

**REGULAR MEETING
PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

7:00 PM

April 21, 2022

MINUTES

MEMBERS PRESENT: Rick Chellman, Chairman; Karen Conard, City Manager; Ray Pezzullo, Assistant City Engineer; Beth Moreau; Greg Mahanna; Peter Harris; James Hewitt; Franco DiRienzo, Alternate;

ALSO PRESENT: Beverly M. Zendt, Planning Director; Peter Britz, Environmental Planner; Stefanie Casella, Planner 1

MEMBERS ABSENT: Corey Clark, Vice Chair; Andrew Samonas, Alternate; Jane Begala,

.....

I. APPROVAL OF MINUTES

A. Approval of March 17, 2022 minutes.

Mr. Hewitt commented that the parameters for the West End Yards parking report should include the number of “bedrooms” not “beds.” Also, the second to last sentence where it says, “Mr. Hewitt confirmed that would work” should include “if it contained the information that was requested for the report.” The heading under the minutes says March 15, 2022, but it should say March 17, 2022.

City Manager Conard moved to approve the minutes from the March 17, 2022, Planning Board Meeting, as amended, seconded by City Council Representative Moreau. The motion passed unanimously.

II. 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 TO POSTPONE The request of **Donald Lowell Stickney III (Owner)**, for property located at **213 Jones Avenue** requesting Conditional Use Permit under section 10.814 of the Zoning Ordinance and modification of the standards set forth in Sections 10.814.40 or 10.814.52 through 10.814.56, to construct a new single family residence and convert the existing residence into a Detached Accessory Dwelling Unit totaling 886

square feet of living area. Said property is shown on Assessor Map 222 Lot 69 and lies within the Single Residence B (SRB) district. (LU-22-34) **REQUEST TO POSTPONE**

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Moreau moved to postpone the application to the May Planning Board Meeting, seconded by City Manager Conard. The motion passed unanimously.

- B.** The request of **Nerbonne Family Revocable Trust (Owner)**, for property located at **189 Gates Street** requesting a Conditional Use Permit under section 10.815 of the Zoning Ordinance and modification of the standards set forth in Section 10.815.30 for the conversion of an existing accessory structure (garage) into a garden cottage with 507 gross square footage of living space. Said property is shown on Assessor Map 103 Lot 6 and lies within the General Residence B (GRB) and Historic Districts. (LU-22-30)

SPEAKING TO THE APPLICATION

Kelly Sanders spoke to the application. Ms. Sanders commented that her parents were requesting a CUP to convert their garage into a DADU. They need the cottage to create housing for Ms. Sanders to be a care giver for her father who has Alzheimer's. The proposal fits in with the character of the neighborhood and supports the City's goals of providing more affordable housing. Ms. Sanders took early retirement to move in with her parents and care for her father. It is important for him to be in a secure and familiar environment. They approached this project with a commitment to the community and worked to keep it in the style and spirit of the South End. Portsmouth has been thinking about how to support people aging in their homes and provide affordable housing. This is the most feasible and affordable option.

Architect Anne Whitney commented that they were asking for a CUP to reuse the garage with a small addition. They went to the ZBA for a variance and were approved. The proposal originally had a bigger addition with a deck. However, after receiving feedback from the abutter they reduced the size of the addition and eliminated the deck. The garage is currently 354 sf, and the addition will make it 507 sf. There will be one skylight on the new addition. They will be adding gutters to the garage and the addition. The addition will be on posts, so there will not be a new foundation. The proposal will bring drainage under the addition and out to the middle of the property to avoid going to the neighbor's property. The current garage is a blank slate, so adding the addition will help to blend it with the other properties. They are requesting a waiver to expand the existing structure. The existing garage is 354 sf, and the proposed addition is 153 sf. The total square footage is smaller than the maximum that is allowed. The ordinance allows for a potential 50-foot entry. The lot size is non-conforming to pursue a DADU, they would need more variances. This is more in line with a garden cottage use. It is under 600 sf and will be a total of 507 sf. The exterior design will be complimentary to the primary structure. There will be minimal impact on the landscaped yard. The existing driveway will not change. There will not be any windows on the right side. The proposed addition will break up the blank wall. The left side is more than 30 feet from the abutting property. This will not result in excessive noise. They did get zoning approval. The existing brick driveway and access to the backyard

would be blocked if the addition was shifted. They have a 25-foot setback from the cemetery. This is the simplest and least intrusive way to put on a small addition. They can't do a lot in this neighborhood without zoning relief. They are asking for a waiver because it is a good use for the property and the benefit outweighs the detriment.

Chairman Chellman questioned if they were putting in drainage. Ms. Whitney responded that right now water runs down the driveway and into the middle of the property now. They will add gutters and create a dry well to infiltrate water. Chairman Chellman clarified that the existing garage had no gutters. Ms. Whitney confirmed that was correct.

Mr. Mahanna commented that the abutter has made a lot of comments. Runoff ends up in the middle of the abutter's backyard. Ms. Whitney commented that it was not just the water from this property. Mr. Mahanna noted that this roof would add more water. Ms. Whitney responded that the additional water would be guttered and then it will go to a dry well. Mr. Mahanna commented that the ordinance says they cannot expand vertically or horizontally. Ms. Whitney responded that is why they are requesting a waiver from the Planning Board. Mr. Mahanna commented that they also needed adequate open space and off-street parking. This proposal is not adding parking. Ms. Whitney responded that the driveway could fit 4 parked cars if they are stacked. There is plenty of open space. It is a bigger backyard comparative to the neighborhood. Mr. Mahanna commented that the ordinance states that it will not significantly reduce the privacy of the adjacent property. Ms. Whitney responded that they did not think it would. There are no windows. The original proposal had a deck, but it was removed so it would not be overlooking the abutter's property. They have made some concessions, but they are trying to make it functional. There was a question raised about why they can't go vertically. There is a steep pitched roof, but the attic only has 32 inches that is 6'8" in height. Mr. Mahanna questioned why they could not expand toward the main house. Ms. Whitney responded that the main accessway to the backyard is a narrow path between the two properties. It doesn't work. They know they don't have the support of the neighbors, but they have made concessions. A lot more confining variances have been granted in this neighborhood. This is a reasonable request in the context of the neighborhood. Mr. Mahanna commented that it was a hardship on the abutter. Ms. Whitney responded that they understood that.

PUBLIC HEARING

Linda McVey of 42 Hunting St. spoke in favor of the application. The neighborhood has a high number of aging families. They want to age in place. Ms. McVey faced a similar situation 2 years ago and applied to add on a 1 story addition to accommodate her ailing husband. They were grateful they could stay in their home. They felt supported by this committee and community. The Nerbonnes are asking to modify which will allow them to age in place. Granting this petition will demonstrate that this committee and community care for older citizens' needs.

John Rose of 14 Mechanic St. spoke in favor of the petition. Mr. Rose was supportive of the owners and the situation they were in. Mr. Rose did not see it as a hardship. They spent a lot of time and energy to make sure the house fit into the neighborhood. Changing the back wall will

fit more into the aesthetic. This did not change any privacy or cause any distractions for him. It is a good addition and on a personal level it's the right thing to do.

Sandra Dika of 333 Marcy St. commented that this was not the first time a garage has a change of use. It is common in this neighborhood for properties to have historic outbuildings. Many of these secondary buildings were built right on lot lines. The Nerbonnes renovated their property in 1989 and have lived there ever since. Many people in the audience know the contributions the Nerbonnes have made to the community through Friends of the South End and the Fairy House Tours. They need to make efficient use of their property and that's what ADU's do. Please grant the permit and allow them to age in place.

Nancy Eichner lives in New Castle and has worked with the Nerbonnes on the Seacoast Village Project, which advocates for people to age in place. Ms. Eichner is a professional care manager. She helped the Nerbonnes look at every way they could use their home to support changing mobility and cognitive needs and the caregivers required. The willingness of family to step in and live on site is critical. Temporary changes were made in the house, and it was very difficult for Mr. Nerbonne to adjust. Construction in the house is not possible for him to navigate. They looked at flexible ways to allow them to age in place. Ms. Eichner urged the Board to support this application.

Eric Mayer from DTC Lawyers represented the Butlers who live at 199 Gate St. which is the property immediately adjacent to the Nerbonnes and closest to the proposed garden cottage. The ordinance states that a garden cottage needs to go into an existing building. It cannot expand horizontally or vertically. They can have a 300-sf rear deck or a 50-sf entrance. The modification mechanism can modify specific dimensional standards. The ordinance exists to allow for the existing structure to be constructed and relaxes some standards when there is no new structure on the property. This is a 60% expansion. The modification should not be applied to an addition. It's for a specific dimensional standard. Their request is contrary to the mechanism of the ordinance. The proper course of action would be to file for a DADU not a garden cottage.

James Butler and Devon Quinn owners of 199 Gate St. spoke against the application. They bought their home in 2020 and liked the relative privacy and larger yard. They are also involved in the community and supportive of aging in place. They knew the Nerbonnes wanted to turn their garage into the apartment and were supportive of that. They didn't expect the plans to be different. They found out from the abutter's notice that the addition would be on the property line. It will impact the shade on their garden, and their privacy. This is too close to the property line. They have not been able collaborate to come up with a better solution. The Butlers want to support the Nerbonne's and this project. The previous owners of the Butler's house added on 15 years ago and were denied a variance from the ZBA because it was proposed to be within 5 feet of the setback. They moved it over a little to accommodate the setback. This proposal can be moved over some to accommodate the setbacks, or it can go in between the homes. Also, ADU's usually have a fence or trees for a privacy barrier. There is no barrier proposed here. They want to support the Nerbonnes but they opposed the location of this addition.

Carol Bird of 170 Mechanic St. spoke in support of the owners. Ms. Bird was not a direct abutter but has lived in the neighborhood for years. Portsmouth is working to accommodate seniors who want to age in place and are living on a fixed income. The Nerbonnes have designed a practical and functional addition. At the ZBA meeting last month, they made 3 modifications to their plans in hopes of making a compromise with the abutter. The Board should support this proposal.

Susan Lassen of 34 Blossom St. read a letter from Walter and Patricia Baunbum who live at 183 Gate St. They were in support of the CUP for a garden cottage with addition. The plans should be non-controversial. There is a rationale for converting and expanding the garage. This is what the community should encourage. It is harmonious with the surrounding architecture and neighborhood. The proposal is consistent with the dwelling on the lot and provides adequate open space and parking. It does not reduce privacy or result in excessive noise. Every effort should be made within reason to accommodate this family's effort to modify their home and age in place. The plans should be approved as submitted. Ms. Lassen also spoke in support of the owners as well. The Planning Board values community and they are all very grateful for that.

Lacy Bangs of 245 Marcy St. commented that they have lived in the neighborhood a long time and it was a neighborhood where they could depend on each other. Ms. Bangs applauded the plan as presented and hoped the Board would consider their proposal favorably.

Second round:

Eric Mayer from DTC Lawyer commented that their client's position was that they were not opposed to the use of the garage as a dwelling unit. They are opposed to the current proposal because it will adversely impact the use, enjoyment, and value of their property. They are open to alternatives. The proposal must satisfy the criteria to grant a CUP. The site plan must provide adequate open space for both structures. This lot is .12 acres and the Butler's is .1 acres. They do have a large backyard. However, just because other lots don't have as big of yards doesn't mean they should be deprived of theirs. They paid a premium to purchase the house for those attributes. As proposed, they are not providing adequate open space. The land slopes down 2 feet toward the Butler property. They have raised issues associated with drainage and it sounds like there has been accommodation for that. The Board should consider the drainage plan and ensure it is addressed prior to building permit. The second criteria is that the property must be compatible with the adjacent property. The design and location of this is 4 feet off the property line, which will tower over the Butler's backyard. The Butler's are open to alternatives, and they did try to reach out to the owners but have not been able to discuss any with them. The most obvious alternative is to limit the dwelling to the existing contours of the existing garage. It would not cause adverse impacts to the abutter. Another alternative would be to shift the addition over to comply with the setback. If the Board approves this, then they should include a condition to build a privacy fence between the properties. The Butler's do support the efforts but do not support this current plan.

Anne Whitney clarified that this was a 43% expansion of the garage not 60%. They have reached out to the abutters to make them aware of the addition. The addition from the edge of the porch is 9 feet under 120 sf impacted. This all comes down to where is the bigger hardship.

It is their position that the hardship to the abutter's backyard is not as great as the hardship to make it a livable space. They have looked at other options but the height of the garage vs. house makes it complicated. They need to keep access to the backyard.

Third time speakers

Pete Moren of 170 Mechanic St. commented that this was a reasonable request. There has to be a little give and take to accommodate the property and allow the owners to age in place. Mr. Moren was in full support.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Hewitt requested clarification on the ordinance. The letter stated clearly, they cannot expand vertically or horizontally other than for an entry or rear deck. However, the next page gives cart blanch to modify any dimensional standard. Chairman Chellman responded that statement in the ordinance allows for this sort of modification. Ms. Zendt agreed with that interpretation. The modification section broadly refers to the garden cottage. It is interpreted to mean any of those listed standards were subject to Planning Board modification.

City Council Representative Moreau commented that Portsmouth has a lot of existing old structures. When they were creating the ordinance, they wanted to allow people to create an ADU out of an existing structure, and that is how they came up with the garden cottage criteria. They made the square footage smaller to prevent someone from putting in a new building. The modification section was intended to give the Board flexibility to modify something if it was reasonable.

Chairman Chellman commented that it was worth nothing that a deck and entryway expansion were allowed. The dimensional flexibility does apply to the vertical and horizontal dimensions.

City Council Representative Moreau commented that her biggest concern was keeping this under 600 sf. If it was going beyond that, then she would be against it. This is a reasonable request. If they want to live in harmony with neighbors, then they could move it over 1 or 2 feet and that would still fit in with the approval.

1) City Council Representative Moreau moved to find that the application meets the requirements set forth in Section 10.815.40 of the Zoning Ordinance and to grant the Conditional Use Permit, seconded by City Manager Conard with the following stipulations:

1.a) Any change, required as part of the Historic District and approval, that results in a change to the stipulations approved here or any change that is not substantially compliant with the

approved Conditional Use Permit, as determined by the Planning Director, shall be resubmitted to the Planning Board for review and approval.

- 1.b) A gutter system and drywell are installed to catch all drainage and runoff from the garage and garage addition.
- 1.c) A fence is constructed on the property line between 189 Gates St and 199 Gates street that is in accordance with the Zoning Regulations.

The motion passed by a 7-1 vote. Mr. Mahanna opposed.

2) City Council Representative Moreau moved to grant a modification to the requirements set forth in section 10.815.31 to allow for an expansion that includes a 152 SF addition, seconded by City Manager Conard.

The motion passed by a 7-1 vote. Mr. Mahanna opposed.

III. 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 **Society for the Protection of NH Forests (Owner)**, for property located at **400 Little Harbor Road** requesting a Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for the installation of new public bathrooms resulting in 303 S.F. of permanent impacts for the building and 275 S.F. of temporary impact to the 100 ft wetland buffer area. Said property is located on Assessor Map 203 Lot 8 and lies within the Rural (R) District. (LU-22-31)

SPEAKING TO THE APPLICATION

Eric Weinrieb from Altus Engineering spoke to the application. The Society purchased the property in 2000. The Cottage was in disrepair and slated to be raised, but it was restored instead. They were permitted to build a new water line to service the building and improved the parking. They also put in a new septic for the Carriage House. The building was renovated in 2000 to be used for summer programs and other public use. Pre-Covid the property saw a lot of public use and now the grounds are used even more. There are no public restrooms on the site or anywhere else in that part of the City. The proposal is for a detached public facility that will tie into the septic. The building will be 81.7 feet away from the buffer that is already impacted from the abutting property. They are proposing a 16' by 26' building and there will be 413 sf in the buffer area. That includes the covered bench waiting area. The septic is designed to handle 300 gallons per day. The bathroom will have low flow flush and water for hand washing. There is capacity for 160 people per day. They are not anticipating that level of use. The building will have drip edges.

Mr. Mahanna questioned why they weren't using the existing foundation that was on site. Mr. Weinrieb responded that it was just rubble not a foundation. Mr. Mahanna questioned why they couldn't move it over 19 feet to be out of the buffer. Mr. Weinrieb responded that this location balances it on the existing building. It would be more expensive to move. They worked hard to compliment site. They are mitigating the placement with drip edges. Mr. Mahanna noted that there was an alternate location. Mr. Weinrieb responded that there were multiple locations on site, but they chose this location because of the proximity, balance with the building, and providing a public benefit.

Chairman Chellman questioned if the proposed building would have a foundation. Mr. Weinrieb confirmed it would. Chairman Chellman questioned if they had done test pits. Mr. Weinrieb responded that they had not. The base may be partially pinned. It may not be a full foundation. Chairman Chellman commented that shifting the building would put it closer to the exposed ledge and there may be more ledge underground. Mr. Weinrieb agreed. They also wanted to balance the peaks. If it was shifted, then it would look awkward on the approach. The Society wanted it adjacent to the existing building to tie in with the utilities more easily. Moving it further would require ledge removal and the project is more expensive than expected already.

Chairman Chellman questioned why it was near the existing building and not by itself. Mr. Weinrieb responded that that they wanted to provide closer access to the summer programs. Mr. Mahanna questioned why they could not put it in the big grass area. Mr. Weinrieb responded that they could not put it there because of a deed restriction.

Mr. Hewitt commented that it was a reasonable request to be in the buffer because of the ledge and aesthetics. This is a minimal impact and Mr. Hewitt noted that he would vote in favor. Mr. Hewitt questioned if the restrooms would be open year-round. Mr. Weinrieb responded that they would, but they would not be open 24/7. They will have a timer on doors to lock at dusk.

PUBLIC HEARING

Robert Najar of 10 Martine Cottage Rd. commented that The Society has be wonderful stewards of the area. This proposal is a definite public benefit that they have no obligation to provide. There has been an increase of pedestrian activity in the area, and there are no other public bathrooms. Mr. Najar is a steward for the Little Harbor Loop Trail, and he walks it at least every other day to pick up litter. It would be nice to see less tissues behind trees. A structure with permanent bathrooms is a better option than porta potties. Mr. Najar was in full support of the proposal.

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

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Moreau moved to find that the application satisfied the criteria set forth in Section 10.1017.50 of the Zoning Ordinance, seconded by Mr. Harris.

City Council Representative Moreau commented that she was glad this property has come back to life, and this would be a good addition.

Mr. Harris agreed it would be a good addition.

City Council Representative Moreau moved to grant the Wetland Conditional Use permit, seconded by Mr. Harris with the following stipulations:

2.a) Blueberry bushes or other native shrubs are planted along the buffer area near the wetland edge.

2.b) The property is maintained according to NOFA standards.

The motion passed unanimously.

- B.** The request of **ADL 325 Little Harbor Road Trust (Owner)**, for property located at **325 Little Harbor Road** requesting Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance to replace the existing single family structure, carriage house, shed, barn, and paddock; construct a garage, pool, pool cabana playground; and renovate the existing barn and shed with all associated electric, gas, water, and sewer updates as required on private property and within the public right of way resulting in 195,656 S.F. of impact in the tidal buffer area and 17, 189 S.F. of temporary impact to in the tidal wetland area. Said property is shown on Assessor Map 205 Lot 2 and is located within the Rural (R) and Single Residence A (SRA) Districts. (LU-22-23)

SPEAKING TO THE APPLICATION

Corey Colwell from TF Moran, Matthew Cunningham and Josh Bourgeroy of Cunningham landscape design, and builder Jim Youngblood were present to speak to the application. Mr. Colwell commented that in January the Board granted permission for a DADU. The property is a 12.3 acre island with access via a paved drive from Little Harbor Rd. The drive is 2,100 feet in length. It has a 100-foot steel bridge. The easterly half of the island has dwellings, docks, and a tennis court. The western half is entirely forested. Any work on the island requires a CUP. The proposal is to remove the existing house and construct a new home in approximately the same location. The new home is slightly larger. The proposal also includes a pool house, pool, and one-story garage. The existing shed to the north will be replaced by a larger shed. The barn adjacent to the tennis court will undergo interior renovations and have two decks added on. Five years ago, they presented a similar plan to the Board. A CUP was granted for 154,000 sf of buffer impact. Additionally, in February of 2018, they got a wetland permit from DES and Shoreland Impact Permit for an additional 41,000 sf of impact to the protected shoreland. These State permits expire in 2023 and are still valid today. The CUP issued in 2018 has expired. Some work for the previously approved CUP was accomplished. They repaired the sea wall, installed the tennis court, and removed 3 accessory buildings. The remaining improvements

were delayed because the applicants chose a different style home and hired a new architecture firm. Also, their builder at that time passed away. The home design is now completed. It is a similar application. The only difference is a new home design and adding a 1,475-sf garage. This time they are removing the carriage house. The pool and pool house are smaller and in a different location. They are now renovating the historic cottage and adding 2 decks to horse barn. All the proposed work is taking place on previously developed upland soils. There will be 195,000 sf of total impact in the tidal buffer zone but 90,000 sf of that is adding plantings into the buffer. Mechanical equipment is necessary for planting, so they are counting it as impact. Post construction there will be more vegetation than exists today. Currently there is 8% impervious area in the 100-foot tidal buffer. Post construction it will be reduced to 7.5%. That is a net reduction of over 1,900 sf. There will be a 3.1% reduction of impervious over the entire island. The site has a 6% impervious area where zoning allows up to 25%. In addition to reducing the impervious they are also reducing the amount of lawn. Today there is 267,000 sf of grass and this proposal will have a 146,000-sf reduction. The natural woodland will be increased by 1.5 acres. The plan focuses on landscape improvement in the 100-foot tidal buffer. They are improving the island's utilities. It is currently heated with oil, connected to City water, and the septic is 20 feet away from the river. The proposed plan would bring in natural gas and geothermal for heat, put in a new water, and connect to City sewer along Little Harbor Rd. They will remove the septic system. They are improving the storm water management by reducing the impervious area, adding vegetation, and capturing and treating all roof runoff. It reduces the storm water flow to the river. The land management plan describes how they intend to eliminate or reduce the invasive plants on the island. The revised project was presented to the Conservation Commission in October and November of 2021. They also did a site walk with this Board and the Commission. In November the Commission provided a favorable recommendation. They were also asked to go to TAC because of the complexity of the utilities. TAC recommended approval in April. Running new utilities to the island will require resurfacing. The bridge to the island will also need to be replaced. They returned to the Conservation Commission to demonstrate the impacts for resurfacing the driveway and bridge replacement. The Commission provided an additional recommendation for approval. They have also gotten an AOT permit.

Mr. Cunningham commented they created a plan that had environmentally considerate landscaping. Overall, the master plan vision was to transform a relatively lifeless area into a vibrant new landscape with large areas of native plants. It will improve water quality and prevent erosion. They coordinated the landscape plan to address invasive species removal. The goal is to preserve the existing tree canopy. The project involves the removal of a total of 13 trees and replacing them with 101 new trees. They will be converting vast areas of lawn into shrub and perennial beds. 90% of the plants are native or indigenous. They will be converting lawn areas to drought resistant clover fescue blends. The new landscaping will restore vibrant seasonal colonies. The clients desire to be good stewards of the property.

Mr. Colwell commented that there will be more vegetation in the buffer and reduction in impervious less lawn. Mr. Colwell reviewed the wetland CUP criteria. 1. The first is that the land is reasonably suited to the use, activity or alteration. Mr. Colwell commented that the property is zoned for single family use and that it is reasonably suited to the

island. All alternatives are in the previously disturbed uplands. The western half will not be touched other than for invasive plant management. Other possible uses for the open space could be a PUD or other less preferable uses with a larger footprint. The homeowners will be stewards of the land and want to maintain it for future generations. The provided landscaping is beyond zoning requirements. There will be a land management plan for invasive species removal and the landscaping will provide habitat. The second is that there is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration. Mr. Colwell commented that the alternate locations for development have been considered in previous years. They did the layout primarily outside of the buffer on the west side. That limited the buffer impact, but it required removal of the vegetate area. The Conservation Commission preferred that they maintain more woods on the west and locate the development in the previously disturbed area. The third is that there will be no adverse impact on the wetland functional values of the site or surrounding properties. Mr. Colwell commented that most of the impacted areas will be converting pavement to lawn and open space drought tolerant meadows. There are no permanent wetland impacts. The only tidal wetland impacts are associated with the replacement of the bridge. There is a reduction in impervious and an increase in infiltration. There is no adverse impact to the surrounding wetland. The fourth is that the alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. Mr. Colwell commented that most of the disturbance to the natural vegetated state is to the lawn areas and much of it is to add vegetation to enhance the buffer. Post construction there will be more vegetation in the buffer. The fifth is that the proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Section. Mr. Colwell commented that they were significantly reducing the impervious surface and increasing the vegetation. They are managing the invasives and implementing a storm water management. They are also removing the septic. The quality of the storm water going to the river will be improved and the quantity will be reduced. The sixth is that any area within the vegetated buffer strip will be returned to a natural state to the extent feasible. Mr. Colwell commented that the areas on the western half of the island is all vegetated up to the wetland. The eastern half will have increased vegetation in the buffer. A significant portion of the buffer will be restored to natural vegetation. The vegetation will provide better nutrients, shoreline stabilization, and habitat. They will increase the integrity of the tidal resource.

Mr. Hewitt commented that the plan showed 9 structures that encroached on the 100-foot buffer, and he wanted to review those. They include a 1475 sf 4 car garage, a 2,000-sf parking area, then a 384-sf shed, a 900-sf playground, a 660-sf cottage. Mr. Colwell noted that the cottage existed today. Mr. Hewitt commented that there was an 800-sf spa, and a 35 by 60 barn. Mr. Colwell commented that the barn existed today as well. Mr. Hewitt commented that the last was the 6,220 sf home. Mr. Hewitt questioned if they were ever asked to look at these encroachments individually with the 6 criteria. Mr. Colwell responded that they were not. They looked at them collectively. The new buildings are going in the lawn are of the buffer. It's on previously developed upland soils. There will not be any vegetation removal proposed for these buildings. They looked at the site from the standpoint of there are more structures on it today

than there will be post construction. They already removed 3 structures a few years ago. It is a net reduction.

City Council Representative Moreau commented that she appreciated all the hard work on the invasive species removal and the maintenance around that. City Council Representative Moreau questioned how they could ensure that maintenance continues. There could be some sort of self-imposed restriction for forest land maintenance. Mr. Bourgerie responded that they were planning to remove the invasives over a 3-year period. Then they would reevaluate the management plan to determine if it was successful or if they need to extend it. City Council Representative Moreau questioned what they could do to legally require all future owners to maintain the land to that level of care. Mr. Colwell responded that they were not opposed to providing the City with an environmental report. City Council Representative commented that they can work something with the Planning and Legal Department to ensure there is a long-term care. Mr. Colwell responded that the previous owner did a subdivision plan that is no longer valid, but one of the conditions was to submit a monitoring report on the bridge every 5 years. They just learned the bridge needs to be replaced. They could submit a report every 5 years on the invasive species.

Mr. Harris commented that a condition of the CUP is that new buildings in the buffer has to meet the 6 criteria. Mr. Harris was not sure some of the new buildings met that. Mr. Colwell commented that he was not aware of anywhere that said they cannot have structure in the buffer. The ordinance says there can be provided they get a permit from the Planning Board. Chairman Chellman commented that the ordinance was a bad fit for what they are trying to do. If this was a setback issue, they could go to the ZBA. Chairman Chellman did support the application. Mr. Colwell commented that nothing stuck out that said they could not do that without a CUP. The CUP is the mechanism for expanding the house footprint. Chairman Chellman noted that a single-family home was a permitted use in the buffer. Mr. Colwell commented that 5 years ago they proposed a house with an expansion that was more than 25%. The permit was issued in 2018 and this has been thoroughly reviewed by the Planning Department and other boards. There was no indication that a variance was required for that. Chairman Chellman questioned why they didn't shift the garage out of the buffer. Mr. Colwell responded that there were 4-5 locations it could go. They chose an to put it in an open lawn area. They located all the major trees on the island. If they moved the garage south, then it would impact large spruce trees on the property.

PUBLIC HEARING

Lisa Oaks of 315 Little Harbor Rd. commented that the sea wall looked amazing. Ms. Oaks questioned if the new bridge would be aesthetically pleasing and if the utilities would be run under the bridge or through the mud flats. Ms. Oaks questioned what the carriage house would be replaced with. Ms. Oaks questioned what the horse barn would be used for. Little Harbor Rd. just got repaved and Ms. Oaks questioned if the applicants would be repaving it again after connecting the sewer.

Second time:

Corey Colwell commented that the bridge will be replaced with a timber bridge. It will be more aesthetically pleasing. It will be constructed off site. That is the last part of project. There will be 3 years of construction before the bridge is replaced. The carriage house will be replaced with landscaping or a clover meadow. The horse barn will be primarily used for storage. It will have an office and kitchen. They cannot use it as a guest house. When they were approved for a DADU they agreed there would not be any other units on the property. They will repave Little Harbor Rd. after the sewer is installed, and the utilities will be hidden under bridge.

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

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Moreau moved to find that the application satisfied the criteria set forth in Section 10.1017.50 of the Zoning Ordinance, seconded by City Manager Conard.

City Council Representative Moreau commented that she was on the Board when the first approvals were granted. There was a lot of discussion about this being a unique property. All in all, this plan is improving the water flow and sea wall vegetation. The improvements will be a positive. It's a good project.

Mr. Hewitt commented that he would not be supporting the motion. A lot of good things are happening here, and Mr. Hewitt noted that it may be that he has not been on the Board long enough to appreciate those efforts. Mr. Hewitt was not convinced that this project had minimum impacts to the shoreline buffer. It would have been good to have seen the individual buildings evaluated that way.

The motion passed by a 6-2 vote. Mr. Hewitt and Mr. Harris opposed.

Mr. Pezzullo questioned if the bridge inspection condition from the previous approval still applied. City Council Representative Moreau responded that they could ensure that was included in the stipulations.

City Council Representative Moreau moved to grant the Wetland Conditional Use Permit, seconded by City Manager Conard with the following stipulations:

2.a) For each review identified and provided for in the Land Management Plan, an update and report of findings will also be provided to the Planning Board.

2.b) There will be an inspection and report submitted to the Planning Board on the bridge status and safety every 5 years.

The motion passed by a 7-1 vote. Mr. Hewitt opposed.

- C. The request of **Sharolyn McDermith (Owner)**, for property located at **1054 Banfield Road** requesting Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance to increase the amount of building in the buffer by 270 S.F. for the breezeway and 72 S.F. for the garage for a total building in size increase of 342 S.F. Said property is located on Assessor Map 283 Lot 38 and lies within the Single Residence A (SRA) District. (LU-22-5)

SPEAKING TO THE APPLICATION

Contractor Mark White spoke to the application. The owner is asking for a CUP to increase the size of the breezeway and the garage. Both are in the 100-foot buffer. The existing breezeway is 15' by 10.6'. There is an existing front and rear deck. The proposal is to expand the breezeway to 15' by 28.6'. It would be the same width of the house. The garage is currently 1 bay and 18' by 20.6'. The proposal is to increase the size to add one by making it 28' by 32'. The new addition will utilize the existing asphalt near the garage. The impervious will remain 55 feet from the buffer. 25 feet of that is lawn then it is a natural buffer of trees and plants. The mowed grass area is closer to Banfield Road and the small brook and culvert. They will transform that back to a more natural state. They will not mow it and plant blueberry bushes. They are proposing to install gutters and a dry well in the low section of the lawn. It will have a 1,000-gallon holding capacity and then disperse into the ground.

Mr. Hewitt commented that the blueberry bushes on the plan appear to be off of this property. Mr. White responded that the line of blueberries will be on the owner's property. The City owns the property next door. Chairman Chellman commented that the plan did show them on the other side of the property line. Mr. White responded that the previous owners mowed that area. They will stop mowing that and will add blueberry bushes.

Chairman Chellman questioned if they determined the buffer based on GIS map from the City. Mr. White confirmed that was correct.

PUBLIC HEARING

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

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Moreau moved to find the application satisfied the criteria set forth in Section 10.1017.50 of the Zoning Ordinance, seconded by Mr. Harris.

City Council Representative Moreau commented that this was a small change, and they were doing a lot to improve the wetlands.

Minutes, Planning Board Meeting, April 21, 2022

The motion passed unanimously.

Mr. Pezzullo requested that they include the detail for the dry well.

City Council Representative Moreau moved to grant the Wetland Conditional Use permit, seconded by Mr. Hewitt with following stipulations:

2.a) The applicant will add new plantings along the fence closest to the wetland in addition to those shown at the front of the property.

2.b) The applicant will install appropriate erosion control measures during construction.

2.c) The applicant will follow NOFA standards for Lawn care in the wetland buffer.

2.d) The applicant will provide a plantings plan showing the spacing, type, and location of the new plantings for review by Staff.

2.e) The applicant will show the construction detail of the drywell on the plans for review by staff.

The motion passed unanimously.

D. The request of **Charles Dudas (Owner)**, for property located at **32 Monteith Street** requesting a Conditional Use Permit under Section 10.814 of the Zoning Ordinance for the construction of an Attached Accessory Dwelling Unit totaling 576 S.F. in gross floor area. Said property is located on Assessor Map 143 Lot 22 and lies within the General Residence A (GRA) district. (LU-22-44)

SPEAKING TO THE APPLICATION

Chuck Dudas spoke to the application. The project may look familiar. They applied for a wetlands CUP in May 2020 to do improvements on their primary dwelling. They tore down the old garage and existing shed. They added a 2-story addition and new garage further away from the wetlands. This proposal is to build an ADU on the second story of the proposed garage. The only change in the site plan since the wetland permit is that they went to the ZBA and asked for an additional 2 feet for the garage. That was granted this week. The ADU is being driven by economics. The addition is quite expensive. This proposal would provide housing and financial relief. It meets the requirements for the ADU. It will be a 576 sf one bedroom unit that will be accessed through a connecting breezeway. The ADU is setback from the property line. The aesthetics match the house. It fits with the character of the neighborhood and house. Mr. Dudas and his family will live in the principle dwelling unit. The driveway can park 4 cars and 2 cars can fit in the garage. Any occupant will be parking in the driveway. The abutter had no issues with the proposal. There should not be any excessive noise.

Mr. Hewitt questioned if the ZBA granted their request. Mr. Dudas confirmed that they did. Mr. Hewitt commented that hopefully this ADU would help with housing supply and questioned if

they anticipated that rent would be between \$2,500 - \$3,000. Mr. Dudas responded that it would probably be something in that range. Having the right tenant will be as important as what they get in rent.

PUBLIC HEARING

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Mahanna noted that they already had a CUP and questioned how they should proceed with a motion.

Ms. Zendt clarified that this application was for a new CUP. The other active CUP was for wetland impact, and this is for the ADU.

Mr. Mahanna questioned if they were moving two feet toward the wetland. City Council Representative Moreau responded that it was moving away from the wetland toward the setback.

City Council Representative Moreau moved to find that the application meets the requirements set forth in Section 10.814 of the Zoning Ordinance and to grant the Conditional Use Permit as presented, seconded by Mr. Mahanna.

The motion passed unanimously.

City Council Representative Moreau moved to grant a modification to the requirements as set forth in section 10.814.60 to allow for an expansion that includes a 576 SF addition, seconded by City Manager Conard.

The motion passed unanimously.

IV. DESIGN REVIEW APPLICATION – PUBLIC HEARING

- A.** The request of **One Market Square LLC (Owner)**, for the property located at **1 Congress Street** requesting Design Review approval to partially demolish existing buildings and construct a new 3 story structure with a short 4th story. Said property is shown on Assessor Map 117 Lot 14 and lies within Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District. (LUPD-22-6)

SPEAKING TO THE APPLICATION

John Chagnon, Mark McNabb, Terrence Parker, FX Bruton, Tracy Kozak, and Marie Brodie spoke to the presentation. Mr. Chagnon commented that they would be demolishing the

structures that were added on over time in the back. The proposal is for a 3-story building with a short 4th. The parking area will be lowered to below grade with a car elevator. The proposed building is meeting the zoning requirements as much as possible. The building is partially in the CD-4 and CD-5 zones. Two lots were combined to make the development parcel. They will be adding to the Congress St. buildings up to Haven Court. There will be a 10-foot alley at the back of the building. They did a concept meeting a month ago and talked about opportunities to energize the streetscapes and turning Haven Court into a pedestrian friendly alley out to Fleet St. At the concept meeting there was negative feedback about the garage connector so that was eliminated from the proposal. There will be restaurant on the first floor. Then an office/retail use or a boutique hotel above.

Mr. Parker commented that his work was to animate the Haven Court area. They are working with the City to advance the pedestrian corridor. Part of animating space is picking up the 1980s iron and glass theme. There is a 14-foot grade difference from Fleet St. to Market St. They are proposing stairs and working on stretching out a labyrinth with a theme of mindfulness. The corridor will be filled with lighting and incorporate the themes from the surrounding buildings. There will be glass, prisms, and iron. They will make it a lively pedestrian area.

Tracy Kozak commented that the building would be 3 stories with a short 4th. There will be commercial on the ground floor with offices above. The idea is to transition from the old architecture on the corner of Congress St. to more contemporary architecture on the other side. They are playing off materials found on the front of Congress St.

Mr. Mahanna questioned if Haven Court was a City St. Mr. Bruton responded that they were still discussing that issue and how it relates to the project. There has not been a final resolution yet. Research suggests it is not a City street and the City is working to verify if that is true. Mr. Mahanna questioned how they would use it if it was a City street. Mr. Bruton responded that they think it is a private way and there is a lot of research behind that. Either way they will work with the City. Mr. Mahanna commented that there were dumpsters back there. Mr. Bruton responded that those were the abutter's dumpsters. They have had a discussion with them on how to address that. Mr. Mahanna questioned if the entrance to the car elevator would be there. Mr. Bruton responded that it would not be on Haven Court. It is a fairly limited area. They are working with the City and abutter on this area, but nothing is formalized yet.

Mr. Chagnon commented that the garage entrance was on the corner. Mr. Mahanna commented that it did not look like a large vehicle could get in there. Mr. Chagnon responded that all passenger vehicles could do it. They can move the angle if needed. Whether or not the road is public or private, they still want to invest in that. Mr. Mahanna commented that it doesn't currently connect to Fleet St. Mr. Chagnon responded that it did. There is a corridor, but it is interrupted by jersey barriers. The idea is to reconnect that. They are working with the abutter on providing access to a chute for trash in the basement of the building. That arrangement has not been formalized yet.

Chairman Chellman commented that this was an exciting application with a lot of interesting things going on. There are a lot of moving parts had it may be helpful to have a few workshop sessions to talk through things. Mr. Chagnon responded that they have talked to City Staff and

tried to separate the design on the site and the public improvements beyond the site. The thought from the Planning Department is that they should have a stake holders' group and start some discussion in that regard. The Board can be involved in that. It's a collaborative design. Chairman Chellman commented that it would be helpful to have a less stilted conversation with interactive questions and answers. Mr. Mahanna commented that it would be helpful to have a work session too.

City Council Representative Moreau commented that there is a 3-story historic building on High St., and it would be good to have the new building set back a little. That would prevent this one from getting lost. Ms. Kozak responded that they set the building back about 6-7 feet. People will be able to see the coins from the building on the corner. City Council Representative Moreau questioned if there was a connection between the two buildings. Ms. Kozak confirmed that there was, and it was set back 25 feet.

City Manager Conard questioned what obligation the applicant had in providing ADA access through the open walkway and does that change depending on who owned that area. Mr. McNabb responded that they were not providing ADA access in that area. The grade change is 14 feet. They would need to build a couple hundred-foot-long ramp, and that is not feasible. Chairman Chellman questioned if there was ledge in that area. Mr. McNabb responded that they think there is some ledge. However, they cannot change the grade because it would change the entire entry system on abutting buildings.

Mr. Hewitt commented that he thought the design was aesthetically pleasing overall, but he was still trying to understand the process of adding the prism. Ms. Kozak responded that the prism serves as a wayfinding device to help pull people down the alley to Fleet St. It would serve as a memorable landmark to help people know where they are. It would be reflecting some architecture in the glass. It was modeled after the shape of the steeple. It is also playing off the angular architecture that is seen on Congress St. Mr. Hewitt questioned if it was custom designed for this corner. Ms. Kozak confirmed that was correct.

Mr. DiRienzo commented that he liked the idea of connecting Fleet St. and Haven Court but was concerned about the garage entrance and pedestrians sharing space. Mr. DiRienzo questioned how much parking would be under the structure. Mr. McNabb responded that the car elevator would bring cars to the lower level, which would have 25 spaces. The spaces will not be for the public. They are private spaces for the occupants of the building or valet. The 25 cars are negligible over the period of the day because it is the same set user. They are proposing to drop the curbs like at the Music Hall, so it is not as awkward. The area is not friendly to pedestrians now with the curbs. They are also in favor and recommending closing that entrance to High Hanover Garage. Most garages don't have 3 entrances. Ultimately it is up to the City but they are in discussion about it. The glass prism has received HDC feedback. It will be reduced in size and incorporated more into the building.

Chairman Chellman commented that the ordinance supported enhancing the historical components of the City. The prism would be better if it was completely inside the building. Ms. Kozak responded that it was reduced in scale and size. They had previously talked about it being a linear feature. Now it will have some program. The windows are essentially a bay window

and those over town. This arrangement references to the dormers on Congress St. They will be removing the old fire escapes on the building on the side on High St. They had their place in history, so these windows will cast shadow of thin lines across the façade like the escapes do now. Chairman Chellman questioned why they weren't just bay windows. Ms. Kozak responded that they were half a hexagon. They already have 90-degree shapes and will form them in the building. Mr. McNabb commented that another point in the ordinance encouraged contemporary design. The building at 60 Penhallow St. has heavy timbers and serpentine bands. Sometimes it is appropriate to do something a little more modern. It gives significance to the old historic building and allows for modern architecture. There is a difference between fake historic and real historic.

PUBLIC HEARING

Elizabeth Bratter of 159 McDonough St. commented on the idea of the dumpster situation. Ms. Bratter commented that there was a small restaurant in one of her buildings and that dumpster is emptied 2 times a week. They are planning to put a restaurant on the first floor. There will be a lot of trash and it may be unreasonable. Someone will have to bring a small container from the basement out to the road. They will be overrun with trash cans on pick up day. The prism and lights go against the dark sky compliance. The goal should be to be create less light and it should be pointing to the ground. Ms. Bratter had issues with the stairs because it was supposed to be a public access. They can remove the jersey barriers and people can walk through there now.

Second time speakers:

Elizabeth Bratter of 159 McDonough St. commented that the building used to be a National Hotel, which has long burned down. There are original windows and storefront from the original bus building. It almost looks the same today. The rest of the buildings on Congress St. are two stories. This stands higher than the 4-story building on High St. Those lower buildings on Congress will have this building behind it. The current heights on High St. and Haven Court are 2-3 stories. This property has a 4th story on top. The building is maxed out on the allowed massing and will be out of place with the core of Portsmouth. Almost everything in downtown Portsmouth looks like an original structure. This building is completely out of character and is more intense massing. The site plan review is about size, inter relationships, and impacts on the surrounding areas. The modern garage door style windows and hologram light will distract from the charm of downtown Portsmouth. They should reconsider the rear of the building.

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

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Moreau moved to find design review process complete, seconded by City Manager Conard.

City Council Representative Moreau commented that they have looked at it a lot. The point of this phase is to give feedback on what the Board wants to see down the road. They have done two sessions of that. The Board has given them feedback, and this is complete.

Chairman Chellman commented that the idea of a site walk came up. City Council Representative Moreau commented that they may want a more detailed plan to know what they are looking at before going to a site walk. Ms. Zendt commented that the design review does not encompass architecture elements like design facades, roof lines, and windows. They focus on the site plan, open spaces, and parking. The Board has some offered feedback. If there are additional things that fall under this review that the Board feels like they need to delve into more deeply, then they can keep this open. If the Board chooses to do that, then it would be beneficial to talk about where there were still questions related to those topics. They can schedule a site walk now or closer to the application. Mr. Mahanna commented that things could change depending on who owns the abutting land. City Council Representative Moreau commented that the HDC can impact the design as well.

Chairman Chellman commented that the Tilton case got into the idea of aesthetics for a site plan review. That is part of the Board's purview. They can look beyond just massing. It is up to the Board to advance this or keep it open.

The motion passed unanimously.

V. PRELIMINARY CONCEPTUAL CONSULTATION

- A. The request of **EightKPH LLC (Owner)**, for property located at **161 Deer Street** *to be known as 88 Maplewood Avenue* requesting Preliminary Conceptual Consultation for the demolition of the existing one story commercial building and the construction of a four story building with a pent house. Said property is shown on Assessor Map Lot and lies within the Character District 5 (CD5). (LUPD-22-7)

SPEAKING TO THE APPLICATION

Thomas Hamilton Balon Jr. commented that this was currently on the tax roll for 161 Deer St. referred to as lot 5. The change of address is to differentiate from the past project. They are also moving the lobby to the corner. They look forward to moving this long-delayed project forward. John Chagnon, Carla Goodnight, and Terrence Parker were present to speak to the presentation.

Mr. Chagnon commented that the 2016 subdivision plan created this lot. This project is for a building on the north side lot 5. There is an easement from the railroad with a restrictive covenant. The railroad cannot build within the 10-foot strip. The plan is to demolish the existing building along with all the pavement and construct a 3-story building with a penthouse 4th story. The first floor will be commercial, and the upper floors will contain 19 res units. The expanded sidewalks will be redone in brick with landscaping strips. They protected the parking spaces along Deer St. There will be 30 stacked parking spaces and some parking that doesn't

stack as well. Water and sewer will connect on Maplewood Ave. They are adding a grease trap and electrical service on the back. They are following the street grade as it exists now and are going to the HDC for the first time on May 4, 2022. The height ordinance allows for 2-4 stories and a penthouse. The basement parking level will be set at an elevation that will avoid the water table. That will set the tone for the rest of the building height. They are proposing 10.8' floor to floor. The ordinance allows for a 12' first floor and 10' for the upper floors. It allows for a 52' height building with the penthouse. They are proposing a 58' building, which will require relief. The 10.8' allows for more efficiency for the utilities. There is another height conformance for the grade plain. They will be asking for height relief there as well. This is a sloping site. The garage is at elevation 8 because of the water table. They are dropping the corner of the building at the intersection. They will be seeking relief for height above the sidewalk grade. The ordinance has standards on door spacing every 50 feet. That fits well with small tenant uses. In order to get to the floor elevation, they are creating some raised walkways to meet ADA requirements. They will be asking for relief on the door spacing to accommodate that. They will be asking for some setback relief. They may need relief for the front lot build out. First floor parking is not required. The 19 units would require 29 spaces with visitor. They are providing 30.

Ms. Goodnight commented that there was not a lot to discuss in way of architecture this evening. The property located on the corner of Deer St. and Maplewood Ave. has a rich history and was greatly influenced by the rail corridor. The property currently has an HDC approval in place. It supports a 5-story building set back 5 feet from the railway that contained 55 units. They are using historical inspiration and working with the Commission to develop a 4-story building with a stepped back penthouse that contains 19 units.

Mr. Parker commented that they were highlighting the space in green with the exception of the back corridor along the railroad. There is an opportunity to create scaled planting on the northwest corner coming down Maplewood Ave. They may put in a fence around the transformers then plant materials that border the property line. They can plant trees around the property or cluster them in the wide bump outs. There is an opportunity to put in a mural on the southwest corner façade. There will be more attention to detail in the front of the lobby.

City Council Representative Moreau questioned if they already had easement access rights over lot 4. Mr. Chagnon confirmed that they did. The property owner also owns lot 4. City Council Representative Moreau questioned if the transformer could go somewhere else. Mr. Chagnon responded that it could not. They will do their best to hide it. City Council Representative Moreau questioned if the 19 units would be for sale or rent. Mr. Balon responded that the 19 units would initially be for lease depending on interest rates, but they are designed to be condo converted. City Council Representative Moreau questioned if there would be any workforce housing. Mr. Balon responded that there would not be any.

Chairman Chellman questioned if the water table was driving a lot of this design. Mr. Chagnon responded that the current drainage system was at capacity. They can't pump water into it and wanted to be above it.

Mr. Hewitt commented that the plans say they are allowed 35 feet and they hope to go to 58 feet. Mr. Chagnon responded that the ordinance allows for 50 feet or 52 feet with a penthouse. They are seeking relief for 58 feet. Mr. Hewitt questioned if the 6-foot difference was partially because of the water table issue. Mr. Chagnon responded that they measured from the average grade plain and have a sloping site. It is partially because they are requesting 10.8' floor to floor. Mr. Hewitt commented that they had plenty of parking compared to what was require. There are only 19 units only but 52 parking spaces. Mr. Hewitt questioned why they were providing so much parking. Mr. Chagnon responded that there was always a need. They don't have to provide parking for the first floor but it's there. They want to have adequate parking for the building. The ordinance does have a maximum allowed for parking, so they may need a waiver. The parking will be covered by the building anyway. Mr. Hewitt commented that the future tenants may desire more than 1.3 spaces. It is likely that they will want 2 spaces per unit. Mr. Hewitt commented that the previous approval had 5 workforce housing units and questioned if any future approvals were contingent on that. City Council Representative Moreau commented that the previous approval got an extra floor by providing workforce housing. Mr. Hewitt questioned if the previous approval was null and void. Mr. Balon responded they got an extra height incentive. This building had 19 units with 30 head in parking spaces, and 22 tandems. 19 of the tandems would be for residential parking and 3 tandems would be for commercial.

Chairman Chellman closed the Preliminary Conceptual Consultation.

VI. DESIGN REVIEW APPLICATION ACCEPTANCE

- A.** The request of **EightKPH LLC (Owner)**, for property located at **161 Deer Street** *to be known as 88 Maplewood Avenue* requesting Preliminary Conceptual Consultation for the demolition of the existing one story commercial building and the construction of a four story building with a pent house. Said property is shown on Assessor Map Lot and lies within the Character District 5 (CD5). (LUPD-22-7)

DISCUSSION AND DECISION OF THE BOARD

City Manager Conard moved to find that the Design Review application was complete and to schedule the Public Hearing to take place at the May 19, 2022, Planning Board meeting, seconded by City Council Representative Moreau. The motion passed unanimously.

VII. OTHER BUSINESS

- A.** Review and discuss presentation on Land Use Committee Existing Conditions and Strategy Report and Regulatory Amendment Work Plan

Ms. Zendt suggested that the presentation tonight would be to kick this off. Mr. Cracknell could briefly discuss the amendments and do a full presentation at the May 5, 2022, work session.

Mr. Cracknell summarized what they were trying to accomplish in phase 1. There will be a lot of code clean up, administrative updates, and a couple minor changes to the code. They will address the building height requirements, standards for the character districts, and a few broad-based updates. The goals are to provide consistency and translate their interpretation of the vision plan into the code. They will fix some mistakes around code that was adopted that has not been working and needs revision. They will also make clarifications in respect to the building height. Right now, people put fill around the first floor and it becomes the basement. That increases the height. It is out of compliance of the vision plan but in compliance of the code. They are trying to make changes for the building height map to provide consistency and add in new streets. They will also clarify the corner lots height standards. They need to clean up the language to clarify how they preserve the street edge. They are proposing to add development standards to the civic districts. Currently they don't have any. They will also change the height measurement from finished grade to existing grade. That needs to be clear in the code. Ms. Zendt commented that they could discuss the amendments in the work session and then move it along for public hearing at the regular May meeting.

Chairman Chellman congratulated Mr. Pezzullo on his retirement.

IX. ADJOURNMENT

Mr. Pezzullo moved to adjourn the meeting at 11:24 p.m., seconded by City Manager Conard. The motion passed unanimously.

Respectfully submitted,

Becky Frey,
Secretary for the Planning Board