

**DOCUMENT 47 - MINUTES OF A HEARING HELD ON MAY 12, 2009 FOR AN APPLICATION FROM ATTORNEY JAMES WALDRON FOR WATER ST RETAIL LLC (LOT 1) AND HAVERHILL RETAIL LLC (LOT 2) PRINCIPALS KING WEINSTEIN AND STEPHEN STAPINSKI REQUESTING TO DEVELOP PROPERTY ON WATER ST., ASSESSOR'S MAP 402, BLOCK 90, LOT 6 AND MAP 207, BLOCK 2, LOT 2; UNDER PROVISIONS OF WIPOD ORDINANCE PROPOSED ONE-STORY BUILDING DESIGNED FOR RETAIL COMMERCIAL USE.**

**SUBJECT:** Document 47 - Application from Attorney Waldron for applicant Water St. Retail LLC and Haverhill Retail LLC requesting to develop property on Water St., Assessor's Map 402, Bl. 90, lot 6 and Map 207, B1 2, Lot 2, made under provisions of WIPOD ordinance; proposed one-story building designed for retail and commercial use.

**Present:** President Michael Hart, Councillor Robert H. Scatamacchia, Councillor William Ryan, Councillor William Macek, Councillor Mary Ellen Daly O'Brien, Councillor David Hall, Councillor Michael McGonagle, Councillor James Donahue and Councillor Kenneth Quimby.

City Clerk Margaret Toomey: Doc.47 - An application has been received from Attorney Waldron for the applicant Water Street Retail LLC for lot 1 and Haverhill Retail LLC for lot 2. Principals King Weinstein and Stephen Stapinski requesting to develop property on Water Street, Assessor's Map 402, Block 90, Lot 6 and Map 207, Block 2, Lot 2 made under the provisions of the WIPOD ordinance proposed one-story building designed for retail and commercial use.

President Michael Hart: Opened the hearing.

Attorney James Waldron, the applicant's attorney, with me this evening is Steve Stapinski and King Weinstein, the principals of the corporation that owns the property. This is the first special permit request under the WIPOD ordinance that you re-enacted several weeks ago. It's an overlay district which I want you to keep in mind because the underlying zoning still stays in place that's why they call it an overlay. It's an application for a special permit and it is not a request for a zoning change. The zoning stays in place. The project that you will be listening to Mr. Stapinski describe is allowed by zoning and does not need any variances but is subject to this special permit and will be subject to a site plan review for building permits. The permit is to allow the development under the ordinance if the standards in the ordinance meet with your approval. I think that is really the sole issue tonight is what relation does this project have to the Merrimack River. There is several other things we must do with conservation, with traffic, with water and sewer and all of those improvements that all comes with the site plan review. I look at it as very similar when we come before the Council and ask for a special permit for multi-family housing. If you agree with the concept, then the project has to go to the Planning Board for a full subdivision and that's when the developer has to start putting some expensive plans together. I'd like to introduce Mr. Steve Stapinski and ask him to walk you through the project with the plans that he's brought. It's the same plans that were filed with the application.

Steve Stapinski: The location is historically known as the Cleary cleaner site. I think everybody knows the red cleaners building located at the intersection of Water Street and Mill Street at the intersection of Ginty Boulevard. You can see on the lower drawing of the aerial photograph we have outlined the site in red. The site was developed with the building originally close to the sidewalk and then there was parking behind it. Some of the paving is still there. As you look at the lot from Schwin bicyclery, Migliori's property across the street as the top photo shows, you can see that the building has been removed. The site is sort of encased with a chain link fence and really has gone into disrepair and the reason for that is that several years ago it was found that in fact the cleaners have disposed of dry cleaning fluids and other materials on the site and as a result that polluted the site. It's a Brownfields site. It's one of the most polluted sites in the city from the standpoint of the Brownfields use. It's kind of at the top of the city's list. Literally over the years the various property owners have been trying to find a way to develop it and clean the site up. What we've done is working with the previous property owner who had environmental assessments we've been able to apply for Brownfields grants and loans to help facilitate the clean up. For the first time in fifteen years it looks like, or it will be a fact that in fact with the Mass. Development commitment for financing which they've given, and we have actually started work out there already on the clean up, the site will be cleaned. All of the pollutants in the soil will be removed and the pollutants that are in the bedrock that have seeped down that far will be handled. They will eventually be turned into a vapor and collected and filtered out from the site. We are finally going to have a clean site under the DEP regs. Because of the pollutants on the site, the site is really not suitable for residential use. DEP really won't permit residential on a majority of the site. A portion of the site could be residential. We are proposing to develop it with a use that is allowed under the zoning. As Attorney Waldron said, it is zoned commercial. So we are proposing a 6,000 sq. foot retail building on the site. We filed the plans with Conservation. We have been going through some hearings for the past several months. I think the Commission authorized their agent to correspond with the City Council indicating their approval of our plans. I guess they have a vote coming this Thursday on it. I have a drawing of the plan. The building is shown as the orange area on the site plan. It will be located sort of to the right in the area that's been excavated on the property. If you go out there now, you will see areas that have been excavated so the building will be located in that area. Parking would be located to the front. The remaining portion of the site will be green open space. We are going to heavily plant the site. There's already plantings along the river's edge. But we are going to enhance the site by putting in species that are conducive the wildlife habitat that's along the Merrimack River. That's shown on the planting plans that the Conservation Commission's reviewed. We are also dedicating to the City a twenty-five foot easement. The easement would literally run along the Merrimack River and would connect to First Landing Park which is, as you are looking at the plan, to the left of the site. It's between the Sunoco Station and this site. You've got the area that the City owns, which provides direct access to the river. This easement will allow for passive as well as active recreation in that from the First Landing Park you will be able to walk along the river edge over to the Mass. Electric company property, with the anticipation that someday Mass. Electric would grant an easement or the City would take somehow access through that property and connect it to the fire station and then connect to the river walk that you already have over by where Captain Chris used to be. You'll have an extended river walk that would go from Mill Street all the way through to Washington Street eventually when everything is constructed. That would be the master plan. We are dedicating this, giving it to the City as part of the WIPOD enhancement requirements that you have in your ordinance. Some of the things that we have incorporated with the Conservation Commission, into the plan is storm-water treatment. We have bio-retention areas so we actually have a plant system that's going to be taking up the pollutants from the parking lots so we don't have to dig chambers and dig into the soil and disturb some of the soil that's been disturbed over the years with the pollutants. We don't have to get involved with that. The site would be serviced with City water and sewer. The building that we are proposing is a one-story building. I know in the past there have been several proposals for multi-story buildings. This is a nicely designed one-story retail building. Sort of colonial because of a lot of the historical colonial architecture in the area. It would be a one-story building with the glass front and then hardy plank sides

and a nice façade for signage. One of the things that one of our potential tenants wanted was that we address the issue of traffic. With this elevation you can see the whole intersection and the building and how it relates. We are going to be redesigning the intersection. We have actually hired an engineering company that has expertise in traffic control systems. We are going to be redoing the signals. All the signals at this location are twenty-five years old. A lot of the equipment is outdated. We are going to be updating the equipment. Realigning the posts and the signal heads, and realigning the intersection so the traffic will flow more smoothly, be more controlled. In fact there will be signalized access in and out of this property. Essentially, opposite Mill St. will be the driveway and that will be controlled with the traffic signal across the street. You can take a right into the property, you can take a right out that aren't controlled with the signals. If you want to cross over the traffic, you would come in through the controlled signalized intersection. It will be much safer. We think it addressed the concerns that the Council has always had in the past with development at the site. When we are done we are going to have more open space and green area after the site is developed than we have currently because of the new islands out in the front. One of our tenants from Haverhill is here this evening, Mike Daggert, I'd like to introduce him who could also speak to the development. If you have any questions, I'd be happy to answer them.

Mike Daggert: Mr. Stapinski called me to throw my support towards his project. I am considering a seafood restaurant similar to what I had before. I used to own Seafood Etc. I was there for about eighteen nineteen years. He knew that I had been looking at the Skelley property last year. It just didn't materialize and he wanted to know if I would be interested in being a tenant down at this building that he is going to be building down there. I'm weighing the options for that. I would support that project I hope you would too.

Attorney Waldron: We are of the opinion that we meet the requirements of the overlay district which as I said earlier is a new special permit requirement. We believe we meet it in the following particulars: The provision for the 25' easement that was referred to by Mr. Stapinski. In our application I mentioned that we would ask for a fence along our property line. There was some concern by the Conservation Commission and particularly the Conservation Agent, he did not like the fence and we agreed to eliminate it. There will be no fence and that will be shown on the final site plan. There will be no fence on the site plan. The visual access as you can see from the picture, the lower right hand corner. There is no view of the river from Mill Street. This picture was taken right up close to Mill Street in the back of the Schwinn bicycle shop. I think that the difference between the two plans is there is a huge difference when the site will be completely reformed. It will be attractive. I don't know if you will be able to see the river from Mill Street unless you get right up on top. I mentioned one time that the best view of the river is from the DeMoulas parking lot. You can look down and see it all the way down. This site will certainly be transformed, what's proposed here. As Mr. Stapinski stated, it was a Brownfields site. I have file in the office that is about eight years old. It goes back to various engineering firms and so forth that have started to do that cleanup which was tremendously expensive because it got into the bedrock. It was not a question of just backing trucks in there and taking the soil out. It was impossible. The Brownfields project, unless you use that under circumstances as outlined by Mr. Stapinski. The best evidence that we meet the requirements of this ordinance is that we relate to the Merrimack River is the letter that was sent to you by William Pillsbury, the Planning Director. He went right through the ordinance point by point and mentioned the situation which he thought conformed to those standards and his conclusion was that he supported the project. There's also a very good letter from the Conservation officer, Rob Moore, who supports, on behalf of the Conservation Commission, the development of the site. Both of those letters I think really support our case and make it without me going in and repeating. There are letters from the Building Inspector. The Fire Dept. and Water Dept. that raise issues relating to the site plan. These special permits are difficult to put together plans without going through a tremendous amount of expense for making final plans without knowing you are going to walk out with a permit. This ordinance was constructed to be restricted strictly to its impact on the river. About ten years ago the City enacted a site plan review for all building permits. They work very well. I have been involved in many of them. The

CVS in Lafayette Sq. was done with a site plan. The Monument Sq. development was done with a site plan review. Every dept. has their say and you don't get a building permit. The Planning Director has recommended that those issues be resolved at that level. The site plan review is a Planning Director's prerogative. If there are any decisions to be made, as a practical matter, the applicant meets with the dept. head and the Planning Director. We sit down around the table and they ask what they want and the other person comes back with what they can do and they work it out. It's always worked well. I think the plans that have been done in those squares have worked out well. I would ask for your approval for this.

President Hart: Asked if there is anyone else speaking in favor of this? There was no one. Is there anyone here who wishes to speak in opposition to this? Anyone in opposition? There was no one. Declared the public hearing closed.

Councillor Macek: On your revised site plan for the traffic. Have you actually extended the isles out on a different angle, they don't look like they look on the flat plan that was provided. Are those green areas in the front cutting a different angle on the traffic patterns than what we were given.

Steve Stapinski: The original plan that was filed with the Council seven weeks ago has been reworked with the input from the Fire Dept. One of the things that they wanted us to look at, and the traffic consultants, the movement of the largest fire truck in and around the site. One of the things we are now doing is moving the Water St. traffic island over. The plans that you have don't indicate that. I would say on the plan that's on the board. Look at the light grey lines, you can see the islands as they are currently configured and it's going to be pulled back and over and the pavement realigned so that they fire truck can now make the turns. Councillor Macek said the green landscaped areas are not protruding more, they are remaining as they are. Mr. Stapinski said they are actually back some. Originally they were going to come out to the face of this other island. We are now pulling them back per the comments of the fire dept. Councillor Macek said it's not showing sidewalks, but the sidewalks will be there, right? Mr. Stapinski said the sidewalk will follow the curb and so there will be more green space out in the front. There is a proposed sidewalk (not audible). Councillor Macek asked about ramping for handicap accessibility. Mr. Stapinski said all of the sidewalks will meet the ADA requirements for accessibility. The sidewalks across the street don't meet it in some cases. We are actually modifying portions of the intersection across the street to now comply, in the existing public ways. We are adding crosswalks and some pedestrian signals that don't exist currently. People from the Merrivista, Mission Towers, if they are walking here, will be able to have a pedestrian actuation and cross the street to come here. People who live on upper Mill St. and Boardman could walk down and actuate the signals. Councillor Macek asked about maintenance of green landscaping in the front, side and along the rear. What's the intention as far as the landscaping of those areas. Mr. Stapinski said that will be maintained by the tenants. It's part of the tenant common area. It will be like they are maintaining the parking lot. Councillor Macek asked about the back 25 foot strip. Mr. Stapinski said that will be maintained by the tenants until the City utilizes it. If the City never does anything with it, it will be maintained as landscaping by the tenants. But if the City was to, for example, build a boardwalk or build access, of course they would take over the maintenance with whatever improvements they made. Councillor Macek said it is only an easement, we'd have to work with you to do that at some point in the future. Mr. Stapinski said I think you would have the rights forever to go ahead and make the improvements. When you make the improvements you would own the maintenance that would come with those improvements. Councillor Macek said to build on it we would need your permission at some future time. Mr. Stapinski said we are actually granting that. Attorney Waldron added, I put it in the application that the easement would be non-exclusive to the City. It gives both parties the right to use it. Councillor Macek asked how would that affect if we wanted to put a boardwalk on it if it's nonexclusive. Attorney Waldron said you can approve the easement for purposes you want to use it for.

Councillor McGonagle: I had the opportunity to sit with the City Engineer today along with Councillor Hall and the Chief of Police was there along with Bill Pillsbury and also the Traffic Control officer. I was very impressed with some of the things you folks say you are going to do with this property. One very important to us. This project meets the WIPOD restrictions so you can build here. People need to understand that. Some of the things you are going to do is actually above and beyond what you need to do. What impressed me today with some of the information is the current traffic studies that the Fire Chief and his deputy had today were brand new. Looking at what was best for that area. It looks like this drawing is a good example of how that area is going to be cleaned up so we can have a safer intersection for people and for pedestrians. It's great to get that site cleaned up. Get all that stuff out of there at your expense and the additional \$200K or so for the signals. I think that is outstanding. I am going to be in favor of this project. The only thing the department heads only wanted was to make sure at that site review, their concerns would be met. Water dept., as Attorney Waldron said, you can't really put that plan together and look at it before until you get through this process. There was concerns with quite a few of the department heads and I think you are all in agreement that you are going to satisfy all those requirements, is that accurate? Mr. Stapinski said yes. We have been working, Bob Ward for example, there are things we have to do differently because of the situation with the Brownfields. Bob Ward's staff referred me to Bob. We met and went over things on the phone and email. We have had our LPS interact as well.

Councillor Quimby: I am glad for business. You are going to utilize this property for a fish place and whatever else you are going to put in there.

Councillor Daly O'Brien: How many businesses do you anticipate in that space. Mr. Stapinski said we have the spaces divided up so there could be as many as six. Most likely will be three. Councillor Daly O'Brien said I would like it better if there was only three. There is only so much you can take in that area. Even with the upgrades, it's still a congested area. Anything you can do to improve the lights the way they are now, it's kind of dangerous. I drive it everyday. If you are a Haverhill person and you know how the lights work, you are okay. You can always tell when someone drives it coming from Water Street going down to Lincoln Avenue, it's very difficult sometimes. My biggest concern is that we did not over build in that area. I hope you stick to that building or something close to it. We do have the buttonwoods area. You will be right across from our oldest cemetery. Even that Skelley motor building as an older architectural look to it because it's one of the original gas stations of Haverhill. It's too bad somebody hasn't found something they could do with that and preserve it. We lost the other one that was in Monument Square. I like what you are doing with the landscaping. I notice you have some notes on your plan regarding the Japanese knot weed. Is that something you are hoping to diminish? Mr. Stapinski said the Conservation Commission has required that because we are within 200 feet of the river, that we develop a plan for removal of Japanese knot wood along the bank. There is some there now. You can't cut it and expect it to go away. It's a very long process. It takes two to three years. They have to inject the plant with a substance that's like roundup and naturally inject it. A biologist has to go out and do it. It takes two to three years to eradicate it. Councillor Daly O'Brien asked when do you think you may be started if everything goes well with permitting, etc. Mr. Stapinski replied June or July 2009.

Councillor Ryan: (tape change) see such a well thought out and well planned project with all of the issues you know that are going to be raised here and in the City have been dealt with and everybody's been brought on board, my colleagues I have talked to are very excited about this. We are finally going to get one of the worst eyesores in the City of Haverhill. It's depressing to drive down there. All the nice architecture and all the good work that people have done in that area, to see that eyesore on Water St. That's going to be cleaned up. We are also getting the worst polluted site in the city cleaned up at the same time. You've cooperated with our hopes to someday have a riverwalk to go all the way around the river and connect it possibly from the Groveland Bridge all the way back up to the Comeau Bridge. All of those issues are being answered. It will demonstrate to people coming in the future that you need to

cooperate and to listen to the City and try and work with our future and our plans. You have Mike Daggert in there. We all know what a terrific job he did with Seafood Etc. He didn't tell everyone but he actually built the building and he started it from scratch and put together along with his wife Pam one of the best seafood restaurants in the entire Merrimack Valley. The people who have it now are still carrying on with his reputation. Great project. I am going to support it. Thank you to you and Steve and to King for a good job you are doing.

Steve Stapinski: I would say that the City staff, the Mayor's office, everybody has been very cooperative. Mass Development, with their commitment, with the Brownfields, that's a result of the Council, I think, putting together the support that they need to participate in the Brownfields programs several years ago. That's helping get and the people at Mass. Development have been very good to work with. They have expedited everything we have done. That goes to the administration and the Council.

Councillor Hall: I've had a lot of people most of them from the Riverside district, and I told them, if it wasn't for the WIPOD issue, you people wouldn't even be here because you wouldn't need our approval. Is that correct? Mr. Stapinski said that's correct. Councillor Hall said with the WIPOD ordinance being in affect, that's the reason you are here to present this. Is that correct? Mr. Stapinski said that's correct. Councillor Hall said that's just so the people understand that. I spent, along with Councillor McGonagle and Councillor Macek, some time at the City Planner Bill Pillsbury. We spent a lot of time talking to the department heads and I walked out of there totally satisfied. This is something in the five and a half years I've been on, I haven't been as satisfied as I was today. I think this morning you sent a new email over about the traffic signal part of it. Mr. Stapinski said we received the final plans from TEC for review by the Fire Dept. Councillor Hall said as soon as I saw the new plans I was so impressed and I had a flashback. That flashback was of Councillor Daly O'Brien. She has had an issue as far as I know, of her coming down Mill St. and making a left turn into Water St. to go to work with cars coming out of Water St. to continue on through. There's been many many collisions there. With this new traffic plan I think she's going to be very satisfied with it. For the fact is that when you do come down Mill St. to go to Water St. it's going to be the only light and the only direction that's going to go there. It's going to go either to your left or straight across. There's going to be no traffic from her right coming down.

Councillor Hall made a motion that the City Council approve the special permit as presented, with the changes discussed, with the incorporation of the specific recommendations of Rob Moore's letter; and with the further commitment of the applicant to comply with the requirements of the other City departments in their letters as conditions of site plan approval.

President Hart: Madame Clerk please call the role.

Clerk Toomey: Councillor Scatamacchia-yes, Councillor Ryan-yes, Councillor Macek-yes, Councillor Daly O'Brien-yes, Councillor Hall-yes, Councillor McGonagle-yes, Councillor Donahue-yes, Councillor Quimby-yes, President Hart-yes. 9 yeas, 0 nays.

President Hart: The permit is approved.

Respectfully submitted,

Barbara S. Arthur  
Administrative Assistant

May 20, 2009

REASON FOR VOTES - DOCUMENT 47  
SPECIAL PERMIT - WIPOD  
WATER STREET RETAIL LLC & HAVERHILL RETAIL LLC  
MAY 12, 2009

President Hart: I voted in favor because the development met all the WIPOD requirements.

Councillor Scatamacchia: I voted in favor because it will clean up a polluted site and will be a plus for the area.

Councillor Ryan: This project cleans up the worst polluted site in the City and will be an overall benefit to the City.

Councillor Macek: The proposal addressed the WIPOD overlay concerns and will be an improvement to the area that will benefit the City.

Councillor Daly O'Brien: I voted yes for this permit because of the improvements it will make for the property and the signal lights. It also meets the criteria for the WIPOD ordinance and was favorably recommended to the Council by our Economic Development and Planning Director.

Councillor Hall: I voted in favor because it conforms to the WIPOD ordinance. The site plan is a drastic improvement and it cleans up a Brownfields area.

Councillor McGonagle: I supported the Water Street project based upon the developers meeting all the requirements of the special permit process.

Councillor Donahue: This is a good project that will benefit the City.

Councillor Quimby: I voted in favor because the project brings business to the area and reuses a vacant property.