

**MINUTES OF THE MEETING
HISTORIC DISTRICT COMMISSION
ONE JUNKINS AVENUE, PORTSMOUTH, NEW HAMPSHIRE**

EILEEN DONDERO FOLEY COUNCIL CHAMBERS

6:30 p.m.

**April 2, 2014
reconvened on April 9 & 16, 2014**

MEMBERS PRESENT: Chairman Joseph Almeida; Vice Chairman Tracy Kozak; Members Richard Katz, John Wyckoff, George Melchior; City Council Representative Esther Kennedy; Planning Department Representative William Gladhill; Alternates Dan Rawling, Reagan Ruedig

MEMBERS EXCUSED:

ALSO PRESENT: Nicholas Cracknell, Principal Planner

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Chairman Almeida stated that he had a letter submitted by Donald and Beth Margeson requesting that he and Vice-Chair Kozak recuse themselves from the Strawberry Banke Museum ice rink application that would be heard the following week. The Ordinance was specific about recusal, saying that individuals who had a potential conflict needed to decide whether they could participate without bias. Chairman Almeida stated he had volunteered hundreds of hours of architectural and planning services at Strawberry Banke in the past, and he had written a letter of support on behalf of himself and his family of the BOA effort for the ice skating rink project. He would decide within the week whether he would participate in the application. He was confident that he could, but he asked the other Commissioners what they thought.

Vice-Chair Kozak said that she, like Chairman Almeida, expressed support for the rink at Strawberry Banke. Nevertheless, Strawberry Banke was a client of her company's, so she would recuse herself from the application due to conflict of interest. Chairman Almeida stated that he would participate in that evening's Strawberry Banke application and was confident that he had no conflict of interest.

I. APPROVAL OF MINUTES

1. October 2, 2013
2. October 9, 2013

Ms. Ruedig suggested a minor correction on page 22 of the October 2, 2013 minutes to substitute the words 'tripled mulled' instead of 'mould'.

*Mr. Wyckoff moved to **approve** the two October sets of minutes as amended. Mr. Melchior seconded. The motion **passed** unanimously with all in favor, 7-0.*

Chairman Almeida told the Commission that they had three sets of meeting minutes for July 10, July 17, and August 14, 2013 emailed to them the previous month and had not approved them. He asked if he could get a motion for approval on the minutes.

*Mr. Wyckoff moved to **approve** the meeting minutes. Mr. Melchior seconded. The motion **passed** unanimously with all in favor, 7-0.*

II. ADMINISTRATIVE APPROVALS

Chairman Almeida stated that the Administrative Approvals was a fairly new tool that they were employing for applications that were minor in nature. All of them had been previously sent to the HDC for review, and Mr. Cracknell had issued approvals on all three.

- A. 55 Congress Street - antennas
- B. 1 Harbour Place - antennas
- C. 36 Market Street – mechanical equipment

III. PUBLIC HEARINGS (OLD BUSINESS)

The Board's action in these matters 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.

4. Petition of **Brian M. Regan and Susan M. Regan, owners**, for property located at **28-30 Dearborn Street**, wherein permission was requested to allow demolition of an existing structure (demolish existing concrete wall) and allow a new free standing structure (construct new wood wall) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 140 as Lot 1 and lies within General Residence A and Historic District. *(This item was postponed at the March 5, 2014 meeting to the April 2, 2014 meeting.)*

The applicant Mr. Regan had not arrived.

*Mr. Gladhill moved to **postpone** the application to later in the meeting. Councilor Kennedy seconded. The motion **passed** unanimously with all in favor, 7-0.*

The Commission then went to the next petition, which was the work session/public hearing for Portwalk.

5. (Work Session/Public Hearing) Petition of **Portwalk HI, LLC, owner**, for property located at **195 Hanover Street**, wherein permission was requested to allow amendments to a previously approved design (changes to all facades) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 125 as Lot 1-2 and lies within Central Business B, Historic, and Downtown Overlay Districts. *(This item was postponed at the March 5, 2014 meeting to the April 2, 2014 meeting.)*

WORK SESSION

Mr. Jeff Johnson, the project developer, Mr. Jim Loft, Managing Principal of Pro Con, Mr. Tim Levine, Mr. Chris Lizotte, and Mr. Matt Worth were present to speak to the application.

Mr. Johnson told the Commission that a third-party reviewer had been engaged to support the process. Chairman Almeida stated that the Commission had put together a way to overlay and clarify the process in moving forward, and he asked Mr. Cracknell to describe the procedure.

Mr. Cracknell stated that he would present the four steps of the review procedure that had been proposed in an email sent a few days before to the Commission. He had worked on it with the applicant and the third-party reviewer to ensure that Mr. McNeely could meet the timelines. The first step was an inventory of all the changes to make sure that they were all confident that the inventory was comprehensive and all-inclusive of the changes from the HDC's August 1 approval from 2012 to the present. Mr. McNeely would be responsible for verifying that all the changes on the plan as submitted by the applicant were representative of those changes. The second step was that the Commission would go through each change and evaluate them as good, bad or indifferent. The third step was to accept, modify, or reject the change. Mr. McNeely had a lot of experience with historic preservation and was willing to provide a non-binding advisory opinion of whether he saw the change as good, bad or indifferent. The HDC would make the decision as to whether the changes should stay, change, be rejected or mitigated. The fourth step was the proposal to retain the services of Mr. McNeely to ensure that the final revised approval would be reflected in the building and to make sure that the changes happened.

Most important in terms of the schedule, that evening was an opportunity to agree on the review procedure. The applicant would provide the Commission with an overview of the changes they had already made to the submission package that was submitted back in February for the March meeting. Based on the presentation, the Commission would find that they added more detail about the changes that had occurred, at least in the hotel portion. They were splitting the building into two phases and two sets of plans. The first set pertained only to the hotel; they would have a similar set in a few days from Pro Con for the rest of the building. Mr. McNeely would review both sets. He had the construction drawings and the August 1, 2012 HDC-approved plans to enumerate and verify the changes. Mr. McNeely would produce an interim report on the hotel portion for the following April 9 meeting, and Mr. Cracknell wanted to continue the application until then in an effort to get through it in a timely fashion. By April 16, the Commission could review it, and on May 7, they could review the rest of the building and evaluate the changes as to whether they were good, bad or indifferent.

Chairman Almeida told the Commissioners that they should feel free to speak about anything they wanted that evening and not limit themselves. He asked if they should allow the applicant to give the presentation and then discuss it. Mr. Cracknell said they should discuss the review procedure before hearing the presentation.

Councilor Kennedy stated that the information brought to the Commission the previous month was not inclusive of all of the things that were missing. They were now learning that the City had hired someone on behalf of the developer to look at everything that needed to be looked at in

accordance to the plans that the developers had submitted and that the City had on file. She asked how the Commission would move forward to review the plans when the professional expert that was not partial to either group had not presented his findings. Chairman Almeida stated that the evening's session was more of a discussion about the changes, and the expert would produce his findings on April 9, at which time he would give his opinion on whether or not the changes were good or bad. Chairman Almeida asked if everyone was comfortable with the procedure and was told yes.

Mr. Loft told the Commission that his goal was to reconcile all the work that had gone into the approved original plans with their construction documents that were issued in 2013. When they first submitted drawings to the HDC, they were hand-drawn and were at a preliminary stage in the process of the project where they did not know all of the engineering aspects and were making best guesses. The following year, as they developed the documents and engineering, they had to make adjustments to fit the original design intent, and they had tried to do the best job they could to meet that design intent. The internal floor plans were conceptual then and not developed. They had to make changes in the apartments to accommodate the walls, such as adding windows and brick columns and upgrading light poles. They were not major changes, and they all felt that it was within the intent and had made the project better. Their goal was never to cheapen the project. Everyone wanted to be proud of the building and try to make it the best building that they could. It would be a LEED-certified building, which cost hundreds of thousands of dollars because it included such things as an additional layer of insulation, more efficient mechanical systems, and energy recovery systems. Other developers that they had dealt with had never committed to doing that. It was unfortunate that they were going through the process they were going through, but their hearts were in the right place to do the best possible job, even though at times it hadn't seemed that way. Mr. Loft stated that they had gone back and tried to pick out every item that was relevant, and the Commission would be the judge as to whether those items were pertinent enough to have an impact within the review or not.

Mr. Johnson told the Commission that they would through the approved drawings from the original package and the enumerated ones that had changes. Mr. Lizotte added that the first set of drawings had the matrix of the before-and-after conditions. The second set had a series of drawings from the original set so that they could note the changes. The original set was not accurate because there were supplements to it after it was reviewed and approved.

Sheet #1 showed the removal of the original trim at the top of the cornice. The building height had not changed. The crown was moved up and the square windows were enlarged, which made the buildings look a bit bigger. Sheet #2 related to the windows. Sheets #3 and #4 related to the pilasters. Mr. Loft said that there was a building expression, so they had a double row of columns and mimicked it on the other side to give it more of an entrance. They had to have a seismic expansion joint put through the building because one side was in the middle of the building, so there was a big opening where the building would move. Chairman Almeida asked if they were on the same plane. Mr. Johnson told him they were, and that there was a 3" reveal between them. Mr. Loft added that there was an extension of the portico that stuck out over the columns, and they kept the column detailing the same.

Sheet #5 showed the addition of a mid rail to the door. Because the door was 8-9 feet tall, it was a higher storefront door and the mid rail was needed to stabilize it. Chairman Almeida noted that on Sheet #5, the door styles and construction of the door looked very different. On page 9 it looked like a Kawneer aluminum storefront door, and on Sheet #5 it looked more like a wood door. It was a wide style versus a narrow style. Mr. Lizotte said that it was not the narrow style. Chairman Almeida asked if it was a Kawneer system or something like it. Mr. Lizotte replied that it was a median style of 5", and not the typical 2" retail entrance. Chairman Almeida wanted it noted that not only was the mid rail a change but the look of the door was a big change.

Vice-Chair Kozak stated that the Commission would need to see cut sheets for the doors and details on the three entry reveals because they needed to evaluate the level of detail. She also mentioned the opening of the windows on the top and the 3" reveal, so the Commission would need the detail on it. Mr. Gladhill added that they would also need the style of the windows. Mr. Lizotte told him that the windows were simulated divided light like the rest of the windows. Chairman Almeida stated that if it was something that had been previously submitted and approved, like the exact window, brand, color and so on, they wouldn't need it again, but if it had changed in any way, they definitely needed to see it. Chairman Almeida verified that Sheet #5 showed the previous and page 9 showed where the change was actually made. Mr. Lizotte told him that the sheets in between were just the section sheets from the original.

Sheet #6 showed the previous approved brick that was changed to fibercement siding and trim that was approved on the supplement. Chairman Almeida was glad that it had been marked in case the Commission had been confused about it. He knew that the applicant had come back for a half-dozen items, so it was wise to point those out. Mr. Loft stated that Page 6a had a previous brick course that was changed from 2" to 1". They had called it out as 2", but their mason was concerned, so they changed it to 1". Mr. Wyckoff asked if it was all three of the courses, and Mr. Loft agreed that it was.

Sheet #7 showed that the pre-cast concrete size was 16" tall, but it was 24" tall on page 7. Page 9 showed one at 24". As they developed the drawings, it looked better proportionally with a thicker cap. Chairman Almeida asked if it matched the adjacent glass size of the windows, like the graphic suggested, and if it repeated the size all the way across. Mr. Lizotte said it was the same size but higher up on one wall.

Mr. Loft pointed out Sheet #8 and the storefront change that went from 10" x 11" to 11.4" x 11.", so the storefront got bigger. They divided it into bays, so the windows ended up being a little bigger. Mr. Lizotte added that the piers were 2' wide, which was typical, but when they did all the extra detailing, they had more space between the piers, so the storefront grew a little. Councilor Kennedy asked what the trim was because the trim on the windows looked bigger than before. Mr. Loft stated that it was a recessed storefront into the brick, and what Councilor Kennedy saw was just two hand-drawn lines with a pencil that appeared a lot bigger at that scale. Mr. Lizotte said that he would provide cut sheets of the way it was drawn at 2-1/2". Mr. Wyckoff noted that they looked very slender on page 9, and Vice-Chair Kozak agreed.

Mr. Loft said that medium bronze had been called out, as shown on Sheet #9. Sheet #10 showed the projection of the overhang of the porte-cochere on page 7. Chairman Almeida confirmed that

it was part of the supplemental approval. Mr. Lizotte agreed and said that Extension 16 was in the street and only had a 12' clearing so it wouldn't have worked out, which the Fire Consultant had pointed out. Mr. Lizotte said they had come back to the Commission because they knew they were too far out. Chairman Almeida remembered that they requested that it not be brought in, and that the request to reduce it in size was denied. Mr. Lizotte said that they went back to the bay design but couldn't stick it that far out because they were in the street. Chairman Almeida verified that page sheet #26 was the previous condition. Mr. Lizotte agreed that it was a sheet from the first round.

Councilor Kennedy asked that the word 'previous' be written on the plans for future reference so that it would be less confusing. Chairman Almeida asked how far out the projection had been changed to and was told 9'. Mr. Loft said it was changed from 16' to 9'. Chairman Almeida asked if it had been approved at the supplemental. Mr. Lizotte said they hadn't gone with that design but had talked more about the measurements.

Mr. Levine stated that in the original, there was a proposal to take the whole bay above the porte-cochere roof and push it back flat against the building, but they didn't like it. The porte-cochere roof came out, so the design was retained, but the leading edge of it didn't go out in the street. The design was the same, but the projection of the roof itself was less. Chairman Almeida clarified that the canopy that projected furthest out projected 9', and the piece above that sat on top of the canopy stuck out 6'. Mr. Levine told him that the bay section above the canopy was originally approved and they would put it back exactly the way it was.

Mr. Wyckoff asked whether or not it had been discussed back in 2012 that it was copper because he noticed a green fibercement. Chairman Almeida told him it was not copper in the final approval. Mr. Wyckoff noted that when the applicant came in for final approval, they changed and simplified the element. The Commission had told them that they wanted metal, and he wanted the applicant to check on it. Chairman Almeida told the Commissioners that if they had a list items that they felt needed to be mitigated, it could be copper. Mr. Johnson recalled that they had presented a new detail and the Commission had not wanted it, so they went back to the detail that showed the balconies, but it had always been fibercement with a green patina.

Mr. Loft next showed Sheet #11, the modified storefront. The bays had changed a bit, and they added the detail at the end, which was the same detail that showed up on another corner. Ms. Ruedig asked if the vertical separations on the blocks on the straight corners above the building were on the previous drawing. Mr. Lizotte replied that they had to have joints in the pre-cast. Mr. Wyckoff thought that it looked flatter on the drawing, where before it seemed to have more of a ledge. Mr. Lizotte told her that it did, but they had shown it with shadow lines. Vice-Chair Kozak confirmed that the verticals were mortar joints and was told that they were.

Mr. Johnson pointed out that the pre-cast concrete bands were all the same. Chairman Almeida asked if the joints were truly 30". Mr. Levine said they were very similar to what was on the other buildings. Chairman Almeida said it was the tradeoff when the Commission had insisted on masonry instead of the fiberglass profile.

Mr. Loft pointed out on Sheets #12 the composite texture that looked like stone and said the steel line was the second floor. The engineer had tried to get a bit of weight out, so it was the same look and emulated the stone. Pre-cast concrete also emulated stone, so both materials gave the same visual effect. Mr. Johnson said the Commission could do a site walk if they wanted to look at it and feel it; small pieces of it were on Portwalk Place and on Maplewood Avenue, and a more complete assembly was on Deer Street. Mr. Wyckoff asked if it retained color well. Mr. Levine said that it had a paintable surface. Ms. Ruedig stated that she was worried about light reflectivity and how it would react against the pre-cast. Vice-Chair Kozak said it looked like a different profile from the hand drawing to the CAD drawing. Chairman Almeida noted that the previously-approved drawing had suggested that the cast stone or pre-cast was mired around the opening, and Sheet #13 still had the miter piece. He asked if they were mitering the cast stone and fiberglass and joining it at the corner, and he was told yes. Vice-Chair Kozak said it looked like a 6-8" protrusion of heavy cornice that created a heavy shadow, and the CAD drawing looked like it was 2" and very flat. She requested a section detail of it. Mr. Loft pointed out Sheet #16 that showed the profile change from 1' to 8". Vice-Chair Kozak said that it didn't look like an 8" relief.

Mr. Loft showed Sheet #13 which noted the metal band size change of 30" to 40", and the storefront changes in width and height. They were concerned about oil panning in that metal part, so they went to a concrete panel, which grew a little to accommodate the structure behind it. Therefore, the metal band size went from 30" to 40". Mr. Rawling was surprised that it had gotten through the approval process because it really separated the top and bottom part of the two-story composition. The first version minimized the floor heights, and the separation of the floors at that elevation was disturbing. Chairman Almeida agreed, and he asked for a blow-up detail of the bay to make it clearer. He thought the elevation and the one around the corner was very troubling. Mr. Wyckoff pointed out that, on page 11, the second floor looked like it had mechanical equipment going through the wall louvers. He asked if there was metal underneath it and if it had increased 10" and was told yes. Mr. Loft said they would provide the bay details.

Sheet #14 showed the change from a metal window to a vinyl window. Mr. Loft said that the vinyl windows were more energy efficient and were necessary for the LEED certification. They had the same finish to match what was originally approved, and they felt that it was in keeping with the look of the building. Councilor Kennedy confirmed that they had gone from metal to vinyl and said that the Commission always asked that owners never use vinyl. She asked if their rationale for doing so was the LEED certification. Mr. Loft said it was a more efficient window that they hadn't thought they could do metal. Vice-Chair Kozak said she was LEED-certified and there were other options such as fiberglass. Mr. Johnson said there were vinyl windows on the entire residential building, and it wasn't as if they had not used vinyl previously. Chairman Almeida asked for a cut of the window.

Mr. Loft said that Sheet #15 showed a change of color to dark bronze from dark gray and said that the actual nomenclature for the anodized finish on the storefront windows was a dark bronze, which was very similar. Sheet #17 was a mock-up review showing the cornice color change, which was an approved change. Sheet #18 (pages 12 and 13) showed the brick pier and the change on the corner from 36" to 52" wide and under 24". He said they had increased the width for better proportion and to keep the same intent of the element. Sheet 18a showed the

change from metal panels to fibercement panels, with the same interior between the cornice elements. Mr. Rawling noted that the piers on the storefront as shown on page 13 seemed to be much narrower than they appeared on the drawings on page 10. Mr. Johnson said they would scope it out and give the Commission the dimensions.

Mr. Loft said that Sheet #19 showed added a column of windows on Deer Street. They kept the same pattern but just added a column of windows. Mr. Lizotte stated that when they brought up all of the steel from the lower garage, they adjusted it a bit, and when the final interior design of the hotel rooms was done, they kept the rhythm of those bays between the upper windows and the center of the bay below. Mr. Johnson stated that when they added a row of windows, the whole design intent of the bay of the first floor matched the previous design. Mr. Loft said that Sheet #20 showed an added storefront door at Deer Street that helped activate the street, and when they got tenants, they would come back for other type of changes.

Chairman Almeida noted that what had previously appeared to be windows on the tower looked like an aluminum storefront style rather than individual windows. He said that the previous drawing had two windows mulled together and cited page 10 as an example. Councilor Kennedy was surprised that it was a whole window. Mr. Lizotte stated that the two windows were mulled together in the middle. Councilor Kennedy asked if pages 10 and 14 had the same windows on it and was told yes. Vice-Chair Kozak asked where the previous façade drawing of page 14 was. Chairman Almeida did not think the Commission had a blow-up of that one and asked the applicant to include it for the next time.

Mr. Johnson mentioned that the CAD drawings looked different from the rendering. Mr. Wyckoff asked if the Commission was supposed to look at the CAD drawings or the renderings. They were now hearing that the CAD drawings were not accurate, and the dimensions seemed more slender and less powerful. Mr. Loft said that the CAD drawings didn't graphically represent it as it would look in reality.

Mr. Loft pointed out the gas regulator on Sheet #21 and said it needed to be there, but they would add some planters around it. Chairman Almeida asked how far it stuck out on the sidewalk. Mr. Johnson told him a few feet. Vice-Chair Kozak asked if the planters were built or furniture. Mr. Levine said they were granite. Vice-Chair Kozak said that it should be noted on the plans. Chairman Almeida said there was a bracket missing on a corner at the parapet. Mr. Loft agreed and said he would look into it.

Mr. Loft stated that spandrel glass was added on Maplewood Avenue at the stair of the window. Mr. Wyckoff said that it was not shown in the March presentation and asked why they were closing up the windows. Mr. Lizotte pointed out the same corner and there was a black cabinet for the lights at the intersection that they had put against the building. Because it was in front of where the original door was going to be, they shifted the door over to make it symmetrical on the opposite side, so they had to add some spandrel because of the control cabinet. Mr. Loft said that it would look like the rest of the windows, even though it was black. The landing at the stair was such that it came through the spandrel, so they blacked out that window. Mr. Wyckoff asked if the cabinet would be removed from the corner of Hanover Street. Mr. Loft said the one on Hanover Street was temporary, and the one at the Deer Street and Maplewood Avenue corner

would remain. Mr. Rawling said there was specific wording in the new design guidelines that strongly discouraged the use of spandrel glass, and there were a number of places where it was added. Mr. Lizotte mentioned the staircase fire rating. Vice-Chair Kozak thought that they didn't have to fire rate the exterior windows unless they had a wall less than 180 degrees from the window within 10', and she urged them to check the regulations.

Mr. Loft then showed the course brick detailing on Sheet #23a and said they had shown soldier course brick detailing at the top level floor. As they were going through the drawings, they missed that one. He said it was up to the Commission to decide the level of detail. Sheet #25 was the courtyard area that showed the pier change from a granite base to concrete. Mr. Loft stated that the changes on Sheets #24 and 25 were on the same pier. The change on Sheet #24 was in the courtyard and could not be seen from the street. It was 1'2" wide, and they made it 3' wide on the final detail. Mr. Lizotte noted that, for waterproofing reasons, they made it concrete with a coating on top because it was adjacent to the deck above the underground parking.

Mr. Loft stated that the trim widths of 3-1/2" on Sheet #26 were different than the ones on page 23 that called out 2". The 3-1/2' was more typical with a better shadow line and would be more in keeping with what would really be used.

Pages 24 and 25 were the storefront changes. The structural system coming up from the garage had caused the double piers at the porte cochere entrance to be carried over to make it a series of double columns for aesthetic reasons. Chairman Almeida noted that they were able to get rid of the gray metal door. Mr. Loft said the last pre-cast change was to brick on the porte cochere. Mr. Lizotte said that it did not have enough height, so there was no room above the windows to keep the windows high enough, and the small brick piece was kept to match.

Chairman Almeida confirmed that all the changes on the hotel portion had been summarized. He stated that he had never been approached by more people about a project. The Commission was receiving piles of letters, and there was a big concern as to why the HDC did not seem angry about what had happened, but he could assure them that it was very upsetting to the Commission. The Commissioners would not let anger overrun them, and they would not make it a fight. They had to get through it, and the best way was to be professional throughout.

Mr. Gladhill noted that at the beginning, the Commission approved a set of drawings with engineering designs. Changes were made internally, and CAD drawings were then presented that were different from what was approved. He asked if there was anything procedurally that could be done about the situation so that the HDC did not give final approval until the developer or applicant did the engineering drawings first to guarantee that what they approved originally would remain. Mr. Loft stated that the final approval of the construction documents would be a big help. They had gotten lost in the dimension of the building because it was very complex. It was not done maliciously. He thought that having the sit-down and going through the final submitted working drawings for construction would be a great step. Mr. Gladhill concluded that Mr. Loft would recommend holding off the design approval until the developers came out with the engineering drawings first. Mr. Loft said that would be the second part of the HDC approval. They would initially approve the drawings, and it would be a condition of the approval. Vice-Chair Kozak stated that the Commission had not had that happen before. Usually they approved

something that got built, and it was the applicant's responsibility to track the changes. She didn't think the Commission should create another step to the process.

Mr. Wyckoff recalled that Phase One of the hotel had a window change. The applicant may have been thinking of a central HVAC system and then had gone to the window units. Something had changed on all the hotel windows. The applicant had built a brick mock-up of the corner of Maplewood Avenue and Deer Street at the time, and a few of the Commissioners had gone to look at it. It had the window with the louvers underneath and the trim size, and he thought that was something that was always done. Chairman Almeida said that he and Vice-Chair Kozak had reviewed the brick mock-up the second time around for color and pattern, and there were no windows. Mr. Johnson stated that they had changed the windows on the residence beforehand and had gone from one window to another system. He admitted that they should have been before the Board earlier.

Chairman Almeida stated that they had a huge amount of public input at the previous meeting, and in the spirit of all of them moving forward, he hoped the comments that evening would address how they could mitigate some of the changes. He also hoped that the public and the Commission had specific ideas about the items as to whether to mitigate them or put them back the way they were before. They should try to solve it rather than focus on the problems and how terrible it was.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Mr. Dick Bagley of 213 Pleasant Street stated that in March 2005, the Master Plan had a specific strategy that encouraged the HDC to work with City officials to develop a post-approval inspection process that would assure adherence to HDC approvals and would enhance their decision making. It had not happened often. The bottom line was that the Commission had very little in their enforcement rules, but they had the Cease and Desist order, which the City Manager elected not to use. The Commission had said they would make it a better building, and that was all they were authorized to do. The City Manager, however, stated that certain things would be done and they would have all the changes by the March meeting, yet the changes were still ongoing. There had been 25 changes presented at the TAC meeting the day before that were approved, which meant that the Planning Board would approve those changes. There were two issues, the overlay of the pavement on the railroad tracks to on Congress Street, and the removal of the door that exited to the street, which was a licensing issue. The developer claimed that they had the right to move the door due to the license. It wasn't about the anger, it was about the rules. The HDC was basically not empowered. They had asked the City Attorney the year before for more guidance about what they could actually do. Mr. Katz wanted to know if they could walk on the property. Vice-Chair Kozak said the Commission didn't have that authority. They reviewed and approved things, and now the developer was telling them that they did everything within the intent. The applicant was supposed to tell the Commission about the changes because there were specific guidelines as to what the Commission could and could not do. He was not there to tell them to penalize the applicant but to ask them to think about it carefully because TAC approved it. Issues like vinyl to metal – those were aesthetics and HDC considerations, and he encouraged them not to be vindictive but to apply principles and determine what needed to be put back to its original condition. The HDC had an obligation to

the citizens to uphold the standards of their own regulations. The Commission asked for public input on how to improve the process, and he thought they should combine their meeting with the Planning Board, like they did for the HarborCorp project, and invite the public to speak at an open dialog so that residents could have thoughtful input.

Mr. Lawrence Cataldo of 133 Islington Street stated that he had heard comments from the Commission such as ‘discovered an inconsistency in diagrams’ or ‘an inaccuracy from what was originally approved’ or ‘confusion of what was previously approved and not approved’. The submitted diagrams were not 100% accurate, so changes were being made, and the applicant had invited the Commission to go and see the changes. They were missing information and had been asked to check the Ordinance to make sure the specs were correct. He hoped the developers would make their drawings clearer so that the Commission knew exactly what they were going to get. They were flipping papers and going back and forth from old changes to new. The applicant’s presentation had been very confusing, and he should make it easier for the Commission for the next session because the Commission was working much too hard on it.

Mr. Rick Becksted of 1395 Islington Street asked the Board to look at what was before them and ask if it fit. They’d had violations before. The application concerned downtown Portsmouth and it was very important to Portsmouth. The Board had to figure out what was appropriate for the surroundings and for Portsmouth.

Mr. Peter Weeks of New Castle stated that he had lived in Portsmouth for 50 years and had sat on the Board in the past, and he did not envy the Commission. There were lots of difficult decisions, and they had to make sure that everything was done appropriately and in the best interest of the economy and the City, and that they keep their historic preservation intact. He thought they were on the right track. The third-party specialist would help the Board and the Portwalk representatives to ascertain that the changes would make a better project. The Commission was not doing it with anger but was doing what the Ordinance said.

No one else rose, so Chairman Almeida closed the public session.

DECISION OF THE COMMISSION

Mr. Wyckoff said he found the difference between 30” and 40” in width in the bronze panel disturbing, since the bottom was framed out. He wanted to know what ideas the Commission could come up with to mitigate the expanse of metal. Chairman Almeida said that he would make notes on items that were of great importance and would spend his time considering mitigation changes or going back to the way it was. Mr. Wyckoff feared that after a while, it might be too late. Chairman Almeida disagreed and said it might become more difficult for the applicant to change things but it didn’t mean they couldn’t change them.

Councilor Kennedy asked at what point, when they came forward with their ideas or wanted what was originally approved by the previous HDC, was it not their rationale of how to change it or what they perceived it should be. It was not in their purview to fix it, but it was in their purview to say which materials they wanted. Vice-Chair Kozak said the Commission would

approve it like any other project. The only thing in their purview was whether it was historically appropriate, not whether it was technically feasible.

Chairman Almeida thought that if someone had an issue with the window patterns and felt that it would be too much money to put the windows back to the original design, they could mitigate and ask that improvements be made at street level instead. It was a chance for them to be very specific about what they might want instead of moving a window back 3 inches. It could be landscaping, storefront upgrades, and so on. They had a huge amount of discretion, and he hated to give that up. Mr. Cracknell stated that the burden was on the applicant to convince them that the substitution was better than what was originally approved. The code issues had to be resolved by the applicant, and if a code issue didn't work, then the applicant had to bring it back to the Commission if it resulted in an exterior change to the building surface. It was fair game if the Commission had a substitution or amendment to what the applicant proposed that might not be directly related to the design elements that had been changed.

Mr. Wyckoff asked how they would determine the vote. Chairman Almeida said they might have to vote on individual items. Mr. Cracknell reminded them that Step 3 was the decision-making process. Mr. Wyckoff thought that they could not come up with some sort of approval for minor items like the Consent Agenda. Chairman Almeida replied that anyone could put those ideas forward. Councilor Kennedy said she was not in a rush and that she wanted to do it right. Chairman Almeida told her that there was no need to rush it but they needed to get it done. He did not want to see it go on beyond May. Mr. Johnson thought it would be helpful if the Commission went on a site tour. Councilor Kennedy preferred to get the third-party expert's opinion before going out to the site.

*Mr. Gladhill moved to **continue** the application until the April 9, 2014 meeting. Vice-Chair Kozak seconded it. The motion **passed** unanimously with all in favor, 7-0.*

The Commission went back to the first scheduled petition for 28-30 Dearborn Street.

4. Petition of **Brian M. Regan and Susan M. Regan, owners**, for property located at **28-30 Dearborn Street**, wherein permission was requested to allow demolition of an existing structure (demolish existing concrete wall) and allow a new free standing structure (construct new wood wall) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 140 as Lot 1 and lies within General Residence A and Historic District. *(This item was postponed at the March 5, 2014 meeting to the April 2, 2014 meeting.)*

SPEAKING TO THE PETITION

The owner Mr. Regan told the Commission that he had some changes and a new set of drawings, which he distributed. Chairman Almeida noted that Mr. Regan was switching from a pressure-treated wood wall to a fieldstone wall with granite steps. Mr. Regan said he had done so under the direction of the City engineers and the Public Works department. His final proposal had gone through lots of pitches. At first, he had to make arrangements to install a sewer line and get elevations for the test pits, and he also had to the manhole in place before moving the wall because he did not know where the end of the line would be. After doing all the elevations and

getting all the departments and neighbors together to discuss issues, he had a plan that was better than the original plan. The existing wall had been put in 30 years before, so they would move the wall and put in granite steps and a landing. They would drop the elevation a few feet because the grade was high, and then would put the 3' stone wall in.

Chairman Almeida noted that Mr. Regan had been before the City Council, so he would simplify the matter for him. They were focused on the fieldstone wall with granite steps and landing. Mr. Wyckoff asked if the wall would be similar to the one shown on Islington Street on the drawing. Mr. Regan replied that he would purchase regular round fieldstone rather than the one shown on Islington Street, which was flat. Mr. Wyckoff was more concerned with having it the right color and texture as well as the right kind of stone for New England, so he was in favor of a very simple stone wall as long as he was assured that it was a local texture stone, which was gray.

Chairman Almeida asked if the proposed fieldstone could be the same stone and pattern of the sample. Mr. Regan agreed. Mr. Gladhill asked if the Commission had to approve the steps, seeing that the steps and landing were approved by the City Council because they were on City property. Mr. Regan said that Mr. Cracknell mentioned there would be licensing issues. Mr. Cracknell stated that it would make sense if the Commission supported the granite landing and steps so that the City Council would know that the HDC supported that level of improvement within the right of way associated with the larger project.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Mr. Michael Stasick of 31 Dearborn Street stated that he lived directly across the street from the wall. He referred to the image of the wooden wall and said he had been there with Mr. Cracknell and Mr. Regan to discuss his concerns that the materials of the pressure-treated wood were not appropriate. The land had been built up so that the wall would be too high, and he had wanted to know if the wall could be curved to follow the contour of the street. He had also pointed out to Mr. Cracknell that he agreed the stonewall was the appropriate color and native to New England. He appreciated that Mr. Regan had been open to his suggestions. He stated that he had waited a long time for Dearborn Street to turn the corner, and he thought the change would get it right. Mr. Regan's house and his house were on the 1810 map in the Historic District and they were a block away from the Jackson House. He was pleased that it looked like progress and thought Mr. Regan would have a house with better curb appeal and better value.

DECISION OF THE COMMISSION

*Mr. Gladhill moved to **grant** the Certificate of Approval as presented with the following stipulations:*

- 1) That the fieldstone used for the wall will look similar to what was presented in the revised site plan (dated 4/2/14) and submitted at the meeting.*
- 2) That the HDC will send notice to the City Council of their approval of the proposed granite steps that will be on City property and will require a license.*

*Councilor Kennedy seconded. The motion **passed** unanimously with all in favor, 7-0.*

IV. PUBLIC HEARINGS (CONSENT AGENDA ITEMS)

*The Board's action in these matters 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.*

1. Petition of **AHI Holdings, LLC, owner**, for property located at **40 Court Street**, wherein permission was requested to allow new free standing structures (install 9 condensing units) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 127 as Lot 1 and lies within the Mixed Residential Office, Historic, and Downtown Overlay Districts.

SPEAKING TO THE PETITION

Chairman Almeida told the Commission that the item was very minor in nature, which was the reason it was on the Consent Agenda.

SPEAKING TO, FOR, OR AGAINST THE PETITION

There was no one to speak to the petition, so Chairman Almeida closed the public hearing.

DECISION OF THE COMMISSION

*Councilor Kennedy moved to **grant** the Certificate of Approval for the application as presented in the Consent Agenda. Mr. Gladhill seconded the motion. The motion **passed** unanimously with all in favor, 7-0.*

V. PUBLIC HEARINGS (NEW BUSINESS)

*The Board's action in these matters 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.*

2. Petition of **Cyrus Lawrence Gardner Beer and Erica Caron Beer, owners**, for property located at **64 Mt. Vernon Street**, wherein permission was requested to allow exterior renovations to an existing structure (replace windows) and allow new construction to an existing structure (construct awning over side door, add copper gutter and downspout) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 111 as Lot 30 and lies within General Residence B and Historic Districts.

SPEAKING TO THE PETITION

The owner Mr. Beer stated that Mr. Cracknell had asked that he provide additional pictures, which he passed out. He also had a sample window with him. Two sides of the house had wood

windows with wood storms. The other two sides had vinyl windows. He wanted to replace the vinyl windows with new wood windows to match the other two sides of the house. One of the photos showed the top of what existed on the house, which was what he wanted to match. His contractor was a local man who made custom windows and had done a house on Gates Street, which he showed an example of. He pointed out a drawing that showed how the storm windows were set inside the casing and the top sash was flush with the jamb. They were fixed and could not be removed. The bottom sash had hooks, so glass could be put in during the winter and a screen during the summer. It was a Spanish cedar, all-wood construction window. Most of the windows downstairs were the same size, and the muntin pattern would be the same. The second floor had smaller windows with a similar muntin pattern, but they were 6/6 instead of 9/6.

Mr. Beer also wanted to do was put in a copper half-round gutter near the porch facing Mr. Vernon Street, and to put a wood awning with brackets over the back door.

Chairman Almeida said that he was very familiar with the storm window system and felt that it was the ultimate aesthetic storm window for a historic house. Three other houses besides the one on Gates Street had the same system and it was difficult to even know that there was a storm window on those historic windows. He said it was a great product.

Mr. Wyckoff assumed that the wood awning would be above the door and asked what the 6" ceiling tiles were. Mr. Beer told him that he could not put glass panes above the door because of the header, but he had seen tin ceiling tiles that looked like wood when they were painted, with muntins between them. He said it would look more like a decorative panel.

SPEAKING TO, FOR, OR AGAINST THE PETITION

There was no one to speak to the petition, so Chairman Almeida closed the public hearing.

DECISION OF COMMISSION

*Councilor Kennedy moved to **grant** the Certificate of Approval for the application as presented. Mr. Gladhill seconded the motion. The motion **passed** unanimously with all in favor, 7-0.*

3. Petition of **Community Investment Properties, LLC, owner**, for property located at **86 South School Street**, wherein permission was requested to allow an amendment to a previously approved design (remove second floor window, reconfigure existing second floor window) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 101 as Lot 63 and lies within General Residence B and Historic Districts.

SPEAKING TO THE PETITION

Mr. Shane Carter was present to speak to the application. He told the Commission that when he was before them previously for window approvals, one of the windows on the second floor was part of that application for removal. It was always his intent to remove it. Relative to his agreeing to maintain the existing wood window, what was written on the approval was that the two windows in the ell could be removed, but there was no mention of the one on the second

floor. It was said that the one on the second floor had to be put back because it was taken out. However, there were two windows on the second floor above the back ell that had been removed. The small one was the one that he meant to put back, which he did. He had also intended to remove the double hung window, so he thought it had been misunderstood and consequently had a new application to remove it.

Mr. Carter told the Commission that the house had been a 2-family and he had put it back to a single residence. The previous owners had a kitchen cabinet around and in front of the window, and the roofline came up 3" below the bottom of the double hung window, so the entire sash and frame were extremely rotten. The interior configuration of the space was such that it didn't allow them to put a bath anywhere else, so that was why they wanted to remove the window. Because both windows were removed and he agreed to put one back, it was the small one he had been thinking of, but it didn't get recorded or agreed, so he was asking the Board to grant that request.

Mr. Gladhill said he had re-watched the discussion from the October 2 hearing and it was clear to him that they had discussed putting back the second-floor window in the main structure. Mr. Carter said there were two windows there and they were both removed. Mr. Gladhill said the windows on the ell were removed, which the Commission had agreed to, but the one on the second-floor in the back of the house had to stay. He stated that Mr. Carter had said it was fine and would fit the configuration of the house at the time. Mr. Carter agreed but was referring to the fact that there were two windows on the second floor that had been removed. The intent of his original application was to remove the double hung window. The smaller awning window adjacent to it was removed, and he said it should be put back because it was never supposed to be removed.

Chairman Almeida noted that there was a photo of a double vanity where the window used to be, and he asked if it was still there. Mr. Carter said there was no other place to put the bathroom. Mr. Gladhill asked which window on the second floor was removed because the ell didn't seem to have a second floor. Mr. Carter said there was no second floor to the ell, and he had meant above the ell on the second floor. Mr. Gladhill noted that it would be the original house, and it was the window the Commission had referred to as being restored.

Chairman Almeida stated that there was a desperate need for a window on the back of the house, and there had been one or two there before. He asked if there were other spaces on the second floor that would allow a window. Historically, there could have been windows on the back of the house due to its prominent location. Mr. Carter said that unless one was in the back, it was difficult to see that window, so it was not significant relative to seeing it from the street. Chairman Almeida disagreed with him because he walked by it every day. He asked if there was anything about the back side that would prevent the previous window from being placed there. Mr. Carter said that the right side of the house had a bedroom and a closet. There were two bedrooms and one bath upstairs, and both closets were on the back of the house. The windows were in the front of the house, so the only place to have closet space was in the back. There was no place to put the sink and shower fixtures in the bathroom except along the back wall, which predicated his original request to have that window removed.

Mr. Wyckoff asked where they saw the back of the house from because it seemed like it would only been seen from the parking lot. Mr. Gladhill said that the window could be seen from South Street, even when driving down the road. Councilor Kennedy said she had walked by and could see it. She had also watched the video again and agreed with Mr. Gladhill that the Commission had been clear about the window and what they were asking for. It needed a window.

Mr. Carter stated that his intent with the property was to honor what was there and improve upon it by taking a clearly incorrect use of the property as a duplex and turning it back to a single family residence. He had agreed with the Commission's request not to replace the windows, but it had been done significantly in that specific area, and he took great effort and care to repair, re-glaze and re-use the existing windows. It was part of his original request to have that window removed and then have the ability to rearrange the spaces to allow appropriate living conditions in the house. The kitchen window was blocked halfway by a counter, and there were no options to rearrange that space. Mr. Wyckoff asked if the horizontal awning window was installed and was told yes. He asked what was underneath it and was told that it was a washer and dryer. Mr. Wyckoff said part of the problem with a full-size window was that it was close to the flashing of the roof.

Mr. Wyckoff asked if he would be willing to replace the existing window with a smaller double hung window, which would work. Mr. Carter could order a 2/2 window with single pane glass. He appreciated what Mr. Carter had done to all the windows and he knew it was a lot of work to restore the single pane glass windows. Mr. Carter replied that it wouldn't work for the space. It was an existing window, and to take a window that was 12' to the left of it and try to put it there didn't seem to meet the original intent of the house or something rational for the space. Mr. Gladhill asked if it was historically appropriate to the house. Mr. Carter told him no, but it was what was there.

Chairman Almeida said they were in a tough spot. The property was for sale and would change hands, and they would be left with a back wall on South Street with no windows, so they had to come to a compromise. He doubted that Mr. Carter would get approval to keep the window out, so they might have to continue it to a work session. Councilor Kennedy suggested taking the vote because it was the application as presented. Mr. Carter repeated that there was no other option to put a window there and asked them to help him understand their intent.

Chairman Almeida stated that the photo showed the small awning window and it looked like there was nothing under it. The washer might be there, but if the back of a washer or dryer on the second floor were seen, it wasn't important. More important was a historic window in that location of a similar design. Mr. Carter would just be cutting it down within the rough opening. Mr. Carter asked what height the window should be and said the windows in the house were 2/2. Mr. Wyckoff told him that 2/2 windows were available. The header existed, and if Mr. Carter went down to within 6' of the roof, he would have plenty of room for flashing, and that would give him the height. He could have a double hung window, and if he didn't think it was a good place to have a window, he could cover it from the inside. Mr. Carter said his concern had been seeing the back of the laundry equipment, but if it was okay, he would do what the Commission suggested.

Chairman Almeida said they needed a motion with that stipulation. Mr. Gladhill said he was willing to compromise. He knew that the house had been heavily renovated, but he thought that a 2/2 window was a significant feature that would be visible, so he agreed with Mr. Wyckoff's compromise of replacing the casement window with a wooden true divided light 2/2 window to match the rest of the windows.

SPEAKING TO, FOR, OR AGAINST THE PETITION

There was no one to speak to the petition, so Chairman Almeida closed the public hearing.

DECISION OF COMMISSION

*Mr. Wyckoff moved to **grant** a Certificate of Approval for the application as presented with the following stipulation:*

- 1) That the awning window on the second floor of the rear façade is replaced with a 2/2 wooden, double hung, true divided light window with a similar width to match the existing windows. The height shall be 6" off of the shed roof and the casings shall be similar on the outside as the existing windows.*

Mr. Gladhill seconded.

Mr. Wyckoff stated that the application met their criteria, and Mr. Gladhill said it preserved the integrity of the Historic District.

*The motion **passed** unanimously with all in favor, 7-0.*

4. Petition of **Briggs Realty Association of Delaware, LLC, owner**, for property located at **363 New Castle Avenue**, wherein permission was requested to allow exterior renovations to an existing structure (remove siding, replace windows, reconfigure misc. windows) and allow demolition and reconstruction of an existing structure (remove and replace chimney) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 207 as Lot 3 and lies within the Single Residence B and Historic Districts.

SPEAKING TO THE PETITION

Mr. Robinson Berry representing Briggs Realty and his contractor Mr. Richard Jarvis were present. Mr. Berry stated that the Commission had recommended that they produce elevations showing specific windows. The initial proposal was to replace all of the windows and the siding on the building. The south side would have all the windows replaced. On the west elevation, the majority of the windows would be replaced on the gable end and on the main house. An existing window would be kept on the back addition. The windows on the east elevation and back addition would be replaced. The back of the house, which was the north elevation facing Strawberry Banke, would have three new windows, and three of the existing windows would remain. The siding on the front would be replaced with new clapboard. The gable ends would change to white cedar shingles, and the back of the building would revert to the 4" clapboard.

Regarding the missing chimney, there was one originally, but it was removed during the demolition phase. When they removed material from around the chimney, it was apparent that the upper part of the chimney was a past replacement. The connection between the old and the new chimney was compromised to the point that once they took down the top of the chimney, the whole thing collapsed. They felt that the scale was off and they wanted to replace it with a different scale to match the chimney of another house in the neighborhood that they liked.

Chairman Almeida noted that the chimney in the photo seemed to be for burning wood or coal, and there were no fireplaces on the second-floor chimney. Mr. Berry said that there were a few fireplaces. It was disappointing when they saw the original beehive chimney because it was structurally compromised, not only at the second-floor intersection but also at the basement level, where it was supported by two piers and some oak logs and not sitting on bedrock. They proposed to create a wood frame and clad the wood frame with plywood and a ½” concrete board, then apply the veneer brick with ledge flashing to make it look like the real thing.

Chairman Almeida said the Commission had the same situation on other properties, and he asked if they would use the chimney for venting. Mr. Berry said they had no plans to do so. Mr. Gladhill asked why there was a change in the chimney design because he thought that the old one had more character. Mr. Berry told him that the original chimney was approximately 4’8” above the ridge. If they added 16” to the top of that one, it would give them an idea of the scale of the proposed chimney. Councilor Kennedy said she had a hard time eliminating a real chimney and putting a fake chimney on.

Mr. Wyckoff stated that the house was old and purported to be from 1895, but he thought it was probably an 1820 Cape. After the vinyl siding and shutters were removed and the house was clapboarded in cedar, it would look its age. He asked if the Commission wanted to see it with no chimney. Chairman Almeida told him that there was a huge amount of improvement taking place on the property, and they had to see some type of chimney coming out of that roof. Mr. Wyckoff said there was a certain dislike of fake chimneys, and Mr. Melchior agreed.

Vice-Chair Kozak suggested that they might find a chimney that was functional because there were lots of chimneys that were not being used. A chimney was a defining feature of that style of house, and it was strange that the one that collapsed was so tall and narrow because it was more of a late 19th century chimney style. The Federal style proposed earlier seemed more appropriate to the house, and real clay bricks on wood were appropriate if it was a defining feature of the house. Chairman Almeida agreed. The proportion of the chimney suggested that flues were in it, which meant there were fireplaces on both floors, or the flue probably burned wood or coal. The extra width would accommodate four flues and would be more appropriate. Mr. Katz mentioned that there was a fake chimney on Islington Street on the Delahaye House that underwent renovation and was successful, so it could be done well. Chairman Almeida said what made it done well was that it flashed into the roof like a real chimney and the thin brick selection had a hand-packed look and wasn’t smooth brick.

Chairman Almeida asked about the windows and shutters. Mr. Berry said their primary goal was to get the windows and siding application approved. They added the chimney because it had

come up in the last work session and they hoped that it would be approved with the rest of the application.

Mr. Wyckoff verified that the composite shutters would be correctly hung with louvers facing up and operable. Chairman Almeida added that they would be hung traditionally and there would be other widths when they were closed, so the window would be covered properly. Mr. Berry agreed. Ms. Ruedig clarified that the windows and the grill configuration were true simulated divided light with a spacer and half screens, and Mr. Berry agreed. Chairman Almeida stated that the application did not note that it was a half screen. Mr. Wyckoff said it would have to be stipulated. Councilor Kennedy asked what the trim was around it. Mr. Berry replied that there was wood under the vinyl that had been cut off. They would do a PVC that would be painted for maintenance and would look like wood.

Chairman Almeida pointed out that Window #5 on the side of the shed dormer that showed a 6/6 and the glass pattern drastically changed to horizontal. However, the drawing showed a 3/3. He asked if it would be a 3/3 instead of a 6/6. Mr. Jarvis said it was a 2/2 awning window. Chairman Almeida noted that it was a 3/3 with a rough opening of 2'10" wide and 3' high window. He said that the same thing would apply to the window on the opposite elevation on the one-story addition, that it should be a 3/3. Mr. Rawling agreed. Chairman Almeida asked if they could stipulate that it would be a 3/3 window. Mr. Berry said they would refer to it as the one-story addition on the east elevation. Chairman Almeida said they could stipulate that they would not use the grill pattern shown on Window #3 because it might be more exact.

Councilor Kennedy was confused because it wasn't part of a work session. She asked if the windows on the back were 6/6 or all open. Mr. Jarvis said they were existing casement windows that they would change. The lower single casement and triple casement windows currently had vinyl windows with a diamond grill pattern that they hoped to take out, and to keep in harmony with the remaining windows, they wanted to go with the clear casements to maintain the river view and keep it the same as the adjacent ones. They wanted to do the same thing on the second floor with the two big existing windows. Those would remain, with no grills. The middle window was the bathroom window with no grills. They would just do the grills on the side windows. Councilor Kennedy told him that, even though it was the back of the house, it had the river view, so people could see it, in which case they could not use the 'back of the house' rule. Chairman Almeida agreed. There were too many single sheets of glass that they typically did not approve. The existing windows could remain, but it was an opportunity for the new windows to match the rest. He questioned whether the proposed windows were appropriate. Mr. Gladhill said they had the back of the house policy, but because the property abutted water, it was no different that abutting a park or a street. Chairman Almeida did not recall approving single sheets of windows anywhere in the Historic District. Mr. Rawling thought that the new windows should be represented with divided lights with the shutters removed, and the casement bow window should not have shutters on it. Chairman Almeida confirmed that the existing upper double windows should not have shutters and were authentic everywhere else.

Mr. Wyckoff said the big window and the other top windows were existing casement windows, and he asked if it was appropriate to sneak in a couple of 6/6 windows next to all the casement windows on the back of the house. Chairman Almeida replied that it was a matter of either

putting lesser windows there because there were existing windows or putting better windows because some better windows existed, and he chose the better window. Mr. Wyckoff noted that the back of the house was contemporary and looking out at the river view, and there were lots of houses on the river that looked different from the water than they did from the street.

SPEAKING TO, FOR, OR AGAINST THE PETITION

There was no one to speak to the petition, so Chairman Almeida closed the public hearing.

DECISION OF THE COMMISSION

*Mr. Wyckoff moved to **grant** a Certificate of Approval for the application as presented with the following stipulations:*

- 1) That half screens shall be used.*
- 2) That the 3/3 window on the shed dormer shall be as shown on the rendering.*
- 3) That window #5 will be modified to be a 3/3 window.*
- 4) That the shutters on the rear windows shall not be used on the back of the house.*

Vice-Chair Kozak seconded the motion.

Mr. Wyckoff stated that they had preserved the integrity of the District with the addition of the chimneys, the wood siding and the properly-hung shutters. It met the Commission's criteria and he was for the application.

Mr. Melchior stated that he would not vote in favor because he did not believe that the creation of an artificial chimney preserved the integrity of the District. He thought it was the exact opposite and was a dishonest matter throughout. He found it contrary to the cultural ethos of 1820's New England society, when the house was built. Councilor Kennedy stated that she would have a difficult time approving the application because of the chimney. She did not want to change the precedent of the Commission's stance on windows on the back of the house, which was the reason she had asked people to change windows before, so she would stick to that precedent and would not vote in favor.

Vice-Chair Kozak stated that she would support it because a lot of fine tuning had been done to improve the house. Vinyl siding was being removed as well as diamond-glazed windows that didn't fit the language of the house. Good quality materials were being used. The chimney was a defining feature of the house's iconic style, and to lose it would compromise that style, so it was important to retain the chimney. She could go either way on the back of the house. There was a lot to be said for keeping a harmonious uniform language, and the way it was represented, it did that, so she would support it.

Chairman Almeida stated that he also would support it. His window discussion was an attempt to better the house. He felt that it was appropriate, and he appreciated the huge amount of work being done to the house and the authentic materials being used. The chimney, although artificial, would have an authentic surface with real cut clay bricks and flashed.

*The motion **passed**, with 4 in favor and 3 opposed (Mr. Gladhill, Mr. Melchior, and Councilor Kennedy opposed).*

5. Petition of **Clayton M. Emery and Susan L. Therriault, owners**, for property located at **114 Mechanic Street**, wherein permission was requested to allow new construction to an existing structure (install rear window, construct awning) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 103 as Lot 24 and lies within General Residence B and Historic Districts.

SPEAKING TO THE PETITION

The owner Mr. Clayton Emery was present to speak to the petition and said he wanted to restore his 1740's house back to its original state. He wanted to put in a new window in the sun parlor. He had already installed a new Andersen window, but it wasn't like the other windows in the house, which were all Brosco windows. He would replace the Andersen window with a Brosco 6/6 and paint it to match all the other windows.

Councilor Kennedy asked if the window had been replaced with the shutter placed over the top. Mr. Emery stated that the awnings over the top were necessary because it was the northwest corner of the house. During severe storms, the rain hit that wall and water seeped in through the windows, so his solution was to install wooden awnings. The awnings currently had tin flashing, but he said that he would shingle them with wood shingles to make them look like they were from the 1740s.

Mr. Katz clarified that Mr. Emery had installed an Andersen window and wanted to replace it with a wooden Brosco window. Mr. Gladhill asked if he had cut an opening in the wall. Mr. Emery stated that he did because it was a new window, and modern windows were designed to go in 4" walls.

Chairman Almeida didn't know if the proposed wooden shakes going on top of the awnings would match existing. Mr. Wyckoff added that there were no awning details but just a triangle on the sides with no level of trim to the awnings. He asked if they had a sealing within them or if they angled up on the inside. Mr. Emery said it was just a board. Mr. Wyckoff surmised that Mr. Emery had just nailed the awning over the clapboard. Mr. Emery agreed and said that he put flashing up under the clapboard. Mr. Wyckoff told him that the awnings needed to be properly designed. He understood that the house had no overhang and the wall was probably tilted in at the top, causing the water to run down the clapboards and making awnings necessary.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke to the petition, so Chairman Almeida closed the public hearing.

DECISION OF COMMISSION

*Mr. Katz moved to **grant** the Certificate of Approval for the application as presented, with the following stipulations:*

- 1) *That the new window will be replaced with a 6/6 true divided light all wood Brosco window as presented.*
- 2) *That a trim board will be added to the awnings and the awnings shall be shingled with cedar shakes as presented.*

Vice-Chair Kozak seconded the motion.

Mr. Katz stated that the application met the criteria as far as appropriateness, and it caused no damage to the integrity of the neighborhood.

The motion passed unanimously with all in favor, 7-0.

6. Petition of **Strawbery Banke, Inc. owner**, for property located at **65 Washington Street (Thales Yeaton House)**, wherein permission was requested to allow exterior renovations to an existing structure (renovate Thales Yeaton House) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 104 as Lot 7 and lies within Mixed Residential Office and Historic Districts.

Vice-Chair Kozak recused herself from the application.

SPEAKING TO THE PETITION

Mr. Rodney Rowland, Director of Facilities at Strawbery Banke, the architect Mr. Brian Murphy, and Mr. Larry Yerdon, President and CEO of Strawbery Banke were present to speak to the application.

Mr. Rowland told the Commission that they were bringing them an exciting project, their latest preservation project on the 1795 Thales Yeaton house. It was one of three remaining buildings at Strawbery Banke that needed to be preserved after 56 years of working on all of their other buildings. It was also the next step in the Heritage House Program, which was a vital and very important program to the museum for their long-term sustainability. The house's unique feature was that it shared a common wall with its neighbor, the Winn House, which they had restored three years before. That unique feature gave Strawbery Banke a chance to highlight how the entire structure evolved throughout its period. They restored the Winn House to its 20th century appearance and had used materials from the 1795 period to show how it looked circa 1840, which was a mix of changes over time. The Yeaton House was circa 1840 and would also show a mix of changes over time.

Mr. Murphy told the Commission that the Thales Yeaton House was undergoing extensive renovation and would be restored to the 1840 era. The items beyond maintenance that would be restored or replaced would be the asphalt shingles that would be replaced with wood shingles, and the cornices on the north and south elevations would be restored. He didn't have an example of the cornice but had a typical sample of it that he passed around. Exterior wood doors would be recreated, a 9-panel door at the front and a 6-panel door at the back. The historic door surround was in storage and would be reinstalled at the main front door on the north elevation.

The west façade had some details that would be recreated on the north and south façade, such as the wooden water table located at the top of the foundation on the west and south facades that would be recreated on the north façade. The window caps on the casings on the west façade would be recreated on the first floor of the south façade. Only the water table would be recreated on the north side, but not the window cap detail or the clapboard pattern. Mr. Murphy said that the clapboard pattern on the west façade was a special pattern with an exposure typical of the original house thru the 1840s. The clap pattern on the north side was not original but existed in 1840, and they would preserve that; however, the window caps on the casement detail did not exist in 1840 on the north façade, so they would not be recreated there.

They would also build an accessible ramp at the rear entrance, details of which would be based on a campus standard that had been applied to the other structures. There would be stockade fence on the rear lot line surrounding the accessible ramp. The example he had of the fence was one from the nearby Aldrich House. The image showed some pickets and ball finials on the posts, but those would not be recreated. Mr. Gladhill noticed a gate and asked if it would be different from the stockade fence style. Mr. Murphy said that it would not be different and would be a stockade fence with no ornate details.

Chairman Almeida asked how the shakes would be seamed to the asphalt on the adjacent building. Mr. Murphy replied that there was a separation detail, although they were both asphalt. When the Winn House was restored, there was asphalt replaced with a separating detail, like a batten strip with a waterproof detail on top. The profile was enough to cover the profile of the edge of the wood shingles. Chairman Almeida asked how the exposure of the clapboard differed from the west and north elevations and whether they would have new siding throughout. Mr. Murphy replied that the siding would be repaired extensively but not completely replaced. Chairman Almeida verified that the 3-1/4" exposure on the left elevation wouldn't be lost. Mr. Murphy said the detail would be preserved and recreated on the south elevation.

Chairman Almeida asked if the window mantels on the west elevation were being recreated or restored to match the existing ones. Mr. Murphy stated that they would be restored as much as possible. Some pieces would have to be recreated but would match the original detail. Mr. Gladhill asked if the window restoration and repair would be done by a local person. Mr. Murphy said it would be done by Mr. John Schnitzler, who was the museum restoration carpenter. Ms. Ruedig asked what kind of wood they would use for replacements. Mr. Murphy said that it would be cedar.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke to the petition, so Chairman Almeida closed the public hearing.

DECISION OF COMMISSION

*Councilor Kennedy moved to **grant** the Certificate of Approval for the application as presented. Mr. Melchior seconded the motion.*

Councilor Kennedy stated that the application met the surrounding area of the neighborhood, and it had architectural integrity to preserve the historical nature of the house.

The motion passed unanimously with all in favor, 7-0.

7. Petition of **6-16 Congress Street Condominium Association, owner, and Janette Desmond, applicant**, for property located at **20 Congress Street**, wherein permission was requested to allow exterior renovations to an existing structure (install spot lighting on signage) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 117 as Lot 37 and lies within Central Business B, Historic, and Downtown Overlay Districts.

SPEAKING TO THE PETITION

Mr. Keith Bridge of Keith Bridge Electrical and Ms. Janette Desmond were present to speak to the petition. Mr. Bridge stated that he wanted to light a sign that was already installed on the building by using lights on the sides of the building. He would also use two spotlights with a 7-watt LED.

Councilor Kennedy noted that the existing lights on the building were a powder-coated black color, yet Mr. Bridge had chosen a burgundy shade. Mr. Bridge said the burgundy shade was not actually the color but just showed the angle. The finish would be black.

Mr. Gladhill noted that there were two photos, one showing the conduit and one without the conduit, and he asked which one was relevant. Mr. Bridge knew he could do it with conduit but wasn't sure if he could do it without. If the conduit didn't pass approval, he would explore whether he could do it without conduit, but it would mean taking the façade apart. There was a steel beam behind the sign that supported the building's structure.

Chairman Almeida had expected the conduit to be the only point of discussion, and he asked if anyone else had issues with the conduit on the face of the building. Councilor Kennedy said she had seen buildings that came out with metal. Mr. Bridge stated that it was metal but would be painted white. Mr. Gladhill asked why someone would engineer a building with a steel beam behind it through which they would run lighting. Mr. Bridge said something had to support the building. Chairman Almeida stated that he did not want conduit on the face of the building, and there had to be a way to get power to it that could weave through the flex cable.

Mr. Rawling thought the conduit was a significant alteration of the building, which the Commission encountered frequently, especially with brick buildings, and the precedent was that they denied conduits on the exteriors of buildings. Chairman Almeida noted that Mr. Bridge had offered an option without the conduit, knowing that it would be a contention.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Mr. Rick Becksted of 1395 Islington Street suggested hiding the conduit by encasing it in wood like a downspout so that it wouldn't stand out like a metal or plastic conduit, and then running it along the sign.

DECISION OF THE COMMISSION

*Mr. Gladhill moved to **grant** the Certificate of Approval for the application as presented, with the following stipulation:*

1) That the option without conduit shall be used.

Vice-Chair Kozak seconded the motion.

Vice-Chair Kozak stated that the light style was something they saw quite a bit of in the District and was simple enough to be successful. Hiding the conduit was definitely the way to go.

*The motion **passed** unanimously with all in favor, 7-0.*

8. (Work Session/Public Hearing) Petition of **Bradley Boisvert and Karen Bannon Boisvert, owners**, for property located at **124 State Street**, wherein permission was requested to allow new construction to an existing structure (construct 4th floor rear dormer and walk out deck, replace misc. windows with doors, install spiral staircase and railings, add skylights to roof ridge, replace second floor windows) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 107 as Lot 56 and lies within Central Business B and Historic Districts.

WORK SESSION

The architect Mr. Steve McHenry of McHenry Architecture and the owners Mr. and Mrs. Boisvert were present to speak to the petition. Mr. McHenry told the Commission that he had been before them in prior work sessions and had a number of changes as a result. He mentioned that Mr. Brandon Holben was the principal architect on the project but was not able to be there that evening and had previously reviewed the changes with him.

He stated that Mr. Jeffery Flouse of JR Flouse Carpentry had sent a letter indicating his impression of the changes that occurred to buildings in the 19th century relative to why the property had undergone changes that made it different from its neighbors. Mr. Flouse had written that a lot of downtown buildings back then had their entire facades gutted and their interior floor levels changed to accommodate higher floor-to-floor heights that were fashionable in the Victorian era. The applicant's building was one of those buildings, hence the taller roofline that was rebuilt, the evidence that the floor levels had changed, the entry set in Greek Revival staircase, and the different window sizes. Mr. McHenry stated that adding the letter to the record would substantiate the design they were proposing, which had several 2/2 double hung windows. They straightened out the shape of the upper level balcony that previously had a curve to it. They simplified the overall shape of the shed dormer in the back to be more appropriate to its neighbors. The configuration of the upper level balcony as well as the roof itself had changed substantially from the last time. They had also made appropriate changes to the windows.

Councilor Kennedy stated that she had been uncomfortable with the skylight in the front of the building at the last work session. Even though it could be seen from Court Street, she felt that having it come to the front changed State Street and was not typical. She asked Mr. McHenry

why the skylight had to move toward State Street. Mr. McHenry pointed out the street views, showing that the skylights were almost impossible to see from any angle. The skylight shown on the roof ridgeline added a lot of daylight into that upper level, which was an important aspect that they wanted to keep. Councilor Kennedy said that the color picture indicated that it would be seen by people. Other buildings in the area had skylights, and they could be seen.

Ms. Ruedig stated that she was very impressed with the changes. The rear of the building was straightforward, and she hoped that the simplifications still worked for their layout. The current staircase was appropriate for the rear of a row house, and she had always thought that the 2/2 windows were appropriate, given the size of the windows and the door surround of the entrance.

Mr. Katz said that the skylights were a complete renovation. The applicants had spent a lot of time with the Commission and had been very cooperative with their concerns. If people walked down State Street and looked hard enough for the skylight, they would find it. He was willing to make that exchange to have a light-filled top level for the work they were doing in stabilizing the structure and making it last. He clarified that it was the same type of design that the architect had put into the Market Street renovation, and Mr. McHenry agreed. Mr. Katz said he had not seen letters complaining about those skylights on Market Street.

Chairman Almeida said that he meant to use the Market Street skylight as a successful example and one that was very similar to the placement of the project's two skylights. He had referred to it as a roof monitor, a very large structure that would eliminate the top floor. He thought it worked very well on Market Street and that it was handsome and well done. The applicant's design was very similar, and he agreed with all the positive statements said by the other Commissioners. Looking at the revised elevation, he could see that all of the concerns were addressed, with the exception of the skylights. He thought it was a hugely successful application and that it was exciting to see people renovating entire buildings and moving back downtown.

Mr. Gladhill asked if the material around the skylights was copper flashing and what the metal above it would be. Mr. McHenry said it was an anodized paint finish, and the standard bronze tone was similar to copper when it lost its shine. It was a metal clad system. Mr. Gladhill was uncomfortable with the front skylight, but the materials were historic and the back of the building had numerous good changes, like the top deck that came back beyond the roofline.

Chairman Almeida declared that they had technically had the work session and suggested they go to the public hearing.

*Mr. Gladhill made the motion to **move** the work session to the public hearing. Mr. Katz seconded. The motion **passed** unanimously with all in favor, 7-0.*

SPEAKING TO THE PETITION

Mr. McHenry re-introduced himself and said that the overall purpose of the project was to completely renovate an existing residence throughout the interior and add a dormer, skylights, and windows with a walkout roof deck above the second-level deck at the rear of the building.

Mr. McHenry stated that there were further descriptions of the removals and the building's context along State Street. Mr. McHenry went quickly through the plans, photographs, and high-level details in the package.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke to the petition, so Chairman Almeida closed the public hearing.

DECISION OF COMMISSION

*Mr. Wyckoff moved to **grant** the Certificate of Approval for the application as presented. Mr. Katz seconded.*

Mr. Wyckoff stated that the application met all of the Commission's review criteria. It was consistent with the special and defining character of the surrounding properties. It related to the historic and architectural value of the historic structure by maintaining the front of the building and implementing the circa 1840 improvements. It fit in with the other row houses. Its compatibility of design with the surrounding properties made sense because quite a few properties had additions on the backs facing Court Street, and the structure actually had improvements on the back that did not go all the way to Court Street. It had innovative technologies that were working in the Historic District. For that reason, he approved.

Mr. Katz reiterated his appreciation of the end result of the porches and the back of the building and said it was a golden example of how modern technology could be used to have the building fit in the Historic District. It looked right, and he was very happy about it.

Councilor Kennedy stated that she felt it was a great job, but she was uncomfortable with the skylights, especially the one on the front of the house. She felt that old roof lines were important to the City. She had been voting against fake chimneys and dormers, and she wanted to be consistent and keep the traditional roof line view from the streetscape as people knew it.

*The motion **passed** by a 6-1 vote with Councilor Kennedy voting in opposition.*

9. Petition of **7 Islington, LLC, owner**, for property located at **40 Bridge Street**, wherein permission was requested to allow demolition of an existing structure (remove existing two story wood-framed building, construct 3-4 story mixed use building) as per plans on file in the Planning Department. Said property is shown on Assessor Plan 126 as Lot 52 and lies within the Central Business B, Historic, and Downtown Overlay Districts.

SPEAKING TO THE PETITION

Attorney Steve Roberts of Hoefle Phoenix Gormley and Roberts, P.A. and Mr. Steve McHenry of McHenry Architecture were present to speak to the petition.

Attorney Roberts stated that the HDC had seen the application twice before, and they were not there for the zoning. It was a vested project. The zoning changes were in effect back in March

2012 when the project was originally approved and they were still vested. Attorney Roberts stated that he gave Mr. Cracknell a letter from Mr. Rick Taintor, the Director of the Planning Department. The site plan approval would expire on April 18, but if they received HDC approval that evening, then they would have both the site plan and the Certificate of Approval and the project could go forward. If they didn't, they may have lost the last realistic opportunity for a building to be built on that site.

The other point was that it was not about parking. There was a memo from City Attorney Sullivan and Mr. Taintor stating that the private matter of parking was not within the purview of site plan review regulations or the Zoning Ordinance. They were there solely for the HDC matters. Attorney Roberts reminded Chairman Almeida of his comments from four weeks before when the extension request was being reviewed. Chairman Almeida had made the point that all approvals should stand the test of time. They fully agreed. The HDC had approved their proposal two years before, and nothing had changed in the proposal. They were there to ask for the Certificate of Approval so they could move forward and get something on the site as opposed to the vacant lot that it now was. Attorney Roberts stated that Mr. McHenry would speak to the substantive issues.

Mr. McHenry reminded the Board that the applicant had been before them several times and they were deeply appreciative of all the efforts on the part of all parties. Because not all the Commissioners were part of the process years ago, he wanted to go through a summary of the approvals and how they got them as well as the history and context of those approvals.

In spring of 2006, they came before the Board for a work session and then had five more work sessions. In September 2006, the Board denied the application and asked them to go to the BOA. The BOA reviewed it and said that the differences seemed to be minor and asked them to make some modifications and then go back to the HDC for approval, which they did. In March 2007, they got approval. They made additional minor modifications to the approved plan, and it was approved again in October 2008. At that time, due to the economy and other factors beyond their control, the approval lapsed. They came back in October 2010 for a new public hearing, for which they brought back the same design and got approval. The approval lapsed, and they got re-approval in March 2012. As a result, the Board had approved their project as designed three or four times, and after the lapsed previous approval and the second-year extension, they were trying to exhaust the legal option on behalf of the owner and coming before the Commission for another public approval. Normally, if it were a new project being brought forward of this scale, they would go back to work sessions, but the Commission was familiar with the project.

Mr. McHenry stated that the package described the overall parameters of the project, and it was important to note that in their original work sessions, their first attempts were about scale and context. Because they were in the CBB Zone and the height limitations were 60' at the time, they showed the impact of putting in 60-foot building masses. He noted that the building worked with the triple deckers on Hanover Street. He also referenced the 18 Congress Street building to show that a building proposal like it on their site at a different scale was legally allowed, but they did not propose it because it did not fit the context. They came back to show contemporary-looking buildings, and those were rejected. Their job as architects was not to just find out what the HDC liked most but to try and provoke in some way the limits of what they could do for their

clients, for the aesthetics, and the enrichment of the community, not simply for preservation but for the addition of what they currently had. They were there to present the same plan as they had before when they were there for the second extension request. There were comments about some of the inconsistencies in details that they showed later on in the package relative to the 3D rendering models. The only changes they made in their package except for the date labeling and public hearing were the 3D model renderings on pages 4 and 5, which were more accurate and consistent with the elevation drawings and the details in the package.

At this point in the meeting, Mr. McHenry went through the submitted plans. Mr. McHenry pointed out that there was one mistake in the package. The two detail sections on page 13 were labeled 'F' on the left and right sides, but the right side should have been labeled 'G'.

Councilor Kennedy said that she had not been part of the process before and thought they needed a work session. She had an idea of what the applicant was trying to do, but was confused. Ms. Ruedig asked what the Commission was being asked to do exactly, whether it was to approve it as a new project knowing that it was an old project or to extend the approval.

Mr. Cracknell stated that from a technical aspect, it was a new application. The public hearing had been scheduled and the old material had been submitted. Normally, if it was a new project, it would go through a work session like it had in 2006, 2007 and maybe 2008. The project had been through the HDC at least since 2006, and several of the Commissioners were familiar with the project, so that was why the applicant had not requested a work session that evening. They were hopeful that they could get a vote on their application as submitted because of its history.

Chairman Almeida verified that the Commission had the ability to request a work session/public hearing that evening. Mr. Cracknell agreed that they did.

Ms. Ruedig was surprised to know that the project had been approved at the beginning because the massing and scale were not appropriate for the design. She felt that the height wasn't the biggest problem. The massing, scaling and fit did not fit the context, except if looking at Portwalk. The whole block was old houses, some of which had retrofitted storefronts, but they were still old houses. There were two historic houses next to the proposed project. She was all for contemporary designs, but she didn't see how it fit in with the surrounding the data points, eave lines, roof shapes, window and door styles, and so on.

Vice-Chair Kozak stated at that point that she would not be able to question, comment or vote because the attorney was one of her clients.

Mr. Rawling verified that the Commission was required to apply the current regulations and standards because they were treating the application as a new application. Mr. Cracknell replied that the zoning for the project was vested until April 18 under the site plan review, which the Planning Director had pointed out in his letter. The current zoning or any changes subsequent to the public hearing held two years before did not apply to the project until the vesting ceased to exist on April 18.

Mr. Rawling noted that, even as a new application, it would be unprecedented to take it without a work session for approval and to not start with the 4-step criteria progressing through the design development of the project. Mr. Cracknell replied that the criteria definitely applied to the project and should be applied to it. He stated that it was a policy decision and not a requirement that the Commission had to make as to whether or not they wanted the project to go back to a work session. Councilor Kennedy agreed with Ms. Ruedig that the application did not meet the four criteria in its present state.

Mr. Melchior said that he was an alternate on the Board at the time, and he had three issues that had not been resolved: 1) the preservation of the roofline, 2) the mechanical units on the roof, and 3) the proposed building's encroachment into the property line of the adjacent houses, especially downhill from it. He wanted a work session to discuss those issues. Mr. Gladhill added that the material concerning the back egress doors that he had previously requested were still not in the package.

Mr. Wyckoff noted that, on March 7, 2012, the application had been unanimously approved. Mr. Melchior stated that he had not voted because he was an alternate, and the Commission's criteria were not established at the time. Mr. Wyckoff stated that in was in the rules and regulations that the Commission granted one-year extensions, and if further extensions were needed, the applicant had to go through a public hearing. He realized that they weren't having a rehearing, but the application was being treated as a new application, so the Commission had to look at it a bit differently than they had back in 2007. They had initially turned it down, and it had been browbeaten into them that they were not taking the criteria seriously as far as the surrounding properties, like the Buckminster House and other houses on Bridge Street. The Commission had thought at the time that the applicant had a legal right to build such a massive building because of the way it had been presented to them by the City, the Legal department, and the applicant's attorneys. That had been six or seven years before, but now it was a new project and it needed a lot of work.

SPEAKING TO, FOR, OR AGAINST THE PETITION

Mr. Rick Becksted of 1395 Islington Street stated that the building did not belong behind a 300-year old building like the Buckminster House. It was similar to the Portwalk project with its flat roofs. He gave an example of vesting, saying that if had a permit for a project he had started and requested an extension, he would probably get it. The applicant had started nothing. They hadn't dug or knocked down anything, and the criteria had changed. The developers knew what the public wanted and didn't want, and he couldn't see how the project could be built. They were asking for an extension to start a process that was never started, and he questioned their rationale of extending from 2006 to 2014. The developers had gotten two previous extensions and had done nothing, so they had no precedent.

Mr. Jerry Zelin of 70 Kensington Road sardonically asked the Commission, since they approved the building in the past, why not just approve it now. He had heard the HDC state that they wished more citizens had come out in the past to comment on the proposal. Well, the citizens were there now. Since it was a new application, it was a do-over, so that was one change in circumstance. Another potential change was that, at one time, many HDC members were unsure

of whether they had jurisdiction over building mass, but by now he hoped they were confident that they did. Mr. Zelin had four points:

- 1) The HDC must consider the mass of the building in relation to the context. It loomed over the Buckminster House that was on the corner. Traditionally, corner buildings had the most mass because they were anchors. This project would dwarf the corner building. It would be a 4-story, 44-foot building, where the average height of buildings on Bridge Street was 25'. The building's width would be 106'. The Rockingham Building was 105' wide. The proposed building would not be appropriate for Bridge Street.
- 2) The Commission did not have adequate illustrations to judge the building mass or context. Back in the 1990s, the HDC would have demanded more information about the building's context, including showing it relative to the Buckminster Building and the other buildings going down Bridge Street. In 2013, the City Council amended the HDC ordinance to require a massing study that showed all buildings within 250'. This project did not go within 250' of the surrounding buildings. It may not apply because the project was vested, but even without those zoning amendments, the HDC should demand more detailed massing studies and more information.
- 3) The building was immune through vesting from recent amendments to the HDC and zoning ordinances. In the fall, the City established a limit of 45' or 3-1/2 stories, and it was on the cusp of adopting Form-Based Zoning, which would prohibit a building on Bridge Street from being more than 3 stories tall. So, the building was clearly in violation of the autumn amendments and of the height limits of Form-Based Zoning.
- 4) The applicant had stated that the building design bridged the gap between the larger masonry clad 20th century buildings to the east and south and the smaller wood frame structures to the north and west. He didn't understand what they were talking about because he just saw the old public library.

Mr. Zelin asked why every new building had to be taller than its immediate neighbors. The building would not only be taller but also more massive in width and scale. The Commission must consider not only whether the building was a good design but was compatible with the essence of historic Portsmouth.

Mr. Lawrence Cataldo of Islington Street stated that the building did not conform at all to the surrounding neighborhood. He had walked through the neighborhood and imagined what the structure would look like if he were sitting at the corner of Maplewood Avenue and State Street and looking across the parking lot at the large mass.

Mr. William Brassil, President of 7 Islington Street Condominium Association, stated that it was déjà vu. The Commission had voted unanimously the previous month to not approve a second extension. He wondered what happened in the meantime that would change anyone's mind. He had heard about consistent architecture in the neighborhood four times that evening for other applications. The proposed structure did not have consistent architecture with the neighborhood. If the structure was built, he would look out from his deck into the bedroom of the building in

front of him. People told him that Maplewood Avenue was their entryway into the City, and his building, the Buckminster House, was historic. He told the Commission to do the right thing. They had done the right thing the month before when they realized that the applicant did not have a good enough reason for an extension. The Commission must know that the only reason they wanted the extension was to circumvent current building requirements.

Mr. Ed Carrier of 7 Islington Street reminded the Commission of the building's scale. It would occupy 95% of the land next to the Buckminster House, and they would have another 51 Islington Street. He asked if they were going to duplicate that building with another one and put it next to a jewel that was becoming a rarity in the country. He had listened to all the Commission's questions and had never seen so many people work so hard for no money.

Attorney Paul Pudlowski stated that he was the attorney for the three residential units at 7 Islington Street, and he was also speaking for one of the residents who couldn't be there that night, Ms. Emily Heffner. He referenced the song, 'Won't be Fooled Again', and hoped the Commission wouldn't be fooled. The applicant had not made changes to it. It was just a back-door method to resurrect their 2012 design that did not conform to current HDC ordinances. The Commission denied the request for an extension on March 5, so the applicant was there to try to keep a design alive that did not comply with current height zoning regulations. The December Ordinance required a project of that size to offer a massing model electronically or in 3D. The building had 21,000 square feet. The Ordinance stated that a massing model was part of the application and should show buildings within 250' in either direction. Their last-gasp effort with the Commission was submitting a motion for a rehearing on April 9. If that was denied and the applicant didn't get a further extension from the Planning Board, they would lose their vesting.

Attorney Steve Roberts reminded the Commission of the remarks they made the month before as well as a few moments before. They approved the project unanimously two years before. Nothing had changed except the composition of the Board members and public attitudes. He asked the Commission to consider the message they would be sending to people who wanted to invest capital into the City. Two years before, they unanimously approved the application and now they were rejecting it, and he asked what that portended for the future.

There was no one else to speak to the petition, so Chairman Almeida closed the public hearing.

DECISION OF THE COMMISSION

Mr. Gladhill questioned why they had an application before them and yet had a rehearing for the same application the following week. Chairman Almeida said that the Commission had several options for a motion. They could request a work session, or they could approve or deny the application, or they could continue it.

Mr. Wyckoff assumed that the applicant could ask for a work session. Mr. Katz stated that applicants could request a work session with the Commission to explore a design alternative.

Chairman Almeida concluded that a work session could be scheduled.

*Councilor Kennedy moved to **deny** the Certificate of Approval as presented for the following reason:*

Due to the proposed scale and design of the building presented, the proposed application does not meet most of the purposes of the Historic District ordinance.

Mr. Wyckoff seconded the motion.

Councilor Kennedy stated that she did not believe that the application met the surrounding area or that she had had ample opportunity to review the application since it had been granted an extension. As a new councilor, she had not gone through a work session with the applicant. They could return with another application and have a work session, but she truly believed that the application did not meet the surrounding environment.

Mr. Wyckoff stated that it was not a re-hearing but was put to the Commission as a new project. They did not have the modern massing studies, and looking at it in 3D with the surrounding properties, he did not feel that it was in the context of Bridge Street. For that reason, he was against it.

Chairman Almeida suggested that Councilor Kennedy and Mr. Wyckoff address more of the criteria because they were denying the application. Mr. Wyckoff added that the application was not consistent with the defining characteristics of the surrounding properties. Mr. McHenry had mentioned that the building worked with the triple deckers on Hanover Street, but it was more than 250' away and was larger.

Councilor Kennedy stated that the application did not preserve the integrity or meet the assessment of historical significance, nor did it maintain the special character of the District or enhance its architectural character, given the massing, size, and windows. The application did not promote the education, pleasure and welfare of the Historic District to the City's residents and visitors, as evidenced by the public hearing and the citizens who spoke against it.

Mr. Gladhill stated that it was a new application and, even though it was similar to the one approved before, a lot had changed in the City and it was a different perspective.

*The motion to **deny** a Certificate of Approval for the application as presented **passed** unanimously, 7-0.*

VI. ADJOURNMENT

At 11:35 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Joann Breault
Acting HDC Recording Secretary

These minutes were approved at the Historic District Commission meeting on June 4, 2014.