

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

7:00 p.m.

April 18, 2024

MEMBERS PRESENT: Rick Chellman, Chairman; Greg Mahanna, Vice Chair; Karen Conard, City Manager; Joseph Almeida, Facilities Manager; Beth Moreau, City Council Representative; James Hewitt; Paul Giuliano; Andrew Samonas, Alternate, William Bowen, Alternate

.....

ALSO PRESENT: Peter Stith, Planning Manager

MEMBERS ABSENT: None

.....

Chair Chellman called the meeting to order at 7:00 p.m. He said Mr. Bowen would take a voting seat that evening and the public hearings would be heard at the April 25 meeting.

I. APPROVAL OF MINUTES

A. Approval of the March 21, 2024 meeting minutes.

The March 21 minutes were **approved** as presented.

II. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

A. REQUEST TO POSTPONE The request of **Atlas Commons LLC (Owner)**, for property located on **581 Lafayette Road** requesting Site Plan review approval for two 4-story additions to the existing building that will total 72 residential units with associated site improvements including lighting, utilities, landscaping, and stormwater treatment/management and a Conditional Use Permit from Section 10.5B72 for increased density, building height and footprint. Said property is located on Assessor Map 229 Lot 8B and lies within the Gateway Corridor (G1) District. **REQUEST TO POSTPONE**

The request will be heard at the May 16 meeting.

III. PUBLIC HEARINGS – NEW BUSINESS

- A. The request of **ZJBV Properties LLC (Owner)**, for property located at **180 Islington Street** requesting a Conditional Use Permit in accordance with Section 10.1112.14 of the Zoning Ordinance to provide 2 preexisting nonconforming parking spaces where 9 are required. Said property is located on Assessor Map 137 Lot 19 and lies within the Character District 4-L2 (CD4-L2) and Historic Districts. (LU-24-27)
- B. **REQUEST TO POSTPONE** The request of **Atlas Commons LLC (Owner)**, for property located on **581 Lafayette Road** requesting Site Plan review approval for two 4-story additions to the existing building that will total 72 residential units with associated site improvements including lighting, utilities, landscaping, and stormwater treatment/management and a Conditional Use Permit from Section 10.5B72 for increased density, building height and footprint. Said property is located on Assessor Map 229 Lot 8B and lies within the Gateway Corridor (G1) District. **REQUEST TO POSTPONE** (LU-23-189)
- C. The request of **Edward R. Reynolds (Owner)**, for property located on **110 Aldrich Road** requesting a Wetland Conditional Use Permit in accordance with Section 10.1017 for the construction of a 768 s.f. detached, two car garage with an accessory dwelling unit on the second floor. Approximately 522 s.f. will be impacting the 100 ft wetland buffer as a permanent impervious impact, with the edge of the proposed garage located approximately 76 ft from the wetland resource and a Conditional Use permit to construct a Detached Accessory Dwelling unit in accordance with Section 10.814.62 Said property is located on Assessor Map 153 Lot 3 and lies within the Single Residence B (SRB) District. (LU-23-174)
- D. Consider amendments to change the definition of a home occupation found in Chapter 10, Article 15 Definitions, pursuant to Section 10.150 of the Zoning Ordinance.

The four public hearings will be heard at the April 25 meeting.

IV. PRELIMINARY CONCEPTUAL CONSULTATION

- A. **361 Hanover Steam Factory, LLC (Owner)**, for property located at **361 Hanover Street**, requesting Preliminary Conceptual Consultation for the construction of a new building along Hanover Street with a 20-foot tunnel entrance from Hanover Street to a central courtyard between the new building and the existing 361 Hanover Street (Portsmouth Steam Factory) building. The courtyard will provide access to the indoor parking areas at both the existing and the new building. The upper floors of the new Hanover Street building will contain 12 residential dwelling units and the Portsmouth Steam Factory Building would contain 24 dwelling units, for a total of 36 dwelling units. There would be 72 off-street parking spaces in the aggregate. (LUPD-24-3)

SPEAKING TO THE PETITION

[Video timestamp 5:08] Attorney John Bosen was present on behalf of the applicant, along with developer Steve Wilson, project engineer John Chagnon, and planning consultant Nick Cracknell. Attorney Bosen said the property was a complicated one because it was fully contained within the Downtown Overlay District (DOD) and partially contained within the North End Incentive Overlay District. He reviewed the neighborhood and historic contexts. Mr. Chagnon reviewed the existing conditions survey plan and said the developer wanted to propose a further licensing area that would extend along Rock Street to be used as part of an offsite green space. He said it would be licensed to the development and that the retaining wall on the north and west edges would be part of the licensing area. He reviewed the proposed subdivision plan and said they wanted to subdivide off the Steam Factory building (Building A) and retain eight parking spaces and five percent open space, with the remainder being the development lot. He said the proposed plan called for an addition to Building A. He said vehicular access would be provided to the subdivided lot and the site development would be accessed from Hanover Street in an area where the first floor of the buildings had a gap for traffic to flow through. He said building coverage on the site would be 75 percent. He said the Steam Factory building would have 24 residential units and two ground-floor commercial units and the new building would have 12 residential units and 2-4 ground-floor commercial units. He said the front building's height would be three stories with a mansard roof. He said there would be 24 stacked spaces in the Steam Factory Building and 18 single spaces would be assigned to units, with six unassigned spaces. Attorney Bosen said they wanted to move the project forward for design review on May 16 and noted that there were also alternative plans.

[Timestamp 24:33] Mr. Bowen asked if some of the condos would be available for individual purchase. Attorney Bosen said the district allowed for an additional story and required community space and workforce spaces, so there would be an opportunity to utilize some of those incentives. Chair Chellman confirmed that the Steam Factory building's front was as defined and that the Foundry Place was treated as the back. He said the grade was problematic and asked if the applicant considered doing more than a license and if it was structurally possible for the addition to take up some of the grade and reach out to the street. Mr. Wilson said they considered owning and controlling it. He said if they did acquire it and dug out Foundry Place, it would lower the overall elevation potential for the building by ten feet, so it would be counterproductive. He said they figured out a fair way to value the property with the help of the City Council, and the appraiser valued the property at more than \$500,000. He said he wasn't interested in owning it because it wouldn't add a nickel of value to the project, but it was easy to put the onus for maintaining the retaining wall on the condo association. He said the property in the rear was urban and they wanted to put some green space and to maintain it. He said the Rock Street property had a lot of dog walkers but wasn't maintained by the City, so he wanted to formalize and maintain it to benefit the nearby residents. He said they would ask if the City would license it them because it made sense to improve it but not occupy it with a building. He said 100 people used the area between the buildings as a pedestrian cut-through to downtown, so the purpose of the modal way was to continue that pedestrian traffic and have the site active.

[Timestamp 34:02] Chair Chellman said the biggest problem if the applicant were to occupy that space would be the building height calculation due to the attachment of the lower grade. Mr. Wilson said it might be worth it if it ended up as a valuable piece of property, but they couldn't dig close to the building so it would be a very narrow area. He said they could dig back 20 feet before undermining the main building, so it wasn't just the upgrade. Mr. Samonas asked the applicant to explain the logic of the pass-through in Building B and why the building wasn't shifted to the right or left of Hanover Street to have the access on one end of the building. Mr. Wilson said the front building was a symmetrical driveway that went through the building. He said they originally looked at having two buildings separated by the driveway, but if it was lined up with the entry to the existing building, they would have to chop away a lot of the old façade. Mr. Chagnon said that lining those two entries up might be a mistake because people would fly right through to the back garage. Mr. Samonas asked if the garage entries for Building B would be in the development's interior, and Mr. Wilson agreed.

[Timestamp 39:16] Mr. Cracknell said the building had a commercial use for the last 175 years and the shape of the property was unique, but there was no access on Foundry Place and it had a big surface parking lot of 65 spaces. He said it was in a unique location as a transition from the north end in a low-density neighborhood of traditional single-family and 2- and 3-family homes. He said the CD5 District was intended to be a high density and urban environment with 95 percent coverage, very little open space, and large and tall building footprints, and the DOD's complexity was added to that. He said there were no residential units on the ground floors and the North End Incentive Overlay District bifurcated the property. He said the parking lot along Hanover Street was not in the North End Overlay District, so it wasn't allowed to add to the building. He said the applicant wanted to discuss alternatives due to the combination of the property's complexity and the zoning and address long-standing neighborhood concerns relating to traffic, parking, spillover parking and so on. He said what the code required in ground-floor commercial was more potential conflict with the parking spaces on the street because the DOD did not require on-site parking for a commercial use and the communities required 20-30 spaces. He explained why it would be difficult to market commercial spaces on Foundry Place and the Steam Factory [timestamp 44:36].

[Timestamp 47:45] Mr. Cracknell said the first alternative (Alternative 1) was the same as the of-right design review plan but changed the ground-floor use to residential in both buildings. He said it would require a variance from the Board of Adjustment because the current zoning did not allow a ground-floor residential use. He said there would be concerns about traffic, lighting, noise, and spillover traffic, and he asked if it was the right move to have the commercial use on the ground floor. He said if the commercial spaces were converted to residential, smaller units could be created and increase the affordability in a Conditional Use Permit situation. He noted that they would have to upgrade the courtyard to get from Rock Street, which would be formalized in space and easement. He said 2-4 residential units could occupy the commercial space, and the 72 parking spaces would provide more than ample parking. He said it would be about 1.7 spaces per unit, which exceeded the code requirement. He said the bottom residential units would be left and right of the middle entry, and the shared modal way could be part of the Conditional Use Permit. He said the alternative was simply to change the ground floor from commercial to residential. He said Alternative 2 was to have the extra story added to the existing

Steam Factory building and not the Hanover Street building. He said the two incentives were the Conditional Use Permit that would allow another story or ten feet of additional height and increase the size of the footprint from 20,000 sf to 30,000 sf. He said the benefit to the community would be 10 percent of the site designated as community space, and either 10 percent of the housing units in the building would be designed as workforce housing if they were rentals or 20 percent if they were ownership units. He said if they were to pursue the Conditional Use Permit in the other alternative, 10 percent would have to be for rented workforce housing. He said there would be 6-8 more units in the back, and the front building would not change. He estimated that there would be three workforce units in Building A and 2-4 residential units in in the back. Instead of a mansard roof on both buildings, he said there could be a penthouse design but not have it recessed as much as the code required.

[Timestamp 1:02:27] Mr. Hewitt said Mr. Cracknell mentioned that the fifth-story alternative incentive would offer 10 percent as rental units and 20 percent as ownership units. Mr. Cracknell said that Building A, the existing building, was in the North End Overlay District and would receive the benefit of the additional story. He said if it got the Conditional User Permit, the applicant would have to provide 10 percent of the units as rentals at 60 percent AMI, or 20 percent of the units as ownership ones at 100 percent AMI. He said ten percent of the units would be workforce housing and for rent. Mr. Hewitt said he thought the percentage was 20 percent for rental and ownership, but it was a different zone. Mr. Cracknell said it was reduced due to the 20 percent resulting in zero workforce housing and it wasn't economic for someone to take advantage of it. Mr. Hewitt asked if more parking would be built if a fifth story was added. Mr. Cracknell said the 72 spaces would support the fifth level. Mr. Giuliano said the by-right design had 6,000 sf of commercial on the first floor, and if the applicant were to receive the relief, it would be just that commercial space converted to residential and not the parking space. Mr. Cracknell said that was the intention. Chair Chellman confirmed that the applicant would not seek a variance to go up if they didn't get the variance for the residential on the first floor. Chair Chellman asked if the applicant had considered a single storefront as part of the project. Mr. Wilson said he felt that a convenience store would be disruptive and that there were already two coffee shops in the area, and he said it would compete with other businesses for street parking. He said there could be smaller residential units instead of a commercial one.

[Timestamp 1:14:56] Chair Chellman asked how the Board felt about the Conditional User Permit. Vice-Chair Mahanna said he knew the neighborhood well and did not think first-floor commercial would work due to traffic flow, parking, and so on. He said he could not speak for zoning, but regarding the ten percent incentive and the stepdown from Foundry Place, he said the fifth story in the back would still step down from the Foundry Place. He said the applicant used the term 'affordable housing' instead of 'below market', which he thought was good. Mr. Samonas said it would help the neighborhood and other land use board to see what those two building heights would look like in context with the rest of the neighborhood. He noted that a 40-ft building next to the development was underway, and having a shadow study or visual study done would be helpful. Mr. Almeida said things like deliveries and waste removal would make the building feel bigger than it was proposed and would require allocated space. He said the building could accommodate commercial on the first floor, like coffee shops or barber shops, noting that a lot of people were moving to the immediate neighborhood. He said he liked the idea

of that building's language being very different from the front building and remembering its factory use. Mr. Giuliano said the first-floor residential would be the most interesting part of the project and wondered whether they would be ADA-compliant units or workforce units, and he noted that the entries were right on the street for those units.

[Timestamp 1:20:48] Mr. Wilson said the architecture was preliminary and their focus that night was to move forward to a design review meeting and discuss the potential for residential on the first floor, which may be four units on Hanover Street. He said two of the units entering from Hanover Street would have separate doorways but there was also a lobby on each end of the building, so the interior units could enter from that lobby. He said they would be ADA accessible. He said a coffee shop could go in but pointed out that there was a convenience store two blocks away as well as a grocery store and a few coffee and sandwich shops. He said the project would compete with those stores and noted that limited product places were dying.

[Timestamp 1:26:08] Chair Chellman said he liked the idea of getting away from the mansard roof because it was getting old in town and he liked the idea of the extra floor, but he was concerned about long-term growth and dedicating all the first floor to residential and that he would like a small part reserved for commercial. He said the design details, how the pedestrian space was detailed, and how it accessed the street next door would be important. He said he would look further into the zoning relating to the front to back of the Steam Factory building, and he wasn't fully convinced that the applicant couldn't do something more towards Foundry Place because the applicant proposed to add onto the building and there was an opportunity to clear up that side. Mr. Hewitt said he'd like to hear from the abutters about having a Conditional Use Permit for all residential on the first floor. He noted that the units appeared to be similar in the market range to the new buildings on Deet Street and Maplewood and 2 Russell Street and that each of those had two parking spaces per unit. Mr. Almeida asked if there was an opportunity for transformers to feed that end of town and if it would be a beneficial potential use. Mr. Wilson said they had recently placed a new transformer that fed their building at the rear. Mr. Bowen asked if Lot 1 would remain an eyesore in the middle of a developing area. Mr. Cracknell said there was no plan to replace the building.

Chair Chellman said the proposal would be on the agenda for the May 16 Planning Board meeting.

- B. The Portsmouth Housing Authority (Applicant),** for property located at **1035 Lafayette Road** proposing to construct a 4-story, 44-unit multi-family residential building to the south of the existing church building. HAVEN will convert and renovate the first floor of the existing church into office space and will construct a 7-unit transitional housing building to the north of the office. The lower level of the existing church will be renovated for Little Blessings Childcare Center. The Christ Episcopal Church will be relocated to the existing rectory building on the southern portion of the site. The project will include associated site improvements such as parking, pedestrian connections, access to public transportation, utilities, stormwater management, lighting, and landscaping. (LUPD-24-4)

SPEAKING TO THE PETITION

[Timestamp 1:33:50] Patrick Crimmins of Tighe and Bonds was present on behalf of the applicant, with landscape architect Robbie Woodburn and Craig Welch, Executive Director of the Portsmouth Housing Authority. Mr. Crimmins said the project would consist of 44 units of affordable housing in an apartment building to the south of the church and go up from three stories to four stories. He said they would seek a Conditional Use Permit for density incentives as well. He discussed the building access and parking, noting that they had a conceptual parking analysis that would utilize the shared use parking provisions, which might reduce the parking requirement by 20 percent, and the south side parking lot would perhaps be used for overflow parking. He discussed storm management and said they were working through design aspects and had met with the Department of Public Works to discuss utilities.

[Timestamp 1:40:47] Mr. Samonas asked if the applicant considered pushing apartment building Section 2 to the south toward the cemetery while still respecting the 25-ft setback and putting parking between the through-way and the building. Mr. Crimmins said they felt that positioning it along the street would create a better open space and green space amenity for the building and be more respectful to the burial ground. Mr. Samonas asked about parking near the rear buffer. Mr. Crimmins said they were allowed to put parking back there and that there would be a pedestrian connection connecting with the Urban Forestry Center trail. It was further discussed. Councilor Moreau said there were a lot of height degradation between the lower and upper driveways and asked if there would be enough room for a bus to turn in there and if bikes would be accommodated as well. Mr. Crimmins said they would have to modify the driveway slightly and were trying to expand Route One to have bike lanes.

[Timestamp 1:43:40] Mr. Hewitt asked the applicant to explain the difference between the two versions of the plan. Mr. Crimmins said the first version could be disregarded. Mr. Hewitt asked if there would be bike racks, and Mr. Crimmins agreed. Mr. Hewitt said Portsmouth parking regulations allowed 84 spaces, and with the bike allowance it could go down to 79 spaces, but the applicant proposed 99 or 93 spaces. He said parking could be huge expense, and he asked why the applicant was providing so much extra parking if they were trying to keep the units inexpensive. Mr. Crimmins said they were still working through the details but that the paved area supported the site and the gravel part could provide overflow parking. Mr. Bowen said there was a Route 41 COAST bus that went from Hanover Street north and the system operated on a hourly and tight cycle, so the City would have to think about having bus service on Lafayette Road. He said the applicant was predicating the bus service on the fact that the bus would be able to stop at the applicant's building on the way and going south on Lafayette Drive would be difficult. Mr. Crimmins said they were in early discussions with COAST in terms of how that would operate. Mr. Bowen noted that almost 90 percent of the people who worked in Portsmouth didn't live there, and there was a question when building housing through the Portsmouth Housing Authority of whether the tenants would be Portsmouth residents or others. Mr. Welch said it could be a combination of both. He said they operated 670 housing units in the city and preferred people who lived in or worked in Portsmouth. He said it was highly regulated by the Fair Housing Law as to how exclusive they could be to a certain community.

[Timestamp 1:50:15] Mr. Almeida asked if the project could be twice the size it was proposed and if it was being held back for any reason. Mr. Welch said they thought about how to accommodate the four different units on the site and felt that the best plan was to respect the significant resource of the African Slave Burial Ground. He said the site was 3-1/2 acres and the childcare was licensed for 70 or so children, so they anticipated that people would share the parking. He said there wasn't a lot of opportunity for overflow parking because it was surrounded by conservation land on three sides. He said a good-sized project for the Portsmouth Housing Authority was 40-50 units per the tax credit program. Mr. Bowen said a lot of what the applicant did was based on low-income housing tax credits, and he asked if the project would use those credits. Mr. Welch said they would be applying for the credits but in order to do that, they needed an approved project that was ready to go by the end of August. He said that would bring between 7-1/2 to 8-1/2 million dollars into the equity. Mr. Bowen asked what timeline had to be followed to make that happen. Mr. Welch said it would be a G2 zone and they would have meetings with the Technical Advisory Committee (TAC) and the Planning Board to make sure the site fit. He said they expected to get a tax credit awarded by the end of the year.

V. DESIGN REVIEW APPLICATION ACCEPTANCE

- A. **361 Hanover Steam Factory, LLC (Owner)**, for property located at **361 Hanover Street**, requesting Design Review application acceptance for the construction of a new building along Hanover Street with a 20-foot tunnel entrance from Hanover Street to a central courtyard between the new building and the existing 361 Hanover Street (Portsmouth Steam Factory) building. The courtyard will provide access to the indoor parking areas at both the existing and the new building. The upper floors of the new Hanover Street building will contain 12 residential dwelling units and the Portsmouth Steam Factory Building would contain 24 dwelling units; for a total of 36 dwelling units. There would be 72 off-street parking spaces in the aggregate. (LUPD-24-3)

There will be a public hearing at the May 16 Planning Board meeting.

VI. CITY COUNCIL REFERRALS

- A. Home Occupation (*See above notice*)

This will be heard at the April 25 meeting.

- B. Disposition of Tax Deeded Real Estate

[Timestamp 1:57:42] Deputy City Trevor McCourt was present to discuss the three properties that the City deeded (508 Richards Avenue, 150 Bartless Street, and 323 Islington Street) and the options for the City to dispose of the properties. He explained that the City deeded three properties through the tax deeding process, which was unusual. He said each property was owned by different partnership entities and had all been deeded to the City and that he was now seeking the Planning Board's and City Council's opinions on how to dispose of the three properties. He said there was a significant amount of equity in each of the properties that must be

returned to the prior owners, but the City was entitled by statute to recoup the unpaid tax amounts. He said he included several options for accomplishing that goal in his memo but that Option 1, public auction, was the most common option for retaining fair market value for the properties to get the most money back to the prior owners. He said he did not recommend the other options, which he further discussed [Timestamp 2:00:20].

The four options were:

Option 1 – Public Auction.

Option 2 – Appraisal and Offer by the City.

Option 3 – Auction Property and Bid by the City.

Option 4 – Identify Bidder and Purchase Option.

[Timestamp 2:01:14] Attorney McCourt discussed the properties in more detail.

[Timestamp 2:04] Mr. Giuliano said Attorney McCourt was referring to them as the prior owners of the property but it wasn't clear who had legal right to any proceeds over and above what the City has. Attorney McCourt agreed and said the City found deeds from the 1990s for each of the properties with limited partnerships, but two of those partnerships were not registered at the Secretary of State's office and he could find no record of them. He said the other one was registered but the City was unable to locate the records. Mr. Giuliano said Option 1 seemed to convey to the property rate payers in the City that if someone is not paying their share, the City will and has seized the property and is only interested in recouping what is owned to the City. Mr. Mahanna asked how the ongoing litigation would dovetail with the City's effort to dispose of the properties. Attorney McCourt explained that the property manager wasn't registered to do business in New Hampshire and had been paying taxes for a considerable amount of time. He said the tax collector would take the tax bill from anyone, but it was different when there was a lien involved and a redemption period. He said there was a separate statute that limits who the tax collector can accept funds from, and it had to be someone with a legal interest in the property. He said in this case, the tax collector determined that the so-called management company wasn't registered in New Hampshire and provided the funds but had no identification or legal interest in the property, so the checks were not accepted. Chair Chellman said municipalities used to be able to take taxes but couldn't anymore because the Supreme Court said it wasn't constitutional. He said if the City owns the properties and sell them, the money would get put into escrow. Attorney McCourt agreed and said the City would file an ?? action in Superior Court and let the process take its natural course. In his memo, he said he included Option 5 because affordable housing was a hot item and he anticipated that the City Council or others would see it as an opportunity to provide affordable housing. He said there was a statutory option that the City could convey out the properties subject to a deed restriction such that the properties would only be used for affordable housing. He said that statute had not been overturned but it happened to be next to the other statutes that were found to be unconstitutional.

[Timestamp 2:10:15] Mr. Hewitt said he had never heard of a situation where the City takes property and doesn't know who the owner is, and that typically someone went to the registry and tracked the deeds. He said he would feel better if the first step was to find out who the owner was and then auction off the properties. He said auctioning it beforehand and putting it in escrow

could take forever, but if the owner was known before the auction, then one would know what to do with the money. Attorney McCourt said it wasn't a bad idea in a case like this to file something in court in advance of auctioning off the property, but that had to be balanced against the ongoing liability that the properties presented to the City. He said the properties were on the City's books and insurance and it would be the City's responsibility to fix anything that went wrong. He said that was the balance that the City and the City Council would have to undertake.

[Timestamp 2:11:58] Mr. Samonas said it wasn't the Planning Board's problem to figure out who the money got paid to. Attorney McCourt said it wasn't at this time but would be. Mr. Samonas said the City didn't want to be liable for the money either, and he asked if there was a Right of First Refusal in the lease agreement. Attorney McCourt said there wasn't. Mr. Samonas asked if a City staff member or an auctioneer would conduct the auction. Attorney McCourt said the City had been speaking with a few auction companies and that the cost of auctioning off the properties was something they could bill against the proceeds. He said they also talked to a law firm that specialized in it. Mr. Samonas asked where the funds would come from if the City didn't want to bid. Attorney McCourt said there were funds available and that the City could always undertake a special appropriation to purchase it. He said that would procedurally be done in a non-public session of the City Council and they would decide a bidding limit, and the City Manager would participate in the auction. Mr. Samonas said that seemed to require a longer deliberation with the public, who probably wanted to spend the money for affordable housing. Attorney McCourt said if the City wanted to auction off the properties, it should be done as soon as possible unless they had a solid plan for what they would do with the properties.

[Timestamp 2:15:48] Mr. Almeida asked if the City determined that there were no liens or mortgages on the properties. Attorney McCourt said the tax collector did extensive title researches on the properties, called the Secretary of State's office and registered agent companies, and tried to find any way to avoid it, and even when a representative of the property management company came in and tried to redeem the properties, there was an issue of who was paying and the City gave them extra time and it still didn't come through. Councilor Moreau said she always considered the option where there were CDBG funds, which said it was either for purchase or renovation, and she wondered if it was possible to do both. She said if the City could get enough money to do an appraised purchase of one of the properties, she asked if there would be enough money if the property needed renovations to get them done. Attorney McCourt said he didn't know if there was enough money in the CDBG funds to afford both, given the values of property in Portsmouth and the amount of money involved. He said if the City pursued it, they could put together a more detailed presentation. Councilor Moreau said it should at least be explored because the questions would come up at the City Council session and the councilors would want to know if there were funds and if the City could own on of the properties for affordable housing.

[Timestamp 2:18:34] Ms. Conard said she was in an awkward spot. She said that she, Attorney McCourt and staff worked to implement what was a policy revision, but given the fact that she could sit on the Planning Board and share comments, and given the unprecedented nature of never having been in the position to take residential property, it wasn't the City's core competency to be residential landlords. Regarding the liability concerns, she said the longer the City continued to own or manage residential properties and most notably her core function of

being the fiduciary responsibly party for the City, it would be hard for her to suggest that the City take off the table some portion of limited resources for what they usually allocated for essential services and provide it to the residents. She said she would not be comfortable doing any option other than Option 1, or recommending to the City Council that they do it from a prudent fiscal perspective. She said the City would try to identify the owner do their best to get the money to them, and if there were any proceeds to be disbursed afterward, she said that was a conversation to have about affordable housing, but the immediate goal was to get out of the chain of liability and title of the property. Chair Chellman agreed and said he was concerned about time. He said another town set the precedent in a case that made the prior method unconstitutional, where the city could not take over the equity in a piece of property, and the Supreme Court mentioned the time factor and the town delayed things a bit. He said, regarding any of the other options, in addition to the ongoing liability like someone getting hurt or the City being liable, if the City tried to do something short of a public auction, the City could be a bidder too, but then it would be out to the world and couldn't come back to the City with allegations that it was sold for less than market value. He said any of the other options other than Option 1 was asking for additional headaches down the road. Vice-Chair Mahanna said he was in favor of Option 1 because it was like a mortgage meltdown. He said the banks were horrible landlords and got sued and nothing came out of it. He said the faster the City got rid of it, the less liability. Mr. Samonas asked if the City would know how the properties were conveyed out of auction via what type of deed and so on. Attorney McCourt said it would be by quick land deed and would terminate the City's relationship with the properties.

*Vice-Chair Mahanna moved that the City move forward with pursuing the public auction method of disposing of the three properties. Mr. Almeida seconded. The motion **passed** unanimously.*

C. Solar Amendments

The HDC solar amendments will be included in the packet for the April 25th meeting for discussion by the Planning Board.

VII. OTHER BUSINESS

A. 765 Middle Street – One-Year Extension Request

*Councilor Moreau moved to grant the one-year extension request, seconded by Mr. Almeida. The motion **passed** unanimously.*

B. Chairman Updates and Discussion Items

There was no discussion.

C. Board Discussion of Regulatory Amendments, Master Plan Scope, and Other Matters

There was no discussion.

VIII. ADJOURNMENT

The meeting adjourned at 9:22 p.m.

Respectfully submitted,

Joann Breault
Planning Board Recording Secretary