

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

7:00 PM

October 19, 2023

MINUTES

MEMBERS PRESENT: Rick Chellman, Chair; Corey Clark, Vice-Chair; Karen Conard, City Manager; Joseph Almeida, Facilities Manager; Beth Moreau, City Councilor; Members Peter Harris, James Hewitt, Jayne Begala; Alternates Andrew Samonas and William Bowen

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ALSO PRESENT: Peter Stith, Planning Manager; Deputy City Attorney Trevor McCourt

MEMBERS ABSENT: Greg Mahanna

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REGULAR MEETING 7:00 p.m.

<p>DUE TO THE LARGE VOLUME OF AGENDA ITEMS SCHEDULED FOR OCTOBER, THE BOARD WILL BE VOTING TO POSTPONE CONSIDERATION OF NEW BUSINESS ITEMS (IV.) F. THROUGH K. TO THE THURSDAY, OCTOBER 26, 2023 MEETING.</p>
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Alternate Andrew Samonas took a voting seat for the evening. Chair Chellman noted that the agenda was split and that Item I, Lonza requested to continue to the November 16 meeting.

I. APPROVAL OF MINUTES

A. Approval of the **September 21, 2023** meeting minutes.

*Councilor Moreau moved to **adopt** the minutes as presented, seconded by Vice-Chair Clark. The motion with all in favor.*

B. Approval of the **September 28, 2023** Work Session minutes.

*Councilor Moreau moved to **postpone** approval of the minutes so that more detail could be added. The motion was seconded by Vice-Chair Clark and passed with all in favor.*

II. DETERMINATIONS OF COMPLETENESS

SUBDIVISION REVIEW

- A.** The request of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting to Subdivide one lot into two lots to create the following: Proposed Lot 1 with 6.65 acres of lot area and 354 feet of street frontage and Proposed Lot 2 with 7.96 acres of lot area and 200 feet of street frontage.

Chair Chellman read the petition into the record as well as the site plan review approval for Banfield Realty (Site Plan Review, Item A).

Councilor Moreau moved that the Board vote to determine that the subdivision and site plan review applications were complete.

Mr. Hewitt said he needed more information to consider it complete for both subdivision and site plan and that he would prefer a copy of the pending lawsuit and explanation from the City's Legal Department of where it stood now, with Portsmouth being a defendant in that lawsuit, and how the Board's actions may or may not affect the lawsuit's outcome. Chair Chellman said the determination of completeness was an initial step before conversation with the applicant and was not a determination of acceptance of the items. He said he did not think the lawsuit was something that fell within the purview of the Board's regulations. He said if the application was accepted as complete, the lawsuit could be brought up during the Board's later deliberations.

Ms. Conard seconded the motion.

Mr. Harris noted that there was a memo from the Technical Advisory Committee (TAC) indicating that the applicant had to provide proof of cleanup responsibility required for Planning Board approval, and he wanted to make sure that happened. Chair Chellman said it was in the package but again was a next-step discussion about the application.

The motion passed 7-2, with Mr. Hewitt and Mr. Harris voting in opposition to the motion.

- B.** The request of **Caleb E. and Samantha L. Ginsberg (Owners)**, and **Peter and Donna Splaine (Owners)**, for property located at **303 Bartlett Street** and **295/299 Bartlett Street** requesting Preliminary and Final Subdivision approval for a lot line relocation between Tax Map 162 Lot 13 and Lot 14 where a separate parcel was discovered between the two lots and is proposed to be divided between Lot 13 and 14 as follows: Lot 13 increasing in size from 4,906 square feet and 36 feet of frontage to 6,665 square feet and 37 feet of frontage. Lot 14 increasing in size from 4,802 square feet and 192 feet of frontage to 8,640 square feet and 217 feet of frontage.

Councilor Moreau moved that the Board vote to determine that the subdivision application was complete, seconded by Ms. Conard. The motion passed with all in favor.

- C.** The request of **Richard and Jessica Hayes (Owners)**, and **William and Katja Becker (Owners)**, for property located at **40 Walker Bungalow Road** and **26 Walker Bungalow Road** requesting Preliminary and Final Subdivision approval for

a lot line relocation to remove the encroachment of a driveway and retaining wall as follows: Tax Map 222 Lot 5-1 consisting of 53,970 square feet of lot area, increasing in frontage from 140. feet to 160.17 feet with no change in lot area. Tax Map 222 Lot 5-2, consisting of 37,637 square feet, decreasing in frontage from 120.17 feet to 100 feet, with no change in lot area.

Councilor Moreau moved that the Board vote to determine that the subdivision application was complete, seconded by Ms. Conard. The motion passed with all in favor.

- D.** The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Preliminary and Final Subdivision approval for the subdivision of the 2.23-acre lot into nine (9) conforming Single-Family lots.

*No action was taken on the item and it was **postponed** to the October 26, 2023 meeting.*

SITE PLAN REVIEW

- A.** The application of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting Site Plan review approval to demolish two existing commercial buildings and an existing shed and construct a 75,000 s.f. industrial warehouse building with 75 parking spaces as well as associated paving, stormwater management, lighting, utilities and landscaping.

Councilor Moreau moved that the Board vote to determine that the subdivision and site plan applications were complete, seconded by Ms. Conard. The motion passed by 7-2, with Mr. Harris and Mr. Hewitt voting in opposition to the motion.

- B.** The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Site Plan Review approval for the construction of nine (9) single-family dwellings with associated paving, stormwater management, lighting, utilities and landscaping.

No action taken on this item. It will be considered at the October 26, 2023 meeting.

III. PUBLIC HEARINGS -- OLD BUSINESS

Chair Chellman stated that Items III.A, B, and C for Banfield Realty, LLC would be discussed together but voted upon separately.

Vice-Chair Clark moved to vote that the Board hear Old Business Items III.A, B & C together and vote on them separately, seconded by Mr. Almeida. The motion passed by all in favor.

- A.** The application of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting Site Plan review approval to demolish two existing commercial buildings and an existing shed and construct a 75,000 s.f. industrial warehouse building with 75 parking spaces as well as associated paving, stormwater

management, lighting, utilities and landscaping. Said property is shown on Assessor Map 266 Lot 7 and lies within the Industrial (I) District. (LU-20-259)

SPEAKING TO THE APPLICATION

[Timestamp 16:28] Attorney Courtney Herz was present on behalf of the applicant, with Rob Graham of Banfield Realty and project engineer Joe Coronati. Attorney Herz said they wanted to remove the two existing commercial buildings and construct an industrial one. She said the applicant had been working with the Department of Environmental Services (DES) and the U.S. Environmental Protection Agency (EPA) to remediate the contamination that existed prior to Banfield Realty purchasing the site. She said a separate issue of dealing with an easement on the property held by the City was worked out, and the changes to the plan left the easement area exactly as it is. She said a few TAC comments came up during the completeness review about whether the pending lawsuit implicated the issues before the Board that night, and she said it did not. Regarding TAC's comments about proof of cleanup responsibility, she said the subdivision application indicated how the two parcels would be owned and the Staff Memo stated that the applicant satisfied those TAC comments.

Chair Chellman said the Board received a huge packet of materials with thousands of pages of information and that the applicant provided the Board with a 250-page summary. He said an April letter from DES was on page 2,489. He asked why the packet was so large and whether the applicant could assure that the Board could rely on a certain number of those pages as indicated in the cover letter or not. Attorney Herz said the Board could rely on them. She said a large chunk of it had to do with the reports submitted to DES and that she could direct the Board to those reports if there were questions. Ms. Begala said, regarding Attorney Herz's statement that there was proper remediation, she said she read in the packet that DES said the Board received the revised work plans and remedial action plan but said they were acceptable plans. She said that was different than having completed all of the work in the action plans that were meant to be implemented actions plans. She said DES indicated that they were still concerned about a greater density of sampler points within and near the stream channel that should be completed as part of the Spring 2023 assessment work, but she did not see anything in the packet indicating that it was completed. She said they wanted a summary report with the results of all the additional investigational activities within 120 days of receipt of the letter, which meant she should be able to find something dated July 2023 in the packet saying that was done. She asked if the verb tense was "planned action" or "had been completed", and where the proof was in the packet. Attorney Herz said the work was underway. She said the question of remediation was outside the Board's purview and was being handled by DES and EPA with the applicant's cooperation. Ms. Begala said the definition in the zoning ordinance of an industrial site stated that the use does not allow for recycling, high hazard use, and so on, so it restricts the types of things to be stored or manufactured because of concerns about pollutants, etc. Chair Chellman said he agreed with Attorney Herz and the Board's regulations did not cover a lot of the issues and that is was a situation where the site was previously contaminated. Ms. Begala said she was confused about the amount of pages the Board was given to consider and then being told that the Board could not look at the site plan. Chair Chellman explained that there was an interrelation between some of the elements of what the site is and what the Board had to look at for site plan and subdivision regulations. He gave a few examples and said the Board was constrained by their regulations that

did not extend to include cleanup activities. Ms. Begala said she wasn't comfortable approving the project before she knew if the issues included in the Board's packet were met. Attorney Herz said it was within the jurisdiction of DES and EPA and that the Board's purview was to decide if the application met the regulations for subdivision and site plan. She said everything that was submitted showed that the applicant was cooperating with DES and EPA, but nothing in the regulations or materials said the whole property that's been contaminated for a long time and all the related cleanup activities needed to be completed before work can be done on the property.

Deputy City Attorney Trevor McCourt said he spoke with outside counsel in that case and they advised that the Board and TAC not consider the pending lawsuit as they all work through the criteria. He said that lawsuit was about how to pay for the remediation and had nothing to do with past remediation or remediation moving forward. He said the environmental cleanup was under the jurisdiction of DES and EPA. He said there was a legal document called preemption, which means that when the State enacts a comprehensive legal scheme governing something like an environmental cleanup, they've done something called preempting the field so that any subsidiary body like the Planning Board has no authority to regulate that. He said all the power comes from the State and they use it as they see fit. He cited a relevant case, *Colebrook vs the Town of Colebrook* that could be contrasted with State laws relative to wetland buffers.

Mr. Hewitt asked if the pending lawsuit was filed so that the judge could apportion liability between potential responsible parties. Attorney McCourt said that would be the result that the plaintiffs are looking for and that one of those parties were Portsmouth. Mr. Hewitt asked Attorney McCourt to explain the superfund provision known as joint and several liability, which he did. Mr. Hewitt asked if it was up to EPA to decide which responsible party they chose to go after and if it was often based on the ability to pay. Attorney McCourt said the reason outside counsel was hired was because he wasn't an expert and that it was not relevant to the discussion. Mr. Hewitt said he believed it was and that he did not want to do anything to increase Portsmouth taxpayers' liability, and he asked how subdividing the property would increase or decrease that liability. Attorney McCourt said the City was working toward the same goal, and whether the site plan or subdivision plan was approved, it would not have an impact on the amount of liability shifted to the Portsmouth taxpayers. Ms. Begala said as the Board went through approval of the site plan, they would talk about a design that includes capping contaminated property and so on, but she did not think the Board could ignore the contaminated condition of the site. She said the Board might be able to place conditions about the applicant fulfilling what was written in the April 26 DES Memo, but she didn't know how that would affect the design of what the Board looked at as part of the site plan approval. Chair Chellman said the Board has regulations that tie into that capping material. Ms. Begala asked if EPA would correct an approval of the Board for the site plan with a lesser cap than was needed for full remediation. Attorney McCourt said if the site plan was approved and there was a change between that approval and what was dictated by DES or EPA, the applicant would have to return to ask for an amended site plan approval. Attorney Herz said various approvals already granted by the State were included in the packet, and she agreed that the applicant would return if anything changed after the Board's approval.

[Timestamp 41:57] Mr. Coronati reviewed the existing conditions plan and said the simplest was to subdivide the lot into two parcels. He said as part of the cleanup and remediation of the site

and the approvals, they would all tie in with the financing and the way the site would be cleaned up, which would be in two phases, an upland and a lowland. He said the lowland was labeled as a non-buildable lot. He said they had a few waivers that were part of the subdivision plan that referred to bonding. He said the two-lot frontage subdivision required no work and that the offsite improvements required by TAC were already performed. Mr. Coronati discussed the site plan proposal of a 75,000-sf industrial building for warehousing and offices. He said TAC and a local engineering firm signed off on all the design aspects of the property. Relating to how stormwater would be handled, he said they proposed to tie into the City's water and gas lines and forgo a septic system and would need an easement from the City to tie into their manhole. He said their Alteration of Terrain permit granted a waiver to allow them not to infiltrate.

Mr. Hewitt asked why the applicant only recently decided to subdivide the property after working on it for almost four years as a single lot. Mr. Graham said Kennebunk Bank would finance the construction but could not finance a project that wasn't fully permitted, so the first portion of the permit was the upland area (Lot One) that was the subdivision lot with the development, and the lowland area was Lot 2. He said the bank would only lend money for the permitted portion. Mr. Hewitt asked if it was because the bank didn't want to lend money on contaminated property. Mr. Graham said permits were needed to do the work.

Mr. Samonas asked if the applicant came up with a metric for runoff from post-development conditions and whether it had been studied or would be a result of remediation. Mr. Coronati said the Alteration of Terrain approval allowed for the .01 acre foot of volume increase. Mr. Samonas asked if it was in fact .1 feet acre or more than that. Mr. Coronati said it was not because it was only allowed up to that, which was part of the reason that their tank system was almost the size of the parking lot. Mr. Samonas verified that all the requirements were State parameters. Mr. Samonas referred to the letter from DES in the submission that stated that the Soil Management Plan and the Remedial Action Plan had concerns for human health, and he asked if it was a previous letter that had since been updated, noting that it was a DES form dated April 21, 2022, and if it was part of the remediation plan. Mr. Coronati said the letter was old, and on April 26, 2023 the applicant received their approval for the Remediation Action Plan that incorporated how the work on site would be handled for the cleanup. He said there was a Groundwater Monitoring Permit from the State dated September 5, 2023 that explained the details involved. Attorney Herz said the concerns about pre-existing conditions of contamination were not before the Board and that it was important that the Board base its decisions on the application before them and their regulations that govern it.

Ms. Begala said one of TAC's conditions for the project was proof of cleanup responsibility required prior to Planning Board approval. Attorney Herz said the Staff Memo stated that the applicant had satisfied that. Ms. Begala asked who had responsibility for cleanup if it had already been handled. Attorney Herz said Attorney McCourt provided that answer but that it was outside the Board's jurisdiction. Chair Chellman explained that TAC makes their recommendations to the Board and that they're not conditions until the Board adopts them as such. In terms of responsibility, he said it was the responsibility of everyone who had ever touched it. Mr. Hewitt said TAC indicated that a requirement of the Board was to have proof of cleanup responsibility. Chair Chellman said TAC made a recommendation and the Board was instructed that evening that it wasn't under their jurisdiction. He said he questioned what was underground, however.

Mr. Stith said the concern during the subdivision was that the City wanted to ensure that the owner was responsible for both properties. He said the applicant submitted a letter stating that they were responsible for the cleanup of both properties.

Ms. Begala said Banfield Road truck traffic was a concern of residents and that it was important to get an accurate analysis of what the new volume of trucks and truck trips would be throughout the day. Mr. Coronati said the use was general manufacturing and the warehouse was a high-bay one. He said the warehouse and office component and the truck traffic associated with it were part of the offsite improvements that TAC required and the applicant was told that the lot was zoned industrial but the road wasn't up to standard, so the applicant paid to beef up the depth and shoulders of the road to handle truck traffic. He said there were restrictions with that, including which ways the trucks could travel along Banfield Road and the routes they had to take. He said they did not have the exact number of trucks per day. Mr. Graham said they only studied a narrow window because they studied the early morning peaks and so on. He said it was discussed with TAC and there were no concerns about trip generation but there were concerns about shoulder and travel widths on the road. He said they worked with the Department of Public Works (DPW) and found out that the City was beginning a project to repave Banfield Road. He said DPW spent a lot of time with them to make some recommendations about what was needed, which was a 2-ft shoulder expansion and a deeper depth. He said that work was completed over a year ago. He said the applicant did not contaminate the site and did not want to sue the City but was doing so out of constraints. He said the proposed project was to clean up the site, and that the applicant contributed to rebuilding the entire road.

Chair Chellman said the applicant said they changed their design to put a retaining wall on the site of the building but he noticed that, based on the grading on the SE corner, they would have to go through some fill for the sewer connection. He said there were issues in discussions with DES about how to move materials on site, and he asked how the sewer installation would affect the City's potential future use of the roadway and if the City would have to address dealing with contaminated material for grading. Mr. Coronati said the gravity sewer line came out of the building to a pump station and that whole section was higher than the site, and they needed a force main because it was a big hill. He said they did remove all the grading off that portion and would use the side of the building as a grading wall. As far as the work done on it, he said it had to follow the State approvals for the Remediation Plan no matter who was doing it and that there was a length guideline no how that as done, whether it was by the City or the applicant in the future. He noted that a rail trail was being built in the vicinity and there may be a future need to put a trail on that easement to go from the City's property to Banfield Road, which would involve a sidewalk leading to the rail trail. He said that was helped by regrading the site as well as providing a sloped easement with Banfield Road. Chair Chellman said the SE corner had hazardous materials and the City's easement rights were limited to the 50-ft area. In the course of putting in the sewer line he asked if the applicant would regrade that so the City wasn't faced with an insurmountable problem. Attorney Gerz said the important thing was that the easement exists as it is today and they were asking to leave that easement as it is now. She said nothing in the application changed the City's right pertaining to that easement but that the applicant was trying to be reasonable and cooperative and would try to make it work if it came up. Chair Chellman asked about the pile of material. Mr. Graham said it was clean material and that they were committed to prepping and constructing the gravel trail bed for the City's trail and that they

would regrade it. Mr. Coronati said it was noted on the landscape plan that they would put a gravel area after the force main installation and needed access to the force main for maintenance. Chair Chellman asked if the grading plan would be revised slightly to show the change in that corner. Mr. Coronati said it would not because there would be no change to the grade, which he further explained. Chair Chellman asked if the depth of the force main wouldn't be deep enough to account for possible future grading. Mr. Coronati said that would come up when they submitted it to Public Works and that a design had not been done yet. Mr. Graham said the City hadn't decided on how to trail would be upgrade. Chair Chellman said that was the reason the applicant was before the Board and that he was concerned about it. He said if the applicant put the force main down deep enough, they would be grading out wide enough for the City trail. He asked about the soil conditions. Mr. Graham said they didn't know the depth of it and didn't have any signs on it but would work with Public Works on the design.

Mr. Bowen said he didn't see staging or parking for trucks in the loading area and the number of trucks coming and going, their size, the intensity of activity, and so on that might call for staging or a parking rea of trucks. He asked if adequacy for parking of trucks on site was a TAC consideration. Mr. Coronati said it was and was based on what was proposed. The said trucks would not be allowed to park on Banfield Road, and if the tenant seemed that the lot wasn't a big enough area for trucks to park in, then they would not select the site. He said it was a limiting factor of the use of the building. Ms. Begala said the Board didn't have any guidance for the Conditional Use Permit from the Conservation Commission outside of planting wild seed. She said it was done two years ago and asked if there was any change to the packet of materials. Mr. Graham said they went back to TAC in 2022 and nothing had changed.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

First Time Speakers

Kelly Shaw of 892 Banfield Road called in via Zoom and said she lived between Heritage and Ocean Avenues and that it had taken her eight years to get the City to place sidewalks, guard rails, speed bumps and signs at that end of Banfield Road. She said tractor trailers and box trucks were not allowed on Banfield Road due to an air brake ordinance and that it was a hazard every day. She said her end of Banfield Road was a rural area and single residential only and she was concerned about the direction the tractor trailers would go.

No one else spoke. Chair Chellman asked for second time speakers.

Second Time Speakers

Mr. Shaw suggested that the trucks take a right turn onto Banfield Road, then down Peverly Hill Road, and cross over on Mirona to get to Route One, or go to Peverly Hill Road to get to the lights near Market Basket. She said otherwise it was an accident waiting to happen.

Third Time Speakers

No else spoke. Chair Chellman closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Ms. Begala said she was concerned about the truck volume on Banfield Road and the fact that the Board had no traffic analysis on Peverly Hill Road or Mirona Road.

Vice-Chair Clark moved that the Board vote to grant the requested waivers to the Subdivision Standards from Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds in accordance with the following:

- a) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.*

Councilor Moreau seconded. The motion passed with all in favor.

Vice-Chair Clark said the applicant was doing improvements to the site but that they weren't necessarily associated with the proposed subdivision and the City's easement was not part of that subdivision, so there's no additional work that the City would be subject to in the subdivision in the future. Mr. Hewitt said he wasn't convinced that the subdivision would not increase Portsmouth's environmental liabilities.

Vice-Chair Clark moved that the Board find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented. The motion was seconded by Councilor Moreau.

The motion passed 8-1, with Mr. Hewitt voting in opposition to the motion.

*Vice-Chair Clark moved that the Board vote to grant Preliminary and Final Subdivision Approval with the following **conditions**:*

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

Councilor Moreau seconded. The motion passed 7-2, with Mr. Hewitt and Mr. Harris voting in opposition to the motion.

Vice-Chair Clark moved that the Board vote to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented. Councilor Moreau seconded. The motion passed 7-2, with Mr. Hewitt and Mr. Harris voting in opposition to the motion.

Vice-Chair Clark moved that the Board vote to grant Site Plan Approval with the following conditions:

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

- 1.1) The site plan, and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 1.2) The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.*
- 1.3) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>*
- 1.4) DPW will review and approve the locations of domestic and fire service lines entering all buildings.*
- 1.5) DPW shall review and approve the sewer connection.*
- 1.6) A peer review of the traffic analysis will be provided and subject to acceptance by City staff.*

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

- 1.7) 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.*
- 1.8) Subject to written assurance and any required surety for performance provided to the Planning Board, the applicant shall conduct work in accordance with all requirements of the NHDES letter dated April 26, 2023, which includes investigation work in the proposed upland development areas, approval of an Activities and Use limitation and the completion of a remedial action implementation plan for the upland development area. In addition, as presented by the applicant, they shall continue their investigation of the lowland area, including full characterization of any reportable site contaminants in compliance with any and all remedial action plans or other permits from NHDES or the EPA.*
- 1.9) The applicant shall meet with DPW and discuss the topic of signage and install any on-site signage DPW recommends related to truck traffic on Banfield Road.*

Councilor Moreau seconded. The motion passed 8-1, with Mr. Hewitt voting in opposition to the motion.

DISCUSSION

Note: The original motion was further discussed. Mr. Almeida said Peverly Hill Road would be significantly widened soon and the rules for the trucks paths could change dramatically over the coming years. He suggested that the Board stipulate that there be directional signage that reflects the rules of the road. Vice-Chair Clark and Councilor Moreau amended the original motion.

Ms. Begala said the trip analysis and the conclusions in the plan referred to 25 trucks and asked if the Board could limit the number of trucks per day out of concern for the people who live on that road. Chair Chellman said the City Engineer looked at TAC's comment about shoulder widening and so on and was satisfied with the analysis. He said it would be difficult to know what the truck traffic would be from the project until it was built and that it would be a burdensome limitation and difficult to monitor. He said if the Board had concerns about traffic, they could require additional traffic analyses. Ms. Begala asked if the Board could ask for traffic analyses for Peverly Hill Road and Mirona Road. Chair Chellman agreed. He noted that 25 trucks going right and 25 trucks going left was in the analysis.

[Timestamp 1:58:34] Ms. Begala explained why she thought holding the applicant to the April 26 2023 wasn't a very good condition. Chair Chellman said it should be whatever the DES current requirements were. Vice-Chair Clark explained the reasons why he was more comfortable with the truck traffic proposed for the site alone. Chair Chellman said the applicant did a traffic analysis and if the Board wasn't satisfied with it, they could ask for a peer review or additional analysis. He said that, based on what the Board had before them, he would be uncomfortable with a traffic condition because there was nothing technical to base it on. Ms. Begala suggested that a per review be asked for so the Board would know what kind of volume could be expected on Banfield Road. Chair Chellman said it was in the report but that a peer review would check whether that projection was agreed with. He said it could be a condition subject to acceptance by City Staff. Ms. Begala moved to add a condition to the amended motion to have a per review of the included traffic analysis that was seconded by Vice-Chair Clark.

1) Vice-Chair Clark moved that the Board vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017 and to adopt the findings of fact as presented. Councilor Moreau seconded. The motion passed 8-1, with Mr. Hewitt voting in opposition to the motion.

2) 2) Vice-Chair Clark moved that the Board vote to grant the Wetland Conditional Use permit with the following condition:

1.1) Any areas left to naturally revegetate shall be loamed and seeded with a wildflower mix and monitored for invasive species, and their removal shall be done according to Article 10 Section 10.1018.23 of the zoning ordinance.

Councilor Moreau seconded. The motion passed 8-1, with Mr. Hewitt voting in opposition to the motion.

- B.** The request of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting to Subdivide one lot into two lots to create the following: Proposed Lot 1 with 6.65 acres of lot area and 354 feet of street frontage and Proposed Lot 2 with 7.96 acres of lot area and 200 feet of street frontage. Said property is shown on Assessor Map 266 Lot 7 and 7-1 and lies within the Industrial (I) District. (LU-23-107)

DECISION OF THE BOARD

See Item A.

- C.** The application of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for 7,910 square feet of impact within the 100' wetland buffer for stormwater management in association with the proposed development. Said property is shown on Assessor Map 266 Lot 7 and lies within the Industrial (I) District. (LU-20-259)

DECISION OF THE BOARD

See Item A.

IV. PUBLIC HEARINGS – NEW BUSINESS

- A.** The request of **Jeffrey M. and Melissa Foy (Owners)**, for property located at **67 Ridges Court** requesting a Wetland Conditional Use Permit from Section 10.1017 of the Zoning Ordinance for the construction of a new addition, a re-configuration of the existing driveway utilizing pervious pavers, installation of three rain gardens, and construction of stone steps. The project proposes a decrease of 479 sf of impervious surface and is proposing 2,010 sf of permanent impacts and 1,056 sf of temporary impacts. The impacts would be offset by the various buffer plantings to be planted within the 25' vegetated buffer as well as the installation of rain gardens to help control and filter storm-water runoff from the property. Said property is located on Assessor Map 207 Lot 59 and lies within the Single Residence B (SRB) District. (LU-22-199)

SPEAKING TO THE APPLICATION

[Timestamp 2:19:18] Project engineer John Chagnon was present on behalf of the applicant. He reviewed application and noted that the garage addition to the existing house over a parking hot top area would be removed, so the impervious surface would not be increased. He said a variance was received to pull the structure front and more forward than the ordinance would allow so that the buffer would be more protected. He said the Conservation Commission recommended approval with the conditions that 2) three buffer zone markers be placed on the property, 2) that the applicant report to the City on the rain garden and planting success after one year, and 3) that

the owner follow NOFA standards for landscape maintenance and planting. He said those conditions were acceptable to the applicant.

Vice-Chair Clark asked if the addition would have gutters. Mr. Chagnon agreed and said the gutters direct the runoff from the addition to the rain garden. Ms. Begala asked of the stone patio and steps were pervious or impervious and what square footage they added. Mr. Chagnon said the stairs went from 123 square feet to 297 square feet and were impervious. He said the patio was existing and was 109 square feet and the steps would take up some of it.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD

1) *Councilor Moreau moved that the Board vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.60 and to adopt the findings of fact as presented. Vice-Chair Clark seconded. The motion passed with all in favor.*

2) *Councilor Moreau moved that the Board vote to grant the Wetland Conditional Use permit with the following conditions:*

2.1) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install at least 3 permanent wetland boundary markers during project construction in the locations discussed with the Conservation Commission. These can be purchased through the City of Portsmouth Planning and Sustainability Department.

2.2) Applicant shall provide a report on the success of the rain garden plantings one year after planting has occurred to the City of Portsmouth Planning & Sustainability Department. If they have not achieved at least an 80% success rate then the applicant will replant.

2.3) The applicant and property owners shall follow NOFA standards for organic land care for lawn maintenance. Please visit <https://nofa.organiclandcare.net/homeowner-resources/> for details.

The motion passed with all in favor.

- B.** The request of **Caleb E. and Samantha L. Ginsberg (Owners)**, and **Peter and Donna Splaine (Owners)**, for property located at **303 Bartlett Street** and **295/299 Bartlett Street** requesting Preliminary and Final Subdivision approval for a lot line relocation between Tax Map 162 Lot 13 and Lot 14 where a separate parcel was discovered between the two lots and is proposed to be divided between Lot 13 and 14 as follows: Lot 13 increasing in size from 4,906 square feet and 36 feet of frontage to 6,665 square feet

and 37 feet of frontage. Lot 14 increasing in size from 4,802 square feet and 192 feet of frontage to 8,640 square feet and 217 feet of frontage. Said property is located on Assessor Map 162 Lot 13 & 14 and lies within the General Residence A (GRA) District. (LU-23-120)

SPEAKING TO THE APPLICATION

[Timestamp 2:28:54] Attorney Monica Kaiser was present on behalf of the applicants, along with the project engineer Daniel Dadmum. She said there was a T-shaped area in the middle of the property between the two homes and on the rear side, and the Ginsbergs wanted to add a garage. She said they had a property survey done and learned that the area of the property they occupied was not theirs, so the configuration of the two lots did not match the tax map. She said the error happened in the 1960s and the neighbors resolved the situation. She said the garage and setbacks to the lot lines were approved by the Board of Adjustment and the applicant was before the Board for the lot line adjustment that will dissolve the tee portion between the two parties and clean up the issue and the tax record. She said it looked like the amount of land they were taxed on was accurate but just not reflected on the ground, and each lot would now be a bit bigger.

Mr. Hewitt said he found it odd that the tee-shaped area was shared by the two agreeing parties and asked how Attorney Kaiser knew which lot was the applicant's to divide. Attorney Kaiser said they discovered the issue as a result of the survey and then tracked down the former owners of the Splaine property. She said the Splaines and Ginsbergs then bought the tee area from that family, so now the four of them owned it and were before the Board to apportion it between the two families. She referenced a letter from Ashton Hearst, the husband of one of the family members that the tee was purchased from, who said he didn't realize that the Bartlett and Meredith Streets frontages were included, so there was no concern there.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD

Subdivision Waiver

1) Vice-Chair Clark moved that the Board vote to grant the requested waivers to the Subdivision Standards from Section VI.5 Driveways, VI.6 Drainage Improvements, Section VI.7 Municipal water service, Section VI.8 Municipal sewer service, Section VI.9 Installation of utilities, Section VI.14 Erosion and Sedimentation Control, Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds.

Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Councilor Moreau seconded the motion. The motion passed with all in favor, 9-0.

Subdivision

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

Councilor Moreau seconded. The motion passed with all in favor.

- 2) *Vice-Chair Clark moved that the Board voted to grant Preliminary and Final Subdivision Approval with the following **conditions**:*

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

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

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

Councilor Moreau seconded. The motion passed with all in favor.

- C. The request of **Coventry Realty LLC (Owner)**, for property located at **111 State Street** requesting a parking Conditional Use Permit under Section 10.1112.14 to allow zero (0) parking spaces where 48 are required. Said property is located on Assessor Map 107 Lot 50 and lies within the Character District 4 (CD4) and Historic Districts. (LU-22-125)

SPEAKING TO THE APPLICATION

[Timestamp 2:37:46] Project engineer John Chagnon was present on behalf of the applicant as well as Hailey Ward of behalf of Coventry Realty, project architect Tracy Kozak, owner Mark McNabb, and Marie Bodi of Coventry Realty. Mr. Chagnon said they were asking for a parking Conditional Use Permit for the conversion of second-floor space from restaurant to residential. He said they wanted to add two apartments to the building in addition to the five residential units that were approved a year ago. He said it would decrease the parking demand by 25 spaces, noting that the revised parking demand was 48 spaces. He said zero spaces could be provided due to the lot building to the property line and the lot buildout that can't be changed. He said TAC recommended approval of the project. He said the downtown location offers access to services so the tenants don't need a full-time car, and bicycle racks were added for alternative modes of transportation. He said the site has operated with a higher demand for some time and it didn't cause a problem in the downtown of neighborhood. He said the restaurant's peak parking demand was not at the same time as the peak parking demand of the residential uses. Ms. Kozak

said the addition in the back of the courtyard is what kicked off the project. She said the new fire egress stair and elevator were required by the Fire Department.

[Timestamp 2:42:15] Mr. Hewitt said there were a few different floor plans on the second floor over time and that he had never heard of a four-bedroom apartment having four full baths. Mr. McNabb said they would prefer to have more bedrooms but the Chief Building Inspector and TAC determined that it would have been a boarding house with the amount of bedrooms they had, so they made less bedrooms and two units. Mr. Hewitt asked if the 1,200-sf one bedroom apartment with two full baths was what was intended to build. Ms. Kozak said it was 1,170 square feet for a one-bedroom and two full baths. Mr. Hewitt asked what would prompt a one-bedroom apartment to have two full baths. Ms. Kozak said the bathrooms were tiny and were the same size as a regular bathroom. She said there might be two people living in that apartment or even three. Mr. McNabb said he wasn't allowed to make it a two-bedroom because there couldn't be a separate room without a window. He said it was a large apartment on the existing second floor and they had to conform to building code and zoning. Chair Chellman asked if it changed the applicant's parking analysis. Ms. Kozak said it didn't because it went by square footage. Councilor Moreau asked if mopeds could be accommodated in addition to bikes. Ms. Kozak said they could be, noting that there were two bike storage areas, one inside and one outside. Ms. Begala said the Board received a comment from citizen Elizabeth Bratter about counting the kitchen and restaurant storage on the first floor in the area constituting a restaurant, which would affect the parking analysis. Ms. Kozak said the parking analysis was adjusted to include the basement space, which was the prep kitchen. She said the accessory spaces in the basement per the zoning ordinance did not require parking and that it was updated in the package. Vice-Chair Clark asked if the two basement storage rooms were for the restaurant of the tenants. Ms. Kozak said one room was for six bikes and the other was storage for tenants.

Chair Chellman said the Downtown Overlay District had a strange configuration in that area and had several recommended changes to it going back to 2010. He asked Mr. McNabb if he had looked at that. Mr. McNabb said he didn't know why that area of Sheafe Street was carved out in the Downtown Overlay District and thought it was awkward. Chair Chellman said he told the Board that they needed to make suggestion to the City Council about it. He said the current Downtown Overlay District fit the way downtown was in 1975. Mr. McNabb said it was awkward to have a parking regulation where 80 percent was nonconforming. Chair Chellman said the fact that the applicant had a request to reduce from 48 spaces to zero showed a lack of connection between the ordinance and reality and that 48 spaces would eliminate the entire project. Mr. Bowen asked if there had been a loss of parking on Sheafe Street in the past, and Ms. Bodi said there had not. Mr. Harris said there was a loss of parking where outside dining took place and that it seemed like a sacrifice to exchange parking for that due to the demand for parking downtown. It was further discussed. Chair Chellman said there was a separate study going on by the Parking Utilization Committee and a hearing was scheduled in November. He said that group was not in the stage of making a recommendation for final regulatory changes but it was moving in the direction of policies that spoke to the need for more public parking and not private parking downtown. He said the Board could make a recommendation to the City Council to consider the need for public parking as things go forward. It was further discussed.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION**First Time Speakers**

Elizabeth Bratter of 159 McDonough Street passed out documents to the Board to compare the existing basement plans to the proposed ones. She said the red area was the same use and just the names had changed, and the prep kitchen was downstairs. She said all of that should be included in the parking analysis. She said that district had no requirement for commercial parking.

Bill Downey of 67 Bow Street (via Zoom) said most of the apartments in those areas had never had parking, including present day. He said he didn't see a viable option except for the residential one because office space was such a soft market. He said he was in strong support of the request and thought there would be losses or gains on Sheafe Street.

Second Time Speakers

Elizabeth Bratter of 159 McDonough Street said on May 2, 2023 Deer Street was granted a parking Conditional Use Permit to provide zero spaces where seven were allowed. She said it was generous of the Board to allow a 35-space reduction for the lot, yet 111 State Street was before the Board again asking for 48 spaces to be washed away. She said they didn't show where the nine needed spaces for the residents would be found. She said the back parking area was now proposed to have buildings to meet other requirements and that a minimum of four stacked parking spaces could be placed out back. She said not providing residential parking in downtown wasn't acceptable. She said Portsmouth lowered the parking requirements but residential units should have parking. She asked that the Board not approve the reduction in parking and noted that even with the change to the residential, the applicant was not able to meet the criteria for a Conditional Use Permit. She said the applicant had still not bought down the parking to the 35 spaces they were granted previously and they didn't show how big the prep kitchen is or why it's not included. She said the Board could allow fewer than the maximum spots but can't allow none. She said the applicant was short 13 spaces, even with the 35-space reduction.

Project Engineer John Chagnon said the applicant was before the Board a year ago for a different application, which was 35 spaces, and the numbers at that time were based on the interpretation of the former Planning Director by looking at only the portions of the building that were changing at the time. He said the 48 spaces were now calculated taking into account the entire building, and the proposed change is a decrease in parking, going from 25 to 2.5, so it sounds like the application is for more relief but it really isn't.

Bill Downey of 67 Bow Street said if the number of units are reduced, the residents will be able to afford up to \$500 for parking. He said if the units were affordable, people have to learn how to find a place to park. He said it was a downtown location that was always residential up until the last dozen years or so when it became anything other than that. He said the request was reasonable and more apartments were needed in the City.

Third Time Speakers

No one else spoke, and Chair Chellman closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Ms. Begala asked if the final outcome was reviewed with the Deer Street property. Chair Chellman said, based on the second application and the applicant's explanation that they could not secure those offsite spaces, the Board approved it. Councilor Moreau said they couldn't do it prior to getting occupancy, which was the big issue.

Mr. Samonas said it was an opportunity to reflect on some of the parking codes and the ordinance and that he was unwilling to let it slide in the future because it set a scary precedent for property owners downtown who may fall inside or outside of the Overlay District to reposition their properties and take advantage of some of the parking precedents that are being set. He said the applicant had a long history of utilizing visa employment in his restaurants, so it seemed a viable opportunity to complete that cycle for business and investment, but if it was just one property owner looking to get reduced parking to zero, the Board would then create a snowball effect, whether it was Sheafe Street, Deer Street, or anywhere in downtown proper. He said the Board should find a concrete solution to that. He noted that more and more private parking areas were being purchased and will become developed, and some of those spaces will get lost and the Board would hear that they set a precedent on similar projects and it will create a disruption on how property developers look at downtown. He said it was naïve for restaurant owners to think that their employees would just figure things out. Chair Chellman said it was directly related to public policy of providing public parking, and the state of the practice downtown today was that you don't require parking in an environment like this by a private owner. He said private parking was private and not shared, and public parking was shared so less of it was needed. He said a dialog with the City Council would help create more public parking.

Councilor Moreau said she was in support of the applicant. Based off the numbers the Board got, she said a lot of these people didn't have cars and the few who did would rent spaces in the City's parking garages. She said there was lots of public transportation also. She said the zoning had to be looked at again as far as parking because the downtown was different from other zones and zoning was needed that reflected that. Mr. Hewitt said he could not support the Conditional Use Permit because he had a long-standing issue with the City's parking rights to begin with. He said the number of bedrooms was a better indicator than parking demands in an apartment area. He said that was well established at Western Yards, but he didn't believe that some of the applicant's apartments would stay one-bedroom ones and thought there would be more parking demands. Mr. Samonas said it wasn't efficient to require parking because the City didn't want to increase the demand for car traffic, but it also passed onto property owners and the neighbors who might be impacted. He said the West End and Islington Street areas and some of downtown were all in the same situation where people all had cars, but he worried about the disruption within the neighborhoods, like blocking a driveway or taking someone's parking spot. He advised being cognizant of the applicant's property and surrounding properties that could be impacted by this residual type of approval. Mr. Harris said the applicant was giving up four public parking spaces and not providing any parking, which seemed contradictory. Mr. Almeida said he didn't fear a precedent being set because there has never been parking in those areas. Mr.

Samonas said his conflict came from the site being previously approved as a restaurant where there were certain stipulations and then changing into residential with a waiver request.

Conditional Use Permit

- 1) *Vice-Chair Clark moved that the Board vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as presented.*

Mr. Almeida seconded. The motion passed with all in favor.

- 2) *Vice-Chair Clark moved that the Board vote to grant the conditional use permit as presented.*

Mr. Almeida seconded. The motion passed 6-2, with Mr. Hewitt and Mr. Harris voting in opposition to the motion and Ms. Begala abstaining from the vote.

- D.** The request of **Marcella F. Hoekstra (Owner)**, for property located at **35 Whipple Court** requesting a Conditional Use Permit Approval as permitted under Section 10.814 to allow a Detached Accessory Dwelling Unit. Said property is located on Assessor Map 260 Lot 98 and lies within the Single Residence B (SRB) District. (LU-23-147)

SPEAKING TO THE APPLICATION

Attorney Monica Kaiser was present on behalf of the applicant and said the proposal was to place a small ADU in a portion of the existing detached garage. She said they were also asking for a waiver from the parking requirement. She said there was enough space for two small cars but not enough for two compliant parking spaces, but given the small size of the house with a single owner, it worked out. She said almost all the abutters supported the proposal and the Staff Memo stated that the garage issues were resolved and the ADU was under 400 square feet.

Vice-Chair Clark asked if the asphalt in front of the garage was removed. Attorney Kaiser said it was and there was just a small section for plantings.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Chellman closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Conditional Use Permit

- 1) Councilor Moreau moved that the Board vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.814.62 and to adopt the findings of fact as presented.

Mr. Almeida seconded. The motion passed with all in favor.

- 2) Councilor Moreau moved that the Board vote to grant the Conditional Use Permit with a modification to the requirement set forth in Section 10.814.26 to not require an additional parking space for the DADU and to approve the Conditional Use Permit with the following **condition**:

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

Mr. Almeida seconded. The motion passed with all in favor.

- E. The request of **Richard and Jessica Hayes (Owners)**, and **William and Katja Becker (Owners)**, for property located at **40 Walker Bungalow Road** and **26 Walker Bungalow Road** requesting Preliminary and Final Subdivision approval for a lot line relocation to remove the encroachment of a driveway and retaining wall as follows: Tax Map 222 Lot 5-1 consisting of 53,970 square feet of lot area, increasing in frontage from 140. feet to 160.17 feet with no change in lot area. Tax Map 222 Lot 5-2, consisting of 37,637 square feet, decreasing in frontage from 120.17 feet to 100 feet, with no change in lot area. Said property is located on Assessor Map 222 Lot 5-1 and Map 222 Lot 5-2 and lies within the Single Residence B (SRB) District. (LU-23-137)

SPEAKING TO THE APPLICATION

The applicant Richard Hayes were present and said he represented himself, his wife, and his neighbors the Beckers. He said the issue was encroachment of his driveway and a 15-ft retaining wall on the Beckers' property and that he wanted approval for a land swap and removal of the line between the two properties that would eliminate the encroachment.

The Board had no questions, and Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD

Subdivision Waiver

- 1) *Vice-Chair Clark moved that the Board vote to grant the requested waivers to the Subdivision Standards from Section VI.3 Streets, Section VI.4 Curbing, VI.5 Driveways, VI.6 Drainage Improvements, Section VI.7 Municipal water service, Section VI.8 Municipal sewer service, Section VI.9 Installation of utilities, Section VI.14 Erosion and Sedimentation Control, Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds.*

Specific circumstances relative to the subdivision, or conditions of the land in such subdivision indicate that the waiver will properly carry out the spirit and intent of the regulations.

Councilor Moreau seconded. The motion passed with all in favor.

Subdivision

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

Councilor Moreau seconded. The motion passed with all in favor, 9-0.

- 2) *Vice-Chair Clark moved that the Board vote to grant Preliminary and Final Subdivision Approval with the following **conditions**:*

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

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

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

Councilor Moreau seconded. The motion passed with all in favor.

THE FOLLOWING ITEMS WILL BE HEARD ON THURSDAY, OCTOBER 26, 2023

- F.** The request of **Eric and Amanda Beidleman, (Owners)**, for property located at **810 McGee Drive** requesting a Wetland Conditional Use Permit from Section 10.1017 for the removal of an existing 508 s.f. rear deck within the 100-ft wetland buffer and the associated framing and stairs. The applicant is proposing to replace the rear deck with a smaller deck of approx. 319 s.f. with a 60 s.f. landing. Said property is located on Assessor Map 219 Lot 45-5 and lies within the Single Residence B (SRB) District. (LU-23-143)
- G.** The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Site Plan Review approval for the construction of nine (9) single-family dwellings with associated paving, stormwater management, lighting,

utilities and landscaping. Said property is located on Assessor Map 217 Lot 2-1844 and lies within the General Residence B (GRB) District. (LU-23-138)

- H.** The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Preliminary and Final Subdivision approval for the subdivision of the 2.23-acre lot into nine (9) conforming Single-Family lots. Said property is located on Assessor Map 217 Lot 2-1844 and lies within the General residence B (GRB) District. (LU-23-138)
- I. REQUEST TO POSTPONE** The request of **Lonza Biologics (Owner)**, for property located at **101 International Drive** requesting Amended Site Plan approval for Phase 2 which includes fit-up of Building #1 and the utility building, construction of a temporary surface parking lot and gravel area for construction trailers, parking and laydown area in the location of Proposed Building #2. Said property is located on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District. **REQUEST TO POSTPONE** (LU-23-108)

Councilor Moreau moved to grant the request to postpone to the November meeting, seconded by Mr. Almeida. The motion passed with all in favor.

- J.** The request of **Richard P. Fusegni (Owner)**, for property located at **201 Kearsarge Way** requesting Amended Subdivision approval for revisions to the grading and drainage design. Said property is located on Assessor Map 218 Lot 5 and lies within the Single Residence B (SRB) District. (LU-23-161)
- K.** The request of **Daniel Sigalovsky and Sarah Cook (Owners)**, for property located at **390 F.W. Hartford Drive** requesting a Wetland Conditional Use Permit from Section 10.1017 for the removal of an existing 16' x 24' rear deck within the 100-ft wetland buffer and the replacement of the deck with a 14' x 16' permeable paver patio. The project will include enhanced stormwater management including a gravel infiltration area, installation of a rain garden, native plantings, and the installation of a permeable patio in place of the existing deck. Said property is located on Assessor Map 249 Lot 25 and lies within the Single Residence B (SRB) District. (LU-23-140)

*The Board voted to **postpone** the above items (IV.) F. through K. to the **October 26, 2023** meeting.*

V. CITY COUNCIL REFERRALS

A. Right of Way Easement on Gray's Lane

Councilor Moreau moved that the Board vote to recommend that the City Council authorize the City Manager to accept a right of way easement over land at 219 Sagamore Avenue from Thomas and Deidre Hammar (Tax Map 221 Lot 19).

Vice-Chair Clark seconded. The motion passed with all in favor.

VI. OTHER BUSINESS

- A. Chairman updates and discussion items
- B. Planning Board Rules and Procedures
- C. Board discussion of Regulatory Amendments, Master Plan Scope & other matters

There was no other business.

VII. ADJOURNMENT

The meeting adjourned at 10:35 p.m.

Respectfully submitted,

Joann Breault,
Secretary for the Planning Board