

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

MAY 21, 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, Jay Leduc; and Justin Finn, Alternate

MEMBERS EXCUSED: Michael Barker;

ALSO PRESENT: Jessa Berna, Associate Planner

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I. APPROVAL OF MINUTES

- A. Approval of Minutes from the April 16, 2015 Planning Board meeting;
Unanimously approved
- B. Approval of Minutes from the April 30, 2015 Planning Board meeting;
Unanimously approved

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II. DETERMINATIONS OF COMPLETENESS

A. Subdivision

1. The application of **Deer Street Associates, Owner**, for property located at **165 Deer Street**, and **Boston & Maine Corporation, Owner**, for property running **from Borthwick Avenue to Maplewood Avenue**, for Preliminary and Final Subdivision Approval (Lot Line Revision).

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

The motion passed unanimously.
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B. Site Plan Review:

1. 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.

Ms. Moreau made a motion to determine that the application is complete according to Site Plan Review Regulations and to accept it for consideration. Mr. Gladhill seconded the motion.

The motion passed unanimously.

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Chairman Ricci asked for a motion to take Item B and Item C Public Hearings Old Business out of order for the purposes of postponement.

Ms. Moreau made a motion to take Item B and Item C Public Hearings Old Business out of order for the purposes of postponement. Deputy City Manager Allen seconded the motion.

The motion to take Item B and Item C Public Hearings Old Business out of order for the purposes of postponement passed unanimously.

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III. OLD BUSINESS

A. The application of **North End Properties, LLC, owner, and Deer Street Development Company, Inc., doing business in NH as Harborcorp of Portsmouth, applicant**, for property located on **Russell Street, Deer Street, and Maplewood Avenue**, for a Conditional Use Permit under Section 10.535.12 of the Zoning Ordinance to allow an increase in building height above the maximum height specified in Section 10.531. Said property is shown on Assessor Plan 125 as Lot 21, Assessor Plan 118 as Lot 28, Assessor Plan 124 as Lot 12, Assessor Plan 119 as Lot 1-1A, and Assessor Plan 119 as Lot 1-1C, and lies within the Central Business B, Historic, and Downtown Overlay Districts. (This matter was referred to the Planning Board by the Historic District Commission at its meeting on April 1, 2015 and postponed at the April 16, 2015 Planning Board meeting.)

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Chairman Ricci stated that there would be no public hearing on the CUP this evening. There will be a public hearing for the Site Plan. The purpose of the CUP review this evening is for the Planning Board to provide comments/recommendations to the HDC to allow them to move forward.

Ms. Moreau inquired if the Board is allowed to discuss things amongst themselves.

Chairman Ricci stated that this was acceptable.

Ms. Moreau stated that she has concerns about the public space. She really likes the rooftop garden and realizes there is supposed to be a balance of public space. However, she stated that if private events are held every weekend during the summer, there wouldn't be the time for public use of the rooftop garden during these times. If it is going to be shut down for every private event that goes on, the result is a lesser public benefit.

Chairman Ricci asked the applicant to clarify this issue.

Susan Duprey with Bernstein and Shur was present to speak to the application. She stated that the applicant is proposing that the garden be open every day and that at least 50% of it would be open to the public all the time. So in effect, it would always be open to the public, but they will close off half of the garden at times for private events (from the parking garage over).

Mr. Gladhill stated that the Planning Board was sent a memorandum from the HDC (Nick Cracknell) with questions. There were 7 bullet points contained in the memorandum. Mr. Gladhill went through each of the 7 points and what the HDC would like to know regarding each point.

- 1) Proposed Roundabout – The HDC would like some clarity on the timing of this component and the level of contribution being considered by the applicant.
- 2) Bike Lanes - The HDC would like to know if the proposed bike lanes are appropriate for the proposed Site Plan and land use program, and if there should be less, or more, of them within the public way along the perimeter of the project. Additionally, how do they relate to the plans and designs for Maplewood Avenue and Market Street.
- 3) Bus Parking Areas – The HDC would like to know where the bus parking areas are located within the site and whether they are doubling as vehicle parking areas. Additionally, they would like to know where the zones are for smaller paneled trucks. They do not want these uses to spill over into the surrounding neighborhoods.
- 4) North End Plaza - The HDC would like to know what is being considered for programming within the Plaza and what, if any, contribution the applicant will make for future park improvement.
- 5) Rooftop Garden – This subject was discussed earlier this evening.
- 6) Parking Management Plan – The HDC would like assurances that the proposed Parking Management Plan, size, location, designated spaces and valet parking is appropriate for the proposed uses in order to prevent spillover into the surrounding streets and neighborhoods.
- 7) Park Maintenance – The HDC would like clarification on how the proposed landscaping will be maintained over time in order to qualify as a public benefit under the CUP.

SPEAKING TO THE APPLICATION:

Susan Duprey of Bernstein and Shur was present to speak to the application. She commented on the 7 items from the HDC. She stated that the Planning Board will be approving a number of these items when they approve the Site Plan. She stated that she does not feel that all of the items are specific to the CUP but rather that the HDC wanted to be certain the Planning Board took those 7 items under consideration. She stated that the Planning Board will make a determination on the bike lanes. They have been reviewed by TAC and have been deemed safe as proposed. With respect to the roundabout, the contribution from the applicant will be \$25,000.00. In addition to this, they will be donating a parcel of land. With respect to the bus parking areas, Ms. Duprey felt there was some confusion as to

where the bus parking is located. She felt that the applicant must do a better job of clarifying this. With respect to the bus parking areas, it will be suggested that they be on street and would be available for public parking (during times when they are not in use) When they are being used by buses, they will be blocked off so that they cannot be used for public parking. Regarding the loading zone for small paneled trucks, it will be the same area as the loading zone for everything else, which is off the service drive. Regarding the North End Plaza programming, the applicant is budgeting \$200,000.00 to build a plaza and contributing another \$15,000.00 for engraved bricks. The Sheraton will also give up a significant parcel of land on its side of Deer Street in order to have the Plaza. They will maintain and contribute all landscaping on the Plaza. They will maintain not only Plaza landscaping, but all onsite landscaping. They will install all landscaping as well. She stated that she had discussed the Rooftop Garden earlier. Regarding Parking Management, she stated that by the time the Site Plan approval is given, there will be assurances that there will be sufficient parking and that it will be adequately managed.

Mr. Gladhill asked that the good answers Ms. Duprey provided be put in letter form for the HDC. Ms. Duprey stated that she was happy to do that.

Ms. Moreau inquired as to whether the bus parking has been moved. She stated that her biggest concern (rooftop garden) for the CUP has been answered.

Ms. Berna stated that any comment/concern that the Board would like to be passed on to the HDC can be made in this forum tonight.

Chairman Ricci stated that his only comment is that the rooftop garden be open to the public a good portion of the time.

Deputy City Manager Allen wanted to discuss the historic preservation piece. The applicant is donating \$20,000 to the North End Cemetery. There is an opportunity in that plaza to have an appropriate commemoration/tribute to the North End. It is a piece he felt was missing. He does not have anything in mind, but something that is 3-D would be nice.

Chairman Ricci inquired as to whether the HDC could consider this and asked what they would like to see. Mr. Gladhill stated that the HDC would welcome ideas from the Planning Board.

Mr. Leduc stated that he is not familiar with the Vaughan Street Park.

Ms. Duprey stated there is a small piece of land owned by the City. It is in poor condition. It is between the railroad and the property of the applicant. It is triangular in shape. They will save the existing area, add to it, and then maintain it. They are calling it a "Pocket Park."

Ms. Moreau made a motion to proceed with reporting comments back to the HDC. Deputy City Manager Allen seconded the motion.

The motion passed unanimously.

Ms. Berna will compile a memorandum containing Planning Board comment to provide to the HDC.

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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. The application of **North End Properties, LLC, Owner, and Deer Street Development Company, Inc., doing business in NH as Harborcorp of Portsmouth, Applicant**, for property located on **Russell Street, Deer Street and Maplewood Avenue**, requesting Site Plan Approval for a proposed 5-story mixed use development with a footprint of 72,600 ± s.f. and gross floor area of 352,736 ± s.f., including a hotel/event center with 24,000 s.f. of event center space and 97 hotel rooms, 23 residential condominiums, a 44,169 s.f. of retail, and 523 parking spaces (382 spaces in a garage structure and 141 below-grade spaces serving the retail use); with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 125 as Lot 21, Assessor Map 118 as Lot 28 and Assessor Map 124 as Lot 12, Assessor Map 119 as Lot 1-1A, Assessor Map 119 as Lot 1-1C and Assessor Map 119 as Lot 4 and lies within the Central Business B (CBB) District, the Downtown Overlay District (DOD) and the Historic District. (This application was postponed at the April 16, 2015 Planning Board Meeting.)

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Steve Bushey with FST Engineering was present to speak to the application. There are a number of plan changes that Mr. Bushey showed (requested by the Planning Board) on the color slide presentation. A loading dock (providing service level grade access) has been added at the service drive at the hotel conference center. There has been a modest reconfiguration on the back side for better access conditions. There is now a pedestrian access route connecting the front of the hotel to the service drive. There is a modest shift for the location of transformers. There have been improvements made to the Vaughan Street Pocket Park (that Ms. Duprey spoke about). There will be a few additional on street parking spaces. There were 7 spaces with bike lanes. He showed a drawing depicting 15 more on street parking spaces as another option for a total of 22 on street parking spaces. On the north end of the development is the proposed roundabout; there will be a greenscape improvement in this location. They have pulled back the landscaping approximately 10' so that they could meet the 100' setback from the South Mill Pond. Site lighting has been added to the service drive to increase safety and security (as shown on the Photometric Plan). The cut-through for large semi-trailers has been addressed. Mr. Bushey showed the graphic depiction for this on the slide presentation. There are a number of complications (relative to the entrance configuration) with allowing large semi-trailers in the cut-through area. This has to do with access and the structural design of the building. The recommendation of the applicant is not to pursue this type of traffic movement. This position is supported by the City's Peer Review Consultant in a memorandum they put forth stating that this would not be a wise traffic circulation pattern. Maintaining vehicular movement on Deer Street is more favorable. The function of this area is primarily to service delivery vehicles. There is potential for substantial conflict if there are people and a bicycle path in this area. In addition, the applicant doesn't see much benefit to having people in this area. Ultimately, it is in conflict with their plan. The alternative parking plan is to add 15 parking spaces on street including the south side of Deer Street

(for the approach on Deer coming towards Russell Street). To gain these spaces, a single left through lane for the approach (instead of a double lane approach) would be needed. There were bike lanes on Russell Street. The plan now depicts parallel parking on either side. In addition, bike lanes will be sharrows (shared bike and vehicular lanes). This allows parking spaces to be gained. Bus parking will also be additional on street vehicular parking (to be used only as bus parking when needed). On Deer Street, they fit in a couple of additional spaces. With this alternative, there will be 22 on street parking spaces. The additional on street parking is the applicant's response to a request from the public.

Juliet Walker, Transportation Planner for City of Portsmouth, was present as a resource and to speak about traffic circulation. Kevin Dandrade (TEC), Peer Review Consultant for traffic circulation for the project, was also present to speak to the application. He has reviewed all submittals for this project. A supplemental memorandum to the Planning Board was provided for clarification regarding how this project fits into the larger pedestrian and bicycle plan for the City. The memorandum stated that the bike network has not been built in its entirety yet, but there are components of it that are built. This project is in an area where the network has yet to be built. In this regard, whatever amenities the applicant can provide for pedestrians and bicycles would be helpful. A comment has been made about the Russell Street bike lanes that they are bike lanes to "nowhere." Bike lanes on Russell Street are useful because this is a transition area from a higher speed roadway. As such, it is appropriate to have dedicated bike lanes on Russell Street. Where there are slower speeds and pedestrian areas of Deer Street, it becomes more appropriate to mix vehicular traffic and bike traffic using Sharrows. Maplewood Avenue will eventually have bike lanes and these will connect to Middle Street and Lafayette Road bike lanes. Mr. Dandrade provided a memorandum in response to issues brought up at the last Planning Board hearing. Truck access issues were addressed in the memorandum. It stated that in the rear, mixing access with pedestrians would present issues and that having a pedestrian access in that area would present a conflict. Regarding the alternative presented for the on street parking layout; TAC worked with the applicant on the dedicated bike lanes. TAC does not object to the alternative, but Ms. Walker wanted to point out that with the alternative of gaining on street parking there are things sacrificed in order to obtain additional parking spaces.

Ms. Moreau asked that Ms. Walker address safety issues. She inquired as to whether Ms. Walker felt that there should be lower driving speeds, particularly on Russell Street.

Mr. Dandrade, Principal TEC, stated that it has been a pleasure to serve the City in this capacity over the course of the past several months. He stated that the question Ms. Moreau brings up is paramount for safety. The earliest plans have changed in order to balance vehicular travel, pedestrian and bike access. One of the benefits in considering a mix of uses and varying design techniques is flexibility for the City. This project may be a great candidate for an all-way stop control, but this may not meet the warrants with the threshold of traffic. The most appropriate thing to do is to have a flexible design. It would be free flow on Deer Street and stop control at the end of Russell Street. This provides the flexibility to not have the extra swath of lanes eastbound on Deer Street, which made more room for shared bicycle areas. A requirement of approval could be a post-occupancy study that would look at intersections to see if signs and markings should change in the future. The presence of on street parking calms traffic down a bit. If there were to be full dedicated bike lanes as well as on street parking, the pedestrian areas on either side would be reduced to a very narrow area. Regarding the bicycle travel (contemplated in the alternative plan), this is a speed transition zone (as you come off Market Street onto Russell Street). Adding on street parking on the southerly part of Russell would

calm traffic. Essentially, they felt that the alternative is a good mix of designs and more on street parking would calm traffic. Mr. Dandrade felt that this will help in keeping people safe, and is ultimately a good balance of mixes.

Deputy City Manager Allen stated that he agrees with the dedicated bike lane on Russell Street citing speed control and protection. The lane coming in to Russell Street is 13'. He inquired as to why this is so wide.

Mr. Dandrade stated that there is a need for shared lane accommodations and for truck turning radius.

Deputy City Manager Allen stated that from a speed control perspective controlling traffic here is desirable.

Mr. Dandrade stated that the levels of traffic in this area (Deer Street) do not warrant the dedicated bike lane at this time. It may elevate to this level at a point in the future.

Mr. Marsilia inquired if the applicant has considered the number of daily deliveries by tractor trailers and whether it would make sense to restrict delivery times.

Mr. Dandrade stated that delivery times are typically self-imposed by tenants, concentrated in the early morning hours when there is less traffic on the road in order to avoid busy times in the downtown area. He felt a benefit to the project would be to reduce the corner turning radii because as the curvature is increased, speed is increased and the distance pedestrians have to cross the road is also increased. He felt certain the applicant would be amendable to reasonable requirements regarding deliveries from the Planning Board.

Chairman Ricci agrees with the traffic calming measures and the proposed Sharrows in the alternative plan.

Mr. Dandrade stated that curb lines are actually extended by about 2' in the alternative plan but additional full bike lanes could happen in the future given the flexibility of this project plan.

Mr. Finn asked for clarification on the bus spaces on Deer Street regarding public use.

Mr. Dandrade stated that this is a public stop area. This was a recent change. There may be seasonal needs such as during fall leaf peeping season. The area is there for extra bus staging, but is not necessary all the time so their recommendation is for 4 extra spaces in this area.

Ms. Moreau inquired as to whether people using the parking under Whole Foods will have to pay.

Chris Thompson stated that they do not have to pay if they leave within a reasonable amount of time. They would take a ticket upon entering and if they exit within 20-30 minutes, they would not be charged.

Mr. Leduc inquired about how someone would know that the one-way rear access (primarily for trucks) is a one-way area.

Mr. Bushey stated that there is “Do Not Enter” signage in this area. He showed where this area would be on the slide presentation. There will be signage stating “Authorized Vehicles Only” as well.

Mr. Marsilia inquired about estimated quantities of ledge to be removed.

Mr. Bushey stated that he has not estimated this aspect. The contractor has done so, but he cannot quote what that number is. There is geotechnical information provided in the packets.

Mr. Marsilia inquired if there were plans to mitigate the impacts of this removal.

Mr. Bushey stated that they have made provisions on the plans for this as requested by DPW. One example of this is that pre and post blasting videos will be taken.

Ms. Moreau inquired as to whether the applicant would be willing to add a grease trap, as has been discussed previously.

Mr. Bushey stated that they would consider this if it was needed/a planned use.

Chairman Ricci stated that this will likely be a condition of approval.

Cliff Greim with Harriman Architects was present to speak to the application. He stated that there is piping infrastructure to have a grease trap and a grease trap location has been identified, but a restaurant is not planned so the applicant did not see the need to install a grease trap.

Chairman Ricci opened the public hearing and asked if anyone was present from the public wishing to speak to, for, or against the petition.

Jerry Zelin, of 70 Kensington Road, inquired as to whether the applicant had conducted adequate test borings of the area to be excavated. He also inquired as to where people will park (for Sheraton and Condo owners) while the garage (that will have dedicated spaces for them) is being constructed. He also stated that the reason he heard as to why tractor-trailers would not be able to go through the Vaughan Street cut-through is because it is impractical and would create structural as well as other problems. He felt that this was a consequence of the project being one building. This would not be the case if the building was not a single unit.

Rick Beckstead, of 1395 Islington Street, stated that with regard to the intersection at Russell and Deer Streets, it is a route that all trucks take in Portsmouth. So we are not talking about a few trucks each day as indicated by the applicant. This is a main route for everything and this fact must be taken into consideration. He is not convinced that a rotary is the right answer. He inquired about having Russell come up one-way to Deer Street. He felt this would alleviate many problems. He felt that common sense is not being used. As far as bike lanes, most people come in this way with cars, not bikes. He urges the Planning Board to look beyond this project to what the impact on Portsmouth as a whole is going to be.

Dixie Tarbell, of 25 Driftwood Lane, expressed that she is anxious to get the project moving. She stated that a project can be tinkered with forever, but the time to act is now. All aspects of the plan for this project have been reviewed thoroughly and if a completion time is not made now, it will never happen. The North End will stand the test of time for quality of life for generations to come. She also commended the work to develop an innovative Stormwater Management Plan.

Harold Whitehouse, of 58 Humphreys Court, is pleased with how the applicant has worked with the City and complemented Chris Thompson. He also complemented the City on the work they have done to date. He is pleased with everything. There is one concern that stands out to him, which is tractor-trailers coming off Market Street onto Russell and Deer Streets and taking a right onto Maplewood Avenue to the access road. He is concerned that a 53' tractor-trailer will not be able to make this turn. He is requesting an onsite visit for the Planning Board to conduct an on-the-ground assessment; an actual trailer making that right turn onto the access road.

Rick Beckstead, of 1395 Islington Street, stated that the Planning Board, the HDC and City Council have been asked to attend the May 27th site walk visit. He agrees with what Mr. Whitehouse is saying in that actually standing on site and seeing how close the access is to the tracks that will be carrying propane several times/day would be valuable. This will decrease the value (as it has with his place which is close to the railroad tracks) of properties in the area. He stated that this building is 660'. That is the same distance as going from Market Square down to Radici. This is a huge distance. He felt that Portsmouth is developing every nook and cranny in the City. He has spoken with a number of people that have moved to Portsmouth from NYC. They have told him that they moved to Portsmouth to get away from what was being done in that city. He stated that we are now doing here, what was done in New York City. He felt that the City is abandoning its Vision. Many helped developed the Master Plan and now it is being given up on in spite of fighting so hard for it. If this project goes through, which he suspects it will, he would like to see it divided into 2 or 3 buildings. He does not want to rush the project; he encouraged not putting a timeline on it. It has to be about the values and views of Portsmouth, not about money. He asks the Planning Board to consider that not all projects fit.

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.

Chairman Ricci stated that the Public Hearing will continue next month.

DISCUSSION AND DECISION OF THE BOARD

Chairman Ricci reiterated (from a comment made at the last Planning Board meeting) that the applicant should be asked for a parking plan for construction at some point.

Mr. Gladhill stated that with regard to an easement/access crossing a railroad track, it is hard to get the railroad company to grant an access easement. He cited the troublesome Islington Street/Bartlett Street intersection as an example. He stated that there are federal laws dating back to the 1870's that give the railroad companies a lot of control.

Ms. Moreau stated that incorporating the stipulations from the TEC letters should be considered. She made a clarification for the public on why there was no public hearing on the CUP tonight. They are

not required to do this and it was posted in this manner. They allowed comments, but they are acting in an advisory capacity only to the HDC.

Deputy City Manager Allen stated that it would be helpful to provide guidance to the applicant to use the TEC stipulations moving forward.

Chairman Ricci stated that it is the general consensus of the Planning Board to use the TEC stipulations as guidance.

Mr. Marsilia stated that it is important to indicate off peak hours for trailer access. It will most likely be self-limiting in that they won't want them there during the busiest hours of the day.

Ms. Moreau made a motion to continue the public hearing to the next Planning Board meeting, June 18th, 2015. Deputy City Manager Allen seconded the motion.

The motion passed unanimously.

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B. The application of **Moray, LLC, Owner**, for property located at **235 Commerce Way**, and **215 Commerce Way, LLC, Owner**, for property located at **215 Commerce Way**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested between two lots which are currently shown on Assessor Map 216 as Lots 1-8A and 1-8B and Assessor Map 213 as Lot 11. The applicant proposes to merge Map 216 Lot 1-8A and Lot 1-8B into Map 216 Lot 1-8A, and to revise the lot line between Map 216 Lot 1-8A and Map 213 as Lot 11 as follows:

- a. Map 216 Lot 1-8A (136,490 s.f.) merged with Lot 1-8B (196,876 s.f.) increasing in area from a total of 333,366 s.f. to 384,402 s.f. with continuous street frontage on Portsmouth Boulevard and Commerce Way.
- b. Map 213 Lot 11 decreasing in area from 290,077 s.f. to 239,040 s.f. with continuous street frontage on Portsmouth Boulevard and Dunlin Way.

Said lots lie within an Office Research (OR) District which requires a minimum lot size of 3 acres and 300 ft. of continuous street frontage. (This application was postponed at the March 19, 2015 Planning Board Meeting.)

The Chair read the notice into the record.

Ms. Moreau made a motion to postpone consideration of Preliminary and Final Subdivision approval to the June 18th, 2015 Planning Board meeting. Deputy City Manager Allen seconded the motion.

The motion to postpone consideration of Preliminary and Final Subdivision approval to the June 18th, 2015 Planning Board meeting passed unanimously.

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C. The application of **Moray, LLC, Owner**, for property located at **235 Commerce Way**, and **215 Commerce Way, LLC, Owner**, for property located at **215 Commerce Way**, requesting Site Plan Approval for a proposed 4-story office building with a footprint of 28,125 ± s.f. and gross floor area of 112,500 ± s.f., and 640 parking spaces serving the proposed building and an adjacent existing office building (including a parking deck with 161 spaces below grade), with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 216 as Lots 1-8A and 1-8B and lies within the Office Research (OR) District. (This application was postponed at the March 19, 2015 Planning Board Meeting.)

The Chair read the notice into the record.

Ms. Moreau made a motion to postpone consideration of Site Plan Approval to the June 18th, 2015 Board meeting. Deputy City Manager Allen seconded the motion.

The motion to postpone consideration of Site Plan Approval to the June 18th, 2015 Planning Board meeting passed unanimously.

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D. 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. (This application was postponed at the April 30, 2015 Planning Board Meeting.)

The Chair read the notice into the record.

Christopher Berry with Berry Surveying and Engineering was present to speak to the application. Also present was Kenneth Berry of Berry Surveying and Engineering. Mr. Chris Berry stated that they have addressed comments from the Planning Board meeting last month. He provided an overview of Site Plan Review aspects, as well as drainage design, parking design and TAC comments. The applicant is looking to change access on the site. The condition on the site is the existing structure in the center of the lot with 2-way access to Middle Road. There is conflict with abutting interests on Pierson Street and that is the reason for the addition. All impervious surfaces drain to a central discharge point to the abutting condo association. There is a one-way coming into the project site, two-way through the rear and some of the other parking. The site operates currently with both left turn in, and out, at both entrances. The applicant has been advised to change this. There is an existing drop-off location at the front of the church. The applicant is proposing to keep that, but to reconstruct it, add walkways and continue to allow one-way access for the drop off. The addition is 18' off the front and the full width of 33'. It will be the same architecture as currently exists. Through the TAC process, it was determined that the actual occupancy of the building is 100 individuals. The fire load for the building is 201 occupants. The upstairs occupancy is 107 and the downstairs represents the remainder. Parking would satisfy normal church occupancy at any given time. Fire code assumes the upstairs and downstairs would be operational at the same time, but that is not the way the church operates. However, to become compliant with the fire code, they have added additional parking to the east to be built when required. They do not anticipate having to come back to the Board. The current parking

onsite is 21 spaces. The proposal is for 36 spaces. There will be open swale drainage, as well as hardscape curbing. Current on site impervious coverage exceeds the limit. The rear parking surface will be porous to allow infiltration and this will bring the site into compliance. The remainder of the drainage onsite is through hardscape, or swale drainage. They have provided details about spot grading to ensure stormwater flows. They have provided sediment erosion control plans. They will no longer have perimeter lighting throughout the project as requested by TAC, due to being in a neighborhood area. The lighting has been pulled to the interior of the project site. They have added lanterns for a more pleasant lighting aspect. These lanterns will allow for safe travel throughout the site but will have lower lumens as well. The remainder of the plan talks about sediment erosion control and construction detail. One of the TAC comments addresses bus parking (at the back of the site where the dumpster would be located). They will move the dumpster to be more centrally located. The bus will be parked in this area. This will not be in conflict with onsite parking. The utilities onsite will largely remain. They have had this aspect videoed and inspected. The occupancy load dictates that they do not need a fire suppression system within the church and the water service does not need to be updated.

Mr. Marsilia asked for clarification on what the code analysis stated and the applicant's intent in not installing a fire suppression system.

Mr. Chris Berry stated that they did conduct a code analysis following the TAC review process. It was determined that the maximum occupancy of the building was 201 persons. The review included the fire suppression code which requires that a building of 300 or more have a fire suppression system. Therefore this building would not qualify for a fire suppression system. A code review on the alarm panel was not done. A fire panel can be added during the final review if it is deemed necessary.

Ms. Moreau inquired about how people are expected to leave after dropping someone off at front. She is concerned about someone making the right-hand turn coming down the one-way and that an accident may happen.

Mr. Chris Berry stated that the drop-off is important for delivery of people to the front of the site. They are also proposing an ADA lift off the side of the building. However, people that don't meet the ADA requirements will still be allowed to be dropped off at the front of the building so they don't have to walk from the back of the site. Regarding an accident, there will be signage directing people in and out.

Mr. Ken Berry stated that included in the Plan Set are renderings of the front of the church. The look and feel and the historical aspect of the building will remain the same. He showed, using the slide presentation, how the front of the building will look. It is only a matter of an extension on the front of the building.

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

Ms. Moreau made a motion to grant Site Plan Approval with the stipulation as noted in the Department memorandum. Deputy City Manager Allen seconded the motion.

The motion to grant Site Plan Approval with the following stipulation passed unanimously.

1. The Site Plan (Sheet 5) and Landscape Plan (Sheet 10) 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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V. 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.

A. The application of **Deer Street Associates, Owner**, for property located at **165 Deer Street**, and **Boston & Maine Corporation, Owner**, for property running **from Borthwick Avenue to Maplewood Avenue**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested between two lots which are currently shown on Assessor Map 125 as Lot 17 and Assessor Map 164 as Lot 4. The applicant proposes to adjust a lot line as follows:

- a. Map 125, Lot 17 increasing in area from 94,804 s.f.(2.1764 acres) to 108,359 s.f. (2.4876 acres)
- b. Map 164, Lot 4 decreasing in area by 13,555 s.f. (total lot area = 13 ± acres).

Said lots lie within the Central Business B (CBB) District which requires a minimum lot size of 2,000 s.f. and no requirement for continuous street frontage.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

John Chagnon of Ambit Engineering was present to speak to the application. The project is a matter of the transfer of 13,555 s.f of land from the Boston and Maine Corporation to Deer Street Associates. Before the Planning Board tonight is a request for a waiver to the Subdivision Rules and Regulations to not have to survey the entire parcel as they are only taking a small section adjacent to the railway. There are no issues with any of the staff recommendations as conditions of approval.

Ms. Moreau inquired about the parcel being added and that it seems as if the property line goes through a building.

Mr. Chagnon stated that the property line comes up to the building, but does not go through it. The building is part of Map 138 Lot 62(owned by Deer Street Associates) separate from the other Deer Street Associates parcel.

Chairman Ricci opened the public hearing and 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 waive compliance with Section IV.6 of the Subdivision Rules and Regulations. Mr. Gamester seconded the motion.
The motion passed unanimously.

Deputy City Manager Allen made a motion to grant Preliminary and Final Subdivision Approval with the stipulations as outlined in the Department Memorandum. Mr. Gamester seconded the motion.

The motion passed unanimously with the following stipulations:

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.
3. The final plat and deed shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

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B. The application of **Glen E. Parker, Owner**, for property located at **445 Ocean Road, Unit 8**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer to construct a 3' x 16' addition to an existing deck, for a total deck size of 11' x 16', with 48 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Plan 294 as Lot 21-0008 and lies within the Single Residence A (SRA) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Johnathan McDougal, Contractor for the owner, was present to speak to the application. He stated that the project is a small application. The deck is being extended, 3' X 16' from where it is currently in order to add a screen porch on the deck.

Ms. Moreau inquired about the impact to the wetland buffer and what Mr. McDougal plans to do in order to support the deck.

Mr. McDougal stated that Sonnet tubes down to frost depth will be installed.

Ms. Moreau inquired about additional drainage, or plans for plantings, due to the additional drainage that will come from having a rook.

Mr. McDougal stated that the Conservation Commission requested a stone barrier, which will be installed for drainage off the roof.

Chairman Ricci opened the public hearing and 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

Ms. Moreau made a motion to grant the Conditional Use Permit with a stipulation. Mr. Gladhill seconded the motion.

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

- 1) The applicant shall install a drip apron to mitigate runoff from the roof.

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VI. CITY COUNCIL REFERRALS

A. The request by **Portsmouth Land Acquisition, LLC**, 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 matter was postponed at the April 30, 2015, Planning Board meeting.)

Attorney Bernie Pelech was present to speak to the application. At the last meeting, this was discussed in length. Various Board members had concerns about the Workforce Housing incentives. Given this, Mr. Taintor had come up with a new proposal. He asked that the referral be continued so that what Mr. Taintor was proposing with regard to Workforce Housing can be considered. He supports the new proposal.

Ms. Berna noted that the Board asked the Planning Department to draft language into Section 10.73830. The Planning Department has done this and the language is in the Department Memorandum. It is in the Standard for Gateway Planned and Planned Unit Developments.

Attorney Pelech stated that if the Board would like to use the new recommendations, he is fine with that. He has seen the new proposal.

Ms. Moreau came up with the idea of removing the Workforce Housing component. She stated that Mr. Taintor did a brilliant job of removing this component. The way it is now will provide the flexibility needed down the road. She is fully in favor of it.

Mr. Gladhill stated that it is much better now. The Board can work with the developer to find the right numbers. He is also in favor of the way it is written.

Chairman Ricci stated that we can now look at projects on a per-project basis.

Ms. Moreau made a motion to recommend to the City Council granting the request that the Zoning Ordinance, Article 7, and Section 10.730 – Gateway Planned Development, be amended by inserting a new Section 10.734.40. Deputy City Manager Allen seconded the motion.

The motion passed unanimously.

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B. Proposal to amend the Zoning Ordinance by inserting a new Section 10.837.20 – Short-Term Vacation Rentals, and to make conforming amendments to other sections of the Ordinance as necessary. (This matter was postponed at the April 30, 2015, Planning Board meeting.)

Ms. Berna stated that the ordinance was discussed at the last Planning Board meeting. The Planning Board had some concerns. As a result of the concerns, the Planning Department has redrafted the ordinance. The issues that have been addressed and resulting new language includes: requiring that the lot must conform to all dimensional standards, removal of the required annual permit, and removal of the 300’ separation requirement in between short-term vacation rentals lots. In addition, the detailed provision regarding annual inspections was thought to be too onerous and difficult to enforce, the off street parking requirements have been simplified. A requirement to have adequate insurance was added, the Table of Uses has been revised to allow short-term rentals in rural and single residence districts by special exception.

Mr. Gladhill inquired about where the concern over SRA and SRB districts came from.

Ms. Berna stated that this concern came from the Planning Board.

Ms. Moreau stated that it was discussed to the extent that it will be allowed in the business districts, but that other areas would have to be permitted by special exception.

Ms. Moreau stated that the Zoning Ordinance is much better now. It may not be perfect and it may have to be put into effect to see how it works, but it is a starting point. It may have to be tweaked in the future.

Chairman Ricci opened the public hearing and 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.

George Dempsey of 42 Dennett Street was present to speak to the application. He stated that there are 7,190 residential properties in the City; 27 of them are out of order. He wondered why the City is

changing the regulations for 27 properties. He stated that it doesn't make sense. The City is rewarding people for doing something that is wrong. This is an awful message to send. The City is commercializing the residential areas. He stated that Section 10.837.26 states that no recreation vehicle travel trailer, tent or other temporary shelter shall be used by any tenant on premises for living or sleeping purposes. He wondered if the owner decided to move outside while the tenants move inside, what would happen. He inquired if these properties are going to be registered with the Fire and Police Department. Section 10.837.23 states that a dwelling used as a short-term vacation rental shall have sufficient off street parking based on anticipated occupancy. He asked for clarity around that. He also stated that Section 10.814 states that short-term vacation rentals don't exist. He wondered how it can be voted upon if it doesn't exist. One of the City Councilors brought up the issue of what is happening in New York City. Within the span of 3 years, 20% of affordable housing in New York City have become short-term rentals. What is happening in the City of Portsmouth is commercial creep of the worst kind.

Rick Beckstead of 1395 Islington Street was present to speak to the application. He stated that this will affect quality of life and property values. He doesn't understand why quality of life in the City is being changed to accommodate this use. He is not in favor of this use. There are already plenty of hotels in the City.

Barbara DeStefano of 99 Hanover Street was present to speak to the application. She stated that a current homeowner's insurance policy would not cover the rental of rooms. If this comes to be and the City inspects these properties for life safety issues, insurances may decide to cover the use. She suggests that anyone doing this make certain they are covered by insurance.

Chairman Ricci opened the public hearing and 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.

Chairman Ricci stated that people are doing this now without control. He felt that it was better if the City has some control over this activity. He wouldn't want someone next to him doing this illegally.

Mr. Gladhill stated that this subject is not new. It used to be commonplace. Widows would rent rooms out in their homes to earn income, for example. It has just come around again after a long period of time.

Ms. Moreau stated that these types of businesses are required to have insurance coverage at all times, but she wondered if the City would require and enforce this.

Chairman Ricci stated that enforcement of this would be a nightmare

Ms. Berna stated that when someone submits a change of use building permit application, they could submit the insurance document as well as a requirement by the Planning Board.

Ms. Berna stated that the Table of Use Section 10.814 should read "Section 10.837.20." It is a typo and she will make this correction.

Deputy City Manager Allen inquired about what the statement that no more than 2 people/bedroom will be allowed (as determined by the Code Official) meant.

Mr. Marsilia stated that the intent is for no more than 2 unrelated people occupy the same bedroom. This is to limit occupancy. This is set forth by the Sanitary Code.

Ms. Moreau stated that with regard to tents and trailers, she stated that “occupants” might be a better word to use than “tenants.”

Ms. Berna stated that this provision could be edited to reflect that while it is being used as a short-term rental, this could not take place, but there is nothing from prohibiting someone from tenting in their own backyard.

Chairman Ricci echoed that perhaps while it is being used as a short-term rental, there cannot be people tenting in the backyard.

Ms. Moreau stated that perhaps this is the best we can do right now.

Chairman Ricci stated that he felt it was pretty good.

Deputy City Manager Allen made a motion recommend to the City Council amendment of the Zoning Ordinance by inserting a new Section 10.837.20 – Short-Term Vacation Rentals, and to make conforming amendments to other sections of the Ordinance as necessary with the amendments on recreational vehicles and camping, and the correction on the section number as discussed. Ms. Moreau seconded the motion.

The motion passed unanimously.

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C. Proposal to amend the Zoning Ordinance and Zoning Map to implement Character-Based Zoning in the North End, to revise various provisions of Article 5A – Character Districts, and to make conforming amendments to other sections of the Zoning Ordinance. (This matter was referred to the Planning Board by the City Council on April 20, 2015.)

Ms. Berna stated that the recommendation of the Planning Department is to vote to schedule a public hearing for next month. She can give a brief overview of the character based zoning changes in the North End tonight if the Planning Board would like, or it can wait until next month.

Chairman Ricci stated that the Board will hear this next month.

Ms. Moreau made a motion to hold a public hearing at the Planning Board meeting June 18th, 2015. Deputy City Manager Allen seconded the motion.

The motion passed unanimously.

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D. The request of **Eversource Energy** for easements and licenses on Hanover, High and Ladd Streets and on the Hanover Parking Garage parcel, for an underground utility improvement project.

Mike Busby and Kathleen Lewis of Eversource were present to speak to the application. There is no other area in the state experiencing the type of growth in energy use that Portsmouth is experiencing. The City is setting an example for safe and reliable energy and she thanked City officials for their work on this issue. The project will address some liability concerns with 100 Market Street, which has a basement transformer. This type of transformer is supposed to be outside. The project will provide more reliable service for Fleet and Hanover Streets, which could currently experience significant (48 hours) outages. They fall under the National Electric Safety Code and as such, they have concerns with the pole outside of the parking garage. They want to eliminate it completely as well as poles on High Street and Hanover Street and around the garage. Mr. Busby showed before and after pictures of what the area will look like without the utility poles. They will upgrade the underground infrastructure. They will increase the size of the transformer and add a 2-phase transformer. They will install switchgear when they eliminate the poles. Arbor Vitae will shield the switchgear from view. Alternatively, a wrought iron fence could be installed.

Mr. Marsilia stated that typically, private landowners pull the permit for this activity.

Mr. Busby stated that they will work with the private landowners for permitting. There is urgency with this project because they need to utilize the funds by the end of this year. They originally wanted to have this completed last year, but DPW, whom they've been working with closely for this project, requested detailed plans. Mr. Busby has secured \$1 million for the project. Getting the underground infrastructure in place is the bulk of the cost of the project. They are seeking approval to start construction after Labor Day.

Chairman Ricci read a letter (from Peter Rice of the DPW) in support of the easement. The letter stated that this project will enable Eversource to relocate critical infrastructure to improve reliability of service. It also stated that this project is in the best interest of the City and Mr. Rice asked that the Planning Board support the project.

Mr. Gladhill stated that with regard to the Arbor Vitae (or fencing) to cover the transformers, the HDC will be happy to give suggestions.

Deputy City Manager Allen sees construction plans but no easement plan. He asked that the applicant provide the actual easement area plans when the applicant goes forward to the City Council. He is ready to approve otherwise.

Mr. Busby stated that he is currently working on this.

Mr. Marsilia inquired about how many converted services there are in the project.

Mr. Busby stated that he doesn't know the exact answer to this question, but there are about 60-70 meters that will be affected (5-6 on High Street, behind the Gas Light there are 4-5 services in the alley).

Mr. Marsilia inquired if they would have to dig for each meter location.

Mr. Busby stated that they actually reach the building at the same point so they would not have to dig for each meter location.

Mr. Marsilia inquired as to if any landowner were to refuse permission, if it could stall the entire project.

Mr. Busby responded that it would, but he doesn't anticipate this.

Ms. Moreau inquired about whether the underground infrastructure was already in place.

Mr. Busby stated that they do not have any underground infrastructure yet.

Rick Beckstead of 1375 Islington Street stated that there are also phone and cable lines to consider as well. Before the project is dug, he urged communication between all involved and stated that everyone should work together.

Ms. Moreau made a motion to recommend the City Council grant the easements and licenses, subject to the final project design approval by the DPW, on Hanover, High and Ladd Streets and on the Hanover Parking Garage parcel, for an underground utility improvement project. Deputy City Manager Allen seconded the motion.

The motion passed unanimously.

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VII. 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. (This matter was postponed at the April 30, 2015 Planning Board Meeting.)

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Ms. Berna pointed out that a number of these requests have gone before the Planning Board in the past. This case is a little different in that there is a proposal to change the zoning. This project would not be allowed under the current zoning. She asked the Board if the submission is complete in order to hold a public hearing.

Attorney Bernie Pelech was present to speak to the application. He stated that if there is something that is needed, he is happy to provide it.

Mr. Gladhill inquired about why underground parking was not proposed. There is a lot of surface parking. It seems it would be a better project with underground parking.

Ms. Berna stated that this is getting into the substance of the application. She stated that the Board is looking for a determination of completeness only this evening.

Deputy City Manager Allen made a motion to determine that the application is complete according to Site Plan Review Regulations. Ms. Moreau seconded the motion.

The motion passed unanimously.

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VIII. PLANNING DIRECTOR’S REPORT

At the May 6th, 2015 meeting, the HDC voted to schedule a site walk at Harborcorp. They have invited City Council and Planning Board members. The meeting will take place Wednesday, May 27th, 2015 at 6pm at the site. All are invited.

Chairman Ricci wished Jessa Berna the best of luck in the marathon on Sunday.

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IX. ADJOURNMENT

A motion to adjourn at 9:54pm was made and seconded and passed unanimously.

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Respectfully submitted,

Toni McLellan
Acting Secretary for the Planning Board