

MINUTES OF A CITY COUNCIL SPECIAL PERMIT HEARING HELD ON JANUARY 31, 2012, DOCUMENT #3, PETITION FROM ATTORNEY GARY SACKRIDER FOR APPLICANT KEN STOLL OF WHITE CEDAR, LLC REQUESTING A SPECIAL PERMIT MODIFICATION FOR PROJECT GRANTED IN 2005 AT 68-74 RIVER ST; TO MODIFY THE 2005 PARKING ARRANGEMENTS.

SUBJECT: DOC. #3 - Petition from Attorney Gary Sackrider for applicant Ken Stoll of White Cedar, LLC requesting a Special Permit Modification for project granted in 2005 at 68-74 River St; to modify the 2005 parking arrangements.

Present: President John Michitson, Vice President Robert Scatamacchia, Councillor Michael Hart, Councillor William Ryan, Councillor Sven Amirian, Councillor Michael McGonagle, Councillor William Macek, Councillor Colin LePage and Councillor Mary Ellen Daly O'Brien.

City Clerk Margaret Toomey: Document #3 - A petition has been received from Attorney Gary Sackrider for applicant Ken Stoll of White Cedar LLC requesting a special permit modification for a project granted in 2005 at 68-74 River Street to modify the 2005 parking arrangements.

Councillor William Ryan stated he would be voting present because he is an abutter.

President Michitson: Opened the hearing.

Mr. President, members of the Council, I am attorney Gary Sackrider. I have an office in Newburyport, Massachusetts. I'm here representing Mr. Ken Stoll, who is next to me. Mr. Stoll is from Swampscott. He is looking to purchase the property at 68-74 River Street. We're here seeking a modification of a special permit that was previously granted by this Council about six years ago. Assuming we get an approval, Mr. Stoll expects to go through with the sale and the sale would be put into a name of a LLC. Specifically, SFRE LLC and that's why that name appears on the motion for the special permit. As I said, this special permit was originally granted by this Council six years ago. It was for a use change at 68-74 River Street. At the time, the applicant was Alan Aulson of the River Rock Realty Trust. The approval basically came down to approve ten residential units with fifteen parking spaces and part of the package included construction of a parking deck next to the building. As of this date, the work inside the building is pretty much completed. Very minor things left. As to the work on the deck, it's barely started. What's happened is it became to a point where they decided that it's not economically feasible to build a deck and therefore everything got stalled. Now, what we have come forward tonight with is a proposal to modify the original approval, to change the parking situation. I'd like to point out to you, we are not looking to decrease the number of off street parking units. The original permit asked for fifteen, we're suggesting that we can provide twenty-one. The primary change is that we won't be building the deck and some of the parking will not be directly on site. It will be within the 300 feet distance from the site. The background situation on this is that there is a purchase and sale agreement between Mr. Stoll and the current owner to build the River St. property. There's also a second purchase and sale agreement between Mr. Stoll and the City of Haverhill to buy some vacant land owned by the City of Haverhill that just is in non-use. But it would be a good use for a parking lot. We think we can get another ten off street parking spaces at that site. It's on Washington Street nearby to the condominium association. That would give us two parking spaces for each unit. The rules only require one and a half and we'd have one space left over for handicapped. And this is what we are looking to have modified. The only things we are looking to modify is the parking and who the applicant is. Other than that, we are not looking to make any other changes. There has been a plan created by Bob Grasso of Eastern Land and I think I am going to; we have two plans here, one is of River Street and one is of Washington St. I believe that you probably have copies of these plans I suspect we submitted enough that you would have been given. I would like to, for ease of you understanding the situation, I wanted to show it to you tonight and run briefly through to

show you what we have here. This is the River Street property, this is street level, on top is the river itself. The access comes in next to the building. The grey area is all the land that is owned at that site. The pink area is the building itself. The original plan and our proposal still has access coming on thru here and going over here. The old proposal had a deck built over here. What we're proposing is don't build that deck and have parking, it's laid out on the plan, it'll show you ten parking spaces plus one handicap space. Eleven at the site for ten residential units. In addition, a short distance away, three hundred feet away, is a piece of land on Washington Street. We have a separate plan, you should have a copy. I see couple of you have it out. This is land that is owned by the City of Haverhill. There's no taxes coming in on it. It's just sitting there vacant. It's not being used. We propose to buy it from the City of Haverhill. We have an agreement to do that. The City would get some money from the sale. They'd also get some continual money from taxes that they are not getting now. This is the street up here. These are the ten spaces. This is some grass off area and the water drainage the engineers have designed in. Basically, we are asking that you make this minor modification. We believe you will find that this is for the public good. That it does not derogate from the intent or the purposes of the zoning by-law. There's basically four things I'd like to point out to you along those lines in support of that argument. First of all, you are getting twenty-one spaces instead of fifteen. The second thing is you're taking a piece of property on Washington Street that right now provides the City no income in taxes because the City owns it. That will change and there will be a revenue stream coming to the City from that ownership. Thirdly, this building has essentially been vacant for six years. They cleaned it up. They had to remove all the residents. It was a rental when it started in 2005 and they have been working on it working on it never getting it done. It stayed vacant and I understand they've had some vandalism problems. Anytime you have a vacant building you have people that don't belong there try to move in and do things we don't want them to be doing. It'd be one less of those buildings in town if we can get this approval. I submit that is a good thing. Mr. Stoll is going to complete this work and it won't be vacant anymore. They'll be people in there. The final reason I want to point out is by not building the deck, the people on River Street, the cars, the walking people and people who come down there to go to the shops and stuff, they are going to have an unobstructed view of the river. It's going to be more aesthetic. It would add to the overall character of the neighborhood. I think the residents would appreciate that more than having a structure where you can't see some of the nice amenities that are in the area. We are asking that you approve this modification and thank you for your attention.

President Michitson: Thank you very much. Is there anybody else who would like to speak in favor? Anybody else in favor?

William Pillsbury, Planning Director. My comments will be very brief. I usually would submit them in written form but because of the unique nature of this one, I am here to answer any questions. This is a property we've worked with the previous owner for a number of years to try and get them to move this forward unsuccessfully. I think it was characterized as being economically unfeasible to build the garage. This is a solution that appears to be most appropriate that's why we didn't bring it forward as a major modification of the special permit. Again, since it is only affecting the location of the parking, brought it forward in this form and I would speak in favor of it and recommend approval.

President Michitson: We do have a couple of questions. We can ask the questions now during the hearing.

Councillor Amirian: Not so much as a question, just a statement. I am going to support this tonight. I have seen that vacant building. I know it very well. I've been inside. I've seen what's happened to it just over the past year. I noticed the vandalism one time as I went through there. We simply can't afford to have any more vacant buildings sit idle in this City when we have the ability to turn them into quality housing units which is what this is. This has sat there 90% complete. It's a crime to have homeless people and people looking for homes not able to move into something that is so close to completion. This highlights an issue as we move forward and I know Bill you are sensitive to this when we are redeveloping down-

town. I am a huge fan of infill projects. I like density in our urban core. We are going to have to focus on how we are going to handle parking as we move forward. We don't want parking to be the one impediment that stops projects from going forward. Either commercial businesses or residential housing or things like that. Obviously, we have to be sensitive to burdening our streets with additional vehicles and things like that. We really need to look on a case by case basis as these come along. We've got to get creative on the ideas on how we solve these issues. I don't want the downtown to become a gigantic parking lot because of strict parking guidelines. This is a case where we actually end up with more parking spaces than we did before and it's going to be great to see this building get used finally. It has my support.

Councillor McGonagle: I am going to support this as well. I think it's a great use. I just have a math question. There were going to be fifteen parking spaces when you had the deck. We just added ten with the other property you are going to purchase from the City. Ten and fifteen are twenty-five. Why do we only have twenty-one?

Attorney Sackrider: With the deck you have two levels. You have a ground level and a second level. If we would have had the deck. I showed you the building. The land slopes down dramatically from where the road is here down to where this parking level is. It's probably at least a twenty foot drop. The original plan calls for parking underneath the deck and then a deck at street level. So there would be two levels of parking.

Councillor McGonagle: Okay, that's fine. I support it. Good luck. Good use of the property.

Councillor Hart: I just have a question. I would probably want to ask some questions afterward. My question was for Mr. Pillsbury. Here's the question. This was granted by the City Council in 2005. When was the last time anything was done on it working wise? Any idea.

Mr. Pillsbury: Construction wise, it's been sitting in its current state for several years. The developer really got it to, I think the characterization was about 90% complete and then basically decided it couldn't or didn't want to proceed with the garage. He was waiting for market conditions to change. Something, we don't know. We had repeated meetings with them to try to get them off the dime to move forward. Nothing was happening. The building was safe and secure. We've had some subsequent vandalism but the actual construction has been silent for quite a period of time.

Councillor Hart: Isn't there a time limit on special permits? Not completed.

William Pillsbury: No, what I've learned in recent correspondence regarding a couple of projects, one of which will be coming to this Council before too long, once construction commences on a special permit it does not have a period of cessation.

Councillor Hart: Even if it stops before it is completed?

William Pillsbury: Even if it stops. As far as the special permit goes. The building permit is a different issue. The building permit is subject to expiration. The special permit and/or the definitive plan which is also something which once construction commences it has a life that continues on for a lot of time. I've got a lot of case law from Attorney Babrowski on that who has given us recent information on that. I know Attorney Cox is aware of that as well.

Councillor Hart: Those are all my questions for you. I will reserve other questions for after the hearing.

Councillor Macek: Just a couple of questions regarding the sale and also the purchase of the City property. Could I get a timeline as to how you see this project moving forward during the upcoming construction season between spring into the summer. How long will it take for the project to be completed in your timeline estimation?

Attorney Sackrider: First of all I am going to partially answer your question then I going to let Mr. Stoll further answer your question because he is in charge of doing it. I asked him tonight before we started. I said if we get the approval tonight and after we wait for the period to go through, is there anything else you need to do to get started and he said no. This is the last thing we need. Obviously, we have to do a closing. Both purchases are contingent on having to build the deck. He said this is our last impediment and he would expect that we'd have a closing soon. I expect he's going to tell us right now. I think he's going to suggest to you that he is going to move forward right away.

Ken Stoll: Once if we do get approval tonight there is an appeal period afterwards. As soon as the City is ready to deed the vacant piece of land on Washington Street we are ready to go. Financing is in place. We have our budget to do the renovations to do the inside, to start the work outside and we are ready to start.

Councillor Macek: Do you expect to have it completed during the 2012 construction period?

Ken Stoll: I would hope to have it completed well within that timeframe as long as we are ready to take title to both pieces with a clear title, yes.

Councillor Macek: What is the distance, I think you mentioned earlier in your presentation Attorney. What is the walking distance? It is quite awkward what we are looking at here tonight. I understand the logistics of the area. You are going to be asking your tenants to, I think, to traverse quite an interesting path with a hill and onto another street. Are you going to be providing any kind of drop off, short term parking for let's say, groceries and other deliveries? Or are you going to just rely on the street for that?

Ken Stoll: There is availability in the front of the building. I have been in and out of it many many times. I have never had a problem pulling up right in front to do it. There is the opportunity to go into the parking lot in the back. There is a door in the back if people want to do that. But the drop off in front, it's an elevated building. If you want to take groceries up or whatever. The walk to the parking lot takes about 35 seconds, the one on Washington Street.

Councillor Macek: Did you mention a distance earlier. Did your attorney mention it?

Ken Stoll: It's within the 300 feet.

Councillor Macek: It's within 300 feet. Ken Stoll: Yes. Councillor Macek: Alright. Thank you.

President Michitson: Is there anybody else who would like to speak in favor? (There was no one.) Is there anyone opposed who would like to speak?

My name is Jim Doherty, I own a building right across the street from the building in question here. A couple of things. Parking is a (tape change) down in that area. It's an issue. Especially in the winter when they have the odd even. This year has been extraordinary as far as there's no snow. I am constantly trying to call the DPW trying to get them to widen the street down there with all the snow issues in the winter. And there is big parking issues down in that area. I think that with that lot being up the hill and around the corner, that people are not going to park there. They are going to take any parking spot that is available on the street down right in front of that building. It's just going to make other buildings in the area that have been there, more difficult as far as parking goes.

President Michitson: Thank you very much for your opinion. Is there somebody else that would like to speak?

Daniel Fasulo: I don't live on River Street anymore but I still own a condo there and I really have been pretty unable to sell it. I keep renting it. The biggest issue is the parking. When my wife and I lived there we had two cars. My building, which was 77 River Street that I bought years ago and rehabbed, and turned into condos, we have the parking lot to the right of the building. We had one spot in there and one on the street. It's like what Mr. Doherty said, people with the odd even parking in the winter, people come home early, two o'clock, three o'clock, there's been cars, we were just talking today, there's been a car sitting out in front of his business for over a week. It hasn't moved. This is just totally ridiculous. Granted, they may have 21 spots. But gentlemen, you're coming home from work, it's pouring rain. Are you going to park on Washington Street and then walk all the way down Washington Street down River Street to go home in the pouring rain? It's not going to happen. People are going to park on River Street and they are just going to park out in front or they are going to take spots in front of his business. I opened the liquor store there years ago that I ended up selling but the two previous owners that had it couldn't make a go of it and it's because of the parking. It's not going to get any better. Not with adequate parking on River Street for that building, it's not going to get any better.

President Michitson: We do have some questions from some of the City Councillors.

Councillor Daly O'Brien: You brought up exactly what I was concerned about. And I think of some of the projects where we've been so attentive to off-street parking and still the tenants of those buildings park on the main drag. I'm thinking of the area around Walnut Street and Essex Street. As much as people who developed those properties did due diligence in providing off-street parking, that people still will not walk. It's incredulous to me how somehow here in Haverhill, we thinking walking a half a block is taxing. I've become a big fan of our new garage and sometimes I actually walk two and a half blocks to where I am going. And people think I am crazy because I am walking. How can you walk, especially when you are by yourself? Like Haverhill is like downtown Durango or something. I don't know.

Mr. Fasulo: I just don't see it happening.

Councillor Daly O'Brien: I hear your concerns and when I hear about a car that's been parked there for a week, it makes me sick because that is so wrong. I live in a neighborhood that's also got a lot of on-street parking, very little off-street, and I know what it's like to deal with it in the winter. I will agree with you. This winter has been phenomenal. We haven't had to worry about a thing. It is very very tough. Again, the same thing. The neighborhood arguments are all about people who one, don't move their car, and it just sits there for week in and week out and sometimes even when things switch, the car doesn't move for another week. We don't have enough police officers to enforce, I wish we did. But I applaud the fact that they are really taking care of the criminal activity in Haverhill. I know that street parking is just not a priority when we got the other problems that they do deal with and deal with so effectively. I can't slight them for that. They are doing the most important business, but that was my only concern. I know how people are. It's the human nature not to walk that extra fifty yards. It's amazing to me but you are absolutely right and that's a tight, tight part of the street. It's not a wide boulevard there.

Mr. Fasulo: Like I said, we have a parking lot next to our building for our cars but I am constantly leaving notes on people's cars. Please do not park here or I will have to have you towed. And they live next door but there's no where on the street to park so they take my lot.

Councillor Daly O'Brien: And, the people who have taken a parking space leave it there. Like it's their garage or their driveway. And it's not. It's public parking and everybody has an opportunity to use. It's

not meant for people to keep their car there for a month, a week, it's not meant to be like that. That's my only concern, is, I know how that neighborhood is about the parking.

Mr. Fasulo: Like Mr. Doherty said, last winter when we had all that snow, if you go down there now, there's probably from where Bradford Shoe used to be down to DiBurro's Auto Body there's probably 10 to 12 spaces. Last winter with all the snow, we were lucky we had six.

Councillor Daly O'Brien: Right, I know exactly what you are talking about. I am a Haverhill person. I know exactly what you are talking about.

Mr. Fasulo: I just can't see anybody in that building parking up on Washington Street in the middle of winter when they could park right across the street or in front of their building and just leave a car there for a whole week.

Councillor Daly O'Brien: I know, but the other half of this is, this is a re-vitalization project in a part of the City I want to see re-vitalized. It's very important. If there's some way that he can keep his people parking where they are suppose to be, I want to give him the opportunity. I want that part of the City as re-vitalized as some of the other areas that we've re-vitalized downtown. That's important to me too. I feel betwixted and between because I want the project to succeed and if there's a way, are you going to be renting or selling.

Mr. Stoll: I'm not sure yet.

Councillor Daly O'Brien: You're not sure. If there's a way, whatever way you do it, you insist that the people who either buy or rent use the parking that is provided to them. I don't know how you can make them, but that is the truth. That's what you need to do.

Mr. Fasulo: That's the same instance. You were just talking about, what is it the new Hamel building over there? They built that whole big parking lot by Don's garage out there. Nobody is suppose to park in the garden area in the middle or on the street. Where's everybody parking? In the middle and on the street. They don't even use the parking lot out back. Because they don't want to walk.

Councillor Daly O'Brien: It makes me sick. It makes me sick because we think we are doing the right thing by putting these kinds of considerations into the permitting and we do want to see downtown thrive. I am hoping that having the garage there is going to ease some of that. Again, they are going to have to walk a whole block. I don't know why people think in Haverhill that they can't walk a block. I don't understand it. It's not hard. Probably do them good to walk a block or two. You can't make them either.

Mr. Fasulo: I know you can't make them but it hurts the businesses like Mr. Doherty's insurance company and the hair salon that's next to him and Mike's record business. When the businesses don't have a parking spot for anybody to park, they don't get any customers.

Councillor Macek: And this is where I was, you can't force somebody to not park on-street parking. And we do have problems in the downtown historic area where the housing is. It's not just one, it's most of them where people are not compliant with the spots that go with their building. If it goes to condos, then you're going to maybe even deed some of those spots so that people can't use them. You might say your second car has to go up the hill or something. It's just not going to happen especially in bad weather and times when they have to be close for whatever reason. I do have that concern. I also agree that you have a project that is half done down there. It is an area we want to see also continue to be restored and worked on. I guess I am going to look to our Planning Director to give me a little information. What is the actual parking regulation down there at the current time and do you have any thoughts as to how we might be

able to move traffic off the street and not have them parking in front. As the potential owner said, you can park out front to drop off your groceries but there is a strong likelihood those spots are not going to be there.

Mr. Pillsbury: I didn't look Councillor tonight as to whether its two hour or what the actual parking ordinances are down there. We certainly can look at that. I can talk with traffic and safety and see if we can come up with suggestions about enforcing what we have down there and trying to do it a little differently. At this point in time I don't have that information tonight to tell you.

Councillor Macek: It's one of those areas that is outside of the area that we've always discussed with all the parking that we discussed here, we never went onto River Street. It's out of the downtown district.

Mr. Pillsbury: It certainly would be appropriate to come back with ordinances that would try to help the situation and to try and direct people where they are. You are right. We have the best of intentions and the best of ordinances. In this particular case, he is exceeding the ordinance so it's a little hard to say that it's not compliant. As a practical matter, people don't like to walk. That's really a cultural problem in Haverhill.

Councillor Macek: The other question is the City lot. Perhaps it was in a bundle of lots that we surplused one time. Is there any thing you can refresh my memory or bring me up to speed onto that lot. How it, was it solicited by the owner or the potential new owner. How did the city get involved with this project?

Mr. Pillsbury: It was tax title piece of property that was put out to, it may have actually gone through the original auction process way back in those days. There was no closure. The property was not sold. It was still available. It was still surplused. Mr. Stoll approached the city.

Councillor Macek: The reason we haven't seen it lately here because it was surplused years ago.

Mr. Pillsbury: That's correct. There was actually a transaction that was in place for a while then the person did not go forward with it. It was still was on the market. Still was available. Still was declared surplus and Mr. Stoll approached the Mayor to put in a proposal which he has subsequently done and we are under agreement at this time.

Mr. Fasulo: What is the procedure for buying City land. I kind of read the paper all the time and I don't recall seeing that lot up for auction at all?

President Michitson: Right now we are going to proceed with this hearing. I think maybe Mr. Pillsbury can answer that question for you after the meeting. Is there anybody else who is against that would like to speak?

My name is Mike Schneider. I actually own the building right next to the one he is looking to purchase. I agree with what everyone has been saying about the parking. My major concern is actually about the driveway they are going to be using to do all this work behind the building and everything; which, they do have an easement to use, it's my driveway next to the building there. They do have an easement to use that driveway but I think one of the original reasons they were building the parking deck was so that once they sold all the apartments in the building, whatever, people who have access to their own parking lot so they wouldn't have to keep using that driveway. The last time they were building there six years ago or whatever, they completely destroyed the driveway. I tried to contact the previous owner or the current owner about that and never was able to get in touch with him. Right now that driveway is pretty much destroyed, like in pieces. Another thing is that there's a business on the side of my building that the only access to it is from that driveway. A couple of nights a week usually, the driveway is actually closed off

to cars coming down it for the business down there. The person looking to buy the building has never contacted me or talked to me about anything. I didn't even know until I got the letter in the mail for this meeting that somebody was looking to buy the building and do the parking lot there. I would have had to talk to him for some scheduling if this does go through, where is he going to schedule it with the pre-existing business that's there. He can't have construction vehicles going in and out of there and ripping up the driveway again while there is stuff going on down there already. Sorry, I am not good at speaking.

President Michitson: I think you made your point very clear. Thank you very much. Is there anybody else who would like to speak against this proposal?

Councillor McGonagle: I'm sorry, your building is next door and you share a driveway. They have an easement. Mr. Schneider – yes. Councillor McGonagle – so do you have parking? Mr. Schneider – yes I have parking. Councillor McGonagle – not in the easement area. It must be somewhere else or? Mr. Schneider – I am right on the left hand side of the driveway if you are looking at the driveway from the street. I have two spots there. Then I have more spots on the side and behind my building when you go down the driveway. Councillor McGonagle – so you are concerned that they just can't close you off so you can't get in. A little commonsense or courtesy. Mr. Schneider – I remember when they were doing all the construction originally there. Because of how narrow it is behind the building and when they were attempting to start the deck or whatever, they kept bringing huge construction vehicles down there and cranes and all kinds of stuff. Nor only did they destroy the whole driveway, but they also destroyed the whole paved area on the side of my building. Part of the easement says whoever owns that building is suppose to repair this stuff and everything. Nobody ever repaired anything, never contacted me when I tried to contact them. Basically, just been sitting there. The driveway is in pieces. But the thing is they had to leave all the construction vehicles in that driveway while they were doing the construction.

Councillor McGonagle: Okay, maybe we could ask them what their plans are, there are plans to;

Mr. Schneider – that's what I was saying, if there is plans to go through with it, I'd like to speak to you about working out schedules. They can't leave the construction vehicles just in the driveway.

Councillor McGonagle – sure, that makes sense. Mr. Schneider – I am also kind of worried just because of the business being down there if that's the only access they are going to have to their parking lot. The original deck was suppose to have street access so they wouldn't have to use that driveway. That's one of the reasons why they had the parking deck. Councillor McGonagle – what is your business? Mr. Schneider – well my business is actually the music store right next to it. Somebody else rents the bottom floor from me and has a live music club down there. That's what you need to get the access to from the driveway which is why usually a couple of nights a week it's closed off down there for cars coming in cause all the bands playing bring their vans down there to load their equipment and everything. Councillor McGonagle – because they have an easement I would expect, sounds like a little co-operation. Mr. Schneider – yes, I was just worried that I got the letter in the mail this was going on and nobody ever contacted me. Councillor McGonagle – thank you for showing up. Your input is helpful.

President Michitson: Is there anybody else that would like to speak against this proposal, if not, I will declare the hearing closed.

Attorney Sackrider: Could I just make one comment. I'd like to point something out that I think has been misstated about the parking.

President Michitson: You will have a chance to do that after the hearing is closed and the City Council debates the issue. Hearing is closed. City Council what is your wish?

Councillor Scatamacchia: I move for passage Mr. President but I do have a couple of comments.

President Michitson: There's a motion by Councillor Scatamacchia and it's seconded by Councillor Daly O'Brien. Discussion.

Councillor Scatamacchia: Well being on the Council in 2005 when we issued the special permit, in hindsight, it was a mistake asking or putting the garage, although I do think it was the developer's request to comply with parking. But I think it was a mistake on his part and maybe ours for a garage. But I think the question we have to ask ourselves tonight is, do we want a building that is going to be vacant and a piece of City land that's going to be vacant for God knows how long? I think a good example is maybe the Woolworth building that's been vacant forever and it just keeps deteriorating. If I were a homeowner, or a property owner on River Street, I'd make that one of my top considerations because although it is physically from the outside it doesn't look bad. Eventually, the building is going to deteriorate without the construction being completed. I am going to support this. I do it reluctantly to be honest with you because I think, perhaps, it was a mistake on the developer's part back in 2005 to request the garage to comply with parking. I am going to support it for those reasons because I think the City, and I really think the people on the street are going to be far better off with a building that is completed structurally and with people living in it. They are going to have to keep the building up and maintain the building.

Councillor LePage: One of the things I did notice is that I believe Councillor Scatamacchia has a committee study about River Street and parking, I am not sure when that will happen. I had a question concerning the gentleman who is the neighbor. Is your building number 60 on the left hand side? How much parking do you have?

Mike Schneider: I have two spots on the street level and behind the building there is space for anywhere from five to eight more cars. It just depends how you park them. There are no actual lines showing that they are spots.

Councillor LePage: So you have two businesses, your business and another business that's in there. Mr. Schneider – yes.

Councillor LePage: I was curious about the amount of spaces. If you had potentially extra spaces you may be able to work an arrangement with the other folks that would be somewhat on site. I believe by the requirements they need fourteen, actually the number was fifteen what was declared. I didn't know if you had excess space that would be relatively on-site and they could still go forward with the off-site. I believe that one from the paperwork says it's 600 feet away. I think it's larger than about two football fields away. Maybe there's a shortcut to get to it but I don't think you can drive a car the way they are talking about getting there. I think it's a longer route to get to that auxiliary parking I'll call it or the ten spaces. I went down there. I did look at the area behind. I saw where I believe where the deck would have been on the right hand side. I do agree with, at the time it probably was a good idea, but I do like that you would be able to see the views and once it was all cleared out, there's a lot of brush and a lot of decay. I did see that the driveway, I didn't realize how it is zoned until I got these plans. I did see that it was pretty beaten up in that area and down behind it needs an awful lot of work the property and your parking space. It wasn't delineated as far as parking from what I saw of what you had. I wasn't able to ascertain how much area you had there. I didn't know if maybe that would be one thing you could work on some kind of arrangement as far as leasing them some spaces. Mr. Schneider – that's possible. I'll speak to him about that.

Councillor Hart: Attorney Sackrider you wanted to make a statement about.

Attorney Sackrider: I'm terrible at names. The owner who just spoke, he said something that I think was not quite accurate. I probably didn't realize it. I am familiar with it because I was here six years ago. The outside deck that would be accessed from the street, now we propose won't be constructed, that was never designed to come, have the cars come in from the street and go down through that deck area to get to the lower level as well. The street level parking on would essentially be the second floor of the deck would be accessed directly from the street. Where the below grade parking, when it was proposed in 2005, was still be to accessed by this legal easement that we have to come down here and park that way. So was never anything, it just suggests something dramatically changing what used to be and don't think that's quite right.

Councillor Hart: I was surprised with that because I did visit, I visited both sites. That's a very awkward topographically situated lot in that, we look at it and we are looking at it on the map and it looks very flat. You go down there, you look like you are looking into a deep hole as to where the parking area is going to be. It was hard to imagine that you could access that off that street. I suppose if you built a deck out to the street, but still, engineering wise, an interesting concept. How old is that building, any idea?

Attorney Sackrider: I don't know but I would guess at least 70 years.

Councillor Hart: It's old. So it's been there for a long time. And prior to the special permit, what was it used for?

Attorney Sackrider: Immediately prior to 2005? Councillor Hart – yes. Mr. Aulson leased it. He had some residential units. Councillor Hart – some people lived there, right? What I saw, correct me if I am wrong, it looks like perhaps there was some commercial use on the first floor.

Attorney Sackrider: There were commercial uses on the street level and I think eight units were residential of which at least half of them were rented to the Department of Mental Health.

Councillor Hart: I think the owner has an answer on that. You are saying four? There were four plus eight residences? Mr. Stoll: I believe there were four commercial units plus six residential.

Councillor Hart: So there were six at the time? Mr. Stoll – I believe so. Councillor Hart – What kind of businesses were there? Do you know? Mr. Stoll – I don't know. Councillor Hart – In any event, that building has been around for a long time. It's probably required parking use on the street for a long time because there is obviously no parking connected with that building as it stands right now. That was the given situation with the building before you even got your special permit, correct? Mr. Stoll – correct. Councillor Hart: What are the size of the units in there? Mr. Stoll – there's two studios, five two-bedrooms, and three three-bedrooms. Ten units total. Councillor Hart – Well it does sound like the size of the units are probably going to have people that would move in and have two cars. Sounds that way. Two-bedroom units and three-bedroom units.

Mr. Stoll: Some of them probably will. The understanding is that the ten units plus the handicapped which are on-site, each unit will get one unit. And if we do do condos, they will be deeded. The secondary parking will be up above on Washington Street. No disagreement about people being lazy. People don't use what's available if it isn't convenient to get to them. I agree with you 100%. I do disagree though, if you've got a lot of snow, people would much rather be in a plowed out parking lot than deal with the street. I've done this a lot. We have experienced people who don't use secondary parking sometimes. When you get inclement weather like snowstorms like we had last year, there is no reason for anybody, when they can be in a parking lot that is completed shoveled out for them and safe to get in and out of, they are going to use that versus parking on the street and getting plowed in every time it snows. I don't think that that part of it is really relevant to this.

Councillor Hart: I did want to talk on that myself. I looked at both sites. When I visited the parking lot site it appeared like there were cars in there right now. Are there?

Mr. Stoll: There's people who live across the street on Washington Street and they are parking in there.

Councillor Hart: So they are in a habit of using it. I don't think that's temporary. I don't know how you would enforce it. I looked at it. You said 300, your lawyer in his letter to us said 600, it looked like 600 to me. It looked like probably 600 that would seem like 1200 when you walked it.

Mr. Stoll: No, it's within the 300 feet because when we had to notice everybody for our Conservation, the City was notified.

Councillor Hart: As the crow flies? Mr. Stoll – correct. Councillor Hart – as you walk it's probably going to be (inaudible)

Mr. Stoll: I have taken a half a dozen people to walk that on their own, and it takes between 30 and 40 seconds to walk up there.

Councillor Hart: They are in real good shape. Because they are climbing up a hill. Mr. Stoll – yes.

Councillor Hart: They will be very heart healthy if they use that parking lot on a daily basis. I agree with the comments. I don't think that will be used because of the location of it, especially in bad weather. It's just a difficult spot to get to. So I am living with the fact that you may end up with eleven spaces instead of fifteen as you are suppose to get, not twenty-one. I discount the other spaces. Maybe somebody could use it. You got two problems with it. It's too far away. You've got other people using it right now. You have no means of enforcement to stop it. There are ways but it would take a lot of work to change people's habits from up there. It would take a lot of work to encourage people from your building to go up there too. I sort of discount those other spaces. I did find an intriguing possible solution. You have eleven spaces? Mr. Stoll – yes. Councillor Hart – It might have been coming from Councillor LePage, but the gentleman, if he could come up for a second. Now you say you may have extra spaces that could work out a leasing arrangement, is that possible?

Mr. Schneider: It's possible. Councillor Hart – about how many? Mr. Schneider – I mean there's probably space for the other four he needs. The only problem though is I said that I do rent the other floor down there to the club and when bands play there and they bring their vans, load their equipment, those cars could end up getting blocked in there if there's bands vans down there or something.

Councillor Hart: What I'd really like to have happen is I'd really like us, we've heard it. I don't want this to stay vacant. I want to come up with a solution. I'd rather postpone this to see if you two can get together to see if you can come up with some sort of solution on leasing or from another owner down there to get four spaces. Because I just don't think those other ten spaces are going to be used. You've got units that are fairly good size. People are going to have two cars. It's going to put more parking right on the street. That's what it is going to do. That's unavoidable. I am not going to vote against it, all in all. But I would like to see a better solution. I'd like to see you try to get a solution. Perhaps this gentleman, perhaps it wouldn't work. But maybe someone else. If you come back and say, give us a list of what you did and you came up short, then so be it. I would like to see it postponed. I don't know how other Councilors feel on that. I will make a motion that we postpone this for three weeks, try to work something out.

President Michitson: Councillor there is a motion on the floor and I'd ask Councillor Scatamacchia.

Councillor Hart: No he doesn't have to. My motion to postpone is okay. President Michitson – It is.
Councillor Hart: Yes. Councillor Daly O'Brien – second.

Councillor Hart: Call the roll please, Mr. President.

City Clerk Toomey: Councillor Scatamacchia – yes, Councillor Hart – yes, Councillor Ryan – present/abstain, Councillor Amirian- no, Councillor McGonagle – yes, Councillor Macek – yes, Councillor LePage – yes, Councillor Daly O'Brien – yes, President Michitson – yes.

Councillor Hart: Sir, you did waive the automatic passing of this thing. It's just a period of time to see if you could come up with a better solution, that's all.

Mr. Stoll: Mr. President, may I. The terms of the existing purchase and sales agreement don't allow for any extensions beyond a certain date. If I don't get an up or down tonight, I probably won't be back.

Councillor Hart: Is this the agreement to buy the building? Mr. Stoll – yes sir. And the land by the way was an RFP by the City. It was open for everybody to bid. Just to make sure everybody understands that. The purchase and sales agreement, it's taken a long time to get here.

Councillor Hart: Now explain to me that, if you will. You have a purchase and sales agreement. You are here tonight, the last possible second to get this permission and if you ran into any kind of a problem here, then the deal has gone and you've been involved in the deal for a long time. It doesn't make business sense to me that that's the situation that we are dealing with. In this market, you are a buyer, you've gone this far to get this thing up and running and this seller is going to walk away from you in this market? I find that really, really difficult to believe.

Mr. Stoll: It's not necessarily the seller that's controlling the deal at this point. That's not something I should talk any further about.

Councillor Hart: So it's the bank that is controlling the deal? It's the bank that is controlling the deal and they are not foreclosing and is this a short sale and you can't tell me. Something like that. Mr. Stoll: No, it's not a short sale.

Councillor Hart: But it's the bank that is controlling the deal. Mr. Stoll – they postponed two foreclosures. They won't do it again.

Councillor Hart: When is it set, before closing. Mr. Stoll – I don't know the next date. Councillor Hart – well that's key. We already voted on it. I'd like to reconsider it.

Councillor Macek: You can't, you are on the prevailing side.

President Michitson: He is on the prevailing side so he can. So there's a motion for reconsideration. Seconded by Councillor Daly O'Brien. Please call the roll.

City Clerk Toomey: Councillor Scatamacchia – yes, Councillor Hart – yes, Councillor Ryan – present/abstain, Councillor Amirian- yes, Councillor McGonagle – yes, Councillor Macek – yes, Councillor LePage – yes, Councillor Daly O'Brien – yes, President Michitson – yes. 8 yeas, 0 nays, 1 present/abstain.

Councillor Hart: You've given us a puzzle here. Any you threw me a curve when I was trying to come up with a good solution. I understand.

Mr. Stoll: I was just putting all the cards on the table.

President Michitson: Councillor you've also thrown me a curve as well. That's okay.

Councillor Hart: You have no idea when this foreclosure is postponed to? I would think that you would know.

Mr. Stoll: I showed up at the building a couple of weeks ago to get inside with the broker. The auctioneer was there letting me know that the foreclosure date had been postponed temporarily. That's the last it was discussed.

Councillor Hart: When was this?

Mr. Stoll: Probably two and a half weeks ago.

Councillor Hart: They usually do it on thirty day increments at a minimum. We can't be sure about that.

Mr. Stoll: We have been in constant contact with the seller, seller's attorney and the bank to keep them updated. It took us a while to get onto this agenda. There was a lot of work with conservation that we had to do to get to this point. I can tell you this, that I've done this before and we are here to do a good job. I'm not here to create a parking problem. I am sensitive to it. I think given the chance, Mr. Pillsbury and Mr. Herlihy can tell you that everything we've said, we've done. We'll continue to do that. I can't control completely where people park. I can tell you that people who park in the lot on Washington Street that don't belong will be towed. Once the first car is towed, they won't park there anymore.

Councillor Hart: I think you are right. I am prepared to vote on it tonight and I am prepared to vote for it tonight. What I'd ask though, I can't obviously make you do it, if you plan on selling them or you do plan on renting them, it's going to be nice to offer people a couple of parking spaces. If you can look around voluntarily now, because we are not making it a requirement, really it wasn't a requirement other than I wanted you to spend some time doing that. I think you are going to enhance the marketability of your units and the usability of your units. You can go ahead and buy that other lot, that's fine. I'd like to see the City sell it. I'd like to see you buy it. You can go ahead and do that and satisfy the requirements of the special permit. I'm afraid it's not going to work out as promised. Much like that deck that was going to be built there. Somebody did some work. That got them in the ground there. They spent a lot of money doing it. That's even going to be expensive getting it out and turning that into a parking lot. I am prepared to go forward with it right now and hopefully you'll work out a better arrangement.

Councillor Daly O'Brien: You may disagree with me, but I've lived in Haverhill all my life and I actually grew up in a section of Haverhill where parking was not an issue. But I've raised my family in a section of the City where parking is an issue. That neighborhood has consistently been plagued with parking problems. I am going to vote for this because I'd rather have something there than an empty building. But I am not happy about it. I agree with Councillor Hart that if you can find a way to provide some parking that's really close by so that they are not walking up a hill to another street, and it's somewhere in that area. Whether it's with the guy next door or somewhere around there. I agree with Councillor Hart, it's going to enhance your ability to either sell or rent You can think that I don't know about what people do, but trust me, I know that street.

Mr. Stoll: I didn't mean to give that impression at all. As a matter of fact, I tried to buy the lot next door and it didn't work.

Councillor Macek: Just a couple of points from this hearing and the conversation. First off, I have a concern. It's not totally relevant but it came up in conversation tonight, if there's anytime at all when vans, that's your primary access for your ten units to get to their parking. The deeded easement is book and paged, I don't know what it says. Perhaps the attorney can comment. I don't believe you can ever block that.

Mr. Stoll: I know what it says. Councillor Macek – Okay, that's a potential problem for all the people who live there. Mr. Stoll: Correct. It can not be obstructed by anybody for any reason at anytime. It has to be open for fire, for every other requirement. Councillor Macek – So that's in place and that's deeded. So that's a problem you are going to be faced with.

Mr. Schneider: If people move in there, we'll just have the vans move in behind the building.

Mr. Stoll: We are not going to have our construction vehicles there or anything else.

Councillor Macek: I just wanted to mention that. I'm glad that he understands it. He really can't continue. It's ten units in the building. I know it's a lot of bedrooms. I agree with my colleagues. You are not going to get people to walk up and park on that hill. I would actually rather see ten units with ten parking spaces required through the special permit. I'd suggest maybe you consider buying that lot, but I think we are doing a disservice to the people on Washington Street. Maybe you'll end up running a paid parking lot or something. I don't think it's going to get used. I would much rather vote this with ten required parking tonight than to say you have to buy that lot and have just an unused, and you may have enforcement issues, but I just don't think it's logical to put those additional spots on Washington Street in this project. Hopefully, you could work something out closer, whether it be with your neighbor or some other piece of property. I just don't think they tie together at all. I would like to amend the permit so only ten spaces are required.

President Michitson: So there's an amendment being proposed by Councillor Macek. Is there a second. Councillor Macek, could you repeat your amendment.

Councillor Macek: It doesn't appear that we have a second for it. I would move that the special permit be granted with a reduction in required parking spaces from fifteen to ten.

President Michitson: Second by Councillor Daly O'Brien. Discussion.

Councillor Amirian: I'm definitely against this amendment. Right now the City is standing to sell a vacant piece of property and actually make some money. To go back and amend this special permit so that we permit this without the need for those extra spots I think is ludicrous. We are basically taking money off the table and out of the City's coffers. I will definitely not support that amendment. I can't say how strongly I feel about that. All of the concerns of my fellow Councillors are certainly valid. I am concerned about parking as much as everybody else. As I said earlier, I do not want parking to be the gigantic impediment that it seems to be right now for downtown redevelopment. It's the one thing that seems to catch in everybody's throat. Sure it causes great controversy. We came up with a downtown parking plan for Washington, Essex Street and that area last year. I am very proud of it. It was a lot of hard work. A lot of workshops with the citizens. I think based on the path of progress that is now River Street heading out towards the highway and up Washington Street, we are going to have to address that area too and probably fold that into our parking plan in the coming years. I think we always knew that our parking plan for the downtown area was going to be an adaptive type of process where we are going to continually

have a moving target that we are going to have to adjust to. I think that's true of other places in the City. We shouldn't be afraid of that. We can conquer that as we see these conditions unfold. I am confident that we are going to solve that parking issue and I am not willing to let the City lose money nor am I willing to let this building go vacant any longer.

President Michitson: Mr. Pillsbury would like to speak then we'll go to Councillor Macek.

William Pillsbury: Just a consideration for the amendment. City Solicitor Cox is here. We had to put our heads together a little bit and the benefit of other great legal minds, but I do not believe that this Council can grant that variance. I think that has to come from the Board of Appeals. It's not an item that a special permit. If we were bringing this project forward, and they requested a waiver of spaces, it would go to the Board of Appeals and it would come here with the variance. Again, point of order Mr. President, I think you need to reconsider your motion and activity.

President Michitson: Thank you very much. We'll go back to Councillor Macek.

Councillor Macek: Based upon that legal opinion, I might just suggest to the potential new owner. You might want to see if that might fly. I think we are creating, as my colleague said, if he talks about impediments, we are creating an impediment for Washington Street. As was stated by another one of my colleagues, the lot is currently used by cars in that area. It's going to be a vacant paved area. It's going to create enforcement issues for you or for the condo association as it moves forward. I agree that it's a piece of City property. It will hold value at the appropriate time for a redevelopment on Washington Street. Something close by. Somebody will want that property. There's parking issues everywhere. It's a white elephant with this project to try and put parking 600 yards away. Two football fields away. I've grown up in Haverhill. It's my City too and I agree with Councillor Daly O'Brien. You can say it's going to be used. It won't be used. I think other options are going to have to be sought out. I don't think that's the right one. I will vote for this project tonight. I would encourage you to consider seeing; you'll own it. You'll have another use for it maybe down the road. I would like to see it not be required to be held as just vacant paved property that nobody gets the opportunity to use because it was tied into this special permit. I would hope a modification subsequent to tonight would happen. I think if logic prevails it would happen. But on the other hand I understand the clock is ticking so I will support it tonight as its been proposed.

President Michitson: Councillor would you like to withdraw your amendment.

Councillor Macek: I withdraw my motion.

Councillor Daly O'Brien: Second withdrawn.

President Michitson: The main motion is already on the floor. Is there further discussion on the main motion?

Councillor Hart: Mr. President the hearing is over.

President Michitson: The hearing is over but one of your colleagues suggested.

Male voice: At the beginning of the meeting here I heard that this parking lot that they are intending to buy was 300 feet away. In the course of this evening I have heard 600 feet, two football fields, what is it suppose to be?

President Michitson: Well I gave you your opportunity to speak and it was heard. The hearing is over and I gave you a chance to speak and now we are going to move to the roll call. Madame Clerk, please call the roll.

City Clerk Toomey: Councillor Scatamacchia – yes, Councillor Hart – yes, Councillor Ryan – present/abstain, Councillor Amirian- yes, Councillor McGonagle – yes, Councillor Macek – yes, Councillor LePage – yes, Councillor Daly O’Brien – yes, President Michitson – yes. 8 yeas, 0 nays, 1 present/abstain.

President Michitson: That passes.

Respectfully submitted,

Barbara S. Arthur
Administrative Assistant
Haverhill City Council

February 10, 2012

REASON FOR VOTE -DOCUMENT #3
Petition from Attorney Gary Sackrider for Applicant
Ken Stoll of White Cedar LLC, requesting Special Permit for Modification for Project granted in
2005 at 68074 River Street; to Modify the 2005 Parking Arrangements

In granting the special permit, those members voting in favor found that the application fulfills all of the general conditions contained in Chapter 255-88 of the Haverhill Zoning Ordinance.

President Michitson: I voted in favor of the special permit because the applicant met the zoning requirements for the parking and the project will help revitalize the area.

Councillor Scatamacchia: I voted in favor because the applicant fulfilled and exceeded the parking requirements for the special permit. The completed project will be beneficial to the City and the neighborhood.

Councillor Hart: The modification was necessary to complete the project and it met all zoning requirements.

Councillor Amirian: Based on the recommendations of our department heads, I believe that granting the change to the special permit is in the best interest of the City and was not detrimental to any abutters.

Councillor McGonagle: I support this modification based upon the recommendation of the Planning Director and the positive impact the development will have on the area.

Councillor Macek: I voted in favor of the special permit change request as I believe the request was compliant with City parking regulations for special permit housing and the change actually increased the available off-street parking for the building's residents.

Councillor LePage: I voted yes on this special permit because I believe it complies with parking code regulations.

Councillor Dally O'Brien: I voted yes for this permit because it reuses an existing building; it's a positive project for the City. It adds to the tax base and may be a catalyst for further revitalization in that area of the City.