

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

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

7:00 PM

September 26, 2019

MEMBERS PRESENT: Dexter Legg, Chairman; Elizabeth Moreau, Vice-Chairman; Colby Gamester; Jay Leduc; John P. Bohenko, City Manager; Rebecca Perkins, City Council Representative; Ray Pezzullo, Assistant City Engineer; Jeffrey Kisiel; Jay Leduc; Corey Clark, Alternate, and Polly Henkel, Alternate

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

MEMBERS ABSENT: Jody Record,

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I. DETERMINATIONS OF COMPLETENESS

A. SUBDIVISION REVIEW

1. The application of **Cate Street Development, LLC, Owner**, for property located at **428 Route 1 Bypass, Cate Street, 55 Cate Street, 161 Cate Street and 1 Cate Street**, requesting Preliminary and Final Subdivision approval.

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

B. SITE PLAN REVIEW

1. The application of **Cate Street Development, LLC, Owner**, for property located at **428 Route 1 Bypass, Cate Street, 55 Cate Street, 161 Cate Street and 1 Cate Street**, requesting Site Plan Review approval.

Vice Chairman Moreau 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. Leduc. The motion passed unanimously.

II. 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 **Cate Street Development, LLC, Owner**, for property located at **428 Route 1 Bypass, Cate Street, 55 Cate Street, 161 Cate Street and 1 Cate Street**, requesting

Preliminary and Final Subdivision approval to reconfigure six (6) lots comprised of 12.3 acres and an existing city right-of-way to three (3) lots equaling 10.1 acres in total with a new city right-of-way as follows: Assessor Map 163, Lots 33 and 34, Assessor Map 165, Lot 2, Assessor Map 172, Lot 1, Assessor Map 173, Lot 2 and Assessor Map 163, Lot 37 to become Proposed Parcel A consisting of 260,789 s.f. and 973 ft. of frontage on a new city right-of-way, Proposed Parcel B consisting of 126,500 s.f. and 226 ft. of frontage on U.S. Route 1 Bypass, Proposed Parcel C consisting of 56,421 s.f. and 443ft. of frontage on a new city right-of-way and a new city right-of-way consisting of 139,622 s.f. Said properties are shown on Assessor Map 172 as Lot 1, Map 173 as Lot 2, Map 165 as Lot 2, Map 163 as Lot 33, Map 163 as Lot 34, and Map 163 as Lot 37 and lie within the Gateway Corridor (G1) District. LU #19-18.

Vice Chairman Moreau moved to consider Old Business Item A, Item B, and Item C together and vote on them separately, seconded by Mr. Leduc. The motion passed unanimously.

SPEAKING TO THE APPLICATION

Attorney John Bosen, Rick Lundborne with Fuss and O'Neil, Gregg Mikolaities from August Consulting, David Snell and Jeff Gannon from PCA Architects Jay Bisognano one of the owners of West End Yards were present to speak to the application. Mr. Bisognano commented that they have worked with City Staff and team to put forth a thoughtful and transformative development. They have incorporated the feedback. The plan includes a proposed land swap with the City that will help to construct a new road. They will contribute half of the money needed for the road. As it stands today they have completed a full financing effort and can start immediately if this is approved.

Mr. Bosen noted that they have been working on this project since 2017 and have met with many Boards. There has been a peer review on traffic, storm water and the roadway. City Council has approved the land swap and development of the road. The first request is for a subdivision approval, the second is for a site plan approval, and the last is for the amended CUP. The density has changed since the original CUP was approved. The stipulations from TAC have been incorporated in the plans.

Mr. Snell provided an overview of the buildings and showed a diagram of the public community space and public realm. One important thing is to make a good space for people who live there today and in the future. The space between the buildings had been thoughtfully curated. The Junction will be a lively place to build community.

Mr. Bosen commented that they were requesting subdivision approval and were in agreement with the proposed stipulations. This project has many benefits. They are excited to be able to transform this part of Portsmouth. The project will create 27 workforce-housing units. It will be the single largest workforce housing project by a private developer in the City. The development will bring in a large tax revenue for the City, it will clean up Hodgson Brook, and create a new road to link the downtown area to the hospital.

Vice Chairman Moreau commented that there was one small section shown for snow storage and questioned if there was more snow storage on site. Mr. Lundborne responded that the area along the back edge of the parking and the road would be dealt with by a road plow. Anything extra will be hauled and disposed of. Vice Chairman Moreau requested clarification that there would be no

plowing into the brook. Mr. Lundborne confirmed that was correct. Vice Chairman Moreau questioned how the trash would be handled for the residential buildings. Mr. Lundborne responded that each building would have a trash room and a truck would come pick it up. The commercial trash room will have smaller wheeled dumpsters that will be rolled out. It is in the back of the building and will have an overhead door for commercial trash. The compactor is intended for cardboard and paper. TAC made a comment that the delivery and trash pick up times should be designated to avoid traffic issues. Vice Chairman Moreau questioned if there would be a loading zone for deliveries. Mr. Lundborne responded there would be an entrance off the Bypass for quick stops in and out. There is a service alley behind the commercial buildings that is wide enough for two vehicles at a time. Vice Chairman Moreau questioned if there needed to be speed bumps to prevent people from cutting through from the Bypass to Bartlett St. Mr. Lundborne responded that people would have to drive cautiously because parked cars could be backing up. There will also be a number of landscape islands and crosswalks that will slow people down. There are some stop signs too. Some places have mountable curb to prevent speeding. Vice Chairman Moreau requested that they use silt sock instead of silt fence. Mr. Lundborne confirmed that was fine.

Mr. Clark commented that there is a lot of subsurface drainage included in the plan and questioned what the minimum storm event would be before they have to start releasing from their site. Mr. Lundborne responded that there would be a reduced release of storm water throughout the site. Almost 2 acres of impervious surface is being removed. The site will be tied to the drainage system for overflow. All infiltration systems have overflows. The total amount of storm water contributed to the City system would be reduced. The City vetted the drainage design. Mr. Clark questioned why the area between Building A and B was not included as common space. Mr. Lundborne responded that they would like to have that be private for the homeowners. The fenced in areas for restaurants were not included in the community space count either. Mr. Clark noted that the abutters who developed on Cate St. had an obscure easement that the railway held and questioned if that impacted this development as well. Mr. Lundborne responded that easement still exists and provides access. It doesn't continue on the property for this development.

Vice Chairman Moreau questioned what was happening with the old Cate St. Bridge. Ms. Walker responded that the City's plan right now is to keep it open and limit traffic access. There are no plans to close it now and the City will continue to evaluate it.

Chairman Legg noted that there were some patios for the first floor apartments and townhomes and was concerned about their placement. They face the street, so that is what the public will see. The Viridian building is the same way, and it looks messy. Chairman Legg requested that these patios be screened with landscaping or fencing. Mr. Bisognano responded that he appreciated the comment. They made a mistake not screening the patios or laying out clear rules for tenants at the Viridian. The intent with this development is to be clear about what can and can't be on the patios. There will also be screening.

PUBLIC HEARING

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

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to grant Preliminary and Final Subdivision Approval, seconded by City Council Representative Perkins with the following stipulations:

- 1) Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by City Council.
- 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 shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.
- 6) Prior to construction, the roadway plans shall be reviewed and approved by DPW prior to submission to the City Council for final approval.

The motion passed unanimously.

- B. The application of **Cate Street Development, LLC, Owner**, for property located at **428 Route 1 Bypass, Cate Street, 55 Cate Street, 161 Cate Street and 1 Cate Street**, requesting an Amended Conditional Use Permit pursuant to Section 10.5B71.20 of the Zoning Ordinance to allow a density of 28 dwelling units per acre. Said property is shown on Assessor Map 172 as Lot 1, Assessor Map 173 as Lot 2, Assessor Map 165 as Lot 2 and Assessor Map 163 as Lots 33 & 34 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to grant Amended Conditional Use Permit approval, seconded by City Council Representative Perkins with the following stipulations:

- 1) The proposed covenant that provides enforceable restrictions as to price and occupancy to ensure long-term availability and affordability of the units for a minimum of 30-years, shall be reviewed and finalized according to the requirements of the City, prior to issuance of a building permit.

The motion passed unanimously.

- C. The application of **Cate Street Development, LLC, Owner**, for property located at **428 Route 1 Bypass, Cate Street, 55 Cate Street, 161 Cate Street and 1 Cate Street**, requesting Site Plan Review approval for the redevelopment of the properties into a mixed use development including: a 2-story building with a footprint of 21,980 s.f. and 21,980 Gross Floor Area of retail space and 21,980 Gross Floor Area of office space; Proposed Residential Building A with 4-stories, 132 units, 33,615 s.f. footprint and 129,215 Gross Floor Area; Proposed Residential Building B with 4-stories, 118 units, 26,791 s.f. footprint and 104,415 Gross Floor Area; 13 Proposed Townhome Buildings with 8,640 s.f. total footprint and 25,920 total Gross Floor Area;

and 10 Proposed Townhome Buildings with 11,440 total footprint and 34,320 Gross Floor Area; and 529 parking spaces with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor Map 172 as Lot 1, Map 173 as Lot 2, Map 165 as Lot 2, Map 163 as Lot 33, Map 163 as Lot 34, and Map 163 as Lot 37 and lie within the Gateway Corridor (G1) District. LU #19-18.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to grant Site Plan Review Approval, seconded by City Council Representative Perkins with the following stipulations:

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

- 1) In the provided inspection and maintenance plan Appendix A “Invasive Plant Control” remove the section related to use of herbicides to control vegetation;
- 2) The applicant shall work with DPW to satisfactorily address any forthcoming comments from the Water System Analysis Report and Flow Assessment Report for final water and sewer sizes;
- 3) Third party inspection shall be required for all utilities and stormwater infrastructure installation (the third party agreement for these services shall be executed prior to issuance of a building permit);
- 4) Applicant shall contribute \$20,000 as a fair share contribution for a study on the potential realignment of Bartlett Street railroad bridge and related capital improvements to improve traffic congestion and flow at this location.
- 5) The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review by the relevant City Departments and approval by the City Manager.
- 6) The site plan, along with easement plans and deeds shall be reviewed for pre-approval by the Rockingham County Registry of Deeds and subsequently recorded by the City or as deemed appropriate by the Planning Department.
- 7) The plans shall be updated to reflect silt sock for erosion controls versus silt fence.
- 8) The applicant shall update the plans to include screening for apartment patios, as deemed appropriate by the Planning Department.

Conditions Subsequent (to be completed after the issuance of a building permit)

- 9) The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance.
- 10) Applicant shall install a 15’ section of water main on Cottage Street as part of the overall infrastructure improvements for this project to be coordinated with DPW.
- 11) Documentation of restrictions for residential patios as discussed by the Planning Board shall be provided to the Planning Department.

The motion passed unanimously.

III. 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 **Michael B. Myers and Stephanie G. Taylor, Owners**, for property located at **700 Middle Street**, requesting a Conditional Use Permit in accordance with Section 10.815 of the Zoning Ordinance for a Garden Cottage with a gross floor area of 760 +/- s.f. Said property is shown on Assessor Map 148 Lot 29 and lies within the General Residence A (GRA) District. LU #19-150. *[NOTE: Due to a Planning Department staff error, this was originally advertised as a Detached Accessory Dwelling, subject to the requirements of Section 10.814.]*

SPEAKING TO THE APPLICATION

Owners Michael Myers and Stephanie Taylor were present to speak to the application. The project is in progress and in the dry wall phase. Originally this was going to become a recreation room, but now Ms. Taylor's parents are moving into that space. Now they will need to put in a cook stove.

Vice Chairman Moreau clarified that this would only be on the second floor. Mr. Myers confirmed that was correct. It is an antique carriage barn and the first floor will be restored to look like that. The garden cottage entrance will be through the back. They will walk into a mudroom then up the stairs to the second floor. There will be a living area with a cook stove, a bedroom, walk in closet and a bathroom. Vice Chairman Moreau questioned if the tenants would be able to use the stairs. Mr. Myers confirmed that they could, and they would install a chair lift as well. There will not be an elevator.

Chairman Legg questioned if they used the existing barn for a garage. Mr. Myers responded that they did not. They are taking the materials in it to make it still look like a carriage barn.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the petition. Seeing no one 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 a modification from the following sections:

- 1) Section 10.815.32 of the Zoning Ordinance – for approval of a Garden Cottage of 760+/- s.f. of gross floor area where 600 s.f. is the maximum allowed.
- 2) Section 10.815.33 of the Zoning Ordinance – for windows/doors higher than eight feet above grade facing the adjacent property.

Seconded by Mr. Gamester. The motion passed unanimously.

Vice Chairman Moreau commented that normally she would be against something over that was over the square feet allowed. However this is an existing space and they are using the space that is there. Leaving doors where they are is more authentic. Chairman Legg agreed.

Mr. Gamester questioned if the mudroom was included in the gross floor area. Ms. Walker responded that it was not.

Vice Chairman Moreau moved to grant the conditional use permit as presented, seconded by Mr. Gamester with the following stipulation:

- 1) In accordance with Sec. 10.815.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.815, including the owner-occupancy requirement, and shall renew the certificate of use annually.

The motion passed unanimously.

- B. The application of **Kerrin J. Parker, Owner**, for property located at **86 Haven Road**, requesting a Conditional Use Permit in accordance with Section 10.814 of the Zoning Ordinance for an Attached Accessory Dwelling Unit (AADU) in the basement of the existing home. Said property is shown on Assessor Map 206 as Lot 27 and lies within the Single Residence B (SRB) District. LU #19-187.

SPEAKING TO THE APPLICATION

Kerrin Parker requested to put a small kitchenette in a finished basement. The construction is finished, but they need to put in a sink.

PUBLIC HEARING

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the petition. Seeing no one 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 10.814.60, seconded by City Council Representative Perkins. The motion passed unanimously.

Vice Chairman Moreau moved to grant the conditional use permit as presented, seconded by Mr. Gamester with the following stipulation:

- 1) In accordance with Sec. 10.814.90 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.

The motion passed unanimously.

- C. **WITHDRAWN** The application of **The Michael J. Quinn Revocable Trust, Owner** for property located at **55B Market 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 for two dwelling units over 750 s.f. Said property is shown on Assessor Map 106, Lot 25-02 and lies within the Character District 5 (CD5) District. LU #19-199. **WITHDRAWN**

IV. **PRELIMINARY CONCEPTUAL CONSULTATION**

- A. **WITHDRAWN** **Clipper Traders, LLC, Portsmouth Lumber & Hardware, LLC and Iron Horse Properties, LLC Owners, and Bartlett Street Lender, LLC, Applicant**, for properties located on **Bartlett Street** requesting Preliminary Conceptual Consultation of the proposal to construct three (3) 4-story apartment buildings with a total of 232 apartments with basement level parking and five (5) row house buildings with a total of 40 units and associated site improvements. Said properties are shown on Assessor Map 157, Lot 1, Map 164, Lot 4-2, Map 157, Lot 2-1, Map 164, Lot 1 and Map 157, Lot 2 and lie within the Office Research (OR) and Character District 4-W (CD4W) Districts. **WITHDRAWN**

V. **ADJOURNMENT**

Mr. Gamester moved to adjourn the meeting at 7:59 p.m., seconded by Mr. Leduc. The motion passed unanimously