

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

Remote Meeting Via Zoom Conference Call

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 2020-17, and Emergency 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

SEPTEMBER 17, 2020

MINUTES

MEMBERS PRESENT: Dexter Legg, Chair; Elizabeth Moreau, Vice Chair Karen Conard, City Manager; Peter Whelan, City Council Representative; Ray Pezzullo, Assistant City Engineer; Jeffrey Kisiel; Colby Gamester; Jody Record; Corey Clark

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

MEMBERS ABSENT: Jay Leduc and Polly Henkel, Alternate

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WORK SESSION (6:30 PM)

I. Review of proposed revisions to the City of Portsmouth Site Plan Review Regulations.

Juliet Walker, Bill Archery, Brian Goetz, and James McCarty provided a presentation. Ms. Walker commented that there were a few items that were being proposed for updates. The focus of tonight is the changes surrounding storm water management compliance. The changes are mostly in Article 7 and Article 2. There were some changes made to Article 6 about the tree planting guidelines and standards by request of the City Arborist. There was a small tweak to the regulations in compliance with the Flood Plain Insurance Program in Article 2. There were a few other housekeeping items. It is a Planning Board responsibility to review this and move it forward to City Council. The Board can review and determine if this is ready or if another iteration is needed.

Mr. Archery from PHP commented that the MS4 permit issued by the EPA became effective in 2018 and required municipalities to update their Site Plan Regulations accordingly. Section 5 was added to clarify and highlight erosion and waste control efforts. The new section addresses storm water treatment and expanded on water quality protections. There were no changes to the wildlife protection area. The storm water management and erosion control section specify all the details that should be included in the site plan. The basic storm water management regulations apply to all sites. Regulations were brought up to date and reenforced to focus on maintaining drainage and promoting infiltration. The percent standards were updated to be consistent with AOT requirements. There were a few elements about salt storage added. The MS4 storm water requirements were only applicable to projects disturbing 1 acre or more.

However, the Committee felt that a lot of the Portsmouth lots were smaller than an acre, so the threshold was lowered to 15,000 sf for the additional requirements. This initiative will help create a standard process to come up with established load reductions and impervious area. The applicant needs to provide clarity about who is responsible the operations and maintenance for storm water best management practices during and post construction.

Mr. Britz added that the South East Watershed Alliance is working with the Storm Water Center. They meet monthly in Dover with regional communities to discuss MS4 regulations. It's a unified program with standard information to collect changes in impervious surface and pollutant removal on site.

City Council Representative Whelan questioned if the was City going far enough with the new regulations given the EPA efforts with the Great Bay. It's important to ensure the new regulations go far enough, so Portsmouth is not behind the curve. There has been some talk about taxing storm water to help fund that. Mr. Goetz confirmed they were doing industry or best management standards at the moment. Treatment of storm water is a somewhat new concept; everything is not fully vetted. The nitrogen and phosphorus efficiencies are put into an operating plan. Applicants must outline who is responsible for maintaining a treatment unit. Storm water is an adaptive process. Funding is a little tricky. Digging up anything around here is not cheap and requires extensive permitting, planning, and installation. Right now, the City ball fields will have extensive storm water treatment in there. It is a good example to show the City is putting forward storm water treatment. The goal is to make it interactive. People will be able to monitor it. Part of what's directed in the permit is to put together a long-range capital plan. They are in the midst of working toward that. Funding is currently 50% through the general fund and 50% through the sewer fund for now. Storm water treatment is a service like water and sewer. Mr. McCarty added that the storm water permit regulations only require treatment on an acre of disturbance or more. Portsmouth has brought it down to one third of an acre, so they are asking beyond the requirements of the permit for storm water treatment.

Mr. Clark questioned if they looked into adding the 15% increase in rainfall data based on AOT requirements. Mr. Archery responded that there was a lot of discussion about adding the 15%. That is best reserved for larger projects not smaller ones. Chairman Legg questioned if they specified in the proposed changes that the 15% would apply to certain projects. Mr. Archery responded that it was not added. Chairman Legg noted that it has been an issue raised on bigger projects and questioned if it would be appropriate to highlight it in the site regulations. Ms. Walker responded that they made it consistent with the Storm Water Center regulations. Mr. Pezzullo noted that the additional 15% would still apply in the State regulations for larger projects. Ms. Walker commented that they could look at this more. Applying it to small projects could be tricky, but it may make sense to have a threshold. Chairman Legg agreed that it may be worthwhile to include it in the regulations for larger projects. Even if it is consistent with the state it would just eliminate misunderstandings. Mr. Archery commented that this was the most important for projects in upper parts of the watershed. Most of Portsmouth is not as much of a threat it is going out to the ocean essentially. It's a balancing act. Mr. Clark agreed. If designer and owner can keep it all on site, then that's the best.

Mr. Clark questioned if there was any discussion about fertilizer or salt regulations. Mr. Walker responded that they could consider it. It is talked about it in the wetland updates. Mr. Clark commented that if the site ties into the City, then it doesn't matter how far away it is. Ms. Walker noted that the focus is to do as much on site as possible and avoid projects tying into the City.

Chairman Legg noted that there were a couple of items to consider including the additional 15% and whether or not to consider fertilization regulations. The draft will need to be adjusted accordingly. The

Board should look at this again before a public hearing. Ms. Walker confirmed they would come back with ideas in a work session next month. Chairman Legg noted that it would be helpful to understand if these are incremental changes or are if they more revolutionary. A sense of magnitude on the existing regulations and how far the new ones are moving the bar would be good. Chairman Legg closed the work session.

REGULAR MEETING (7:00 PM or after)

I. PRESENTATIONS

A. FY 2021-2026 Capital Improvement Plan Process and Schedule.

Ms. Walker provided the presentation. This overview is the start of the CIP process. The CIP is part of the City Charter requirements. The City Manager submits the 6-year CIP program 6 months prior to the budget. The first part of the process goes through the Planning Board with public comment and then it moves to the City Council. The CIP consists of a general summary, list of projects proposed, cost and established method of finance, timeline, and operation and maintenance costs. This is a non-regulatory function of the Planning Board. There is a process in Portsmouth to solicit citizen input for the CIP. Information on how to do that is on the CIP web page. Project suggestions are due back on October 15, 2020. The citizen project requests are reviewed by each Department and brought forward to the Planning Board. Then an advisory committee reviews it, the Planning Board reviews the recommendations of that committee and then passes it on to City Council. In November this will come back for a public presentation to give a summary and the final submission will be in December. A CIP project has to meet a certain project type, include a statement of need, justification for the project cost, net effect on the budget and implementation schedule. There is a long list of projects that need to be reviewed and updated each year. The projects can come from Federal or State mandates, infrastructure or facility updates or expansion, planning priorities identified in the Master Plan and policy priorities. There are guidelines to follow to make recommendations on funding. Departments need to consider prioritization based on how urgent the project is.

II. APPROVAL OF MINUTES

A. Approval of Minutes from the August 20, 2020 Planning Board Meeting

Vice Chairman Moreau moved to approve the Minutes from the August 20, 2020 Planning Board Meeting, seconded by City Manager Conard. The motion passed unanimously.

III. PUBLIC HEARINGS – OLD BUSINESS

- A. The application of the **Maud Hett Revocable Trust, Owner**, for property located on **Banfield Road** requesting Conditional Use Permit approval for an Open Space Planned Unit Development according to the requirements of Section 10.725 of the Zoning Ordinance and Site Plan Review approval for the construction of 22 single-family homes and a new road with related parking, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 256 Lot 02 and lies within the Single Residence A (SRA) District.

SPEAKING TO THE APPLICATION

Corey Colwell from TF Moran spoke to the application. Mr. Colwell noted that they were in front of the Planning Board last month and presented a plan for a 22-unit open space planned unit development. The Board granted the Wetland Permit but postponed the CUP for the PUD. The Board requested a comparison of anticipated impacts for a conventional subdivision vs. a PUD. Mr. Colwell prepared and submitted a memorandum to show the impacts. The memorandum shows anticipated impacts on traffic, market values, storm water management and the environment. This 45-acre site is completely vegetated. There is 1,730 feet of frontage along Banfield road. There is 25.5 acres of upland and 19.3 acres of wetland. Most of the wildlife on the property is to the north. The open space PUD allows the dwelling units to be clustered and preserve site the while creating open space. The PUD proposal will protect a lot of the property in a conservation easement. The PUD reduces impact on the wetland, wetland buffer, wildlife, roadway and storm water runoff, traffic, and impervious surface. The concept plan of anticipated impacts of a PUD are significantly less than a conventional subdivision. Traffic consultant Steven Pernaw found that a condo unit would have 15-43% fewer trips than a single family home subdivision. Single family detached units have the highest trip generation rate of all residential units. This is primarily because they are larger with more residents and vehicles. There are few residential properties in this area. The area is zoned Single Residence A. New homes on this property will be equal or greater value to the existing older homes on Banfield Road. They will not diminish surrounding property values. A conventional subdivision would generate considerably more storm water runoff than a PUD. A conventional subdivision would need a 32-foot-wide roadway that is 1,800 feet in length with individual driveways. A PUD allows for a private road that can be 20 feet wide on a 900-foot road with shared driveways because the homes are clustered. A conventional subdivision would result in individual lots owned in fee with individual driveways. A PUD would have common driveways, and all be one lot. A PUD would require 16% tree clearing of the lot. A conventional subdivision would require 26% tree clearing of the lot. The increase in road width and length, number of driveways, and area to be cleared would generate more runoff than a PUD. Reducing the roadway length and width and using common driveways will reduce wetland and buffer impact, storm water runoff and tree clearing. The PUD will preserve 37 of the 45 acres in a conservation easement. A conventional subdivision would not have any common open space in an easement. Impact on the wetland buffer for a PUD would be 14,000 sf a conventional subdivision would be 30,200 sf. Impact on the wetland for a PUD would be 3,800 sf a conventional

subdivision would be 18,200 sf. A PUD would be owned by a condo association, which would mean one owner to monitor the land and it would allow for the conservation easement. The anticipated impacts of a PUD on all points are less than a conventional subdivision.

Chairman Legg thanked the team for coming back and providing this information to the Board.

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

Chairman Legg commented that he felt good about the project and the work and effort put into it.

Vice Chairman Moreau commented that they worked hard to ensure the health and safety concerns were taken care of and the houses were sprinkled. The road was designed in a way to protect the wetlands and it works.

The Board voted to **grant** this request as follows:

Vice Chairman Moreau moved to determine that the applicant has made the case that the proposed OSPUD will not be more detrimental than a conventional subdivision, seconded by Mr. Gamester and voted to find that:

- 1.1) The site is appropriate for an OSPUD, and;
- 1.2) The anticipated impacts of the proposed OSPUD on traffic, market values, stormwater runoff or environmental factors will not be more detrimental to the surrounding area than the impacts of conventional residential development of the site.

The motion passed unanimously.

Vice Chairman Moreau moved to grant a waiver to the Subdivision Regulations -- Section VI(3)(I) Cul-de-Sacs to allow a 900-foot cul-de-sac length where 500 feet is the maximum allowed by finding that strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations, seconded by Mr. Gamester.

The motion passed unanimously.

Vice Chairman Moreau moved to grant a waiver to the Subdivision Regulations -- Section VI(3)(B) Street Rights of Way and Residential Street Minimum Standards to allow 20' of pavement width where 32' is the minimum allowed by finding that specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations, seconded by Mr. Gamester.

The motion passed unanimously.

Vice Chairman Morea moved to grant the conditional use permit and site plan review approval as presented, seconded by Mr. Gamester with the following stipulations:

- 4.1) The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department;
- 4.2) Utilities and storm drainage shall be overseen by third party during construction;
- 4.3) 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;
- 4.4) A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted to the City's Planning and Public Works Departments;
- 4.5) A hydrant maintenance plan shall be provided prior to issuance of a building permit;
- 4.6) ECO Passage Grates shall be reviewed every 5 years for compliance with H2O loading by NH PE and such report shall be submitted to the City of Portsmouth Planning Department and DPW. Applicant shall submit condominium documents that outline this requirement subject to final review and approval by DPW, Planning, and Legal Departments;
- 4.7) Street name sign proof shall be reviewed and approved by DPW prior to fabrication and installation;
- 4.8) A license for locating the proposed utility pole in the Banfield Road right-of-way shall be reviewed and approved by the Legal Department and DPW and accepted by the City Council;
- 4.9) The granting of the waivers for the cul-de-sac length and 20' pavement width shall prohibit a future petition for acceptance of the private road as a public street;
- 4.10) Owner shall provide an access easement to the City for water valve access and leak detection;
- 4.11) Prior to the issuance of a building permit, 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;
- 4.12) Prior to issuance of a building permit, the applicant shall enter into a development agreement with the City per the requirements of the Zoning Ordinance and subject to review and approval by the Legal Department;
- 4.13) Submission of the Stormwater Maintenance and Operations Plan shall be verified by City staff and shall be referenced in the condominium documents;
- 4.14) Plans shall note that trash and snow removal is the responsibility of the private homeowners.

The motion passed unanimously.

IV. PUBLIC HEARINGS – NEW BUSINESS

- A. The application of the **Nania Family Trust, Owner**, for property located at **18 Dunlin Way** requesting Wetland Conditional Use permit approval under Section 10.1017 of the Zoning Ordinance to construct a 16 x 16 foot addition, 12 x 12 foot deck and associated stairway and porous paver patio where a 12 x 12 foot porch currently exists. The design

incorporates stormwater infiltration and new buffer plantings. Said property is shown on Assessor Map 213 Lot 9 and lies within the General Residence B (GRB) District.

SPEAKING TO THE APPLICATION

Matt Nania spoke to the application. Mr. Nania commented that the proposal is to replace the 20-year-old deck with a new 3 season room and deck next to it. There will be a permeable patio below. The work will be done in the wetland buffer, so a CUP is needed. The application went to the Conservation Commission and was unanimously approved.

Wetland Specialist Sergio Bonia commented that he delineated the wetlands. The property abuts the Eversource right of way. That area is routinely maintained by Eversource. This project would increase the size of the home with a 3-season room. It would replace the existing deck and they would put in a small patio with pervious pavers. The Conservation Commission requested they add plantings to the plan, and that has been done. The goal is to optimize the use of the home. The buffer enhancement planting plan is comprised of 3 different plants that will enhance habitat and the aesthetics. There will be a 280-sf increase in impervious area and the new structure will encroach 4 feet more into the buffer. Silt sock will be used during construction.

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

Mr. Gamester moved to **grant** this request as presented, seconded by Vice Chairman Moreau. The motion passed unanimously.

- B. The application of **Media One of NE, Inc., Owner**, for property located at **180 Greenleaf Avenue** requesting Wetland Conditional Use permit approval under Section 10.1017 of the Zoning Ordinance to construct a 180 square foot shed on a concrete pad with associated drip edge, remove a 220 square foot structure and restore the site to a lawn area. Said property is shown on Assessor Map 243 Lot 67-1 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

SPEAKING TO THE APPLICATION

Doug Larosa spoke to the presentation. The project is fairly straight forward. There is currently a fenced in area with two sheds. Both will be removed. One shed will be replaced by grass the other will be replaced by a concrete pad and new shed. This application has been to the Conservation Commission and they recommended approval with a stipulation to add 6 native plantings. The plan has been revised to add those plantings.

Vice Chairman Moreau questioned why the shed area would be grass instead of more plantings. Mr. Larosa responded that area will be used to store ladders and equipment off the trucks.

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

City Manager Conard moved to **grant** this request as presented, seconded by Vice Chairman Moreau. The motion passed unanimously.

- C. Request by Public Service Company of New Hampshire d/b/a Eversource Energy for naming of a privately-owned road located off Gosling Road on Assessor Map 214 Lots 1, 2 & 3 as Jacona Road.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to **postpone** this request to the next Planning Board meeting, seconded by Mr. Gamester. The motion passed unanimously.

V. PRELIMINARY CONCEPTUAL CONSULTATION

- A. The request of the **SB & NA Stokel Trust and Philip Stokel, Owners**, for property located at **83 Peverly Hill Road** for Preliminary Conceptual Consultation for a 60-unit Open Space Planned Unit Development (OSPUD). Said property is shown on Assessor Map 242 Lot 4 and lies within the Single Residence A (SRA) District.

Corey Colwell and Attorney John Cosinavich spoke to the presentation. Mr. Colwell commented that they submitted two drawings to show the overall concept of the proposed PUD. It is a 110-acre site with 650 feet of frontage on Peverly Hill Road. It abuts the cemetery on Route 33. The PUD would be on the front third of the property and leave the back 2/3 of the property untouched. Much of the undeveloped land is wetland. Wetland is on half of the frontage. The new road network would be a

loop road with a stretch of road off the loop. There would be 60 units all on upland and all outside the 100-foot buffer. There will be a mix of 3- and 4-bedroom homes. There will be a new private road for access that will be 3,900 feet in length and 20 feet wide. The loop road will be 2,900 feet and the other road will be 1,000 feet in length. The purpose of tonight's presentation is to give the Board the opportunity to review the project concept. Since the meeting last month, the team has met with police and fire to discuss their life safety concerns. Police and fire did not have many concerns. The homes will be sprinkled, so one access point is fine. Fire did note that the preferred road width would be 26 feet, but that will be discussed in TAC.

Vice Chairman Moreau noted that the extension road off the loop road feels disconnected from the rest of the development. It seems like it could be awkward for access. Adding a turnaround or circle at the dead end would be helpful. It is good the team has already spoken to fire and police to know about their concerns. Vice Chairman Moreau questioned if this would be a condo ownership development. Mr. Colwell confirmed that was correct. Vice Chairman Moreau noted that the PUD in the last application that was just approved had more connected open space. Putting some of the rest of the land in protected status would be helpful.

Mr. Gamester agreed with Vice Chairman Moreau's comments on the extension road.

Mr. Clark agreed that the development would flow better without the back road. Mr. Clark also expressed concerns about cars coming in and out of the development because cars move fast on Peverly Hill Rd.

Chairman Legg questioned if the property would be on town water and sewer. Mr. Colwell confirmed that was correct. Chairman Legg commented that a traffic study would inform the Board and TAC on the impact of a large development flowing into a heavily trafficked road.

Ms. Walker noted that it was appreciated that the applicant reached out to departments ahead of time on general support. However, the TAC process is where details and issues are discussed and ironed out. The width of the road will be part of the TAC discussion. The length of road is very different from the one that was just approved. They will need input from the school department on bus transportation and impact on number of children expected on this size of a project. Generally, the school department does not bus private roads. It would be good to see sidewalks on this length of road.

Chairman Legg noted that this plan was a different feel from what was just approved. There is not a lot of shared open space. It doesn't feel as open as the one the Board just saw. There may need to be more open space so that it mirrors the good project the Board just saw.

VI. OTHER

- A. The request of **Paul W. Mullen, Owner**, for property located at **97 Eastwood Drive** for a 1-year extension of Conditional Use Permit approval for the addition of a 746 sq. ft. Attached Accessory Dwelling Unit to the first floor of an existing home that was originally granted on June 27, 2019.

Ms. Record moved to **approve** a 1-year extension to expire on June 27, 2021, seconded by Mr. Gamester. The motion passed unanimously.

VII. ADJOURNMENT

Vice Chairman Moreau moved to adjourn the meeting at 8:24 p.m., seconded by Mr. Gamester. The motion passed unanimously

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Respectfully submitted,

Becky Frey,
Acting Secretary for the Planning Board