

## Reasons for Challenging the Bradford Inn Redevelopment Project

The Plymouth Growth & Development Corporation (PGDC) recently reached a settlement agreement with MEGRYCO, Inc., a local developer who is redeveloping the Bradford Inn property located at 98 Water Street on the waterfront in Plymouth. Following is a brief description of what happened over the past 2 years with respect to the Bradford Inn project, why it happened, and the importance of this settlement agreement in shaping the future of the downtown/waterfront areas of Plymouth. It is intended to clarify an article that appeared in the Old Colony Memorial on May 17, 2019 that described the Bradford Inn and Suites development but was printed without the input of, or consultation with, the PGDC.

### BACKGROUND

The Bradford Inn located at 98 Water Street consists today of 90 rooms and 30 on-site parking spaces. Under Town of Plymouth zoning regulations, a property of this size and type would require a total of 90 parking spaces. To accommodate the project, the Town overlooked the fact that 60 of these 90 spaces were historically dedicated to the abutting property at 114 Water Street (“Harbour Place”) -- a property owned by the same landowner.

**On April 25, 2017**, a local developer – MEGRYCO, Inc. – appeared before the **Plymouth Planning Board** with a proposal to purchase the Bradford Inn and convert the property into a minimum of 39 apartments and up to 4,400 square feet of restaurant/retail space with the actual mix to be determined at the sole discretion of the developer. A property of this type and size requires between 79 and 111 off-street parking spaces (depending on the restaurant/retail mix) under the Town of Plymouth Zoning Bylaw. To satisfy the parking requirements for this project, the developer agreed to retain the 30 on-site parking spaces but made no provisions to replace the 60 spaces on the adjoining property which it did not control. The Planning Board instead recommended that the developer buy annual parking permits from Park Plymouth for the apartment residents instead of providing the necessary additional parking on-site or nearby, and the Planning Board also did not require the developer to pay into the Center Village Parking Fund for any of the residential spaces it was lacking. Furthermore, no contribution to the Parking Fund was required by the Planning Board for the restaurant/retail portion of the project, despite zoning regulations that would have required numerous additional parking spaces.

**On May 3, 2017**, the **Plymouth Zoning Board of Appeals (ZBA)** accepted the general recommendations of the Planning Board and issued MEGRYCO a Special Permit allowing it to proceed, with the only additional condition being ones that the developer himself suggested (i.e., pay into the Parking Fund for a few spaces and obtain a (temporary and revocable) license agreement with the owner of Harbour Place for sixteen (16) parking spaces on its property).

**On May 17, 2017**, the **Plymouth Growth & Development Corporation (PGDC)** filed an appeal of the ZBA decision in Plymouth Superior Court contending that the ZBA decision was arbitrary and capricious in its administration of the Plymouth Zoning Bylaw, and severely undermined the PGDC’s ability to improve and expand public parking and infrastructure in the downtown/waterfront district. This appeal was subsequently denied by the Superior Court in a judgement rendered on March 19, 2018 to dismiss the case on the grounds that the PGDC did not have legal standing to appeal a ZBA decision. On July 2, 2018, the PGDC filed yet another notice of appeal – this time with the Appeals Court – to overturn the Superior Court decision.

**On January 15, 2019**, the PGDC and MEGRYCO reached agreement (hereafter “settlement agreement”) to resolve this appeal “on the condition that MEGRYCO and HARBOUR modify the Project to account for 26

additional residential spaces . . . because of PGDC’s concern about the potential effect of unaccounted-for residential parking spaces on the stock of public parking spaces in Plymouth’s Downtown Waterfront District.”

**On April 17, 2019**, the Plymouth ZBA voted unanimously to accept MEGRYCO’s proposal to change the parking requirements and residential/retail mix of the Bradford Inn project and agreed that the proposed changes constituted a “minor modification” within the parameters of the Special Permit that had been previously issued.

**On May 1, 2019**, the PGDC voted unanimously to authorize PGDC legal counsel to file a withdrawal of the pending appeal in the Appeals Court regarding PGDC vs. MEGRYCO et al as the conditions of the settlement agreement between PGDC and MEGRYCO have been satisfied.

## WHAT DID THE SETTLEMENT AGREEMENT ACCOMPLISH?

In the January 15, 2019 settlement between the PGDC and MEGRYCO, the original 98 Water Street project was significantly modified and will now include:

- A total of 27 residential units – down from the 39 originally proposed – which will reduce the residential-related demand for on-site parking by 12 parking spaces;
- A perpetual exclusive right and easement to use 12 parking spaces on the adjoining Harbour Place property – instead of the temporary and revocable license for 16 spaces that was originally proposed;
- A nonexclusive license to use an additional 6 non-designated parking on the adjoining Harbour Place property;
- The 30 on-site parking spaces that already exist on the property; and,
- A restaurant/retail component that is larger in size than originally proposed in exchange for reducing the number of residential units.

The PGDC’s May 17, 2018<sup>7</sup> appeal of MEGRYCO’s special permit was based on the simple premise that residential uses of the proposed mixed use Bradford Inn property at 98 Water Street would place an especially heavy burden on the public parking supply that the Town of Plymouth authorizes the PGDC to manage and operate. The PGDC strongly disagrees with public policy that allows a developer to rely upon the Park Plymouth public parking permit program to satisfy its zoning requirements for residential parking, that provides a major project in the Downtown/Waterfront district substantial relief from paying into the Plymouth Center Parking Fund, and/or that allows a developer to assume that, for the price of a parking permit, municipally-owned public parking spaces in the vicinity of its project can be used on a 24/7 basis by residents living on the developer’s property. These conditions all collide head-on with the PGDC’s mission to physically increase the number of public parking spaces and to encourage turnover in the use of public parking spaces in the downtown/waterfront development zone. They also undermine the underlying purposes for which the zoning bylaw requirements exist, the Plymouth Center Parking Fund was created, and the Park Plymouth permit parking program was designed.

Listed below are some additional reasons the PGDC took the position it did:

- The parking requirements stipulated in the Town Zoning Bylaw should be meaningful – if the parking bylaw is out-of-date it should be revised by Town Meeting and not be subject to regular or significant discretionary adjustment by boards on a project-by-project basis; the current zoning bylaw requires that

a special permit can be issued only if the proposed use “will not result in or worsen parking or traffic problems in the district.”

- An arrangement that “creates” a zoning-required parking space on another property via a license that is both temporary and revocable if that property is sold makes a mockery of the parking requirements in the zoning bylaws; the demand for a space is likely to increase if the license is revoked since multiple projects (especially residential) may lay claim to the same parking space.
- Contributions to the off-street parking revolving funds should not be waived or become subject to significant discretionary adjustment on a project-by-project basis; that should be especially true of residential projects within the boundaries of the Downtown/Harbor District (Plymouth Center Parking Fund) where the highest demand for public parking exists and there is a shortage of parking spaces during peak periods. If the required payments to the off-street parking fund are unreasonably low (or high) they should be revised accordingly. Opportunities to maximize private funding for new public parking spaces should not be squandered during strong economic times.
- Not all parking spaces are created equal – parking spaces that serves restaurants or businesses having many customers during the course of a day are not the same as ones that serve residential uses with long-term occupants and higher vehicle ownership.
- The PGDC/Park Plymouth permit parking program is unique among municipal permit programs in that any Plymouth resident – regardless of their place of residency in the town – is qualified to purchase one and benefit from the parking benefits it brings the permit holder when using a public parking space. Under no circumstances should a public parking space ever be “given away” to a private developer, and under no circumstances should purchasing a PGDC/Park Plymouth parking permit qualify as a substitute for a private (residential) parking space required by zoning.
- The PGDC’s agreement with the Town has relegated the “management” of the town’s parking spaces (supply) to the PGDC/Park Plymouth. But the PGDC is also charged by its enabling legislation to expand the “supply” or number of parking spaces available for public use in the downtown/waterfront areas – and it has expended considerable resources doing just that in recent years. The PGDC can’t effectively increase the number of public parking spaces in the downtown/waterfront area if Town Boards give spaces away to private developers. It’s hypocritical to complain about the “lack of parking” while at the same time endorsing actions that are at odds with the efforts of the PGDC to increase the parking supply. The PGDC and Park Plymouth are not supported by any property tax revenue from the Town of Plymouth.

The PGDC appealed the MEGRYCO special permit issued by the Town because it wanted to improve parking conditions and contribute to smarter development in the Plymouth downtown/waterfront area – and we believe the Bradford Market and Flats development will be a better and smarter project as the result of the PGDC’s action.

Plymouth Growth & Development Corporation (PGDC)

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