if this was precedent setting? Attorney McNeill felt it was precedent setting for Portsmouth but other communities record their letters of decision. It was felt this would be an enforcement mechanism.

Mr. Holden stated that no action is required other then for the Board to acknowledge this.

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V. NEW BUSINESS

A. New PDA Wetland Ordinance;

Peter Britz, City Environmental Planner, went over the new PDA Wetland Ordinance. He indicated that the Wetland Ordinance is in effect. It basically takes the wetlands out at Pease and gives them all setbacks that are variable based on the quality of the wetlands. They have 100', 50' or 25' buffers and there is no 0 buffer. The PDA decided that all wetlands ¼ acre or greater in size require a buffer. The big point for the PDA is that it expands the area, excludes the airport and industrial areas as their statute requires that the PDA Board review those. There are other details in the Ordinance but the next time an application comes before them, the Planning Department will provide a staff report.

In addition to the Wetland Ordinance that they enacted, they also enacted some performance standards. For both the parking and loading site review requirements, they allow the applicant the flexibility to reduce loading and parking if the applicant can demonstrate that they do not need them. This is in an attempt to reduce impervious surfaces.

Mr. Coker asked if he was correct in recalling that none of the wetlands at Pease are designed as Prime Wetlands. Mr. Britz clarified that none of the wetlands anywhere have been formally designated but the City has a set in Portsmouth that has gone to the City Council and will come back to the City Council once the mapping is complete. There is a wetland on the Portsmouth side of Pease that is eligible for wetland designation according to our Wetland Scientist but it hasn't been recommended to be designated as prime.

Mr. Coviello asked if the 25' buffer from Hodgdon Brook changed at all? Mr. Britz confirmed that they did not have any buffers at Pease but rather a recommended 25' buffer to wetlands but the Hodgdon Brook buffer was added because a lot of the Hodgdon Brook areas on Pease are narrow ditches so it adds that protection where there had been no protection before. Mr. Coviello indicated he was expected it to be larger as it was such an important watershed. Mr. Britz responded that there are other areas of Hodgdon Brook that have greater setbacks and what that is referring to in the ordinance is the ditch areas that are along the road. There are two little ditches that feed into Hodgson Brook that have 25' buffers but there are also areas that are Hodgdon Brook that have 100' buffer, such as behind Martins Point.

Chairman Ricci asked Maria Stowell, from the PDA, if she had any additional comments. Ms. Stowell felt that Mr. Britz gave a good summary. A lot of the things that were adopted were things that the PDA, as landlord, have been enforcing for 4-5 years but this formalizes it and it gives them a chance to see any variances from those ordinances.

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Mr. Holden advised the Board that next week there will be a Work Session on the Senior Housing Overlay and then back to the Zoning Ordinance, starting where they left off.

VI. ADJOURNMENT

A motion to adjourn at 9:12 pm was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on November 20, 2008.