

**MINUTES**

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

**CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

**6:00 P.M.**

**MARCH 16, 2017**

**MEMBERS PRESENT:** Dexter Legg, Chairman; Elizabeth Moreau, Vice Chairman; Rebecca Perkins, City Council Representative; Nancy Colbert-Puff, Deputy City Manager; David Moore, Assistant City Manager; Colby Gamester; Jody Record; and Jeffrey Kisiel, Jane Begala, Alternates

**ALSO PRESENT:** Mr. Taintor, Planning Director

**MEMBERS ABSENT:** Jay Leduc

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**I. APPROVAL OF MINUTES**

A. Approval of Minutes from the February 16, 2017 Planning Board meeting.

The Approval of Minutes was postponed to the April 20, 2017 meeting.

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**II. DETERMINATIONS OF COMPLETENESS**

A. Site Plan Review

1. The application of **Hope for Tomorrow Foundation, Owner**, for property located at **315 Banfield Road**.

*Mr. Gamester moved to accept the application as complete, seconded by Ms. Record. The motion passed unanimously.*

2. The application of **Old Tex Mex, LLC, Owner**, for property located at **3510 Lafayette Road**.

*Mr. Gamester moved to accept the application as complete, seconded by Ms. Record. The motion passed unanimously.*  
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**III. REQUEST FOR DESIGN REVIEW**

A. The request of **299 Vaughan Street, LLC, and Sanel Realty Co., Inc., Owners, and 299 Vaughan Street, LLC c/o Cathartes, Applicant**, for property located at **299 and 225 Vaughan Street and off Vaughan Street**, for design review under the Site Plan Review Regulations for the construction of a hotel with 143 guest rooms and 2,500± s.f. of commercial space, a 43,325± s.f. public park along the North Mill Pond waterfront (to be constructed in two phases), and a 2,869± s.f. public path from Vaughan Street to the waterfront park. Said properties are shown on Assessors Map 123 as Lot 15 and Assessors Map 124 as Lots 10 and 11, and lie within Character District 5 (CD5), the North End Incentive Overlay District, the Downtown Overlay District (DOD) and the Historic District.

**THE CHAIR READ THE NOTICE INTO THE RECORD**

Mr. Taintor explained the design review intends to provide the Planning Board an opportunity to decide whether enough information has been provided to consider the application and identify potential issues to schedule a public hearing.

Mr. Jeff Johnston, Cathartes, was present to speak to the application. He responded to the Board’s questions and comments, including the following statements:

- The revised landscape plan will propose an aesthetically pleasing sidewalk. He noted there are currently no trees on the site and the details of what will be planted will be added.
- The engineer can provide further information regarding the different tide levels depending on various storm events.
- He clarified that the walkway off Green Street would be located across the street because of where the utilities are located and to accommodate potential future development that would need an extended walkway.
- The building design would be reviewed through the Historic District process.
- Details of the abutting parcels can be added to the plan.

Mr. Taintor explained that the developer is responsible for the design of the community space and then the property is deeded for public access. It is being considered to credit the residual land area, which will likely be referred by City Council for the April Planning Board meeting. Chairman Legg added that it will be important to understand the full plan for the community space in order to discuss and refer back to City Council.

Councilor Perkins noted that the proposed pocket park off Green Street is intended to be used as a transition point for pedestrians.

*Mr. Gamester moved to determine that the request for Design Review includes sufficient information to allow the Board to understand the project and identify potential issues and concerns, seconded by Mr. Kisiel. The motion passed unanimously.*

*Mr. Gamester moved to accept the request for Design Review and schedule a public hearing for the Planning Board meeting on April 20, 2017, seconded by Councilor Perkins. The motion passed unanimously.*

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**IV. PUBLIC HEARINGS – NEW BUSINESS**

*The Board’s action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.*

A. Request to name a new city street to be constructed between Bridge Street and Rock Street, providing access to the new municipal parking garage. The Parking Garage Building Committee has proposed three names for consideration: Depot, Foundry and Creek. Other names may also be considered.

**The Chair read the notice into the record.**

**SPEAKING TO THE APPLICATION**

Mr. David Allen, City of Portsmouth Project Manager, provided a brief background on the consideration for the three street names.

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application.

Mr. John Oleary, 50 Nathaniel Drive, spoke in favor of the name Foundry. He provided a map to illustrate several foundries that were located on the site and emphasized that the name would highlight the history of the site.

Mr. Mark Stettner, 91 Fairview Avenue, spoke in opposition of all three names because the name should be easy to find and short in character length. He suggested Doe Street for its simplicity and felt that there are other ways to integrate the history of the area.

The Chair closed the public hearing.

**DISCUSSION AND DECISION OF THE BOARD**

*Mr. Moore moved to accept the name of Foundry Place as the name for the new City street to be construction between Bridge Street and Rock Street, seconded by Councilor Perkins. The motion passed by a 6-1-0 vote, with Mr. Kisiel opposed.*

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B. Petition of **393 New Castle Avenue, LLC, owner**, for property located at **390 New Castle Avenue**, requesting Conditional Use Permit approval for work within a tidal wetland buffer including 437 ± s.f. of temporary impact and 133 ± s.f. of permanent impact to raise the elevation of the existing main structure, pour a concrete slab within the existing garage, close openings in the foundations of the main structure and garage, remove a portion of the gravel parking area, and add landscape improvements. Said property is shown on Assessor Plan 207 as Lot 6 and lies within the Single Residence B (SRB) District and the Historic District.

**The Chair read the notice into the record.**

**SPEAKING TO THE APPLICATION**

John Chagnon, Ambit Engineering, provided a brief overview of the project, which consists of raising the principal structure to pour a concrete slab within the existing garage and remove a portion of the gravel area. The project will enhance the buffer and help protect the building from potential property damage. He noted that the neighbor on the southerly side of the proposal currently has an easement with a fence. The applicant has agreed to remove the fence and steps as part of the project.

Vice Chairman Moreau asked whether or not there are plan to restore the retaining wall on the east side of the property. Mr. Chagnon considered it was stable enough and felt that if it reaches poor condition it could be restored in a future application.

Mr. Gamester noted that a majority of the area will have silt sock. He asked about which parts of the stone wall are on the property and Mr. Chagnon responded and identified those areas.

Ms. Record asked whether the existing foundation will be raised or new. Mr. Chagnon explained that the existing foundation will remain and a new concrete slab added on top.

Mr. Taintor asked there will be potential impact on the abutting property or wetland during construction. Mark Hepp, 390 New Castle Avenue, explained that the construction will all be performed within the property and would not impact the buffer or abutting property.

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise; the Chair closed the public hearing.

**DISCUSSION AND DECISION OF THE BOARD**

*Ms. Colbert Puff moved to **grant** Conditional Use Permit Approval as presented, seconded by Mr. Gamester. The motion passed unanimously.*

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*Mr. Gamester moved to hear and take action on Items C and D together, seconded by Ms. Record. The motion passed unanimously.*

C. Petition of **Hope for Tomorrow Foundation and Foundation for Seacoast Health, owners,** and **Hope for Tomorrow Foundation, applicant,** for property located at **315 Banfield Road** and **100 Campus Drive,** requesting Conditional Use Permit approval for work within an inland wetland buffer including 15,200 ± s.f. of permanent impact to construct sewer service through an existing nature trail. Said properties are shown on Assessor Plan 266 as Lots 4 & 5 and lie within the Industrial (I) District.

D. The application of **Hope for Tomorrow Foundation, Owner,** for property located at **315 Banfield Road,** requesting Site Plan Approval for the construction of a 200-student private elementary school with a footprint of 24,150 ± s.f. and gross floor area of 28,000 ± s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 266 as Lot 5 and lies within the Industrial (I) District.

**The Chair read the notices into the record.**

**SPEAKING TO THE APPLICATION**

Mr. Peter Loughlin, Seacoast Foundation for Health, provided a brief background of St. Patrick's Academy and the need for relocation. He highlighted the proposed plan which includes constructing a new building, playing field, and new sewer line.

Mr. Eric Weinrieb, Altus Engineering, explained the orientation of the site in relation to the Banfield Road, nearby wetland, and abutting properties. The proposed project includes a driveway loop for pickup and drop-off, a parking lot, and a service roadway to the back of the site. He noted that certain areas will use pervious pavement because of expected low traffic impacts. Two permits are required and comments from DES are expected to be received in a week. The drainage and runoff patterns were described and the proposed project intends to mimic the existing patterns. He noted that the culvert on the Croteau property currently is undersized and the proposed plan will improve those conditions. The sewer line would travel along the existing walking path versus cutting trees to avoid the buffer. He further explained in detail the nature of the buffer impacts. The stipulations from the Technical Advisory Committee were discussed and revisions made per those comments addressed vehicle stacking and the two-way roadway.

Vice Chairman Moreau questioned whether or not the pathways behind the building cross a steep slope. Mr. Weinrieb explained that it is a 4:1 slope that is not excessive. The exact location of the pathway has yet to be finalized.

Mr. Weinrieb explained that shade trees will be planted along the roadways and the area inside the driveway loop will remain open. He added that there will be signage on the back of the building indicating that it is restricted to service vehicles.

Ms. Begala asked if it is anticipated that students will be walking to school. Mr. Weinrieb noted that the students will not be encouraged to walk to school until such time a safe pedestrian route is developed in conjunction with the rail to trail system.

Ms. Begala asked how the vehicle traffic will be managed. Mr. Weinrieb explained it is a 200-student school and students arrive and depart exclusive by their parents. The peak times are only half the year and two short periods each weekday.

Mr. Weinrieb responded to Mr. Kisiel that the ball field could be vehicle accessible in the event of an emergency and the fence will be removed in some portions, but will remain around the ball field.

Ms. Colbert Puff asked how the future pedestrian access way will eventually be delineated if not in the current application. Mr. Weinrieb noted a few potential locations the access way could be located, but noted it is difficult to speculate without knowing exactly where the rail to trail would intersect with the site. Mr. Taintor expressed concerns for the lack of pedestrian and bicyclist access points provided in the plan. Mr. Loughlin understood that the route would become apparent once the construction progresses. He suggested that a condition be included that no certificate of occupancy is issued until the City holds the easement for that appropriate location.

Ms. Colbert Puff stated that the list of requirements from TAC are fairly onerous and the plans will be changing post approval from the Planning Board. She noted that some unnecessary layers were shown on the plan and other necessary layers were not. Mr. Weinrieb explained that the existing features are

there to provide reference points and he described how all the TAC conditions have been addressed in the proposed plan.

Mr. Taintor and Mr. Weinrieb discussed a few clarifying details in the site plan notes regarding the retaining wall, light shielding, and the wetland scientist certification. Mr. Weinrieb noted that the bicyclists and pedestrians would enter through the service driveway in the future.

Vice Chairman Moreau asked how the plan could be approved by the Planning Board if the variance for parking in front of the building has not been granted. Mr. Loughlin explained the time constraints of the project.

Mr. Gamester asked whether or not the easement is outside the applicant's property. Mr. Weinrieb explained that the preexisting easement is entirely for the abutter and favors the Foundation for Seacoast Health.

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise; the Chair closed the public hearing.

## **DISCUSSION AND DECISION OF THE BOARD**

*Mr. Gamester moved to grant Conditional Use Permit Approval subject to the following stipulations:*

- 1. The site engineer shall provide construction oversight with routine inspections to ensure (a) that the grading is undertaken as shown on the plans, (b) that there are no additional wetland or wetland buffer impacts beyond those shown on the plans, and (c) that the clearing of vegetation is minimized and no more than shown on the plans. If any work is done beyond the limits shown on the plan, the site engineer shall make a report to the Planning Department and shall remediate the impact as directed or approved by the Environmental Planner.*
- 2. Invasive species on the site will be shown on a plan prior to construction and an invasive species inventory shall be conducted one year post construction to insure that invasive species were not spread during construction. Results of this inventory shall be provided to the Environmental Planner and a plan to remove newly established invasive vegetation shall be provided if necessary.*

*Seconded by Ms. Colbert Puff. The motion passed unanimously.*

*Ms. Colbert Puff moved to **wave** compliance with Section 2.9(1) of the Site Plan Review Requirements with respect to compliance with Section 10.1113.20 of the Zoning Ordinance regarding the location of off-street parking spaces, and to make the Board's action contingent on the applicant obtaining the necessary variance(s) for parking compliance, seconded by Mr. Gamester. The motion passed by a 6-1-0, with Vice Chairman Moreau opposed.*

Mr. Taintor and Mr. Loughlin discussed stipulations to be made regarding the temporary easement, when the plan would be recorded, and requirements for the certificate of occupancy. Mr. Taintor noted that a typical application would not have as many stipulations as this one; however, expediting the process will help the applicant overcome the time constraints of opening the new school in the upcoming school year.

*Mr. Gamester moved to **grant** Site Plan Approval with the following stipulations:*

Conditions Precedent (to be completed prior to the issuance of a building permit):

1. *The applicant shall apply for and receive the required relief from the Zoning Board of Adjustment to allow parking to be located in front of the principal building.*
2. *The Existing Conditions plan (Sheets 1 of 3 through 3 of 3) shall be stamped by a NH licensed civil engineer (or surveyor) and a NH certified wetland scientist.*
3. *On Sheets C-1 and C-2, the one-way driveway between the median and the front of the school will be changed to show traffic traveling in a westerly direction (toward the 22-space parking lot).*
4. *Sheets C-1 through C-7 shall be amended by removing all existing conditions that are not proposed to remain. (Examples include the stone walls to be removed, tree lines to be modified, and subsurface “rocks & metal debris”).*
5. *The Landscape Plan (Sheet LS-101) shall be stamped by a NH licensed civil engineer or registered landscape architect, and the words “not for construction” shall be removed.*
6. *The Landscape Plan (Sheet LS-101) shall include the following additional notes:*
  1. *“1. This Landscape Plan shall be recorded in the Rockingham County Registry of Deeds.*
  2. *All improvements shown on this Plan shall be constructed and maintained in accordance with the Plan by the property owner and all future property owners. No changes shall be made to this Plan without the express approval of the Portsmouth Planning Director.*
  3. *The property owner and all future property owners shall be responsible for the maintenance, repair and replacement of all required screening and landscape materials.*
  4. *All required plant materials shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse and debris. All required fences and walls shall be maintained in good repair.*
  5. *The property owner shall be responsible to remove and replace dead or diseased plant materials immediately with the same type, size and quantity of plant materials as originally installed, unless alternative plantings are requested, justified and approved by the Planning Board or Planning Director.”*
7. *The location of the shielded lights shall be shown on the Lighting Plan (Electrical Site Plan, Sheet ES101) and appropriate details and specifications shall be added to the plan set.*
8. *The off-site roadway improvements to Banfield Road, including construction of a leftturn lane (if warranted) and provision of adequate sight distances, shall be reviewed and approved by Department of Public Works (DPW) and the Planning Department, and a sheet documenting the required improvements shall be added to the plan set. In addition, notes shall be added to Sheets C-1 and C-2 regarding ongoing maintenance of sight lines.*
9. *The following items are subject to review and approval by the Department of Public Works:*
  - a) *The sanitary pump station calculations;*
  - b) *The sewer design and sewer permit;*
  - c) *The design of the driveway culvert;*
  - d) *The drainage analysis of runoff towards the neighbors’ property.*
10. *The applicant shall prepare an easement plan showing the initial location of the public bicycle/pedestrian connection between Banfield Road and the land to be acquired by the City from the Foundation for Seacoast Health, and shall execute an easement deed to the City. The City will hold the easement deed and will not record it provided that an alternative location for the easement is designed in consultation with the Planning Department and conveyed to the City prior to issuance of a Certificate of Occupancy as described in stipulation #13 below.*

11. *The Site Plans (Sheets GN-1, C-1 and C-2), Landscape Plans (Sheets LS-101 and L-501) and easement plan and deed for the sewer line shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

**Conditions Subsequent (to be completed prior to the issuance of a Certificate of Occupancy):**

12. *The off-site roadway improvements to Banfield Road shall be completed as approved by the City.*
13. *The applicant, in consultation with the Planning Department, shall design the final location of the public pedestrian/bicycle connection between Banfield Road and the land to be acquired by the City from the Foundation for Seacoast Health. The applicant shall provide an easement to the City for public (non-vehicular) access across the site to implement the proposed path, and shall prepare a deed and plan for the easement, which shall be recorded at the Registry of Deeds by the City. Upon recording of the final easement, the initial easement described in stipulation #10 will be released.*

*The motion passed unanimously.*

E. The application of **Old Tex Mex, LLC, Owner**, for property located at **3510 Lafayette Road**, requesting Site Plan Approval for the conversion of an existing office/warehouse building to 24 dwelling units with a footprint of 13,250 ± s.f. and gross floor area of 27,135 ± s.f., and to retain the existing single-family dwelling with a footprint of 1,087 ± s.f. and gross floor area of 2,174 ± s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 297 as Lot 8 and lies within the Gateway (GW) District.

**The Chair read the notice into the record.**

**SPEAKING TO THE APPLICATION**

Mr. John Lorden, MSC Engineers, provided a brief overview of the project that proposes to convert existing building into 24 residential units and removing portions of pavement. Overall, the project reduces impervious surface by 5,600 s.f. New sidewalks, benches, bike racks, rain gardens will be added to the site. Existing water line will be widened to improve the flow. New lighting and landscaping will be added in the back of the site.

Ms. Colbert Puff asked how the two workforce units were incorporated into the plan. Mr. Loughlin noted that they will be rental units and are open to programming it anyway the City prefers.

Ms. Colbert Puff identified various parts of the landscaping plan requiring further clarity and Mr. Lorden replied that they will be addressed.

Mr. Gamester asked if any precautions can be introduced with the rain garden located adjacent to the dumpsters. Mr. Lorden replied that there aren't any precautions that can be incorporated besides maintenance. Debris may fall out of the dumpster and the area will benefit from those rain gardens.

Mr. Taintor noted that a wetland scientist stamp was not included and a discrepancy between the renderings of the landscaping and site plan. Mr. Michael Keane, Michael J. Keane Architects, clarified that the landscaping shown in the renderings includes the existing mature landscaping.



Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise; the Chair closed the public hearing.

**DISCUSSION AND DECISION OF THE BOARD**

*Ms. Colbert Puff moved to grant Site Plan Approval subject to the following stipulations:*

- 1. A workforce housing covenant shall be provided for review and approval by the Legal Department.*
- 2. The Existing Conditions Plan shall be stamped by a NH licensed wetland scientist.*
- 3. The Site Plan, Landscape Plans and workforce housing covenants shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

*Seconded by Councilor Perkins. The motion passed unanimously.*

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F. The application of **Mark McNally, Owner**, for property located at **21 Brewster Street**, requesting Site Plan Approval for the conversion of a former boarding house to 6 dwelling units with a footprint of 4,160 ± s.f. and gross floor area of 11,742 ± s.f., and the construction of a 6-bay attached garage with a footprint of 1,404 ± s.f. with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 138 as Lot 11 and lies within the General Residence C (GRC) District.

*At the applicant's request, Mr. Gamester moved to postpone the matter to the April 20, 2017 meeting, seconded by Ms. Colbert Puff. The motion passed unanimously.*

**VI. ADJOURNMENT**

*It was moved, seconded, and passed unanimously to adjourn the meeting at 9:18 p.m.*

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Respectfully Submitted,

Marissa Day  
Acting Secretary for the Planning Board

These minutes were approved at the April 27, 2017 Planning Board Meeting.