

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 PM REGULAR PLANNING BOARD MEETING

December 15, 2022

ACTION SHEET

I. PRESENTATIONS

- A. Receive a presentation and consider a recommendation to the City Council to adopt the proposed **FY2024- 2029 Capital Improvement Plan**.

The Board voted to recommend adoption of the Capital Improvement Plan to the City Council with the following amendments:

- 1. Increase the line funding for traffic calming to \$300,000.*
- 2. Add a placeholder for a Water Master Plan.*

Motion: Joe Almeida, Second: Gregg Mahanna. Motion passed with all in favor.

II. APPROVAL OF MINUTES

- A. Approval of the November 17, 2022 meeting minutes. *(Expected start time 7:00 pm)*

The Board voted to approve the November 17, 2022 meeting minutes as presented.

Motion: G. Mahanna, Second: J. Almeida. Motion passed with all in favor.

III. DETERMINATIONS OF COMPLETENESS

SUBDIVISION REVIEW

- A. The request of Port Harbor Land, LLC (Owner and Applicant), for property located at 2 Russell Street requesting Lot Line Revision Approval to adjust the boundary lines on three lots. (LU-22-111)

The Board voted to determine that the applications are complete according to the Subdivision Regulations, (contingent on the granting of any required waivers) and to accept the applications for

consideration.

Motion: B. Moreau, Second: C. Clark. Motion passed with all in favor.

- B.** The request of Jonathan Watson Sobel Revocable Trust (Owner), for property located at 49 Sheafe Street requesting preliminary and final subdivision approval to subdivide one (1) lot into two (2) lots. (LU-22-179)

The Board voted to determine that the applications are complete according to the Subdivision Regulations, (contingent on the granting of any required waivers) and to accept the applications for consideration.

Motion: G. Mahanna, Second: B. Moreau. Motion passed with all in favor.

SITE PLAN REVIEW

- A.** The request of Port Harbor Land, LLC (Owner and Applicant), for property located at 2 Russell Street requesting Site Plan Approval for the construction of 80 residential units, commercial space, and parking in three buildings. (LU-22-111)

The Board voted to determine that these applications are complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Sections III and IV of the agenda) and to accept the application for consideration.

Motion: G. Mahanna, Second: B. Moreau. Motion passed with all in favor.

- B.** The request of Tom Balon and EightKPH, LLC (Owner and Applicant), for property located at 161 Deer Street requesting Site Plan Review approval for the construction of a four (4) story building to include a penthouse, commercial space, 19 dwelling units, and associated site improvements. (LU-22-173)

The Board voted to determine that these applications are complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Sections III and IV of the agenda) and to accept the application for consideration.

Motion: G. Mahanna, Second: B. Moreau. Motion passed with all in favor.

- C.** The request of Seaport Realty LLC (Owner), for property located at 85 Daniel Street requesting Site Plan Approval to add a two-story rear addition and convert the existing structure into a four unit building consisting of 4 apartments. (LU-22-75)

The Board voted to determine that these applications are complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Sections III and IV of the agenda) and to accept the application for consideration.

Motion: C. Clark, Second: K. Conard. Motion passed with all in favor.

IV. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature.

If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- A.** The request of **Jason A. and Kristin E. Britt (Owners)**, for property located at **29 Versailles Avenue** requesting Conditional Use Permit approval as permitted under Section 10.815 of the Zoning Ordinance to create a Garden Cottage (Accessory Dwelling Unit). Said property is shown on Assessor Map 222 Lot 61 and is located within the General Residence A (GRA) District. (LU-22-200)

1) The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.815.40 and to adopt the findings of fact as presented.

Motion: C. Clark, Second: B. Moreau. Motion passed with all in favor.

- 1) Vote to **grant** the conditional use permit with the following **condition**:*

In accordance with [Sec. 10.814.70] of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of [Sec. 10.814], including the owner-occupancy requirement, and shall renew the certificate of use annually. The carport may not be enclosed without providing new direct egress for the unit.

Motion: C. Clark, Second: B. Moreau. Motion passed with all in favor.

- B.** The request of **Port Harbor Land, LLC (Owner and Applicant)**, for property located at **2 Russell Street** requesting Lot Line Revision Approval to adjust the boundary lines on three lots to create one lot with 18,237 square feet (0.418 acres) of lot area, one lot with 52,651 square feet (1.209 acres) of lot area, and one lot with 19,141 square feet (0.429 acres) of lot area. Said properties are located on Assessor Map 118 Lot 28, Map 124 Lot 12, and Map 125 Lot 21 and lie within the Character District 5 (CD5), North End Incentive Overlay District, Historic District, and the Downtown Overlay District. (LU-22-111)

Subdivision

- 1) The Board voted to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented.*

Motion: B. Moreau, Second: J. Almeida. Motion passed with all in favor.

- 2) The Board voted to **grant** subdivision approval with the following **conditions**:*

2.1) The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

- 2.2) *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
- 2.3) *GIS data shall be provided to the Department of Public Works in the form as required by the City.*

Motion: B. Moreau, Second: K. Conard. Motion passed 8-1.

- C. The request of **Port Harbor Land, LLC (Owner and Applicant)**, for property located at **2 Russell Street** requesting Site Plan Approval for the construction of 80 residential units, commercial space, and parking in three buildings with associated community space, paving, utilizes, landscaping, and other site improvements including three proposed land transfers to allow for the realignment of the Russell Street & Deer Street intersection and for the City's future construction of a roundabout at Russell Street and Market Street (Land transfer area 1 is proposed from Map 119 Lot 4 to the City of Portsmouth. Land transfer areas 2 and 3 are from Map 119 Lot 1-1C to the City of Portsmouth); Conditional Use Permit Approval to provide 334 parking spaces on separate lots where 334 spaces are required as permitted under Section 10.1112.62 of the Zoning Ordinance; and Conditional Use Permit Approval to allow a 40,000 square foot building footprint within the CD5 as permitted under 10.5A43.43 of the Zoning Ordinance. Said properties are located on Assessor Map 118 Lot 28, Map 124 Lot 12, Map 125 Lot 21, Map 119 Lot 4, and Map 119 Lot 1-1C and lie within the Character District 5 (CD5), North End Incentive Overlay District, Historic District, and the Downtown Overlay District. (LU-22-111)

Site Plan Approval

1) The Board voted to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as amended

Motion: B. Moreau, Seconded: J. Almeida. Motion passed 6-3.

*2.) The Board voted to **grant** Site Plan Approval with the following **conditions**:*

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:

- 2.1) *Proposed tree grates, planting details, and planting species will be require approval from the Trees and Greenery Committee.*
- 2.2) *Proposed changes to on-street parking will require approval from Parking and Traffic Safety Committee and the City Council.*
- 2.3) *Applicant will copy the City of Portsmouth DPW on all related correspondence because this infrastructure lies within the City's right-of-way and can affect traffic operations at the adjacent municipal intersections.*
- 2.4) *The location of the proposed sign cluster at the northerly end of the rear access aisle will need to be coordinated with the ultimate location of the Green Street sidewalk / railroad crossing treatment.*
- 2.5) *Fair share contribution for the roundabout at Market Street and Russell Street.*
- 2.6) *"No public parking" sign at garage entrance from backside (show on plans).*
- 2.7) *An easement will be needed across map 119, map 4 for the construction of the intersection improvements.*
- 2.8) *The site plan, and any easement plans and deeds shall be recorded at the Registry of*

- Deeds by the City or as deemed appropriate by the Planning Department.*
- 2.9) *The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments.*
 - 2.10) *The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.*
 - 2.11) *Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>*
 - 2.12) *Develop a delivery and loading plan to and from the development for Parking, Traffic and Safety review and approval.*

Prior to the issuance of a Certificate of Occupancy or release of the bond:

- 2.13) *The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance.*
- 2.14) *A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/ Public Works Department.*

Motion: B. Moreau, Second: J. Almeida. Motion passed 8-1.

Conditional Use Permit – 10.1112.62 Shared Parking

1) The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.62 and to adopt the findings of fact as presented.

Motion: B. Moreau, Second: G. Mahanna. Motion passed with all in favor.

*2) The Board voted to find that the number of off-street parking spaces provided will be adequate and appropriate for the proposed use of the property and to **grant** the conditional use permit as presented with the following **condition**:*

- 2.1) *The shared parking arrangement shall be secured by a covenant acceptable to the City and recorded at the Rockingham County Registry of Deeds.*

Motion: B. Moreau, Second: G. Mahanna. Motion passed with all in favor.

Conditional Use Permit – 10.5A43.43 Maximum Building Footprint

1) The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.5A43.43 and to adopt the findings of fact as presented.

Motion: B. Moreau, Second: G. Mahanna. Motion passed with all in favor.

*2) The Board voted to **grant** the conditional use permit to allow a building footprint up to 40,000 SF within the CD5 as permitted under 10.5A43.43.*

Motion: B. Moreau, Second: G. Mahanna. Motion passed with all in favor.

- D.** The request of **Tom Balon and EightKPH, LLC (Owner and Applicant)**, for property located at **161 Deer Street** requesting Site Plan Review approval for the construction of a four (4) story building to include a penthouse, commercial space, 19 dwelling units, and associated site improvements. Said property is shown on Assessor Map 125 Lot 17-3 and lies within the Character District 5 (CD5), Downtown Overlay, North End Incentive, and Historic Districts. (LU-22-173)

1) The Board voted to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as amended.

Motion: B. Moreau, Second: G. Mahanna. Motion passed with all in favor.

*2.) The Board voted to **grant** Site Plan Approval with the following **conditions**:*

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:

- 2.1) Applicant will updated street lighting circuit to originate from a streetlight or street light pull box for Department of Public Works review and approval.*
- 2.2) Applicant will make a \$50,000 contribution to the Maplewood Avenue corridor video detection signal system.*
- 2.3) Proposed easement to Eversource must be expanded to include area over conduit crossing map 125, lot 17-2*
- 2.4) Provide detail sheet on pedestrian/vehicle warning sign/device at garage entrance.*
- 2.5) The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 2.6) The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments.*
- 2.7) The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.*
- 2.8) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>*
- 2.9) Dark sky compliant lighting shall be installed along the entrance side of the building.*
- 2.10) Applicant shall maximize the size of the delivery space.*

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a certificate of occupancy and release of the surety:

- 2.11) Install new pull box on each side of conduit crossing Deer Street for street lights.*
- 2.12) The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance.*
- 2.13) A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/ Public Works*

Department.

Motion: B. Moreau, Second: K. Conard. Motion passed with all in favor.

- E.** The request of **Seaport Realty LLC (Owner)**, for property located at **85 Daniel Street** requesting Site Plan Approval to add a two-story rear addition and convert the existing structure into a four unit building consisting of 4 apartments with associated stormwater, utility and site improvements. Said property is shown on Assessor Map 107 as Lot 8 and lies within the Character District 4 (CD4) and Historic Districts. (LU-22-75)

1) The Board voted to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented.

Motion: C. Clark, Second: B. Moreau. Motion passed with all in favor.

*2.) The Board voted to **grant** Site Plan Approval with the following **conditions**:*

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:

- 2.1) The site plan, and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

Motion: C. Clark, Second: K. Conard. Motion passed with all in favor.

- F.** The request of **Jonathan Watson Sobel Revocable Trust (Owner)**, for property located at **49 Sheafe Street** requesting preliminary and final subdivision approval to subdivide one (1) lot with an area of 5,402 s.f. and 50.55 ft. of continuous street frontage on Sheafe Street and 22.93 feet of frontage on Custom House Court into two (2) lots as follows: Proposed lot 1 with an area of 1,855 s.f. and 22.93 ft. of continuous street frontage on Custom House Court; and Proposed Lot 2 with an area of 3,548 s.f. and 50.55 ft of continuous street frontage on Sheafe Street. Said property is shown on Assessor Map 107 Lot 21 and lies within the CD4 and Historic Districts. (LU-22-179)

1) The Board voted to find that the Subdivision application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented.

Motion: B. Moreau, Second: j. Almeida. Motion passed with all in favor.

2) The Board voted to **grant** preliminary and final subdivision approval with the following **conditions**:

2.1) Water service line shall be installed and functioning or bonded prior to recordation of subdivision plat;

2.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat;

2.3) GIS data shall be provided to the Department of Public Works in the form as required by the City;

2.4) The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

Motion: B. Moreau, Second: K. Conard. Motion passed with all in favor.

G. The request of **Darren Kenny (Owner)**, for property located at **800 Mcgee Drive** requesting a Wetland Conditional Use Permit under section 10.1017. This project proposes a disturbance of 168 s.f. within the 100' wetland buffer zone. This application proposes constructing a 10 x 12' shed on top of 2" of crushed stone in an area that is 12 x 14' within the wetland buffer. The applicant is proposing an area that is farthest from the wetland edge and has already done invasive species removal on site and within the 25' vegetated buffer strip. Said property is shown on Assessor Map 219 Lot 45-6 and lies within the Single Residence B (SRB) District. (LU-22-208)

1) The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.50 and to adopt the findings of fact as presented.

Motion: G. Mahanna, Second: B. Moreau. Motion passed with all in favor.

2) The Board voted to **grant** the Wetland Conditional Use permit with the following **conditions**:

2.1) The Conservation Commission recommends the property owner follow NOFA land care standards on the site.

http://www.organiclandcare.net/sites/default/files/nofa_organic_land_care_standards_6thedition_2017_opt.pdf

2.2) The Conservation Commission recommends the property owner consider native plantings where bittersweet currently is being removed.

Motion: G. Mahanna, Second: B. Moreau. Motion passed with all in favor.

H. The request of **Jaws LJ Jaws Brindamour Revocable Trust and SC Brindamour Revocable Trust (Owners)**, and **Luke J. Brindamour (Applicant)**, for property located at **653 Greenland Road** requesting Conditional Use Permit approval as permitted under Section 10.814.50 of the Zoning Ordinance to create a Detached Accessory Dwelling Unit in an existing Garage. Said property is shown on Assessor Map 259 Lot 31 and is located within the Single Residence B (SRB) District. (LU-22-228)

Action Sheet, Planning Board Meeting, December 15, 2022

1) *The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.814.60 and to adopt the findings of fact as presented.*

Motion: C. Clark, Second: G. Mahanna. Motion passed with all in favor.

2) Voted to **grant** the conditional use permit with the following modification and **conditions**:

Modification to 10.814.54 to allow the DADU shall be separated from the single-family dwelling by less than 20 feet.

Modification to 10.814.55 to allow the front wall of the DADU to be closer to the front lot line than the existing front wall of the single-family dwelling.

2.1) *In accordance with [Sec. 10.814.70] of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of [Sec. 10.814], including the owner-occupancy requirement, and shall renew the certificate of use annually.*

Motion: C. Clark, Second: B. Moreau. Motion passed with all in favor.

V. CITY COUNCIL REFFERALS

- A. Review and discuss Phase II Regulatory Amendments and set a public hearing date for consideration.

*The Board voted to set date for a public hearing at the regular Planning Board meeting scheduled for January 19, 2022 and to schedule a workshop on **January 26, 2022** to review Phase II Regulatory Amendments related to Accessory Dwelling Units.*

VI. OTHER BUSINESS

- A. **Gregory and Amanda Morneault (Owners)**, for the property located at **137 Northwest Street** requesting a 1-Year Extension to the Planning Board approval for a Wetland Conditional Use Permit granted on January 27, 2022. (LU-20-222)

1) *The Board voted to **grant** a one-year extension of the Wetland Conditional Use Permit as requested.*

Motion: B. Moreau, Second: K. Conard. Motion passed with all in favor.

- B. **2422 Lafayette Road Associates LLC (Owner)**, and **Torrington Properties Inc. (Applicant)**, for property located at **2454 Lafayette Road** requesting a 1-year Extension to the Planning Board approval for Site Plan and CUP permits granted on December 30, 2021. (LU-21-192)

1) *The Board voted to **grant** a one-year extension to the Planning Board Approval of the Site Plan and Conditional Use Permit as requested.*

Action Sheet, Planning Board Meeting, December 15, 2022

Motion: B. Moreau, Second: J. Almeida. Motion passed with all in favor.

C. Chairman's Updates and Discussion Items

D. Board Discussion of Regulatory Amendments and Other Matters

VII. ADJOURNMENT

The meeting was adjourned at 11:10 PM