

PLANNING BOARD MEETING
City Hall Auditorium, 62 Friend Street
April 13, 2015 @ 7:00 P.M.
Meeting called to order at 7:29 P.M.

PRESENT: Lars Johannessen, Karen Solstad, David Frick, Scott Mandeville, Robert Laplante, and Ted Semesnyei (at 7:28 P.M.)

ABSENT: Howard Dalton.

ALSO PRESENT: Nipun Jain, City Planner and Paul Bibaud, Recording Secretary.

MINUTES: 3-23-15 Motion by Robert Laplante to approve minutes as presented. Motion was seconded by Lars Johannessen. AIF

3-23-15 Executive Session: Motion by Robert Laplante to accept minutes as presented. Motion was seconded by Scott Mandeville. AIF

SIGN APPLICATION: Briggs Mill, 4 Poplar Street – Continued to 4-27-15 meeting.

CONTINUED PUBLIC HEARING:

60 Merrimac Street-Hatters Point- Phase II - Continued to 4-27-15 meeting.

Motion was made by Lars Johannessen to take 47 ½ - 57 Kimball Road as the first agenda item. Motion was seconded by Robert Laplante. AIF.

47 ½ - 57 Kimball Road - Definitive Subdivision Plan – 8 Lots with (2) Special Permits, Cluster Residential, Section XI.D and Common Access Driveway, Section XI.O.

Scott Mandeville had to recuse himself on this agenda item as he is an abutter.

Philip Perry, Attorney for the owner and petitioner: With me tonight is John Paulson, principle of Atlantic Engineering, who prepared the plans. I ask the board if we can continue this to a future date, so we can seek the additional board member. In addition, one of the comments that we got today from the DPW director, through oversight, we did not simultaneously file the Special Permit for the water protection district special permit, which I will be doing as soon as I get a re-certified abutters list. So if the board would entertain a continuance, I'd appreciate that.

David Frick: We can kick this around, but from a timing standpoint, we're already about 5 weeks into this, and we have to get this done within 120 days. So we're 35 days into it. We're going to add 14 more so we're around 50 days by the next meeting. We don't have any design plans, landscaping plans. I'm wondering if you'd withdraw this, then re-apply to start this clock over again. You'd not be charged. Otherwise, we'll be up against the clock pretty quickly by the time we do peer reviews and responses and all that, but it is totally up to you folks.

Philip Perry: Would the board prefer that I issue an extension of the period of time to make the decision?

Nipun Jain: I would say there are two options for the board. 1. **To start the day one on the subdivision plan the date of the hearing on the special permit for water resource protection district. So that would be when the clock starts.**

APPROVED

2. That the public hearing for all of the various permits both under the Amesbury Zoning Bylaw, meaning the special permits and the definitive subdivision run concurrently, to the extent allowed under the Amesbury Zoning Bylaw for special permits, so that we don't have to get extensions for the subdivision plan...under the subdivision control law.

David Frick: So what do we need to do here?

Nipun Jain: The subdivision control law requires that the decision on the subdivision portion of the application be made within 120 days from the receipt of the application. That what we require...continuation. But if the applicant submits a letter saying that the hearing be continued until such time as the public hearings on the special permits are closed, then that would be the automatic extension of the subdivision hearing.

David Frick: Is that something that you'd be comfortable doing?

Philip Perry: Yes. I'd be happy to do that. I should be able to submit such a letter within the next few days. I think it'd make sense for everybody if you had a complete package of materials and consider everything at once.

Nipun Jain: So are you withdrawing today and re-applying, or how would you like to proceed today?

Philip Harry: I would prefer to just extend the public hearing date.

Nipun Jain: **So the easiest way would be to start day one when we have the initial public hearing for the final special permit.**

Philip Perry: That's fine.

Nipun Jain: **Then, also, that the public hearings for all of those permits run concurrently to the extent of the special permit public hearings.**

Philip Perry: I'll note that in my request.

Nipun Jain: So if that is acceptable to the board, then you can continue the hearing to 45 days, because we don't know when we will receive the special permit.

Philip Perry: OK, so 45 days... I'll note that. We will provide the additional information and I will file for the special permit within the next few days, soon as I get the new certified abutters list for that.

Nipun Jain: There is a cost involved in sending out the abutter notices, and will be incurred again when we send out the public hearing notices. There is one more option for you, Mr. Harry; you can have the presentation of the project, you can have the abutters speak to it, since we have many present tonight, you can have Mr. Dalton fill in the Mullen Rule waiver. Since you will not have another hearing until such time that the public hearing for the special permit is held, we will be able to bring in Mr. Dalton at that time. It will help the abutters to express there.

Philip Perry: So for those here who don't know much about this project, the owners and petitioners are proposing to construct a development with 8 single family residences on an approximately 19 acre parcel of land, of which 16 of the acres are going to be dedicated to the city and kept as open space. It's being proposed as a cluster residential subdivision on a common access driveway. Definitive plan approval is needed for the roadway, which is coming off of Kimball Road, and is going to remain a private roadway to be maintained by a Homeowners Association. Also incidental to the proposed development, the applicant is proposing to convey to the city a small parcel of land along the Kimball Road frontage, to try to eliminate the problems with the curve right near the property. That would be used to improve sight distances as well, and access into the subdivision. The property, the lots will be served by city water and sewer. They'd be approximately 3-4 bedroom homes. There are some requested waivers that the engineer can speak about, if anyone is interested or concerned. That's the overview of what is

APPROVED

being proposed there. All of the open space is towards the Lake Attitash end of the property. The open space was designed in such a way that it can be accessed by the right of way down towards the lake, and there are two points of access to Kimball Road, one of which is almost directly across from the town forest. We can answer any engineering questions for you tonight. Mr. Paulson can run quickly through the plans.

John Paulson, Atlantic Engineering principal: The first sheet of the plans shows basic information and does list the waivers that we're requesting.

(John goes on to a lengthy explanation of each sheet of the multi sheet plan for this project). Along the driveways, where we were looking to do additional drainage, so we directed water from this area into a rain garden here, water from this area to be directed to a rain garden over here. Stone trenches run along 3 of the driveways to maintain net zero net flow off the site. All of the water from this site currently drains down towards the back of the property. We are not increasing any rate of flow or any velocity of the flow. It is being maintained with this development. It has 16 acres that goes to natural, so you couldn't even measure during a 100 year storm. We have a net zero increase in water. It can't possibly get to the lake, due to all the grass before the lake, so water will get absorbed into the ground before it ever reaches the lake. We also are installing roof infiltration units, so that the roofs are infiltrated to get water back into the ground. The soil out here is gravel, and it won't even hold water. The existing sewer line comes down through the condominium and We'll tie into the existing manhole here, and again over here. Basic landscaping is shown on the plans, in the rain garden areas and in the swale will be some plantings in there, and more plantings in the island area in the center of the paving. There will be a siltation barrier around the total The storm water management area was detailed on a page of the plan limit of work. There is a detail on a plan page detailing the storm water management area. It has the peak flow coming in, a settling area, and then it comes into the grass via the swale. Infiltrators are there to get water back into the ground. There will be a siltation barrier around the total limit of work for the project. Rain garden details were mentioned on a page plan also.

David Frick: You actually could've considered this as an R40 project. Do you want to speak about that?

John Paulson: I actually do have some other options. There is also an option of putting in a cul-de-sac, but we'd prefer not to do that. But this plan was chosen and will show that we have the ability to do this.

David Frick: I know that the town and planner looks at these as a much better thing to take a piece of property like this, 19 acres, and in this case you're looking at using 3-4 acres to develop the lots on, and leaving the other 16 acres open, never to be built on, and a lot of that land won't even be disturbed through this process. We find that much more acceptable than trying to develop houses on all of the land and dividing up one acre for each lot. So under a cluster development, you get reduced amount of frontage, reduced lot size, and that is looked upon favorably because we're not disturbing the land and leaving it open. That is 16 acres of open space they want to give to the town. The town likes this sort of thing. We'd rather have land left open, never to be built upon. That's the idea behind a cluster development. Now we'll hear from abutters wishing to speak tonight.

Nick Wheeler, 33 Adams Court: I have a couple concerns: re: the pieces deed to the town, how does that work with lot 2, which doesn't even have access to Kimball Road without that easement to the town, so they either have to get an easement from the town, or that lot needs to be absorbed into the right of way, as well as all the utilities and what not. The application for the

APPROVED

subdivision indicates that the applicant anticipates conveying the common open space and all appurtenances to a homeowners association. That kind of conflicts with a lot of discussion about deeding it to the town, so I wanted to bring that to your attention. Had a question about parcel X, with the infiltration system. Parcel X directly abuts the property line with lot 9, and the infiltration system is right on the lot line. Usually there is a setback for septic system and underground utilities. I'm not sure if that applies. I wonder what the status is for lots 5 and 2 were, with respect to the common access driveway. They don't actually use it, so I wasn't sure if they were going to be part of that homeowners association. I wonder what the planting scheme is. Right now, there is no buffer for any of the people that live next to it. No trees are shown in the 20 foot buffer zone, no plantings shown between houses, just basically open. That's about it.

David Frick: They asked that since there are so many trees on the site now, that they not show all of them. But a landscape plan was not provided, and we are requesting that.

John Paulson: This area is not going to be an easement. It is going to be deeded to the town and will become part of the right of way. It's a separate piece of land because we own it, but it is going to be deeded to the town. Therefore, it will become part of the right of way. We have to assume that it will be a homeowners association, whether it's a conservation trust or whatever it is, because we can't make the town take it. Our hope is that the town will want it, then it will go to the town. Parcel X: this is grading that is up above. The infiltrators that are underneath are totally on the owned parcel X. There will be a swale there. There are no setback requirements for drainage, like there are for septic systems. As for plantings and the like, no we're not showing plantings on the lot. There's a lot of grading that needs to be done out there. Plantings on lots are not generally shown on a subdivision plan, other than spring trees. I do show plantings by the swale and show plantings here and in the rain gardens. The area over along the 20 foot on this side, next to the condominiums, isn't going to be touched, so whatever buffer is there will be there. The area outside of the limit of work here is all going to stay and not be touched. Access for lots 5 and 2: To be determined. They are part of the plan.

Philip Perry: I'll add that all of the residential lots here will be subject to the homeowners association. Now, there will be an association in place to maintain the drainage structures in the roadway, where it is to remain a private roadway. So every lot will have a responsibility towards that. But as far as concerns over the open space, if the city does not want to take title to that, we are going to restrict the use of the open space regardless, so that it will always remain open conservation land. We can accomplish that in several different ways, one of which would be through a homeowners association. We're hoping the city wants a direct conveyance of that, but if not, we'll restrict it by restrictive covenants, perhaps easements so that it will remain open space in perpetuity.

Lainie Senechal, 48 Lake Attitash Road: As an abutter, I'm very concerned about the lake water quality. We've had major issues now with water quality. I appreciate there is consideration of that in the plan. However, I want reassurance that this plan is the correct one to protect our lake. A development in our watershed has the potential to add more pollution to the lake. So I want a good review that this is the right thing. I already have concerns, the homeowners association is supposed to maintain the rain gardens and the infiltration systems. What guarantee do we have that they are going to be able to do that into the future? Do they have the capacity? We don't even know who is going to live there. So I'm concerned over how this is going to affect the water quality of the lake. I fell like we need independent review, we need more reassurance that this plan will work.

APPROVED

John Paulson: As Mr. Perry said, each of the owners will have responsibilities. Different owners may have different responsibilities. Things on individual lots will be the responsibility of those owners, and it will be in their deeds and in the restrictions for the site. That's the intent of how this was designed. So there will be overall responsibilities, but individual responsibilities as well. As the engineer but also living at 54 Lake Attitash Road, I know what the water quality is, and I'd never do anything that would harm the lake in any way, shape or form. The soil out here is as good a road gravel as there is. Water can't get to the back of the site, can't get to the lake. Its going back into the ground first, which is perfect, being re-charged back into the ground. Even from the back edge of the subdivision, there's still another 16 acres before it ever gets to Lake Attitash Road. We are only developing 2.8 acres out of the whole thing. The other (16) acres are going to be kept natural. The water is going back into the ground, it cannot reach the lake.

Michelle DiMascio, abutter, 15 Acadia, Kimball Road: I have questions prepared, and I have some documents I would like put into the public record. I live toward the back of the property, there is a grade that slopes down. We are not 16 acres from any of this. So it might be 16 acres to Lake Attitash Road, or the lake, but some of our property will be like 35 feet from the sewer system, so if there is a back up and you are at a higher grade than we are, how do you plan to address the water runoff that already pools on our end, and might be worse because of this?

John Paulson: The only thing that we are doing with our sewer, this is the sewer main for the City that comes down through the property and heads down towards Lake Attitash; we are tying a small (8) inch line in for these houses and from here, this goes downhill and you are uphill. This drops off from the back of Acadia Condominiums, it drops off from there. The sewer is down below you and is also several feet into the ground.

David Frick: The question seems to be, whether you are talking sewage or runoff. Maybe you can delineate that difference.

Michelle DiMascio: The statement made was that they would be maintaining a sewer or a roadway....lots 1 and 5 I think and someone else has to maintain a sewer? Is it the responsibility of individual homeowners or the Association?

John Paulson: That will all be part of the deed and deed restrictions and deed requirements. Houses on the road will be required to maintain the road. The lot owners are all going to be tied into the sewer. So depending on what their tie in is, they may have different financial responsibilities for tying into the sewer.

Michelle DiMascio: That is how we do it.

Philip Perry: The individual homeowners are responsible for the connections. The main sewer line is the responsibility of the City.

Michelle DiMascio: We feel the community impact study is not an accurate representation of the situation. It does not consider any real factors of day to day life in the area. Kimball Road is heavily travelled and the road surface is in bad condition. Increased traffic to the proposed development would exacerbate these problems. The road has significant curvatures. And straightening one small area will not bring significant improvements. Kimball Road also has no sidewalks, which makes it unsafe to travel on foot. Number 1: some of the proposed houses are to be built less than 25 feet from the road. 2. We'd like some clarification as to which part of Kimball Road would be widened. 3. We request a traffic study be conducted on the number of additional cars that would then travel on Kimball Road on a daily basis, should these proposed additional homes be approved. 4. If it is a 3-4 bedroom house, times 8, that is anywhere from 24 to 32 people, that could be that many extra cars on the road every day. 5. Back to the drainage

APPROVED

situation, that road is already prone to large puddles and flooding when the weather is warm, and experiences severe ice build up in winter. If more trees are removed, there is a greater risk of drainage problems due to soil erosion. We'd like to know what preventative measures will be taken. Also, how many trees are to be removed for construction of the homes, cul-de-sac, two driveways and the widening of Kimball Road? The permit says, "we will preserve trees of 12 inches in caliper when possible." Key word: possible. How many trees is this, and from where will they be removed? Will there be no more trees between their property line, say on Lot 9, and Acadia Condominiums? Your application Item 6 states: "encroachment onto the subject premises by the railroad tie flower bed, gravel driveway and fence ..." We'd like clarification and explanation on that statement. Are you saying that we are on your land? Application C item #4: easements for septic system purposes. We just talked at length about a sewer system, but you do mention septic system in your permit application. Application for special permit for cluster residential special permit:: there is a statement in here that the development site does not contain a watershed divide. That is incorrect. At the top of our driveway is a sign stating that this area is a watershed area. If Acadia Condominiums is in a watershed area, then so too is this parcel of land. I have an attached environmental study on Lake Attitash conducted by UNH, which states that "although the percentage of developed land is minimal, the relatively small watershed to lake ratio suggest that any slight increases in development would have detrimental effects of nutrients loading input into the lake." We also request that a wetland study be conducted on the property where the proposed 8 houses are to be located, as well as the cul-de-sac, two driveways, and where Kimball Road is to be widened. The wood frogs and peepers came awake yesterday. I have it on audio recording, and they all live in that vernal pool right behind us. We kindly request that the number of houses to be built be reduced from 8 to 6, giving the residents of Acadia – Kimball Road residents an undisturbed view of the woods. The application does state in one area that you are only requesting 6 single family houses. What is the date that this was approved and when does it expire? One part of the application references 1970, 44 years ago, and another one references 1999. So we're talking 44 years where this plan has just sat there. Why now? We request that the commissioner require supporting plans and calculations prepared by a registered professional engineer, registered landscape, and also by a registered land surveyor. We are requesting that the vernal pool behind Acadia units 15 to 21 be reviewed by a wildlife biologist to assess the effects the proposed housing project will have on area wetlands and the vernal pool. In the proposed lot 6-7-8 require a waiver. Will a waiver be requested? How will the unsafe locations for these lots be addressed 25 feet from the road? Trash removal is mentioned, but if it does not become a private removal service, will this impact your service fees? Where will the shed be built that will house the trash? In application for special permit, common access driveway, it states "common access driveway further served to preserve, protect and enhance environmentally sensitive land located on the site by allowing the development of smaller lots within the cluster residential development, thereby preserving wetlands and open space." How does increasing number of houses with more people and more cars preserve and protect sensitive land? An application for special permit common access driveway, it states "the plan to buying the lots into their current configuration was endorsed as approval not required by the PLB in 1999.

The approval not required plan superceded the definitive subdivision plan constructively approved in 1971." We want to know why there was a 44 year gap and a 16 year gap in developing this land? We'd like to know when the proposed construction will begin, how long it will last, and if all homes are to be built at once, rather than building them once a buyer

APPROVED

purchases a property? The 16 acres dedicated to the city, I guess I want to see where those are. You mentioned the homes will be 3-4 bedrooms each. I just wonder what you think the mean cost will be for each home? I think I'm done.

Rose Cole, abutter, #8 Acadia resident: Can you explain the difference between a cluster and a cul-de-sac? Do they have different zoning laws?

Nipun Jain: Under the cluster residential special permit, you can use the provisions of the common access driveway. You can do a cluster with a cul-de-sac. A dead end road.

Rose Cole: So are they proposing a cluster or a cul-de-sac?

Nipun Jain: You can only use a provision of a CAD if you do a cluster. You cannot use a CAD without the cluster.

Rose Cole: When you have a cluster or cul-de-sac, you have one entrance, correct? (Nipun = yes). So they are proposing to put two additional driveways off of Kimball Road. Wouldn't this now be a cul-de-sac or cluster, if you add additional driveways into the development?

Nipun Jain: The cluster only looks at how you can organize a yield plan. That becomes the basis of the cluster.

Rose Cole: So they can put in as many driveways as they want and call it a cluster?

David Frick: The cluster doesn't have anything to do with how the arrangement of the road is. It just has to do with you having a certain zoning and you're compacting the sides of lots down smaller so you get the same number of lots into a smaller area. That is a cluster. How it is arranged on the road is another matter.

Nipun Jain: Our performance standards under the cluster that look at, in terms of traffic impact, if all of those lots have driveways, then it is really not benefitting the purpose of the cluster, where let's say all the lots had driveways from Kimball Road, then depending on how the board determines, it could be not consistent with the purpose of the cluster. So here, the majority of the lots have access from the common access driveway in the proposed subdivision. But the board still has to determine whether the proposed plan is consistent with the cluster, with the CAD. The board reviews all pertinent and technical information that the applicant has submitted with the plan, and then makes a determination whether the performance standards are satisfied under the cluster and the common access road.

Rose Cole: In a special permit, and I quote: "development exceeds the minimum allowable tract size under the Amesbury Zoning Bylaw." Can you explain what that means?

David Frick: There is a size lot that is as small as you can go, and these exceed that. You can't go smaller than a certain size, and these are larger than that. It's the same whether it be a cluster or an R40.

Nipun Jain: I will get back to that question at a later time.

David Frick: We, as a board, want to support a cluster development over a subdivision, in that it leaves more open space for everybody to have afterwards. In order to encourage builders to go with that cluster development plan, we give them a one lot bonus depending on how many units are going in. So as a yield plan, they had 7 large oversized lots that didn't include the wetlands in their lot proposal. So they could put 7 houses covering all the dry land from Kimball Road to Lake Attitash Road. So what they propose now to put them all in one little space, in a cluster development, leaving all the rest untouched.

Rose Cole: So because of the size they propose 7, but because of the size, you give them an extra lot?

David Frick: Because they have shrunk the size of the proposed building area property substantially.

APPROVED

Nipun Jain: There is an established formula in the mylar 11D: if the proponent leaves 60% of the parcel as open space, then they get 10% bonus. If they leave 70% of the total parcel open, then they get 20% bonus on the yield plan. So the yield plan is 7 lots. They can get up to 20% bonus.

David Frick: I believe in this case, they proposed 8 lots, so there is no extra yield in this case.

Rose Cole: Even though previously they were only approved for 6, they can now ask for 8?

David Frick: When a plan gets approved, in this case, it wasn't built, you can always come back and try to get another plan approved. So they can physically get 8, one coming in from Lake Attitash Road and then 7 coming in from Kimball Road.

Rose Cole: On the open space, if they do deed it to the town, then that can be used by any person, and use it as recreational and passes. (yes).

My last concern is wetlands. This engineer that you hire will produce a stamped and give us his professional opinion as to whether it meets the standards it needs to. (yes).

Jim Thiverge, 8 School Street: You listen to the proposal, and its 19 acres, and you're going to develop 2.8 acres. There will be 6 to 8 lots. My questions are: what is the value of this space now, and if it is developed, what will the value be after? What will be the value of one single family? So what are we talking about, in terms of the range? One other question I have of the PLB, when and if it is all done, what's the impact on the schools? What impact will it have on the city, financially? What are we looking at. Thank you.

Philip Perry: I'll try to address these issues fairly briefly: I'll let John answer the engineering questions, but relative to the traffic, sidewalks, and existing roadway: What the developer is proposing to do is improve the layout to the extent that they can gradually reduce some of the sharper curves for sight distances. What exists in the public roadway won't be affected too much, it'll be just smoothing the transitions and the curves. Traffic study: I don't think the addition of 8 single family homes, I'll let John address that, but to me, this size development won't have much impact on traffic, if at all. Relative to drainage and ice, John stated earlier in his presentation that the entrance is higher, water is going to be draining into the site. Re: tree removal: that will come with the landscaping plan. We don't know yet how many would need removing. You'd had questions about easements for encroachments and easements for septic systems, I think you are referring to the part of the application that it is required to do a title examination and identify any easements or restrictions or conditions that affected the property. There is a squared out portion of land here that had been conveyed from the owner to Acadia to help it with its septic problems. Even though we know that the premises is tied into city sewer now, the easements stays out there. So because it remains in the title is why I listed that. The encroachment by the planters and the railroad ties, yes, in fact, that is encroaching onto the Cormier property and is why it is listed in the application as well. The survey disclosed that. Relative to wetland studies, John has addressed that also. The proposed limit of the work is not going to be in areas subject to protection under the wetlands act. In fact, there are no wetlands areas within the limits of construction. Re: why there was a time gap in development and why different proposals over the years, the owner of the property is a developer, and he owns many parcels that he has had somewhere in excess of 40 years. I don't know why he didn't develop this site previously. Plans were proposed, but he chose not to. Relative to setbacks and frontages, we touched on some of that earlier. Trash removal and the shed will be covered by the restrictive covenants of the homeowners. What my client anticipated and what is done in many other developments, is that there will be private trash pick up, probably by Mello, but once all lots are sold, that will be up to the property owners how they want to handle that.

APPROVED

As far as open space, that is the whole reason for proposing a cluster subdivision, to preserve open space and land. As for a building schedule, if you ask a builder, they want to build as quickly as they can, get in and get out. Hopefully, the buildings will be priced well for the market. My client typically doesn't delay building things. He doesn't anticipate this to be a very long process. I can't say if it'll be a one year project or longer. Relative to size: you can't overbuild your market. The developer has identified what he feels will sell there. The size of the home is limited somewhat by the size of the lot. I can't characterize what they'll be in square foot area, but it will be about 3,000 square feet. They will all have garages. We don't know for sure it'll be that, but based on the history of this developer, that is what he normally builds. You're not going to overbuild your market. The developer has to get performance standards with the city and do certain things with the road before the city will release lots for construction. The builder has to comply with certain performance standards with the city before they can be released for construction. A few other comments, I get the sense that there may be some interested parties that aren't quite sure of how the whole project works. I want to point out that as a good general statement, we wouldn't be here before the PLB and you wouldn't be afforded notice of any of these hearings if the developer had chosen to create what are known as ANR, or approval not required, lots. Those are lots on existing roadways that you can create if you have the minimum amount of required frontage under zoning. That is simply drawing up a plan, a surveyor certifies how much frontage there is on the lot, and it is presented without a formal hearing to the board. I wanted to explain, because there may be some misconceptions with part of the process here. Had there been ANR lots, which is what the 1999 plan was, it was simply presenting a plan to the board, the board determines that the lots all have the amount of frontage required under zoning. That is another way to create lots. But the developer preferred to go this route, believing there will be many more benefits to the city and less impact to the neighborhood by doing it this way. Hopefully, I've addressed the general concerns that I had jotted down.

Chris Hyde, abutter, 17 Acadia Kimball Road: I moved into Acadia 17 years ago. I looked in my backyard and saw the swamp, and thought "at least no one will be building and living behind me." It appears that'll still be the case with this plan. I want to second comments made earlier. I too am concerned with the wetlands as well. I don't dispute the right of Mr. Cormier to develop his land. I am concerned with the way it is being developed. I'm concerned that these 3 proposed units in here are close enough to the buffer that I do think they will affect the wetlands and the vernal pools in here. I know that Lake Attitash has problems, and more drainage from fertilizers and whatever in general, and the impacts on the wetlands concern me. I wonder if there isn't another way to do this. Maybe build condos as opposed to single family homes. As far as doing a traffic study, I don't think that is a trivial matter at all. I'm an avid cyclist. The upper Kimball Road was completely impassable for a cyclist. I got on the mayors case. No response. Sent him a letter copied to the town council. I busted my axel on Kimball Road. The town ran out of asphalt, so they couldn't address it. The director of DPW said they ran out of funding and couldn't do it. I won't ever ride my road bike to that end of Kimball Road anymore. This road over this winter was a slalom course. I think we do need a traffic study. Thank you.

Karen Solstad: For the public, when the developer comes and presents the plan, that is the starting point. It's a process where we look at the plans, look at all the requirements under our zoning, we have independent experts who look at the water plans. Sometimes it's back and forth 4-5 times, with our expert making notes, the developer coming back and saying yes, we'll do that, or we didn't think of that. It isn't like this is what they are proposing and this is what they'll

APPROVED

get. It is a process, and public input is part of the process. But there's lots of back and forth, and we have the experts, especially around water. We are very sensitive to wetland issues in town. So your continuing to come to meetings, following it along, know that you are part of the process also, with us.

Bob Lawless, 63 Kimball Road: Is it possible for us to get these plans on a PDF file that we could download from the city website. Can we get answer, transcriptions, etc. that way?

Nipun Jain: All of the PDFs and all of the drawings submitted to us are on the city's website. Transcriptions from tonight meeting, once we have the draft minutes, they are also available on the website.

David Frick: Mr. Planner, when would you like us to continue this hearing? The next meeting or the meeting in May?

Nipun Jain: We don't have the ability to continue this to the next meeting or the one in May, because we still have to receive the special permit application and the water resource protection district. I would say, with questions asked tonight and the review, it would at least have to be 45 days, if not more. You need 30 days to hold a process and application before a public hearing can be scheduled. So we should have the application today for the special permit, to go to the PLB meeting that is after 30 days.

Robert Laplante: I don't think we need a date, until they actually meet their obligation. We like to bend over backwards, but we can't presume that you'll have a valid application.

Philip Perry: What I was going to suggest and was going to put in my letter accompanying the request for the water protection district special permit, that that hearing would be scheduled concurrently with the definitive plan and with these others. So it'll be open ended whenever publication is made, etc. Then they'll just set it.

Nipun Jain: Now that the hearing has been opened on the subdivision, then it is probably safe to say 60 days is the earliest you can have. That would give the applicant 30 days to prepare the special permit application, and will give the PLB 30 days to have the initial hearing on that special permit application. That is the earliest that can happen.

Robert Laplante: I think the applicant ought to realize too that we have other people in the pipeline that are meeting the requirements.

David Frick: I just want to move out from this session tonight and what is the appropriate procedure to do so.

Nipun Jain: You are required to have a date to which you continue the public hearing to. So based on today's presentation and lack of information, the PLB has to, under the law, assume that the applicant will perform in the shortest possible time, based on your request. Your request is for them to complete the application. The shortest time period is 60 days for them to produce the special permit application,, for it to be advertised and to hold a public hearing. So 60 days brings you to the first meeting June...June 8.

Alan R. Neal, abutter, 4 Ashley Drive: Mr. Chair, I would recommend that you table it. When it comes up in the next meeting, if you don't have your information, you table it. By tabling it, we're still in the public hearing.

David Frick: I think we'll just go out to a date. We don't want people showing up here, not knowing what is on the agenda.

Lars Johannessen: I'm sorry, Mr. Neal, tabling items may work for city council, but it doesn't work for the PLB. We have time commitments.

Motion made by Ted Semesnyei to continue this public hearing to June 8.

Motion was seconded by Lars Johannessen. Vote was unanimous.

9 Water Street - Site Plan / Special Permit, Professional Offices and Private Indoor Recreational Facility, Section X.J. - Water Street Realty Trust:

Nipun Jain: Water Street Realty Trust has submitted a site plan review and special permit request for professional offices and private indoor recreation facility in the central industrial district at 9 Water Street.

Bob Deshaies, attorney filling in for Paul Gagliardi: My understanding is that there originally was an application for site plan review that was filed, then it was discovered that the original special permit that had been granted was only a part of one of the properties, and there was confusion about the address, so the solution to all that confusion was to file a new application, a revised application with a special permit and an original application for site plan review. Dealing with the site plan first, because essentially we're asking for a waiver of most of the site plan requirements, because there is no intention to have any external impact. The only change being proposed for the building is a build out of one portion of the structure. The remaining uses that exist now have all been reviewed, and I'll go through the chart that we've prepared, to show that we encompass everything that is there, to eliminate confusion, we generated in the past what had previously been approved. So the special permit criteria required that the use requested be listed in the table of use regulations. What we've identified is as uses are professional business offices, studios, artisans, workshops, and the newest tenant is a cross fit center...a training facility as I understand it. All existing uses appear to be desirable, at least for public convenience and welfare, because they are all thriving in that locations and being used by the public. All existing uses of the buildings are producing more parking requirements than are permitted, but they are also across the street from the municipal parking lot, where the owner of this property has certain reserved rights in that parking lot. Personally, I've never been in that parking lot where I couldn't find a spot to park. It is not overflowing or lacking capacity. We won't be overloading any public, water, drainage or sewer system, because we're just looking to continue the existing use of those two buildings. It's not going to have any impact to the neighborhood, because the newest proposed activity and all existing activities are going to be located entirely within the building. We prepared and filed a site plan with the original application, and I believe we filed a copy of the city's site plan for the development of that section of the city. Then on a cover letter that Atty. Gagliardi filed, he indicated that we've not filed a site plan showing any changes to the existing site. Everything is to be done inside, except that there is a plan, once the city repaves that area, that we'll build a connection to the site on the newly relocated sidewalk. Then there is an entire laundry list of waivers that are being asked. The letter pretty much requests a waiver on all the requirements all based on the theory that nothing is being done outside the building. We put together a chart that shows what the existing uses are, what the required parking spaces are, then based on interviews with the tenants, what the actual number of spaces that are used. We've shown all those, and the ones that are used are less than half of what is required at the present time. The owner of this building reserved the right to use 60 spaces in the municipal parking area across the street. So we're looking for a waiver to maintain those existing uses, and we're looking for a waiver on almost all the requirements for site plan review, again on the legitimate theory that there is nothing being done that requires site plan review, other than the bylaw that says you have to do it.

Robert Laplante: One of the questions that came up in the last meeting. It concerned the impact of this development, and we had a lot of discussion of where the development was, how you've

APPROVED

identified where the development actually is, and how it wasn't affecting anything because it met all the requirements. This letter lists a whole litany of individual areas, buildings, parking, sidewalks, utilities, grading, landscaping, lighting, signs, open space, and after every presentation, you say there is no change and we are asking for a waiver. We're asking for a waiver...we're asking for a waiver...etc. You say why, except for the parking. Traffic congestion, asking for a waiver from this without specifying why. All the other areas you listed. Now you come back. Do we have that listing? We didn't know we owned part of the garage across the street, or had access to it. Do you have those actual numbers?

Bob Deshaies: Didn't we attach a copy of the deed?

David Frick: There is a deed in here. The owner of this property conveyed the land across the street to the town to build the parking lot. In the deed, they get either 60 spaces or they get 25 % of the total number of spaces in the parking facility, whichever is greater.

Robert Laplante: And there's a breakdown of who else uses the parking?

David Frick: I don't think anybody can do an exact breakdown of who else uses the parking. People from The Provident Bank park there as well.

Robert Laplante: In my professional experience, people will lie, using the same resources for more than one... in other words, we have parking. Who is using it? I'd like to know.

Bob Deshaies: When the land was conveyed to the city, the then owner reserved the right to up to 60 parking spaces or 25% of the total spaces, whichever is greater. He's never gone over and marked off or posted or tried to say these spaces are mine. There's always been space. Never been an issue over parking. The problem is, to do this requires site plan review, but it really is an inappropriate requirement that will make us try to do things that don't really fit this situation.

Lars Johannessen: My question is, how many parking spaces are there in the parking garage?

Bob Deshaies: I don't know.

Lars Johannessen: Then I think we need to know, don't we.

David Frick: The upper deck gets crowded. In the lower part, there is room for 30-40 parking spots are usually available.

Ted Semesnyei: Can we verify the number of spaces predicted for use by the new cross fit facility?

Bob Deshaies: I think the original site plan that was filed shows the spaces, or shows spaces marked out. But I'd have to count each one.

Karen Solstad: I don't remember seeing anything with parking spaces marked out. The original paperwork filed with us only said there would be up to 25 people in each class. Then in the last packet, we got from Paul was the site plan for Heritage Park, that whole area, but without delineating what part of the building at 9 Water Street is not shown.

Robert Laplante: How many clients or tenants have access to these parking places? If he has 60 spaces, does he have 60 tenants, 20 tenants, 100 tenants?

Scott Mandeville: It looks like there's 95 spaces.

Karen Solstad: Under the zoning, there are 207 spaces required per the square footage. There's actually about 95 people who park cars.

Scott Mandeville: And he has deeded access to about 60 of them.

Nipun Jain: In the municipal, there are about 220 spaces. So 25% of the 220 would come out to 55 or 60 spaces.

Scott Mandeville: So if he is deeded about 60 spaces, I'm guessing, and he's actually using 95 to 1120, how does that work out?

APPROVED

David Frick: Again, that indoor facility, they added a number to that. So if you use the real number that it is today, subtract 10 from that. Because that indoor recreational facility is what they are talking about. So today, he's using 85, by their estimate of at any one time, it would probably be about an average of ten spaces taken for that.

Nipun Jain: Lets step back. These large buildings in the downtown, take for example Amesbury Industrial Supply. It is a four story building with 15 to 50 square foot area...in commercials, they claim an acre of supplies. If tomorrow, that use shuts down, there is no way they will have the parking that is required under zoning. It would be sad seeing a property like that not be used. So for such circumstances, the city zoning bylaw for parking allowed the municipal facilities within 300 feet to be used for meeting the parking requirements. As development has occurred downtown, there is more fully utilization of the municipal parking lots. At times, there is a shortage of parking in certain isolated spots. If you focus on the Lower Millyard, when we were doing the Heritage Park, there was an assessment done by the city to see how we could expand the parking in that area. That led to the addition of 40 car spaces in the Heritage Park proposal, but more importantly, that study showed that there isn't actually a parking situation, even with full build out of buildings that are on Water Street. There is enough gap between cars coming in and out during the day to meet the needs of the users. If people from other places downtown start parking there, clearly that affects the model. Point is, under existing conditions, the building is fully occupied except for a few areas in the building, one of them where the indoor recreational facility is being proposed. There will be no space left in the building once the cross fit goes in. That allows for 12 more spaces allowed under zoning, but they expect only 10 in actual use for the cross fit facility.

Karen Solstad: I think we have to go by what is required by zoning. If they say there's going to be 25 people in a class, but we're only going to use 10 spaces, that is sort of a bit of magical thinking.

Nipun Jain: So if it is 12, and if we have to take that into consideration, there are 60 spaces that the applicant can use. At least 60 are available. Even if they took up 12 spaces, it still won't create a parking problem. Cross Fit is the only added space eater being added to what already exists. There is no parking problem because of this building. So what is being added? 12 car spaces. If 12 spaces are being added due to this new use, there is sufficient parking available to accommodate that. So if there is a perceived parking issue because of new development, it is on the upper end, not at the lower end. We should look at that and not ignore, holistically. But for now, there is no issue. We are not at the point yet where it is an issue. In this project at the last meeting, we heard parking was the issue. We asked them to provide the full build out analysis, what is the parking that is needed, and what are they currently using. Based on that information, this is our conclusion.

Scott Mandeville: My only concern is, as we continue to develop this area, and parking does become an issue, what happens at a certain point when this Water Street property, people working there can't find parking spaces and there's a complaint made that they don't have parking. Suddenly, we do cordon off 60 spaces for worker spaces, and we suddenly find ourselves minus 60 spaces after we expand a certain amount?

Nipun Jain: I agree that should be considered now, but the way the agreement was written, way back 30 years ago, I don't think they anticipated that there would be such a need for parking. When you look at other parking places, we are looking now for options for more parking.

A P P R O V E D

Karen Solstad: I think we have to keep in mind that, at any point in time, tenants can change. Then, instead of using 5 spaces, they might be losing 20 spaces. Its about how we handle parking in a central business district so we can accommodate possible change.

David Frick: My opinion is, we want this building, want it to be re-done into office space. We have the situation, there is no parking problem down there now, there's a ton of extra spaces, so how do we deny this?

Robert Laplante: I guess there is a history here as to why he has that parking space. He conveyed the land in exchange for the parking spaces. A deal was made. I think we should respect that. If he's utilizing his property, and he's saying he can do it and still meet the needs of his tenants, then we should believe him.

Bob Deshaies: The notion that you're able to satisfy the parking requirement with municipal parking has to be part of what you're doing in a municipality. We've spent 10 years trying to get people into town. Now we're complaining because they're here. I think I heard ...

Karen Solstad: We're not complaining, we're asking questions, which is what our job as a board is, to ask questions. When this came before us, there was nobody here to answer any questions. We were in the dark trying to figure out what was presented to us. We had questions due to a very incomplete package and the applicant had not turned in a lot of stuff that we needed. Was there a reason that Paul Gagliardi added this?

Bob Deshaies: Just to show what was going to be happening outside.

Nipun Jain: Maybe I can shed some light on why that plan was submitted. Given that they are not proposing any improvements to the exterior, or doing any work on the exterior...

Karen Solstad: But this shows a big, blank hole here that the project is supposed to be one of these pieces of. It doesn't illuminate anything for us.

Nipun Jain: The print quality is not as good as what was on the screen, viewing this. The purpose of this plan was to show the building as a whole, which did not come out properly, but there's also to show the pedestrian access, the vehicular access that would finally be, once the Water Street improvement was done. And to support the memo, which states that there are no improvements being proposed, other than what is within the public right of way.

David Frick: Also, once this is done, they're going to adjust their sidewalk accordingly, from the entrance out to the street, and match materials to the sidewalks that exist.

Motion was made by Scott Mandeville to extend the meeting until no later than 10:30 PM. Robert Laplante suggested 10:15 PM. Robert's suggested motion was seconded by Karen Solstad. Vote was unanimous.

Karen Solstad: I have questions about lighting? This is a storage area that is being changed over to a commercial, and there is not going to be lighting at the doorway for clients in winter?

Bob Deshaies: My understanding is that there will be no exterior changes.

Karen Solstad: No lighting at all, the client isn't asking to do any signs?

Bob Deshaies: No.

Robert Laplante: Let's accept that.

Karen Solstad: So there will be no signage at all?

David Frick: If he does, he'll have to come to us.

Bob Deshaies: I'm doing what I was told. No signs, no lights. Apparently, existing exterior lighting is fine.

APPROVED

Scott Mandeville: This application is for 9 and 21 Water Street, application for special permit and site plan review. Previously, the special permit covered one floor in 21 Water Street. So this new application, am I to understand this new application is to encompass both buildings in their entirety?

Bob Deshaies: Yes.

Scott Mandeville: So to cover some of Karen's concerns and this in general, I think we need to look at this not as we're adding a Cross Fit to the shed portion of 9 Water Street, but what is the impact to this as future development happens? If they get a special permit for this, are we then opening it up to waivers for all of these other portions? Examples: we want a waiver for sidewalks, exterior lighting, exterior site improvements, landscape, down the line as these two buildings are further developed? Are we opening ourselves up to "they've already received a special permit and don't have to go back, or if they've gotten a waiver and then developed another portion of this building to a further degree at a later point, if they got a waiver previously, are they then subject to returning to us, because they are changing from that?"

David Frick: You could probably make that a condition, couldn't you?

Nipun Jain: Do you know how much land is available on this property, beyond the footprint of the building? Nothing on the water side. On the Water Street side, there is probably what you see in that plan, which is minimal. They cannot make any alterations to the footprint without getting a special permit to alter the footprint. That leaves the uses within the existing footprint. If the PLB was to grant this special permit, it would be only for the uses that are listed here, which is office use, which the building is currently being used as.

Lars Johannessen: If he tears down this building and puts up another building in the same footprint, that has 3-4 floors on it, then does he have to come back for a brand new...

Nipun Jain: Let's say it burns down tomorrow. Then he builds it back up in the same footprint within a year for the same use, he does not have to come back to you.

Lars Johannessen: But if he's adding 2-3 floors to it...

Nipun Jain: If it is an extension, it is an alteration or an expansion...any one of these.

Lars Johannessen: Then all the waivers are out the window.

Nipun Jain: And they'd have to apply for a new special permit. So if you are granting these waivers, they are only for what exists now.

David Frick: We could also make a condition in our decision here that if there any signs added or lighting changed, that they need to come before PLB for a review for that.

Nipun Jain: Yes. And on the lighting, Heritage Park added a lot of light along the pedestrian walkway. We talked about what sort of building mounted lights were there, etc. Based on what we've seen on Main Street, there are no lights being installed by property owners, other than for signage lighting. So yes, if you do want to make a condition with regards to the signage and lighting that goes with it, you're more likely to see that sort of lighting. But certainly, a condition to the effect that says "if you do add exterior lighting, you have to come to submit that to the PLB prior to installation."

Karen Solstad: Question: there's all these different names for this property, according to if you look at this, or the assessors maps, that is confusing and that's the way it is in old towns, but I'd really like for the sake of a PLB ten years into the future, looks at these plans when someone comes before them and changes stuff. Water Street Realty Trust says that the exit build out is for #21 Water Street, but everything else on the plan says 9 Water Street, building one or two. There was one place in the narrative where it said "also known as....also known as... also known as." But everything else in the legal part of the application...

A P P R O V E D

Bob Deshaies: The assessors records describe this property as building 9, number one, and building 9, number two. Number 21 doesn't exist in the assessors records.

Karen Solstad: That's what is on the application.

Bob Deshaies: Because that's what it has been known as, outside of assessors records.

Karen Solstad: So I would suggest, for now and for clarity in the future, that wherever it says 21 Water Street, it be called 9 water Street, also sometimes known as 21 Water Street...something that ties it together.

Bob Deshaies: But the letter is part of the record and it does explain that.

Karen Solstad: Also, there is no site plan that shows what part of the building, it shows this individual piece of the building standing all by itself, but it doesn't show it in context as to what part of the full property it is?

Bob Deshaies: It is the only one story portion of the building, as I understand it. I guess it's on the southerly end?

David Frick: Now this whole thing is for both buildings. The special permit was expanded to include both. It's different than what it used to be. It is now this and this all included in the special permit. The second paragraph of the letter outlines exactly what they said." The original request we filed seeking to amend the existing special permit at 9 Water Street." They talked about numbering, and now they're saying "the site plan is being filed to encompass both buildings now. That's why they provided all the parking.

Scott Mandeville: **I'm ok with this, as long as the no changes to exterior lighting and no signage, none of these things apply, I'm ok with the waivers listed, provided we have a condition that should say if any of those change in the future and any future landscape, lighting, signage happens, or for anything else, then they need to come before the PLB again to review said changes. I make a motion to that affect.**

Nipun Jain: Might I suggest to amend the motion thusly: If the architectural character of the building changes from its current form, and takes away the historic elements that define the building, which includes all other components of the building, then the applicant shall submit such information to the PLB to determine if it is a minor or a major change.

Robert Laplante: Why don't we just accept the applicant's declaration?

Scott Mandeville: **I'd like to ask Nipun Jain to help guide the exact writing of this to include what you are describing, so that we're not having a public meeting over a re-painted window sill.**

Motion was seconded by Ted Semesnyei. Vote was unanimous.

Motion was made to close the public hearing on this matter by Lars Johannessen and seconded by Robert Laplante. Vote was unanimous.

National Grid – 39 and 39A Water Street, 33 Oakland Street, Lot 1B

Site Plan Review and (3)Special Permits:

Nipun Jain: The public hearing was closed. So at this time, the matter is before the board for deliberation on the recommendation that were provided by staff to the PLB. We had presented them to the applicant as well, and they had suggested that we make certain amendments, if that is the pleasure of the board. So there was a give and take. These conditions are the same as we had passed out at the last meeting. The changes are minimal: one change was to the second bullet: the public outreach plan shall be submitted prior to the start of new construction activity. The next change was to bullet 4: the intent of that condition is that, if there is an alternative route required

APPROVED

for the river walk, then it would follow this particular condition, meaning if the construction phase was outside of April 1, then yes.” Because at that time, river walk is used, and that an alternative route be prepared with the DPW. Otherwise, during the winter when it is closed, it would not impact activities on the river walk.” The other condition that changed was the second to last condition, which requires National Grid to carry minimal liability insurance for the amount, to make sure that nobody at city hall or other official of the city would be harmed because of the activities.

The reason why you don't have a detail and decision that you usually see on project is because there is no building being proposed here. All of the activities are subject to the Order Of Conditions and to the permits of DEP. So as you can see, the starting of the recommendations, it talks about general recording of the site plan and the board's decision, and validity. I did not draw up a full decision that you typically are used to seeing.

At this point, we recommend that PLB approve the applicant's request to approve the site plan review and to issue a special permit pursuant to those recommendations.

Motion was made by Robert Laplante to approve the applicant's request to approve the site plan review and to issue a special permit pursuant to those recommendations. Motion was seconded by Ted Semesnyi. Vote was unanimous.

Amesbury Heights – 36 Haverhill Road (Map 86, lots 25 and 47)

Site Plan Review – Smart Growth overlay District, Sec. XI.R

Nipun Jain: This is a 42 page decision. This is something we sent to the PLB, and we prepared a set of recommendations for the PLB, which we also provided to the applicant and they made certain suggestions to the conditions. After discussions with PLB members and the applicant, this is the edited version that we are presenting to you tonight. After speaking with the applicant, there is probably one major item that the applicant really wanted to address. Otherwise, it is my understanding that the applicant is fairly satisfied with the draft presented tonight, with some minor changes which the applicant wanted, which I agreed to. They are language changes. There are no substantive changes to the intent of the conditions. There is one item that the applicant does want to talk about, which is the issuance of the occupancy permits as it relates to transportation improvements. The reason why they want the board to take that into account is, the offsite traffic improvements required approval from MaDOT, which, there is no determined timeframe. That is one issue. 2: they have a moratorium on any construction activity from Nov. 1 through April 1, which basically takes out half the year from any construction activity. And, there is a different sort of procedure at MaDOT level, as far as final sign off. They are not saying that they'd like to have the project be completed and occupied before those improvements are completed, but they request some flexibility. One thing we discussed was, if the transportation improvements have to start prior to the issuance of an occupancy for any unit, meaning none of the units be occupied until at least the improvements have started. And 2: that the improvements are completed prior to any request for any occupancy for the third building (there are 5 buildings), with 48 units in each. So they are not able to request beyond 96 units if the improvements have not been completed, out of 240 units. It has to be done by the applicant. All those improvements have to be done by the applicant. So it is really the timing of the issuance of the final permit access build. They already have a temporary access build permit, without which they'd not be able to do anything. It is the final access permit we're talking about, which involves the final sign off by MaDOT, and that is undetermined as to when it will be issued, and

APPROVED

then when do you start? So if the final sign off is not done until after Nov. 1, according to MaDOT, they could not start construction until April 1.

Scott Mandeville: Would it be appropriate to hold a bond for completion of that work?

Nipun Jain: You're holding an occupancy, which is worth \$48M.

Scott Mandeville: My thinking is, if you are holding occupancy, you cannot rent this property. So if they are not allowed to move any property until they have an occupancy permit, but if they are still under construction, but haven't finished the improvements...

Nipun Jain: Which requires a performance bond. That is required regardless of the improvements. It is when you release the occupancies as it pertains to offsite transportation improvements. Because the original ZBA decision required that all of those permits be finalized prior to start of any construction activity. Which means that, until such time as the plans are finalized and approved, nothing can be done, which serves no purpose, really.

Scott Mandeville: That's my point, knowing the way MaDOT can move on these things, I think it would be appropriate to allow them to move forward with work, as long as we have assurances from the client and hold the appropriate bond and monies to make sure that the work is ultimately finished.

Nipun Jain: So we took that three pronged approach: 1: we will have performance bonds, they will only be allowed to request occupancy permits once the work has started for the first unit, and they will not be able to request any more occupancies in the third building until such time as the improvements have been completed. So once it is started, it is up to them to finish as soon as possible, so that they don't actually end up at that point.

When it starts is up to the city and PLB. When it finishes is up to the applicant. It is up to the applicant to finish the offsite improvements asap, so that they are not held up.

Robert Laplante: But they can't finish the offsite improvements until...

Scott Mandeville: They can't finish their buildings until the offsite improvements are completed.

Robert Laplante: And what are the offsite improvements?

Nipun Jain: The traffic intersection improvements along Route 110 and 150. MaDOT does not control the start of it. They do not control the start of those improvements because those improvements can only start once MaDOT issues the permit. We don't know when they can issue it. When Stop and Shop was approved, the applicant required significant improvements to Route 110 and Elm Street intersection. Those improvements, to the benefit of the applicant, were done 15 years after Stop and Shop actually opened. So you can see how MaDOT can hold up a project. So the applicant's fear here is legitimate. What if they cannot start, and also, if they don't even get occupancies for some, the project is not viable at all. So there is a balancing act here, which the board may want to take into consideration. With these 3 approaches, I think we can achieve that. It is in their best interest to push MaDOT, and they are already lining up their folks to push MaDOT to get their approval.

Scott Mandeville: I'd like to make sure that they don't get stuck with a half finished project, waiting on any MaDOT...

William Buckley, atty. for applicant: To chime in on that, from a scheduling standpoint, what we've asked for is, we basically are saying to allow us to start construction with our temporary access permit, which we already have. MaDOT granted us that already. So in their eyes, technically, we can start bulldozing and move dirt around, so we can construction, to their satisfaction. Once we finalize the permit with them, then the construction is under our control. They are not going to be performing the work. So once we finalize the permit with them, we're

APPROVED

going to hire the contractor, control the construction, etc. We regain control of the project once the permit is issued. We will make sure that we have that permit in hand, and we've started construction...we're talking a 90-120 day construction schedule on the improvements out there. We will mobilize and have the contractor on site making those improvements prior to requesting an occupancy of that first building. So Mass. Highway has permitted it, have allowed us to go out there and start the work, and we're committing to that prior to even requesting that first occupancy. Based on how the timing of all that is, if we get 75% of that work done in Oct. of 2016 or whatever, then there is a final coat of pavement or something, Mass. Highway is saying "we don't want that final coat of pavement on yet, let that binder coat settle, the road is operable, but the final coat can be put on in the spring. So that would be a 6 month period where we are at 75% completion, everything is functional, we should be able to still occupy units over the winter, but we're not. We're saying we will be committing to finishing that project prior to any occupancy on building three. We're not building one, rent it, building another, rent it...technically all five buildings are going under construction at once. You gain nothing by building them one at a time. This is going to be an aggressive schedule. It's just giving us that little leeway to work with the weather and the timing of it.

Nipun Jain: So if the PLB was to approve the project with this condition, it offers the applicant the flexibility to request occupancy permits, but it offers the PLB the control of at what point do you say, "this is enough development, as far as the concerns with regard to traffic improvements. So what you heard, what you saw, and what you've had in your application would give you the ability to see where things stand.

Ted Semesnyi makes a motion to extend this meeting by ten minutes. Motion was seconded by Scott Mandeville. AIF.

Nipun Jain: So that was the primary aspect that the applicant wanted to make sure that the board can add or amend the decision to reflect the occupancy permits.

David Frick: Did the decision incorporate the changes we were looking to do, and the parking lot with the sidewalks, walkways and how they'd get from the buildings to the clubhouse, etc.? And if not, could we? And the other thing was that walkway down to make the quick walkway down, even if it wasn't handicap accessible, to get down to the entrance at 110 a little more easily. Did that stuff get put into the decision?

William Buckley asks to respond to that query: We submitted revised plans that included all of those, so from our standpoint, they are incorporated into the decision by incorporation into the revised plan. We submitted revised plans that were reviewed and included those pedestrian improvements within the site. (inaudible comments made from audience in applicant's group).

Nipun Jain: So there was discussion about providing pedestrian access from the emergency access. There was a suggestion to widen it to accommodate pedestrian traffic. But the engineer explained to you why there is limitation. A: the fire department accepted it as 16 feet wide paved area. They accepted that in the conceptual plan. B: if you were to widen it any more, that would require substantial retaining walls or structures, which is not something that the PLB wanted to see. C: it does not meet the ADA requirements, so you would have to have a system of ramps, if you define it as a pedestrian way, connecting the property to either Haverhill Road or North Martin Road. What the applicant suggested to the PLB was, we will not obstruct it from pedestrian access. We can't. There will be a gate, but if people want to jump it, they can go there. They can use that as a shortcut.

A P P R O V E D

David Frick: But we were talking about a walk way towards the bus stop. But instead of winding all the way down, we thought that was simply something people just weren't going to do. We were going to put a little walkway there. And if there were wetlands down there, just put a walking bridge across it or something.

Nipun Jain: We had asked the applicant to look at that, so if they can meet all of the environmental requirements...that's riverfront area. That's what Connor, the engineer from BHP said. We don't mind putting a pedestrian connection using a straight shot rather than winding it all over the place. But if that requires action from DEP, they could not do it unless DEP approves it. Based on the riverfront area designation, it is very unlikely. They would look at it like but they would not be able to show it on a plan at this time.

Robert Laplante: How about this, Nipun. Have they satisfied your professional criteria?

Nipun Jain: I think they have. So that was the pedestrian access issue as it relates to the bus stop or along Route 110. The other issue was all around the parking area that was, do we have a sidewalk along the buildings connecting to the sidewalks around the greenspace. That was explained because the project is proposing low impact development design. There is no curbing, and because of that, there is sheet flow and any sidewalk would obstruct the flow of storm water runoff into the designated storm water areas. So given that this is not a public parking lot, they have crosswalks coming from the building entrances to the clubhouse. So that is how they demonstrated that they are connecting the buildings to the clubhouse.

Robert Laplante: Are you recommending this?

Nipun Jain: I am, if the applicant is satisfied with what we have presented tonight.

David Frick: So the issue of limitation with the traffic issue and just two buildings occupancy, so how do we put that into the decision?

Nipun Jain: I will amend the decision to reflect that that's how the occupancy permits would be issued. Because right now, there is different language. But if the PLB is ok with that, that is what will show up in the final decision. There are a few edits that I discussed with the applicant. There are no substantial items, as I said, they are minor and we can do that, if you agree. (William Buckley agrees). I ask the applicant, given we have to incorporate these changes and clean up some of the plan languages, that they extend the date of final filing with the city clerk to the close of business day this Friday, April 17, 2015. I cannot do it this Wednesday. So the applicant I think has agreed to give us the extension of filing this decision to the city clerk.

William Buckley: Yes. The only request we would make is that we have one last chance to review the final decision before it is submitted. Some of the items that we talked about were a couple repetitive conditions that were just cleaning up some language. There was regarding utility permits by National Grid, Verizon, gas company and others, just making them prior to building permits rather than prior to any site work. The rest are just semantics, so for our position, if there was an approval tonight that said a decision in substantial conformance with this decision, with granting the change to the temporary occupancy as it relates to traffic improvement. The ability to correct some language without making substantive changes to the decision, that would be acceptable to us and we're happy to have that submitted on Friday.

Nipun Jain: We would recommend that the PLB approve the draft decision as presented with the understanding that the final decision to be recorded with the city clerk will be modified to make minor changes without any substantive change to the terms and conditions of this draft.

SO MOVED was a motion by Karen Solstad. Motion was seconded by Lars Johannessen. Vote was unanimous... 6-0.

A P P R O V E D

ADMINISTRATIVE:

60 Merrimac Street- Hatters point- Phase II

Environmental Notification Form – Chris Rokos, Meridian

Continued to April 27, 2015 meeting.

HAMPTON INN , 284 Elm Street.

Review of information required by the decision prior to start of construction.

Nipun Jain: The DRC has spent some time on this. The applicant is looking to start construction and as part of the permit approval, they are required to get approval from the PLB on the final building design, and DRC has reviewed that, and we just want the PLB to recommend that those comments be forwarded to the applicant, so that they can make the changes or at least come back to the board with revisions consistent with that recommendation.

David Frick: Did you guys meet with them?

Scott Mandeville: We sat down and reviewed the drawings and talked about building materials, that sort of thing, made some recommendations about how they could make it a little nicer, clean it up, recommendations about removing stucco, doing clapboards, then I wrote up and marked up a few drawings and sent them to Nipun with a written explanation.

Nipun Jain: So, staff recommends to the PLB to send comments from DRC to the applicant to address, incorporate or to discuss with DRC, so that the building design can be finalized.

AS SO MOVED motion was spoken by Robert Laplante, and was seconded by Lars Johannessen.

Vote was unanimous, 6-0.

Motion to close the meeting was made by Scott Mandeville to close this session of the meeting. Motion was seconded by Lars Johannessen.

Regular PLB Meeting adjourned at 10:10