

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

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

7:00 PM

November 18, 2021

MINUTES

MEMBERS PRESENT: Peter Britz, Interim Planning Director; Dexter Legg, Chair; Karen Conard, City Manager; Peter Whelan, City Councilor; Ray Pezzullo, Assistant City Engineer; Colby Gamester; Corey Clark; Peter Harris; Rick Chellman; and Polly Henkel, Alternate; Stefanie Casella, Planner 1

ALSO PRESENT:

MEMBERS ABSENT: Elizabeth Moreau, Vice Chair

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I. PRESENTATIONS

A. FY 2023-2028 Capital Improvement Plan Update

Peter Britz spoke to the presentation. This purpose of this presentation is to provide an update on the process and explain the next steps. The deadline for citizen suggestions was in October. The Advisory Committee will meet in the beginning of December. After that it will be presented to the Planning Board at the December 16, 2021, meeting. The Planning Board will refer it to the City Council. In January the City Council will hold a public work session and public hearing. The City Council will vote to adopt the CIP at the March meeting. The CIP is made up of large projects that are infrequent or non-reoccurring. There is currently 99 projects in the CIP draft. There are 12 new projects that have been proposed by residents making it a total of 30 CIP projects that are proposed by residents. There are 14 new projects proposed by city departments. There are 85 existing projects that are being carried forward. 57% of the projects are needed within 3 years, 13% are needed for 6 years, 29% are ongoing projects, and 1% are projects that are needed beyond 6 years. The CIP is comprised of 2% of the prior year's general fund budget. Then debt target for the CIP is a net debt service of no more than 10%.

B. Recommendation to the City Council regarding the proposed acquisition of the Community Campus

Public Works Director Peter Rice commented on the acquisition of the Community Campus property. This is a long-term investment for the city, and it will still support city services. The purchase of this property is consistent with the Recreation Department's Master Plan to

consolidate recreation services to one centralized location. This is also adjacent to recreation fields. Currently it is an underserved side of the city as far as recreation space goes. The property adds 10 buildable acres to the city as well.

Mr. Chellman questioned if it was confirmed those 10 acres were buildable. Mr. Rice responded that there was a total of 37 acres and 10 acres are upland.

City Manager Conard commended Public Works Director Rice and Recreation Director Henley for bringing this idea forward and working to make it a reality.

City Council Representative Whelan moved to recommend the acquisition of the Community Campus to the City Council, seconded by Mr. Gamester. The motion passed unanimously.

II. APPROVAL OF MINUTES

A. Approval of the Planning Board minutes from the October 21, 2021 meeting.

Mr. Clark moved to approve the Planning Board minutes from the October 21, 2021, meeting, seconded by Mr. Gamester. The motion passed unanimously.

III. DETERMINATIONS OF COMPLETENESS

SUBDIVISION REVIEW

A. The request of **Gregory J. Morneault and Amanda B. Morneault, (Owners)** and **Darrell Moreau, (Applicant)** for property located at **137 Northwest Street** requesting Preliminary and Final Subdivision Approval.

Mr. Gamester moved to determine that the application is complete according to the Subdivision Rules and Regulations and to **accept** the application for consideration, seconded by Mr. Clark. 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 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 (LU-20-259)**

DISCUSSION AND DECISION OF THE BOARD

Mr. Harris moved to postpone the public hearing on the request indefinitely until the applicant is ready to proceed, seconded by Mr. Gamester. 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 (LU-20-259)

DISCUSSION AND DECISION OF THE BOARD

Mr. Harris moved to postpone the public hearing on the request indefinitely until the applicant is ready to proceed, seconded by Mr. Gamester. The motion passed unanimously.

- C. REQUEST TO POSTPONE** 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. **REQUEST TO POSTPONE (LU-21-98)**

DISCUSSION AND DECISION OF THE BOARD

Mr. Clark moved to postpone to the December 16, 2021, Planning Board Meeting, seconded by Mr. Chellman. The motion passed unanimously.

- D. REQUEST TO POSTPONE** 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. **REQUEST TO POSTPONE (LU-21-98)**

DISCUSSION AND DECISION OF THE BOARD

Mr. Clark moved to postpone to the December 16, 2021, Planning Board Meeting, seconded by Mr. Chellman. The motion passed unanimously.

- E. REQUEST TO POSTPONE** Request of **Elizabeth B Larsen Trust, (Owner)** for property located at **668 Middle Street** requesting Preliminary and Final Subdivision approval to subdivide 1 existing lot with 81,046 square feet of lot area, and 69.83 feet of street frontage into 3 lots as follows: Proposed Lot 1 with 18,646 square feet of lot area and no street frontage; Proposed Lot 2 with 18,756 square feet of lot area and no street frontage; Proposed Lot 3 with 43,644 square feet of lot area and 69.83 feet of street frontage. The existing buildings will remain and be on Proposed Lot 3. Said property is shown on Assessor Map 147 Lot 18 and lies within the General Residence A (GRA) and Historic Districts. (LU-21-23) **REQUEST TO POSTPONE**

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Whelan moved to postpone the public hearing on the request indefinitely until the applicant is ready to proceed, seconded by Mr. Clark. 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** to name the new 2,950-foot public road to serve the approved 56 single-family homes, public space, and associated utilities approved at the October 21, 2021 Planning Board meeting. Said property is shown on Assessor Map 242 Lot 4 and lies within the Single Residence A (SRA) and Single Residence B (SRB) Districts. Please note: this discussion item was postponed from the October Planning Board meeting. (LU-21-74)

SPEAKING TO THE APPLICATION

Mr. Britz commented that the subdivision was approved at the last meeting. The street naming was delayed to make sure there were no conflicts. The project owner has suggested the name Sage Lane. There is also a list of other suggestions that have been vetted. The Board can discuss and refer it to City Council. This will be a city street.

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 recommend to name the new public street, located at 83 Peverly Hill Road as approved in Land Use Application LU-21-74 on October 21, 2021, to “Sage Lane”, seconded by City Council Representative Whelan. The motion passed unanimously.

Mr. Clark commented that this was a better name than the original proposal. The original proposal was too close to an existing road.

V. PUBLIC HEARINGS – NEW BUSINESS

Mr. Clark moved to consider Public Hearings – New Business Item A and B together and vote on them separately. The motion passed unanimously.

- A.** The request of **Gregory J. Morneault and Amanda B. Morneault, (Owners)** and **Darrell Moreau, (Applicant)** for property located at **137 Northwest Street** requesting Preliminary and Final Subdivision Approval to subdivide 1 existing lot with 18,134 square feet of lot area, 19 feet of lot depth, and 537 feet of street frontage into 2 lots as follows: Proposed Lot 1 with 7,500 square feet of lot area, 44 feet of lot depth, and 179 feet of street frontage; Proposed Lot 2 with 10,634 square feet of lot area, 25 feet of lot depth, and 357 feet of street frontage. The existing residence will remain and be on Proposed Lot 1 and a new home will be constructed on Proposed Lot 2. Said property is shown on Assessor Map 122 Lot 2 and lies within the General Residence A (GRA) District and Historic District. (LU-20-222)

SPEAKING TO THE APPLICATION

John Chagnon from Ambit Engineering, Attorney Monica Kaiser, and Reggie Monreault spoke to the application. Mr. Chagnon commented that the subdivision proposal was to divide that lot into 2 lots. It is a unique property. The lot is long, and the existing home is on the west end of the property. There are abutting properties to the east and across the street. The North Mill Pond is adjacent to the south. There is a water line easement that crosses the property today. That was created when the Bypass bridge was redone. During the survey work it was discovered that the city’s pump station and gravel turnaround was partially over the property line. It is a long and skinny lot so it required a variance for lot depth. They worked with the DPW to identify how much area was needed for a new turnaround. This plan includes the pump station and turn around easements. The site plan shows the proposed development on lot 2. It would be a single-family residence with a driveway. The proposal places it on the west side. At the ZBA meeting an abutter requested that the driveway and garage not align with their windows to avoid

headlights shining in their home. The driveway and garage were moved to line up with the abutting driveway. The garage entrance will not face the street. This plan will need approval from the HDC. At TAC they requested adding a visual barrier for the garage. Landscaping walls were added to break up the view of the garage doors and a spruce tree was also added. The gravel turnaround will be removed. A new turn out that was coordinated with DPW will be added so vehicles can access it. The application has received setback relief from the ZBA. There is a low catch basin on the property. Raising the grade of the catch basin will make it work more efficiently. The outfall pipe has had some erosion around it and the pipe is sticking out in the air. The plan will be to fill in the hole with rip rap and cut the pipe back to make it work. The utilities will connect in the street. The plan shows the impacts in the buffer. The gravel drive will be removed, and it will be reduced to a smaller paved area. The rest will return to its' natural state and buffer plants will be added. They are requesting a CUP to construct in the buffer. The plan shows buffer impact for the structure and wetland impact for the rip rap. An abutting property has recently received approval and undergone a renovation.

Ms. Kaiser commented that this project has evolved over time based on the feedback from various boards and abutters. Originally this was going to be a duplex and it has since reduced to a single-family home. The ZBA recognized the challenge of the lot. The proposed division is at the lot's narrowest section. It's 20 feet wide. There is a variance to create a new lot with setback relief. The driveway was realigned after getting abutter feedback. They made additional changes for the garage door placement and landscaping after going through TAC. By the time this plan was submitted to the Planning Board the house was decreased to 1,687 sf and 16% building coverage. This application has been to the Conservation Commission a couple times. The last proposal of this house had a sunroom on the right. That's been removed. The buffer plantings were added at the request of the Conservation Commission. The house is 1,527 sf and the garage is a little less than 500 sf. It is a modest house that is appropriate for the site. The Conservation Commission did have some concerns. One about putting a new structure in the buffer. That is an appropriate concern, but it also misses what is happening on the lot now. This plan will remove 1,954 sf of gravel driveway in the buffer. That is going down to 1,449 sf with the house and new turn around. That goes a long way toward addressing abutter concerns about runoff. The Conservation Commission requested that the new turnaround be a permeable surface. The applicant is willing to do that, but it will be a city-maintained road. DPW needs to approve the surface. This application has support from the Advocates of the North Mill Pond. Feedback from the abutters and boards has resulted in a better plan. Understanding the Conservation Commission's position, they respectfully disagree. This plan will vastly improving the current conditions and will clean up a lot of issues related to the property. The owner of the property has the opportunity to develop, and the city can maintain the turnaround. It will be formalized with the easement. The pump station will remain, and the drainpipe will be restored. The site will also be improved with various features of the house with drip edges etc. Ms. Kaiser addressed the CUP criteria. The land is reasonably suited because there is existing development in the area, and it is disturbed already. They have gotten the most pushback about an alternate location for the proposed use. That is where the characteristics of the lot come into play. The property is narrow. The proposed garage is 22 feet wide, and the house is 28 feet wide. Neither are particularly large. The structure cannot be moved to the west because of the setbacks relief. There will be a decrease of impervious surfaces and the drain will be repaired. It is an improvement to the wetland. The alteration of the natural vegetated state will be limited to the

construction areas and plantings. The proposal has been refined over time to be the least adverse impact under the jurisdiction of this section.

Mr. Chellman questioned if the house could shift to the west to be out of the buffer. The application would need a new variance for the setbacks, but it would fit. Mr. Chagnon responded that the dimensions don't work if they slide it. Mr. Chellman agreed a new variance would be needed. If this application had gone to the Conservation Commission first the ZBA application may have been different. The entire building can be out of the buffer, so it's hard to accept that there is no feasible alternative. Mr. Chagnon commented that it was a reasonable structure and is not overly large. They can't slide it to the west without asking the applicant to get additional relief. It would start another round of back and forth. There are more impacts to the resource from the property on the other side with boats and docks. There is also a city street between the house and the resource. That is a bigger impact than the structure. Ms. Kaiser commented that if they slid the house the driveway would have to be on the right. The abutter did not like that. If the house is not in the buffer, then it would be the driveway. There is something else in the buffer now and it is bigger. The plan includes drainage elements and improved storm water. Mr. Chagnon added that there was a slope into the lot and a tow of the highway embankment.

Mr. Clark questioned what the two black rectangles in the aerial image were. Mr. Chagnon responded that it was the map lot number designation. It's just a CAD setting. Mr. Clark questioned if the garage needed to be attached to the home. The house could go without a garage or a narrower garage on that end disconnected from the home. The existing home on the lot is smaller in footprint than what is proposed. Mr. Monreault commented that 22 feet wide is the smallest they can go for a garage. They slid it as far it could go. The garage cannot be separated because there is a pinch point on the lot.

Mr. Chagnon showed the neighborhood exhibit. The property in front did not have a garage until they received a CUP to build one. A garage has become a natural feature of a home. It is better environmentally to have car in the garage than sitting outside.

Chairman Legg commented that the applicants have presented two constraints about moving the house. The first is the variances and the second is that the HDC won't want the garage doors facing the street. There are a lot of properties in the HDC that have garages facing the street. If this garage is turned to face the street, then the driveway could be shorter, the garage could be slightly bigger, and the structure could slide over. The Planning Board has approved structures in the wetland buffer, but it seems like this has the ability to shift a portion or totally out of the buffer. If these are the only 2 constraints, then the land use boards would be receptive to both constraints to help move this out of the buffer.

Mr. Pezzullo agreed with the Chairman and requested more details on the easements for the turnaround and pump station. Mr. Chagnon responded that there were no easement lengths on that because they haven't completed it with meets and bounds yet. If the Board approves the plan, then they will work with the Legal Department to put in the dimensions.

Mr. Chagnon requested that they vote on the two applications separately. If they receive subdivision approval, then they know they are going in the right direction. Chairman Legg confirmed that they would be two separate votes.

Mr. Chellman commented that the subdivision was a pretty clean proposal. There is work to do on the CUP. Mr. Chellman did not see the tow slope problem on the existing conditions plan. The house can slide to the left.

Mr. Gamester requested that the applicant speak to the eastern part of the proposed turnaround and the abutter's concerns about drainage. Mr. Chagnon responded that the proposed city turnaround has been graded to slope directly to the drain. The rest of the property would also slope to the drain. Mr. Gamester questioned where they would be plowing. Mr. Chagnon responded they would be banking behind the turnout. The city would be plowing. They moved the buffer plants to the west so snow would not be piled on the plantings. There are proposed buffer plantings coming down from the Bypass.

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** preliminary and final subdivision approval as presented and advertised, seconded by Mr. Chellman.

Mr. Clark commented that the stipulations in the memo should go with the CUP not the subdivision approval. These stipulations could impact any reconfiguration that may happen.

Mr. Britz agreed that it could be limiting. These came out of the TAC meeting, so the stonewall was part of the subdivision application. Mr. Clark agreed that the stone wall made sense to screen the garage doors as shown. If the doors are moved, then maybe they are not needed. Chairman Legg agreed.

The motion passed unanimously.

- B.** The request of **Gregory J. Morneault and Amanda B. Morneault (Owners)** and **Darrell Moreau, (Applicant)** for property located at **137 Northwest Street** requesting a Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance to impact 5,062 square feet of wetland buffer and 45 square feet of tidal wetland. The proposed new home and existing turnaround is partially within the 100' tidal buffer zone of the North Mill Pond. In addition to the new home the applicant is proposing to remove

an existing gravel turnaround and install a new paved parking apron for City vehicles to turn around. This new turnaround and the City pump station are all within a new easement. In addition, there is a plan to upgrade the stormwater outfall to protect against erosion. Said property is shown on Assessor Map 122 Lot 2 and lies within the General Residence A (GRA) District and Historic District. (LU-20-222)

DISCUSSION AND DECISION OF THE BOARD

Chairman Legg commented that he did not want to presuppose the vote, but they should not vote to deny if there is an opportunity to reconfigure. The motion should be to postpone and ask the applicant to take the input they have received and come back responding to that feedback.

Mr. Gamester moved to postpone the Wetland Conditional Use Permit hearing to the December 16, 2021, Planning Board Meeting, seconded by City Council Representative Whelan.

Mr. Gamester commented that he agreed with the Board's feedback. This is a site that should be built on. There is more room for improvement. It would be good to see the house move more west.

City Council Representative Whelan agreed that they should turn the garage. It's a tough lot.

The motion passed unanimously.

- C. The request of **Omar R. Gordon Revocable Trust and Carrol L. Gordon Revocable Trust, (Owners) Michah Denner, (Applicant)** for property located at **797 Elwyn Road** requesting wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for an in-kind septic replacement and a new addition at the rear of the house with 240 square feet of disturbance within 100' of jurisdictional wetland. Said property is shown on Assessor Map 225 Lot 2 and lies within the Single Residence A (SRA) District. (LU-21-93)

SPEAKING TO THE APPLICATION

Micah Denner spoke to the application. The plan is to replace the septic system on this lot in the 100-foot setback from drainage swales. Along the left side of the property line is a drainage swale from the culvert that crosses Elwyn Rd. The septic will be replaced in the same location. There is also a back side addition. There is only a couple hundred square feet inside the wetland buffer. The Conservation Commission requested that they add a similar square footage in plantings and that was included.

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, seconded by Mr. Gamester with the following stipulations:

1. Erosion control measures be put in place during installation of the septic system and construction of the addition.
2. A drip edge along the foundation or other infiltration practice for stormwater be included in the plan to capture the roof runoff from the new addition.
3. The applicant install a planting bed of native plants at least 300 square feet in size in the wetland buffer adjacent to the wetland edge.
4. While it is outside the 100' buffer the Commission requests that the area under the deck be porous material such as crushed stone or other material to infiltrate stormwater.
5. The applicant consider following NNOFO standards for yard maintenance.

Mr. Clark commented that it was good the septic was going in the same location. The area would have been disturbed anyway while the addition. The proposed impacts in the buffer proposed are very small as far as square footage goes.

The motion passed unanimously.

VI. DESIGN REVIEW – PUBLIC HEARING

- A. WITHDRAWN AT THE REQUEST OF THE APPLICANT** The proposed project is the application of **Hill Hanover Group, LLC (Owner)** and **JPK Properties, LLC, (Owner and Applicant)** for the property located at **181 Hill Street**, for the demolition of three existing buildings and the construction of one three story building containing 12 units with basement level parking accessed from Autumn Street. Said property is shown on Assessor Map 125 Lot 14 and lies within the Character District 4-L1 (CD4-L1) (LUPD-21-9). **WITHDRAWN AT THE REQUEST OF THE APPLICANT**

DISCUSSION AND DECISION OF THE BOARD

The Board acknowledged that the petition for 181 Hill Street has been withdrawn at the request of the applicant.

Minutes, Planning Board Meeting, November 18, 2021

VII. OTHER BUSINESS

City Manager Conard announced that they recently hired a new Planning Director, and they would be starting January 10, 2022.

VIII. ADJOURNMENT

City Council Representative Whelan moved to adjourn the meeting at 8:45 pm, seconded by Mr. Gamester. The motion passed unanimously.

Respectfully submitted,

Rebecca Frey,
Secretary for the Planning Board