

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

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

7:00 PM

September 16, 2021

MINUTES

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

ALSO PRESENT: Peter Britz, Interim Planning Director; Stefanie Casella, Planner 1

MEMBERS ABSENT: Peter Harris and Polly Henkel, Alternate

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I. PRESENTATIONS

A. FY 2023-2028 Capital Improvement Plan Process and Schedule

Peter Britz provided an overview of the CIP process to the Planning Board. An overview and the schedule can be found on the City's web site. The CIP is a City Charter requirement. The program covers the next 6 years of capital improvements. The Planning Board oversees the plan and then the City Council adopts it. That helps inform the City's budget. The deadline for the citizen suggestion period is in October. The Planning Board has an information meeting in November. In December the Planning Board forms a CIP Advisory Committee to review the project proposals. Then the Planning Board approves the CIP and sends it to the City Council. The City Council has a work session on it in January/February. Then they adopt it in March. The CIP projects typically include larger one-time purchases or infrequent expenditures. The project requests must include a justification, cost, and schedule. Citizens can make requests online. There is criteria to evaluate why a project is needed and prioritize how it fits in. Sources for projects include federal mandates, infrastructure, city priorities identified in planning, and other city policies. The financing depends on the cost of the project, lifetime of the project and what other revenue sources are available. Some sources include the general fund, federal or state grants, revenue or bonds, and public/private partnerships. Projects are sorted by what can be implemented within 3 years, 6 years, after 6 years and ongoing allocations. The budget process begins in December. The CIP must be completed 45 days before the budget is adopted. Typically, the target is to use 2% or less of the general fund budget.

II. APPROVAL OF MINUTES

- A. Approval of the Planning Board minutes from the August 19, 2021 meeting.

Vice Chairman Moreau moved to approve the minutes from the August 19, 2021, meeting, seconded by Mr. Gamester. The motion passed unanimously.

III. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

- A. Request of **Green & Company (Applicant)** and **Philip J. Stokel and Stella B. Stokel (Owners)** for property located at **83 Peverly Hill Road** for Site Plan Review approval.
- B. Request of **Ricci Construction Company Inc, (Owner)** and **Green & Company Building & Development Corp. (Applicant)** for property located at **3400 Lafayette Rd** for Site Plan Review approval.

Chairman Legg commented that these applications would be postponed later in the agenda.

SUBDIVISION

- C. Request of **64 Vaughan Mall, LLC** and **Northern Tier Real Estate Acquisition & Development, LLC, (Owners)** for properties located at **64 Vaughan Street (Lot 1)** and **172 Hanover Street (Lot 1-A)**, requesting Preliminary and Final Subdivision approval (Lot Line Revision).

Vice Chairman Moreau moved to determine that the application is complete according to the Subdivision Rules and Regulations, (contingent on the granting of any required waivers under Section VI of the agenda) and to accept the application for consideration, seconded by Mr. Gamester. The motion passed unanimously.

IV. 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 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.

SPEAKING TO THE APPLICATION

James Gove from Gove Environmental Services spoke to the application. There was a misunderstanding with the landscaper who was removing the invasive species on the site. The cat tails are invasive, but they are also native. They are not on the invasive species list for the state of New Hampshire. This is an after the fact application. They have worked with Mr. Britz and the Conservation Commission on this. There was no physical damage to the wetland. The vegetation grew back. They had a landscape architect put together a long-term maintenance plan. They will remove invasive plants and add protection and signage. This will not happen again.

Chairman Legg questioned if markers would be installed to indicate the buffer. Mr. Gove confirmed there would.

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 approve the wetland Conditional Use Permit as presented, seconded by Mr. Gamester. The motion passed unanimously.

City Council Representative Whelan questioned if the Conservation Commission voted on this. Mr. Britz confirmed that they did.

- B. REQUEST TO POSTPONE** 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

City Council Representative Whelan moved to postpone this application to the October 21, 2021, Planning Board Meeting, seconded by Mr. Gamester. The motion passed unanimously.

- C. REQUEST TO POSTPONE** 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

City Council Representative Whelan moved to postpone this application to the October 21, 2021, Planning Board Meeting, seconded by Mr. Gamester. 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 the public hearing indefinitely until the applicant is ready to proceed, seconded by Mr. Gamester. 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 indefinitely, seconded by Mr. Gamester. The motion passed unanimously.

- F. 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.

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Whelan moved to postpone this application to the October 21, 2021, Planning Board Meeting, seconded by Mr. Clark. The motion passed unanimously.

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

- A. REQUEST TO POSTPONE** 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. **REQUEST TO POSTPONE**

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Whelan moved to postpone this application indefinitely, seconded by Mr. Gamester. The motion passed unanimously.

VI. PUBLIC HEARINGS – NEW BUSINESS

- A. Request of Ricci Construction Company Inc, (Owner) and Green & Company Building & Development Corp. (Applicant)** for property located at **3400 Lafayette Rd** requesting Conditional Use Permit for a Development Site in accordance with Section 10.5B40 of the Zoning Ordinance and Site Plan Review approval for construction of a 50-unit multi-family residential development that includes

community space and related landscaping, drainage, paving, utilities and other site improvements. Said property is shown on Assessor Map 297 Lot 11 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District and the Natural Resource Protection (NRP) District.

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Whelan moved to postpone this application to the October 21, 2021, Planning Board Meeting, seconded by Mr. Gamester. The motion passed unanimously.

- B. Request of Ricci Construction Company Inc, (Owner) and Green & Company Building & Development Corp. (Applicant)** for property located at **3400 Lafayette Rd** requesting a wetland Conditional Use Permit under section 10.1017 to construct 50 town homes on an undeveloped lot. The applicant is proposing five areas of wetland impact for a total of 21,350 square feet of permanent impact and three areas of temporary impact for a total of 2,350 square feet. Said property is shown on Assessor Map 297 Lot 11 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District and the Natural Resource Protection (NRP) District.

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Whelan moved to postpone this application to the October 21, 2021, Planning Board Meeting, seconded by Mr. Gamester. The motion passed unanimously.

- C. Request of Kelly Property Trust A.B. and Ashley W.M. (Owners),** for property located at **0 Oriental Gardens** requesting an application for a wetland Conditional Use Permit under section 10.1017 to remove existing obsolete sewer infrastructure and improve a storm water outfall on the site with a proposed temporary impact of 4,554 square feet and permanent impact of 187 square feet. Said property is shown on Assessor Map 215 Lot 9 and lies within the Gateway Corridor (G1) and Office Research (OR) Districts.

SPEAKING TO THE APPLICATION

John Chagnon from Ambit Engineering spoke to the application. The project is in the park known as Oriental Gardens. The CUP is for drainage maintenance and sewer improvements. This was approved by the Planning Board in 2017 but the permit lapsed. A portion of the sewer will be removed from the existing pump station and connected to the existing trunk line. There will be drainage maintenance to clean up an outfall. The drainage pipe runs through Starbucks and drains onto this property. It is partially plugged with sediment. That will be removed, and a plunge pool will be installed to keep it open longer. There is a small area of direct wetland

impact. The rest of the impacted area is in the buffer. The Conservation Commission unanimously recommended approval.

Mr. Pezzullo commented that the DPW was reviewing this connection and questioned if they had approved it. Mr. Chagnon responded that they have met with DPW. They are making some minor changes to the connection plan. They are reviewing it and Mr. Chagnon expected to receive approval. Chairman Legg noted that it could be a condition of approval.

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 wetland Conditional Use Permit, seconded by Vice Chairman Moreau with the following stipulation:

1. City of Portsmouth Department of Public Works shall provide final approval of stormwater improvements.

The motion passed unanimously.

- D. Request of Spaulding Group, LLC, (Owner) for property located at 180 Spaulding Turnpike** requesting a wetland Conditional Use Permit under section 10.1017 to expand and reconstruct an existing building within the wetland buffer. The application calls for temporary impacts of 2,528 square feet and permanent impacts of 3,287 square feet. The entire application is proposed where the site is completely impervious surface where a portion of pavement is being converted in to a building. 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. They were here last month for a site plan approval. This is for a CUP. There is no increase in impervious area. The plan shows the permanent and temporary impacts. The addition is to keep up with Mazda's corporate image and cover the drop off service area. The Conservation Commission recommended approval. A letter of support from the abutter Port City Nissan was included in the packet.

Chairman Legg commented that this application was reviewed in detail in the August Meeting. If anyone wanted to know more, then they could find that discussion on the City's YouTube channel.

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 approval of the wetland Conditional Use Permit as presented, seconded by Mr. Clark.

Vice Chairman Moreau commented that the lot is already developed, and this will provide better runoff treatment.

Mr. Chellman commented that this points out a weakness in the ordinance. It could be modified to better address a situation like this.

The motion passed unanimously.

- E. Request of Ivo and Caitlin Van Der Graaff, (Owners)** for property located at **10 FW Hartford Drive** requesting a wetland Conditional Use Permit according to section 10.1010 of the City's Zoning Ordinance to remove 15 trees 12 of which are located in the wetland or wetland buffer adjacent to the residence at 10 FW Hartford. The removal of the trees will result in a disturbance of 450 square feet in the wetland area and 500 square feet in the inland wetland buffer. Said property is shown on Assessor Map 269 Lot 53 and lies within the Single Residence B (SRB) District.

SPEAKING TO THE APPLICATION

Ivo Van Der Graff spoke to the application. They moved into their home a year ago. There are several trees that need to be removed. The trees labeled 8-14 are in the wetland area and need to be removed because they are hanging over the house. Trees 4-7 and 15 are in the buffer. Trees 1-3 are outside the wetland and buffer. The Conservation Commission recommended approval unanimously. Mr. Van De Graff agreed to leave the trees in the wetland in place and will plant new shrubs on his property.

Chairman Legg clarified that the stump and felled tree would be left in the wetland. Mr. Van De Graff 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

Vice Chairman Moreau moved to grant approval of the wetland Conditional Use Permit, seconded by Mr. Clark with the following stipulations:

- o The stumps and trees that are cut shall be left in place

- o The applicant install native plants along the edge of the wetland in the buffer
- The property owner shall utilize NOFA (Northeast Organic Farming Association) approved practices (or comparable equivalent) for the maintenance of landscaped areas

The motion passed unanimously.

F. Request of 64 Vaughan Mall, LLC and Northern Tier Real Estate Acquisition & Development, LLC, (Owners) for properties located at **64 Vaughan Street (Lot 1)** and **172 Hanover Street (Lot 1-A)**, requesting Preliminary and Final Subdivision approval (Lot Line Revision) to convey 133 square feet from Lot 1 to Lot 1-A which will result in a total lot area of 13,964 square feet of lot area for Lot 1 and 5,621 square feet of lot area for Lot 1-A. Said properties are shown on Assessor Map 126 Lot 1 and Lot 1-A and lie within the Character District 5 (CD5), Downtown Overlay District, and Historic District.

SPEAKING TO THE APPLICATION

Shane Forsley spoke to the application. They came here last month for a site plan review. A few documents were delayed. They have now been submitted. The easement and boundary line agreement will benefit both properties. This allows the neighbor to their land fire escape for their building on this property.

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 (Lot Line Revision) Approval, seconded by Mr. Gamester with the following stipulations:

- o Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- o GIS data shall be provided to the Department of Public Works in the form as required by the City.
- o The final plat and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

The motion passed unanimously.

G. Request of Mary M. Griffin, (Owner), for property located at **7 Curriers Cove** requesting a wetland Conditional Use Permit under section 10.1017. The applicant is proposing to replace and failing culvert under the Currier's Cove roadway with 192 square feet of wetland disturbance and 1,208 square feet of wetland buffer

disturbance. The existing 36" corrugated metal culvert is proposed to be replaced with a reinforced concrete culvert four feet shorter than the existing culvert with new concrete headwalls for both the inlet and outlet location with areas of rip rap proposed to dissipate energy on the outlet side and to protect the inlet side from erosion and undercutting. The application also proposed removal of existing vegetation and includes a planting plan for new vegetation. Said properties are shown on Assessor Map 204 Lot 16 and lie within the Single Residence A (SRA) District.

SPEAKING TO THE APPLICATION

Chase Bailey Manager of the Currier's Cove Association spoke to the application. Eric Weinrieb from Altus Engineering designed this plan. Mr. Bailey did not know the details of the plan but could answer questions if needed.

Chairman Legg questioned how this would be installed without impacting access to the property. Mr. Bailey responded that they would do it half and half.

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, seconded by Mr. Gamester with the following stipulation:

- o The arbor vitae that is being removed shall be replaced by evergreen shrubs to be planted in at least equal number to those being removed.

Mr. Clark commented that this was a dangerous situation, and it should be addressed immediately. It's a public safety issue. Chairman Legg agreed and noted that they would be replacing it with a higher quality culvert.

The motion passed unanimously.

VII. 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.

SPEAKING TO THE APPLICATION

Patrick Crimmins, Jay Bisognano and Gregg Mikolaities spoke to the presentation. Mr. Crimmins noted that they presented the concept consultation in August. The proposed building is in the north corner of Portsmouth Green. The site is 950 feet back from the intersection at Route 1. Last month the Board provided feedback on connectivity and community space. This is a 95-unit multifamily building with parking underneath and 20% affordable housing. The community space is 3 times larger than what was presented last month. This plan has improved connectivity to it as well. There is a patio seating area and pickle ball courts. One comment from last month was about providing a connection to the Veridian building in the back. The plan is to bring Veridian residents down the sidewalk along Pinz and connect that to the community space. The community space is about 14% of the total area. It is 150,00 sf total area. There will be dog park in the area. There is an existing dog park behind the cinema now. The new one will be double the size of what exists out there. There will be connectivity from the building to the park and then out to the plaza. A chamfer at the entrance was added to help break up the façade. The fitness center and wifi lounge amenities were moved out to the front corner of the building. The intent is to activate the corner of the building and tie it in with the rest of the plaza. There were some modifications to the parking, but the target is 2 spots per unit. The infrastructure and stormwater can be reused. The plan will reduce the amount of impervious surface on the site. Utilities are already all in place.

Mr. Clark questioned if the pickle ball courts would be open to the public. Mr. Crimmins confirmed that was correct.

Chairman Legg commented that it is important to sign that appropriately. The City should document all of these public spaces and make it fully visible to the public.

Mr. Clark commented that he appreciated the quality of this community space. It is a good use of space.

Vice Chairman Moreau requested more information about the corner of the building. Mr. Crimmins responded that the intent is to activate that corner by moving the fitness center and wifi lounge to that area. They were previously deeper in the building. The façade for that corner will be all windows.

Mr. Chellman commented that a list of all the CUPs related to this project would be helpful. Mr. Chellman questioned if they looked at breaking this building up into smaller buildings. Mr. Mikolaities responded that they did look at that. They looked at 4 buildings but the second-floor garden space would not work with multiple buildings. Mr. Chellman clarified that the multiple buildings would not accommodate the amenities. Mr. Mikolaities responded that they worked hard to get the building to fit. They looked at multiple buildings, but the one large building works the best.

Mr. Chellman questioned how many CUP's they were seeking. Mr. Crimmins responded that they will be described in the cover letter on the formal submission. The biggest one is the building size.

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 design review process is complete, seconded by Mr. Gamester. The motion passed unanimously.

VIII. OTHER BUSINESS

- A. Request of Spyglass Development, LLC & C/O The Kane Company (Owners).**
Proposed lot line revision is located at **30 New Hampshire Drive** which is identified as Map 301 Lot 3 on the City of Portsmouth Tax Maps. The proposed revision is to reduce the lot of record from the existing 369,643 sf to 314,607 sf 30 New Hampshire Avenue.

Patrick Crimmins commented that this was a request through the PDA process. They are making their headquarters at this building. At one point in time the land was partially owned by the PDA. The building was leased partially from the PDA. This is to re-subdivide the land. It is creating some lots that are not conforming, so that is why it's here.

Chairman Legg commented that there was a memo from the PDA that indicates their requirements do not require a public hearing.

Mr. Gamester moved to recommend approval of the lot line revision, seconded by Mr. Clark. The motion passed unanimously.

VIV. ADJOURNMENT

Vice Chairman Moreau moved to adjourn the meeting at 8:00 p.m., seconded by Mr. Gamester. The motion passed unanimously.

Respectfully submitted,

Becky Frey,
Secretary for the Planning Board