

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

**Remote Meeting Via Zoom Conference Call**

to access by web <https://zoom.us/join>

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Meeting ID: 959 699 889

Password: 021228

Per NH RSA 91-A:2, III (b) the Chair has declared COVID-19 outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-5, and Executive Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

**7:00 pm**

**APRIL 23, 2020**

**MINUTES**

**MEMBERS PRESENT:** Dexter Legg, Chairman; Elizabeth Moreau, Vice-Chairman; Colby Gamester; Jay Leduc; Karen Conard, City Manager; Peter Whelan, City Council Representative; Jeffrey Kisiel; Jody Record; Ray Pezzullo, Assistant City Engineer; and Polly Henkel, Alternate

**ALSO PRESENT:** Juliet Walker, Planner Director; Deputy City Manager Nancy Colbert Puff

**MEMBERS ABSENT:** Corey Clark, Alternate;

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**I. CITY COUNCIL REFERRALS**

**A. Market Street Property Purchase from NHDOT**

Ms. Walker noted this was related to a small remnant parcel that belongs to NHDOT but was of no use to them. The City does use it for drainage for the road. Staff recommends a positive recommendation to City Council.

Mr. Gamester moved to recommend that the City Council approve the procurement of the 7,834 sq. ft. parcel of land on Market Street by the City from NHDOT, seconded by Vice Chairman Moreau. The motion passed unanimously.

**B. Request for Report Back Regarding Impact Fees**

Chairman Legg requested that Ms. Walker provide a little background on this.

Ms. Walker commented that impact fees were part of a State's land use controls. Typically, they fall under the land use approval and regulation processes. The impact fees have to be adopted into an ordinance and

Portsmouth has a section of the zoning ordinance reserved to add that. That will need to be updated and made current to start it. Impact fees directly relate to the CIP and have a methodology to apply it to that. As with any other zoning planning it would go through the public hearing process. They would have to develop a methodology to legally justify the fees. Then it would need to go to City Council for the three readings. At this point this is just a request for input. The recommendation is to come back to the Planning Board with more information about what this would involve and the difference between impact fees and exactions. A City can have both exaction and impact fees, but impact fees have more requirements around them. A reporting mechanism is required for impact fees. That would all be determined through the Planning Board during the land use and site plan process.

Ms. Henkel requested clarification on exaction. Ms. Walker responded that was basically a mitigation fee and has been done in the past. It directly correlates to a project and could be for a sidewalk improvement or transportation study etc. There is more flexibility with exactions because there is a dialogue with the developer. An impact fee is for a set amount and has more requirements on how the City uses it.

Vice Chairman Moreau commented that she has attended a training on impact fees and one important thing worth noting is that impact fees have to go to a specific project and the City has to give the money back if it costs less than what was predicted.

Vice Chairman Moreau moved to request that the Planning and Legal department staff prepare a report back to the Planning Board on the legal process for establishing impact fees and any additional studies that would be required in order to incorporate them into the City's local land use regulations, seconded by City Manager Conard. The motion passed in an 8-1 vote. Mr. Gamester opposed the motion.

During the first half hour of the meeting the Board was interrupted several times by a prank caller.

Chairman Legg commented that he was reluctant to move forward because of the public comment issues that they have experienced throughout the meeting. They do not have the ability to fully vet the people who will comment. There is no reason to think the Board will get a clean public hearing. Ms. Walker commented that they would not allow people into meeting unless they identify themselves. Chairman Legg noted that they needed a registration process with the callers' names and addresses to verify that is the individual calling.

Mr. Gamester questioned if they could use the video feature to verify a person's identity. Ms. Walker responded that video could be more problematic.

Vice Chairman Moreau commented that they could try to move forward and if there was another issue then they could stop. Mr. Gamester agreed they could try to move forward.

Mr. Kisiel commented that he was reluctant to move forward without a way to verify who is speaking.

City Council Representative Whelan agreed that they should not move forward.

Chairman Legg commented that he was proposing to postpone this meeting to next Thursday April 30, 2020. This will cause the applicants to wait another week for decisions. Attacks like this have happened in other towns. Setting up a registration process is reasonable and will not prevent the public from speaking. The Chairman commented that they should adjourn.

Ms. Record agreed that asking people to register was not a hardship and was probably the best way to go to prevent inappropriate behavior.

Mr. Leduc agreed that they should postpone.

Chairman Legg apologized to the applicants and postponed the meeting to April 30, 2020 and called for a motion to adjourn.

## 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 **DPF 1600 Woodbury Avenue, LLC, Owner**, for property located at **1600 Woodbury Avenue** requesting Amended Site Plan Review approval to demolition an existing building and upgrade the existing shopping center with new and additional signage, a new driveway entrance off of Woodbury Avenue, and repurposing of the former supermarket space to separate retail space and new grocery space with accessory cafe/food court. Said property is shown on Assessor Map 238 Lot 16 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

### DISCUSSION AND DECISION OF THE BOARD

This application was postponed to the April 30, 2020 Planning Board Meeting.

- B. The application of **4 Amigos, LLC, Owner**, for properties located at **1400 Lafayette Road, Peverly Hill Road and 721 Peverly Hill Road** requesting Conditional Use Permit approval for a Development Site according to the requirements of Section 10.5B40 of the Zoning Ordinance and Site Plan Review approval for the construction of a 53-unit Garden and Townhouse Style residential development consisting of 6 structures with a combined total footprint of 37,775 s.f. and 122,000 GFA with associated grading, lighting, utilities, stormwater management, landscape improvements and community space. Said properties are shown on Assessor Map 252 Lots 7, 4 & 5 and lie within the Gateway Neighborhood Mixed Use Center (G2) District.

### DISCUSSION AND DECISION OF THE BOARD

This application was postponed to the April 30, 2020 Planning Board Meeting.

- C. The application of **Nickerson Home Improvement Co. Inc.** and the **Linette and James Revocable Trust of 2000, Owners** and **Perley Lane, LLC, Applicant**, for properties located at **95 Brewster and 49 Sudbury Streets** requesting Site Plan Review approval to demolish the existing structures and construct 3 dwelling units in two structures, with related grading, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor's Map 138 Lots 57 and 58 and lie within the General Residence C (GRC) District.

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

This application was postponed to the April 30, 2020 Planning Board Meeting.

- D. The application of **Millport Inc., Owner** and **Thomas Bath, Applicant**, for property located at **1001 Islington 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 and Drinking Area as an accessory use. Said property is shown on Assessor Map 172 Lot 4 and lies within the Character District 4-W (CD4W) District.

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

This application was postponed to the April 30, 2020 Planning Board Meeting.

- E. The request of **Clipper Traders, LLC, Portsmouth Hardware & Lumber, LLC and Iron Horse Properties, LLC, Owners**, for properties located on **105 Bartlett Street and Bartlett Street** for Design Review for the construction of 174 dwelling units in two (2) multi-family apartment buildings and one (1) mixed-use building with first floor office, amenity space and upper story apartments. The project will designate 25% of the proposed property as Community Space. Said properties are shown on Assessor Map 157 Lots 1 and 2, Map 164 Lots 1, 2 and 4-2 and lie within the Character District 4-W (CD4-W) and Character District 4-L1 (CD4-L1) Districts.

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

This application was postponed to the April 30, 2020 Planning Board Meeting.

## **IV. ADJOURNMENT**

Mr. Gamester moved to adjourn the meeting at 7:35 p.m., seconded by Mr. Kisiel. The motion passed unanimously.