

**REGULAR MEETING
PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

7:00 PM

MAY 16, 2019

MEMBERS PRESENT: Dexter Legg, Chairman; Elizabeth Moreau, Vice-Chairman; Rebecca Perkins, City Council Representative Colby Gamester; Ray Pezzullo, Assistant City Engineer; Jody Record; Corey Clark, Alternate, and Polly Henkel, Alternate

ALSO PRESENT: Juliet Walker, Planner Director; Jillian Harris, Planner I

MEMBERS ABSENT: Jeffrey Kisiel Jay Leduc; John P. Bohenko, City Manager;
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I. APPROVAL OF MINUTES

A. Approval of Minutes from the April 18, 2019 and April 25, 2019 Planning Board Meetings.

Mr. Gamester moved to approve the minutes from the April 18, 2019 and April 25, 2019 Planning Board Meetings, seconded by Ms. Record. The motion passed unanimously.

II. DETERMINATIONS OF COMPLETENESS

A. SUBDIVISION REVIEW

1. The application of **RJF-Maplewood, LLC, Owner** and **RW Norfolk Holdings, LLC, Applicant**, for property located at **111 Maplewood Avenue** requesting a two-lot subdivision.

Mr. Gamester moved to determine that the application is complete according to the Subdivision Regulations and to accept the application for consideration, seconded by Ms. Record. The motion passed unanimously.

2. The application of **Boston & Maine Corporation (Lot 4) and Iron Horse Properties, LLC, (Lot 4-2) Owners** for properties located on **Bartlett Street** requesting a Lot Line Relocation.

Mr. Gamester moved to determine that the application is complete according to the Subdivision Regulations and to accept the application for consideration, seconded by Ms. Record. The motion passed unanimously.

B. SITE PLAN REVIEW

1. The application of **RJF-Maplewood, LLC, Owner** and **RW Norfolk Holdings, LLC, Applicant**, for property located at **111 Maplewood Avenue** requesting Site Plan approval to construct a 4-story office building.

Ms. Record moved to determine that the application is complete according to the Site Plan Review Regulations and to accept the application for consideration, seconded by Mr. Gamester. The motion passed unanimously.

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 **Wentworth-Gardner & Tobias Lear Houses Association, Owner**, and **Stephen M. Foster, Applicant**, for property located at **49 Hunking Street** requesting a Conditional Use Permit in accordance with Section 10.1112.14 of the Zoning Ordinance for provision of no on-site parking spaces where a minimum of three are required to operate an Inn. Said property is shown on Assessor Map 103 as Lot 39 and lies within the General Residence B (GRB) and Historic Districts. *(This application was postponed at the April 18, 2019 Planning Board meeting.)*

SPEAKING TO THE APPLICATION

Attorney Tim Phoenix spoke to the application. Mr. Foster is under contract to purchase this house from the association. Mr. Phoenix included a lot of information in the submission to show the importance of the property. The applicant Mr. Foster is a history buff and is interested in historic preservation. In order to make it financially feasible Mr. Foster came up with an idea to make it a small two-bedroom inn. When it is not being used as inn then it will be used as a museum. This application has received zoning relief to use the property as an inn, setback relief, and add a kitchen. The application has been to the Historic District Commission and they are still finalizing details. It was well received, and should be approved soon. This application has been to TAC. The Staff Memo recommends approval. There is an agreement with Wentworth Gardner to provide off site parking. Mr. Phoenix showed the parking in relation to the property. The Wentworth Gardner is the abutting property. The parking will be on Mechanic St. The agreement is that the inn will have 3 dedicated long-term lease parking spots. They meet the requirement for 3 spaces; they are just not on site. Mr. Foster wanted to maintain the historic integrity of the property and preserve the yard. The Wentworth Gardner Association manager will manage the parking in conjunction with Mr. Foster. There will be immediate oversight by an onsite caretaker. In order to get parking relief they need to get a CUP. TAC reviewed it and they were fully in favor. There were no comments. The parking requirements state that they need to identify permanent alternative parking solutions. There will be shared parking on a separate lot. There is public parking at the Parrot Ave. Lot and there is street parking. There is a Zagster rack at the corner and the High Hanover Parking Garage is within walking distance. The agreement will be reviewed by the City and recorded to ensure they meet the intent for that requirement. The Planning Board may grant a CUP if they find the spots to be adequate. There will be 3 parking spots off site.

Mr. Gamester questioned if the 3 spaces would be displacing people. Mr. Phoenix responded that right now anyone who comes for tours park there anyway. If someone is parked in that space, then they will have to go elsewhere. It will not be a problem. Chairman Legg questioned how many spaces are there on that street. Mr. Phoenix responded that there were 14 spaces. They are all controlled by the Wentworth and 3 would be dedicated to the inn.

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 OF THE BOARD

Mr. Gamester moved to accept the findings of the applicant's parking demand analysis and to find that the provision of 3 off-street parking spaces provided on an abutting lot will be adequate and appropriate for the proposed use of the property, seconded by Ms. Record. The motion passed unanimously.

Mr. Gamester moved to grant a conditional use permit pursuant to Section 10.1112.14 of the Portsmouth Zoning Ordinance to permit no parking spaces on the lot where 3 off-street parking spaces are required, seconded by Vice Chairman Moreau with the following stipulation:

2.1) The shared parking arrangement to provide 3 parking spaces on the property of the Wentworth Gardner House shall be secured by a covenant acceptable to the City and recorded at the Rockingham County Registry of Deeds.

The motion passed unanimously.

B. The application of **Frank Veneroso, Owner and Applicant**, for property located at **53 Austin Street** requesting a Conditional Use Permit in accordance with Section 10.1112.14 of the Zoning Ordinance to provide twelve on-site parking spaces where a minimum of seventeen are required to operate an Inn. Said property is shown as Assessor Map 127 as Lot 26 and lies with the General Residence C (GRC) District. *(This application was postponed at the April 25, 2019 Planning Board meeting)*

Mr. Gamester moved to accept the request to withdraw the application, seconded by Ms. Record. The motion passed unanimously.

C. The application of the **City of Portsmouth School Department, Owner**, for the property located at **32 Van Buren Avenue (Dondero Elementary School)** requesting to amend a Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for playground renovations. The amendment includes addition of a performance area with stage and benches and an accessible recreation access route/boardwalk with 309 +/- s.f. of wetland buffer disturbance. Said property is shown on Assessor Map 250 as Lot 106 and lies within the Municipal (M) District. *(This application was postponed at the April 25, 2019 Planning Board meeting)*

SPEAKING TO THE APPLICATION

Director of Buildings & Grounds/Maintenance Kenneth Linchey and Dondero PTA Representative Alice Carey spoke to the application. Mr. Linchey commented that they were there to move forward with second phase of the Dondero playground per the Master Plan. The climbing wall and tunnels were the first phase and now they are requesting a second approval for the stage and walkway.

Ms. Carey commented that this is a phenomenal project. They worked with Timberland employees that as part of their volunteer day. The purpose of the application is to amend the previously approved

CUP to get ahead of the momentum that has been building. Donors have been coming forward. The remaining items are a small stage with amphitheater seating and a boardwalk. There is an educational component as well. The goal is to provide a variety of play elements throughout the site. The stage is a component of that for pretend and musical play. The boardwalk presents a minimally invasive recreational path through the wetlands. The school already uses the wetlands frequently. The students go out there for an extended period of time. The goal is to provide accessibility for everyone. The boardwalk would allow everyone to enjoy the forest. Ms. Carey presented a slide that showed the stage detail. The stage would be 21 feet by 14 feet with an access ramp on the backside. The roof drains in the back to a drip line. Ms. Carey presented the details for the boardwalk. They worked with the Conservation Commission gave on how to tread lightly in the wetlands. The walk element will be constructed of dock material sitting on auger feet. A rail will be provided for the areas that will be taller than 24 inches. The Conservation Commission said they would need to provide more detail on the exact path to get the DES permit. The Conservation Commission agreed it was acceptable.

Vice Chairman Moreau questioned why the stage had to be covered. Ms. Carey responded that it would allow the students to be outside in all elements. That may provide more use of the playground itself. Vice Chairman Moreau noted that it seemed like the path was going well into the wetlands and questioned if it could stick to the edge instead. Ms. Carey responded that the path would connect with a trail network that is already in place. There is a City water line that is a path into the forest. The wetland boardwalk is meant to be part of that network. Vice Chairman Moreau commented that they received a letter of concern about safety. There were concerns about people living in the stage area or teens hiding on the boardwalk. Mr. Linchey responded that they have increased security with exterior cameras. They have talked to the police about having more of a presence. The cameras hold 3 weeks of footage. There have not been issues like that in the past, but if they come up they can act on it. The cameras catch a 360 of the entire building. They can see people coming and going. Ms. Henkel questioned if the cameras could see the stage. Mr. Linchey confirmed they could.

Chairman Legg questioned if the CUP was approved what would the project timeline be. Ms. Carey responded that the stage is ready to go. They have donors for that. Chairman Legg questioned if they needed a DES permit for that. Ms. Carey responded that they did not. The boardwalk has no timeline. Donors have been coming forward, so the goal is to be prepared.

Ms. Record noted that they received a letter referencing the tunnels. Ms. Record questioned if that was part of this playground or the one closer to the school. Ms. Carey responded that those were at the ones closer to the school. It was previously approved, so they are considered existing conditions. They are in place now.

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 OF THE BOARD

Mr. Gamester moved to grant the amended Wetland Conditional Use Permit as presented, seconded by City Council Representative Perkins.

Vice Chairman Moreau commented that she was concerned about allowing one person to build in the wetlands. Then people will come in expecting to be able to do it. Vice Chairman Moreau could not support the motion.

Ms. Henkel understood Vice Chairman Moreau's concerns, but thought that there was merit for the project because it would be good for educational purposes.

The motion passed by a 6-1 vote. Vice Chairman Moreau opposed.

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 **RJF-Maplewood, LLC, Owner** and **RW Norfolk Holdings, LLC, Applicant**, for property located at **111 Maplewood Avenue** requesting Preliminary and Final Subdivision approval for a two lot subdivision as follows: the subject lot to be divided so that Lot 1 becomes 58,583 s.f. with 840 ft. of street frontage and Lot 2 becomes 42,778 s.f. with 610 ft. of street frontage Said property is shown on Assessor Map 124 as Lot 8 and lies within the Character District 5 (CD5), Historic and Downtown Overlay Districts.

Mr. Gamester moved to consider Public Hearing New Business Items A, B, and C together and vote on them separately, City Council Representative Perkins. The motion passed unanimously.

SPEAKING TO THE APPLICATION

Patrick Crimmins from Tighe and Bond spoke to the application. Lisa DeStefano from DeStefano Architects, Shannon Lane from Halverson Design and Rob Ciandella from DTC Lawyers were also present. Mr. Crimmins noted that this process started in late 2018 and they first came to the Planning Board in January 2019 for a conceptual consultation. This application has been to the Historic District Commission and TAC. This has gone through a thorough review. Tonight they are seeking a subdivision approval, site plan approval, CUP and a waiver for the dumpster setback. TAC provided approval with stipulations that Mr. Crimmins has responded to. The project is at 111 Maplewood Ave. The property is bound on all 4 sides by Maplewood Ave., Raynes Ave., and Vaughn St. The subdivision would divide the 2-acre lot. The one-acre lot on the northwest side of the property would be the new building. The 1.3-acre lot to the southeast is where the existing 1 story office building is located. The project is a 4-story building. The ground floor will be commercial space. There will be a basement level space on Vaughn St. The upper stories will be 50,000 square feet of office space. The second and third floor will be the full footprint. The fourth story will be setback from the street and have a roof deck. This project is in the CD-5 Downtown Overlay District, the North End Overlay District and the Historic District. This project is not seeking any relief from the Zoning Board and no variances. Because it is in the North End Overlay there is an opportunity to provide 20% community space for an incentive. This proposal provides 27%. That is part of the CUP application. It includes a request to bank the additional square footage for a future development. Access for the site will be off Vaughn St. There is no parking required because it is all office and commercial space. The project will be providing 36 parking spaces. 31 spaces will be in the basement level garage and 5 spaces on the surface level. The tenant has an obligation to provide 5 spaces. There will be an access drive easement to provide access to those spaces. Mr. Crimmins presented a slide the showed the

community space. There will be a pedestrian alleyway. It will be an important feature to the project, which will allow for a connection through the AC hotel and to the North Mill Pond Trail. Anything beyond the 8 feet required for the sidewalk will be considered community space. Lastly, there will be a pocket park on the corner. There is a notch cut out of the building for the park. It is an important design because the building is a gateway into town. There will be wide pedestrian areas and tree planters on Maplewood Ave. The site on the perimeter has been designed to meet the intent of the City's Complete Streets design. All of the edges of the site will be in compliance with that. Maplewood Ave would have City trees set back from the sidewalk duck bank. There will be intersection improvements at Raynes Ave. The grade changes down Raynes Ave. to Vaughn St. There will be bump outs and landscaping as well as a crosswalk to the pocket park. There is a lot of detail included in the landscape plans. The pedestrian alley will be at grade on Vaughn St. There is an existing switchgear with an Eversource easement. That has driven the building and park placement. Steps will lead up from the basement level parking to a large plaza area. The plaza will have seating, landscaping and a pedestrian connection. The existing dumpster needed to be moved to provide a better place for trash removal. Then the trash trucks can come in and back out. The placement meets the 10-foot setback in the zoning ordinance, but there is a 20-foot setback in the site plan regulations. This proposal does not meet that. They are constrained because of the parking. Overall it is a better design for truck access. It is an interior lot line, so the hope is that the Planning Board grants the waiver. Through the TAC process there were comments about the basement level parking. There is now a one-way circulation for an entrance and exiting. It is a better design from what was originally design. The complete streets design will include all sides of the lot, not just the new development. The curb cuts will be cleaned up to create a better access management and provide additional parking for the existing tenants. Storm water management requires shoreline protection and AOT approval. There were minor comments from AOT, but they were confident they would get that approval. The shoreline protection approval was received. There will be a detention system that runoff will flow through to a treatment unit. The designed system would capture the buildings runoff. All post development runoff is equal to or less than the current. It meets city requirements. The utilities for the site were previously approved 4-5 years ago. The connections were based on that. The grease trap and water services will come off Maplewood Ave. Maplewood Ave. will have traditional historic light fixtures. Vaughn St. has it's own fixtures and the new lighting will be consistent with what's there. The packets include the elevation drawings. Mr. Crimmins walked through them and showed renderings of the future building. A traffic study and supplemental memo was included based on feedback from TAC. There is an aerial graphic in the study to show the intersections and driveways. The traffic generated is pretty nominal. The study considered background projects. They have agreed to provide fair share contributions as a result of all the development in Portsmouth. That will include contributions to upgrading the signal at Maplewood Ave. and Deer St. The developer has agreed to pay 11% of the signal improvement cost. There is a future roundabout planned for Russell St. and Market St. The developer will contribute 3.3% of the cost. There are some outstanding items from TAC that have to be worked out with DPW. There is no objection to those items. The applicant already has primary tenant for the building. They are hoping to get approval and meet the tenant obligations.

Vice Chairman Moreau questioned why they would subdivide the property if it was going to stay common ownership. Mr. Crimmins responded that it would create future flexibility. Right now the owner's intent is to keep it. That existing office building is a great building as it is now. They are not looking to get rid of it. Vice Chairman Moreau questioned if there would be a permanent access easement in the driveway. Mr. Crimmins confirmed that was correct. Vice Chairman Moreau noted that the transformer seemed like it is in the middle of nowhere, and questioned if it would be protected for safety. Mr. Crimmins responded that landscaping would screen it. Eversource has a 10-

foot setback in front of the transformer and there are setbacks from the building as well. Vice Chairman Moreau questioned if it would be locked. Mr. Crimmins responded that it would not be locked, but it would be screened. Vice Chairman Moreau requested clarification on the trash removal. Mr. Crimmins responded that it will be stored in the basement and wheeled out to get picked up on the street. Vice Chairman Moreau questioned if it would block traffic. Mr. Crimmins responded that they have designated 2 spaces on Vaughn St. that would be a loading zone from 6-9. That is not during parking revenue time. They still need to get approval from PTS. Vice Chairman Moreau commented that the pedestrian alley goes across the entrance of the building and questioned if there was any protection for the pedestrians. Mr. Crimmins responded that it would be well lit along the length. There will be an announcer. Vice Chairman Moreau noted that the maintenance plan for drainage was not included, so that should be included as a stipulation to make sure it happens. Mr. Crimmins confirmed that it was required as part of the AOT approval. Vice Chairman Moreau noted that there were improvements planned for Maplewood Ave. and questioned if all of those would be completed before the sidewalk was in place. That should not need to be dug up again. Ms. Walker responded that the utilities have been considered as part of the design.

Chairman Legg requested more detail on the seating in the community space. Ms. Lane responded that there would be a series of the bench types within the community spaces and pocket park. There would be a granite seat wall, wood backless benches and wood backed benches. The long streetscape would have wood backed benches. The granite seat wall and benches would occur along the building edge and within the pocket park. Chairman Legg questioned how many wooden backed benches there would be. Ms. Lane responded that there would be 4 wood backed benches and they would be 6-8 feet long.

Vice Chairman Moreau questioned what the maintenance of the wooden benches would be. Ms. Lane responded that the benches would be made of a dense tropical hardwood. They don't require a lot of maintenance or staining. They could be touched up yearly with oil or weather naturally to a gray color.

City Council Representative Perkins requested clarification on the community space on the sidewalks. Ms. Walker responded that the yellow portion of the sidewalk is on private property. That is what will be counted as community space. The rest is the required width for the sidewalk.

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 OF THE BOARD

Ms. Walker clarified that there were some discrepancies in the plan with the square footage. That will be resolved with the applicant and ensure the plans are updated. The Staff Memo is the accurate square footage. The height is based on the average grade plane. The height will be updated to be consistent in the plans. The Planning Board has done approvals for excess community space in the past. If the Board wants to approve it, then that does not guarantee anything about future use. It just puts it in a bank. They have to come back for another CUP. They can develop an agreement and set a timeframe for a maximum term for using it within 15 years. The fair share contributions are explained in the Staff Memo. The City is asking for a 6% contribution for a sewer construction project that is underway on Raynes Ave. and Vaughn St. They are asking for 3% of the estimated

1.25 million dollar cost toward the Russell St. and Market St. intersection improvements. They are asking for 11% contribution to the Deer St. and Maplewood Ave. streetlight. The curbing and sidewalk along the project site extending to Green St. will all be done within the timeline of the project. The rest is recommended that the remaining curbing and sidewalk would be done within 2 years of the Certificate of Occupancy. The Planning Board can make adjustments to the recommendations.

City Council Representative Perkins questioned how the funding was decided. Ms. Walker responded that the timing of the Maplewood Ave. project was dependent on state funding and the City timeline. It is a fair balance and the City anticipates that other developments are coming along. They will give a fair share contribution as well.

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

- 1.1) Lot numbers as determined by the Assessor shall be added to the final plat.
- 1.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- 1.3) GIS data shall be provided to the Department of Public Works in the form as required by the City.
- 1.4) The final plat shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

The motion passed unanimously.

B. The application of **RJF-Maplewood, LLC, Owner** and **RW Norfolk Holdings, LLC, Applicant**, for property located at **111 Maplewood Avenue**, in the North End Incentive Overlay District, requesting a Conditional Use Permit in accordance with Section 10.5A46.23 of the Zoning Ordinance to allow the additional 3,351 s.f. of Community Space provided by this project to be credited to the applicant for use in another development in the same Incentive Overlay District.

DISCUSSION AND DECISION OF THE BOARD

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

- 1.1) The applicant shall enter into a Prospective Development Incentive Agreement (PDIA) with the City per the requirements of Section 10.5A46.23(3).

The motion passed unanimously.

C. The application of **RJF-Maplewood, LLC, Owner** and **RW Norfolk Holdings, LLC, Applicant**, for property located at **111 Maplewood Avenue** requesting Site Plan approval to construct a 4-story office building with a footprint of 20,117 s.f. and gross floor area of 73,700 s.f. with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 124 as Lot 8 and lies within the Character District 5 (CD5), Historic and Downtown Overlay Districts.

DISCUSSION AND DECISION OF THE BOARD

Mr. Gamester moved to find that a waiver will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Subdivision Regulations, and to waive the following regulations, seconded by Vice Chairman Moreau:

- a) Section 9.3(6) - requiring dumpster or other waste container pads to be a minimum of 20 feet from any property line or yard.

The motion passed unanimously.

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

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

- 2.1) Applicant shall work with DPW to finalize the location and design of the lighting conduit layout.
- 2.2) Applicant shall contribute to the City for infrastructure improvements as follows:
 - a) Sewer infrastructure improvements on Raynes Avenue and Vaughan Street -- \$20,000.
 - b) Russell Street / Market Street Intersection Improvements -- \$37,500. This contribution shall be returned to the developer if the improvements are not constructed, under construction, or designed and scheduled for construction by 12/31/2026.
 - c) Deer and Maplewood Avenue Intersection Improvements to Traffic Signal -- \$8,832. This contribution shall be returned to the developer if the improvements are not constructed, under construction, or designed and scheduled for construction by 12/31/2026.
- 2.3) Plans shall be reviewed and updated for consistency with the Maplewood Avenue Complete Streets Project Preliminary Engineering Plans subject to final approval by the Planning Director.
- 2.4) Sheet C-102.3 shall be updated to note that the arrows shown on the plan shall be painted on the pavement surface to help guide motorists in the proper direction.
- 2.5) Plans shall include details on the screening of the existing and proposed transformer and dumpster areas.
- 2.6) Basement level egress locations shall be reviewed and approved by the Fire Department.
- 2.7) Tree species selection and caliper size shall be reviewed and approved by the City Arborist.
- 2.8) Raised planters proposed to be located on City property shall be changed to tree grates and tree guards or other treatment that is flush to the sidewalk and protects the street trees subject to final approval by the DPW Director and City Arborist.
- 2.9) The applicant shall provide updated plans to the City indicating sewer lateral locations prior to the City's planned sewer upgrades in spring 2019.
- 2.10) The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City.
- 2.11) A temporary support of excavation (SOE) plan shall be prepared by the applicant's contractor to confirm any temporary encumbrances of the City's right-of-way.
- 2.12) The site plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

2.13) Easements deeding permanent public access to the community space areas and any other required public easements shall be approved and accepted by the City Council prior to being recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

2.14) All site review plans and supporting documents shall be updated to correctly list the building height and dimensions of building footprint and community space as represented to and approved by the Planning Board and Historic District. Commission.

To be completed subsequent to the issuance of a building permit

2.15) Applicant shall complete final paving and pavement striping per DPW requirements for the entire width of Vaughan Street and Raynes Avenue from Green Street north to Maplewood Avenue.

2.16) Locations of existing and proposed utility lines to the site shall be approved by the City of Portsmouth DPW prior to construction.

2.17) Final water service size and location shall be coordinated with the Building Drawings and DPW prior to construction.

2.18) The proposed loading zone shall be reviewed by the Parking & Traffic Safety Committee for recommendation to City Council.

2.19) Applicant shall complete all curbing and sidewalk work along the Vaughan Street and Maplewood Avenue that fronts on the project site as well as along Raynes Avenue from Green Street to Vaughan Street.

2.20) Applicant shall complete all remaining curbing and sidewalk work within 2-years of the issuance of a final certificate of occupancy for the project.

2.21) The owner shall be responsible for ensuring that the stormwater quality treatment system is inspected annually by a qualified inspector and maintained to ensure the system performs as designed.

Chairman Legg noted that it was a long process for the applicant but that has resulted in a better project. Chairman Legg commented that he was pleased with where the project ended up.

Vice Chairman Moreau clarified the bank for a future development would have to be used within a certain time and used in the North End. Originally Vice Chairman Moreau had some concerns about the bank, but with the constraints she supported it.

The motion passed unanimously.

D. The application of **Great Rhythm Brewing Company, LLC, Applicant** and **Clipper Traders, LLC** for property located at **105 Bartlett Street** requesting a Conditional Use Permit in accordance with Sections 10.240 and 10.440 (#19.50) of the Zoning Ordinance to allow an Outdoor Dining or Drinking Area as an accessory use. Said property is shown on Assessor Map 157 as Lot 1 and lies within the Character District 4-W (CD4-W) District.

Vice Chairman Moreau moved to postpone the request to the June 20, 2019 Meeting, seconded by Mr. Gamester. The motion passed unanimously.

E. The application of **Boston & Maine Corporation (Lot 4) and Iron Horse Properties, LLC, (Lot 4-2) Owners** for properties located off **Bartlett Street** and **Maplewood Ave** requesting a Lot Line Relocation to transfer 72,337 \pm s.f. from Lot 4 to Lot 4-2. Said properties are shown on Assessor Map 164 as Lots 4 and 4-2 and lie within the Character District 4-LI (CD4-LI), Office Research (OR) and the Transportation Corridor (TC) Districts.

Vice Chairman Moreau recused herself from the application.

SPEAKING TO THE APPLICATION

John Chagnon from Ambit Engineering spoke to the application. The proposal is to transfer 1.7 acres from Boston Main to Iron Horse. Sheet 1 shows the transfer area. The area is along the North Mill Pond and is encumbered by an easement on the east side property. Boston Main will continue to own the other side that abuts Lot 5 of the Clipper Traders project. The third sheet shows the parcel area in relation to Lot 5. It is the end of the recently approved cul-de-sac. The land will be added to and become part of Lot 5.

Chairman Legg requested clarification on Iron Horse Property LLC. Mr. Chagnon responded that Clipper Traders and Iron Horse have the same principles, but they divided up the lots into different ownership entities. The new entity owns Lot 5. Chairman Legg clarified that the Board would see both Clipper Traders and Iron Horse depending on what project was being discussed. Mr. Chagnon confirmed that was correct. Iron horse has the title for Lot 5. Ms. Walker clarified that they were referring to this as Lot 5 for the original context on how the parcel was presented. This now has a map and lot numbers. When the applicant refers to Lot 5 it is short term for how it was originally presented.

City Council Representative Perkins questioned if this was in connection with the trail. Ms. Walker responded that it was not related, but they will likely work with the applicant to secure easements.

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 OF THE BOARD

Mr. Gamester moved to grant Preliminary and Final Subdivision Approval (Lot Line Revision), seconded by Ms. Record with the following stipulations:

- 1.1) Lot numbers as determined by the Assessor shall be added to the final plat.
- 1.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- 1.3) GIS data shall be provided to the Department of Public Works in the form as required by the City.
- 1.4) The final plat shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

The motion passed unanimously.

V. ZONING AMENDMENTS - PUBLIC HEARINGS – NEW BUSINESS

A. The request of Revisit McIntyre, a New Hampshire nonprofit corporation, to amend the zoning for the property located at 62 Daniel Street, Map 106, Lot 8 (current Federal Building) from Character District 4 and Character District 5 (CD4 and CD5) to a Natural Resource Protection (NRP) District or Municipal (M) District or combination of both.

SPEAKING TO THE APPLICATION

Paul McEachern from Shaines and McEachern PA spoke to the application and represented the citizens in Revisit McIntyre. Mr. McEachern requested that they have a role in the future development in the land now owned by the United States Government on Daniel St. Mr. McEachern raised the question of conflict with City Council Representative Perkins sitting in this application. She was on the subcommittee for the development and she should consider disqualifying herself.

City Council Representative Perkins considered that. Zoning is quasi legislative, so there is a different standard. City Council Representative Perkins noted that if the Board felt she should step out then she would. Mr. Gamester noted that typically if the City Council Representative disqualifies themselves then it would be recommended back to the City Council. Mr. Gamester commented that he was comfortable with City Council Representative Perkins sitting on the application.

Mr. McEachern commented that the U.S. Government owns this 2.1-acre parcel in heart of the city of Portsmouth. The city had zoned it CD-4 and CD-5. That doesn't make any sense if the City wants to control the development of the parcel. The City should zone it Municipal, but the Staff Memo says that is not possible. The Army Reserve Center is zoned Municipal. Mr. McEachern questioned why the City could not zone this Municipal. The City is in a public private partnership to put a building on the parcel. It could be something exciting like a park. The City does not need more apartments in the downtown. If it were zoned Municipal, then the City would have complete control. It seems that the citizens are left out of the decision. The Government could still own it and the City could have control over it. There has been more development in the City in the last 10 years than it has had in the last 100 years. They are wasting an opportunity. If the City owned it, then they could subdivide it for a post office. The City should not be in the development business as a partner with a developer. It's a risky business. Down the road if there are monetary pressures, then the City will have to cave. They will not have control. The Planning Board should recommend that the City explore all opportunities for the parcel. The community doesn't need another big building. It could be a civic space that people could gather. It would raise the property values of the surrounding buildings. The Board should consider taking a stand. The City should not be a supplicant.

Mr. Gamester questioned if the parcel the Army Reserve Center was on was originally Municipal. Ms. Walker was not sure. However, the municipal zoning is not intended for this property. Mr. McEachern commented that the Army Reserve Center has been Municipal for a long time. Mr. Gamester commented that it was probably zoned that way before the Government took control of it.

Chairman Legg commented that before he opened the Public Hearing he reminded all speakers that the purpose of this request was the narrow discussion related to whether or not this should be rezoned. This was not a discussion on the merits of any proposed development. Chairman Legg requested that speakers limit the comments to the proposed rezoning. If any project goes forward that will come before the land use boards and there will be ample opportunity to discuss the project then.

PUBLIC HEARING

Bill Downey 67 Bow St. commented that it would be a clean slate if the land was rezoned and the City bought it. It is a huge price tag for the remediation the McIntyre Building. They won't have to go through the National Park aspect. This is an important idea to consider.

Paige Trace of 27 Hancock St. commented that she had a tremendous respect for the Board and Mr. McEachern. Ms. Trace asked the Board to listen to what was said. Rezoning affords Portsmouth and the opportunity to help it's residents gain full benefit from the property. It gives more options for the City.

Michael Simcheck owns some properties in downtown Portsmouth and a member of Revisit McIntyre as well. Rezoning is an opportunity to expand the potentials. The City is currently going down one path, but this doesn't it have to. The City is taking options away. There has never been a visioning process for this project. This is the start of the visioning process. Mr. Simcheck appreciated the Board's consideration only to allow more options. Then it would better for all of us.

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

DISCUSSION AND DECISION OF THE BOARD

Chairman Legg requested an affirmative motion on the floor to discuss the motion.

Mr. Gamester moved to recommend the zoning amendment to City Council, seconded by Vice Chairman Moreau.

Vice Chairman Moreau commented that she truly appreciated the residents coming out and bringing this before the Board. She was around when they changed the zoning for that parcel to what it is now. The natural resource protection does not fit this parcel at all. Rezoning it to Municipal will not change anything. It would be a change for almost no reason. If the City owned it, then it would become Municipal. Even if the City tried to buy it there would competition with other governmental entities.

Mr. Gamester agreed with Vice Chairman Moreau. Mr. Gamester was not opposed to rezoning, but changing this to Municipal would not be appropriate at this time.

Chairman Legg agreed with both speakers. The Chairman noted that he did not know enough about the proposal to understand how changing the zoning to Municipal would allow the building to be torn down. This would be good to take to City Council because they have been working on it a long time. Chairman Legg commented that he was reluctant to make a change and thought this was an ownership issue. Once the City owns it, then it could be a point of discussion.

The motion failed by a 0-7 vote.

B. Petition by residents and homeowners of Chase Drive, Cutts Avenue, Forest Street, and Brigham Lane to reconsider the December 2017 decision to re-zone three properties located along

Chase Drive and Cutts Avenue from Single Residence B (SRB) to Gateway Neighborhood Mixed Use Center (G2) and to re-zone the properties back to Single Residence B.

DISCUSSION AND DECISION OF THE BOARD

Ms. Record moved to postpone the request to the June 20, 2019 Planning Board meeting, seconded by City Council Representative Perkins. The motion passed unanimously.

VI. CITY COUNCIL REFERRALS

A. Purchase of property identified as Assessor Map 232, Lot 3 located off Lois Street.

Ms. Walker noted that the City has entered into a purchase and sales agreement to acquire 2.8 acres at the end of Lois St. It went in front of the Conservation Commission to use part of the conservation fund money. A good portion of the watershed goes through the property and it has conservation value. The Commission supported it and recommended that the land be added to the conservation ordinance.

Vice Chairman Moreau commented that this made sense to be in the Natural Resource Protection Zoning. Ms. Walker agreed they should look at it.

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 OF THE BOARD

Vice Chairman Moreau moved to recommend approval of this land purchase to the City Council, seconded by City Council Representative Perkins. The motion passed unanimously.

B. Purchase of 3.11 Acre property in Greenland, NH in Sanitary Protection Area of the Greenland Well.

Ms. Walker noted that this would be for the acquisition of property recommended by the City Water Division. It is for land located in the sanitary protection area of the Greenland well.

Vice Chairman Moreau questioned if the areas within the yellow circle were other houses. Ms. Walker responded that she was not sure.

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 OF THE BOARD

Vice Chairman Moreau moved to recommend approval of this land purchase to the City Council, seconded Ms. Henkel. The motion passed unanimously.

VII. OTHER BUSINESS

A. The application of **Eversource Energy** for property located at **280 Gosling Road** for the construction of a concrete transformer pad with a 5,440 s.f. ± footprint with related drainage and associated site improvements. Said property is shown on Assessor Map 214 as Lot 2 and lies within the Waterfront Industrial (WI) District. This application originally received site plan review approval from the Planning Board at their February 2003 meeting with the stipulation that if this transformer pad was not installed within two years, it would come back to the Board for additional review.

Nick Dolan from TF Moran spoke on behalf of Eversource. Kurt Belson the land use and licensing specialist from Eversource was present as well. The purpose of this second transformer is to account for future load for the community. It will provide reliability for the community.

Vice Chairman Moreau commented that she assumed they did not need it within two years, but now it is needed. Mr. Dolan confirmed that was correct. Vice Chairman Moreau questioned why a vote was not needed. Ms. Walker responded that nothing was changing. It was previously approved and they don't need more approval. Ms. Walker was glad that Eversource caught this and came in front of the Board. The Staff has reviewed it. Mr. Dolan noted that the plans submitted are the original plans.

VIII. ADJOURNMENT

Vice Chairman Moreau moved to adjourn the meeting at 9:00 p.m., seconded by Mr. Gamester. The motion passed unanimously.

Respectfully Submitted,

Becky Frey,
Acting Secretary for the Planning Board

NOTICE TO MEMBERS OF THE PUBLIC WHO ARE HEARING IMPAIRED

If you wish to attend a Planning Board meeting and need assistance, please contact the Human Resources Office at 610-7270 one week prior to the meeting.