

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

7:00 PM REGULAR PLANNING BOARD MEETING

February 17, 2022

ACTION SHEET

MEMBERS PRESENT: Rick Chellman, Chairman; Corey Clark Vice Chair; Karen Conard, City Manager; Ray Pezzulo, Assistant City Engineer; Councilor Beth Moreau; Peter Harris; Greg Mahanna; Jayne Begala; James Hewitt; Franco DiRienzo, Alternate; Andrew Samonas, Alternate

ALSO PRESENT: Beverly M. Zendt, Planning Director; Robert Sullivan, City Attorney, Peter Britz, Environmental Planner; Stefanie Casella, Planner I

MEMBERS ABSENT:

I. APPROVAL OF MINUTES

A. Approval of the January 27, 2022 minutes.

*The January 27, 2022 minutes were **approved** with the exception of items that speak to the case considered at 31 Raynes Avenue, 203 Maplewood Avenue, and 1 Raynes Avenue. Per court order, no action is to be taken on that case.*

II. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

A. Request of **Ricci Construction Company Inc., (Owner)** and **Green & Company Building & Development Corp., (Applicant)** for property located at **3400 Lafayette Rd** requesting Conditional Use Permit for a Development Site in accordance with Section 10.5B40 of the Zoning Ordinance and Site Plan Review approval.

*The Board Voted to determine that the application is **complete** according to the Site Plan Review Regulations and to **accept** the application for consideration.*

- B. The request of **Monarch Village, LLC (Applicant)**, on behalf of **Neveesha Hospitality, LLC (Owner)**, for property located at **3548 Lafayette Road** requesting Site plan approval.

*The Board Voted to determine that the application is **complete** according to the Site Plan Review Regulations and to **accept** the application for consideration.*

- ~~C. The rehearing request for property located at **31 Raynes Avenue, 203 Maplewood Avenue, and 1 Raynes Avenue** for a Conditional Use Permit as permitted by Section 10.1112.62 of the Zoning Ordinance and Site Plan Review.~~

III. PUBLIC HEARINGS -- OLD BUSINESS

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

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

- A. Request of **Ricci Construction Company Inc., (Owner)** and **Green & Company Building & Development Corp., (Applicant)** for property located at **3400 Lafayette Rd** requesting a wetland Conditional Use Permit under section 10.1017 to construct 50 town homes on an undeveloped lot. The (Applicant) is proposing five areas of wetland impact for a total of 21,350 square feet of permanent impact and three areas of temporary impact for a total of 2,350 square feet. Said property is shown on Assessor Map 297 Lot 11 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District and the Natural Resource Protection (NRP) District. (LU-21-98)

The Board voted to request that the applicant revise the plans to comply with the requirements of Section 10.5B92 related to the provision of an 8' wide pedestrian walkway throughout the site.

Motion Failed

The Board voted to approve the wetland conditional use permit with the following stipulations:

1.1) *The Condominium documents shall include maintenance for the landscaping and plants proposed for the wetland buffer area and also a requirement that the property owners shall utilize NOFA (Northeast Organic Farming Association) approved practices (or comparable equivalent) for landscaped areas on the site.*

1.2) *The condominium documents shall prohibit the use of salt on paved surfaces.*

1.3) *Applicant will include specification for the use of NOFA standards on the plan set.*

1.4) *The Operation and Maintenance Manual will include outfall monitoring to occur quarterly.*

B. Request of Ricci Construction Company Inc., (Owner) and Green & Company Building & Development Corp., (Applicant) for property located at 3400 Lafayette Rd requesting Conditional Use Permit for a Development Site in accordance with Section 10.5B40 of the Zoning Ordinance and Site Plan Review approval for construction of a 50-unit multi-family residential development that includes community space and related landscaping, drainage, paving, utilities and other site improvements. Said property is shown on Assessor Map 297 Lot 11 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District and the Natural Resource Protection (NRP) District. (LU-21-98)

2) *The Board voted to find that the application meets the requirements of Section 10.5B43.10 and to grant a conditional use permit for a Development Site subject to the requirements and conditions of site plan review approval.*

3) *Vote to grant site plan review approval with the following stipulations:*

Conditions Precedent

3.1) *Deeded public access will be provided to the proposed open space and undeveloped portion of the property that abuts city-owned parcels.*

3.2) *Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by City Council.*

3.3) *The applicant shall provide \$155,000 to the City of Portsmouth prior to approval of the Site Plan Agreement for the purpose of infiltration and inflow removal.*

3.4) *The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the installation of utilities and stormwater infrastructure.*

3.5) *The Applicant or its engineer shall submit a copy of a completed Land Use Development Tracking Form using the Pollutant Tracking and Accounting Program (PTAP) online portal currently managed by the UNH Stormwater Center or similar form approved by the City.*

3.6) *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.*

3.7) *Applicant to provide a design report on the water booster system summarizing water system supply, pressures and operation for potable water, irrigation, and fire suppression to the satisfaction of the Fire Department and Department of Public Works.*

Conditions Subsequent:

3.8) *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;*

3.9) *A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted to the City's Planning and Public Works Departments.*

4) *The Board voted to have applicant work with the City to provide meaningful access to and across City sewer easement. This motion failed.*

C. The request of **Monarch Village, LLC (Applicant)**, on behalf of **Nevesha Hospitality, LLC (Owner)**, for property located at **3548 Lafayette Road** requesting Site Plan Review and a Conditional Use Permit as permitted under 10.5B41.10 of the Zoning Ordinance to allow for the demolition of 6 structures; the redevelopment of 6 existing structures to create 6 units in building 8, 15 units in building 2, 5 units in building 4, 2 units in building 5, 9 units in building 7; the construction of 4 new structures to create 12 units in building 3 with a 4,303 square foot footprint, 24 units in building 6 with a 7,048 square foot footprint, a 250 square foot storage structure and an 825 square foot storage structure; creating a total of seventy-five (75) residential units with 123 parking spaces where 113 spaces are required. Said property is shown on Assessor Map 297 Lot 6 and lies within the Gateway Corridor (G1) District. (LU-21-90)

The Board voted to find the application is complete according to the Site Plan Review Regulations and to accept the application for consideration.

1) *The Board voted to find that the application meets the requirements of Section 10.5B43.10 and to grant a conditional use permit for a Development Site subject to the requirements and conditions of site plan review approval.*

2) *Vote to grant Site Plan Approval with the following stipulations:*

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

2.1.) *Remove one additional space from parking area between Building 7 and Building 8 to total 11 spaces and update parking calculations found in note #8.*

2.2) *Include design detail for dog-park subject to review by Planning Staff.*

2.3) *The applicant shall provide \$22,733 to the City of Portsmouth prior to approval of the Site Review Agreement for the purpose of the infiltration and inflow removal project. The costs will be used for engineering and construction of the Sewer System Rehabilitation Contract 1 project being overseen by the City. This work is anticipated to be complete by October 2023.*

2.4) *Page C4 note 15, polyethylene wrap needs to be soil tight not water tight and is only needed around ductile iron pipe. If the contractor is going to use c900 water pipe, tracing wires must be provided that meet the water department requirements.*

2.5) *Add to the profile near the Ripley Dam that 'the City MUST inspect the dam as it's being installed'. Dam should be moved to station 0+60 now that drainage design has changed.*

2.6) *Add thrust block at horizontal 90 degree bend at hydrant. Hydrant location is fine with DPW, needs to be approved by Portsmouth Fire.*

2.7) *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.*

2.8) *Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by City Council.*

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 public utility improvements within the public rights-of-way and on site*

2.11) *Owner shall provide an access easement to the City for water valve access and leak detection. The easement shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.*

2.12) *The Applicant or its engineer shall submit a copy of a completed Land Use Development Tracking Form using the Pollutant Tracking and Accounting Program (PTAP) online portal currently managed by the UNH Stormwater Center or similar form approved by the City.*

2.13) *Applicant shall add additional lighting to western sidewalk.*

2.14) *Applicant shall contact COAST and request additional bus service be added to accommodate the addition of 125 units within the general area.*

2.15) *Applicant shall add a terminal man hole at the end of the sewer line*

Conditions Subsequent:

2.16) *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;*

2.17) *A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted to the City's Planning and Public Works Departments.*

D. The rehearing request of **Duncan McCallum (Rehearing Applicant)**, for property located at **31 Raynes Avenue, 203 Maplewood Avenue, and 1 Raynes Avenue** for a Conditional Use Permit as permitted by Section 10.1112.62 of the Zoning Ordinance and according to the requirements of Section 10.1112.14 to allow 113 off-street parking spaces including 18 reserved spaces to be provided on-site and 25 spaces to

be provided on a separate lot where a total of 138 are required and Site Plan Review approval for the demolition of three existing buildings and construction of the following: 1) a 5-story mixed use building with 66,676 gross floor area and 16,629 sq. ft. building footprint including 7,720 sq. ft. of commercial use on the ground story and 32 residential units on the upper stories; 2) a 5-story 124-room hotel with 65,980 gross floor area and 14,622 sq. ft. of building footprint; 3) 34,427 sq. ft. of community space as well as associated paving, lighting, utilities, landscaping and other site improvements. Said properties are shown on Assessor Map 123 Lot 14, Map 123 Lot 13, Map 123 Lot 12, Map 123 Lot 10 and lie within the Character District 4 (CD4) District, Downtown Overlay District (DOD), Historic District, and the North End Incentive Overlay District. (LU-21-54) **THIS MATTER WILL NOT BE HEARD PER COURT ORDER**

This request was not heard and no action was taken due to court order.

- E. The rehearing request of **Duncan McCallum (Rehearing Applicant)**, for property located at **31 Raynes Avenue, 203 Maplewood Avenue, and 1 Raynes Avenue** requesting a Wetland Conditional Use Permit under section 10.1017 to construct two buildings 1) a 5 story mixed use commercial and residential building and 2) a five story hotel building with 124 rooms. The project has removed all of the impervious surface from the 25' tidal buffer, proposes 67 square feet of impervious surface in the 25-50' tidal buffer and 21,190 square feet of impervious in the 50-100' tidal buffer. Overall the project is able to demonstrate a reduction of 7,070 square feet of impervious surface in the tidal wetland buffer from the existing condition or a reduction of 10,107 square feet if the reserve parking is not constructed. Said properties are shown on Assessor Map 123 Lot 14, Map 123 Lot 13, Map 123 Lot 12, Map 123 Lot 10 and lie within the Character District 4 (CD4) District, Downtown Overlay District (DOD), Historic District, and the North End Incentive Overlay District. (LU-21-54) **THIS MATTER WILL NOT BE HEARD PER COURT ORDER**

This request was not heard and no action was taken due to court order.

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. **REQUEST TO POSTPONE** The request of **Cate Street Development (Owner)**, for property located at **406 US Route 1 Bypass**, requesting amended Site Plan Review approval to reconfigure and expand parking on Tax Map 172 Lot 2, Tax Map 172 Lot 1, and Tax Map 165 Lot 2 to contain 73 new spaces (52 covered); to renovate the existing structure on Tax Map 172 Lot 2; and to add a bioretention stormwater facilities,

stormwater collection and treatment facilities on Tax Map 172 Lot 1 and Map 165 Lot 2. Said properties are shown on Assessor Map 172 Lot 1, Map 172 Lot 2, and Map 165 Lot 2 and lie within the Gateway Corridor (G1) District. **REQUEST TO POSTPONE** (LU-22-7)

*The Board voted to **postpone** consideration to the March Planning Board meeting.*

- B. **REQUEST TO POSTPONE** The request of **Cate Street Development LLC (Owner)**, and **Boston and Maine Corp (Owner)**, for properties located at **428 US Route 1 Bypass, 406 US Route 1 Bypass, and 55 Cate St** requesting Preliminary and Final Subdivision approval (Lot Line Revision) to convey 31,187 square feet from Map 165 Lot 14 to Map 172 Lot 2, Map 172 Lot 1 and Map 165 Lot 2 which will result in a total of 52,820 square feet lot area for Map 172 Lot 2, 126,500 square feet lot area for Map 172 Lot 1, and 260,789 square feet lot area for Map 165 Lot 2. Said properties are shown on Assessor Map 172 Lot 1, Map 172 Lot 2, Map 165 Lot 2, and Map 165 Lot 14 and lie within the Transportation Corridor (TC) and the Gateway Corridor (G1) District. **REQUEST TO POSTPONE** (LU-22-7)

*The Board voted to **postpone** consideration to the March Planning Board meeting.*

V. DESIGN REVIEW – PUBLIC HEARING

- A. The request of **Port Harbor Land LLC (Owner)**, for the property located at **2 Russell Street** and along Russell Street and Deer Street requesting Design Review for a mixed use project consisting of office, retail/commercial, and residential uses in one 4-story and two 5-story buildings. The site is located between, Russell Street, Deer Street, Maplewood Avenue and the Railroad Corridor. Said properties are located on Assessor Map 124 Lot 12, Assessor Map 118 Lot 28, Assessor Map 119 Lot 4, and Assessor Map 125 Lot 21 and lie within the Character District 5 (CD-5). (LUPD-22-1)

*The Board voted to find the design review process to be **complete**.*

PRELIMINARY CONCEPTUAL CONSULTATION

- A. The request of **Julia R. Tiebout Revocable Trust (Owner)**, for the property located at **405 South Street** requesting Preliminary Conceptual Consultation for the subdivision of the existing parcel of 0.52 acres (22,750 square feet) into two lots. Said property is shown on Assessor Map 111 Lot 18 and is located in the General Residence A (GRA) District. (LUPD-22-4)

*The Preliminary Conceptual Consultation is **complete**, no action was taken.*

- B. The request of **230 Commerce Way LLC**, for the property located at **230 Commerce Way** requesting Preliminary Conceptual Consultation for the construction of a new 2-story structure with 12,000 square feet of office space and veterinary clinic. Said property is shown on Assessor Map 216 Lot 1-5 and located within the Office Research (OR) District. (LUPD-22-5)

*The Preliminary Conceptual Consultation is **complete**, no action was taken.*

VII. PUBLIC HEARING - CITY COUNCIL REFERRALS

- A. Application of **Randi Collins (Owner)**, for the restoration of involuntarily merged lots at **77 Meredith Way** to their pre-merger status pursuant to NH RSA 674:39-aa. Said property is shown on Assessor Map 162 Lot 16 and lies within the General Residence A (GRA) district. (RIML-21-5)

*The Board voted to **recommend denial** of lot unmerging to the City Council.*

VIII. OTHER BUSINESS

- A. Request of **238 Deer Street LLC (Owner)**, for the property located at **238 Deer Street** for a 1-year extension of the Conditional Use Permit approval granted on February 18, 2021. (LU-20-238)

*The Board voted to **grant** a 1-year extension of the Conditional Use Permit granted on February 18, 2021.*

- B. Request of **Robert Gigliotti (Owner)**, for the property located at **292 Lang Road** for a 1-Year extension of the Wetland Conditional Use Permit approval granted on February 18, 2021. (LU-20-215)

*The Board voted to **grant** a 1-year extension of the Wetland Conditional Use Permit granted on February 18, 2021.*

IX. ADJOURNMENT

The meeting was adjourned at 11:45 PM.