

MINUTES

PLANNING BOARD PORTSMOUTH, NEW HAMPSHIRE

EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 PM

MAY 18, 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, Jeffrey Kisiel; and Jane Begala, Alternate;

ALSO PRESENT: Juliet T. H. Walker, Planning Director

MEMBERS ABSENT: Jay Leduc and Corey Clark, Alternate

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I. APPROVAL OF MINUTES

- A. Approval of Minutes from the April 20, 2017 Planning Board Meeting;
- B. Approval of Minutes from the April 27, 2017 Planning Board Meeting.

It was moved, seconded, and passed unanimously to postpone approval of both sets of minutes until the June 15, 2017 Planning Board Meeting.

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II. DETERMINATIONS OF COMPLETENESS

A. Site Plan Review:

- 1. The application of **S & G Realty, Owner**, for property located at **Chevrolet Avenue**, requesting Site Plan Approval

Vice Chairman Moreau moved to determine that the application for Site Plan approval is complete according to the Site Plan Regulations and to accept it for consideration, seconded by Mr. Gamester. The motion passed unanimously.

- 2. The application of **Borthwick Forest, LLC, and KS Borthwick, LLC, Owners**, and **Borthwick Forest, LLC, Applicant**, for property located **on proposed subdivision road to be created off Borthwick Avenue and off WBBX Road**, requesting Site Plan Approval

Vice Chairman Moreau moved to determine that the application for Site Plan approval is complete according to the Site Plan Regulations and to accept it for consideration, seconded by Mr. Gamester. The motion passed unanimously.

B. Subdivision:

1. The application of **Borthwick Forest, LLC, KS Borthwick, LLC, and HCA Realty, Inc., Owners, and Borthwick Forest, LLC, Applicant**, for property located **off Borthwick Avenue and WBBX Road**, requesting Preliminary and Final Subdivision Approval

Vice Chairman Moreau moved to determine that the application for subdivision approval is complete according to the Subdivision Rules and Regulations and to accept it for consideration, seconded by Mr. Gamester. The motion passed unanimously.

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III. PUBLIC HEARINGS – OLD 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. The application of **Peter Fregeau and Westwind Townhomes of Portsmouth Condominium Association, Owners**, for property located at **1177 and 1179 Sagamore Avenue**, requesting Site Plan Approval for demolition of an existing structure and the construction of three new condominium dwelling units (two separate building, seven total units) with related paving, lighting, utilities, landscaping, drainage, and associated site improvements. Said property is shown on Assessor Map 224 as Lots 12 and 13 and lies within the Mixed Residential Office (MRO) District. (The applicant has filed a notice of voluntary lot merger to combine the two lots into a single lot.) (This application was postponed at the April 27, 2017 Planning Board Meeting).

SPEAKING TO THE APPLICATION

Mr. Peter Fregeau, 1177 Sagamore Avenue Unit 2, provided a brief overview of the plan. He addressed some of the previous issues regarding landscaping, tree removal, and blasting. The landscaping will be consistent with what exists at 1177 Sagamore Avenue. There are three significant oak trees that lie on the property boundary line. He described the specific locations and justification for removing those trees. Several trees will be planted across the property and he explained what types. Blasting is the most beneficial way to remove the outcropping between the two structures. It should take approximately four days to remove the ledge and refill in other areas of the property. A screening fence along Sagamore Ave and retaining wall will be added. He described the type of plantings and fill type that will be used around the fence.

Vice Chairman Moreau asked whether the fence will be located inside or outside the retaining wall. Mr. Fregeau explained why locating the fence outside the retaining wall would not be feasible. He noted that the fence would be visible from the street. Mr. John Chagnon, Ambit Engineering, clarified that the fence is on top of the retaining wall to provide protection from people going over the wall. Ms. Colbert-Puff asked whether the corner could be a natural barrier rather than a fenced corner. Mr. Fregeau noted the natural plantings have not done well in that area because of their proximity to the road. Ms. Colbert-Puff suggested and identified what portion of the fence would be plantings.

Ms. Begala was concerned the proposed plan results in a lack of mature trees. Mr. Fregeau noted that one of the trees to be removed is hanging over the abutter's property and the other large oak is on a ledge. Mr. Chagnon noted the additional proposed plantings at the foundation. He noted there are seven standalone trees; however, the site is not wooded. Mr. Fregeau reminded that two of the three existing trees need to be removed and there is a net increase of plantings.

PUBLIC HEARING

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

*Ms. Colbert-Puff moved to **grant** Site Plan Approval, seconded by Vice Chairman Moreau, with the following stipulations:*

Conditions Precedent (to be completed prior to the recording of the site plan)

- 1. The applicant shall record a notice of voluntary lot merger, executed by the Planning Director.*
- 2. The final sidewalk and drainage easement plans and deeds shall be reviewed and approved by the Planning and Legal Departments.*
- 3. The applicant shall secure all necessary easements from the abutting property owner for construction of the sidewalk to the south of the driveway.*
- 4. That either arborvitae, or other densely planted shrubbery, shall be planted in place of the fence extending along Sagamore Avenue and for 40' along the southern lot.*

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

- 1. The site plan, landscape plan, and easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

The motion passed unanimously.

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B. The application of 215 Commerce Way, LLC and Moray, LLC, Owners, for property located at **215 and 235 Commerce Way**, requesting amended Site Plan Approval to construct a 66,000 s.f., 3-story office building, with a footprint of 22,000 ± s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 213 as Lot 11 and Assessor Map 216 as Lot 1-8A and 1-8B and lies within the Office Research District. (This application was postponed at the April 27, 2017 Planning Board Meeting).

SPEAKING TO THE APPLICATION

Mr. Patrick Crimmins, Tighe & Bond, stated the approved project consisted of three construction phases and the applicant requests to amend the plan to two phases. There would be no change to phase one. Phase two originally included the construction of a four-story office building and phase three included expanding the footprint of the office building to include a parking deck. The requested

amendment proposes a three-story office building and smaller building footprint with no parking deck. This amendment reduces the traffic impact and amount of impervious area. The stormwater management design remains unchanged and changes to utilities were identified.

PUBLIC HEARING

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

*Vice Chairman Moreau moved to **grant** Site Plan Approval, seconded by Mr. Gamester, with the following stipulations:*

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

- 1. The Site Plan (Sheets C-2A and C-2B) and the Landscape Site Plan (Sheet L-01) shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department.*
- 2. The subdivision plan and deed from PSNH shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department.*
- 3. The applicant shall contribute \$42,000 to the City for reconstruction of the sidewalk on Portsmouth Boulevard between Commerce Way and Market Street, and \$6,900 toward traffic and pedestrian signal upgrades at the intersection of Market Street and Portsmouth Boulevard.*
- 4. In lieu of requiring a separate water service to the property at 215 Commerce Way, the property owner of 195 Commerce Way shall be responsible for payment of water and sewer fees for both 195 and 215 Commerce Way until such time title to either property is transferred.*
- 5. A recorded deed restriction shall be placed on both 195 and 215 Commerce Way requiring that a separate water service from the water main in Commerce Way directly to the building at 215 Commerce Way shall be installed upon title transfer of either 195 or 215 Commerce Way.*
- 6. As consideration for foregoing immediate installation of a water service to 215 Commerce Way, the property owner shall pay the sum of \$18,653.14, which covers the cost incurred by the City to provide water service.*
- 7. The applicant shall videotape construction routes to the project prior to the initiation of site work, and shall be responsible for repairing any damage during construction. The site plan security shall be sufficient to cover any such repair.*

The motion passed unanimously.

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. The application of **Paul and Diane Messier, Owners**, for property located at **171 Walker Bungalow Road**, requesting Conditional Use Permit approval to create a one story, 320 \pm s.f. attached accessory dwelling unit, with associated paving, lighting, and utilities. Said property is shown on Assessor Map 202 as Lot 8 and lies within the Single Residence B (SRB) District.

SPEAKING TO THE APPLICATION

Mr. Paul Messier, 171 Walker Bungalow Road, noted they plan to live in the home for several years and want the accessory dwelling unit for future use.

PUBLIC HEARING

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

*Vice Chairman Moreau moved to **grant** Conditional Use Permit approval, seconded by Mr. Gamester, with the following stipulations:*

- 1. In accordance with Sec. 10.814.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.*

The motion passed unanimously.

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B. The application of **Joseph and Ellen Yarborough, Owners**, for property located at **746 Middle Road**, requesting Conditional Use Permit approval to create a two-bedroom, 750 \pm s.f. detached accessory dwelling unit, with associated paving, lighting, and utilities. Said property is shown on Assessor Map 232 as Lot 49 and lies within the Single Residence B (SRB) District.

Ms. Ellen Yarborough, 746 Middle Road, explained this is intended to be a long-term home.

Ms. Colbert-Puff asked whether a gable-fronted style was considered. Mr. Yarborough explained why the side-gabled style was chosen and noted that other homes in the neighborhood are side-gabled. Ms. Colbert-Puff asked if they considered locating the ADU behind the house. Mr. Yarborough replied the large apple tree in the rear would have to be removed in that situation. Also, there is a shallow grade in the backyard that would create a sewer line issue. The proposed location creates a buffer between the road and backyard.

PUBLIC HEARING

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

The Board commented on the architectural design of the accessory dwelling unit.

*Vice Chairman Moreau moved to **grant** Conditional Use Permit approval, seconded by Councilor Perkins, with the following stipulation:*

- 1. In accordance with Sec. 10.814.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.*

The motion passed unanimously.

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C. The application of **Swirly Girl II, LLC, Owner**, for property located at **244 South Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to convert a three-unit residential building to a two-unit residential building, construct a 27' high, 22' x 30' addition, a 10' high, 7' x 17 addition, a 6' x 12.5' deck, the addition of 581 \pm s.f. of pervious driveway and stormwater management structures, with 1,091 \pm s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 111 as Lot 3 and lies within the Single Residence B (SRB) District and the Historic District.

*Vice Chairman Moreau moved to **postpone** this application to the June 15, 2017 Planning Board meeting, seconded by Councilor Perkins. The motion passed unanimously.*

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D. The application of **Five Hundred Five Lafayette Road, LLC, Owner**, and **Lens Doctors, Applicant**, for property located at **605 Lafayette Road**, requesting Site Plan Approval for the demolition of the existing building and the construction of a proposed 2-story office building, with a footprint of 7,000 \pm s.f. and gross floor area of 14,000 \pm s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor Map 229 as Lot 9 and lies within the Gateway (GW) District.

*Vice Chairman Moreau moved to **postpone** this application to the June 15, 2017 Planning Board meeting, seconded by Councilor Perkins. The motion passed unanimously.*

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E. The application of **Pauline M. Dowd, Owner**, and **Tuck Realty Corporation, Applicant**, for property located at **288 Peverly Hill Road**, requesting Site Plan Approval for the demolition of an existing residence and the construction of a proposed Planned Unit Development (PUD) consisting of two 2 ½ story buildings, with five units in "Building A" with a footprint of 5,200 \pm s.f. and gross floor area of 13,230 \pm s.f., and four units in "Building B" with a footprint of 4,160 \pm s.f. and gross floor area of 10,504 \pm s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 255 as Lot 8 and lies within the Single Residence B (SRB) District.

*Vice Chairman Moreau moved to **postpone** this application to the June 15, 2017 Planning Board meeting, seconded by Councilor Perkins. The motion passed unanimously.*

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F. The application of **S & G Realty, Owner**, for property located at **Chevrolet Avenue**, requesting Site Plan Approval for demolition of the existing buildings and the construction of a proposed 3 unit, 3-story residential development, with a footprint of 2,426 s.f. ± with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 147 as Lot 30 and lies within the General Residence C (GRC) District.

Mr. Gamester moved to hear both Item A under City Councilor Referrals/Requests and Item F under New Business together and voted on separately, seconded by Vice Chairman Moreau. The motion passed unanimously.

SPEAKING TO THE APPLICATION

Mr. Bernie Pelech, described the boundary line agreement. It is the edge of pavement of Chevrolet Ave and they will give the City a 10' easement for utilities. He reviewed the site plan application and noted the land use boards that have voted favorably.

Mr. John Chagnon, Ambit Engineering, explained the two garages and current sewer line will be removed. Part of the proposal is to abandon the sewer line and create a new line at the Friend St property in a dedicated easement. Each unit has one parking space inside and room for another space in front of the garage. A variance was obtained for stacked parking. The applicant is agreeable to the Technical Advisory Committee stipulations for approval. Mr. Pelech wrote to the abutters on behalf of S & G Realty offering four different options for removing and replacing their fence to comply with the Technical Advisory Committee recommendations.

Ms. Colbert-Puff asked how many arborvitaes will be planted and Mr. Chagnon replied only three.

PUBLIC HEARING

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

Councilor Perkins moved to recommend that the City Council approve the Boundary Line Agreement and Easement request from S & G Realty, seconded by Mr. Gamester. The motion passed unanimously.

Mr. Gamester to grant amended Site Plan Approval as requested, seconded by Ms. Colbert-Puff, with the following stipulations:

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

- 1. The Site Layout and Landscaping Plan (Sheet C2) shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department.*

2. *After approval by the City Council, the Boundary Line Agreement and Easement Deed shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department.*
3. *The applicant shall work with the abutter to rebuild the fence along the property line and in doing so ensure that the site distance is not impeded.*

The motion passed unanimously.

Vice Chairman Moreau moved to discuss Items G, H, and I under Public Hearings – New Business together and voted on separately, seconded by Councilor Perkins. The motion passed unanimously.

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G. The application of **Borthwick Forest, LLC, KS Borthwick, LLC, and HCA Realty, Inc., Owners, and Borthwick Forest, LLC, Applicant**, for property located **off Borthwick Avenue and WBBX Road**, requesting Preliminary and Final Subdivision Approval to combine four lots into one lot and create a new public right-of-way as follows:

1. To consolidate the following four lots:
 - a. Lot 25 as shown on Assessor Map 241 having an area of 22.807 ± acres,
 - b. Lot 26 as shown on Assessor Map 241 having an area of 4.927 ± acres,
 - c. Lot 113 as shown on Assessor Map 233 having an area of 13.815 ± acres,
 - d. Lot 112 as shown on Assessor Map 233 having an area of 0.732 ± acre;
 into a single lot containing 42.281 acres; and
2. To create a public right-of-way from Borthwick Avenue to the consolidated lot, as follows:
 - a. Following a reserved right-of-way across land of HCA Realty, Inc. (Assessors Map 234 Lot 7-4A), having an area of 44,032 ± sq. ft.,
 - b. Following a right-of-way across land of Boston and Maine Corporation (Assessors Map 165 Lot 14), having an area of 5,457 ± sq. ft., and
 - c. Extending into the consolidated lot with an area of 31,657 ± sq. ft. (0.727 ± acre), thereby reducing the area of the consolidated lot to 41.544 ± acres;
 said proposed public right-of-way having a total area of 81,146 ± sq. ft. (1.863 ± acre) and total length of approximately 1,000 feet (0.2 mile).

Said properties lie within the Office Research (OR) district where the minimum lot area is 3 acres and the minimum continuous street frontage is 300 feet.

H. The application of **Borthwick Forest, LLC, Owner, Boston and Maine Corp, Owner, and HCA Realty, Inc., Owner**, for properties located off **Borthwick Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work including a 60' wide road right-of-way with a 28' wide road and 10' paved multiuse path including an at grade railroad crossing and new 50' radius cul-de-sac and a new 50,000 s.f. building. Work within the inland wetland buffer includes construction and grading for portions of a new roadway, railroad crossing, multiuse path, drainage structures and the restoration of WBBX Road, with 18,100 ± s.f. of temporary impact and 13,500 ± s.f. of permanent impact to the inland wetland buffer. Said properties are shown on Assessor Map 233 as Lot 113, Assessor Map 165, as Lot 14, and Assessor Map 234, as Lot 7-4A and lie within the Office Research (OR) District.

I. The application of **Borthwick Forest, LLC, and KS Borthwick, LLC, Owners, and Borthwick Forest, LLC, Applicant**, for property located **on proposed subdivision road to be created off Borthwick Avenue and off WBBX Road**, requesting Site Plan Approval to construct a 50,000 s.f. office building with related paving, lighting, utilities, landscaping, drainage, fire access drive and associated site improvements. Said property is shown on Assessor Map 241 as Lots 25 & 26 and Assessor Map 233 as Lots 112, 113, & 114 and lies within the Office Research (OR) and the Single Residence B (SRB) Districts.

SPEAKING TO THE APPLICATION

Mr. Robert Ciandella, representing the applicant, noted the Planning Board denied a previous proposed subdivision plan with a thru road about one year ago. The applicant's appeal for that decision is pending with the Supreme Court and may be withdrawn depending on the current proposal. He provided a brief overview of the current proposal. He stated which land use boards have reviewed the proposed project.

Mr. Patrick Crimmins, Tighe & Bond, provided a brief presentation, including the following statements:

- Additional materials were submitted including the following: a waiver request for the road length; a fire truck turning template; a drainage analysis memorandum; conditional use permit, the wildlife report; supplemental information; peer review; and documents related to the traffic study.
- The parcels to be merged in the subdivision were reviewed, which results in a 41.5 acre lot. The proposed right-of-way and easements were shown and the proposed lot lines.
- The total road length is 1,000 ft with one lane entering and two lanes exiting onto Borthwick Ave. The bicycle and pedestrian access would tie in with the future rail to trail with a 10' wide multi-use path. Buffer impacts cannot be avoided because of the railroad easement. The cul-de-sac is the minimum width per regulations and the center will be landscaped. The emergency access road in the 30' wide easement would be used for bicycle and pedestrian access. All parking and dimensional requirements would be met. Fire trucks can access the site through the cul-de-sac without affecting the center of the landscaped area. Bike storage will be provided.
- The roadway will have three treatment swales. One swale falls within the reserved right-of-way and the other two swales are located on the applicant's property. Drainage easements and the gravel wetland design were presented.
- A connection to the existing sewer main is proposed. There will be no overhead utilities and all utilities constructed below the multi-use path. The lightpoles and bases will be provided by applicant and the fixtures provided by the City.
- He highlighted various additions to the plan, including: a strip of riverrock along the building; a 20' water line easement; additional landscaping surrounding the parking; and details regarding the retaining wall and guardrail.

Mr. Jason Plourd, BETA Group, reviewed the traffic study and impact findings. He explained the estimated costs and implications in order to straighten Borthwick Ave and to reconfigure the stop sign and crosswalk at Greenland Road and Rte. 33 area.

Mr. Crimmins reviewed the conditional use permit and restoration plans. The existing road would be removed and the area would be regraded and filled with restoration seed mix.

Mr. Jim Gove, Gove Environmental, provided a brief timeline of events regarding the assessment of wildlife activity on the site. In early 2017, a determination was made that no wildlife corridor exists from the southern to northern area of the wetland. The southern wetland is the most valuable wetland on the site and it is part of the northern part of the prime wetland. The proposed tree plantings consist of a staggered pattern of white pines.

Mr. Ciandella reviewed the conditions of approval.

Vice Chairman Moreau asked if there are plans to develop the area south of the building beyond the cul-de-sac. Mr. Ciandella stated there are currently no such plans.

Ms. Begala asked how much impervious surface is proposed. Mr. Crimmins replied with those calculations.

In response to Mr. Gamester, Mr. Crimmins confirmed that the City will be able to operate the emergency access road gate.

Ms. Begala asked to what extent the buffer plantings will mitigate noise disturbance to abutting neighborhoods. Mr. Crimmins explained the distance of the proposed buildings and plantings and how that will provide a noise buffer.

Ms. Begala asked how the emergency access road will intersect with the bicycle and pedestrian access and Mr. Crimmins provided a brief explanation in response. Ms. Walker noted the Fire Department was amenable to the emergency access road, even though it is not required.

Ms. Begala asked if there is any concern for bicyclists and pedestrians crossing the railroad. Mr. Crimmins explained how the crossing will be signed and striped. He noted that further details will be coordinated with Pan Am.

In response to Ms. Begala, Mr. Crimmins explained the DES permit process and the timing of that with respect to the project construction.

Ms. Begala asked for further explanation of the wildlife migration patterns. Mr. Gove provided an overview of the wildlife activities to explain that most of the wildlife patterns funnel into the corner of the site.

PUBLIC HEARING

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

Mr. Paul Mannle, 1490 Islington Street, made a brief statement.

Mr. Ralph DiBernardo, 1374 Islington Street, expressed concerns for an emergency access road. He encouraged consideration for expected construction on Islington Street and signaling the at grade railroad crossing.

Chairman Legg asked for second time speakers wishing to speak to, for, or against the application.

Mr. Mannle provided and read a written statement to the Board. He stated concerns regarding impact on the wildlife corridor. He suggested alternatives to the proposed emergency access road and spoke in opposition of the application.

Mr. William Fales, 541 Middle Road, spoke in support of having no access off Islington Street.

Mr. Rick Becksted, 1395 Islington St #1, spoke in opposition of the application. He expressed concerns regarding the impact on wildlife and thought the applicant should be financially responsible for straightening Borthwick Ave and any other traffic configuration changes.

Ms. Ronda Fales, 541 Middle Road, stated the amount of traffic that currently exists in the area and was concerned that the emergency access road may turn into a thru road in the future.

Mr. Richard Rash, 1507 Islington Street, expressed concerns for the emergency access road.

Ms. Margaret Stiles, 1527 Islington Street, expressed concerns that other types of rodent and animals will flood their homes during construction.

Mr. Jason Stiles, 1527 Islington Street, spoke about the amount of wildlife that does occur on the site. He expressed concerns for creating the emergency access road.

Ms. Julie Gilson, 304 Melbourne Street, spoke about the amount of wildlife she has observed on the site.

Mr. Ciandella stated there is no access from Islington Street and there is no wildlife corridor. He cited the findings in past reports and explained the purpose of the zoning district. The emergency access road serves a safety purpose. He noted that a deed restriction on the property is legally wrong and discouraged that consideration.

Chairman Legg asked for third time speakers wishing to speak to, for, or against the application.

Mr. Becksted questioned the difference between certain deed restrictions. He expressed concern for the vicinity to the uncontaminated well and for the lack of public input involved in the planning process.

Mr. Mannle spoke about the wildlife corridor that exists. He felt there are alternative ways for the emergency access road. He felt the property has been undervalued and provided details to support that claim.

Mr. Ciandella stated the assessor values have been reviewed by the Assessor's office. He reminded about the purpose of the zoning district and stated that the cul-de-sac is not a legal basis for speculating hypothetical traffic impacts and future development.

Seeing no one else rise; the Chair closed the public hearing.

DISCUSSION AND DECISION

*Ms. Colbert Puff moved to **grant** the Conditional Use Permit, seconded by Vice Chairman Moreau, with the following stipulations:*

- 1. The Restoration Plan shall specify that any mulch used shall be untreated and shall include a minimum number and size of plants so that the restoration work can be accurately completed by the restoration contractor.*
- 2. A note shall be added to the recorded Site Plans that the property owner shall provide an as-built restoration plan and follow-up monitoring one and three years after the restoration work has been completed to insure a survival rate of at least 80% of the new plantings. The monitoring plan shall be submitted to the Planning Department and shall include a requirement that any new invasive species found in the restoration area during the site monitoring be mechanically removed.*
- 3. The applicant shall provide a deed restriction or protective covenant providing additional protections for land located within the 100-foot wetland buffer including, at a minimum, buffer areas around the prime wetlands area and area in the southern portion of the property where the Blanding Turtle Habitat has been identified. This protective covenant shall be reviewed and approved by the Planning and Legal Departments.*
- 4. A note shall be added to the recorded Site Plans that ATV use shall be prohibited in the described Blanding Turtle nesting area and the impacted area shall be signed accordingly by the property owner.*
- 5. Plans shall be amended to accurately define the prime wetland area on the southern portion of the site.*

Vice Chairman Moreau stated the overall plan compared to previously proposed plans is an improvement for the wetland buffer.

The motion passed unanimously.

*Due to the specific circumstances of the proposed subdivision location in relation to access off of Borthwick Ave and the location of the railroad which bisects the property, and considering that the proposed subdivision road will properly carry out the spirit and intent of the regulations, Mr. Gamester moved to **grant** a waiver to Section VI 3(I) to allow a cul-de- sac subdivision road that is greater than 500 feet in length, seconded by Vice Chairman Moreau. The motion passed unanimously.*

*Vice Chairman Moreau moved to **grant** Preliminary and Final Subdivison Approval, seconded by Councilor Perkins, with the following stipulations:*

- 1. The applicant shall work with DPW to locate drop inlet / catch basins or other drainage as the Department finds appropriate near the rail crossing.*
- 2. The applicant shall coordinate with DPW and PanAm to refine the roadway design including geotechnical design, cross sections, drainage features, and utility locations with final design being subject to final approval by DPW.*
- 3. Any easements required for roadway and drainage maintenance and management will be subject to final review and approval by the City.*

4. *The pavement details shall include addition of at least 3" of 'fine' pavement binder for the roadway's first course of pavement to accommodate construction traffic.*
5. *The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of the road.*
6. *Lot numbers as determined by the Assessor shall be added to the final plat.*
7. *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
8. *GIS data shall be provided to the Department of Public Works in the form as required by the City.*
9. *The final plat and all easement plans and deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

Vice Chairman Moreau acknowledged the concerns raised by the public and suggested making the emergency access road the width of a multi-use path. The Board discussed the emergency access road and that it was not a requirement from the Fire Department.

The motion was amended to add the following stipulation:

10. *The 20' emergency access road from Islington Street to the cul-de-sac shall be replaced with a 10' wide multi-use path.*

Ms. Begala asked whether or not ATV use can be prohibited on the multi-use path. Ms. Walker was unsure what types of rules or regulations exist for multi-use paths with regard to restricting ATV use.

The motion passed unanimously.

Vice Chairman Moreau to **grant** Site Plan Approval with the following stipulations:

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

1. *To address the recommended traffic mitigation measures at the intersection of Route 33/ Borthwick Avenue and pedestrian safety improvements at Greenland, Sherburne and Borthwick Avenue, the applicant shall provide a meaningful cost-sharing contribution, to be determined in consultation with the DPW and Planning Department, to advance the design development process for long-term intersection improvements, or for DPW's use to investigate the feasibility of realigning Borthwick Avenue as it approaches Route 33.*
2. *The Site Plans (C 102.1 and C 102.2), General Notes Sheets (G-101.1 and G-101.2), and Landscape Plans (C-105.1 and C-105.2) shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department and shall include the following notes:*
 1. *The Site Plan shall be recorded in the Rockingham County Registry of Deeds.*
 2. *All improvements shown on the Site 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 Site 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."*
3. The applicant shall review the proposed best management practices of the mulch in landscaped areas with the Fire Department to confirm that potential fire hazards have been adequately addressed.

Conditions Subsequent (to be completed prior to the final release of site plan security):

1. *The property owner shall prepare a monitoring report for the intersection of Borthwick Avenue with Greenland Road and Sherburne Road within one year of the occupation of the proposed office building.*

Ms. Colbert Puff noted a typographical error in the landscaping plan that should be updated prior to recording of the plan.

The motion passed unanimously.

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V. CITY COUNCIL REFERRALS/REQUESTS

*The Board's action in these matters has been deemed to be legislative 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 from S & G Realty for a Boundary Line Adjustment and Easement.

The Board took action on this item under Item F under New Business – Public Hearings.

- B. Request from David Calkins for the City Council to authorize the issuance of a building permit for property off of Swett Avenue, Moffat Street and Woodworth Avenue.

Mr. Gamester recused himself from the application.

Mr. Derek Durbin, representing the applicant, provided a brief history of the dedication of Moffat Street and the subdivision plan. He explained what guidance the applicant received in order to attain the building permit.

Vice Chairman Moreau asked if the recommendation is subject to further approval. Ms. Walker concurred and provided further clarification of the process.

Mr. Durbin clarified the two house lots would have private easement agreements off a private way.

Councilor Perkins moved to recommend that the City Council authorize the issuance of a building permit subject to all land use approvals, seconded by Vice Chairman Moreau.

Ms. Walker stated the recommendation is to authorize a building permit and that any development of lots is contingent upon appropriate land use approvals. She added that it is still not fully defined as to what that private street will be.

Ms. Colbert-Puff noted that the Board will want to know who has ownership of the land. Mr. Durbin felt the RSA did not apply to the applicant's situation. Councilor Perkins suggested to consider providing information to the Council in regard to setting a precedent.

Ms. Begala asked if there are alternative locations for access. Mr. Durbin replied that the conceptual plan presented was thoroughly reviewed through the Zoning Board of Adjustment process.

The motion passed unanimously.

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VI. PRELIMINARY CONCEPTUAL CONSULTATION

A. The request of **The Provident Bank, Owner**, for property located at **25 Maplewood Avenue**, for Preliminary Conceptual Consultation, to construct a four story mixed use building, including 1st floor commercial/retail/parking, 2nd floor offices, and 3rd and 4th floor residential. Said property is shown on Assessor Map 126 as Lot 2, and lies within Character District 5 (CD-5), the Downtown Overlay District (DOD) and the Historic District.

Mr. Eric Weinrieb, Altus Engineering, provided a brief overview of the existing conditions. He noted a survey was conducted beyond the property lines to understand surrounding utilities. The proposed plan is a mixed use development with 1,000 s.f. for retail, bank, commercial space, and parking garage area. The third and fourth properties will be residential use. There are grading change challenges on the site.

Vice Chairman Moreau asked underground parking was considered to create a more active, pedestrian-oriented streetscape along Maplewood Ave. Mr. Weinrieb described the elevation changes and acknowledged the intent to make Maplewood more pedestrian friendly.

Ms. Begala asked to describe the building design and Mr. Steve Wilson provided a brief description.

Chairman Legg felt the proposed development on the property will be an opportunity to model what the Worth Lot and Vaughan Mall area could look like in the future.

In response to Mr. Gamester, Mr. Weinrieb noted the 20 parking spaces will be private.

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VII. OTHER BUSINESS

A. Request that the City accept a sewer line easement from Charles Schultz and Katherine Cahill of 240 Myrtle Avenue and from David Lear of 260 Myrtle Avenue.

Mr. Moore moved to postpone the matter indefinitely, seconded by Mr. Gamester. The motion passed unanimously.

B. Request of Richard Fusegni, for property located at 201 Kearsarge Way, for a six month extension of Final Subdivision approval which was granted by the Planning Board on June 16, 2016. A first six month extension was granted by the Planning Director to expire on June 16, 2017.

Mr. Gamester moved to grant a second six-month extension of Subdivision approval, to expire on December 16, 2017, seconded by Vice Chairman Moreau. The motion passed unanimously.

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VIII. ADJOURNMENT

It was moved, seconded, and passed unanimously to adjourn the meeting at 11:05 pm.

Respectfully submitted,

Marissa Day
Recording Secretary to the Planning Board

These minutes were approved at the June 15, 2017 Planning Board Meeting.