

MINUTES

PLANNING BOARD PORTSMOUTH, NEW HAMPSHIRE

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

MAY 19, 2016

MEMBERS PRESENT: John Ricci, Chairman; Elizabeth Moreau, Vice Chairman; Rebecca Ms. Perkins, City Council Representative; Nancy Colbert-Puff, Deputy City Manager; David Moore, Assistant City Manager; William Gladhill; Colby Gamester; Jay Leduc; Dexter Legg and Jody Record, Alternate

ALSO PRESENT: Mr. Taintor, Planning Director; Jessa Berna, Associate Planner

MEMBERS ABSENT: N/A

WORK SESSION ON MASTER PLAN

Ms. Berna said she was looking for feedback and asked that the Planning Board focus on the Diverse and Connected sections, and what might be missing. She said she had met with the Conservation Commission on May 11th, and there would be a kickoff meeting with Portsmouth Listens on the 26th of May. They hoped to have a revised draft by that time. The changes from the night's work session might not make it into that draft, but would be incorporated after that.

Vice Chairman Moreau asked about Section 3.1 and the wording "expand opportunities for home-based businesses", and Ms. Berna said it was to allow more flexibility. Mr. Moore said he saw this as a Connected issue, and the more items that appeared in the Master Plan as possibilities made sense. Ms. Berna said the previous attempt at a rezoning was more for a residential store, versus a home based business.

Mr. Leduc had a question on changing demographics, and asked what were the metrics and tools regarding that. Ms. Berna said the Master Plan would have the metrics on how and what to measure, and that there were census data and surveys, for example. Mr. Leduc asked if they wanted use or change the term affordable housing, Ms. Berna said they wanted to use the more broad term, as it included workforce housing.

Ms. Colbert-Puff asked if the intent was to refer to zoning, or were there other ways to encourage home based businesses. Ms. Berna said it was meant to be limited by zoning.

Mr. Moore commented on Section 3.1.2 about broadening the language they used. He said implementation of housing programs was very specific. They wanted to use words more in use like promoting infill development or rehabilitation of existing properties, etc. They did not want to mention a specific funding source.

Mr. Leduc asked about affordable housing. He said it was an objective term: affordable to whom, he asked. Ms. Berna said the scale was more general. It was not meant to be specific to target a specific demographic, because that would be defined elsewhere. Chairman Ricci said the wording “affordable to all income levels” could be included.

Ms. Perkins said she supported the spirit of what was being said. She said Mr. Leduc hit on a topic of availability and vacancy rate. There was the issue about having enough of a housing stock.

Vice Chairman Moreau asked about Section 3.2.1 and why this was only in urban neighborhoods. She thought that needed to be expanded to include suburban neighborhoods and corridors.

Mr. Moore said he would like to see the language of “special populations” and special needs. He said there were lots of specific needs in that area that were not addressed in general conversations, so he suggested a plug about supporting creation of additional units.

Mr. Gladhill said Section 3.2.7.4 seemed difficult and said a house on Spinney selling for \$700,000 could sell for \$300,000 less a few towns over, and he asked what the ideas were to reduce the development costs. He did not see this section making a difference, and asked why the difference in prices. Vice Chairman Moreau said location. Vice Chairman Moreau said they were looking at the corridor which had lower values. Chairman Ricci said it was based on density, and it needed to be land use driven. Vice Chairman Moreau said they were aiming at the land use boards and streamlining the process.

Mr. Moore said Section 3.2.7 was wordy. The first time homebuyer program was a deep subsidy. He said they were talking about utilizing a trust fund to pursue deep subsidies to make the numbers work for long term affordability. Mr. Legg said it may be that this goal would get revised after the detailed work got done on the board that Ms. Perkins was chairing. Ms. Perkins said they had a conversation that day on that topic, and there would be a public input process on that. She commented that there were two kinds of support: procedural and financial support for workforce housing, and added that Section 3.2.4 was procedural and Section 3.2.7 was financial support, and asked if that helped separate them.

On Section 3.3, Vice Chairman Moreau asked if Section 3.3.1 was targeting more incubator space. Ms. Berna said she thought they should add the urban core thing to the west end, but it was not reflected there.

Regarding Section 3.4, Vice Chairman Moreau asked why it was only urban neighborhoods and not urban core.

Ms. Colbert-Puff said the goals in Sections 3.4.1 and 1.2.1 were very similar. She asked if Section 3.4.1 referenced the gateway as a working place, and they needed to revise Section 1.2.1 to encourage desired growth, and Ms. Berna agreed and said there was an overlap, and they would make revisions for clarification.

Regarding the Connected Section 4.1, Vice Chairman Moreau said this should be City wide, and Ms. Berna agreed.

Mr. Legg asked where overarching traffic planning would reside. As an example, he mentioned the West End and the Borthwick matter, and there would be a lot of development in that area. He asked if

they as a City looked at a 10 year horizon over certain areas and looked at the traffic patterns. He asked how the City would accommodate that rather than project by project, and if that was part of this plan, or was it part of something else. Mr. Taintor said it was not at the level that it should be. The traffic engineer was doing some of that stuff. DPW was looking into getting a more local model than what the Rockingham Planning Commission was doing. Right now it was the project by project incremental approach, or the other part was special studies, for example, looking at one way patterns and reducing lanes. Mr. Legg asked if that process belonged in the Master Plan. Mr. Taintor said it would help. Mr. Legg said it was hard to sort out traffic patterns based on projects that came before them. Vice Chairman Moreau said they needed to look at the entire transportation system to make it more robust. Mr. Legg asked if that belonged in the Master Plan, and Mr. Taintor answered it was more detailed than what belonged in the Master Plan. Chairman Ricci commented they should reference: “update traffic studies” as a general awareness. Mr. Legg said transportation capaCity should be brought up. Chairman Ricci said they always used the term ‘walkability’. So they should use the term ‘transportation capaCity’. It was an awareness and would be a goal. Mr. Taintor asked if they should add an action that would be a City-wide capaCity planning, and Chairman Ricci agreed.

Mr. Taintor offered clarification on the Complete Streets Policy which states they design for all users in mind, rather than designing for one and putting others on the edges. It was an extensive policy. Chairman Ricci asked about the term Complete Streets, and if that term would be antiquated in 10 years. Mr. Taintor answered he did not think so. It was in federal and state legislation.

Vice Chairman Moreau stated the City wide Wayfinding Program was only in the Urban Core, but needed to be City wide.

For Section 4.2, Ms. Perkins commented this may be built into the goals, but the term sidewalk should appear somewhere.

Regarding Section 4.4, Mr. Legg asked if they identified the action in these two areas, and if they had created a narrative, and Mr. Taintor said Section 4.1.1. Mr. Legg asked how about for Diverse, and Mr. Taintor answered they were in there.

Vice Chairman Moreau asked about Section 4.4.1 said that should be more City wide. She said that Section 4.4.2 was too wordy and was similar to Section 4.4.3. Mr. Taintor said they would look at those sections.

Ms. Berna talked about the Resilient section, and the comments she received from the Conservation Commission (CC). In Section 5.2 they planned to add community gardens and implement watershed measures. She said that the CC also suggested adding in Section 5.3 funding for protective measures. The CC suggested adding ‘partnering with local schools’, adopting standards for habitat protection and encouraging a wildlife corridor. She said that use of sustainable design was a suggestion of CC, as well as updating building codes to consider impacts of climate change. Mr. Gladhill said they were good ideas. With climate change he thought they hit on the ideas they would want to discuss in the future. Ms. Berna said they had the most actions for the Resilient Section.

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Chairman Ricci welcomed Nancy Colbert-Puff, the new Deputy City Manager and newest member of the Planning Board.

I. APPROVAL OF MINUTES

- 1. Approval of Minutes from the April 14, 2016 Planning Board Work Session.

Mr. Legg moved to approve the minutes and Mr. Gamester seconded. The motion passed unanimously.

- 2. Approval of Minutes from the April 21, 2016 Planning Board Meeting.

Vice Chairman Moreau moved to approve the minutes and Mr. Gamester seconded. The motion passed unanimously.

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Vice Chairman Moreau moved to take Item A under Public Hearings – Old Business out of order for purpose of postponement, and Mr. Gladhill seconded. The motion passed unanimously.

A. The application of the **Scott Mitchell, Owner, and Meredith Village Savings Bank, Applicant**, for property located at **2839 Lafayette Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for the demolition of two existing buildings and the construction of a proposed 70’ x 46’ bank building with drive-thru, with 4,010 ± s.f. of impact to the wetland buffer. Said property was shown on Assessor Map 286 as Lots 18 & 19 and lie within the Gateway (G) District. (This application was continued from the April 21, 2016 Planning Board Meeting.)

The Chair read the notice into the record.

Vice Chairman Moreau moved to postpone the application until the next meeting, and Mr. Legg seconded. The motion passed unanimously.

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II. DETERMINATIONS OF COMPLETENESS

A. Subdivision:

- 1) The application of **Borthwick Forest, LLC, KS Borthwick, LLC, Atlantic Star Communications, HCA Realty, Inc., and Jackson Gray Condominium Association, Owners**, for property located **off Islington Street and Borthwick Avenue**, requesting Preliminary and Final Subdivision Approval.

Vice-Chairman Moreau made a motion to determine that the application is complete according to Preliminary and Final Subdivision Rules and to accept it for consideration. Mr. Legg seconded. The motion passed unanimously.

- 2) The application of **Thirty Maplewood, LLC, Owner**, for property located at **30-46 Maplewood Avenue**, requesting Preliminary and Final Subdivision Approval.

Vice-Chairman Moreau made a motion to determine that the application is complete according to Preliminary and Final Subdivision Rules and to accept it for consideration. Mr. Gamester seconded. The motion passed unanimously.

B. Site Plan Review:

- 1) The application of **HCA Realty, Inc., Owner**, for property located **off Borthwick Avenue**, and **Jackson Gray Condominium Association**, for property located at **330 Borthwick Avenue**, requesting Site Plan Approval

Vice-Chairman Moreau made a motion to determine that the application is complete according to Site Plan Regulations and to accept it for consideration. Councilor Perkins seconded. The motion passed unanimously.

- 2) 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 Amended Site Plan Approval.

Vice-Chairman Moreau made a motion to determine that the application is complete according to Site Plan Regulations and to accept it for consideration. Mr. Legg seconded. The motion passed unanimously.

- 3) The application of **599 Lafayette, LLC, Owner**, for property located at **599 Lafayette Road**, requesting Site Plan Approval.

Vice-Chairman Moreau made a motion to determine that the application is complete according to Site Plan Regulations and to accept it for consideration. Mr. Gamester seconded. The motion passed unanimously.

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III. PUBLIC HEARINGS – OLD BUSINESS

Mr. Gamester moved to read the Items B and C in together, hear them as one application and vote on them separately. Vice Chairman Moreau seconded. The motion passed unanimously.

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

B. The application of **Borthwick Forest, LLC, KS Borthwick, LLC, Atlantic Star Communications, HCA Realty, Inc., and Jackson Gray Condominium Association, Owners, for property located **off Islington Street and Borthwick Avenue**, requesting Preliminary and Final Subdivision Approval as follows:**

- 1. To consolidate the following four lots:
 - a. Lot 25 as shown on Assessor Map 241 having an area of 22.807 ± acres,
 - b. Lot 26 as shown on Assessor Map 241 having an area of 4.927 ± acres,
 - c. Lot 113 as shown on Assessor Map 233 having an area of 13.815 ± acres,
 - d. Lot 112 as shown on Assessor Map 233 having an area of 0.732 ± acre;

and to re-subdivide the consolidated lot into two new lots and a public right-of-way as follows:

- a. Proposed Lot "25/26" having an area of 25.572 ± acres and 970.58 ± feet of continuous frontage on a proposed street,
 - b. Proposed Lot "112/113" having an area of 15.262 ± acres and 889.92 ± feet of continuous frontage on a proposed street,
 - c. Proposed municipal land parcel having an area of 0.089 ± acres and 89.93 ± feet of continuous street frontage, and
 - d. Proposed City right-of-way having an area of 1.359 ± acres.
2. For a Lot Line Revision, to create a public right-of-way, as follows:
- a. Lot 2-2 as shown on Assessor Map 240 decreasing in area from 4.978 ± acres to 4.596± acres with 571.58 feet of continuous frontage on Borthwick Avenue,
 - b. Lot 7-4A as shown on Assessor Map 234 decreasing in area from 9.085 ± acres to 8.583 ± acres with 1,127.14 ± feet of continuous frontage on Borthwick Avenue,
 - c. Proposed City right-of-way having an area of 0.833 ± acre.
3. For a Lot Line Revision, to create a public right-of-way, as follows:
- a. Lot 114 as shown on Assessor Map 233 decreasing in area from .404 ± acres to 0.179 ± acre, with 84.64 ± feet of continuous frontage on Islington Street,
 - b. Proposed City right-of-way having an area of 0.225 ± acre.

The application also proposes to relocate and dedicate to the City as public rights-of-way two separate 60-foot rights-of-way across land owned by the Boston & Maine Railroad, which in conjunction with the above subdivision and lot line revisions would result in a new City street between Borthwick Avenue and Islington Street with a total length of 1,826 ± lf and a total right-of-way area of 2.764 ± acres.

Said properties were located in the Office Research (OR) District which requires a minimum lot size of 3 acres and 300' of continuous street frontage and Lot 114 as shown on Assessor Map 233 was in the Single Residence B (SRB) District which requires a minimum lot size of 15,000 s.f. and 100' of continuous street frontage. (This application was continued from the April 21, 2016 Planning Board Meeting.)

C. The application of **HCA Realty, Inc., Owner**, for property located **off Borthwick Avenue**, and **Jackson Gray Condominium Association**, for property located at **330 Borthwick Avenue**, requesting Site Plan Approval for the reconfiguration of an existing parking area and construction of a roadway, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said properties were shown on Assessor Map 234 as Lot 7-4-A and Assessor Map 240 as Lot 2-2 and lie within the Office Research (OR) District. (This application was continued from the April 21, 2016 Planning Board Meeting.)

The Chair read the notices into the record.

SPEAKING TO THE APPLICATION

Sharon Somers with the firm of Donahue, Tucker & Ciandella, representing Borthwick Forest, LLC said that Patrick Crimmins and Jason Plourd of Tighe & Bond, her partner Ron Ciandella and Attorney John Lyons representing Jackson Gray Condominium Association were also present. She said they were seeking preliminary approval for a two lot subdivision to create a road and preliminary site plan approval for a portion of the road which would be crossing Jackson Gray. She gave a brief overview of the project, which contained the first road proposed in years. Great care had been taken to design the road, and she said the City had taken great care at the staff and TAC levels. They believed the road

would benefit the City to provide better access to emergency vehicles. Granting preliminary approval at the Planning Board meeting that night would enable the applicant to move forward for final approval. She said that Mr. Crimmins would explain the plan. The proposal complied with ordinances and regulations, and no waivers were required. Mr. Plourd would review the traffic information, and she indicated that the traffic reports did not support the concerns raised about traffic.

Attorney John Lyons representing Jackson Gray medical condominium office said they reached agreement with the developer, and they supported the project.

Mr. Crimmins of Tighe & Bond walked through the subdivided pieces of land and the engineering behind the plans. He had created aerial views of the plans to present the roadway layout of Jackson Gray. He began with the subdivision which included the area bound by Borthwick Avenue and Islington Street. Along Borthwick Avenue the applicant had an easement that would allow for a road to connect into the land that had no frontage of roadway. Those were the pieces of land they were speaking to today.

On the next slide he overlaid the right-of-way runs through the pieces of land. The blue highlighted the properties that would be affected. He showed an overlay over the existing parcels of land. The four pieces of land were shown merged and re-subdivided on another slide. There were two railroad crossings, and there were railroad crossing easements that would go to the City of Portsmouth. The railroad had given approval to shift the easements. He showed the alignments and how it would change on the aerial view for the two lots of approximately 6 acres and 15 acres. He said that was a quick summary of the five sheets of plan sets that the Planning Board had received.

He next discussed the engineering design and displayed the site plans that the Planning Board received. The roadway would connect Borthwick Avenue to Islington Street. He said that along with the road design there would be a 12 foot wide multi-use path, which was a highlight of the area. He showed how that would all tie in and how it dovetailed nicely into the transportation district overlay that the City was doing.

Mr. Crimmins said the existing access easement ran down and hit the railroad easement. Back in 2013 they had presented to the CC, and the CC did not like the 500 feet of buffer impact so they were currently back before the Planning Board with the bridge design. This would avoid the buffer completely. The design was based on the track clearance so the grading plans were dictated by those. The bridge design was at a preliminary stage right now. They wanted the preliminary approval first, to make sure they had the clearances they needed. They would then move on to the stipulations provided by TAC which was to prepare a 60% design for DPW peer review prior to coming back to the Planning Board for final approval.

Realignment of the Jackson Gray parking area would be necessary. There would be no loss of spaces, and there would be drainage improvements as part of this. There would be pedestrian improvements, including a tie in to the multi-use path. They would be providing new crosswalks and sidewalks and a connection to get to the hospital. He said there would be dark-sky friendly lighting and new landscaping provided. That was the Jackson Gray.

Mr. Crimmins discussed grading and drainage of the road. They got to elevation 66 at the top of the bridge, and he said there would be retaining wall construction and fill. There was a low point of elevation 50 feet, and there was a detailed drainage analysis provided to DPW. The storm water system would include two gravel wetland systems. He said the project would require an Alteration of

Terrain Permit for this project. He said that easements would be needed, which he showed in yellow, so that the City can take over maintenance of the areas. He showed the drainage easement and the maintenance easements. Along the retaining wall there would be a gravel path so that DPW can access the area for maintenance.

He said they would provide a 12 foot access easement and a maintenance easement for the retaining wall. They have provided a gravel path around the wetlands, and this was extensively coordinated with the DPW. There was an existing easement for the sewer, and their roadway sewer would tie in to that. They would get to that via a pump station, and pump the waste water up over the bridge. There was a piece of land that would be municipal land and that would be for the pump station. The sewer would be gravity fed. This would allow for future tie-ins to Islington Street.

Mr. Crimmins said they would make a 12" water main and connect into Borthwick Avenue. The utilities would be underground telecommunications services and would tie in at both ends. The gas would be fed off high power transmission lines, and they would tap in to that. The gas service would connect into Islington Street to improve pressures along that corridor. This was coordinated with multiple utility companies and DPW. They provided copies of Will Service letters in the packets from the utilities. He talked about the road construction including turning lanes, widths and the design being based on the planning study that Mr. Plourd would go through. There would be street trees, 60 feet on center. He said that lighting was coordinated with DPW, and it would be at the ends of each street, and at the intersection of the multi-use path.

The multi-use path would be 12 foot wide and two-way. There had been lots of coordination on this. It would also tie in to the rail to trail. He showed how bikes and pedestrians could enter the road. There would be a raised traffic table, stripping, and signage for the multi-use path. The site plan showed there would be a future parking area there. Mr. Crimmins said that was an overview of the engineering. He displayed multiple views of the renderings, which were preliminary only, just to get a feel of the scale and what it would look like. Mr. Crimmins turned the floor to Jason Plourd for the traffic analysis.

Jason Plourd with Tighe & Bond said they had been working on this for several years with the City. Lots of review and lots of re-analyses were needed. In answer to which cars would be redistributed, they looked at Route 33, the Borthwick Avenue signal and Greenland Road. Then they looked at Islington Street and the WBBX Drive and Essex Avenue and Bartlett and CVS driveway. They looked at Cottage and Woodbury, and Peverly Hill Road and Essex Avenue with Route 33. They figured out what they had today. Then they came up with a process to determine how these would be redistributed.

Mr. Plourd looked at Borthwick Avenue with the Subdivision Road constructed. There were cars already on the roadway system. Cars were coming along Route 33 and turning onto Borthwick Avenue. He said the Red areas showed a reduction, and the Yellow was an increase of where they expected more cars on the slide he displayed. They expected an increase on Islington Street at the Borthwick signal, and they worked with assumptions that would be acceptable to the City. They asked what would happen if more cars went up Essex. So they came up with a supplemental study to address that to see if it would still work. So the cars expected to come to the site from the east, a certain percentage would come up from three different ways. They took the numbers they were asked to look at, and it was a 400% increase over what they originally looked at, and those were acceptable levels of service based on delay. It was almost a grading system. They were talking about levels of service of

B's and C's. There would be similar or improved operations. This was reviewed by the City and the consultant.

He said they asked what would happen if something were built on the subdivision road that could be constructed as per zoning, and what would the impacts be. They figured they could fit three buildings on the property like the Jackson Gray building. So they did an analysis of if there were built one, two or three buildings, and they tried to determine what improvements would be needed. For one building, no improvements would be needed. For two buildings, some improvements, and for three buildings they would need separate turn lanes coming out of the subdivision roadway. So they were not talking about a lot of traffic in the theoretical development. This was all reviewed by the third party that the City hired.

Mr. Plourd said they also did a timing analysis of Route 33 to Essex Avenue, they went around to Peverly Hill and to WBBX, and those results were provided to City staff. That was relatively the same amount of time from start to end. They also did a speed analysis, and asked what would happen if an increase of traffic occurred. They were asked to do a before and after traffic study. They measured the speeds today to get a baseline. It was posted now at 20 mph, and people were going 27 mph. They were going to use that as their baseline. If and when the Subdivision Road was approved and in the future development constructed, they would have to come back to do new traffic studies. They would have to come back for site plan approval and as part of that they would need to do new traffic studies. This could then be a comparison tool.

Attorney Somers wanted to elaborate that the key motivation of the roadway to begin with was the enhancement to the access of emergency vehicles for the City. They worked with the hospital on this, and the police and fire departments were key proponents of that. She wanted to remind everyone about that.

Mr. Gladhill asked why did they leave out certain streets, and Mr. Plourd said the scope was developed by the City. Every intersection that was asked for was included. Mr. Gladhill said there was a hill at Islington Street, and he was surprised that was not taken into account. He said the study was done in July 2015, and the Islington Street Bridge was closed for almost two years. He said they did a study during a time that the GPS's would have told tourists not to take that route.

Mr. Plourd said regarding Islington and Essex, and they did crash data research, and there was one reported collision. As far as distribution of traffic on residential road ways, they looked at the worst case scenario, and they showed minimal impacts.

Chairman Ricci said they talked about traffic management during the work session earlier in the day. He asked if they had considered the Frank Jones property and what that would do for the level of service for this area. Mr. Plourd said it was considered but not included.

Vice Chairman Moreau asked how safe the road would be, and Mr. Crimmins said the stop sign would be for the pedestrians and bicycles, but they would put traffic calming for the roads. They implemented measures to mitigate conflicts. Vice Chairman Moreau asked what the posted speed limit would be for that road, and Mr. Crimmins said it would be driven by the DPW. The curbs were designed for higher speeds to be conservative. The City had standards for posting limits for a certain road. Vice Chairman Moreau asked if it was one lane in each direction, and Mr. Crimmins said yes.

Mr. Legg asked if the land could be developed under the existing zoning if the road did not go through, and Mr. Crimmins said no, it would exceed the length of the road coming into a cul-de-sac.

Mr. Gladhill said they got a letter from the CC that this area was a major wildlife corridor. Over the years there have been populations of many different animals, and the NE cottontail which was endangered. He asked what measures they had taken to protect the wildlife and crashes from humans into wildlife. Attorney Somers had not seen that letter, so it was difficult to respond. She said what was before the Board this night was the construction of the road. They had been careful to not impact the wetlands and the buffers. She said they did not believe there would be an impact to wildlife that would be of concern to this Board. Attorney Somers was not aware if there were endangered species. Mr. Gladhill asked if they tested the land and said they were working on a Master Plan which talked about resilience. Attorney Somers said when this was before the CC years ago, there was no mention of endangered species, and the conversation then was wetlands and the buffers. Mr. Gladhill said it was not just a road, it was a wall. He was concerned about the road splitting the habitat from animals to not be able to access food. Attorney Somers did not think there would be a negative impact to the wildlife habitat. Mr. Gladhill said the CC was an advisory board to the Planning Board. Attorney Somers said she did not have the information tonight. If that was a request of the Planning Board, they can provide that information.

Mr. Gamester said was there a discussion of having a one way road with access from Islington, and Attorney Somers did not recall that as part of a discussion. Mr. Gamester asked if it would be feasible or practicable. Mr. Crimmins said it was not discussed, and said it would not be practical. In terms of emergency access, this would be the best approach. They discussed the impacts of if it were one way. Mr. Crimmins said it got into traffic issues, but they had not studied it extensively. It would get into people driving through neighborhoods.

Mr. Gladhill said they were building a road and they did not know what was going in there. Taking out emergency services, what was the benefit to the City, he asked. Mr. Crimmins said having a connection was a benefit even if leaving out the emergency access. He said these parcels of land did not have street frontage. Mr. Crimmins said there were no waivers requested, and when this was developed this would be a source of tax revenue. Mr. Gladhill would like to know what was going in there first. It was the unknown. Attorney Somers said the applicant, if they met the subdivision and site review criteria, did have a right to develop this property, even though there might not be an immediate development scheme in mind, but to address the comfort level, she said they recognized this was an unusual set of circumstances. It came as no surprise that there may be some discomfort, and she appreciated that. But that said, the notion of first enabling the creation of a development by first installing a road as a path to development was not unusual. Having the ability to have control and review on what went in there, the Planning Board would have the authority to review whatever came before them. In the meantime, they had a large parcel to put in the first step. It was not unusual for other communities that may have large pieces of land.

Ms. Perkins said she would like to understand the rationale on why this needed to be such a large roadway. In terms of the Complete Streets Policy, did they really need it to be built for high speeds. Attorney Somers said the design of the road had been a collaborative effort with the City staff. They have tried to respond to the City requests to have things like the multi-use path. This meant that would be reflected in the size of the road. She said they were happy to work with the City to meet the City needs, but the design before the Planning Board was the result of a lot of back and forth.

Mr. Legg asked the City staff what waivers would be required if this road ended in a cul-de-sac. He said he wanted to see the land developed, and he liked the idea of creating more jobs, but he was also sensitive to the impact to the neighborhoods. Mr. Taintor said they had not looked at that carefully. He thought it could be developed without waivers if the access were from Islington Street. It would be a shorter distance to get to the parcels. There would only be 500 feet of roadway needed. It would be impossible to do the access without waivers from the Borthwick Avenue side. He would guess they would then abandon the bridge and move back into the wetland buffers because the cost would not be justified. His guess was if they did a cul-de-sac, all traffic would come in from Islington Street, which they would not want to do. Mr. Legg asked if the lots could not handle the capacity if they were to grant waivers such that the access was from the Borthwick side. Mr. Taintor said theoretically you could do that. The only access would be to cross an active rail line, as opposed to crossing an inactive rail line from the Islington side, so there were some issues there.

Vice Chairman Moreau said she understood the wide roadways, but they had talked about greenery in the Master Plan, and she asked if they would try to break up paths, greenway, multiuse path and roadway with greenery. Mr. Crimmins said there was greenery, and he showed on the plan where that was. He said they tried to provide that where they can.

Mr. Moore asked Mr. Crimmins to explain the decision about the bridge over the railroad crossing. Mr. Crimmins said there would have been an at-grade crossing, and the CC denied that in 2013. So they looked at that without getting into the buffer. It was the only way they could go. The railroad would not allow them to cross at that location because there was a switch there.

Chairman Ricci said he assumed they had met with the neighbors and he asked if they had incorporated those neighbors' comments. Mr. Crimmins said they had not met with neighbors but had heard the comments at the meetings.

PUBLIC HEARING

Chairman Ricci said first time speakers would receive 3 minutes or less; second time speakers would be allowed 10 minutes, and third time speakers would be unlimited.

Paul Mannle of 1490 Islington Street handed out a petition with 215 signatures. He asked the Board to please listen to their voices.

Rick Beckstead 1395 Islington Street said for the record, the Traffic and Safety Commission declined this. He said it did not make sense from an emergency standpoint, and he asked if they would really take the subdivision road in an emergency, probably not. He said this Board was required to live up to the Master Plan. This went against the Master Plan.

Ralph Dibernardo of 1374 Islington Street said if you vote for this, add these conditions to lessen the impact: This needed to be constructed from the Borthwick side of the project. It was a commercial road that can handle the commercial truck loads. He said they should not come in through the Islington side. He asked them to consider safety issues: the roads must have street lighting. That was rejected at the TAC because DPW was concerned about the lighting bill for the City. He said that lighting was a public safety issue. Utilities needed to be in place for lighting if they were going to invite bicycle and foot traffic. He stressed that lighting was necessity.

Charles Cormier of 227 Melbourne Street said he was worried, and this was major at the intersection at Islington Street. He said he cannot envision this in connecting two different districts and this would be irreversible. It was fine the way it was, he said. This would ruin that area, it was too big, and it was not for Portsmouth.

Will Fales of 541 Middle Road said him and his family had lived in Portsmouth many years. It would negatively impact the residents and neighborhoods. The people in the neighborhood were here all year. He did not see any benefit to building this road. He said it would shift more traffic into his neighborhood. Putting curbing on roads was supposed to decrease speeding vehicles but that was not the case. He said they also did not need more delivery trucks going through the neighborhoods.

Monica Greenleaf of 234 Aldrich Road said that Aldrich had already been narrowed. It was now congested, and it did not need more traffic. The whole area around Bartlett was not an area that can take more traffic. She said was against this plan.

Paul Scarponi of 276 Melbourne Street said to give them access from Borthwick Avenue. It can be done, and an example was Griffin Park. It was done there with no impact on the neighborhood.

Jason Stiles of 1527 Islington Street said he had lived there many years. He had one car hit his house. He has had 15 cars coming through his yard. There would be traffic backed up in clusters. By approving this they would endanger more people walking, and he was opposed to this.

Zachary Robinson of 1474 Islington Street said that the L shaped house on the plan was his. The traffic on the corner was scary, and backing out was impossible and scary. He asked they not approve this project.

Richard Rash of 1507 Islington Street said that his house was an abutter to WBBX. They have been there 54 years, and there have been over 100 accidents, maybe two a year. All the accidents were major accidents. He would be up for having it be accessed as a cul-de-sac from Borthwick Avenue.

Carolyn Trosky Absher of 113 Essex Avenue said she had seen cars going faster than 27 mph on the street. She had looked at Melbourne Street. Some streets had cars parked on both sides. She questioned why this project was taking such a big grasp. They did not know what was going in there, and she asked how this would affect the City. She said the City kept growing and growing and had problems. This would affect lifestyle. The section over the Bypass never received attention. She said the Planning Board needed to hear them.

Randy Absher of 113 Essex Avenue said that was his wife. When the bridges were closed there was a large increase in traffic on Essex and an increase in speed. That road was narrow, and the stop sign on Melbourne Street became optional at that point. He said that two cars cannot pass each other on that road and make room for a pedestrian. The Middle Road intersection was dangerous. There would be an increase in traffic. He said do not approve this.

Mary Beth Savage of 10 Vine Street said this was a means to an end and they did not know what was going in there. They cannot go to the edge of Vine Street and take a left, because it was dangerous. The existing businesses would be able to cut down and dump onto Islington Street. There was all kinds of wildlife in the area, and that was something to consider. She said they have had terrible accidents on Islington Street, and she said do not approve this.

Susan Denenberg of 44 Wibird Street said this hearing was supposed to be last month, on John Muir's birthday, considered to be the father of the national parks. She said that wildlife was abundant in this area, and it had value. Consider that maybe people were trying to put something on there that did not fit. How would this theoretical development impact the area if there can be three buildings. There were now 250 parking spaces on Jackson Gray. She asked if they wanted to preserve what woodlands and wetlands exist in Portsmouth.

Dennis Coakley of 10 Barberry Lane said this was an inappropriate use for this land. Consider the proximity to the Sherburne wells and that this was a wetland area. No one had done a study of where the water flowed. When the hospital was built it flooded the Sherburne Wells. Building a wall that would separate the water from the wetland would be inappropriate.

Bill Hagarty of 1704 White Cedar Boulevard asked the Board to consider the amount of space in the Frank Jones area for parking. The connector road would only serve the developer, and this would only bring in more traffic.

Margaret Stiles of 1527 Islington Street said they lived in an historical City. This design did not fit into where they were trying to put it. None of the streets that fed onto Islington were built anything like this. She asked that the Board take that into consideration.

The Chair called seconded time speakers:

Mr. Dibernardo of 1374 Islington Street said there needed to be lighting for security on the railroad bridge, because there was a potential for terrorism. Put lighting there, he said. At the CC meetings a few years ago which he attended, they discussed the plight of turtles. They changed the design to be able to accommodate that. This road was engineered to be out of the wetlands, so it eliminated the need to appear before the CC because of that. This street would be a cut through. To get to downtown the shortest way would be down that street and then down Islington Street. Somehow the records of Islington Street accidents have been lost. There have been fatal accidents. What was the benefit to the City, he asked. Until the development came along, this road would be of no benefit. The City should not accept this until there was income to maintain it. Considering the extent of retaining walls and the maintenance, did they have to accept that road, he asked. He asked if they can say no, it was the developer's to maintain and plow. He had a question, in looking at a tax map, a piece of the property was in Current Use. Would the commencement of development trigger a fee to be paid to the City. Would that trigger the end of the Current Use, or would this allow the developer to take it off the tax rolls and put the entirety of the combined parcels into Current Use, he asked. Thank you.

Bill Hagarty said for better access to Borthwick, he suggested they extend Cate Street.

John Pinto said he lived at Melbourne and Vine said he was born in Portsmouth. He was against any more traffic on the streets. He added that people did not use the stop signs.

A man said the only benefit was for ambulances to get to hospital quicker, and he said that was bogus. He said they had paramedics in the City, and people did not need a quicker way to get to the hospital.

Mr. Mannle said he has been a resident 26 years, and he was also part of the City wide steering committee. He said he was speaking as a resident, and he asked they vote no on this for several reasons. He said it violated the Master Plan, specifically, Land Use Section 7.6. He said it violated Section 2.5 on transportation. He said that at the recent TAC meeting, they said traffic would go up

on Islington Street. It would create a permanent cut-through. There was an analogy to this being a Pandora's Box. No one was saying what would be in this subdivision. Approving this was opening Pandora's Box. He asked how can they approve this without knowing what would be in there. This was why the CC voted no three years ago. He said they worked with the City to avoid the wetland to get around the CC. He said there was no public benefit, and it would only benefit the developer. He asked to think of the precedent this Board would set by approving this. Maybe they should open up other roads to get to the hospital sooner. He said Islington was not built to have the traffic counts that it had. He asked the Board to affirm its own Master Plan, to please vote no to protect and preserve the neighborhoods.

Mr. Beckstead of 1395 Islington Street said that last year this same type of project was denied. This was zoned commercial. It was not needed as a connector road. This was a residential neighborhood, and he was an abutter, as were Mr. Dibernardo and Mr. Mannle. He could not see this board granting approval when they did not know what was going in there.

The Chair called third time speakers.

Attorney Somers said she wanted to respond to the comments on traffic and add some context to what they heard. This was a large parcel, and it was not unusual to have a large parcel presented and have a developer establish a threshold approval infrastructure to get that out of the way. In each circumstance, there would be the need for future studies and review. The concept that this was a problem was a misnomer. The other point was regarding the benefit of the street. She said this was a first step to enable development on the property, which would lead to tax revenue. She emphasized that this was not a park. It was a piece of property owned by an owner that had a right to develop the property. She said the application for the road would be followed by development proposals for a permitted use. She noted that in the staff report, this track of land had been the subject of two large proposals going back 10 yrs. Both of those proposals were shot down due to rezonings and abutter comments. She asked that the Planning Board please take into account that this was a long journey. She said they were now before the Board with a proposal, the first step of which was to create this road. This was all permitted zoning. She added that something was going to go in there.

Mr. Mannle offered a clarification. He said he was around for both of the previous applications, and said the previous owners combined the parcels. He did not think it got to the Planning Board at that time, and he did not receive an abutters notice at that time. The tax impact was minimal. The abutters concerns were stated just as they were stated again this night.

Ms. Stiles of 1527 Islington Street stated there was access to the land. The problem was that they cannot do what they wanted with one way access.

Mr. Beckstead said it would get developed, but there was no reason to join a residential section with a commercial section of town. He said the residents did not want to see that cut through. They were narrowing Islington, putting in curbs and eliminating all the on street parking. He asked what would happen during a snow storm – it was a scary thought.

Chairman Ricci asked if anyone else was present from the public wishing to speak to, for, or against the application. Seeing no one rise, the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Chairman Ricci stated that the Board would act on Item B first, then on Item C.

Vice Chairman Moreau said she was disappointed they did not meet with the people in the neighborhood. She said she liked the project as a Borthwick access and a cul-de-sac.

Mr. Gladhill was concerned about the cost of this road, the bridge and retaining wall, and he said that would be a capital improvement that the City would have to incur and maintain.

Mr. Leduc asked if the City or hospital asked to have increased access, and Mr. Taintor said no.

Chairman Ricci commented that he loved everyone’s passion. Portsmouth was passionate. He stated he was disappointed there was no abutter interaction. He said there was a lot of input and passion in Portsmouth. He grew up in Portsmouth, and this did not feel right to him. There was some common ground for everyone. It saddened him there was no connection to the people that have lived there for 50 years. If more information was provided it would make everyone feel better. The projects that were most successful were when the developer and abutter came together and talk, and he was disappointed at the lack of that connection.

Mr. Gladhill disclosed that on the petition, signature number 214 was a William Gladhill. Mr. Gladhill said that was not him. It was another William Gladhill.

Item B:

Vice Chairman Moreau moved they deny the application, and Mr. Legg seconded.

Mr. Legg said he wanted to see this parcel developed, and it was necessary. He would be willing to consider the project in two pieces. He said he was opposed to extending it to Islington Street and dumping traffic into the neighborhood.

The motion passed unanimously.

Item C:

Vice Chairman Moreau moved to deny the application, and Mr. Gladhill seconded. The motion passed unanimously.

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IV. PUBLIC HEARINGS – NEW BUSINESS

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

A. The application of the **City of Portsmouth, Owner**, for property located at **195 Greenleaf Avenue**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for the reconstruction of an existing parking lot, with 7,725 ± s.f. of impact to the wetland buffer. Said property was shown on Assessor Map 243 as Lot 4 and lies within the Municipal (M) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Eric Weinrieb of Altus Engineering said he was hired by the City to do an improvement on the corner of Holiday Drive and Greenleaf Avenue. It was originally constructed as a Coast Guard recreation center. He said it was currently a sea of pavement. He showed the plan, and he said this would be a beautification project. There would be no wetlands impacted on this project, and the site plan called for reducing the amount of pavement. There would be treatment of storm water where there was none today. They proposed three rain gardens to treat runoff. They have created a large green space. The site had approximately 32,000 sf of pavement, and they proposed to reduce that to approximately 18,000 sf by eliminating approximately 14,000 sf. He said there currently existed approximately 7,000 sf of pavement in the wetland buffer, and they wanted to reduce that to approximately 2,000. He showed the landscape plan.

Chairman Ricci asked why plans were not stamped, and Mr. Weinrieb said because he had been on vacation.

Chairman Ricci asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise, the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to approve and application, and Mr. Gladhill seconded, with the stipulation that they get the plans stamped.

Mr. Weinrieb said they have been to the Tree and Greenery Committee. Ms. Perkins said she was glad to see the improvements.

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**, requesting Amended 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. This amendment was to amend construction from two phases, as approved by the Planning Board on September 17, 2015, to three phases. Said properties were shown on Assessor Map 216 as Lots 1-8A and 1-8B and lie within the Office Research (OR) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Mr. Crimmins of Tighe & Bond said that Rob Ciandella was also present. He said the project was to change a previously approved two phase project to a three phase project, and they wanted to do the

office park improvements this summer. He said the applicant was actively pursuing tenants for the office building proposed, and this was the same application as before.

Mr. Crimmins said there were three stipulations that came from the TAC meeting:

- 1) The addition of Note 25 on the utility plan referencing the strength testing.
- 2) Provide a letter by the project engineer related to drainage.
- 3) Resolution of domestic water line service for 215 Commerce Way to be reviewed and approved by the Water Division, and he turned the floor over to Attorney Ciandella to discuss that.

Attorney Ciandella said they have satisfied third stipulation. He said they had accepted the resolution of Peter Rice that afternoon. There was agreement with satisfactory conditions. Mr. Taintor added that the revised recommendation incorporated the three items that Peter Rice recommended in that email, so now there were seven stipulations for approval, and Items 2, 3 and 4 were the items that Peter Rice recommended in that email.

Chairman Ricci asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise, the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to grant the amended site plan approval with the updated stipulations, and Mr. Gladhill seconded. The motion passed unanimously with the following stipulations:

Conditions Precedent (to be completed prior to the issuance of a building permit):

- 1. The applicant shall contribute \$42,000 to the City for reconstruction of the sidewalk on Portsmouth Boulevard between Commerce Way and Market Street, and \$6,900 toward traffic and pedestrian signal upgrades at the intersection of Market Street and Portsmouth Boulevard.
- 2. In lieu of requiring a separate water service to the property at 215 Commerce Way, the property owner of 195 Commerce Way shall be responsible for payment of water and sewer fees for both 195 and 215 Commerce Way until such time title to either property is transferred.
- 3. A recorded deed restriction shall be placed on both 195 and 215 Commerce Way requiring that a separate water service from the water main in Commerce Way directly to the building at 215 Commerce Way shall be installed upon title transfer of either 195 or 215 Commerce Way.
- 4. As consideration for foregoing immediate installation of a water service to 215 Commerce Way, the property owner shall pay the sum of \$18,653.14, which covers the cost incurred by the City to provide water service.
- 5. The Site Plan (Sheets C-2A, C-2B, C-2C and C-2D), the Landscape Site Plan (Sheet L-01), and the deed restriction regarding water service shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department.
- 6. The Construction Management and Mitigation Plan shall include specific provisions to address the displacement of required parking spaces during Phase 3 construction.

Conditions Subsequent (to be completed prior to the final release of site plan security):

- 7. The applicant shall videotape construction routes to the project prior to the initiation of site work, and shall be responsible for repairing any damage during construction. The site plan security shall be sufficient to cover any such repair.



C. The application of **599 Lafayette, LLC, Owner**, for property located at **599 Lafayette Road**, requesting Site Plan Approval for the construction of a 772 s.f. 1-story drive-thru Aroma Joe's coffee shop, revision of the existing parking and circulation layout, and relocation of dumpsters, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property was shown on Assessor Map 229 as Lot 8 and lies within the Gateway (G) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

John Lorden with MSC engineers said he was there to represent the applicant, Aroma Joes. He said the site was the existing Bowl-A-Rama Plaza, with a mix of service, retail and food. He listed the abutters. This was a unique situation, and he said there were some loose ends in the administrative approval, so some work was done by MSC and some was done by Tighe & Bond. They propose an Aroma Joes drive-through coffee shop. He said they were granted three variances in January. One was to allow a stand-alone drive through as a primary use, another was to allow a setback of 23 feet where 30 were required, and the third was to allow an outdoor service facility within 100 feet of a residential district.

Mr. Lorden said there were only 132 parking spaces required for the entire plaza, and there were currently 268, but they would be removing 50 spaces as part of the project. Regarding circulation, there were access easements, and there was shared parking. The majority of the people coming in for Aroma Joe's would enter the main entrance. This Aroma Joes had ordering and pick-up at one window instead of two. A traffic study had been done by Steve Perno, and it was determined that when Aroma Joes got their peak rush, the other business were not yet open.

Mr. Taintor stated that he did not think this was the current plan. There were other plans that showed changes, but he did not think the Board had those. Mr. Taintor reiterated that the Planning Board did not have the current plans before them right now. Mr. Lorden said they added a grease trap, and they sent those plans to DPW last week, but had not received a response until that day. They did not want to submit something that had not yet been approved by DPW. Mr. Taintor said there was pedestrian infrastructure that also was not in this set of plans. Mr. Lorden said they extended an entire sidewalk. They added a flush sidewalk that was protected by curbing. Mr. Taintor asked if they had increased the parking spaces, and Mr. Lorden said yes they did. Mr. Taintor said he thought they were going to bring the revised plans, and the Planning Board had not seen the correct plans.

Mr. Gladhill asked Mr. Taintor what his advice was, and Mr. Taintor said he could not advise, as he had expected to see the plans that night. Chairman Ricci asked Mr. Taintor if the changes were minor. Mr. Taintor said there were a bunch of things.

Mr. Lorden said he would like to highlight the changes. He said the width of the spaces changed from 8.5 to 9 feet, at the request of TAC, and they did not lose any spaces. He said they added an extension of sidewalk so there would be a complete pedestrian sidewalk. He said they were showing 5 foot wide aisles along the ADA space. That summarized what was updated. Mr. Gamester asked if the applicant had their own copy of the revisions, and Mr. Lorden said not yet.

Mr. Gladhill asked about the parking easement, and Attorney Tim Phoenix said he would address that.

Tim Phoenix of Hoefle, Phoenix, Gormley & Roberts apologized for the timing and said he had just gotten involved. He said he had sent a letter regarding the easement and the conditional use permit to Mr. Taintor by the close of business that day, but it was not enough time. He said there was not yet consent from a neighbor. There was a Roadway Agreement entered into by several property owners in the 1970s. It allowed for passage back and forth between the lots and also allowed for certain parking spaces in the easement area. Attorney Phoenix said that Mr. Petsol's letter was attached to their submissions. In the letter, Mr. Petsol stated a concern that the proposal would remove a total of nine spots, but four of those spots were replaced someplace else. Mr. Petsol's concern was that he needed the parking for his lot. He suggested those spots were necessary for the original Bonanza Restaurant. Attorney Phoenix's letter summarized that the underlying easement was the purview of the property owners. He was confident they would reach an agreement, and if they were not able to, it would be a Court issue, not a Planning Board issue. Additionally, they had received variances in January, and all the abutters got notices. It was his opinion that if the owner was going to raise issues that would have been the time to do it. They have spent lots of money since then. Now the owner was raising the issue after the door was closed. Attorney Phoenix said he needed to make two corrections on the letter. One was that the underlying easement required the next door neighbor to pay the property taxes, but he was not sure if that had happened. Additionally, they thought there were 800 spaces on the lot, but there were really 550 spaces, and he would correct that on the record.

The other legal part of the argument was that they never built some of the parking that they felt they had the right to build as part of the plan from the 1970s, and there was also the issue of the taxes. Those were technical legal issues. He said their bottom line was they were going to try to work things out with the neighbor. He asked the Planning Board to not be the arbiter between property owners.

Mr. Gladhill asked about BOA variance versus Conditional Use Permit over the drive-through. Attorney Phoenix said he had just learned about that the day before as well. He believed if they received approval from the stricter board, and if it was accomplishing the same thing, it would not be necessary to get the same permission twice.

Mr. Gladhill said they jumped over the Planning Board and went right to the BOA, and he asked how come. Attorney Phoenix said they were required to get their variances before they came to the Planning Board. He felt everything was in there. Mr. Gladhill said they can grant the conditional use permit and work with the applicant to make sure the design fits well, but that was not the area of the BOA. He said they jumped over the Planning Board, before giving the Board a chance to look at it better. Attorney Phoenix did not think he was jumping over them. It was his understanding that the drive-through and how it would be accessed would be part of the site review anyway. He said they would apply for the Conditional Use Permit if the Planning Board thought it was necessary. Mr. Gladhill said he thought it would be. Attorney Phoenix thought it could go in a parallel track.

Public hearing:

Eric Hutchinstein said he represented Mr. Petsol who owned the shopping center. Mr. Hutchinstein said this seemed rushed, and efforts were not made on the easement issue. His client remained open, but asked that this be put on hold to give time to discuss. He took issue with the comments about the parking agreement. All those things have been in place by the tenants for a long time. He thought the applicant took liberties with how they characterized how his clients and tenants used the space. The condition from the TAC to meet with them had not been met, and there had not been much of an attempt.

Attorney Phoenix said he just got involved this week. In response to the letter that Mr. Petsol sent on

August 19th, Todd Baker, the owner of Baker Properties, did reach out to them at least with an email. That was not responded to, to his knowledge. Reaching out and getting involved was a two way street. This was not related to the site review.

The Chair called second time speakers.

Eric Hutchinstein said the goal post had moved. His client had been responsive. Within the course of this going to the TAC, there had been very little interaction. There needed to be time for conversation to happen. Regarding the argument about it being a private issue, it was not the way of the Planning Board to approve plans over private easements. He said his client was interested in continuing talks, he was not closing the door, but they needed time.

Chairman Ricci asked if anyone else was present from the public wishing to speak to, for, or against the application. Seeing no one rise, the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Mr. Legg moved to postpone the application until the next meeting. Hopefully by then the applicant and abutters would have resolved the parking easement issue and present the results to the Board. Mr. Gladhill seconded the motion.

Mr. Gladhill asked Mr. Taintor if the Conditional Use Permit was something they should pursue. Mr. Taintor said the question he raised was whether the variance was a variance from the requirement that it be an accessory drive through use because they got a variance for it to be a primary drive through use. Did the Zoning Board look at all the criteria for drive through uses, and he suspected they did. Mr. Taintor said procedurally he preferred that it went through the Conditional Use Permit. There would be no additional fee or form, but simply a letter asking for Conditional Use Permit approval, but this was not a stipulation.

The vote passed unanimously.

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D. The application of **Thirty Maplewood, LLC, Owner**, for property located at **30-46 Maplewood Avenue**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into two lots as follows:

1. Proposed lot #1 having an area of 34,887 ± s.f. (0.8009 acres) and 194.56’ of continuous street frontage on Maplewood Avenue, 102.71’ of continuous street frontage on Hanover Street, 313.32’ of continuous frontage on Bridge Street, and 46.61’ of continuous street frontage on Deer Street; and
2. Proposed lot #2 having an area of 21,798 ± s.f. (.5004 acres) and 159.97’ of continuous street frontage on Maplewood Avenue and 147.98’ of continuous street frontage on Deer Street.

Said property was shown on Assessors Map 125 as Lot 2 and was located in the Character District 4 (CD4), Historic District and Downtown Overlay District (DOD). Minimum required lot area was 2,000 s.f.

The Chair read the notices into the record.

SPEAKING TO THE APPLICATION

John Chagnon of Ambit Engineering said this was a subdivision application to divide one into two lots. They would create a lot line from Maplewood running westerly and northerly. Which would create Lot 1, and Lot 2 would be on the northeast corner of the block, and it would have parking on it.

This project was part of a larger project that they worked with the Board on and planned. They came to the Board for a design review for 46 Maplewood Avenue. This would be constructed in Lot 2. Mr. Chagnon said they looked at the long term development of the property. The property was being subdivided for financial reasons, so they can then finance the lots separately. The applicant needed to do that at this time. He thought he would be further in the process of getting the approvals on 46 Maplewood Avenue than he was now. It was an HDC process, and they have been at it for some time. So for that reason, they would like to move along on the subdivision aspect.

Mr. Chagnon said the project received stipulations from the TAC and approval on May 3rd subject to some stipulations. A parking table needed to be added, and that Note was added to the Plan. The TAC had them add an ADA space, which was on Lot 1 and would service the 30 Maplewood building. There was a zoning issue potential, and he would address that. They were to review the IBC codes and revise where needed, he tried to craft a note (Note 9) on that respect. The issue was when a property line was created in proximity to a building. The IBC code regulates setbacks, and by creating the property line, there could be certain issues created as a result. The TAC asked them to look at the 30 Maplewood buildings and the relationship to the property line in the unprotected openings. The number of openings dictated how far the property line should be from the building. The corrections contemplated in that note were to the building and not the property line.

Mr. Chagnon passed out pictures of the building and the corner building. There were no unprotected openings at that corner.

Chairman Ricci asked why Note 9 would not apply to the VFW building, and Mr. Chagnon said the property line was existing; they were not changing it. Whatever building was to get put up at the 46 location would have to comply with the building-to-building setbacks. Chairman Ricci said so the building setbacks would prevent any need for an easement, and Mr. Chagnon said correct.

Chairman Ricci asked if they reviewed with Robert Marsilia if an easement was needed with a 0 side yard setback, and was the applicant aware if he went to the 0 side yard there was only a limited amount as he moved away, and Mr. Chagnon said yes, and they were working to make sure the building met the required setbacks.

Mr. Chagnon said the applicant had a waiver request because the ordinance required property lines be perpendicular. The line did not come in perpendicular because it was parallel to Deer Street. Their lot was oddly shaped. It was in a position for the lot to be developed to its potential.

Mr. Gladhill thanked Mr. Chagnon for expressing eloquently how the HDC process worked.

Mr. Chagnon said the staff memo had a recommendation for the Board. He wanted to discuss that recommendation, and the issue was timing. The first stipulation proposed was that the plan be given preliminary approval and that there be a grant by the Board of Adjustment to allow parking as a principal use with no building or street screen on the Lot 2. The zoning issue that came up was that they were creating Lot 2. The only thing on that lot was a parking lot, and a parking lot was not allowed in the City. He put a note on the drawing to the right of Lot 2 "To be removed" in the case of if a use variance was not granted. He hoped that would allow them to go forward that night. With the timing of the next round of meetings, a variance would go until June. The earliest this could go

forward would be July. They would like to come to an accommodation to obtain financing in a more timely fashion.

He looked for precedent, and he found precedent in a case where three separate lots were requested for financing, which the Planning Board approved in August 2008. He said that any help would be appreciated.

Chairman Ricci asked if anyone was present from the public wishing to speak to, for, or against the application. Seeing no one rise, the Chair closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved they grant the waiver of Section VI.2.A of the Zoning Ordinance to allow for the proposed lot lines to not be perpendicular or radial to the existing lot lines and Mr. Gamester seconded. The motion passed unanimously.

Vice Chairman Moreau moved to grant preliminary and final subdivision approval with the recommended stipulations and adding to it stipulations regarding it's use.

Mr. Taintor was not recommending final approval so if they are going to grant final approval he would have four additional stipulations would be required. First, if there was a necessary correction to the 30 Maplewood building, that should be completed prior to the recording of the subdivision plan.

Next, there were 3 standard stipulations that were part of all final subdivision approvals: he did not have the wording in front of him but it involved GIS data, the setting of bounds and recording of the plan by the City or as deemed appropriate by the Planning Department.

Mr. Legg seconded the motion.

Vice Chairman Moreau stated they are going to take away parking if they don't get a variance and she agreed that nothing should be recorded until that is determined. However, she wondered if they should limit how long they can leave it that way. Mr. Taintor suggested changing Stipulation 1 to "be granted by the zoning board, the variance shall happen prior to the recording of the subdivision plan".

Mr. Chagnon said the bank wanted the subdivision recorded before they would finance.

Chairman Ricci said he was not comfortable with final subdivision approval at this time.

Mr. Gamester suggested adding "within 60 days" to allow them two BOA meetings and if they do not accomplish that they would have to come back.

Mr. Gladhill asked if it was not a parking lot, what was it, and Mr. Taintor said it was vacant. Mr. Gladhill stated that when Portwalk III did this they at least they leased the parking lot back to the City. If they are willing to make that kind of agreement to us, it would be a benefit and a motivation. Mr. Taintor said that was a good point. That was what happened with Portwalk and the only reason it was allowed is because it was leased back to the City. Mr. Gamester asked if the City would be able to use it and he wondered what the access would be like.

The Board discussed withdrawing the motion.

Mr. Gladhill asked Mr. Chagnon if he was comfortable to sign off on leasing the land to the City for parking if there was no variance within 60 days. Mr. Chagnon said the owner has said he would be willing to lease that to the City.

Mr. Taintor asked why financing was an immediate need, because the property would not be worked on for months. Mr. Taintor said if they had to refinance could they do a partial release, and Vice Chairman Moreau said this did exist in the commercial world. Mr. Chagnon said partial release did not happen quickly, and Mr. Taintor asked why not set that up. Mr. Chagnon said the whole asset had to be put as collateral, and that would kill it.

Mr. Gladhill said at the HDC, the architect was ready to throw out the design. This would take a while. Mr. Chagnon said the owner would like to finance 30 Maplewood as its own entity.

Mr. Taintor said the Board may not want to kill this because the recent court case related to the Fisher vs. Dover doctrine applied to planning boards as well as zoning boards.

Vice Chairman Moreau withdrew her motion to grant the preliminary and final subdivision approval.

Vice Chairman Moreau moved to do preliminary subdivision approval with the included stipulations, and Mr. Legg seconded. The motion passed unanimously.

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V. CITY COUNCIL REFERRALS/REQUESTS

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

A. Consideration of rezoning options for 678 Maplewood Avenue and the adjacent vacant parcel to allow for the development of affordable housing.

The Chair read the notice into record.

Vice Chairman Moreau said scheduling a work session for this seemed like a great idea.

Vice Chairman Moreau made a motion to move Item A to the June meeting, and Mr. Gamester seconded. The motion passed unanimously.

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B. Acquisition of land off Deer Street for construction of a municipal parking garage and associated access and utility improvements.

The Chair read the notice into record.

Mr. Taintor said this was recommended on August 20, 2015. He said some easements had to change. The delineation of lot lines had not changed. It was recommended that the Board reaffirm and recommend this revised disposition to the City Council.

Mr. Moore moved to reaffirm and recommend the revised disposition, and Vice Chairman Moreau seconded. The motion passed unanimously.

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C. Request for waiver of referral and report regarding leases/easements for solar power arrays at Portsmouth High School and the Madbury Water Treatment Plant.

The Chair read the notice into record.

Mr. Taintor said a lease of this length would require the City Council to refer to the Planning Board before action, however, they acted at the meeting on Monday night. He said the Planning Board can waive referrals.

Vice Chairman Moreau moved to waive its referral, and Ms. Perkins seconded. The motion passed unanimously.

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VI. OTHER BUSINESS

A. Proposed amendments to the Zoning Ordinance, Articles 2, 3, 4, 5, 6, 8, 10, 11, 12 and 15, relating to variances, nonconforming buildings and structures, accessory dwelling units, building coverage and yards, residential bulk control and building heights, Historic District exemptions, wetlands protection, off-street parking setbacks, signs and definitions.

Vice Chairman Moreau moved to postpone this item until the June meeting, and Ms. Perkins seconded. The motion passed unanimously.

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VII. ADJOURNMENT

A motion to adjourn at 11:00 pm was made, seconded and passed unanimously.

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Respectfully Submitted,

Marian Steimke
Acting Secretary for the Planning Board

These minutes were approved at the June 16, 2016 Planning Board Meeting.