

# MINUTES

## PLANNING BOARD PORTSMOUTH, NEW HAMPSHIRE

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

7:00 PM

DECEMBER 21, 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; Jay Leduc; Jody Record; Jeffrey Kisiel; Corey Clark, Alternate; and Jane Begala, Alternate

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

**MEMBERS ABSENT:**

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### I. APPROVAL OF MINUTES

1. Approval of Minutes from the November 16, 2017 Planning Board Meeting;

Vice Chairman Moreau moved to approve the November 16, 2017 Planning Board meeting minutes, as presented. Seconded by Mr. Gamester. The motion passed unanimously.

### II. DETERMINATIONS OF COMPLETENESS

#### A. SITE REVIEW:

1. The application of **James A. Mulvey Revocable Living Trust, Robert J. Bossie Revocable Trust and Peter Brown Living Trust, Owners**, for property located at **150 Spaulding Turnpike**.

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 **Bluestone Properties of Rye, LLC, Owner**, for property located at **135 Congress Street**.

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.

- 3. The application of **Roman Catholic Bishop of Manchester, Owner, and Stonegate NH Construction, LLC, Applicant**, for property located at **2075 Lafayette Road**.

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 **Society for the Preservation of New England Antiquities, Inc., Owner**, for property located at **364 Middle Street**, and the **C. Sue Mautz 2008 Trust, Owner, C. Sue Mautz, Trustee**, for property located at **338 Middle Street**.

Vice Chairman Moreau motioned to determine that the application for Subdivision approval is complete according to the Subdivision Rules & 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 **Goodman Family Real Estate Trust, Owner, and Aroma Joe’s Coffee, Applicant**, for property located at **1850 Woodbury Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct a 785 ± s.f. restaurant/take-out building and 195 ± s.f. attached patio, with drive thru service and a walk –up window, with 6,870 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 239 as Lot 9 and lies within the General Business (BD) District. (This application was postponed at the November 16, 2017 Planning Board Meeting).

**Chairman Legg read the notice into the record.**

Vice Chairman Moreau moved to **postpone** to the next regularly scheduled Planning Board Meeting on January 18, 2018, seconded by Mr. Gamester. The motion passed unanimously.

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B. The application of **James A. Mulvey Revocable Living Trust, Robert J. Bossie Revocable Trust and Peter Brown Living Trust, Owners**, for property located at **150 Spaulding Turnpike**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to remove two buildings, remove pavement and replace with pervious and impervious pavement, for a truck sales outlet with vehicle storage, with 2,570 ± s.f. of permanent impact to the wetland buffer. Said properties are shown on Assessor Map 236 as Lots 34, 35 & 36 and lie within the General Business (GB) District. (This application was postponed at the November 16, 2017 Planning Board Meeting).

**Chairman Legg read the notice into the record.**

### **SPEAKING TO THE APPLICATION**

Mr. Leduc moved to consider Public Hearing – Old Business Item B and Public Hearings – New Business Item E together, and vote on them separately, seconded by City Council Representative Perkins. The motion passed unanimously.

Attorney Bernie Pelech and Dana Lynch spoke on behalf of the applicants. This process began in May 2017. The Zoning Board of Adjustment granted a variance in June. The Conservation Commission voted to recommend that the Planning Board grant a Conditional Use Permit for this project. This project has been through the Technical Advisory Committee as well. The staff memo sets forth everything that has been done.

Mr. Lynch has been working on this project for several months. The existing conditions plan clarified there are three buildings on the site. The two in the back will be demolished. The parking area in the back will be removed as well. The site is set up so that there is virtually no runoff. This project will also remove any encroachments on the Nissan property. The proposed site plan shows that all parking spaces will be for vehicle storage except for the front nine spaces. It will be all pervious pavement. There will be one access road that will be impervious pavement. An outdated sewage pump that barely operates will be replaced. It will be tied into an existing main that connects to Farm Lane. It is a private forced main and will remain one. The grating plan shows other drainage features that will direct any runoff to a rain garden. The overflow will run back over to a new catch basin added in the corner. Adjacent to the new catch basin there is an existing catch basin that will be cut off at the property line. The runoff will only go to the new catch basin. This will significantly reduce the runoff as it reaches the wetland. The landscaping plan shows one tree on the site currently. Eight new trees will be added and a conservation seed mix will be planted in the back. A note will be added that the seed area will be mowed once a year. A hedge will be added along the side of the property to reduce the appearance of vehicles from Farm Lane. There will be three 20-foot tall LED luminaires added. All comments and suggestions from the Conservation Commission have been incorporated.

Mr. Leduc asked for clarification on the storm drain truncation. Where do the lines come from? Mr. Lynch responded that the lines come from the demolished buildings. They were built with basements that did not have access, so drainage was put in to prevent them from filling up. The roof drain will be retained and that runoff will flow through the rain garden. The new catch basin will pick up everything else.

Ms. Begala questioned what the maximum level of storm water event this management system can handle. The note on the landscape plan said that the limit of the rain garden is a maximum depth of

one inch. Mr. Lynch responded that the rain garden would not handle a 100-year storm. It will treat initial rainfall and run into the storm water management system. It will pick up the roof surface runoff and treat it. Anything in excess of that will run into the catch basin. Ms. Begala questioned how the inch was calculated. Mr. Lynch responded that the calculation of the runoff coming off the roof for a 10-year storm dictated only one inch was needed. Ms. Begala clarified that this system would handle a 10-year storm. Mr. Lynch confirmed that was correct.

**PUBLIC HEARING**

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

**DISCUSSION AND DECISION OF THE BOARD**

Deputy City Manager Colbert-Puff moved to **grant** a Conditional Use Permit, seconded by Vice Chairman Moreau with the following stipulation:

- 1. A note shall be added to the Site Plan (Sheet 4) that the area planted with conservation seed mix at the rear of the site be mowed only once annually.

The motion passed unanimously.

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C. 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**, requesting Amended Site Plan Approval to increase the height of the proposed office building (footprint of 16,700 ± s.f.) from 3 stories to 4 stories (gross floor area of 66,800 ± s.f.), with related paving, lighting, utilities, landscaping, drainage, multi-use path and associated site improvements. (Original Site Review approval was granted by the Planning Board on May 18, 2017). Said properties are shown on Assessor Map 241 as Lots 25 & 26 and Assessor Map 233 as Lots 112, 113, & 114 and lie within the Office Research (OR) and the Single Residence B (SRB) Districts. (This application was postponed at the November 16, 2017 Planning Board Meeting).

**Chairman Legg read the notice into the record.**

Deputy City Manager Colbert-Puff moved to **postpone** to the next regularly scheduled Planning Board Meeting on January 18, 2018, seconded by Mr. Leduc. The motion passed unanimously.

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D. The application of **Gregory C. and Sandra M. Desisto, Owners**, for property located at **36 Shaw Road**, requesting Amended Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland and tidal wetland buffers to eliminate gutters and one catch basin, relocate a manhole and eliminate the pervious paver parking area, with a 396 ± s.f. reduction of permanent impact and 35 ± s.f. of temporary impact to the wetland buffer. Said property is shown on Assessor Map 223 as Lot 22 and lies within the Single Residence B (SRB) District. (Conditional Use Permit approval was granted on September 17, 2015 and Amended Conditional Use

Permit approval was granted on January 19, 2017 by the Planning Board.) (This application was postponed at the November 16, 2017 Planning Board Meeting).

**Chairman Legg read the notice into the record.**

**SPEAKING TO THE APPLICATION**

Gregory DeSisto, one of the owners, spoke to the application. Mr. DeSisto requested to remove the gutters from the approved plan. The entire foundation was replaced, so perimeter drains, sand and stone were installed. The yard drain acts as a dry well. The relocation of the manhole cover was to save the spruce trees. The elimination of the pervious parking area moves the driveway further away from the wetlands. This won't have a negative impact and there is a positive recommendation from the Conservation Commission.

**PUBLIC HEARING**

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

**DISCUSSION AND DECISION OF THE BOARD**

Vice Chairman Moreau motioned to grant an amended Conditional Use Permit approval, seconded by Assistant City Manager Moore. The motion passed unanimously.

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E. The application of **Carolyn McCombe, Trustee; Elizabeth Barker Berdge, Trustee; and Tim Barker, Owners**, for property located on **Martine Cottage Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct a 1,936 ± s.f. single family home and a 1,200 ± s.f. detached barn, with a 22' x 52' paved parking area and a 25' x 5' rain garden, with 23,125 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 202 as Lot 14 and lies within the Rural (R) District. (This application was postponed at the November 16, 2017 Planning Board Meeting).

**Chairman Legg read the notice into the record.**

Vice Chairman Moreau motioned to **postpone** to the next regularly scheduled Planning Board Meeting on January 18, 2018, seconded by Mr. Gamester. 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. The application of **Society for the Preservation of New England Antiquities, Inc., Owner**, for property located at **364 Middle Street**, and the **C. Sue Mautz 2008 Trust, Owner, C. Sue Mautz, Trustee**, for property located at **338 Middle Street**, requesting Preliminary and Final Subdivision Approval (Lot Line Revision) between two lots as follows:

- (1) Map 136, Lot 22 decreasing in area from 81,454 ± s.f. (1.87 acres) to 80,717 ± f. (1.8530 acres) with 211.91’ of continuous street frontage on Middle Street.
- (2) Map 136, Lot 23 increasing in area from 5,958 ± s.f. (0.1368 acres) to 6,695 ± s.f. (0.1537 acres) with 66.9’ of continuous street frontage on Middle Street.

Said lots lie within the Mixed Residential Office (MRO) District where the minimum lot area is 7,500 s.f. and the minimum continuous street frontage is 100’, and the Historic District.

**Chairman Legg read the notice into the record.**

**SPEAKING TO THE APPLICATION**

Paul Dauberstein from Ambit Engineering spoke to the application. The request was for a boundary line adjustment between two properties. There are some decks that are encroaching, so the intent is to move the line to account for the encroachments.

Chairman Legg questioned if the hedgerow and trees exist today. Mr Dauberstein confirmed that it did.

**PUBLIC HEARING**

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

**DISCUSSION AND DECISION OF THE BOARD**

Vice Chairman Moreau motioned to **grant** Preliminary and Final Subdivision Approval, seconded by Mr. Gamester with the following stipulations:

- 1. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- 2. GIS data shall be provided to the Department of Public Works in the form as required by the City.
- 3. The final plat shall be recorded concurrently with the deeds 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 **National Propane LP, Owner and Unitil Corporation, Applicant**, for property located at **1166 Greenland Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland for the installation of above ground piping to facilitate cleaning and inspection operations on the existing underground gas main,

with 7,070 ± s.f. of impact to the wetland. Said property is shown on Assessor Map 280 as Lot 2 and lies within the Industrial (I) District.

**Chairman Legg read the notice into the record.**

Mr. Leduc motioned to **postpone** to the next regularly scheduled Planning Board Meeting on January 18, 2018, seconded by Vice Chairman Moreau. The motion passed unanimously.

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C. The application of **Chase B. Bailey and Kathryn E. Soave-Bailey, Owners**, for property located on **3 Curriers Cove**, requesting Amended Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer to install a generator, trench lines from a buried propane tank to the generator and a revised pool/cabana layout, with 180 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 204 as Lot 12 and lies within the Single Residence A (SRA) District.

**Chairman Legg read the notice into the record.**

**SPEAKING TO THE APPLICATION**

Kevin Roy, representing the owners, was there to speak to the application. There are three items the propane tank, generator and revised pool. It was our understanding that the propane tank and generator were already approved, but approval was still needed for the actual generator location. Page C3 shows the proposed 2x4 generator location. That is indeed where it is located. The proposed propane tank location on the plans is also where that was installed. The application is for an amended CUP to have those items located in that area.

Vice Chairman Moreau questioned if this was the second time this application has come through. How has this changed? Mr. Roy responded that the original plan was for a pool house that existed. There is a no impact line on the plans, so now the pool and cabana have moved from the buffers and from that line.

Ms. Begala wanted to confirm that all of the Conservation Commission stipulations have been met. Mr. Roy confirmed that the silt socks have been inspected and approved.

**PUBLIC HEARING**

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

**DISCUSSION AND DECISION OF THE BOARD**

Vice Chairman Moreau to **grant** Amended Conditional Use Permit approval, seconded by Deputy City Manager Colbert-Puff. The motion passed unanimously.

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D. The application of **Christopher L. and Anna D. Shultz, Owners**, for property located at **140 Orchard Street**, requesting Conditional Use Permit approval to create a 2-story, one-bedroom, garden cottage in an existing building, with a footprint of 584 ± s.f. and gross floor area of 1,068 ±, with associated paving, lighting, and utilities. Said property is shown on Assessor Map 149 as Lot 38 and lies within the General Residence A (GRA) District.

**Chairman Legg read the notice into the record.**

### **SPEAKING TO THE APPLICATION**

Jim Wakefield from Architecture Builders was seeking an amendment to an approved CUP. The first time around the blue prints submitted and the statement submitted by the owners did not agree. The blue prints had windows in the back, but the statement said there were no windows. There are windows that face the neighbor's garage and a sliding door on the garage elevation. The second floor gable window already exists; that would be the second floor egress. Ms. Shultz's father will move into the garden cottage, so there are some interior design changes. The intent is to make the first floor livable if needed. The long-term plan is that the owners will live in the garden cottage and rent out the main house.

Ms. Begala wondered if the signatures collected included the direct abutters. Mr. Wakefield confirmed they did. Ms. Begala questioned if the abutters were fine with reduced privacy which these windows would create. Mr. Wakefield confirmed they were. Ms. Begala noticed that the calculations of the square footage looked like the garden cottage had more living space than the main house. Mr. Wakefield responded that it is not larger than the main house. Chairman Legg agreed that the main house is certainly bigger than the proposed garden cottage. Ms. Begala responded that the garden cottage is also bigger than what's stated in the application. Mr. Wakefield responded that was a math error.

Vice Chairman Moreau questioned if the walls that form the office were load bearing. Mr. Wakefield responded that they were not. Vice Chairman Moreau responded then would there be the possibility to remove those walls and just have an open office area. Mr. Wakefield responded that they could remove one wall but the other is separating the bedroom. Vice Chairman Moreau noted that it could all just be one room.

Ms. Record clarified that the first floor may end up being the living area for the dad, but there's only a bedroom on the second floor. Mr. Wakefield confirmed that was correct.

Assistant City Manager Moore questioned if there was a bathroom on both floors. Mr. Wakefield responded that was correct.

Chairman Legg noted that when this was presented at the July meeting representation was made in response to a specific question. It is twice as big as allowed. The suggestion was made to make just the first floor the garden cottage. Or make the first floor a parking area and then the second floor a garden cottage. At the time it was stated that it wasn't possible because the pine trees need to be protected. Now this whole garage has been lifted and excavated so what happened? Mr. Wakefield responded that the floor was dug up and there was a brick foundation that had no footing and had sunken down. The roots had pushed the wall in but hadn't penetrated it. The original plan was to only do half a foundation, but a full foundation was needed. Chairman Legg questioned if the roots were

impacted. Mr. Wakefield responded that they were not. Chairman Legg noted that the board was happy approving something larger because it was going to maintain the integrity of the original structure without adding windows etc. That's not the case now, so that's a bit problematic. Mr. Wakefield responded that the problem was that those windows were on the plan, but the statement said that they weren't. Chairman Legg noted that all the facts were not presented. Mr. Wakefield confirmed that was correct.

Ms. Begala questioned why an elderly man who needs to be close to a bathroom couldn't only live on the first floor. Mr. Wakefield responded that he was not elderly quite yet. He is downsizing and setting himself up for the future to age in place.

Chairman Legg commented that it was important for the Board to remember that for better or worse the Board approved the size of the cottage in the July meeting. This time they were just being asked to consider exterior changes. Ms. Walker clarified that the Board could look at it that way, but this is a new application before the board. Technically this whole project could be looked at as a new application.

Ms. Record commented that she remembered the Board approving the size with only a bedroom on second floor. Chairman Legg responded that was correct.

Ms. Begala questioned if the office space was removed how much would that take off the total square footage. Mr. Wakefield responded that in order to bring this up to building code the walls needed to be finished. Once the spray foam was on the walls they were required to have sheet rock. One option could be to not put flooring in that area, but the walls will be finished because of code requirements.

Mr. Clark commented that on the approved plan there were two double hung windows facing the driveway. Are those are going away? Mr. Wakefield responded that those are going away. Mr. Clark questioned if there was a net increase of windows? Mr. Wakefield confirmed there was.

Ms. Walker questioned that if there was anything preventing the removal of the interior walls that divided the office from the bedroom other than privacy? Mr. Wakefield responded there was not.

Mr. Wakefield read letters of support from the Shultz's neighbors. They fully supported the project, and did not think that it detracted from the neighborhood.

## **PUBLIC HEARING**

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

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

Vice Chairman Moreau moved to find that the application satisfies the requirements of 10.815.40, seconded by Mr. Gamester. The motion passed unanimously.

Vice Chairman Moreau moved to grant the conditional use permit as presented including the requested modifications to the parking and total gross floor area requirements, seconded by City Council Representative Perkins with the following stipulation:

1. The garden cottage shall have no more than one bedroom and the floor plan shall be modified to eliminate the second floor office space and remove the interior walls separating the office space from the bedroom.
2. In accordance with Sec. 10.815.50 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. 10.815, including the owner-occupancy requirement, and shall renew the certificate of use annually.

Vice Chairman Moreau commented that the addition of some of those windows would not affect the privacy of anyone, so that is why she approved.

Chairman Legg added that he was not thrilled with the size, but this was covered in the July meeting. He supported this design and the changes made to make it one bedroom.

The motion passed unanimously.

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E. The application of **James A. Mulvey Revocable Living Trust, Robert J. Bossie Revocable Trust and Peter Brown Living Trust, Owners**, for property located at **150 Spaulding Turnpike**, requesting Site Plan Approval to create a truck sales outlet with vehicle display, vehicle storage, including 9,780 ± s.f. of pervious bituminous concrete pavement, with related paving, lighting, utilities, landscaping, drainage, and associated site improvements. Said property is shown on Assessors Map 236 as Lots 34, 35 & 36 and lie within the General Business (GB) District.

**Chairman Legg read the notice into the record.**

**SPEAKING TO THE APPLICATION**

**PUBLIC HEARING**

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

**DISCUSSION AND DECISION OF THE BOARD**

Deputy City Manager Colbert-Puff motioned to **grant** Site Plan approval, seconded by Vice Chairman Moreau with the following stipulation:

1. The Site Plan (Sheet 4) 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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F. The application of **Bluestone Properties of Rye, LLC, Owner**, for property located at **135 Congress Street**, requesting Site Plan Approval to construct an addition to the rear of the existing building, with a footprint of 1,424 ± s.f. and gross floor area of 2,943 ± s.f., for restaurant expansion and function space, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 126 as Lot 5 and lies within the Character District 5 (CD5), the Downtown Overlay District (DOD) and the Historic District.

**Chairman Legg read the notice into the record.**

Deputy City Manager Colbert-Puff moved to **postpone** to the next regularly scheduled Planning Board Meeting on January 18, 2018, seconded by Vice Chairman Moreau. The motion passed unanimously.

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G. The application of **Roman Catholic Bishop of Manchester, Owner**, and **Stonegate NH Construction, LLC, Applicant**, for property located at **2075 Lafayette Road**, requesting Site Plan Approval for the construction of two 3-story, 24-unit residential buildings, both with a footprint of 14,640 ± s.f. and gross floor area of 58,495 ± s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 268 as Lot 97 and lies within the Single Residence B (SRB) District.

**Chairman Legg read the notice into the record.**

**SPEAKING TO THE APPLICATION**

Attorney FX Bruton from Bruton & Berube, Eric Weinrieb from Altus Engineering, and Eric Cates from Stonegate Construction, were present to speak to the application. Mr. Bruton noted that this is the site where the St James church is currently located. It is in the SRB zone. The project will be two buildings with 24 units in each building. There is a reduction in impervious surface and an improvement to the drainage. The project came together working with the Planning Department, TAC and the abutters. All the input was incorporated into the design. The project went through the ZBA for three variances. This application went through TAC twice and came to this Board on a preliminary basis. There were some conditions that needed to be addressed, and they were. There is an easement for a multi-use cap and water main. The applicants have been working with the city to finalize this. This site permits 87 spaces, and the CUP request is to allow for 96 spaces. There will be 24 located outside. The rest will be located indoors under the buildings. Considering that the expectation is 75% of the residents will have two cars and 25% will have one car and additional visitor spaces will be needed 96 spaces is the magic number.

Mr. Weinrieb spoke to the application further. The site is the former St James Church on Lafayette Road. Pheasant Lane is half on the property and an easement will allow access across there. The roadway from Pheasant Lane to the church will be closed off. There are mature buffers on the perimeter of that site. The demolition plan shows the areas that will be disturbed by the site work activity. The applicants have been working with the DOT for a permit. The DOT has confirmed that they are comfortable with the design. Mr. Weinrieb handed out an email from the DOT. There was a question during the TAC meeting to find out if left hand lanes were necessary. That letter confirms there is no reason to have them. This application received comments from AOT as well, but they haven't been addressed yet. They will be addressed now that the TAC comments have been received

as well. This plan contains the AOT comment changes, but it is still under review with AOT. The applicants have a discharge permit for the existing sewer. The City wants to replace a portion of the sewer. There are no wetlands to be impacted on the site. The site access and drainage come in opposite West Rd. A Boulevard was created to break up the access way. There is a raised island and a two-way access to the garage and where the trash removal is located. It's a dead end design. The applicants worked with the fire department to create a gated access at the Pheasant Lane side that will be maintained all year. There is a multi-use path that is eight feet wide. The utilities will be put in the same line to get better flushing. This creates a logistical issue for DPW because the shut off for the water is on the property. An easement was needed for this. It's consistent with what has been done before. There is almost half an acre of impervious surface reduction. All runoff will be directed off site into a culvert. There will be rain gardens around the property to provide better treatment to the runoff before it gets to the wetland. The basement plan shows interior parking with storage units. This allows people to store bikes and recreation equipment there. The additional bike racks are for outside visitors. Mr. Cates did the landscaping for the Middle Hill project that provided great screening from the Bypass. This project has the same level of detail. The buffering on the Pheasant Lane side will have trees and a fence. There will be trees on Lafayette Road too.

Mr. Leduc questioned if the traffic pattern focused on the exit out of the facility and increasing traffic on Lafayette Road. Was a left hand lane considered? Mr. Weinrieb responded that it did not because there are not that many vehicles leaving the site. There is just barely room for two lanes, but the preference would be to keep one. If residents need to wait a long time they can go right and turn around in the Market Basket parking lot. Mr. Leduc commented that he was thinking of peak traffic hours. Mr. Weinrieb responded that there was a traffic memorandum made and DOT looked at it. A left hand lane isn't warranted.

Ms. Begala commented that the 8-foot multi use path crosses the entrance and exit of the building site. What safety measure will be put in for pedestrians crossing the path? Mr. Weinrieb responded that there are two single white lines designating the walking area. It is just like any other traffic area with a crosswalk. Ms. Begala clarified that multi use would include bikes as well. Mr. Weinrieb responded that it would. It's on an ADA slope.

Mr. Clark questioned if the driveway designed accounted for delivery trucks entering and exiting. Mr. Weinrieb responded that the turning radiuses are designed for fire trucks; so maneuvering for a UPS truck would be easy. Mr. Clark noted that the landscaping plan showed new trees where Eversource took out a tree. Mr. Weinrieb responded that the tree Eversource took out was 3-4 feet in diameter. The new trees are a lot smaller and better quality. Mr. Clark questioned if the applicants thought about moving the transformer in front of the building. Mr. Weinrieb responded that in an effort to maintain the vegetation it was a challenge to locate it in the back. There will be dense vegetation around it to screen it well. Mr. Clark questioned where the drains from the parking areas to the building went. Mr. Weinrieb responded that it was just a trench and it will evaporate.

Chairman Legg questioned how this would be built out. Mr. Cates responded that a lot of this would be market dependent. The hope is to start in the spring and gauge how the market is and at least put both foundations in. The intent is to not drag it out and build simultaneously as much as possible.

## **PUBLIC HEARING**

Bill Wagner, 11 Taft Road, noted this project has been one of the rare ones where they met with over 120 people. They showed the plans and made adjustments and everyone thought it was the best that could be done for that property. The nice part about this is that they picked right builder. As far as the traffic, they talked to people who mainly used Hoover and didn't find one who complained about it. The Board of Adjustment unanimously approved it.

Robert Hyde, Director of Real Estate Manchester, we are fully supportive of the development planned for this site. A lot of effort was put into planning this project to unify the area and provide more residential housing.

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

**DISCUSSION AND DECISION OF THE BOARD**

Vice Chairman Moreau moved to grant a Conditional Use Permit pursuant to Section 10.1112.52 of the Portsmouth Zoning Ordinance to permit a maximum of 96 parking spaces, seconded by Mr. Gamester.

The motion passed unanimously.

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

- 1) An easement shall be provided to the City allowing for future relocation of the multi-use path to the applicant's property outside of the NHDOT easement area should that be needed.
- 2) A water main access easement shall be provided to the City complying with the requirements of the DPW and Legal departments.
- 3) The site plan, easements and easement plans, 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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**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 Neil Robinson for a quit claim deed to release the City's interest in the paper street portions of Moffat Street adjoining property located at 170 Swett Avenue.

Mr. Gamester recused himself.

Ms. Walker apologized for the brevity of the staff memo. In this case there is not a clear indication that the City has a claim. Typically the City doesn't do the research in this regard. The requester would like to the City to release any interest in half of the paper street that abuts his property. The City does have an internal process that they discuss. In this case the City does have interest in retaining interest for this street because a City owned lot abuts the paper street. The City recommends not to release. Assistant City Manager Moore requested clarification on the drawings. Ms. Walker showed where the city owned lot and the requester's lot were in relation to the paper street. The City does not want to release their interest.

Mr. Clark commented that the Board has gone over the paper street quite a bit, but who owns the paper streets? Ms. Walker responded that at this point the default is that the city owns them but they haven't been formalized as an actual street. They exist because they were laid out on a subdivision plan that wasn't developed. It is a big legal expense to research whether the City has ownership or not. Chairman Legg noted that the difference in this request compared to other ones the Board has seen recently is that the city didn't have any property abutting those streets. This one is different because is that the City does have abutting property.

Vice Chairman Moreau moved to recommend that the City Council deny the request for a quit claim deed to release the City's interest in the paper street that abuts property located at 170 Swett Ave, seconded by Assistant City Manager Moore. The motion passed in a 6-1-0 vote with Mr. Gamester recusing himself.

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**II. ADJOURNMENT**

*It was moved, seconded, and passed unanimously to adjourn the meeting at 8:33 p.m.*

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Respectfully Submitted,

Becky Frey,  
Acting Secretary for the Planning Board