

**ACTION SHEET**

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

**CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

**7:00 P.M.**

**APRIL 30, 2015**

**MEMBERS PRESENT:** John Ricci, Chairman; Elizabeth Moreau, Vice Chairman; Jack Thorsen, City Council Representative; David Allen, Deputy City Manager; Robert Marsilia, Building Inspector; William Gladhill, Colby Gamester, and Justin Finn, Alternate

**MEMBERS EXCUSED:** Michael Barker and Jay Leduc

**ALSO PRESENT:** Rick Taintor, Planning Director; Jessa Berna, Associate Planner;

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**I. DETERMINATIONS OF COMPLETENESS**

**A. Site Plan Review:**

1. The application of **Rye Port Properties, Owner, and Charter Foods North LLC, Applicant**, for property located at **2299 Lafayette Road**, requesting Site Plan Approval to construct a 50-seat, 2500 s.f. Taco Bell Restaurant.

Voted to determine that the application for Site Plan approval was complete according to the Site Plan Review Regulations and accepted the application for consideration.

2. The application of **Northern New England Conference of Seventh Day Adventist, Owner**, for property located at **861 Middle Road**, requesting Site Plan Approval to construct an 18' x 33' addition to the front of the existing church.

Voted to postpone to the May 21, 2015 Planning Board Meeting.

3. The application of **Old Tex Mex, LLC, Owner**, for property located at **290 Heritage Avenue**, requesting Site Plan Approval to construct a 110' x 250' two story steel frame building.

Voted to determine that the application for Site Plan approval was complete according to the Site Plan Review Regulations and accepted the application for consideration.  
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**II. PUBLIC HEARINGS – OLD BUSINESS**

A. The application of **Saco Avenue Professional Building, Inc., Owner**, for property located at **125 Brewery Lane**, requesting an extension of Site Plan Approval to construct a 4-story, 64' x 240', 15,500 ± s.f., 48-unit residential building, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. (Site plan approval was originally granted on November 18, 2005, and extensions were granted through November 17, 2010.)

- (1) Voted to waive compliance with Section 2.13.2 of the Site Plan Review Regulations with respect to the requirement that an extension of site plan approval be requested and acted upon prior to the expiration date.
- (2) Voted to extend the site plan approval originally granted on November 17, 2005, and most recently extended to November 17, 2009, with the stipulation that all site work shown on the Site Plan shall be completed by April 30, 2017.

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B. The application of **Rye Port Properties, Owner, Charter Foods North, LLC, Applicant**, for property located at **2299 Lafayette Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer to construct a 50-seat 2,500 s.f. Taco Bell Restaurant with drive-thru, with 5,990 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Plan 272 as Lot 10 and lies within the Gateway (G) District. (This application was postponed at the March 19, 2015 Planning Board Meeting.)

Voted to grant Conditional Use Permit with the following stipulations:

- 1. The applicant shall only use fertilizers that are low phosphate and slow release nitrogen.
- 2. The applicant shall install a seeded erosion control blanket to stabilize bare ground on the site after constructions.
- 3. The applicant shall conduct winter snow removal using a New Hampshire certified Green Snow Pro Contractor.
- 4. The applicant shall maintain the bioretention areas and file an annual report with the Portsmouth Department of Public Works and Planning Department.
- 5. The applicant shall install orange construction fencing along the erosion control line to keep construction equipment out of the wetland buffer.

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**III. PUBLIC HEARINGS – NEW BUSINESS**

A. Request of **Stella B. Stokel 1993 Trust, Stella B. Stokel, Trustee, Nancy A. Stokel 1993 Trust, Nancy A. Stokel, Trustee, and Philip J. Stokel, Owners**, and the **City of Portsmouth, Applicant**, for property located at **83 Peverly Hill Road**, requesting a waiver of the Subdivision Rules and Regulations, Section VI.3.I – Cul-de-Sacs, to allow a cul-de-sac to exceed 500 feet in length. Said property is shown on Assessor Map 242 as Lot 4, and lies within the Single Residence A (SRA) and Single Residence B (SRB) districts.

Voted (6-2) to waive in its entirety the 500 foot cul-de-sac limitation found in Section VI.3.I of the Subdivision Rules and Regulations for the property located at 83 Peverly Hill Road (Map 242, Lot 4); subject to any owner/applicant otherwise obtaining all other approvals and permits from local land use boards as may be necessary to develop the property. This waiver shall run with the land and shall be effective for any subdivision application submitted to the Planning Board within ten (10) years of the date of approval of the waiver.

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B. The application of **Rye Port Properties, Owner, and Charter Foods North LLC, Applicant**, for property located at **2299 Lafayette Road**, requesting Site Plan Approval to construct a 50-seat, 2500 s.f. Taco Bell Restaurant with drive thru, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 272 as Lot 10 and lies within the Gateway district.

A. Voted to determine that the application for Site Plan Approval was complete according to the Site Plan Review Regulations and accepted the application for consideration.

B. Voted to grant site plan approval subject to the following stipulations:

- 1. The site plans shall be amended as follows:
  - (a) Right turns onto Lafayette Road from the site driveway shall be allowed, however, a report will be filed with the Planning Department in one year from the date of the Certificate of Occupancy on accidents that have been reported in the area, and if there are concerns at that time by the City this matter may be reconsidered.
  - (b) The applicant shall contribute \$2,000 towards the construction of a bus stop shelter and shall install the shelter.
- 2. The applicant shall apply for and obtain connection permits from the Department of Public Works for stormwater, sanitary sewer and water.
- 3. The Site Plan (Sheet C1) and Landscape Plan (Sheet L1) shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department, prior to the issuance of a building permit.

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C. The application of **Northern New England Conference of Seventh Day Adventist, Owner**, for property located at **861 Middle Road**, requesting Site Plan Approval to construct an 18' x 33' addition to the front of the existing church, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 232 as Lot 120 and lies within the Single Residence B (SRB) district.

Voted to postpone consideration of Site Plan approval to the May 21, 2015 Planning Board Meeting.

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D. The application of **Old Tex Mex, LLC, Owner**, for property located at **290 Heritage Avenue**, requesting a Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer to construct a 110' x 250' two story steel frame building, with 9,860 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Plan 275 as Lot 7 and lies within the Industrial (I) District.

Voted to grant Conditional Use Permit with the following stipulations:

1. Before site construction begins the applicant shall measure current water levels of the wetland to the west of the site and monitor water elevations of this wetland during construction and post construction at least quarterly for two years. If the results clearly demonstrate an impact to the adjacent wetland system the applicant will work with the City to address and mitigate these impacts.
2. That the occupants are educated about wildlife passage through the area on the site and that signage is erected to notify the users of the site and protect the wildlife passage area as well;
3. That the City's Environmental Planner is informed of the results of the monitoring studies until the site stabilizes.

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E. The application of **Old Tex Mex, LLC, Owner**, for property located at **290 Heritage Avenue**, requesting Site Plan Approval to construct a 110' x 250' two story steel frame building with a footprint of 27,683 ± and gross floor area of 40,211 ± s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 275 as Lot 7 and lies within the Industrial (I) District.

- A. Voted to determine that the application for Site Plan Approval was complete according to the Site Plan Review Regulations and accepted the application for consideration.
- B. Voted to grant a waiver from the Site Plan Review Regulations, Section 3.3.2(3), limiting driveways to one per lot.
- C.. Voted to grant a waiver from the Site Plan Review Regulations, Section 5.2.4, requiring sidewalks along the front of the site and connecting the building entrances.
- D.. Voted to grant site plan approval subject to the following stipulations:

1. The applicant shall prepare and implement a post-construction monitoring plan with mitigation measures to be approved by the Department of Public Works. The plan shall include follow-up and a commitment to work with DPW to assure that the stormwater volume and flow rate do not increase. The results of the monitoring will determine what, if any, additional post-construction measures may need to be implemented before bond release.
2. The applicant shall apply for and obtain connection permits from the Department of Public Works for stormwater, sanitary sewer and water.
3. The applicant shall apply for and obtain a sign permit from the Inspections Department for the proposed property sign.

- 4. The Site Plan (Sheet C2) and Landscape Plan (Sheet L1) shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department, prior to the issuance of a building permit.

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**IV. PUBLIC HEARINGS – CITY COUNCIL REFERRALS**

A. The request by **Portsmouth Land Acquisition, LLC**, that the following lots be rezoned from Industrial (I), Office Research (OR) or Municipal (M) to Gateway (GW):

- Assessors Map 163, Lots 33, 34 and 37.
- Assessors Map 165, Lots 1, 2 and 14.
- Assessors Map 172, Lots 1 and 2.
- Assessors Map 173, Lots 2 and 10.

and including Cate Street between Hodgson’s Brook and Bartlett Street, and that the Zoning Map be revised accordingly; and further that the Zoning Ordinance, Article 7, Section 10.730 – Gateway Planned Development, be amended by inserting a new Section 10.734.40 as follows:

**10.734.40 Workforce Housing Incentives**

If a GPD with a Residential Component contains 10% or greater Workforce Housing Units, the following shall apply:

- 10.734.41 The minimum lot area per dwelling unit shall be 1,000 square feet.
- 10.734.42 The maximum building length set forth in Article 5, Section 10.522 shall be increased to 350 feet.
- 10.734.43 Required off-street parking may be located in a required front yard or between a principal building and a street.

(This proposed amendment was previously considered at the October 20, 2014, Planning Board meeting.)

Voted to postpone to the May 21, 2015 Planning Board Meeting.

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B. Proposal to amend the Zoning Ordinance by inserting a new Section 10.814 – Short-Term Rentals, and to make conforming amendments to other sections of the Ordinance as necessary.

Voted to postpone to the May 21, 2015 Planning Board Meeting.

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**V. OTHER BUSINESS**

A. The request of **Portsmouth Land Acquisitions, LLC, Owner**, for property located at **428 U.S. Route 1 By-Pass, property off Cate Street and 55 Cate Street**, for Design Review under the Site Plan Review Regulations, for a proposed mixed use development consisting of 288 dwelling units and 40,000 s.f. of commercial space in 3 buildings, with related paving, lighting, utilities, landscaping,

drainage and associated site improvements. Said properties are shown on Assessor Map 172 as Lot 1, Map 173 as Lot 2, Map 165 as Lot 2, and Map 163 as Lots 33, 34 and 37, and lie within the Industrial (I) District, the Office Research (OR) District, and the Municipal (M) District.

Voted to postpone to the May 21, 2015 Planning Board Meeting.

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**VI. PLANNING DIRECTOR'S REPORT**

None

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**VII. ADJOURNMENT**

A motion to adjourn at 11:31 pm was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse  
Acting Secretary for the Planning Board