

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

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

**7:00 PM**

**July 21, 2022**

**MINUTES**

**MEMBERS PRESENT:** Rick Chellman, Chairman; Corey Clark, Vice Chair; Karen Conard, City Manager; Joe Almeida, Facilities Manager; Beth Moreau, City Councilor; Greg Mahanna; Peter Harris; James Hewitt; Jane Begala; Andrew Samonas, Alternate;

**ALSO PRESENT:** Beverly M. Zendt, Planning Director; Stefanie Casella, Planner 1

**MEMBERS ABSENT:** Franco DiRienzo, Alternate;

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**REGULAR MEETING 7:00pm**

**I. APPROVAL OF MINUTES**

- A. Approval of June 16, 2022 and June 23, 2022 meeting minutes.
- B. Approval of June 29, 2022 special meeting minutes.
- C. Approval of June 29, 2022 joint work session minutes.

City Council Representative Moreau moved to approve the June 16, 2022, revised June 23, 2022 meeting minutes, June 29, 2022 special meeting minutes, and the June 29, 2022 joint work session meeting minutes as presented, seconded by Mr. Mahanna. The motion passed unanimously.

**II. DETERMINATIONS OF COMPLETENESS**

**SITE PLAN REVIEW**

- A. The request of **230 Commerce Way LLC (Owner and Applicant)**, for Property located at **230 Commerce Way** requesting **Amended Site Plan Review Approval** to construct a new two-story building.

City Council Representative Moreau moved to determine the application is complete according to the Site Plan Regulations, (contingent on the granting of any required waivers under Section III and IV of the agenda) and to accept the application for consideration, seconded by Vice Chairman Clark. The motion passed unanimously.

- B. The request of **HCA Health Service of NH IINC (Owner)**, for property located at **333 Borthwick Avenue** requesting Amended Site Plan Approval for an 8,700 square foot addition to the existing building.

City Council Representative Moreau moved to determine the application is complete according to the Site Plan Regulations, (contingent on the granting of any required waivers under Section III and IV of the agenda) and to accept the application for consideration, seconded by Vice Chairman Clark. The motion passed unanimously.

### **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. The request of **Artwill LLC (Owner)**, for property located at **437 Lafayette Road** requesting Preliminary and Final Subdivision approval to subdivide one existing lot with 65,365 square feet of lot area and 123.92 of frontage on Lafayette Road and 336.61 feet of frontage on Andrew Jarvis Drive into three lots as follows: Proposed Lot 1 with 18,434 square feet of lot area and 123.92 feet of frontage on Lafayette Road and 129.57 feet of frontage on Andrew Jarvis Drive, Proposed Lot 2 with 16,606 square feet of lot area and 102.04 feet of frontage on Andrew Jarvis Drive, and Proposed Lot 3 with 30,325 square feet of lot area and 107 feet of frontage on Andrew Jarvis Drive. Said property is located on Assessor Map 229 Lot 1 and lies within the Single Residence B (SRB) District. (LU-22-82)

City Council Representative Moreau moved to consider Public Hearings – Old Business items A and B together and vote on them separately, seconded by City Manager Conard. The motion passed unanimously.

### **SPEAKING TO THE APPLICATION**

Justin Asic from TF Moran and Attorney Derek Durbin spoke to the application. Mr. Asic commented that he presented the 3-lot subdivision at last month's meeting. The project requires subdivision and site plan review approval and a CUP for the ADU. Last month the Board voted to continue this application, so they would have time to address any abutter concerns. They have met with the abutters and satisfied their concerns with the drainage and the maintenance of the road. They did a site walk on June 23, 2022, to demonstrate the pitch on Artwill Ave. and the drainage flow. The abutters have a shared drive between the lots with a 4-inch berm to prevent

water from gathering in the driveway. They will remove the berm and rework the grades to keep storm water out of the driveway.

Vice Chairman Clark questioned when the overflow beehives would activate. Mr. Asic responded that it would activate after the 10-year storm.

Mr. Durbin commented that they made some modifications to the easement agreement to address the abutter concerns. The concerns were not significant and pertained to the restoration of the road after construction. The developer agreed to restore Artwill Ave. to its prior condition post construction. After that the lot owners will share in the responsibility of maintenance and cost for Artwill Ave.

## **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**

- 1) City Council Representative Moreau moved to grant Preliminary and Final Subdivision Approval, seconded by Vice Chairman Clark with the following stipulations:

Conditions to be satisfied subsequent to final approval of subdivision but prior to commencement of any site work or construction activity:

- 1.1) Lot numbers as determined by the Assessor shall be added to the final plat.
- 1.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- 1.3) GIS data shall be provided to the Department of Public Works in the form as required by the City.
- 1.4) The final plat and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City.
- 1.5) 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 and accepted by City Council.
- 1.6) Associated recording fees shall be paid to the City prior to recordation.

The motion passed unanimously.

- 2) City Council Representative Moreau moved to find that the application meets the requirements set forth in Section 10.814.60 of the Zoning Ordinance and to grant the Conditional

Use Permit, seconded by Vice Chairman Moreau with the following stipulation:

2.1) Ownership will be in accordance with the requirements set forth in the Zoning Ordinance section 10.814.30.

10.814.32 Either the principal dwelling unit or the accessory dwelling unit shall be occupied by the owner of the dwelling as his or her principal place of residence. The owner shall provide documentation demonstrating to the satisfaction of the City that one of the units is his or her principal place of residence. 10.814.321 When the property is owned by one or more trusts, one of the dwelling units shall be the principal place of residence of the beneficiary(ies) of the trust(s).

The motion passed unanimously.

- 3) City Council Representative Moreau moved to grant Site Plan Approval seconded by Vice Chairman Clark with the following stipulations:

Conditions to be satisfied subsequent to final approval of site plan but prior to commencement of any site work or construction activity:

3.1) Applicant will coordinate final water and sewer connections with Portsmouth Water.

3.2) The final water main connection under Andrew Jarvis Dr. will be determined by Portsmouth Water.

3.3) 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 and accepted by City Council.

3.4) 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.

3.5) Associated recording fees shall be paid to the City prior to recordation.

Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy:

3.6) 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;

The motion passed unanimously.

- B.** The request of **Artwill LLC (Owner)**, for property located at **437 Lafayette Road** requesting Site Plan Approval and Conditional Use Permit Approval as permitted under Section 10814.40 of the Zoning Ordinance to subdivide the lot and construct two new single-family dwellings (one includes an attached accessory dwelling unit) in addition to

the existing single-family dwelling. Said property is located on Assessor Map 229 Lot 1 and lies within the Single Residence B (SRB) District. (LU-22-82)

## **DISCUSSION AND DECISION OF THE BOARD**

This was voted on under Item A.

### **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 **230 Commerce Way LLC (Owner and Applicant)**, for Property located at **230 Commerce Way** requesting **Amended Site Plan Review Approval** to construct a new two-story building with a 12,500 square foot footprint and totaling 25,000 square feet with associated site improvements including lighting, utilities and stormwater treatment/management systems. Said property is located on Assessor Map 216 Lot 1-5 and lies within the Office Research (OR) District. (LU-22-14)

City Council Representative Moreau moved to consider Public Items – Old Business Item A and Item B together and vote on them separately, seconded by City Manager Conard. The motion passed unanimously.

## **SPEAKING TO THE APPLICATION**

Neil Hanson from Tighe and Bond noted that they came in February for a Conceptual Consultation. They have been granted a special exception for the proposed vet use. The project site has 3 story office building and large seldom used parking lot in the rear. The proposed site plan includes the construction of a 2 story 12,000 sf vet office. They will also reconfigure the parking layout in the rear. The proposed secondary driveway has been removed from the plan. The proposal includes storm water treatment on site. Right now, runoff sheet flows to the rear wetland. The proposed project will collect and treat storm water runoff through an infiltration system. The parking lot is in the 100-foot buffer, so they need a wetland CUP to remove 5,000 sf of impervious surface from the buffer. The proposal includes 9,000 sf of buffer restoration and a new drain outfall area. They have incorporated feedback from TAC and the Conservation Commission.

Ms. Begala questioned if they were planting the same number of trees that would be removed. Mr. Hanson responded that the only area they were removing vegetation was in the narrow strip for storm water discharge. They were probably net even on trees because of the limited cutting.

Ms. Begala questioned if they did a parking demand analysis. Mr. Hanson responded that they included the parking calculations for the site. They are required to provide 193 spaces and they are providing 202 spaces for the combined office and vet use.

Ms. Begala questioned how they would ensure that people would use the dog waste stations. Mr. Hanson responded that the new parking lot islands will be heavily landscaped. They will also sign the wetland buffer and note pets were not allowed in that area.

Chairman Chellman questioned if they had worked with DPW on their fair share contribution for the multi-use path. Mr. Hanson responded that they are continuing to work on that.

## **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**

- 1) Mr. Mahanna moved to find that the application meets the criteria set forth in 10.1017.50 and to grant the Wetland Conditional Use Permit as presented, seconded by Vice Chairman Clark.

The motion passed unanimously.

- 2) Mr. Mahanna moved to grant Site Plan approval, seconded by Vice Chairman Clark with the following conditions:

Conditions to be satisfied subsequent to final approval of site plan but prior to commencement of any site work or construction activity:

- 2.1) Applicant will work with DPW to determine fair share contribution amount that will be dedicated to City sediment removal mitigation project.
- 2.2) 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 and accepted by City Council.
- 2.3) Applicant will work with DPW to determine fair share contribution amount that will be dedicated to pedestrian multi-use path construction on Market Street.
- 2.4) 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.
- 2.5) Associated recording fees shall be paid to the City prior to recordation.
- 2.6) 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.
- 2.7) The applicant consult with the City Development Compliance Planner to determine if a Construction Management and Mitigation Plan (CMMP) is needed.

Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy:

2.8) 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;

2.9) 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.

The motion passed unanimously.

- B.** The request of **230 Commerce Way LLC (Owner and Applicant)**, for Property located at **230 Commerce Way** requesting Wetland Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for the installation of a treated stormwater drainage outfall, removal of 5,070 square feet of impervious surface, and 9,250 square feet of buffer enhancements within the 100 foot buffer area for associated construction outside the buffer area. Said property is located on Assessor Map 216 Lot 1-5 and lies within the Office Research (OR) District. (LU-22-14)

## **DISCUSSION AND DECISION OF THE BOARD**

This was voted on under Item A.

- C.** The request of **HCA Health Service of NH IINC (Owner)**, for property located at **333 Borthwick Avenue** requesting Amended Site Plan Approval for an 8,700 square foot addition to the existing building with associated landscaping, utilities, sidewalk connectivity, and other related site work. Said property is located on Assessor Map 240 Lot 2-1 and lies within the Office Research (OR) District. (LU-22-35)

City Council Representative Moreau moved to consider Public Hearings - New Business Item C and D together and vote on them separately, seconded City Manager Conard. The motion passed unanimously.

## **SPEAKING TO THE APPLICATION**

Matthew Hamby and Chris Dumont spoke to the application. Mr. Hamby commented that the building addition is a horizontal expansion of the cancer treatment facility. They are removing 200 sf of wetland but establishing 1,150 sf of new wetland. It is a manmade pond, and the volume will be increased by 2,000 cubic feet. There will be a new mobile MRI unit with small retaining wall. They are removing 15 parking spaces, 4 of which are ADA. They will be adding 8 spaces back, 6 of which will be ADA. They are reworking the entrance to make a more functional entrance for the cancer center entryway.

Ms. Begala requested clarification about the expansion of the pond. Mr. Hamby responded that they were filling one portion and digging out another area. They are increasing the volume by 2,000 cubic sf. It will be a detention pond.

Ms. Begala questioned if there was any bird life on the pond that would be impacted. Mr. Hamby responded that nothing came up in the environmental studies.

Mr. Mahanna questioned if there was any alternate location on the site to put the addition. Mr. Dumont responded that the wetlands and power line easement dictated the location. The addition needs to have a radiation vault that needs to be on the ground level.

Chairman Chellman questioned if there was an alternate location within the existing building. Mr. Dumont responded that this location was next to the radiology department which made sense for cancer treatment patients.

Mr. Harris questioned if they were adding more parking to the site. Mr. Hamby responded that there was an upcoming application to build a satellite lot for employees.

Mr. Hewitt questioned if they could build it on a second floor. Mr. Dumont responded that the radiation vault was too heavy and needed to be on the ground floor.

## **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**

- 1) Vice Chairman Clark moved to find that the application meets the criteria set forth in 10.1017.50 and to grant the Wetland Conditional Use Permit as presented, seconded by City Council Representative Moreau.

Vice Chairman Clark commented that they did a good job explaining the constraints of the location. The pond and the plantings will help mitigate the impacts.

Mr. Mahanna questioned what the difference between a natural and a manmade wetland were. Ms. Zendt responded that this was called a jurisdictional wetland and was used for a storm water wetland.

Vice Chairman Clark added that they have some value and were mapped as a wetland but not as good at providing ecological value.

The motion passed unanimously.



- 2) Vice Chairman Clark moved to grant Amended Site Plan approval, seconded by City Council Representative Moreau with the following conditions:

Conditions to be satisfied subsequent to final approval of site plan but prior to commencement of any site work or construction activity:

- 2.1) New sewer manhole will be a cut in manhole.
- 2.2) Borthwick Ave handicap access ramp flooding will be addressed and approved by DPW.
- 2.3) 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 and accepted by City Council.
- 2.4) 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.
- 2.5) Associated recording fees shall be paid to the City prior to recordation.

Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy:

- 2.6) The wetland area adjacent to the emergency area will be dredged from Borthwick to the oxygen tank area to restore free flowing drainage. This will be done in conjunction with an associated wetland enhancement along the edges of this same area.
- 2.7) Prior to release of bond, Applicant will work with DPW to determine fair share contribution amount that will be dedicated to City sediment mitigation project that is proposed for the area from the oxygen tanks to the Route 1 bypass area.
- 2.8) 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.

The motion passed unanimously.

- D.** The request of **HCA Health Service of NH IINC (Owner)**, for property located at **333 Borthwick Avenue** requesting Wetland Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for 200 square feet of permanent and 4,400 square feet of temporary impact to the inland wetland; and 13,000 square feet of permanent and 4,300 square feet of temporary impact to the 100 foot buffer area for associated expansion of hospital facilities. Said property is located on Assessor Map 240 Lot 2-1 and lies within the Office Research (OR) District. (LU-22-35)

## **DISCUSSION AND DECISION OF THE BOARD**

This was voted on under Item C.

- E. The request of **Lancen and Sophie LaChance (Owner and Applicant)**, for property located at **11 Fletcher Street** requesting Wetland Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for the installation of a stormwater underdrain outlet creating 140 square feet of permanent impact within the 100 foot wetland buffer. Said property is shown on Assessor Map 233 Lot 76-1 and lies within the Single Residence B (SRB) District. (LU-20-42)

## **SPEAKING TO THE APPLICATION**

Vice Chairman Clark recused himself from the application. Mr. Samonas voted.

Alex Ross spoke to the application. It is a simple project with a small amount of work in the wetland buffer. The property slopes toward Benson St. and out to the wooded wetland. There are no wetlands on the parcel. It is just the 100-foot buffer. The site plan in the corner shows a small drain outlet. There will be a foundation drain that will be daylighting on the rear of the site. They coordinated with DPW on this project to prevent additional flow going to the abutter's property. At the Conservation Commission's request, they have added a planting plan with 8 trees up the slope and down in the flatter corner area. There will be shrub plantings around the outfall. They prepared a drainage study involving pervious pavement, rain garden infiltration areas, and roof gutters.

City Council Representative Moreau questioned if they had discussions with the abutters to this property about the drainage plan. Mr. Ross confirmed they have. That is why they coordinated with the DPW on this project to help address abutter concerns. The drain outfall was pushed to the corner to avoid the abutter and go to the wetland in the rear.

Ms. Begala questioned if the mulch was an organic material. Mr. Ross responded that they were following NOFA standards for the land care management on the site.

Chairman Chellman questioned if the drain was for the foundation drain only or the catch basin as well. Mr. Ross responded that it would capture all the drainage. Chairman Chellman requested clarification that there would be not water increase post development. Mr. Ross responded that there would be a decrease.

## **PUBLIC HEARING**

Judy Pope of 66 Benson St. noted that she was the abutter with the flooding issues. The original approval for the prior owner had stipulation that runoff and drainage plan needed to be approved by the DPW and Planning Board before a building permit was issued. When the lot was sold that stipulation carried forward. That stipulation should continue to carry forward if something changes with this building in the future. There should also be a provision to account for drainage during construction. Ms. Pope questioned what measures were in place to ensure the plan was fully executed.

Angela Lambert of 65 Benson St. commented that it sounded like a good plan, but they just wanted to make sure the water would not be worse.

Alex Ross commented that the plan needs to be approved by DPW and the Planning Board before a building permit is issued. If anything changes, then they would need to go back to at least the DPW for review.

Chris Gallet of 10 Fletcher St. lives across the street. Mr. Gallet spoke in favor of the plan presented. They addressed abutter concerns and have done their research.

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 commented that she was on the Board when this was here 2 years ago. They did a good job working with DPW to create a drainage plan that addresses abutter concerns.

Mr. Hewitt noted that they should add a stipulation that addresses the abutter's concerns about increased flow during construction.

Ms. Begala questioned if the new plantings should be bigger to help absorb the runoff and water. Chairman Chellman responded that the drainage calculations are not reliant on the on trees taking on the water. That could be a burdensome stipulation.

1) City Council Representative Moreau moved to find that the application meets the criteria set forth in 10.1017.50 and to grant the Wetland Conditional Use Permit, seconded by Mr. Mahanna with the following stipulations:

1.1) The applicant shall follow NOFA standards for landcare management

1.2) Any changes to the structure will require DPW review to ensure the approved drainage plan is still effective.

1.3) The applicant will take measures to stabilize the site during construction.

The motion passed unanimously.

**F.** The request of **Tom and Angela Mita (Owners and Applicants)**, for property located at **81 Taft Road** requesting Wetland Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for 17 square feet of permeant disturbance to the buffer area for the construction of an expansion to the existing structure. Said property is shown

on Assessor Map 247 Lot 87 and is lies within the Single Residence B (SRB) district.  
(LU-22-98)

### **SPEAKING TO THE APPLICATION**

Contractor and Hydrologist Dave Siccolo spoke to the applicaiton. The application is for a 14 by 17.5 addition. The Conservation Commission recommended approval with some stipulations. They have incorporated NOFA standards and wetland buffer plantings into the plan. 17 sf of the addition will impact the buffer. It is a small impact.

Vice Chairman Clark requested more information on the wetland plantings. Mr. Siccolo responded that they already have foundation plantings around the perimeter of the house. They will continue that foundation planting row. They will have some other drainage measures too, so any additional buffer plantings will be more than adequate.

### **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**

1) Vice Chairman Clark moved to find that the application meets the criteria set forth in 10.1017.50 and to grant the Wetland Conditional Use Permit seconded by City Council Representative Moreau with the following stipulations:

- 1.1) The applicant shall follow NOFA standards for landcare management
- 1.2) The applicant will add additional wetland buffer plantings subject to staff review.

The motion passed unanimously.

**G.** The request of **The Fritz Family Revocable Living Trust, Owner**, for property located at **0 Patricia Drive** requesting Wetland Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance to replace an existing unfinished right-of-way with a new private road to access two lots as well as the installation of stormwater treatment infrastructure and wetland buffer plantings which will result in 1,738 square feet of temporary impact and 4,283 square feet of permanent impact to the wetland buffer. Said property is shown on Assessor Map 283 Lot 1 and lies within the Single Residence A (SRA) district. (LU-20-190)

### **SPEAKING TO THE APPLICATION**

Mike Garrepy spoke to the application. This came before the Planning Board in February 2021. They have been working with Planning Staff and the Legal Department to finalize approvals for the project. The CUP approval has expired, so they need a reapproval of the CUP for the proposed road impacts. They have a DES permit for buffer impacts. The Conservation Commission recommended to approve the CUP. They will re-do the road at a narrower width and add drainage.

Mr. Mahanna questioned if the emergency access had been reviewed for this street. Mr. Garrepy confirmed it was vetted through TAC. Mr. Mahanna questioned if there was a road maintenance agreement. Mr. Garrepy confirmed that was in place.

Mr. Hewitt questioned if the road would be maintained by the City. Mr. Garrepy responded that it would be private maintenance. Mr. Hewitt questioned if there were any alternate locations for the road. Mr. Garrepy responded there was not.

## **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**

1) City Council Representative Moreau moved to find that the application meets the criteria set forth in 10.1017.50 and to grant the Wetland Conditional Use Permit, seconded by Vice Chairman Clark with the following stipulations:

1.1) The applicant shall follow NOFA standards for landcare management  
[https://nofa.organiclandcare.net/wp-content/uploads/nofa\\_organic\\_land\\_care\\_standards\\_6thedition\\_2017\\_opt.pdf](https://nofa.organiclandcare.net/wp-content/uploads/nofa_organic_land_care_standards_6thedition_2017_opt.pdf)

1.2) The applicant shall require all winter maintenance personnel to have a Green Snow Pro certification.

The motion passed unanimously.

## **V. OTHER BUSINESS**

### **A. Hemlock / Patricia Drive Subdivision Extension Request**

Chairman Chellman noted that staff and the applicant had spent a lot of time on this. One of the issues that came about the other day was to make sure they had frontage for the lots. That has been addressed.

Mr. Garrepy agreed they were almost there. There were just a few final notes that needed to be updated.

- 1) City Council Representative Moreau moved to grant an extension to the Planning Board Approval for Preliminary and Final Plat approval seconded by Mr. Mahanna with the following stipulations:

1.1) The extension shall not exceed 18 months from the original date of Planning Board approval of the subdivision (February 18, 2021).

1.2) That all previous stipulations not previously addressed and approved by the Planning Board on February 18, 2021 be met prior to recordation at the Registry of Deeds.

1.3) That a release deed retaining public access and drainage rights to the City, be prepared for review and approval by the City Attorney and that such deed be fully executed by the City and all abutters. Any abutter choosing to waive their rights to the public road must submit their waiver in writing in a form acceptable by the Planning Director.

1.4) Update Plat note 3 on the subdivision plan to include the retention of rights to pass over for the abutting property owner.

1.5) Update callout note above private street to read “Former Patricia Drive Proposed Private Street See Right of Way Notes 2 & 3” where it currently reads “Former Patricia Drive Proposed Private Right of Way Easement See Right of Way Notes 2 & 3.”

The motion passed unanimously.

#### **B. Public Involvement Summary Report**

Ms. Zendt introduced Intern Luke Cowan to present the public feedback for the ADU ordinance, which the Land Use Committee is focusing on for phase 2 of the proposed amendments.

Mr. Cowan commented that they conducted small focus group meetings. The groups consisted of previous ADU applicants, architects, engineers, and neighborhood representatives. They also sent surveys to ADU direct abutters. The response rate was over 10%. There have been 25 building permits pulled for ADUs since 2017. There were some emerging themes from the feedback. People felt that there needs to be a clearer process. The dimensional relief is a protection and obstacle. There is a considerable cost and risk involved in the process. It is a deterrent. The regulations for an ADU need to be clear. Abutter feedback was generally neutral or positive. ADU applicants thought it was complicated because there was not a step-by-step process. There is always a risk when an applicant has to apply for a variance and modifications. The cost for the process is high and approval is not guaranteed. People also felt that there needed to be more clarity in the ordinance. It should be clear and specific. The abutter survey showed short term rentals and parking as top concerns. They are thinking about proposing criteria that would allow some ADUS to be approved without the Planning

Board review. Architects noted that the lot size requirements need to be smaller to make it feasible.

Mr. Samonas commented that the Seattle preapproved example may not work as well for Portsmouth. It would be hard to ensure the ADUs would be architecturally compatible. The ADUs are good because it allows for people to age in place. It would be good if they could streamline the cost or add a preapproval checklist. It could save applicants time, money, and confusion. Having a city staff person dedicated to this would be good.

Mr. Mahanna agreed that they needed a liaison. There should be a point of contact for the average civilian.

Ms. Begala commented that the goal for these changes should be more specific about what extent they want to expand ADUs and to what density. It needs to be a goal that can be measured. Only 40% of the abutter feedback was positive. The rest were neutral or negative. There should be further conversation with the public about what kind of density they are trying to achieve. This process seems to be subverting the Planning Board's regulatory function role. There are some members of the Planning Board on the Land Use Committee. However, the Planning Board should have input on this. Ms. Begala still had an outstanding question about where and how the Planning Board gets to have a role and input on changes to the zoning land use regulations. The Planning Board should be involved in next steps. It is not clear what happens next.

Chairman Chellman noted that if a Planning Board member had specific ideas for issues tonight is good night to talk about it. The State regulations apply mostly to towns not cities because that is the majority of NH. In a town the Planning Board is the only one with the role in presenting zoning amendments. In Portsmouth the Planning Board can propose a change of its own volition. It can also come through City Council or a petition. If the Board wants to look at other things, then they can have more meetings. This is something that was identified by City Council as an important priority and the Land Use Committee is working on it. The Planning Board is involved. They can provide input based on the presentation they just had. The feedback so far is that they should look to make a simple application that fits the goals. They would involve this Board in creating those regulations. Then it would go to City Council.

Ms. Zendt commented that the City Council helps staff to set their work plan. Public outreach is labor intensive. Ordinance changes are intensive and hard even if it seems like a simple update. The Planning Board works to refine amendments when they are presented to them.

City Council Representative Moreau commented that the whole point of bringing this information to the Planning Board is to get their ideas to the Land Use Committee and staff. They are currently working on a red line version. When that is done, they will present it to the Planning Board for feedback. There will be a public hearing at the Planning Board and several at the City Council.

Mr. Hewitt questioned how many ADU's had been approved since 2017. Mr. Cowan responded that 25 building permits had been pulled for an ADU since 2017. There have been 31 approvals total. Mr. Hewitt noted that the ADUs had a high approval rate, so there were pretty good odds for applicants to move forward. Ms. Zendt responded that the risk of denial was still there. One went for a variance last month and was not approved.

Mr. Samonas commented that they needed to ensure that ADUs were being used as a workaround to add square footage onto their home.

Mr. Mahanna commented that this was good information to work off of, and they should have had the same level of information about the building height changes as well. This is a good starting point to make changes. If they had something like this for the building height changes, then it would have been better.

Chairman Chellman commented that the building height amendments were directly tied to the Master Plan. Those are being amended from that. The ADU ordinance was built from scratch. That's the big difference.

Ms. Begala commented that there was not enough specificity for the Master Plan. They need to look at the cumulative effect for the ADUs. They need to determine how much density is needed and how much is acceptable for the people in this town. They should revise the Master Plan with a clear measurable objective in density. Ms. Begala questioned how the focus group participants were picked. City Council Representative Moreau responded that they picked engineers and architects who regularly present to the Planning Board because they were the most familiar with the ordinance. Then they went to the citywide neighborhood meeting to find neighborhood representatives. They sent the survey to every ADU abutter. ADU applicants were contacted and whoever responded and could attend were picked.

Ms. Begala commented that there was concern about the short-term rentals and parking. It should not be a widespread issue in Portsmouth. They should create a checklist and tool kit to help the average applicant navigate the ADU process.

Mr. Almeida commented that in the past the ADU can be somewhat villainized for unfair reasons. The negative comment in the presentation had to do with aesthetics, not noise or parking. Short term rentals can be a concern, but the bigger concern is signing a one-year lease to someone who parties a lot. It is nice to have an ADU to allow people to age in place. However, there is nothing wrong with someone adding an ADU to generate an income as well. They need to simplify the process, but this is a positive thing.

Vice Chairman Clark commented that they needed to keep people's property rights in mind. In a lot of instances someone could buy a small house, demo it, and quadruple the size of it. In that scenario the abutter has no input because it's all allowed in the ordinance. That can be more impactful than an ADU going in. Abutters provide valuable input, but they need to keep people's property rights in mind too.



City Council Representative Moreau commented that this ordinance is required under state law. They either had to accept the model they gave us or modify it. Portsmouth added detached ADUs and garden cottages to the ordinance. It would make sense to try to streamline it. One suggestion they made for an attached ADU is if it's within the footprint of the house, then they should be able to do it off a checklist. It may make sense to put together a handbook.

Chairman Chellman commented the Land Use Committee will bring the red line version to the Planning Board. It would be good to wait to work on the changes until that happens.

Mr. Samonas questioned if they could sit in on the Land Use Committee Meetings. City Council Representative Moreau confirmed they were public meetings. Planning Board members can provide public comment or submit written suggestions. The next meeting is August 5, 2022.

Mr. Hewitt requested clarification on the comment about not finding the ordinance in other communities. City Council Representative Moreau responded that they asked architects and engineers if there was another town with better a ordinance that they could reference. The architects and engineers did not have any better example.

Mr. Samonas questioned if these changes would be neighborhood specific or across the board. City Council Representative Moreau responded that they would be across the board for any residential zone that allows for an ADU.

#### C. Chairman's Updates and Discussion Items

Chairman Chellman commented that any questions that the Planning Board members may have for staff should go through him. The Chairman will work with staff and get a response. Also, the letter to the editor that Mr. Hewitt submitted was ok because it dealt with a legislative matter. Members can talk about legislative matters. They cannot talk to an applicant about an application outside of the meetings. Zoning amendments are a legislative matter, and they can talk about it. That being said, before sending private letters they should talk about it here to determine the best course of action.

Ms. Begala requested that they use Survey Monkey when scheduling special meetings, so they can determine the best day for the most members to attend.

## VI. ADJOURNMENT

Chairman Chellman adjourned the meeting at 9:36 p.m.

Respectfully submitted,

Minutes, Planning Board Meeting, July 21, 2022

Becky Frey,  
Secretary for the Planning Board