

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE  
EILEEN DONDERO FOLEY COUNCIL CHAMBERS  
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

**7:00 PM Public Hearing Begins**

**May 16, 2024**

**ACTION SHEET**

**REGULAR MEETING 7:00pm**

**I. APPROVAL OF MINUTES**

- A. Approval of the April 18, 2024 meeting minutes.
- B. Approval of the April 25, 2024 meeting minutes.

*The Board voted to **approve** the April 18, 2024 and April 25, 2024 meeting minutes as presented.*

***Motion:** B. Moreau; **Second:** J. Almeida Motion passed with all in favor.*

**II. DETERMINATIONS OF COMPLETENESS**

**SITE PLAN REVIEW**

- A. 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.
- B. The request of **15 Middle Street Real Estate Holding CO, LLC (Owner)**, for property located at **15 Middle Street** requesting Site Plan approval for the addition of 3 residential units in an existing commercial building. Said property is located on Assessor Map 126 Lot 12 and lies within the Character District 4 (CD4), Downtown Overlay and Historic Districts.
- C. The request of **RIGZ Enterprises LLC (Owner)**, for property located at **822 Rt 1 Bypass** requesting Site Plan review approval to demolish the existing building and construct a new commercial building as well as associated paving, stormwater management, lighting, utilities and landscaping.

- 1) *The Board voted to determine that Items A, B and C are complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Section IV of the agenda) and to accept the applications for consideration.*

**Motion:** B. Moreau; **Second:** K. Conard Motion passed with all in favor.

### **III. PUBLIC HEARINGS -- UNFINISHED BUSINESS**

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

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

- A. The request of **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. (LU-23-189)

#### **Conditional Use Permit**

- 1) *The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.5B11 and 10.5B73 and to adopt the findings of fact as presented.*

**Motion:** B. Moreau; **Second:** J. Almeida Motion passed with all in favor.

- 2) *The Board voted to grant modifications of standards from Section 10.5B22.40 Special Setback Requirements on Lafayette Road, Section 10.5B73.20 to allow the public realm improvements to be located in a different zoning district, Section 10.5B34.80 to allow a building with 72 units, Section 10.5B41.80 to allow 7.6% community space where 10% is required, and to allow a building footprint of 42,434 square feet where 24,000 is allowed.*

**Motion:** B. Moreau; **Second:** K. Conard Motion passed with all in favor.

- 3) *The Board voted to **grant** the Conditional Use Permit with the following **condition**:*

*3.1) Prior to the issuance of a Certificate of Occupancy, the applicant will revise the design of the public realm improvements to a form satisfactory to the Superintendent and City Manager.*

**Motion:** B. Moreau; **Second:** J. Almeida Motion passed with all in favor.

#### **Site Plan Approval**

- 1) *The Board voted 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.*

**Motion:** B. Moreau; **Second:** J. Almeida Motion passed with all in favor.

2) The Board voted 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:**

- 2.1) *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.*
- 2.2) *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.*
- 2.3) *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>*
- 2.4) *A recordable landscape license revocable by the City. The Applicant with provide and maintain adequate evidence of insurance for the maintenance of City property, including the City as additional insured. The amount and form of such insurance shall be set by the Public Works Director and the City Attorney.*
- 2.5) *Final site plan set shall be updated to show revised parking layout.*
- 2.6) *The public realm improvements shall include appropriate lighting if approved by the Superintendent and City Manager.*

**Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a certificate of occupancy and release of the surety:**

- 2.7) *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.*
- 2.8) *A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/ Public Works Department.*

**Motion:** B. Moreau; **Second:** K. Conard Motion passed with all in favor.

#### IV. PUBLIC HEARINGS – NEW BUSINESS

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

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

- A. The Planning Board will hold a public hearing on the following amendments to Chapter 10, ZONING ORDINANCE, CITY OF PORTSMOUTH, of the Ordinances of the City of Portsmouth, be amended to language related to solar energy in Article 6 Overlay Districts and Article 15 Definitions, pursuant to Section 10.150 of the Zoning Ordinance.

*The Board voted unanimously to recommend the May 16, 2024 Draft amendments to City Council and for them to be included under Councilor Moreau's name at the **June 3, 2024** Council meeting.*

***Motion:** A. Samonas; **Second:** J. Almeida Motion passed with all in favor.*

- B. The request of **City of Portsmouth (Owner)**, for property located at **0 Maplewood Avenue**. The City is requesting a Wetland Conditional Use Permit to complete upgrades to the existing drainage outfall behind the cemeteries (adjacent to Deer Street) by adding an additional 48" pipe in parallel to the existing 48" pipe. This work is being proposed in preparation for increased capacity needs to accommodate sewer separation on Fleet Street and surrounding areas. Compensatory mitigation is proposed to offset proposed wetlands impacts. The proposed mitigation will also serve as embankment revetement to aid in stabilizing the slope behind the cemetery that is currently being undermined. Area of disturbance includes approximately 590 SF impacts from outfall improvements, 3,870 SF proposed for mitigation/Marsh restoration. A portion of the outfall work is located on the abutting property of #90 Maplewood Avenue. City DPW has been corresponding with the owner of this property and draft easement documents have been provided to the property owner. Said property is located on Assessor Map 124 Lot 2, Map 125 Lot 19, and Map 164 Lot 4 and lies within the Office Research (OR) Municipal and Historic Districts. (LU-24-43)

#### **Wetland Conditional Use Permit**

*1) The Board voted to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.650 of the Ordinance and adopt the findings of fact as presented.*

***Motion:** P. Giuliano; **Second:** A. Samonas Motion passed with all in favor.*

*2.) The Board voted to **grant** the Conditional Use Permit with the following **conditions**:*

*2.1) All necessary approvals from involved property owners will be acquired prior to the issuance of a City building permit and prior to any associated approvals from the New Hampshire Department of Environmental Services.*

*2.2) The applicant shall remove all debris/trash from the wetland and 25' vegetative buffer, including the wood decking/pallet structure.*

2.3) *In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers where applicable. In addition to the wetland boundary markers, an educational sign describing the project shall be installed near the restoration area and fencing should be utilized to keep disturbances such as dogs and geese from the area.*

*Motion: P. Giuliano; Second: J. Almeida Motion passed with all in favor.*

- C. The request of **15 Middle Street Real Estate Holding CO, LLC (Owner)**, for property located at **15 Middle Street** requesting Site Plan approval for the addition of 3 residential units in an existing commercial building. Said property is located on Assessor Map 126 Lot 12 and lies within the Character District 4 (CD4), Downtown Overlay and Historic Districts. (LU-24-35)

**Site Plan Approval**

1) *The Board voted 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.*

*Motion: P. Giuliano; Second: K. Conard Motion passed with all in favor.*

2) *The Board voted to find that the requested waivers will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to waive the regulations as requested.*

*Motion: P. Giuliano; Second: J. Almeida Motion passed with all in favor.*

3) *The Board voted to **grant** Site Plan approval with the following **condition**:*

3.1) *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.*

*Motion: P. Giuliano; Second: K. Conard Motion passed with all in favor.*

- D. The request of **RIGZ Enterprises LLC (Owner)**, for property located at **822 Rt 1 Bypass** requesting Site Plan review approval to demolish the existing building and construct a new commercial building as well as associated paving, stormwater management, lighting, utilities and landscaping. Said property is located on Assessor Map 160 Lot 29 and lies within the Business (B) District. (LU-23-209)

**Site Plan Approval**

1) *The Board voted 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.*

*Motion: B. Moreau; Second: K. Conard Motion passed with all in favor.*

- 2) *The Board voted to find that the requested waivers will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to waive the regulations as requested.*

**Motion:** P. Giuliano; **Second:** K. Conard Motion passed with all in favor.

- 3) *The Board voted 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:**

- 3.1) *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.*
- 3.2) *The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments.*
- 3.3) *The applicant shall add a note on the plan requiring advanced notification to DPW of the construction of improvements within the public rights-of-way and on site.*
- 3.4) *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>

**Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a certificate of occupancy and release of the surety:**

- 3.5) *The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance;*
- 3.6) *A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/ Public Works Department.*
- 3.7) *The applicant shall install a solid 6-foot fence in place of the proposed chain link fence in order to block light and inhibit sound.*

**Motion:** B. Moreau; **Second:** K. Conard Motion passed with all in favor.

- E. 361 Hanover Steam Factory, LLC (Owner)**, for property located at **361 Hanover Street**, seeking Design Review 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. Said property is located on Assessor Map 138 Lot 63 and lies within the Character District 5 (CD5) Downtown Overlay and North End Overlay Districts. (LUPD-24-3)

*The Board voted to find the design review process complete and to schedule a site walk and public hearing.*

***Motion:** P. Giuliano; **Second:** J. Almeida Motion passed with all in favor.*

## **V. OTHER BUSINESS**

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

## **VI. ADJOURNMENT**

Meeting adjourned at 11:45 p.m.