

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

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

7:00 P.M.

AUGUST 16, 2007

MEMBERS PRESENT: Jerry Hejtmanek, Vice-Chairman; Donald Coker; Anthony Coviello; Paige Roberts; and MaryLiz Geffert, Alternate;

MEMBERS EXCUSED: John Ricci, Chairman; M. Christine Dwyer, City Council Representative; Cindy Hayden, Deputy City Manager; Richard A. Hopley, Building Inspector; and Timothy Fortier, Alternate

ALSO PRESENT: David M. Holden, Planning Director; and, Lucy E. Tillman, Planner I

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The meeting was delayed until 7:30 pm awaiting a quorum.

I. APPROVAL OF MINUTES

1. Approval of Minutes from the July 19, 2007 Planning Board Meeting – Unanimously approved.
2. Approval of Minutes from the July 26, 2007 Planning Board Meeting – Unanimously approved. (Miss Geffert abstained as she was not present at the July 26th meeting.)

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II. PUBLIC HEARINGS

A. The application of **Dilorenzo Real Estate, LLC, Owner**, for property located at **35-43 Bow Street**, and **City of Portsmouth, Owners**, for property located **off Ceres Street**, wherein Preliminary and Final Subdivision approval (Lot Line Revisions) is requested between two lots having the following: 1) Lot 49 as shown on Map 106 increasing in area from 2,756 s.f. to 2,932 s.f. and 2) Lot 46 as shown on Map 106 decreasing in size from 5,316 s.f. to 5,140 s.f. The intent of this application is to convey a portion of Lot 49 to Lot 46, consisting of 147 s.f. and to convey a portion of Lot 46 to Lot 49, consisting of 323 s.f. Said lots are shown on Assessor Plan 106 as Lots 46 and 49 and lie within the Central Business A District (CBA), the Downtown Overlay District (DOD) and the Historic District A;

The Vice Chair read the notice into the record.

Tony Coviello stepped down as his wife works for Appledore Marine.

SPEAKING TO THE APPLICATION:

David Holden, Director of the Planning Department, represented the City in this application where there is a joint partnership with DiLorenzo Real Estate, LLC and the City. Mr. Holden reminded the Board that two meetings ago they responded to a City Council referral regarding whether it was in the City’s benefit to swap some land between parties. At the time it was being proposed so that they could facility the future development of the Riverwalk, which is something that this Board is well familiar with as it has been carried forth in various Master Plans. The Board unanimously voted to recommend the land conveyance and the City Council has accepted their report. The subdivision plan is now before them to complete this transfer.

Mr. Holden pointed out on the subdivision plan (which was displayed) that the square footages are approximately the same, although that is not really the issue. He showed the parcel which was being transferred to Mr. DiLorenzo by the City and also which land would be transferred from Mr. DiLorenzo to the City. In subsequent actions they will see other parties coming in as the deck gets moved to the newly formed lot. Tonight they are only looking at the swap of land, subject to the conditions recommended by the Department.

Mr. Coker noted in the Memo that the City has “licensed the installation, use and maintenance of a communal and oftentimes controversial trash compactor”. Mr. Holden explained that the issue was how it was maintained over time, which is not a subject for this approval, but that is an area that is undergoing considerable discussion, they are looking at various alternatives and it will be addressed at a later date.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Coker moved to approve pending the four conditions as listed on page 2 of the Memo. Ms. Roberts seconded the motion. Ms. Geffert stated that condition 4 had been satisfied. Mr. Coker amended his motion to include only the 3 conditions. Ms. Roberts agreed to the amendment.

The motion to grant preliminary and final subdivision approval with three stipulations passed unanimously.

- 1) That no property transfers shall take place until the deck that lies on the City property is demolished; or by mutual consent between Mr. DiLorenzo and the City Legal Department as to when the transfer shall occur;
- 2) That Area 2 on the Plat should be defined so as not match the conveying land swaps; and
- 3) That all parties or their representatives should sign the application.

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B. The application of **Harborcorp, LLC, and City of Portsmouth, Owners**, for properties located **off Deer Street, Green Street, Russell Street, and Maplewood Avenue** wherein Preliminary and Final Subdivision approval is requested to reconfigure three existing lots into two proposed lots, as follows: 1) Eliminate lot line between lot 12 as shown on Assessor Plan 124 and as Lot 28 as shown on Assessor Plan 118; 2) Eliminate lot line between Lot 28 as shown on Assessor Plan 118 and Lot 21 as shown on Assessor Plan 125; 3) Subdivide the aforementioned lots into two proposed lots, with proposed lot 1 consisting of 38,084 s.f. and proposed lot 2 consisting of 65,011 s.f. Said lots are shown on Assessor Plan 118 as Lot 28, Assessor Plan 124 as Lot 12 and Assessor Plan 125 as Lot 21 and such other land of the City as

shown on the subdivision plan and lying within the Central Business A (CBA) and the Central Business B District (CBB), the Downtown Overlay District (DOD) and the Historic District A.

The Vice Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Malcolm McNeill, representing Harborcorp, addressed the Board. Also present were J. Corey Colwell of AMES MSC, Lee Griswold from Harborcorp and Don Peterson from Harborcorp. Attorney McNeill explained that this relates to the Sheraton/Westin public parking garage facility. The last action by this Board was approval for Site Review for the Conference Center and Parking Garage and for some minor lot line adjustments to facilitate modification of the streetscape for the ultimate build out of the project. As they further develop the property, which is all being done under the Joint Development Agreement with the City, they decided to come forward now regarding the parking garage. The Joint Development Agreement provides that Harborcorp has the duty to permit, design, engineer and construct the parking garage as a public parking garage. At this stage they have obtained the permitting, design and engineering of the structure. The Agreement also provides that when that is completed, they will then convey the fee interest in the area under the garage as well as the garage itself to the City and that is to be done 90 days after an inspection by the City. Given the history of this project where every single decision has been appealed and it was inevitable that this parking garage was going to be conveyed to the City, they saw no harm in going forward now and getting subdivision approval but it won't occur until the garage is built. The appeal dates for this very minor subdivision would start now so that facilitates many other components of their plans as it relates to financing and other legal matters. This is a very minor subdivision and simply carves out the land that will go to the City for the parking garage.

Corey Colwell, of AMES MSC, stated this property was before this Board several months ago when it was three separate lots of record and those three lots were merged into one. They are taking that one lot and carving it into two lots. The smaller lot would have .87 acres with 111' feet of frontage on Maplewood Avenue and 283' of frontage on Deer Street. This lot would contain the proposed 7 story parking garage. Lot 2, the larger lot would have 1.49 acres with 173' of frontage on Deer Street, 389' of frontage on Russell Street, 79' of frontage on Green Street and 13' of frontage on Maplewood Avenue. This lot would contain the proposed 6 story hotel and convention center. The purpose of the long neck on the northwesterly side of Lot 2 is to provide access to Lot 2 from Deer Street for hotel deliveries, loading, etc. He pointed out on a color plan the lot lines superimposed over the proposed lot lines. The new lot line that creates the new lot goes through the building, down the party wall that divides the hotel and the convention center, then turns 90 degrees and runs between 6' and 15' off the back of the garage. Lot 2 is all building with the exception of the road to the rear that leads from Maplewood out to Green Street. Open space does still conform as the requirement is 5% and both lots would contain 6.81% open space.

Attorney McNeill stated they are seeking preliminary and final approval but this will not be final until the City completes its inspections and indicates its desire to take title to the underlying property. This just facilitates the many approvals that are necessary for this convention center public parking facility.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Coviello made a motion to approve with the stipulation that any property transfers shall occur only by mutual consent between Harborcorp, LLC and the City Legal Department. Mr. Coker seconded the motion.

The motion to approve preliminary and final subdivision approval passed unanimously with the following stipulation:

- 1) That any property transfers shall occur only by mutual consent between Harborcorp LLC and the City Legal Department.

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III. CITY COUNCIL REFERRALS/REQUESTS

A. Request for report back regarding property located at 5 Adams Avenue and Van Buren Avenue;

David Holden advised the Board that this is still under some consideration. The City has determined that there are some utilities in the area which complicates it and some of the property owners in the area are having discussions.

Mr. Coviello made a motion to postpone to September 20, 2007. Ms. Roberts seconded the motion.

The motion to postpone to the September 20, 2007 meeting passed unanimously.

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B. Request for report back regarding street acceptance of Wholey Way;

David Holden indicated that they have asked for a report back from DPW who indicated some steps are still outstanding, primarily the payment to the City for what would be the finished pavement. The City does not have the money but he assumed it was in process. He asked that the Board postpone this matter until the September 20th meeting.

Mr. Coviello made a motion to postpone to September 20, 2007. Ms. Roberts seconded the motion. 2nd.

The motion to postpone to the September 20, 2007 meeting passed unanimously.

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IV. OLD BUSINESS

A. Request of Borthwick Forrest, LLC, for two proposed zoning amendments to the City's 1995 Zoning Ordinance, as amended, to facilitate the development of an Elderly Congregate Care Facility. Amendments would include adding a definition for Elderly Congregate Care Facility and a revision to the Table of Use section to permit Elderly Congregate Care Facilities by Special Exception. Relevant materials are available for public inspection in the Planning Department;

David Holden stated that the Department has agreed with the applicant that there are significant issues to warrant a work session. He believes there are many attributes and a work session would be warranted.

Attorney McNeill indicated he concurred and indicated he appreciated the effort that the Planning Department took with the Matrix. He feels a Work Session would be the most appropriate step. The sooner they can get before a Work Session the better for them.

A discussion was had regarding when the Board would be available to schedule this work session and it was the general consensus of the Board to schedule this on September 20, 2007 from 6:30 pm – 7:30 pm.

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Mr. Coker asked to address an item under new business. He reminded the Board Members that he raised an issue some time ago and he has since had extensive conversations with the City Attorney and he asked that the Board enter into a non-meeting with Council to discuss an issue which he felt was of extreme importance to the Board. He asked them to pick a time that they could meet with Council in a non-meeting. Vice Chairman suggested October 4th. Ms. Geffert asked how long it would take. Mr. Coker felt they could set a time limit of 1 hour.

It was the consensus of the Board to schedule a non-meeting with Council on October 4, 2007 at 6:30 pm.

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V. ADJOURNMENT

A motion to adjourn at 8:00 pm was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on September 20, 2007.