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MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

JULY 21, 2016

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

ALSO PRESENT: Mr. Taintor, Planning Director;

MEMBERS ABSENT: Jessa Berna, Associate Planner; William Gladhill, Member

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WORK SESSION ON PROPOSED ZONING ORDINANCE AMENDMENTS

Mr. Taintor explained the background of the draft ordinance presented, which addresses the minimum requirements to comply with the state law effective June 1, 2017. If the ordinance is not adopted to allow attached accessory dwelling units (ADU) in every zoning district that allows single family dwellings, then any ADU would be allowed by right, regardless of the zoning.

Item 1

Mr. Taintor explained the various options regarding approval of ADUs as presented in item one of the matrix as follows:

- Districts that allow single family dwellings could allow for ADUs by conditional use permit approved by the Planning Board.
- Any board or commission within the city could approve with recommendation from the Planning Board.
- Approval could be granted via either a conditional use permit or special exception.
- Microunits, which are less than 400 s.f., could be allowed by right.

Mr. Taintor questioned the difference between an ADU, a single family home, and a two-family dwelling. Currently, two families are allowed in the general residence district by right.

Vice Chairman Moreau stated her preference for micro units be granted by right. She added that the approval process would depend on the details of zoning, size, requirements, and location.

Mr. Legg thought people may be surprised by the new proposal and its implications to future projects. He was inclined to have Planning Board initially involved in the process with a conditional use permit. As time passes, it could be converted by right. Chairman Ricci agreed since it could be a dramatic change in neighborhoods.

47

48 Mr. Moore asked what would entail having the Planning Board act as the default. Mr. Taintor replied it
49 would require a higher level of scrutiny given the special exception. He anticipated the biggest changes
50 encountered would be in the general residence districts.

51

52 Mr. Moore inquired as to what the response to the law is throughout the rest of the state. Mr. Taintor
53 could not recall what specifically went to legislature and thought it would challenge rural communities
54 more than urban. He added that Dover, NH already adopted ordinances regarding ADUs.

55

56 Vice Chairman Moreau added that the parking requirements could be controlled, even when the square
57 footage cannot be. She noted that one of the units must be owner occupied, which will cut down on
58 investments.

59

60 Councilor Perkins felt some single family areas are more fitting for allowing ADUs by right under
61 certain conditions. She explained that ADUs are lower impact forms of additional units and in certain
62 situations it may not be helpful to put the decision making burden on boards or commissions.

63 Chairman Ricci acknowledged the notion, but questioned the complexities in the definition and
64 enforcement for ADUs by right and felt that unintended consequences could dramatically change
65 neighborhoods.

66

67 Mr. Legg viewed it as an opportunity to educate the abutters and public. It would be harder to tighten
68 the restrictions rather than adapting them to looser terms. Councilor Perkins asked if any past practices
69 introduced a new ordinance in more of a temporary, trial stage. Mr. Taintor referenced the RDI-PUP to
70 promote the housing project on Kearsage Way, which was targeted to GRA and GRB districts as a trial
71 period. It has remained stagnant for the past ten years.

72

73 Vice Chairman Moreau agreed with Mr. Legg's point to educate the public and observe how it affects
74 the neighborhoods. Chairman Ricci felt that the public hearing would be invaluable information in
75 making any future revisions. Ms. Colbert-Puff agreed that she would like to see how it resonates with
76 the public, especially in the strictly single family residence areas.

77

78 Mr. Taintor referred to the GRA, GRB, GRC, and MRO districts and thought that it may be helpful to
79 rename the ADUs as a second unit with certain standards requiring special exception. Ms. Colbert-Puff
80 explained that the definitions are very similar in nature. Mr. Taintor added that Rockingham County
81 will likely provide guidance for communities in September.

82

83 Item 2

84 Mr. Taintor explained that item two of the presented matrix attempts to address whether or not to have
85 affordability restrictions and whether to consider detached ADUs. Vice Chairman Moreau
86 recommended to first focus on the attached, and later address the detached. Mr. Taintor mentioned
87 those situations often are handled by the Zoning Board for variances. Councilor Perkins guessed there
88 would not be a large amount of activity and felt that several pilot periods could be implemented. Mr.
89 Legg felt that it depends on what the City would rather encourage given that the detached
90 circumstances are more likely to arise than the attached. He was unsure of his stance on it. Ms. Record
91 supported the idea of detached and thought there would not be any major implications between
92 attached and detached. Chairman Ricci felt that detached are more detrimental than attached because it

93 is not realistic in downtown areas. The single family areas are geared towards detached. There could be
94 issues in drainage and high water tables. Mr. Legg responded that attached appears as one unit, but
95 detached would have difficulties with maintaining the look of one unit. Chairman Ricci thought it
96 would be best to restrict the standards as much as possible initially and then consult with the abutters
97 and applicants for any changes. Ms. Record added that anything existing could be treated as an
98 exception.

99
100 Mr. Taintor explained to Vice Chairman Moreau that there is much flexibility in controlling the
101 allowable number of detached and there should be distinctions made for existing dwelling units. He
102 noted a consideration for houses built around 1975 that could be converted for families. Chairman
103 Ricci added that in those situations there could be a square footage requirement.

104
105 Mr. Taintor summarized to review existing structures, but not affordability. He would revise the draft
106 for further review to address existing dwelling units. The consensus was to start with attached and
107 existing structures of a certain size and age could be considered. It would be an ideal balance between
108 being experimental and preserving character.

109
110 Mr. Taintor noted that the existing ordinance does not allow for multiple principle structures in the
111 rural, single residence, GRA or GRB districts. This would address a situation that proposes connecting
112 a house to a carriage house.

113 114 Item 3

115 Mr. Taintor cited the state requirement that interior doors shall be provided between a principle unit
116 and accessory dwelling unit, but not be required to remain unlocked.

117 118 Item 4

119 Mr. Taintor reminded that the statute defines an ADU as a unit that is within or attached and would
120 still adhere to setback and lot coverage requirements. He explained to Chairman Ricci that it must have
121 an interior door between the two units and a separate door to the exterior. Mr. Taintor and Vice
122 Chairman Moreau thought the purpose of the requirement is to avoid having two separate principle
123 units and to enable emergency response access.

124 125 Item 5

126 Chairman Ricci noted that exterior changes would be reviewed by the Historic District Commission.
127 Mr. Taintor considered it a prospect for design review to control aesthetic standards. Councilor Perkins
128 felt that design review is typically subjective and is something to avoid. Vice Chairman Moreau
129 thought that there are ways to find basic standards to design review. Mr. Colbert-Puff echoed that
130 statement and supported the draft ordinance. Mr. Gamester saw it wise to have limited requirements
131 reviewed by HDC for design purpose.

132
133 Vice Chairman Moreau emphasized that a breezeway attached to two units must maintain the overall
134 appearance of a single family dwelling. Mr. Taintor responded that terms should be drafted to define
135 the appearance of a single family dwelling.

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Item 6

Mr. Taintor explained that the unit size cannot require less than 750 s.f. He suggested it could be based on lot size. Mr. Legg felt it would be best to start with a 750 s.f. requirement to prevent complications. In response to a few questions, Mr. Taintor explained that the drafted ordinance would not remove rights and applicants would continue to refer to the Zoning Board for a variance. He raised the question of whether to have a provision depicting that someone would not need to prove hardship for a conditional use permit.

Item 7

Mr. Taintor stated the section regarding a continuing accessory unit was not addressed in the statute and serves to address subdivided condominiums.

Item 7

There was positive consensus that owner occupancy of one of the units be mandatory and that only one ADU per single family dwelling be allowed.

Item 8

Mr. Taintor mentioned parking standards can be varied and asked whether too much parking is required. Vice Chairman Moreau supported the notion. Councilor Perkins suggested that parking requirements could be reduced for micro units under 400 s.f.

Mr. Moore noted the ADU in residential district can provide an opportunity for affordable housing and questioned what planning science can conclude regarding parking spaces. Mr. Taintor responded that small frontages would need more parking spaces. He noted that the draft master plan calls for neighborhood specific parking studies. Chairman Ricci considered DPW and snow plowing factors.

Mr. Legg supported Councilor Perkin’s previous comment that one space requirement for micro units could suffice.

Item 9

Mr. Taintor explained that item fifty indicates that a variance would be required if a proposed ADU is not compliant. This would prevent applicants from requesting conditional use permits.

Final remarks were had and Mr. Taintor clarified that the drafted ordinance would be revised by staff thereafter.

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I. APPROVAL OF MINUTES

- 1. Approval of Minutes from the June 16, 2016 Planning Board Meeting;

Vice Chairman Moreau moved to approve the June 16, 2016 minutes, Mr. Legg seconded. The motion passed unanimously.

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II. DETERMINATIONS OF COMPLETENESS

A. Site Plan Review:

1) The application of **Scott Mitchell, Owner**, for property located at **2839 Lafayette Road and abutting vacant lot**, requesting Site Plan Approval

Vice Chairman Moreau moved to determine that the application for Site Plan approval was complete according to the Site Plan Review Regulations and accepted the application for consideration, seconded by Mr. Legg. The motion passed unanimously.

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III. PUBLIC HEARING – ZONING AMENDMENTS

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 and design guidelines, wetlands protection, off-street parking setbacks, digital signs, and definitions. The proposed amendments are available for review in the Planning Department during normal City Hall business hours, and are also posted on the Planning Department website, planportsmouth.com.

The Chair read the notice into the record.

Mr. Taintor explained housekeeping amendments as follows:

- Item A changes the term of variances and special exceptions from one to two years to comply with State law. The current zoning ordinance is out of date.
- Item B clarifies confusing language on non-conforming building and structures to remove redundant language. It deletes three provisions and consolidates their language in a fourth. Thus, no major changes were introduced.
- Item D corrects an oversight in the table.
- Item E excludes from the definition of a fence structure anything under four feet in height. Fences of this height do not need these setback, which is related to other changes.

Mr. Taintor replied to Vice Chairman Moreau that allowable fence heights are up to four feet in the front yard and six feet in the side. She questioned how to consider different elevations.

Mr. Taintor explained changes to dimensional standards as follows:

- Add that changes would only apply to yards because the definition for building coverage will change.
- Add a requirement that any change relating to a front yard shall apply to a back yard.
- Add an exclusion for specific projections such as balconies, bay windows, and awnings.
- Fences not over four feet in height shall be exempt from front yard requirements and six feet for side yard requirements.
- Clarify wording to exemptions for mechanical systems, that the units must be 10 feet from property line.
- Clarify the front yard exception for existing alignment calculation.

- 230 • Replace references with character districts, as necessary.
231 • Add recommendations for allowable projections specific for each district.
232 • Clarify the verbiage for ADU setbacks in side and rear lot lines. It will change the definition to
233 building coverage to include what is not incorporated into the building coverage calculation.
234

235 Ms. Colbert-Puff referenced Section 10.571 to note that fences are considered a structure and
236 questioned how that would be implied.
237

238 Mr. Taintor explained a proposed amendment to introduce a new dimensional control, called a bulk
239 control plane, or sun/light exposure plane, which relates the height of a building to the setback from
240 the lot line. He further described the provisions and details depicted in Section 10.513.30. He
241 understood the bulk control plane as the easiest mechanism to mitigate the impact of tall building
242 heights.
243

244 Mr. Taintor answered to Chairman Ricci that it would apply to both structures. He added that an
245 accessory building is not more than ten feet in height and five feet from setback, thus, would not be
246 affected.
247

248 Councilor Perkins asked for examples of how this has applied in practice. Mr. Taintor explained that it
249 began in large cities and is now being adopted in older residential communities to maintain the
250 traditional scale of the units. It would help to mitigate the flat-roofed, tall buildings.
251

252 Mr. Gamester asked in the rare instance that new development would be impeded by the bulk control
253 plane in an effort to match similarity in a neighborhood and whether that would require a variance. Mr.
254 Taintor responded that concern could potentially arise in the GRA or SRB districts that have larger
255 setbacks as the existing houses do not meet the current zoning. Mr. Gamester thought the bulk control
256 plane perhaps is a technical approach at design review and questioned if it would impose unnecessary
257 burden.
258

259 Mr. Taintor informed the background and purpose for the draft ordinance regarding accessory dwelling
260 units. He presented the proposed changes as follows:

- 261 • Change labeling of conditional use permit in the rural, single residence, general residence,
262 mixed residence, and specific character districts, where single family units are permitted.
263 • An interior door shall be provided, but not required as unlocked.
264 • Exterior changes shall maintain the appearance of a single family dwelling with standards such
265 as, only one allowable exterior door at the front of a dwelling.
266 • The ADU shall not have more than two bedrooms or be larger than 750 s.f., which are the
267 lowest maximum levels that can be set in the ordinance.
268 • The principle and ADU cannot be separated by ownership in a condominium conversion.
269 • Either the principle or ADU shall be occupied by the owner and the other rented to a tenant.
270 • Only one ADU per single family dwelling.
271 • Terms and conditions for compliance with ADU requirements.
272 • Add a definition of an ADU.
273

274 Mr. Taintor presented other proposed changes as follows:

- 275 • Changes to existing Historic District guidelines and exemptions. The proposal replaces the
276 interim guidelines with permanent guidelines developed by the HDC.
277 • Add exemptions for obtaining a certificate of approval from HDC since there are situations that
278 do not merit review by the commission.
279 • Changes proposed by the Conservation Commission to extend properties subject to conditional
280 use permits for natural wetland and wetland buffers.
281 • To clarify the calculations for exemption for single family and two family dwellings extensions
282 by cumulative, rather than sequential.
283 • Add criteria for conditional use permit approval to restore any area in a vegetated buffer strip to
284 a natural state where feasible.
285 • Signs using direct illumination shall have specific content restrictions and illuminated area shall
286 not exceed 30% of total sign.
287 • Add a definition of changeable signs.
288

289 Mr. Taintor agreed with Chairman Ricci that it be important to differentiate what's considered a sign,
290 in example where gas stations have red or green to indicate different types of gas.
291

292 Vice Chairman Moreau asked the intention of replacing illustrations with symbols. Mr. Taintor replied
293 it intends to avoid changeable, illuminated signs by limiting the total area illuminated area of the sign.
294 She expressed support for any proposed change that prevents distraction and still conveys a message.
295

296 Mr. Legg inquired on how other cities have addressed signage.
297

298 Mr. Taintor answered to Mr. Gamester that the changes apply to both standalone and on structure
299 signs.
300

301 The Chair called for public speakers.
302

303 Philip Labrie, 117 Middle Road

304 Mr. Labrie referenced Section 10.814.12 in that many houses in Portsmouth already have two front
305 doors and suggested to account for those existing situations.
306

307 Chris Dwyer, 600 Broad Street

308 Ms. Dwyer felt that bulk control plane interacts with ADUs to serve for design control. However,
309 under that model, most old New England houses could not be built, thus, she suggested adding a 600-
310 foot buffer. She speculated that there would be several objections to prohibit two primary doors. The
311 detached idea is important in some neighborhoods and that it depends on the neighborhood. She
312 suggested considering a secondary egress, minimum rental durations, and definitions for different
313 types of micro units. She encouraged another public hearing regarding the draft ordinance.
314

315 Joe Donohue, 336 Union Street

316 Mr. Donohue indicated he lives in a home with an in-law apartment in the GRA district. It meets zero
317 requirements for land use and is completely nonconforming. He felt that the additional use does not
318 impact the neighborhood and the ordinance proposal would take away from spirit of the state law.
319

320 David Rheame, 18 McDonough Street

321 Mr. Rheume indicated that the Zoning Board has not had a public discussion on the drafted ordinance
322 changes. He felt that the definition of changeable signs should be refined given the arguments received
323 of characteristics of changeable signs. The language is extremely subjective regarding maintaining
324 exterior appearances and suspected it would lead to increased variances.
325

326 John Kilroy, 25 Buckminster Way

327 Mr. Kilroy felt the draft ordinance is narrow compared to other areas. There is no distinction between
328 detached and attached. He noted the maximum occupancy for ADUs is no more than 2-4 people across
329 different areas such as, Rye, Moultonborough, and Lebanon. He would like a more detailed description
330 of the application process, septic requirements, occupancy permits, and he provided examples of each
331 of those topics practiced in other areas. He questioned owner occupancy and floor area requirements.
332

333 Andrew Christo, 46 Buckminster Way

334 Mr. Christo emphasized the spirit of the state law and referenced an observed incident of someone
335 taking monetary personal advantage of a situation. He requested language regarding the allowable
336 number of people and lease durations.
337

338 Bernie Pelech, 175 Thaxter Road

339 Mr. Pelech felt the bulk control plan is reactionary zoning and would create hundreds of
340 nonconforming structures in the city. He questioned how that would affect the Zoning Board workload.
341

342 Martha Fuller-Clark, 152 Middle Street

343 Ms. Fuller-Clark agreed with Attorney Pelech that bulk control plan would make several dwellings
344 non-conforming. She stated her position as one of the principle sponsors for the ADU state legislation
345 and offered her assistance. She noted a committee based in Concord to provide to respond to issues of
346 short term rentals. The intent of the legislation is to provide alternatives for affordable housing. It is a
347 concept used all over the country and she encouraged the Planning Board and staff to consider how
348 other communities have handled it.
349

350 James (Jim) Lamond, 84 Haven Road

351 Mr. Lamond expressed concerns that short-term rentals are destructive to the neighborhood. He
352 welcomed the legislature to include an amendment indicating no intent to have short-term rentals result
353 from the law. He inquired further information regarding various land use regulations pertaining to lot
354 coverage and asked if the ADU would comply with lot coverage. Mr. Taintor responded in detail that a
355 single residence still complies with the same lot coverage requirements. Mr. Lamond asked whether
356 ADUs would be regulated for short-term durations.
357

358 Paul Mannle, 1490 Islington Street

359 Mr. Mannle requested that the proposed ordinance allow detached units since the state law does. He
360 expressed his reasoning to support this notion with various examples of detached garages in
361 surrounding neighborhoods to his residence. Chairman Ricci noted that the previous workshop
362 indicated that existing detached garages would be taken under consideration. Mr. Mannle added that
363 there should be a mechanism for design review.
364

365 Rebecca McBeath, 243 Middle Road

366 Ms. McBeath cited a bill that was passed by legislature, which addresses sustainability and workforce
367 housing. She explained a few concerns centered around the restricting nature of the proposed
368 amendments to include short-term rentals, principle dwelling locations, corner lot calculation, non-
369 conforming structure requirements, and interior doors for attached dwellings.

370

371 Chairman Ricci asked if anyone else was present from the public wishing to speak to, for, or against
372 the zoning amendments.

373

374 Steven Griswold, 169 Buckminster Way

375 Mr. Griswold felt the Planning Board and staff should implement restrictive zoning that protects the
376 character of neighborhoods.

377

378 Barbara Griswold, 169 Buckminster Way

379 Ms. Griswold hoped that the amendment considers everyone's protection given the number of short-
380 term rentals potentially occurring in some single family dwellings.

381

382 Harold Whitehouse, 58 Humphrey's Court

383 Mr. Whitehouse requested guidance to address the issue he was experiencing. His lot valuation
384 increased dramatically. It would require extensive costs to have a lawyer indicate on the title that no
385 further development occur for the life of his property. He strongly advocated for preserving the
386 greenery and catch basin in his property.

387

388 Chairman Ricci asked for any second time speakers wishing to speak to, for, or against the zoning
389 amendments.

390

391 David Rheume, 18 McDonough Street

392 Mr. Rheume felt the bulk control plan could have extensive complexity and recommended that the
393 Planning Department research building permits previously granted outside of the Planning Board to
394 provide perspective of increased workload for the Zoning Board. He recommended continuing with the
395 setback changes proposed. He suggested further review of the changes to the table in Section 10.510
396 and identified two problematic areas. He added that a definition include verbiage that would prohibit
397 ADUs utilized for business purposes.

398

399 Martha Fuller-Clark, 152 Middle Street

400 Ms. Fuller-Clark considered that the verbiage to prevent business or home business operations in the
401 principle unit.

402

403 Rebecca McBeath, 243 Middle Road

404 Ms. McBeath was pleased to know that the process does not appear to be rushed. She reminded that
405 some home businesses do not generate high traffic and that be considered if prohibiting this use. She
406 wished further review for certain exceptions to the proposed requirements regarding non-conforming
407 structure reconstruction, sustainability issues with detached structure footprint, garage construction,
408 existing structure sizes, and aesthetic review.

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410 Chairman Ricci asked for any third time speakers wishing to speak to, for, or against the zoning
411 amendments. Seeing no one rise, the Chair closed the public hearing.

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DISCUSSION AND DECISION OF THE BOARD

Chairman Ricci felt that exceptions could be made to certain types of businesses. Vice Chairman Moreau questioned how the business would be defined and to consider the primary use of the principle structure. She wondered if a required lease could help mitigate that potential confusion. Councilor Perkins thought that regulating ADUs will derivatively address short-term rentals.

Councilor Perkins emphasized points made regarding non-conforming properties and thought it would be important to consider age and structure.

Mr. Legg questioned how short-term rentals be addressed whether in the ADU provisions or separately.

Mr. Legg felt non-conforming structures need to be considered. Chairman Ricci stated there are a number of environmental impacts to account for. Several Board members expressed thought that the bulk control plan may not be the ultimate solution for various reasons, but it shouldn't be entirely dismissed.

There were further deliberations regarding whether design review ought to be incorporated into the amendment or not. The Board suggested additional work sessions to discuss design review, ADUs, and short-term rentals were in order.

Vice Chairman Moreau moved to schedule a Work Session at 6:00 pm on August 18, 2016, followed by another public hearing at the 7:00 pm Planning Board meeting, seconded by Mr. Legg. The motion passed unanimously.

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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.*

Chairman Ricci asked for a motion to read Item A, Public Hearings Old Business and Items G & H, Public Hearings New Business in together. Vice Chairman Moreau made the motion, Mr. Moore seconded, and the motion passed unanimously.

A. The application of **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 is shown on Assessor Map 286 as Lots 18 & 19 and lies within the Gateway (GW) District. (This application was continued from the June 16, 2016 Planning Board Meeting.)

457 G. The application of **Scott Mitchell, Owner**, for property located at **2839 Lafayette Road and**
458 **abutting vacant lot**, requesting a Conditional Use Permit under Section 10.836 for a drive-through
459 facility as an accessory use to a permitted principal use (retail bank).
460

461 H. The application of **Scott Mitchell, Owner**, for property located at **2839 Lafayette Road and**
462 **abutting vacant lot**, requesting Site Plan Approval for the demolition of two existing buildings and
463 the construction of a proposed 70' x 46' bank building with drive-thru, with a footprint of 3,038 ± s.f.
464 and gross floor area of 3,838 ± s.f., with related paving, lighting, utilities, landscaping, drainage and
465 associated site improvements. Said properties are shown on Assessor Map 286 as Lots 178 & 19 and
466 lie within the Gateway (GW) District.
467

468 The Chair read the notices into the record.
469

470 **SPEAKING TO THE APPLICATION**

471

472 Attorney Bernie Pelech provided a brief background of the application approval process and advocated
473 that the plan helps to improve aesthetic appearances on Lafayette Road and benefit the tax base to
474 provide another facility.
475

476 David Eckman, Eckman Engineering LLC

477 Mr. Eckman's presentation included the following statements as follows:

- 478 • The existing conditions plan highlights the dilapidated building that used to be an old fill. The
479 two lots together will equal about 1.2 acres, which DOT is pleased with. Pavement will be
480 removed and a wooded area will be cleared.
- 481 • The proposed design consists of a pedestrian walkway, rear parking lot, and conforming
482 signage. The paved loop is favorable for emergency access. There would be larger parking
483 spaces available, per TAC recommendation, which goes beyond the requirements of the
484 regulations.
- 485 • Invasive species will be removed and replaced with plantings that ward off the invasive
486 species. A proposed buffer is located near the left side of the car wash and propane source.
- 487 • Peak flow is currently 2.19 and in the proposed condition would be not more than 1.45 utilizing
488 an advantageous treatment system.
- 489 • Inlet protection is depicted in the erosion settlement control plan.
- 490 • The utility plan indicates three-phase power. There is one area suited well for water and gas
491 area. The system will pump into the manhole, rather than gravity fed, to prevent backups. A
492 sewer pipe would be upgraded, if discovered necessary, as a condition from TAC.
- 493 • The architectural plan shows that sprinklers were not necessary due to the safety door in the
494 basement.
495

496 Vice Chairman Moreau asked whether the multi-use path is at street grade. Mr. Eckman noted that the
497 State has reserved that area for a future project to widen Lafayette Road. Mr. Taintor added that a long
498 range plan is forthcoming to have two 8-foot multi-use paths on either side of the road, which goes
499 beyond what a typical sidewalk serves.
500

501 Mr. Eckman replied to Chairman Ricci that the snow would be stored at the area closest to the
502 intersection.

503

504 Mr. Eckman described to Chairman Ricci the plunge pool.

505

506 Mr. Eckman noted that a dumpster was removed from the proposed plan since the bank will likely not
507 generate a large amount of waste.

508

509 Mr. Eckman indicated where a bicycle rack would be located.

510

511 Attorney Pelech noted the two waiver requests for landscaping and the second driveway.

512

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

515

516 **DISCUSSION AND DECISION OF THE BOARD**

517

518 Mr. Taintor confirmed to Vice Chairman Moreau that the invasive species would not be recorded with
519 the registry of deeds regarding invasive species. She asked that it be added as a condition.

520

521 Vice Chairman Moreau made a motion to grant Conditional Use Permit approval with the
522 recommended stipulation. Mr. Legg seconded the motion.

523

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

526

527 1. The owner will be responsible for removing invasive species inadvertently introduced to the
528 site. After removal, replant consistent with the planting plan or native species.

529

529 2. The owner shall continually monitor and remove invasive species on the site.

530

531 Vice Chairman Moreau made a motion to determine that the application for Site Plan Approval was
532 complete according to the Site Plan Review Regulations and accepted the application for
533 consideration, seconded by Mr. Legg. The motion passed unanimously.

534

535 Vice Chairman Moreau made a motion to find that the level of service and traffic safety conditions of
536 all streets and intersections to be impacted by the project will be the same as, or better than,
537 predevelopment conditions, and to grant the Conditional Use Permit for the accessory drive-through
538 facility, seconded by Mr. Gamester. The motion passed unanimously.

539

540 Vice Chairman Moreau made a motion to find that a waiver will not have the effect of nullifying the
541 spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to waive the
542 following regulations:

543

- 544 1. Section 6.7.3: In the Gateway District, the front yard shall include a landscaped buffer strip
545 with a depth of at least one-third of the distance between the street right-of-way and any
546 building, and extending across the width of the lot except for driveways, sidewalks and bicycle
547 paths. The buffer strip shall be in addition to the street trees required herein, and shall include a
548 combination of trees and lower-level elements such as shrubs, hedges, fences, planted berms, or
brick or stone walls.

549 2. Section 3.3.2.3: Driveways shall be limited to one per lot.
550 Seconded by Mr. Legg. The motion passed unanimously.

551
552 Vice Chairman Moreau made a motion to grant Site Plan Approval with the recommended stipulations,
553 and it was seconded by Mr. Gamester.

554
555 The motion to grant Site Plan approval passed unanimously with the following stipulations:
556

557 1. Revise the site plans as follows:

- 558 (a) Change “bike path” to “multi-use path”.
- 559 (b) Remove sign R6-2R from the drive-through exit.
- 560 (c) Change “silt fence” to “silt sock”.
- 561 (d) Add a detail for the plunge pool.

562
563 2. The Site Plan (Sheet C-2) shall include the following notes:

- 564
565 “1. This Site Plan shall be recorded in the Rockingham County Registry of Deeds.
- 566 2. All improvements shown on this Site Plan shall be constructed and maintained in
567 accordance with the Plan by the property owner and all future property owners. No
568 changes shall be made to this Site Plan without the express approval of the Portsmouth
569 Planning Director.”

570
571 3. The Landscape Plan (Sheet L-01) shall include the following notes:

- 572
573 “1. This Site Plan shall be recorded in the Rockingham County Registry of Deeds.
- 574 2. All improvements shown on this Site Plan shall be constructed and maintained in
575 accordance with the Plan by the property owner and all future property owners. No
576 changes shall be made to this Site Plan without the express approval of the Portsmouth
577 Planning Director.”
- 578 3. The property owner and all future property owners shall be responsible for the
579 maintenance, repair and replacement of all required screening and landscape materials.
- 580 4. All required plant materials shall be tended and maintained in a healthy growing
581 condition, replaced when necessary, and kept free of refuse and debris. All required
582 fences and walls shall be maintained in good repair.
- 583 5. The property owner shall be responsible to remove and replace dead or diseased plant
584 materials immediately with the same type, size and quantity of plant materials as
585 originally installed, unless alternative plantings are requested, justified and approved
586 by the Planning Board or Planning Director.
- 587 6. The owner shall continually monitor and remove invasive species on the site.”

588
589 4. A Notice of Voluntary Lot Merger shall be executed and submitted to the Planning
590 Department for approval.

591
592 5. The Notice of Voluntary Lot Merger, Site Plan (Sheet C-2), and Landscape Plan (Sheet
593 L-01) shall be recorded concurrently at the Registry of Deeds by the City or as deemed
594 appropriate by the Planning Department.

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B. 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 is shown on Assessor Map 229 as Lot 8 and lies within the Gateway (GW) District. (This application was continued from the June 16, 2016 Planning Board Meeting.)

The Chair read the notice into the record.

Mr. Legg made a motion to postpone Site Plan Review to the August 18, 2016 Planning Board Meeting, seconded by Vice Chairman Moreau. The motion passed unanimously.

.....

C. The application of **Christian Shore Condominium Association, Owner**, and **Brian Blanchette, President, Applicant**, for property located at **250 Northwest Street**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer for the restoration of three sections of an existing retaining wall, with 450 ± s.f. of impact to the tidal wetland buffer. Said property is shown on Assessor Map 122 as Lot 4 and lies within the General Residence A (GRA) District. (This application was continued from the June 16, 2016 Planning Board Meeting.)

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Mr. Brian Blanchette illustrated the problematic areas of the stone wall and explained that most of what exists today will be replaced and will match the rest of the wall.

Vice Chairman Moreau reminded about the condition to report back to the Environment Planner.

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 made a motion to grant the Conditional Use Permit with the recommended stipulation. Mr. Gamester seconded the motion.

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

1. Within two months of the completion of repairs, the applicant shall provide the Conservation Commission, through the Environmental Planner, a report documenting

641 the project with photos and a brief description of the project and any lessons learned,
642 for use in reviewing future applications for repairs to this type of structure.
643

644

645
646 **V. PUBLIC HEARINGS – NEW BUSINESS**
647

648 *The Board’s action in these matters has been deemed to be quasi-judicial in nature.*
649 *If any person believes any member of the Board has a conflict of interest,*
650 *that issue should be raised at this point or it will be deemed waived.*
651

652 A. The application of **Portsmouth Housing Authority, Owner**, for property located on **Gosling**
653 **Road; YDNIC, LLC, Owner**, for property located at **1840 Woodbury Avenue; and the City of**
654 **Portsmouth, Applicant**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning
655 Ordinance for work within the inland wetland buffer to construct a sidewalk along the south side of
656 Gosling Road, with 200 ± s.f. of impact to the inland wetland buffer. Said properties are shown on
657 Assessor Map 239 as Lots 8 and 12 and lie within the Single Residence A (SRA) and Garden
658 Apartment/Mobile Home (GA/MH) districts.
659

660 The Chair read the notice into the record.
661

662 **SPEAKING TO THE APPLICATION**
663

664 Dan Hudson, of CMA Engineers, appeared for the City and explained that the existing sidewalks at
665 Hotel 6 will be replaced with multi-use paths. The proposed pedestrian crossing would be located to
666 the west of Windsor Road near the Coast bus stop. He explained that the permit consists of two
667 properties because 100 feet of the wetland buffer extends into Gosling Road.
668

669 Chairman Ricci asked if anyone was present from the public wishing to speak to, for, or against the
670 application. Seeing no one rise, the Chair closed the public hearing.
671

672 **DISCUSSION AND DECISION OF THE BOARD**
673

674 Vice Chairman Moreau made a motion to grant Conditional Use Permit approval with one stipulation.
675 Mr. Legg seconded the motion.
676

677 The motion to grant Conditional Use Permit approval passed unanimously with the following
678 stipulation:
679

- 680 1. Revise the Site Plans to change “silt fence” to “silt sock”.

681

682
683 B. The application of **Errol Hebert, Owner**, for property located at **901 Banfield Road**,
684 requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within
685 the inland wetland buffer to remove 1,837 ± s.f. of concrete and replace it with 1,500 ± s.f. of crushed
686 stone and a 14’ x 24’ (336 s.f.) concrete pad for a new shed, resulting in a net reduction of 1,500 ± s.f.

687 of impervious surface in the inland wetland buffer. Said property is shown on Assessor Map 275 as Lot
688 8 and lies within the Single Residence A (SRA) District.

689
690 The Chair read the notice into the record.

691
692 **SPEAKING TO THE APPLICATION**

693
694 Mr. Errol Hebert explained the intent of the project to replace approximately 1,800 s.f. of broken
695 cement with crushed stone to improve drainage near the wetland buffer, to allow him to install a ready-
696 made shed.

697
698 Chairman Ricci asked if anyone else was present from the public wishing to speak to, for, or against
699 the application. Seeing no one rise, the Chair closed the public hearing.

700
701 **DISCUSSION AND DECISION OF THE BOARD**

702
703 Mr. Gamester made a motion to grant the Conditional Use Permit approval as presented, seconded by
704 Mr. Legg. The motion passed unanimously.

705
706

707 C. The application of **Ryan and Jennifer Smith, Owners**, for property located at **100 Peverly**
708 **Hill Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for
709 work within the inland wetland buffer to construct a 19'1" x 15'11" two story deck and a 24'11" x 12'
710 farmers porch, with 602 ± s.f. of impact to the inland wetland buffer. Said property is shown on
711 Assessor Map 243 as Lot 51 and lies within the Single Residence B (SRB) District.

712
713 The Chair read the notice into the record.

714
715 **SPEAKING TO THE APPLICATION**

716
717 Attorney Bernie Pelech explained that concerns raised by the Conservation Commission were
718 addressed and as a result it was determined that the soil was suitable for the presented rain garden plan.

719
720 Peter Britz, City Environmental Planner, provided a brief history for the purpose of the rain garden and
721 recommended the proposed plan.

722
723 Chairman Ricci asked if anyone was present from the public wishing to speak to, for, or against the
724 application. Seeing no one rise, the Chair closed the public hearing.

725
726 **DISCUSSION AND DECISION OF THE BOARD**

727
728 Vice Chairman Moreau made a motion to grant the Conditional Use Permit approval, as presented,
729 seconded by Mr. Gamester. The motion passed unanimously. (Refer to letter from Steven Riker, CWS,
730 of Ambit Engineering, dated July 20, 2016, with attachments, which was presented to the Board at the
731 meeting and incorporated as part of this approval.)

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D. The application of **J.P. Nadeau, Owner, and Sea Level, LLC, Applicant**, for property located at **187 Wentworth House Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer to remove 4,500 s.f. of PCB impacted surface soil and replace with 1' crushed stone, with 4,500 ± s.f. of impact to the tidal wetland buffer. Said property is shown on Assessor Map 268 as Lot 83 and lies within the Waterfront Business (WB) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Mr. Michael Dacey, of GeoInsight, indicated that the plan was approved by the EPA for the cleanup of polychlorinated biphenyls (PCB). The plan demonstrates that the impact would not exceed beyond surface grade and intends to remove the material in a two-stage process. The storm water drainage and vegetated swale would help to improve drainage. Anything outside that drainage area would flow to the riprap area. The project is expected to be completed in one week.

Mr. Dacey replied to Mr. Leduc that the duration of the soil stockpile will be up to one week as the project progresses and will likely be less than two yards in height.

Chairman Ricci requested the detailed sheet for the side slope and silk fence.

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

Mr. Gamester made a motion to grant Conditional Use Permit approval with Chairman Ricci's stipulation. Mr. Leduc seconded the motion.

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

- 1. Details shall be added for the silt fence and a 3:1 side slope.

.....
E. The application of **1987 Tamposi Limited Partnership, Owner, and Key Collision Center of Portsmouth, LLC, Applicant**, for property located at **9 Post Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for parking lot grading and improvements, construction of a bio-retention area, site drainage improvements and the installation of a fence, with 15,606 ± s.f. of impact to the inland wetland buffer. Said property is shown on Assessor Map 284 as Lot 11 and lies within the Industrial (I) District.

The Chair read the notice into the record.

779 Chairman Ricci stated he had no affiliation to this application and would recuse himself from the
780 voting, if requested.

781

782 **SPEAKING TO THE APPLICATION**

783

784 Mr. John Lorden, of TFM/MSD Engineers, explained the intent of the proposal is to renovate the
785 existing building to convert the collision center into solely a paint and auto body repair shop. The
786 proposed plan includes; installing an oil water separator inside the building, regrading and paving the
787 northern corner of the lot, installing a security fence, installing grass swales pitched towards bio
788 retention areas. He noted that site plan review is not required. He saw no increased disturbance overall
789 and believe it will improve the conditions of the wetland buffers with use of the bio retention areas.

790

791 Mr. Lorden replied to Chairman Ricci that minor grading would occur in the rear of the lot to be more
792 conducive for driving and the plan would be revised for that. All flows move towards the wetlands
793 through a swale and bio retention area. The grade connects horizontally on the plan.

794

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

797

798 **DISCUSSION AND DECISION OF THE BOARD**

799

800 Mr. Gamester made a motion to grant Conditional Use Permit approval with stipulations. Vice
801 Chairman Moreau seconded the motion.

802

803 The motion to grant Conditional Use Permit approval with the following stipulations:

804

- 805 1. The Grading and Drainage Plan shall be revised as follows:
- 806 a. Add grading in the back.
- 807 b. Revise note referring to the silt sock.

808

809

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

- 813 1. Proposed lot #1 having an area of 34,887 ± s.f. (0.8009 acres) and 194.56' of continuous street
- 814 frontage on Maplewood Avenue, 102.71' of continuous street frontage on Hanover Street,
- 815 313.32' of continuous frontage on Bridge Street, and 46.61' of continuous street frontage on
- 816 Deer Street; and
- 817 2. Proposed lot #2 having an area of 21,798 ± s.f. (.5004 acres) and 159.97' of continuous street
- 818 frontage on Maplewood Avenue and 147.98' of continuous street frontage on Deer Street.

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

821

822 The Chair read the notice into the record.

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824 **SPEAKING TO THE APPLICATION**

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Mr. John Chagnon, Ambit Engineering, noted that the plan was revised to add notes regarding the variance, preliminary approval and to remove notes regarding parking.

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 made a motion to grant Final Subdivision approval with stipulations. Mr. Gamester seconded the motion.

The motion to grant final subdivision approval passed unanimously with the following stipulations

1. Lot numbers as determined by the Assessor shall be added to the final plat.
2. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
3. GIS data shall be provided to the Department of Public Works in the form as required by the City.
4. The deed to the new lot, and all easement deeds, shall be subject to review and approval by the Legal and Planning Departments.
5. The final plat, deed and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

.....
VI. OTHER BUSINESS

A. Consideration of amendments to the Subdivision Rules and Regulations and the Site Plan Review Regulations to require pre-application review for certain major developments and to require that all mylars be pre-approved by the Registry of Deeds before being delivered to the Planning Department for recording.

Mr. Taintor explained the purposes for the two phases of pre-application review. He noted how some projects have invested a lot of time and money because of the current process. He suggested that the Planning Board formulate recommendations to improve the process. He added an amendment is necessary to require applicants pre-approve mylars through the registry before being delivered to the Planning Board.

Mr. Taintor explained to Vice Chairman Moreau the two types of preliminary review; one requiring less detail for vest the applicant from zoning changes, and the other which does the opposite. He noted a work session can still be scheduled, but the public should have an opportunity to provide comment.

Further deliberation amongst the Board and staff was had regarding various concerns for the amount of detail required and when.

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871 **VII. ADJOURNMENT**

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873 A motion to adjourn at 10:04 pm was made, seconded and passed unanimously.

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875

876 Respectfully Submitted,

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880
881 Marissa Day
882 Acting Secretary for the Planning Board