

**ACTION SHEET**

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

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

**6:15 P.M.**

**JUNE 14, 2017**

**MEMBERS PRESENT:** Dexter Legg, Chairman; David Moore, Assistant City Manager; Colby Gamester; Jay Leduc; Jody Record; and Jane Begala, Alternate and Corey Clark, Alternate

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

**MEMBERS ABSENT:** Elizabeth Moreau, Vice Chairman; Rebecca Perkins, City Council Representative; Nancy Colbert-Puff, Deputy City Manager; and Jeffrey Kisiel

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**6:30 PM WORK SESSION – PLANNING BOARD PROCEDURES**

A Work Session was held with the Planning Board members to discuss Planning Board procedures.

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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.
- C. Approval of Minutes from the May 18, 2017 Planning Board Meeting.

Minutes from the April 20, 2017, April 27, 2017 and May 18, 2017 Planning Board meetings were approved.

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**II. DETERMINATIONS OF COMPLETENESS**

**A. SITE REVIEW**

- 1. 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.

Voted to determine that the application for Site Plan approval is complete according to the Site Plan Regulations and to accept it for consideration.

- 2. The application of **Pauline M. Dowd, Owner, and Tuck Realty Corporation, Applicant**, for property located at **288 Peverly Hill Road**, requesting Site Plan Approval.

Voted to determine that the application for Site Plan approval is complete according to the Site Plan Regulations and to accept it for consideration.

3. The application of **299 Vaughan Street, LLC, c/o Cathartes Private Investments, Owner**, for property located at **299 Vaughan Street**, and **Sanel Realty Company, Inc, Owner**, for property located at **225 Vaughan Street**, requesting Site Plan Approval.

Voted to determine that the application for Site Plan approval is complete according to the Site Plan Regulations and to accept it for consideration.

## B. SUBDIVISION

1. The application of **Elizabeth E. Simpson Revocable Trust, Owner**, for property located at **40 Martine Cottage Road**, and **Carolyn McCombe Revocable Trust of 1998, Elizabeth Barker Berdge Revocable Trust of 1993, and Timothy Barker, Owners**, for property located off **Little Harbor Road**, and requesting Preliminary and Final Subdivision Approval (Lot Line Revision).

Voted to determine that the application for subdivision approval is complete according to the Subdivision Rules and Regulations and to accept it for consideration.

2. The application of **299 Vaughan Street, LLC, Owner**, for property located off **Vaughan Street**, requesting Preliminary and Final Subdivision Approval

Voted to determine that the application for subdivision approval is complete according to the Subdivision Rules and Regulations and to accept it for consideration.

## 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 **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 ± s.f. of pervious driveway and stormwater management structures, with 1,091 ± 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. (This application was postponed at the May 18, 2017 Planning Board Meeting).

Voted to **grant** (6-1) Conditional Use Permit approval with the following stipulations:

- 1) The stone between the pavers remain pervious and that this detail be included in the maintenance plan.

- 2) The maintenance plan for the catch basins and pervious pavers be recorded at the registry of deeds to insure future property owners maintain the stormwater treatment proposed.
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B. 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. (This application was postponed at the May 18, 2017 Planning Board Meeting).

A. Voted to determine that the application for Site Plan approval is complete according to the Site Plan Regulations and to accept it for consideration.

B. Voted to **grant** Site Plan Approval with the following stipulations:

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

1. A Driveway Entrance Permit approval shall be secured from NHDOT.
2. The applicant shall enter into a Memorandum of Understanding with the City for use of a portion of the property by the City for a laydown area related to the City's upgrades to the municipal sanitary pump station.

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

1. The site plan and landscape plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.
  2. The contractor shall test excavate to locate existing utilities prior to construction. Any design modifications from the approved site plan shall require DPW review and approval and notification to the Planning Department.
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C. 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. (This application was postponed at the May 18, 2017 Planning Board Meeting).

- A. Voted to determine that the application for Site Plan approval is complete according to the Site Plan Regulations and to accept it for consideration.

## B. OS-PUD Conditional Use Permit

1. Voted to find that the application meets the requirements of Section 10.727.31.
2. Voted to grant a conditional use permit (6-1) as presented subject to the following condition:
  - 1) All materials submitted to the Planning Board and representations made at the public hearing for this application shall be deemed conditions of approval and shall be documented in a development agreement entered into and between the applicant and the City, which shall be reviewed and approved by the City Attorney.
  - 2) Measures shall be taken to inform future Condominium owners about the importance of the wetland buffer and the prime wetland area at the rear of the property. This includes putting information in the Condominium documents as wells as marking the boundary of the wetland buffer with markers spaced about 15' apart along the edge to delineate where the wetland buffer begins. In particular, concern is that the future owners may use the wetland buffer as a place to dump leaves, grass clippings and other yard debris. A provision against using the buffer in this manner shall be included in the Condominium documents.

## C. Site Plan Review

Voted to **grant** site plan review approval (6-1) with the following stipulations:

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

1. The detail for the hydrant on Sheet D3 shall be reviewed and approved by DPW.
2. Utility Plan Note 36 shall be revised to read "Final design of water main shall be reviewed and approved by DPW."
3. The blanket easement for maintenance and access to private water lines and shutoffs shall be reviewed and approved by the City's Legal Department.
4. The common open space management plan shall be reviewed and approved by the City's Legal and Planning Departments.
5. The applicant shall coordinate with DPW to add required language to the site plans regarding maintenance of stormwater management systems in perpetuity.
6. The following notes shall be added to the Site Plan:
  1. This Site Plan shall be recorded in the Rockingham County Registry of Deeds.
  2. All improvements shown on this 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.”

7. The following notes shall be added to the Landscape Plan

- “1. The property owner and all future property owners shall be responsible for the maintenance, repair and replacement of all required screening and landscape materials.
2. 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.
3. 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.”

8. The existing fence that runs along the proposed roadway shall remain and a note shall be added to the Site Plan.

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

1. The Site Plan (Sheet C4), Landscape Plan (Sheet L2), easement plans and deeds shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department.

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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. The application of **Ryan A. and Adrienne A. Cress, Owners**, for property located at **185 Edmond Avenue**, and **the City of Portsmouth, Owner**, for property located **off Edmond Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to excavate (8’ x 55’) along the south and west side of the house, remove and replace the existing headwall and failing CMP culvert and install new RCP culvert, with 750 ± s.f. of temporary impact to the wetland buffer. Said properties are shown on Assessor Map 220 as Lots 56 & 79 and lie within the Single Residence B (SRB) and Municipal (M) Districts.

Voted to **postpone** to the July 20, 2017 Planning Board Meeting.

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B. The application of **Pease Development Authority, Owner, and City of Portsmouth, Applicant**, for property located at **135 Corporate Drive**, requesting Conditional Use Permit approval, under Section 304.A.08 of the Pease Land Use Controls, for work within the inland wetland buffer to construct a 74’ 8” X 30’ 8” headworks building at the wastewater treatment facility, consisting of three levels (one above grade level and two below grade levels), with 23,790 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 303 as Lot 6 and lies within the Pease Airport Business Commercial (ABC) District.

Voted to **postpone** to the July 20, 2017 Planning Board Meeting.

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C. The application of **Pease Development Authority, Owner, and the City of Portsmouth, Applicant**, for property located at **135 Corporate Drive**, requesting Site Plan Approval, under Chapter 400 of the Pease Land Use Controls, Site Review Regulations, to construct a 74' 8" X 30' 8" headworks building consisting of three levels (one above grade level and two below grade levels) totaling 2,290  $\pm$  s.f. , with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessors Map 303 as Lot 6, and lies within the Pease Airport, Business, Commercial (ABC) District.

Voted to **postpone** to the July 20, 2017 Planning Board Meeting.

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D. The application of **Society for the Preservation of New England Antiquities of MA, Owner**, for property located at **62 & 76 Northwest Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer consisting of minor grading around the house, a new yard drain system, two new grass swales and a level spreader, with 3,400  $\pm$  s.f. of impact to the wetland buffer. Said properties are shown on Assessor Map 141 as Lot 29 and Assessor Map 122 as Lot 9 and lie within the General Residence A (GRA) District and the Historic District.

Voted to **postpone** to the July 20, 2017 Planning Board Meeting.

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E. The application of **Elizabeth E. Simpson Revocable Trust, Owner**, for property located at **40 Martine Cottage Road**, and **Carolyn McCombe Revocable Trust of 1998, Elizabeth Barker Berdge Revocable Trust of 1993, and Timothy Barker, Owners**, for property located off **Little Harbor Road**, and requesting Preliminary and Final Subdivision Approval (Lot Line Revision) between two lots as follows:

- (1) Map 202, Lot 14 decreasing in area from 7.33  $\pm$  acres to 5.17  $\pm$  acres.
- (2) Map 202, Lot 15 increasing in area from 2.28  $\pm$  acres to 4.44  $\pm$  acres.

Said lots lie within the Rural (R) District where the minimum lot area is 5 acres and there is no continuous street frontage requirement.

- A. Voted to determine that the application for subdivision approval is complete according to the Subdivision Rules and Regulations and to accept it for consideration.
- B. Voted to **grant** Preliminary and Final Subdivision approval with the following stipulations:
  1. Lot numbers as determined by the Assessor shall be added to the final plat.
  2. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
  3. GIS data shall be provided to the Department of Public Works in the form as required by the City.

4. The final plat and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

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F. The application of **Gary and Aerial Sillanpaa, Owners**, for property located at **4 Sylvester Street**, requesting Conditional Use Permit approval to create a two-bedroom 676  $\pm$  s.f. detached accessory dwelling unit on the second story of a garage (to be constructed), with associated paving, lighting, and utilities. Said property is shown on Assessor Map 232 as Lot 36 and lies within the Single Residence B (SRB) District.

Voted to **postpone** to the July 20, 2017 Planning Board Meeting.

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G. The application of **Kelly Property Trust AB, Owner**, for property located at **Oriental Gardens Mobile Home Park off Woodbury Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer consisting of installation of rip rap outlet protection associated with an existing 48" RCP culvert and sewer improvements including removing an existing inoperative pump station, subsurface piping and reconstruction of the sewer system to operate by gravity, with 3,318  $\pm$  s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 215 as Lot 9 and lies within the Office Research (OR) District.

Voted to **grant** Conditional Use Permit approval with the following stipulations:

- 1) The applicant revise the plan to show the updated limits of construction.
  - 2) The applicant add a note to the plan to restore the site with a conservation seed mix where disturbance occurs.
  - 3) Remove the note from the plan calling for trimming and pruning vegetation.
  - 4) The applicant shall provide a revised plan showing the correct limit of construction.
  - 5) The inlet and outlet dimensions on Sheet P2 shall be corrected.
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H. The application of **Christopher and Rachel Delisle, Owners**, for property located at **250 McKinley Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct a rain garden to collect existing sump/gutter runoff, add a soil berm and deep rooted plantings along the rear property line, add a thin layer of loam to lower areas to reduce the pitch of grade from the house to wetland, and raise the soil level at the house foundation, with 250  $\pm$  s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 250 as Lot 117 and lies within the Single Residence B (SRB) District.

Voted to **grant** Conditional Use Permit approval with the following stipulation:

- 1) Any revisions to raingarden plantings shall be reviewed and approved by the City's Environmental Planner.
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I. The application of **Pauline M. Dowd, Owner**, and **Tuck Realty Corporation, Applicant**, for property located at **288 Peverly Hill Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to demolish a shed and remove debris, with  $3,100 \pm$  s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 255 as Lot 8 and lies within the Single Residence A (SRA) District and the Single Residence B (SRB) District.

Voted to **grant** Conditional Use Permit approval as presented.

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J. The application of **299 Vaughan Street, LLC, Owner**, for property located **off Vaughan Street**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into two lots as follows:

- (1) Proposed lot #1 having an area of  $47,776 \pm$  s.f. (1.0 acre) and no continuous street frontage.
- (2) Proposed lot #2 having an area of  $3,947 \pm$  s.f. (0.09 acres) and no continuous street frontage.

Said property is shown on Assessor Map 123 as Lot 15 and lies within Character District 5 (CD5), the North End Incentive Overlay District, the Downtown Overlay District (DOD) and the Historic District, where there is no minimum lot area or continuous street frontage requirement.

- A. Voted to determine that the application for subdivision approval is complete according to the Subdivision Rules and Regulations and to accept it for consideration.
  - B. Voted to grant Preliminary and Final Subdivision approval with the following stipulations:
    1. The lot line along the northeast corner (L9) and the wetlands shall be reconfigured to eliminate the pinchpoint.
    2. Lot numbers as determined by the Assessor shall be added to the final plat.
    3. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
    4. GIS data shall be provided to the Department of Public Works in the form as required by the City.
    5. The final plat and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.
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K. The application of **299 Vaughan Street, LLC, Owner**, for property located at **299 Vaughan Street and property located off Vaughan Street**, and **Sanel Realty Trust Company Inc., Owner**, for property located at **225 Vaughan Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer for the demolition of the existing buildings and for the construction of a 143 guest room hotel, with  $1,970 \pm$  s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 255 as Lot 8 and lies within Character District 5 (CD5), the North End Incentive Overlay District, the Downtown Overlay District (DOD) and the Historic District



Voted to **grant** the Conditional Use Permit approval as presented.

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L The application of **299 Vaughan Street, LLC, c/o Cathartes Private Investments, Owner**, for property located at **299 Vaughan Street**, and **Sanel Realty Company, Inc, Owner**, for property located at **225 Vaughan Street**, requesting Site Plan Approval for demolition of the existing buildings and 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 deeded to the City), 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.

1. Voted to find that the application meets the criteria of Section 10.5A43.43 and to grant approval for a conditional use permit for additional building footprint.
2. Voted to find that the application meets the requirements of the proposed zoning amendment Section 10.5A46.23 and, pending final adoption of that amendment, grant approval for a conditional use permit for the excess community space to be credited toward a future project.
3. Voted to **grant** Site Plan Review approval with the following stipulations:

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

1. The existing sewer to be abandoned shall be shown on the Utility Plan.
2. The street lighting type to be used shall be finalized through consultation with the Planning Department.
3. All easement plans, land swap agreements, and deeds shall be reviewed and finalized by Planning and Legal Department.
4. The applicant shall provide more detail for review and approval by DPW regarding solid waste and recycling generation amounts to back up the size of the containers needed and the frequency (per week) that is intended for trash/recycling pickup.
5. The Site Plan shall include the following notes:
  - “1. This Site Plan shall be recorded in the Rockingham County Registry of Deeds.
  2. All improvements shown on this 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.”
6. The Landscape Plan shall include the following additional notes:
  - “1. The property owner and all future property owners shall be responsible for the maintenance, repair and replacement of all required screening and landscape materials.
  2. 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.
  3. 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 Site Plan (C-102.1) shall be revised to update the zoning table.

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

1. The Site Plan (Sheets 102.1 and 102.3), Landscape Plan (Sheet L2), easement plans and deeds shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department.
2. For the portion of community space on Map 123 Lot 15 to be designed and constructed by the City, the Applicant shall provide to the City all of the preliminary engineering design, surveying, and archeological survey that has been conducted on that property by the applicant to date and shall provide a financial contribution in the amount of \$100,000 for the construction of the community space and \$15,000 to Art Speak for the installation of public art.
3. The terms of the conditional use permit for the banking of the community space per Section 10.5A46.23 shall be documented in a Prospective Development Incentive Agreement (PDIA) to be entered into between the applicant and the Planning Department.
4. The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City’s Legal and Planning Departments.

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

1. For the Green Street sewer replacement project which shall be undertaken by the City, the applicant shall contribute \$50,000, shall provide a biddable plan set to the City by October 1, 2017, and shall work with the DPW to determine project limits and specifications as well as the timing of the installation of the binder overlay for the road.
2. The loading zone shall require Parking & Traffic Safety Committee approval.

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M. Request of Debra Regan to transfer title to half of the “paper street” known as Oak Street that abuts 43 Mangrove Street. (City Council Referral)

Voted to **postpone** to the July 20, 2017 Planning Board Meeting.

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## V. OTHER BUSINESS

A. Request that the City accept a water line easement from Dorado Investments, Inc. in Greenland.

Voted to recommend acceptance of the easement to the City Council.

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## VI. ADJOURNMENT

It was moved, seconded, and passed unanimously to adjourn the meeting at 10:00 p.m.

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Respectfully Submitted,

Jane M. Shouse, Administrative Assistant, Planning Department