

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

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

7:00 PM

August 19, 2021

MINUTES

MEMBERS PRESENT: Dexter Legg, Chair; Elizabeth Moreau, Vice Chair Karen Conard, City Manager, Peter Whelan, Ray Pezzullo, Assistant City Engineer; Colby Gamester; Corey Clark; Peter Harris; Rick Chellman; and Polly Henkel, Alternate

ALSO PRESENT: Juliet Walker, Planner Director

MEMBERS ABSENT:
.....

I. APPROVAL OF MINUTES

A. Approval of the Planning Board minutes from the July 15, 2021 meeting.

Vice Chairman Moreau moved to approve the Planning Board minutes from the July 15, 2021, meeting, seconded by Mr. Clark. The motion passed unanimously.

II. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

A. The application of **Hampshire Development Corp. (Applicant)** and **64 Vaughan Mall, LLC (Owner)** for property located at **64 Vaughan 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. Clark. Motion passed unanimously.

B. The application of **Green & Company (Applicant)** and **Philip J. Stokel and Stella B. Stokel (Owners)** for property located at **83 Peverly Hill Road** requesting **Site Plan Review** approval.

City Council Representative Whelan moved to postpone this application to the September Planning Board Meeting, seconded by Mr. Gamester. The motion passed unanimously.

- C. The application of **Warner House Association, (Owner)**, for property located at **150 Daniel 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. Clark. Motion passed unanimously.

- D. The application of **Spaulding LLC, (Owner)**, for property located at **180 Spaulding Turnpike**, 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. Clark. 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. **REQUEST TO POSTPONE** The request of **Brora, LLC, Owner**, and **210 Commerce Way LLC, Applicant**, for property located at **Shearwater Drive (at intersection of Portsmouth Boulevard and Market Street)** for a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for an after the fact approval for cutting of vegetation on 88,700 square feet in the wetland and vegetated buffer areas. Said property is shown on Assessor Map 217 Lot 2-1975 and lies within the Office Research (OR) District. **REQUEST TO POSTPONE**

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Whelan moved to postpone this application to the September Planning Board Meeting, seconded by Mr. Clark. The motion passed unanimously.

- B. **REQUEST TO POSTPONE** The request of **Banfield Realty, LLC, Owner**, for property located at **375 Banfield Road** requesting Site Plan review approval to demolish two existing commercial buildings and an existing shed and construct a 75,000 s.f. industrial warehouse building with 75 parking spaces as well as associated paving, stormwater management, lighting, utilities and landscaping. Said property is shown on Assessor Map 266 Lot 7 and lies within the Industrial (I) District. **REQUEST TO POSTPONE**

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to postpone this application to the September Planning Board Meeting, seconded by City Manager Conard. The motion passed unanimously.

- C. REQUEST TO POSTPONE** The request of **Banfield Realty, LLC, Owner**, for property located at **375 Banfield Road** requesting a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for work related to the construction of an industrial building that will require the removal of pavement in the 100' wetland buffer to create a vegetated area which will receive some of the stormwater runoff from the property. Said property is shown on Assessor Map 266, Lot 7 and lies within the Industrial (I) District. **REQUEST TO POSTPONE**

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to postpone this application to the September Planning Board Meeting, seconded by City Manager Conard. The motion passed unanimously.

- D. REQUEST TO POSTPONE** Request of **The Fritz Family Revocable Living Trust, Owner**, for property located at **0 Patricia Drive** for amended subdivision approval to revise the roadway design and stormwater treatment for a previously approved subdivision that proposes to subdivide a lot with an area of 137,549 s.f. and 414.15 of continuous street frontage on a private road into two (2) lots as follows: Proposed lot 1 with an area of 92,908 s.f. and 150 ft. of continuous street frontage on a private road; and Proposed Lot 2 with an area of 44,641 s.f. and 264.15 ft. of continuous street frontage on a private road. Said property is shown on Assessor Map 283 Lot 11 and lies within the Single Residence A (SRA) District. **REQUEST TO POSTPONE**

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Whelan moved to postpone this application to the September Planning Board Meeting, seconded by City Manager Conard. The motion passed unanimously.

- E. REQUEST TO POSTPONE** Request of **The Fritz Family Revocable Living Trust, Owner**, for property located at **0 Patricia Drive** for amended wetland conditional use permit approval under Section 10.1017 of the Zoning Ordinance to revise the roadway design and stormwater treatment for a previously approved subdivision which will result in 5,718 square feet of temporary wetland buffer impact.

Said property is shown on Assessor Map 283 Lot 11 and lies within the Single Residence A (SRA) District. **REQUEST TO POSTPONE**

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Whelan moved to postpone this application to the September Planning Board Meeting, seconded by City Manager Conard. The motion passed unanimously.

IV. PUBLIC HEARINGS – CITY COUNCIL REFERRALS (OLD BUSINESS)

- A. REQUEST TO POSTPONE** The request of **David Higgins and Julia Higgins, Owners**, for the restoration of involuntarily merged lots at **344 Aldrich Road** to their pre-merger status pursuant to NH RSA 674:39-aa. Said property is shown on Assessor Map 166 Lot 50 and lies within the Single Residence B (SRB) District.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to postpone this application to the September Planning Board Meeting, seconded by City Council Representative Whelan. The motion passed unanimously.

- B. Request of Vincent Zingariello and Monica Abruzzese, Owners**, for the restoration of involuntarily merged lots at **135 Thaxter Road** to their pre-merger status pursuant to NH RSA 674:39-aa. Said property is shown on Assessor Map 166 Lot 15 and lies within the Single Residence B District.

SPEAKING TO THE APPLICATION

Bernie Pelech from Bosen and Assoc. and property owner Vincent Zingariello spoke to the application. Mr. Pelech noted that the owners attempted to subdivide the lot before 2011 and were denied. In 2011 the legislature allowed for involuntarily merged lots to be un-merged. The owner has put in a driveway that is partially on the lot he would like to unmerge. The driveway provided better access from Thaxter Rd. and provided a place for his children to play basketball. The City Assessor has determined that this driveway constituted a voluntary merger of the two lots. Mr. Pelech disagreed. There was a case that involved a driveway that provided the only access to the lot that went to the supreme court. It was ruled that was a voluntary merger because the lots were dependent on one another. This case is different. The owner was preparing for an un-merger and in mean time provided a recreation area for his children. Mr. Pelech did not believe that constituted a voluntary merger. They submitted the history of the property and there is no question that it was two lots until the Assessor combined it into one lot. The two lots were conveyed separately and the City involuntarily merged the two lots. It is the City Assessor's opinion that the driveway constituted a voluntary merger. However, there was no written request for a voluntary merger. It was an involuntary merger performed by the City.

Minutes, Planning Board Meeting, August 19, 2021

Mr. Chellman questioned what the building in the back of the property was. Mr. Pelech responded that it was a garage that has existed since the house was built. It has remained unchanged throughout the time. It is entirely on the 135 Thaxter Rd. lot.

Vice Chairman Moreau questioned if they were planning to divide the lot when widening the driveway across the lot line. Mr. Pelech responded that the intention was to create a home and garage on the vacant lot. It would be a mirror image of 135 Thaxter Rd. That driveway is 22 feet wide would serve 135 and the vacant lot. Vice Chairman Moreau commented that generally the house is built first, and then the driveway is installed. Mr. Pelech commented that the kids needed place to play basketball, and the City does not like hoops on the sidewalk or street.

Chairman Legg questioned if the client understood they were expanding on to a different lot. Mr. Pelech confirmed that they did know it was on the separate lot.

Chairman Legg requested more details on the attempt to subdivide in the past. Mr. Zingariello responded that he tried to subdivide the lots in 2001 and it was denied.

Vice Chairman Moreau noted that if they came before the Planning Board to subdivide, then they knew it was one lot. Mr. Zingariello responded that they were involuntarily merged. The legislation about mergers came out after the request to subdivide, so now Mr. Zingariello is trying to do it this way.

Mr. Pezzullo questioned why the subdivision application was denied. Mr. Pelech responded that it needed variances for the lot size because it is in the SRB district. The variances were denied.

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 recommend that the City Council **grant** the request to unmerge the lots, seconded by Mr. Gamester.

Vice Chairman Moreau commented that she was torn by this. It is not clear that the driveway was intended for a separate lot. Usually, the house is constructed before the driveway.

Mr. Chellman commented that he understood the point that the lots aren't dependent on each other. Mr. Chellman was concerned about the back building, but Mr. Pelech clarified that it is entirely on the 135 lot. The deeds show that they are clearly two parcels. They can be accessed separately.

Mr. Clark agreed with Mr. Chellman. There are plenty of instances where the pavement of two drives for two lots are touching each other. There have also been driveways without a structure.

It seems cut and dry. They may not have the lot size, but it is being treated as a separate lot. Fences and landscaping cross lot lines. Mr. Clark was looking at structure.

Ms. Henkel commented that they did intend to separate the lots at one point and the laws have changed. They didn't make a big change to merge the two lots.

Mr. Pezzullo commented that these lots were comparable to the other lots in the neighborhood even though the lot would be considered undersized. It would not be odd in that neighborhood.

Chairman Legg agreed with Vice Chairman Moreau. This is difficult. The City Assessor's analysis could be considered accurate, but as others have said they give the property owner the benefit of the doubt.

City Council Representative Whelan commented that the deed clearly says it is two parcels, and as Mr. Pezzullo pointed out the lots would mirror other lots in the neighborhood if they were divided.

Vice Chairman Moreau noted that deeds are not always accurate. Generally, they copy the description from when it was originally put together. The overt act is what the Board is supposed to look at. The Board must determine if the intention of the current property owner was an overt act or not.

The motion passed by an 8-1 vote. Vice Chairman Moreau opposed.

V. PUBLIC HEARINGS – NEW BUSINESS

- A.** The request of **Hampshire Development Corp. (Applicant) and 64 Vaughan Mall, LLC (Owner)** for property located at **64 Vaughan Street** requesting Site Plan Review approval for the renovation of an existing building including a 2,475 sq. ft. expansion to the building footprint, a fourth-story addition to a portion of the existing building with retail space on the first floor and 14 residential units on the upper stories and an underground parking garage with related utilities, landscaping, and associated site improvements. Said property is shown on Assessor Map 126 Lot 1 and lies within the Character District 5 (CD5) District, the Historic District, and the Downtown Overlay District.

SPEAKING TO THE APPLICATION

Property owner Steve Wilson spoke to the application. The building was used for retail furniture in the early 1900s. A mirror image of the building was added on to it. In the 1950s the rear portion was added on. In the 1960s a single story shed roof and loading dock were added. It has been a furniture store for forever. There is one bathroom and no sprinkler system. The utility plan was updated during the TAC process. The public access is through the front. All the windows on the upper floor were bricked in. The plan is to tear down the last 1/3 of the building and loading dock and build an addition that appears as a separate building. The front of the building will be restored significantly. It will have fresh brick and be brought back to the same

elevation. The intent is to restore it to the way it looked back in the day. There will be some recessed decks to serve residences. There will be a center wall for support. Then it will transition to a newer looking building. That will provide differentiation. There will be a subsurface parking garage with 20-21 parking spaces. There is an easement to never cover the 20 feet behind La Carretta. That is where the driveway to the parking will be. Currently there is no connection from the sidewalks around Provident Bank to the Vaughn Mall. This plan will provide new brick sidewalks from the Vaughn Mall to the driveway. They are approaching City Council to get approval to build a sidewalk parallel to the Worth Lot and this building. The new plan loses 2 spaces in the Worth Lot due to the configuration of spaces and ADA requirements. There are various public utility lines around this block they can connect to. They have worked with DPW to determine which ones are suitable. The building's domestic water service, sewer, and fire sprinkler water will come in from Hanover St. This application includes a waiver request for the landscaping. It also includes a waiver for the photometric lighting plan. There is no plan to put any lighting on the building other than at the entry way.

Ms. Walker noted that Mr. Wilson alluded to needing approval by City Council for the sidewalk. It would make sense for the Planning Board to recommend that approval if they agree with the plan.

Vice Chairman Moreau commented that the lot line adjustment may cover the right of way easement on the adjacent lot. Mr. Wilson responded that they have worked with the abutting property to obtain air rights over La Carretta and in exchange the abutting property is getting the right to land their fire escape on this property. It's a symbiotic relationship and they have been very cooperative.

Vice Chairman Moreau questioned how snow removal would be handled for the driveway into the parking garage. Mr. Wilson responded that there will be a small gas boiler installed under the stone paver driveway that will melt the snow. A similar system was used at 129 Hanover St. and it works well.

Mr. Clark requested more details on how they determined the average grade and building height. Mr. Wilson responded that they started 5 feet out from the building and measured around the whole building. It was 15 at the Vaughn Mall side and then sloped down to 11 on Hanover St. The average grade is 14.1 even though the first-floor grade is 15.1. The maximum height was measured to the center of the sloped roof. It meets requirements. Mr. Clark questioned if they included the whole addition. Mr. Wilson confirmed that they did.

Mr. Clark questioned if the roof was sloped on the top. Mr. Wilson responded that it was flat but sloped behind the parapet. The new addition has a hip to a flat roof. The ordinance dictates what roofs could be used there. The roofline they chose was the most complimentary to the design. Mr. Clark was not sure that the design fit within the sloped roof criteria. The ordinance calls for a roof that is sloped to the center. There is no flat portion. Mr. Wilson responded that it was thoroughly analyzed and confirmed that it did comply.

City Council Representative Whelan questioned how many parking spots the garage would have. Mr. Wilson responded it would have 20-21 spots. They have been trying to find commercial

tenants for the building, which may or may not reduce the number of residential units. City Council Representative Whelan questioned if they had control over the alleyway parking. Mr. Wilson responded that they did not. Those were under an agreement with the building across the street. All the perpendicular spaces to the side of the building and alley are part of that. City Council Representative Whelan requested more detail on the wide sidewalk community space in front of the building. Mr. Wilson responded that they were providing a recessed entrance to the building to widen the sidewalk to 10 feet wide. The City owns a sliver of the sidewalk so they needed to dedicate that portion to the City as public space.

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 requested waivers will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to waive the following requirements: 1) Provision of an Outdoor Lighting Plan as required by Section 2.5.4.3(j) and 2) Provision of a Landscaping Plan as required by Section 2.5.4.3(k), seconded by Mr. Gamester.

Vice Chairman Moreau commented that this building was very much downtown so the spotlight is what it is. The site has a lot of hardscaping already, so there is not a lot of opportunity for landscaping.

The motion passed unanimously.

Vice Chairman Moreau moved to **grant** the site plan review approval, seconded by Mr. Gamester with the following stipulations:

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

- 2.1) The application requires a Certificate of Approval to be granted by the Historic District Commission;
- 2.2) The application requires Subdivision Approval (Lot Line Revision) to be granted by the Planning Board;
- 2.3) Construction of the proposed sidewalk on the land currently occupied by the City parking lot will require City Council approval;
- 2.4) The sidewalk and landscaped area in front of the building on the Hanover Street side shall be deeded to the City as community space (as a wide pedestrian sidewalk) in order to meet the setback and front lot-line buildout requirements;
- 2.5) 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;
- 2.6) The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments;

2.7) 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;

Conditions Subsequent:

2.8) The applicant will be responsible for milling and repaving of ½ the Worth Lot as shown on the plans.

Vice Chairman Moreau commented that it was nice the plan was breaking it up to make it look like two buildings. The underground parking and renovation to the Worth Lot will be good as well.

Mr. Clark agreed that the plan looked good, however, he did not think that the building height fit into the ordinance guidelines. Mr. Clark noted that he would not be supporting the motion.

The motion passed by an 8-1 vote. Mr. Clark opposed.

- B. REQUEST TO POSTPONE** The request of **Green & Company (Applicant) and Philip J. Stokel and Stella B. Stokel (Owners)** for property located at **83 Peverly Hill 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 56 single-family homes and a new 2,950-foot public road with related utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 242 Lot 4 and lie within the Single Residence A (SRA) and Single Residence B (SRB) Districts.
REQUEST TO POSTPONE

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Whelan moved to postpone this application to the September Planning Board Meeting, seconded by Mr. Gamester. The motion passed unanimously.

- C.** The request of **Arbor View and the Pines, LLC, (Owner and Applicant)** for property located at **145 Lang Road** requesting a Wetland Conditional Use Permit Approval in accordance with Section 10.1017 of the Zoning Ordinance to install new playground equipment with 5,300 square feet of ground disturbance within the 100-foot wetland buffer area and installation of new impervious surfaces for equipment footings. Said property is shown on Assessor Map 287 Lot 1 and lies within the Natural Resource Protection (NRP) and the Garden Apartment/Mobile Home Park (GA/MH) Districts.

SPEAKING TO THE APPLICATION

Eric Saari from Altus Engineering spoke to the application. This project came to the Board in the past to add two new buildings and it had a CUP component. The whole area had piles of junk and a condition of approval was to remove those items, regrade the area, and grass it. This would be done in conjunction with the reconstruction of a rotted out old culvert. The contractor cleared it out and left a berm to not encroach on the wetland. The contractor needs to go back and remove that. The plan is to put a playground in the back area. Playground equipment a few bike racks will be added to the area. The 25-foot buffer will be demarcated as a no cut buffer, and it will be seeded with a conservation mix. This application went through the Conservation Commission and was approved with some conditions. They agreed to all those conditions.

Vice Chairman Moreau clarified that the existing playground was where the new buildings were going. Mr. Saari confirmed that was correct.

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. Clark moved to **grant** the wetland conditional use permit as presented, seconded by Mr. Gamester.

Mr. Clark commented that the Conservation Commission did a good review of the project, and it was a good spot for a playground.

The motion passed unanimously.

- D.** The Request of **Warner House Association, (Owner)**, for property located at **150 Daniel Street**, requesting Site Plan Review approval for the construction of a two-story Carriage House with 576 square foot building footprint that will include new utility services and the installation of stone walkways. Said property is shown on assessor Map 106 Lot 58 and lies within the Civic, Historic, and Downtown Overlay Districts.

SPEAKING TO THE APPLICATION

John Chagnon from Ambit Engineering spoke to the application. The project will be mimicking a historic structure that was there some time ago. The proposed carriage house will have walkways that will connect to the existing museum. It will look like an old garage door on the street side. The utility plan shows the sewer and water connection for the building. The building will be a separate heated space that can be open year-round. Currently the museum is shuttered for the winter. The project was approved by the Historic District Commission in July 2021. The project also received approval from the Board of Adjustment and TAC.

Mr. Pezzullo questioned if the water connection would be coming from the museum or if there would be two services. Mr. Chagnon responded that the existing service will be disconnected. The existing service to the main building is not utilized in the winter. They requested a waiver to provide 2 services and it was not granted. The new service will go to the carriage house, and it will connect to the museum to provide water seasonally.

PUBLIC HEARING

Paige Trace of 27 Hancock St. spoke in support of the project. It is a simple lovely building that keeps with the theme of the Warner House. This will take the museum to the next level.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Gamester moved to **grant** Site Plan Review approval as presented, seconded by Vice Chairman Moreau. The motion passed unanimously.

- E.** Application of **Spaulding LLC, (Owner)**, for property located at **180 Spaulding Turnpike**, requesting Site Plan review for the renovation of the existing show room and the expansion of the customer service and office areas increasing the total square footage by 4,795 square feet. Said property is shown on Assessor Map 236 Lot 39 and lies within the General Business (GB) district.

SPEAKING TO THE APPLICATION

John Chagnon from Ambit Engineering spoke to the application. This is a required corporate upgrade. One of the main features is the customer's service experience. Currently the customer pulls up and must go inside to the service desk. This project will remove an addition and replace it with a two-story addition that includes a drive-in service space. The site plan shows additional parking along the turnpike side to bring the site up to ADA compliance. The setbacks are similar to the existing site. There will be a new sprinkler service. The last plan in the set shows what it will look like. TAC has recommended approval. There is a wetland located behind the site under the powerline. Part of the work is in the buffer, and they will be here next month with a Wetland CUP application. The Conservation Commission did recommended approval for that.

Mr. Clark commented that it was a tight site and questioned if the addition would affect fire access around the building. Mr. Chagnon responded that the building would be sprinkled but the fire trucks can still drive in the major access driveway and around the back.

Mr. Clark questioned how they would handle the roof runoff from the new addition. Mr. Chagnon responded that they were still working on the design. It would likely have internal roof piping that will spill out like a gutter onto the paved surface.

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** site plan review approval as presented, seconded by Mr. Gamester with the following **stipulations**:

- 1) The application requires granting of a wetland conditional use permit by the Planning Board;
- 2) The site plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

The motion passed unanimously.

VI. CITY COUNCIL REFERRALS

- A.** Acceptance of four sewer line easements located on the portion of Sagamore Avenue which is a private way.

City Staff Attorney Trevor McCourt spoke to items A and B. The City is requesting that the Planning Board recommend acceptance of four sewer line easements on the private way known as Sagamore Ave. to City Council. This will enable the City to provide sewer line service to up to 6 properties. Three easements are on property serviced by the sewer line and the fourth is on a private way with no structures on it. The owner of that property, Mr. Simpson, has asked the City to release the paper street Ruth St. in exchange for the easement. In 2020 the City released its interest in half of Ruth Street. This would be releasing the other half. DPW has no interest in utilities in that area and it seems that it would be a fair exchange between the property owner and the City.

Vice Chairman Moreau moved to recommend that the Council **approve** the required easements, seconded by City Manager Conard. The motion passed unanimously.

- B.** Request for Release of Interest in Paper Street located at Ruth Street and Thornton Street.

Vice Chairman Moreau moved to recommend that the Council **approve** conveyance of a quitclaim deed to the portion of the paper street known as Ruth Street, seconded by Mr. Gamester. The motion passed unanimously.

VII. PRELIMINARY CONCEPTUAL CONSULTATION

- A. Application of **2422 Lafayette Road Associates LLC C/O Waterstone Retail (Owner)** for property located at **2454 Lafayette Road** requesting a Preliminary Conceptual Consultation to demolish the existing 29,000 square foot structure and replace it with a 41,000 square foot footprint structure consisting of five (5) stories and 100 multi-family condominium units. Said property is shown on Assessor Map 273 Lot 3 and lies within the Gateway Corridor (G1) District.

Attorney John Bosen Architect Rob DeSalvio and Jay Bisognano spoke to the presentation. The property is where the former Cinemagic movie theater is. Torrington Properties has been before the Board for the West End Yards development. It was a gateway project that transformed a vacant lot into a vibrant mixed-use area. The Southgate Plaza was revitalized with the Veridian Development. The purpose of the gateway district is to support a walking mixed use development and accommodate housing needs. The Southgate Plaza was previously a dead sea of asphalt, and it was revitalized via gateway zoning. The pandemic hit and caused Cinemagic to close. This provided the opportunity to revitalize the area utilizing gateway zoning. The project would be to remove the Cinemagic building and build a 5 story 100-unit multifamily condo. These would be modestly priced units and 20% of them will be WFH. The WFH units will be for sale not for rent.

Mr. DeSalvio commented that the building will be slightly bigger than the Cinemagic and go where the movie theater is now. The first floor of the building will have covered parking and a lobby. There will be a large outdoor plaza on the second floor. It will be an H shaped building. Floors 3-5 will have a mix of 1, 2, and 3 bed units. The breakdown of units for the building will be 18% 900 sf one-bedroom units, 64% 1,100 sf two-bedroom units, and 18% 1,300 sf three-bedroom units. The covered parking will be screened with wood slat walls. The façade will be a mix of metal panels and composite wood. The fourth floor will be setback.

Mr. Chellman commented that the building was quite large, and they will need a CUP to have 100 units. Mr. Chellman questioned if they looked at how a smaller building would fit. Mr. DeSalvio responded that the footprint of the building fit well especially with the buildings around it. Mr. Chellman commented that a series of smaller buildings could help break it up more. Mr. DeSalvio responded that they could look at that.

Mr. Clark questioned if they looked at any sort of liner retail to help block the parking. Mr. Bisognano responded that there was a little bit of vacancy in the current retail. The intent is that a condo owner can walk to the other retail on site. The Veridian was very well received, and it has worked well. The overall retail program is sizeable, so the goal was to not to add to it.

Vice Chairman Moreau requested more details about the second-floor garden. Mr. DeSalvio responded that in its current state it is 7,000 sf. There will be grass areas, garden areas and outdoor lounging areas. Vice Chairman Moreau questioned if it would be for the second-floor residents only or for the whole building. Mr. DeSalvio

responded that it would be a combination. The center would be for all the residents and the border would be for the second-floor residents. The whole space would be open to the sky.

Mr. Clark commented that the north side of the building gets less sun and questioned if they thought about putting the garden on a different side. Mr. DeSalvio responded that the intent was to break up the scale of the building. That is why it is in an H shape. They looked at putting it on the south side, but it would not be an attractive view looking over retail roofing. Mr. Clark commented that it would be good if this tied the site together. It is unfortunate that a building not even 10 years old is being torn down. It would be good to see if this building compensates for that to some degree by using green methods or materials.

Ms. Walker questioned if the applicants were asking for multiple bonus incentives. Mr. Bosen responded that he did not think they were. Ms. Walker responded if they did then they would need to fulfill the public realm and WFH requirements.

Vice Chairman Moreau commented that it would be good to rotate the building and make the green space visible from the parking lot. Mr. Bisognano responded that they considered that approach, but the intent was to give the end user a private outdoor space. They can think about a better way to incorporate it though. Vice Chairman Moreau people will not move there for privacy. They will move there to be part of the environment. Turning the main entrance would provide some privacy. The building is set so far back they have their own secluded corner. Mr. Bisognano confirmed they would look at it.

Vice Chairman Moreau appreciated that they were planning on doing WFH and questioned what the median income would be for that. Mr. Bosen responded that the ordinance says housing intended for sale cannot be more than 100% of the median income for the area. Right now, they would be priced at 423,000 unit. Mr. Bisognano added that the combined family income cannot exceed 106K. Ms. Henkel questioned how it would work if a WFH unit was resold. Mr. Bosen responded that there would be a deed restriction. They can only be resold to someone who meets the income requirements. Mr. Bisognano noted that the guidelines are released on an annual basis. The owner of that housing unit must sell at the price that is determined for that calendar year.

Mr. Harris questioned how residents would access the building. Mr. Bisognano responded that the plan would be to have them use the access road off Constitution Ave.

Mr. Chellman commented that the Veridian had a similar number of units and questioned if they considered building a mirror image of that. Mr. Bisognano responded that the intent was to differentiate between the two buildings and mix it up. This site is a lot bigger, so it warranted a different footprint. Mr. Chellman commented that it was a very big building. Mr. Bisognano noted that the gross floor

area was similar to the Veridian building. Mr. Chellman noted that it was still different because one was a big cube, and the other was a linear building. Mr. Bisognano noted that the parking is driving the building. The proposal accounts for two parking spaces per unit because the need is there. There will be one garage space and one surface space per unit.

Ms. Walker commented that they were asking for modifications of community space. Mr. Bosen added that they were also asking for the height, number of units, and size. Because this is a development site the community space and public realm requirements are met because it is part of a whole. Ms. Walker noted that they will have to show that on the table. However, the original community space for the property fell short of expectations and now it is chopped up. Ms. Walker encouraged the team to think of other ways to enhance the community space. Mr. Bosen agreed.

City Council Representative Whelan questioned how they would break up the workforce housing. Mr. Bosen responded that they would be interspersed throughout the building, and they will be the same as the other units. City Council Representative Whelan questioned if the height of the building was allowed because of the WFH and the public realm improvements. Ms. Walker responded that if they were asking for more than one bonus, then they would need to do both. It would be good to improve community space no matter what. City Council Representative Whelan noted that it would be nice to connect the Veridian and this building.

Chairman Legg agreed it would be good to connect the two buildings and creating additional community space would be good. Mr. Bisognano responded that they would think about that.

Mr. Pezzullo commented that there were significant issues with the water service for the other building and they had to put in a booster. This may present more issues. Mr. Bisognano noted that they spent money on the pump house and oversized it, so it should handle this building

VIII. DESIGN REVIEW

- A. Request of **2422 Lafayette Road Associates LLC C/O Waterstone Retail (Owner)** for property located at **2454 Lafayette Road** requesting Design Review Approval to demolish the existing 29,000 square foot structure and replace it with a 41,000 square foot footprint structure consisting of five (5) stories and 100 multi-family condominium units. Said property is shown on Assessor Map 273 Lot 3 and lies within the Gateway Corridor (G1) District.

Mr. Gamester moved to **accept** the application for Design Review and to schedule a public hearing for the September 16, 2021, Planning Board meeting, seconded by Vice Chairman Moreau. The motion passed unanimously.

VIV. OTHER BUSINESS

A. Review of Zoning Ordinance Amendment Priorities

Chairman Legg commented that at the last meeting they handed out a proposed list of amendment considerations in suggested priority order. The Board did not give any feedback about adding anything or changing the priority order. The proposed list shows the order in which they should consider the amendments. This will not happen until the City hires new Planning Director.

Vice Chairman Moreau questioned if they could add chickens to the list. Ms. Walker responded that there were some items that are on the Planning Department's housekeeping list and that is one of them. Chickens can be added to the list to discuss if they would like. Chairman Legg commented that they should not add it now because there were probably a whole series of minor items that needed to be addressed. The Board should work to address this list first then add more.

Chairman Legg acknowledged the work Planning Director Walker has done for the City's Master Plan and Zoning Ordinances. Ms. Walker made the city of Portsmouth better place to live. Chairman Legg wished her the best.

City Manager Conard commented that Ms. Walker did a wonderful job mentoring the Planning Board and staff.

X. ADJOURNMENT

Vice Chairman Moreau moved to adjourn the meeting at 9:05 p.m., seconded by City Council Representative Whelan. The motion passed unanimously.

Respectfully submitted,

Becky Frey,
Acting Secretary for the Planning Board