

MINUTES

PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

OCTOBER 17, 2013

MEMBERS PRESENT: John Ricci, Chairman; John Rice, Vice-Chairman; Nancy Novelline Clayburgh, City Council Representative; David Allen, Deputy City Manager; Richard Hopley, Building Inspector; William Gladhill; Colby Gamester; Elizabeth Moreau, and Jay Leduc, Alternate

MEMBERS EXCUSED: n/a

ALSO PRESENT: Rick Taintor, Planning Director

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I. APPROVAL OF MINUTES – none

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Ms. Moreau made a motion to take applications out of order, for the purpose of postponement. Councilor Novelline Clayburgh seconded the motion. The motion passed unanimously.

II. PUBLIC HEARINGS- OLD BUSINESS

*The Board's action in these matters has been deemed to be quasi-judicial in nature.
If any person believes any member of the Board has a conflict of interest,
that issue should be raised at this point or it will be deemed waived.*

A. The application of **143 Daniel Street, LLC, Owner, and Steven P. Wilson, Applicant**, for property located at **143 Daniel Street**, requesting Site Plan Approval to add a 2 ½ story addition over the existing “gym” and construct a new 60’ x 40’ 3-story addition on the existing parking lot for the development of a mixed use building including, utilities, landscaping, drainage and associated site improvements. Said property is located on Assessor Map 205 as Lot 19 and lies within the Central Business B (CBB) District, the Historic District and the Downtown District (DOD). (This application was postponed at the September 19, 2013 Planning Board meeting)

Mr. Rice made a motion to postpone to next month’s Planning Board meeting. Councilor Novelline Clayburgh seconded the motion. The motion passed unanimously.

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C. The application of **2422 Lafayette Road Associates, LLC**, for property located at **2454 Lafayette Road (Southeast Plaza)**, requesting Amended Site Plan Approval to revise the new retail building, add a rain garden to the site and make related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 273, Lot 3 and lies within the Gateway District. (This application was postponed at the September 19, 2013 Planning Board meeting)

Councilor Noveilline Clayburgh made a motion to postpone to next month's Planning Board meeting. Ms. Moreau seconded the motion. The motion passed unanimously.

F. The application of **Frances T. Sanderson Revocable Trust and Lynn J. Sanderson Revocable Trust, Owners, and Spinney Road Land Holdings, LLC, Applicant**, for property located **off Spinney Road and Middle Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance with a wetland buffer to install a rain garden of which a portion is within the wetland buffer. Said property is shown on Assessor Map 170 as Lot 24 and lies within the Single Residence B (SRB) District. (This application was postponed at the September 19, 2013 Planning Board meeting.)

Ms. Moreau made a motion to postpone to next month's Planning Board meeting. Councilor Noveilline Clayburgh seconded the motion. The motion passed unanimously.

D. The application of **Catherine T. Moretti, Owner**, for property located on **Central Avenue**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into three lots with the following:

1. Proposed Lot 1 having 39,391 ± s.f. and 169.07' of continuous street frontage on Central Avenue
2. Proposed Lot 2 having 10,700 ± s.f. and 100' of continuous street frontage on Central Avenue
3. Proposed Lot 3 having 21,232 ± s.f. and 100' of continuous street frontage on Central Avenue.

Said lots are shown on Assessor Plan 220 as a portion of Lot 87 and lie within the Single Residence B (SRB) District where a minimum lot area of 15,000 s.f. and 100' of continuous street frontage is required. (On March 21, 2013 the Planning Board granted subdivision approval to subdivide Lot 87 into two separate lots.) (See RCRD Plan D-37764)

Ms. Moreau made a motion to postpone this matter to next week's Planning Board Meeting. Councilor Noveilline Clayburgh seconded the motion. The motion passed unanimously.

F. The application of **Borthwick Forest, LLC, Owner**, for property located **between Islington Street and Borthwick Avenue**, requesting Conditional Use Permit approval under the Zoning Ordinance for work within an inland wetland buffer to construct a road from Borthwick Avenue to Islington Street in connection with a proposed subdivision, with 10,700 s.f. of impact to the wetland buffer and 5,800 s.f. of impact to the wetland buffer. Said property is shown on Assessor Plan 233, as Lots 112 & 113 and Assessor Plan 241 as Lot 25 and lie within the Single Residence B (SRB) District and the Office Research (OR) District.

Mr. Gladhill made a motion to postpone to next month's Planning Board Meeting. Ms. Moreau seconded the motion. The motion passed unanimously.

The application of **Beth and Marco Gross-Santos, Owners, and JP Ventures, Applicant**, for property located on Marjorie Street, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer to construct a single family home with driveway, drainage, and a driveway with 6,000 s.f. of impact to the wetland buffer. Said property is shown on Assessor Parcel Map 25-1-01-001-001-001 as Single Residence B (SRB) District. Said Lot 14 was restored to its pre-merger status by City Council on April 15, 2013, and three of the merged lots will be voluntarily merged by the owner to create a new building lot.

Request to Postpone

Mr. Rice made a motion to postpone to next month’s Planning Board meeting. Ms. Moreau seconded the motion. The motion passed unanimously.

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B. The request of Tom and Zelita Morgan to expand the Historic District southerly to the intersection of Richards and Parrott Avenues and westerly to the intersection of Austin and Summer Streets. (This application was postponed at the September 19, 2013 Planning Board meeting)

Tom Morgan, of 39 Richards Avenue, was present. His wife also wanted to attend but she had a conflict. Also present were Rhonda Stacy-Coyle, of 36 Richards Avenue and Karen Bouffard, of 87 Richards Avenue. Mr. Morgan stated that he wrote a letter to the City Council on May 15th and unfortunately the proposal was not as precise as it could have been and his original intent was to add 20 residential buildings into the historic district. The Planning Department Memo had a more expansive interpretation of the request and they have outlined 25 buildings. Mr. Morgan went through a powerpoint presentation. He displayed a map showing the corridors and the 20 buildings he is proposing to include in the historic district. Nearly all of the buildings are 200 years old. Various historic maps of the subject area were shown. He stated they are proposing to expand down Austin Street to add 5 more houses. He indicated that the owners of 53 Austin Street support this proposal. Also included are 64 Austin, 74 Austin, 82 Austin and 85 Austin at the end. They also propose to extend down Richards Avenue all the way to Parrott Avenue to add 15 buildings. The owner of 51 Richards Avenue supports this proposal. Steve Taylor, the owner of 69 Richards Avenue was ambivalent. Also included were 79 & 83 Richards, 80 Richards, 87 Richards, 94 Richards, 97 Richards, 104 Richards, 105 Richards, 111 Richards, 118 Richards, 121-123 Richards, 134 Richards and 135 Richards.

Staff interpreted his request differently and included homes on Summer Street and he was not prepared to address those.

Ms. Moreau asked if any of his neighbors have expressed opposition to his request. Mr. Morgan stated that the Langdons did and they are present tonight.

Chairman Ricci opened the public hearing and called for public speakers.

Robin Albert Lehman, of 97 Richards Avenue. She understands her neighbors desire to have additional homes become part of the HDC but they disagree. They don’t feel that being part of the district will create higher property values. They feel, if and when they wish to sell their house, it may deter potential buyers. When they were looking to purchase a home, they didn’t want to deal with potential restrictions and application fees that are often part of being in the HDC. The changes they have made may or may not have been approved by the HDC but they did not have to worry about that and did not have to expend the added time or fees that would have gone along with it. If this change were made, they see an unfair burden to current homeowners, especially when they want to re-sell.

Edmond Mullen, speaking on behalf of his fiancé, Jennifer Lickland, who owns the property at 82 Austin Street. They are new members of the neighborhood and they have some improvements they intent to make to their home and his concern was about when this would go into effect.

Mr. Taintor explained that this public hearing is the result of a referral from the City Council. Once the Planning Board makes a recommendation it goes back to the City Council and it would have to go through three readings, or separate meetings, of the City Council. The City Council would normally hold its first reading and the next day publish their notice of the second meeting and the day that they publish their notice for the second reading is the day that essentially the building inspector cannot issue a building permit that does not comply. Therefore, there are two hypothetical ways this could happen. Assuming that this moves forward from the Planning Board with a positive recommendation to the City Council, and if the City Council passed first reading, advertised the zoning change for public hearing and went through the whole process and adopted the ordinance, it would be retroactive back to the date of the legal publication of the second meeting. The earliest that first reading could happen would be November 18th so November 19th is the earliest date that the City Council could publish the public notice. The other way it could happen is the City Council could publish the zoning notice and then not adopt the zoning amendment and that would mean that he would retroactively not be subject to the change but during that period he could not get a building permit that would conflict with the change. After the City Council decided to vote against the amendment, he would be back where he was today.

Mr. Hopley suggested that he file for a building permit as soon as possible to avoid any possible change.

James Dowey, of 134 Richards Avenue. He stated that he is not opposed to anyone that wants to be in the historic district but he does not want to be in it. He returned to Portsmouth after a period of time and one stipulation that he had with his real estate agent was that he did not want to be in the historic district. He agreed with the reasons stated by Ms. Lehman. If this did go through, he would ask that the historic district stop at the passageway/paper street right next to his property and not extend to his property.

Karen Bouffard, of 87 Richards. She would like to see the street become part of the historic district and felt that it was not to improve the property value but to prevent the diminution of property value. She felt the lines of the current historic district were drawn arbitrarily and it could clean it up and enhance the district.

Rhonda Stacy Coyle, of 36 Richards Avenue. She is new to the neighborhood and one of the reasons she purchased the property was the historic area and she supports having their area being part of the historic district and preserving the value associated with it.

The Chair asked if anyone else 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. Leduc asked Mr. Taintor to describe the benefits and possible consequences of expanding the historic district. He also asked if there was any sort of petition available to people who don't want to be part of the expansion so that they could remove their property from the district.

Mr. Taintor felt that in terms of benefit to the City, it would be the same benefit that the City has had from the existing historic district, which is to control what happens and preserve the historic character of structures within it. The historic district was originally designed around the historic core of downtown and then extended along the streets leading into downtown. It was meant to preserve a gateway back from the downtown. Back in 2009 it was extended five blocks further down Islington Street and five blocks further down Middle Street. That was based on a study that was done. Unlike the 1970's there was not a detailed historic survey of all of the buildings. The HDC is currently requesting funding from the City Council to do a historic survey of the areas that have been added to the district since the 1970's. Therefore, they don't have as much information about those areas but the reason for the extensions down Middle and Islington were to define and preserve a gateway for people coming in before they get to the core of the downtown. There are other areas of the City that are very historic and very scenic but they are not included in the historic district. From the City's point of view, it is to preserve the historic character that defines a lot of the City as part of the tourism and economic development. Being in the historic district does come with added restraints and requirements for homeowners as they have to go through another board. In terms of a petition for how residents might be able to protest the revision, he does not know of anything. If the Planning Board were to recommend in favor, the next step would be a City Council public hearing.

Ms. Moreau asked if any specific criteria was reviewed when the original historic district was established. Mr. Taintor stated there was a very detailed historic survey of every structure in the study area. There are some buildings in the historic district that are not historic because the citizens wanted to have design review over those properties when or if they were developed in the future. There was no criteria but just a sense of a concentration of historic structures in the core and in preserving the gateway.

Mr. Rice made a motion to recommend that the historic district be expanded as shown on the maps included with the Planning Board packet, or as may be further defined with input at further public hearing. The motion was seconded.

Mr. Hopley stated that he will not support the motion. He looks at this as spot historic zoning and he asked why they are picking these two streets versus more or other streets. He felt there is a Master Plan process coming up and that this matter should be brought up in a global sense. He felt that when the Morgan request was first received, their main concern was their sidewalks and he was unsure how they moved from sidewalks to buildings. He was dead set against this.

Mr. Leduc stated he was against the request.

Ms. Moreau stated she was against the request.

Councilor Novelline Clayburgh indicated she would like to wait for the Master Plan process.

Mr. Gamester stated he was against the request.

Mr. Gladhill stated he would be in favor of the request. He has been sitting on the HDC for the past three years. He felt it made sense to add Richards Avenue as it preserves historic structures but he did feel that Austin Street was a little arbitrary. He did feel that it would involve a lot more discussion and a lot more research to look into this. He will support the motion.

Mr. Rice stated that he supports the motion and he has been feeling for a long time, as he drives down Miller Avenue, watching the destruction of older buildings for new ones, that they lose a little bit of

character as time goes on. Vinyl and other hostile materials on the surface of these beautiful old buildings detract from a sense of place and character and he would like to see that arrested as soon as possible. He is not sure they can wait for the Master Plan. He does agree that perhaps it is arbitrary and maybe it needs to be looked at further and in more detail.

Deputy City Manager Allen would agree that these are some great looking buildings, based on looking at the documentation, but he would prefer a process rather than an arbitrary methodology. One item that is coming before the City Council next week is a request for some HDC tools including a historic district re-survey and maybe they can have this looked at as part of the survey. He would vote against this request with the idea they could do something with the historic survey and better define recommended changes.

Chairman Ricci stated he will not support the motion. He would support at some point taking the arbitrariness out of the current historic district lines. He would suggest that they keep the Middle Street corridor but revise it so that it doesn't cut through the middle of the lots. This request seems to be a resident interest rather than a City wide review.

The motion to approve the request failed with Mr. Rice and Mr. Gladhill voting in favor and 7 voting in the negative.

Ms. Moreau made a motion to read Items D&E in together and vote separately. Councilor Novelline Clayburgh seconded the motion. The motion passed unanimously.

D. The application of **Carol S. and Joseph G. McGinty, Owners**, and the **Frances T. Sanderson Revocable Trust**, **Lynn J. Sanderson Revocable Trust, Paul G. Sanderson, Trustee, Owners**, for property located at **305 S. Main Street and off Spinney Road**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested follows:

- a. Lot 6 on Assessor Map 169 decreasing in area from 30,000 s.f. to 28,363 s.f. and with continuous street frontage on Spinney Road decreasing from 150 ft. to 132.54 ft.
- b. Lot 24 on Assessor Map 170 increasing in area from 181,725 s.f. to 183,362 s.f. with 139.06 ft. of continuous street frontage on Middle Road.

Said properties are located in the Single Residence B (SRB) District which requires a minimum lot size of 15,000 s.f. and 100 ft. of continuous street frontage. (This application was postponed at the September 19, 2013 Planning Board meeting)

E. The application of the **Frances T. Sanderson Revocable Trust and Lynn J. Sanderson Revocable Trust, Paul G. Sanderson, Trustee, Owners**, and **Spinney Road Land Holdings, LLC, Applicant**, for property located **off Spinney Road and Middle Road**, for Preliminary and Final Subdivision Approval to subdivide two lots into five lots with a new public right-of-way, with the following: Lot 5 on Assessor Map 169 having 337 sq. ft. (6.06 acres) and Lot 24 on Assessor Map 170 having 183,362 s.f. (4.21 acres), to be split into five separate lots ranging in size from 15,500 s.f. (0.36 acre) to 352,414 s.f. (8.09 acres), all with a minimum of 100 ft. of continuous frontage on the proposed public right-of-way. Said properties are located in the Single Residence B (SRB) District which requires a minimum lot size of 15,000 s.f. and 100 ft. of continuous street frontage. (This application was postponed at the September 19, 2013 Planning Board meeting)

The Chair read the notices into the record.

SPEAKING TO THE APPLICATION:

Malcolm McNeill, Attorney for the applicant, appeared on behalf of the applicant. Earlier this week he had submitted a request to postpone these matters to the next Planning Board meeting and the reason for that was that the Department had raised various issues relative to this project and they would like to have these applications referred to TAC for drainage issues. Additionally, there has been interest for the purchase of a portion of this site that needs to be more fully explored. It would place some of the parcel in conservation and they have not been able to finalize that yet. They feel a postponement would allow them to address issues such as sidewalks, the orientation of the houses, the 3rd party interest and the drainage issues.

Attorney McNeill added that they had earlier postponed the Conditional Use Permit application but they are all interconnected so he would prefer to have that application referred to TAC as well.

The Chair 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

Motion on Item D.

Mr. Rice made a motion to postpone Preliminary and Final Subdivision approval to the November Planning Board meeting, with a stipulation that this matter be referred to TAC. Ms. Moreau seconded the motion.

The motion to refer this matter to the Technical Advisory Committee for a recommendation back to the Planning Board and postpone to the next regular Planning Board Meeting scheduled for November 21, 2013 passed unanimously.

Motion on Item E.

Deputy City Manger Allen made a motion to postpone Preliminary and Final Subdivision approval to the November Planning Board meeting, with a stipulation that this matter be referred to TAC. Ms. Moreau seconded the motion.

The motion to refer this matter to the Technical Advisory Committee for a recommendation back to the Planning Board and postpone to the next regular Planning Board Meeting scheduled for November 21, 2013 passed unanimously.

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III. PUBLIC HEARINGS- NEW 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.*

Mr. Gladhill made a motion to read Items A, B, & C in together and vote on them separately. Mr. Hopley seconded the motion. The motion passed unanimously.

A. The application of **Pease Development Authority, Owner and Stonegate Construction N.H., LLC, Applicant**, for property located at **249 Corporate Drive**, requesting Preliminary and Final Subdivision approval to create a new lot on Corporate Drive, consisting of 218,981 s.f. (5.027 acres) and decreasing the remaining land area identified as Map 303, Lot 6 (Pease Development Authority map 314, Lot 0) by 5.027 acres, constituting a portion of the Pease International Tradeport. Said lot lies within the Pease Airport, Business & Commercial District (ABC) where a minimum lot area of 5 acres is required.

B. The application of **Stonegate Construction N.H., LLC, Applicant**, for property located at **249 Corporate Drive**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland and wetland buffer, to construct a new driveway and to replace a drainage outfall structure, with 457 s.f. of impact to the inland wetland and 1,951 s.f. of impact to the inland wetland buffer. Said property is shown on Assessor from Map 303, Lot 6 (Pease Development Authority Map 314, Lot 0) and lies within the Pease Airport, Business & Commercial District (ABC).

C. The application of **Stonegate Construction N.H., LLC, Applicant** for property located at **249 Corporate Drive**, requesting Site Plan Review for a proposed 37,013 s.f. office building, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is subject to subdivision from Map 303, Lot 6 (Pease Development Authority Map 314, Lot 0) and lies within the Airport Business Commercial District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Jeffrey Clifford, of Altus Engineering, presented on behalf of the applicant. Also present was the Eric Katz, the Applicant; Robie Woodburn, Landscape Architect; Mark West, Wetland Scientist; Malcolm McNeill, legal counsel and Maria Stowell, of the PDA. Mr. Clifford stated that this property is located at the corner of Corporate Drive and Ashland Road. They are proposing a 37,000 s.f. 2-story building and he displayed renderings of the building. He stated this is a 5 acre site that is being carved out of the 2,500 acres remaining at Pease. Existing conditions show some pavement which was part of military housing at Pease and there were 7 buildings around the site. They brought in good fill, sands and gravels, and the whole area, up to the wetland mark, is up to 5' – 6' of good material. What became important as part of the analysis of the site was the 100' setback from one large wetland line and the 25' setback from another wetland line (a ditch). This all goes back to the Gove Environmental Report where different wetlands were identified as having different values and setbacks. There was a 0' setback associated with the ditch but the PDA decided to use 25' as a minimum. The 100' applies because it is a larger wetland, however, because the site has been previously developed there is a provision in the PDA regulations that previously disturbed areas are exempt from the wetland setbacks. They worked with the PDA to determine the lines of the previous development and that is how they started designing the site.

The building footprint is 1,800 s.f. with the entrance coming off of Corporate Drive. The gray area represents 1,951 s.f. of impact to the wetland buffer which was not previously impacted by construction and they are asking for a Conditional Use Permit for that area. They found that the most efficient way to lay out the site, and to minimize the amount of pavement for parking, was to have double loaded parking around the building with 24' aisles. There is a wetpond with stormwater management to be dug out, a raingarden, a 200' long treatment swale, and 153 parking spots or 4.15

parking spots per 1,000. Under PDA regulations they need one parking spot per 2 employees. The applicant owns 273 Corporate Drive and at full occupancy they have 3.1 people per 1,000. Looking at those numbers, it is far less than what they have provided here but they felt for the property to be marketable to potential clients they need 4.15. At TAC, there were some concerns that there may be too much parking so they came to a compromise where six parking spots are labeled "future potential", they will landscape those areas and will only utilize them if the needs of the clients dictated it in the future.

They are extending the Corporate Drive sidewalk to the entrance and they will then add a crosswalk and switch the sidewalk to the other side down Ashland Road.

They have provided bike racks in the front and rear of the building. There is a transformer in the rear so it won't be visible from the street. The generator will be in the rear. They are providing light bases along Corporate Drive where there currently is no lighting.

The two water lines are coming in from Corporate Drive. The sewer stub was added when the sewer was installed several years ago. There are underground conduits for various utilities. Gas will come in with the meter in the rear and a line will go over to the generator.

Mr. Clifford described the stormwater management for the site. He stated that the wetpond will take much of the site drainage and discharge to an area with an existing pipe, which will be replaced, which drains all of the previous developed area. They will pull back the end of the pipe and add riprap punch pool so that it will meet AOT standards. The site disturbs 130,000 s.f. so they trigger an AOT for DES. Because 45' of this replacement is in the wetlands, it will require a permit by notification. Other aspects of the stormwater management are the raingarden which will take drainage and treat. There is also an underground stormwater gallery which is a series of pipes that will store water which takes the overflow of the raingarden and ties into this line. The rear will drain to the 200' line stormwater treated swale and discharge to the wetland. They have multiple levels of treatment and various ways of doing it, all very appropriate to the site. They have met pre and post development run off criteria so they are in good shape with stormwater management.

The project was recommended for approval by TAC but requested that they have add a note for radio strength testing which they added.

For the Conditional Use Permit associated with the encroachment into the wetland buffer they are proposing to do mitigation around the site where there it is heavily invested with invasive species. He will have Mark West address that later in their presentation.

The next speaker was Robbie Woodburn, the landscape architect for the project. She stated the landscape plan was fairly straightforward. They have a lot of variety and more than 50% of the proposed plants are native. She stated they have a median coming out the front with berm plantings on either side of the driveways, a mixed shrub border underneath them and sugar maples on top. They are also using elms along the roadway and the parking lot. There are various tree species throughout the lot. Both the berms and the median have mixes of shrubs and ornamental grasses. Around the building on the south they are using a mix of perennials and grasses so that when there is snow they will be gone and they won't be ruined. The planting in front is also fairly straightforward. Because of the location of the raingarden they are doing a mix of shrubs as opposed to an ornamental raingarden. This will be more natural than other locations. They also have located a number of picnic benches on the site. They have two areas of mitigation, one in the front and one along the back, which Mark West will talk about.

Mark West, Environmental Wetland Scientist, stated that when they originally developed this site with military housing they planted trees all around the perimeter of the property and some of those trees are over 40' in height. The problem is they are surrounded at the base by multiflora rose with oriental bittersweet climbing up them. From the wetland functions standpoint they have a 4' – 6' deep ditch that carries water into the wetland complex. The wetland itself is a cattail marsh with some shrub scrub and some dead trees, extending along the property and it becomes a narrower and narrower wetland. They would like to preserve the trees so they don't get overwhelmed and die off and also remove the invasive shrubs and plant native shrubs. They will flag out everything that needs to be saved and then cut and excavate out all invasive shrubs and remove them from the soil and the site and replant the area with native shrubs and trees for better buffer protection. The site has some flood storage function and it also has some wildlife habitat function which will be enhanced by saving the trees and creating a shrub buffer of native species, producing berries for the birds. Along the rear edges they are also going to put in a wildflower seed mix and they will be mowed twice a year to prevent the invasive shrubs from re-establishment. The PDA By-law, similar to Portsmouth, does not allow the use of herbicides in the buffer.

Ms. Woodburn stated that the lighting would be very simple, dark sky compliant, shoebox lights on 20' poles with wall packs on the top of the building pointing down so they get coverage on the parking lot. The average foot candle is 2.5 feet.

Mr. Clifford added that the walkways are 6' per TAC. TAC also suggested they landscape right in front of the entrance, which they did. He pointed out the forebay of the wetpond to take out the heavy particulates and the stone check dam is the main part of the pond.

Deputy City Manager Allen referred to the light posts they are adding along the street, and asked if the PDA has a standard and was that discussed in TAC and the DPW director. He assumes the street lights would be the City's responsibility.

Maria Stowell, representing the PDA, responded that they have been informed by the City that any additional street lights would need approval beyond what is shown on the plan that the Planning Board reviews so until they can sit down with the City and look at where street lights are, the City would not be obligated to light these and, if they can't work something out, the PDA would have to take on that obligation.

Deputy City Manager Allen asked if the stipulation for the capacity use surcharge or the fee associated with the sewer project and this property was discussed at TAC. Ms. Stowell confirmed that was made part of the agreement. This property along Corporate Drive is part of that new water/sewer work so they are impacted by that. Deputy City Manager Allen explained that the capacity use surcharge is separate so he will make a stipulation on that.

Mr. Rice stated that while he finds the landscape plan pleasing and well conceived, he was having issues with all of the contiguous parking spaces. They have 18 contiguous parking spaces, which is a lot of asphalt, and in other areas they seem to have 14 – 16 spaces. He was wondering if they would consider giving up the 7 spaces for 7 landscaping islands in those areas.

Mr. Clifford stated there was a lot of back and forth about parking. The PDA Regulations stated they can have up to 18 parking spaces without a break so they are in conformance. The applicant does not want to lose any parking spots at this point.

Chairman Ricci referred to Sheet C-3, the Grading Plan, and did not feel that the legend represented what was on the plan. He asked them to update the legend to include spot grades, proposed grades, roof drains, and underdrains.

Chairman Ricci asked if there was a generator pad detail on the plan. Mr. Clifford stated that he usually waits until he receives input from the mechanical engineer involved. He does not know the exact size at this point in time. Chairman Ricci indicated he will make a stipulation that it be shown on the final plan.

Chairman Ricci appreciated the silt sock but, again, it doesn't show up on the legend so he asked them to include that as well.

Chairman Ricci asked if it is a detention basin or pond. Mr. Clifford stated it was a wetpond and the difference is that a detention basin does not provide treatment but a wetpond does and is considered a treatment device. There is a permanent water surface that has to have a certain volume and depth and the theory is that the water is in there long enough to settle out solids and get displaced with another storm comes along. There is also a volume above it to manage the peak rate of run off. The average depth is 3.5' of water.

In response to the comment on parking, Mr. Hopley noted that they stated it conforms to the PDA guidelines. He asked if he was correct in saying that one space for 2 employees equals 93 spaces but they are providing 153 spaces. Mr. Clifford stated there is another PDA provision as well that talks about 5 parking spots per 1,000 s.f. for certain types of office buildings. They were trying to be responsive to TAC about reducing the number of parking spots but clients are asking for 5 parking spots per 1,000 s.f. so to be marketable they need to be around 4 – 4.5 parking spots per 1,000.

Ms. Stowell asked to clarify their regulations regarding parking spaces. Their requirements still stipulate a minimum number of spaces that a developer needs to build. One space per two employees seems a little skewed and it doesn't seem like it provides enough parking. However, it is in their regulations to allow a developer to put in fewer parking spaces if he doesn't need the 5 per 1,000.

Chairman Ricci asked about the berm pools and if it was when they are over 4' that they need a dam permit. Mr. Clifford thought it was higher than that. He confirmed that it wasn't considered a dam anymore.

The Chair 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

Motion on Subdivision:

Councilor Novelline Clayburgh made a motion to recommend preliminary and final Subdivision approval with the recommended stipulations. Mr. Hopley seconded the motion.

The motion to recommend that the Pease Development Authority grant Preliminary and Final Subdivision Approval, subject to the following stipulations, passed unanimously:

1. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.

- 2. GIS data shall be provided to the Department of Public Works in the form as required by the City.

Motion on Conditional Use Permit:

Councilor Novelline Clayburgh made a motion to recommend approval of the Conditional Use Permit. Ms. Moreau seconded the motion.

The motion to recommend Conditional Use Permit approval passed unanimously.

Motion on Site Plan Review:

Deputy City Manager Allen made a motion to recommend Site Plan Review approval with the stipulation that the applicant work with the Public Works Department on both the payment on the sewer project and the capacity surcharge for water and sewer. Mr. Rice seconded the motion.

Mr. Taintor requested that they add the generator pad on the final drawings and that they update the legend on Sheet C-3.

The motion to recommend Site Plan approval passed unanimously, with the following stipulations:

- 1) The applicant shall work with DPW on both the payment on the sewer project and the capacity use surcharge for water and sewer;
- 2) The generator pad shall be added to the final Site Plans;
- 3) The legend on Sheet C-2 shall be updated.

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E. The application of **Pine Siskin, LLC, Owner**, for property located at **219 Gosport Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within a wetland buffer, to construct a 1,749 s.f. in-ground pool and associated patio, with 2,709 s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 224 as Lot 10-11 and lies within the Single Residence A (SRA) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Steve Riker, Certified Wetland Scientist with Sandpiper Environmental Services, appeared on behalf of the owner, for approval to construct an in-ground pool on the property. Mr. Riker stated that the property is 46,960 s.f. or 1.069 acres. It is a single family residential lot and is zoned SRA. He performed a wetland delineation on September 25th, 2013 and he identified a tidal area and fresh water wetland area and they are contiguous. He also performed a function and values assessment on September 23rd, 2013 and a copy had been provided to the Board members. The project proposes to construct an in-ground pool on the property. The pool and patio total a 1,749 s.f. footprint. Almost the entire pool is located within the 100' wetland buffer. The patio will be constructed using pervious paver technology.

In terms of impervious surface on the lot, it currently contains 4,886 s.f. of impervious surface, or 10.4% of the lot, and after the construction of the pool the lot will contain 5,716 s.f. of impervious surface, or a difference of 830 s.f., totaling 12.17%. The difference is 1.77% on this lot, which Mr. Riker felt was a minimal amount. The owner fully understands the value of the surrounding wetland

resources and they have developed a plan which they feel protects the adjacent wetland resources and the integrity of the property. This project also proposes a 3,611 s.f. buffer planting area.

Currently, the majority of the land behind the house is maintained lawn, sloping into the wetland area. There is a very small natural wetland buffer which is not maintained. That area is very thin (10' to 3'), is 3,611 s.f. and would be planted with 32 shrubs of four different species which are appropriate for the soil conditions on the site. The intent of the wetland buffer planting area is to create a wetland buffer which will, over time, become a functional wetland buffer. The proposed pool and patio would be constructed without the removal of any trees and would be constructed in an area that is currently lawn. No harsh chemicals or acid to balance the pool water will be used. If the pool ever required draining, the water will be pumped into a truck and hauled off site. Sheet 2 of the plan provided notes regarding the points he has discussed tonight.

On October 9th, the Conservation Commission reviewed the application and denied the proposal as it was felt the impact was too extensive to the tidal buffer area, although Mr. Riker felt they were improving the tidal buffer area with their buffer plantings. The Conservation Commission felt that alternatives to location could be found on the lot resulting in less impact to the tidal buffer area. There was discussion about moving the pool to the side/front yard in the northwest corner of the lot. Mr. Riker felt it could just barely fit, it would be directly adjacent to Gosport Road and the driveway and approximately 90% of it would be in the 30' front setback or the 20' side setback requiring variances.

Mr. Riker reviewed the criteria.

1. The land is reasonably suited to the use, activity or alteration: Mr. Riker stated the parcel is located in the SRA zoning district which provides areas for single family dwellings at low to medium densities and appropriate accessory structures. In-ground pools, appropriately placed so as to not interfere with abutting lots or property values are reasonable accessory structures in the SRA Zoning district. The proposed location for the pool is in developed uplands which are reasonably suited for the use and alteration.
2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration: Mr. Riker felt the configuration of the lot and the home leaves no feasible location outside of the wetland buffer. Front and side yard setbacks apply to this lot, leaving no alternative location for the pool outside of the wetland buffer. They could argue what "reasonable" is.
3. There will be no adverse impact on the wetland functional values of the site or surrounding properties: A wetlands Function & Values Assessment was performed and was included in the application. The pool is located as far from the wetland boundaries as possible and the pool uses salt water sanitation eliminating the need for harsh chemicals and the patio surrounding the pool will be constructed using a pervious paver technology. The buffer planting area is also being proposed.
4. Alteration of the natural vegetative state of managed woodland will occur only to the extent necessary to achieve construction goals: the project proposed no alteration to natural vegetative states. Proposed disturbances to previously disturbed upland buffer, specifically maintain lawn area. The pool will be constructed without the removal of any trees, shrubs or vegetation on the lot.
5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section: The project demonstrates by plan and example that the proposed pool location is the alternative with the least adverse impact to areas and environments. The project is located as far as possible from nearby wetland resources.

Mr. Riker provided photos of the site and showed where the pool was proposed. He stated that the site is so flat that it requires minimal grading

Mr. Gladhill asked if using a salt water pool was environmental sound and if water leaked from the pool would it have detrimental effects to the wetland. Mr. Riker responded that it possibly could if it flowed quickly enough without treatment but that is why they are proposing the wetland buffer planting area to slow it down and provide treatment before getting into the wetlands.

Deputy City Manager Allen noted that the plan was showing a ledge outcrop and asked if they have done test pits. Mr. Riker confirmed that the pool company has looked at the ledge outcrop and they saw no problem with it. No blasting will be required.

Ms. Moreau asked to hear from Peter Britz, the City's Environmental Planner, regarding the comments made at the Conservation Commission meeting.

Peter Britz indicated that the Conservation Commission was happy about the wetland buffer plantings but their large concern was the lack of effort for any alternative design to reduce the size of the footprint or change the location. Also, the way the buffer has been landscaped down to the water was not an ideal situation. Once the pool goes in it will become a permanent fixture whereas the buffer could turn into a better buffer even without a pool going in. They had concerns all along Tucker's Cove about how the landscaping went down to the water with just lawn. There was concern about blasting and the shallow ledge. The biggest concern was the fifth criteria and they felt there were other alternatives to move this further away from the tidal wetland and prime wetland area.

Mr. Hopley was confused about the solid line entitled NH DES 100' tidal buffer zone and the 100' City of Portsmouth wetland buffer which is perpendicular to that line and goes right through the middle of the house.

Mr. Riker stated there are two wetlands and two buffers. Mr. Hopley assumed they would have to talk about the right side of the house as an alternate location because the left side is also in a wetland buffer. Mr. Riker agreed. He indicated there was a Conservation Commission member who brought up the size of the pool and stated she had not seen any effort to reduce the size of the pool but the Chairman felt the problem was the pool being in the buffer.

Mr. Hopley asked Mr. Taintor if setbacks applied as the pool is in-ground. Mr. Taintor confirmed the pool is a structure but setbacks are not measured for items under 18" in height.

Councilor Novelline Clayburgh asked if there are any other pools in the immediate area. Mr. Riker was aware of a pool off Gosport, north of this site. It is similar to this plan but probably a little bit further away from the tidal wetland. Also 20 Ordiorne Point Road has an in-ground pool.

Chairman Ricci opened the public hearing and called for speakers.

Jack Gardner, of 50 Odiorne Point Road, was speaking against the application. His deck, porch and bedroom face out to where the pool would be. He stated that Tuckers Cove is a U-shaped cove and it is not very wide and not very deep, it is tidal and at high tide, it is at most 5' deep. There are 12 houses on Tucker's Cove, and all of their back yards face the cove. The reasons for his objection are several. He felt that the Conservation Commission's comments have been fully addressed but he summarized that staff believes the application does not provide adequate information to determine the impact of the project, despite what the applicant has said tonight. His second objection is that they moved away

from Connecticut to get away from noisy pools and teenage parties in the back yard and that is what they are facing with this application. They think it would be a major visual and noise detraction for residents of Tuckers Cove. Also, this lot is next to the last undeveloped lot on Tuckers Cove and it would set a precedent for that lot to have a pool as well. Also, they have had direct conversations with people who have had direct conversations with the owner who indicated he was going to have the pool completely enclosed but that seems to have disappeared. He indicated that he and his wife strongly object to this.

Mr. Riker stated that the owner originally wanted to construct a structure around the pool but that has been dropped.

The Chair asked if anyone else 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

Ms. Moreau made a motion to deny the Conditional Use Permit due to its impact to the wetland buffer and there are other possible solutions that might have less impact. Mr. Rice seconded the motion.

Chairman Ricci stated that he has been on this Board a long time and there was an application before them a few years ago that was similar to this and he felt that these applications are very precedent setting. To him this just unlatches Pandora’s box.

The motion to deny Conditional Use Permit passed unanimously.

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G. The application of **Great Bay School Training Center, Owner, and David Lemieux, Applicant**, for property located at **417 Lafayette Road**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into two lots with the following:

- a. Proposed Lot 1 having 15,000 ± s.f. and 149.35’ of continuous street frontage on Lafayette Road;
- b. Proposed Lot 2 having 16,620 ± s.f. and 100’ of continuous street frontage on Lafayette Road.

Said lot is shown on Assessor Plan 230 as Lot 23 and lies within the Single Residence B (SRB) District where a minimum lot area of 15,000 s.f. and 100’ of continuous street frontage is required.

Chairman Ricci and Councilor Novelline Clayburgh recused themselves from this hearing.

The Vice Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Karen Lovejoy, of Ambit Engineering, was requesting preliminary and final approval for a subdivision to create 2 lots on the corner of Lafayette Road and Andrew Jarvis Drive, located in the SRB district. The subdivision will create two lots that conform to the dimensions of this district. The proposed property line is configured to comply with the 100’ frontage as well as the 15,000 s.f. minimum lot size. They would like to keep the existing house which is why the proposed property line is diagonal.

Ms. Moreau did not see any access point on the plan and asked if that meant that access would be from the lot behind it. Ms. Lovejoy responded that was a possibility and at this moment there is a driveway

permit application registered at DPW and they are awaiting approval for access on Andrew Jarvis Drive. She provided a copy of that driveway plan but stressed that it was preliminary and the location of the driveway may change.

Mr. Gladhill asked if it was possible for the new lot line to be perpendicular to Lafayette Road. Mr. Taintor responded that the only purpose was to keep the existing house there. Otherwise, they would have to wrap an equally contorted line around the back of the site or they would have to get a variance for lot size.

Ed Hayes, one of the applicants, explained that they would have to demo or alter part of the existing residence in order to straighten out the line and they don't want to do that. The house was built in 1940, has some great "bones" to it and it has a lot of character. They believe it would be a shame to alter it.

The Chair 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. Hopley noted that Mr. Hayes indicated if the lot line was altered the existing residence would have to be altered. He didn't understand how that affects the existing house. Mr. Taintor explained that in order to move and straighten the proposed line to be perpendicular, and in order to get 15,000 s.f. on each lot, they would have to move it towards the house and cut off the porch. Mr. Hopley felt this was an exercise in not trying to get a variance.

Mr. Gladhill was thinking of the aesthetics. If a fence was ever erected between the two lots, it wouldn't look good. He noted the applicant has not even tried to get a variance.

Ms. Moreau asked about the possibility of adding a stipulation that they can't put a fence in that follows the lot line and it would have to be perpendicular to the road. Mr. Taintor agreed that they could do that but, after discussion, it was not felt to be a good idea.

Ms. Moreau made a motion to vote that the application is complete according to the Subdivision Rules and Regulations and accept the application for consideration. Deputy City Manager Allen seconded the motion.

The motion passed unanimously.

Ms. Moreau made a motion to waive compliance with Section VI.2.A of the Subdivision Rules and Regulations, requiring side lot lines to be at right angles to street lines to the extent practicable. Mr. Rice seconded the motion.

Mr. Hopley stated that he was having a hard time with this. They are referring to the bearing line and he wondered if there was a better way to do this by seeking BOA relief and then coming back to the Planning Board if they were unsuccessful. Deputy City Manager Allen and Mr. Gladhill agreed with Mr. Hopley. Mr. Hopley felt that a clean way to handle this would be to postpone, rather than to deny or approve, to a time uncertain and suggest they make an attempt to seek relief. Mr. Allen would rather see an awkward property line in the back rather than on the front of Lafayette Road. He was uncomfortable with it.

Mr. Taintor did not think that anybody was saying the density was an issue. Another option might be asking the applicant to legally do an easement from the 417 lot to the proposed lot that would make the triangle that is in dispute effectively part of the 417 lot. One issue is the awkward angle of Lafayette Road and Andrew Jarvis Drive. Mr. Hopley felt this would only be a “what if” game. It seems that there is a lot of area between the Great Bay School and Lot 1 and he wondered how much that line could swing to make up the 15,000 s.f. Deputy City Manager Allen agreed that it didn’t look like it would be that far. The rear lot is also owned by Great Bay School. Mr. Taintor felt there was no reason for the Board to grant a waiver when there is another alternative.

Mr. Hayes asked if they could ask the Planning Board for a recommendation stating they supported the granting of a variance when they went before the BOA for a more conforming lot with less square footage. Mr. Taintor confirmed they would not make a recommendation.

Mr. Taintor felt that the big question is that there seems to be a solution that doesn’t require a waiver or a variance. Since one property owner owns both lots, it is something that they should explore.

Ms. Lovejoy indicated that the applicants do not own the rear property so it is not within their control to purchase the other piece. Mr. Taintor indicated that the owners of the property are part of this application so it seems there might be a solution here, and it certainly is worth looking into prior to asking the Board to waive its regulations.

Mr. Hopley made a motion to postpone the waiver request to the next Planning Board meeting. Mr. Gladhill seconded the motion.

The motion to postpone consideration of the request to waive compliance with Section VI.2.A of the Subdivision Rules and Regulations, requiring side lot lines to be at right angles to street lines to the extent practicable to the next regular Planning Board meeting passed unanimously.

Deputy City Manager Allen made a motion to postpone Preliminary and Final Subdivision approval to the next Planning Board meeting. Mr. Gladhill seconded the motion.

The motion to postpone Preliminary and Final Subdivision approval to the next regular Planning Board meeting passed unanimously.

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H. The application of **Hillcrest at Portsmouth, Owner**, for property located at **3201 Lafayette Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer to replace existing street lights and repair and replace existing sewer laterals, with 2,000 ± s.f. of temporary impact to the wetland buffer. Said property is shown on Assessor Plan 291 as Lot 7 and lies within the Garden Apartment/Mobile Home (GAMH) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Chairman Ricci stated that he is an abutter and owns property across the street but does not feel it effects how he would act on this application. If anyone felt differently, he would be happy to step down.

Glenn Gidley, Manager of Hillcrest Portsmouth, stated they are in the process of completing the stipulation of the subdivision that was approved several months ago and one stipulation was some improvements to the onsite municipal sewer system to eliminate infiltration. They are repairing or replacing several sewer laterals. He was advised by Peter Britz that they need a Conditional Use Permit to do this work. They also had an ongoing project to replace the existing street lights so they have consolidated both issues on one plan. They have a December 31, 2013 deadline to complete their work. They will be working in areas that are already graded and are used for yards. They are only working within the 100' wetland buffer.

Based on comments from the Conservation Commission, the construction areas will have silt fence installed and there will be no impact on the wetland areas. These laterals are replaced fairly quickly and they can usually finish most of them in a day or two. This is a temporary impact to the buffer area where they will go in, excavate, repair the lateral, backfill, loam and hydroseed.

Regarding the street light replacements, they have some existing street lights that are aging and not working and need to be replaced. It will be the same situation where they would be removing an old light with a new light however the new lights will need to have electricity run from the existing pedestals on the manufactured home sites. In some places they have wiring in place at the street light so they don't have to install any wiring. The ones on the plan require that they build a trench 2' deep to an existing electrical pedestal to power those lights. Again, it is about a one day process and the areas would be contained with a silt fence.

Chairman Ricci asked if they would be opposed to using silt socks rather than the silt fence. Mr. Gidley had no problem with that.

The Chair 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

Deputy City Manager Allen made a motion to approve the Conditional Use Permit with the stipulation that they use silt sock instead of silt fence. Mr. Hopley seconded the motion and commented that he is very excited about the new ownership and he gets the sense that Mr. Gidley is very sincere about upgrading the park and correcting things that have been overlooked for years.

The motion to grant Conditional Use Permit approval passed unanimously with the following stipulation:

1. The applicant shall install silt socks (rather than silt fences) between the project areas and any adjacent wetland areas before the start of construction and until the site is stabilized.

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IV. OTHER BUSINESS

A. Request of Port City Nissan and Two Way Realty, for property located at 120 Spaulding Turnpike, for a one year extension of Conditional Use Permit approval and Site Review approval which were granted by the Planning Board on November 15, 2012.

Mr. Taintor stated this was a simple one year extension on the project as they are taking longer than originally expected to finance the project and get underway. They plan to start work in the spring.

Deputy City Manager Allen made a motion to grant a one year extension of Conditional Use Permit approval. Ms. Moreau seconded the motion. The motion passed unanimously.

Deputy City Manager Allen made a motion to grant a one year extension of Site Plan approval. Ms. Moreau seconded the motion. The motion passed unanimously.

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V. PLANNING DIRECTOR’S REPORT

Mr. Taintor noted some corrections to the Meeting Schedule which was in the Board packet. They are working toward bringing the FBZ ordinance to the City Council for first reading at their next meeting but felt it would be better to put it off until after the Planning Board public hearing which is scheduled for next Thursday. Therefore, next week it will just be rolled out to the City Council and they will do a formal referral to the Planning Board at that time. The Board will have their public hearing on Thursday and hopefully move it forward to the City Council for first reading on November 18th. If everything goes well, it is still on track to be completed by the end of the year.

Mr. Taintor stated there are no further work sessions for the rest of the year.

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VI. ADJOURNMENT

A motion to adjourn at 9:25 pm was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on March 20, 2014.