

**ACTION SHEET**  
**PLANNING BOARD**  
**PORTSMOUTH, NEW HAMPSHIRE**

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

**7:30 P.M.**

**JULY 17, 2008**

**MEMBERS PRESENT:** John Ricci, Chairman; M. Christine Dwyer, City Council Representative; Jerry Hejtmanek, Vice-Chairman; Donald Coker; Anthony Coviello; Paige Roberts; John Rice; Cindy Hayden, Deputy City Manager; Richard A. Hopley, Building Inspector; and Norman Patenaude, Alternate

**MEMBERS EXCUSED:** MaryLiz Geffert, Alternate

**ALSO PRESENT:** David M. Holden, Planning Director;  
Peter Britz, Environmental Planner  
Robert Sullivan, City Attorney

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**6:00 – 7:30 PM WORK SESSION - Draft Senior Housing Ordinance**  
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**I. APPROVAL OF MINUTES**

1. Approval of Minutes from the May 29, 2008 Joint Planning Board and Conservation Commission Work Session – Unanimously approved.
2. Approval of Minutes from the June 19, 2008 Planning Board Meeting – Unanimously approved.

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**II. PUBLIC HEARINGS**

A. The application of Minnow Realty **Investors, III, LLC, Owner and City of Portsmouth, Applicant**, for property located at **3000 Lafayette Road**, wherein Site Review approval is requested to construct a 13,260 s.f. footprint Fire Station, after the demolition of existing buildings, with related paving, utilities, lighting, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 292 as Lot 12 and lies within the General Business and proposed Municipal District; *(The Board action in this matter 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.)*

Voted to **postpone** to the August 21, 2008 Planning Board Meeting.

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B. The application of **Parade Office, LLC, Owner**, of property located at **195 Hanover Street** wherein Preliminary and Final Subdivision Approval is requested to subdivide one lot into three lots with the following: Proposed Lot 1 having 64,941 ± s.f. (1.49 ± acres); Proposed Lot 2 having 26,585 ± s.f.(0.61 ± acres); and Proposed Lot 3 having 83,863 ± s.f. (1.93 ± acres); and lying in a zone where a minimum lot area of 1,000 s.f. is required. Said property is shown on Assessor Plan 125 as Lot 1 and lies within the Central Business B District (CBB), Historic District A and the Downtown Overlay District (DOD); *(The Board action in this matter 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.)*

Voted to **grant** Preliminary Subdivision approval with the following stipulations:

- 1) That the applicant, the Planning Department and the Legal Departments shall work together to submit an acceptable approach to the lot line issue as part of the Final Subdivision Approval;
- 2) That the Plat plan shall indicate the subject properties are in the Downtown Overlay District;
- 3) That property monuments shall be placed per the requirements of the Department of Public Works before a Final Subdivision Application is filed;
- 4) That the applicant shall submit electronic data to the Department of Public Works, suitable for updating the City’s Assessing Records, and
- 5) That when the aforementioned conditions are completed, the applicant shall file an application for Final Subdivision Approval with the Planning Department.

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C. The application of **Parade Office, LLC, Owner**, for property located at **195 Hanover Street (as proposed subdivided Lot 1)**, wherein Site Review approval is requested to construct a 25,270 ± s.f. 5-story building, consisting of a 128-key hotel, 7,500 ± s.f. of retail and 2,500 ± s.f. of restaurant, after the demolition of the existing building, with related paving, utilities, lighting, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 125 as Lot 1 and lies within the Central Business B District, the Historic District A and the Downtown Overlay District (DOD); *(The Board action in this matter 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.)*

Voted to **postpone** to the August 21, 2008 Planning Board Meeting.

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D. The application of **Parade Office, LLC, Owner**, for property located at **195 Hanover Street (as proposed subdivided Lot 2)**, wherein Site Review approval is requested to construct a 10,850 ± s.f. 5-story building, consisting of 10,000 ± s.f. of retail and 36 dwelling units, after the demolition of the existing building, with related paving, utilities, lighting, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 125 as Lot 1 and lies within the Central Business B District, the Historic District A and the Downtown Overlay District (DOD); *(The Board action in this matter 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.)*

Voted to **postpone** to the August 21, 2008 Planning Board Meeting.

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E. The application of **Catherine R. Whelan, Owner**, of property located at **660 Middle Street** wherein Preliminary Subdivision Approval is requested to subdivide one lot into three lots with the following: Proposed Lot 1 having 19,428 ± s.f. (.446 ± acres) and 70' ± of street frontage on Middle Street; Proposed Lot 2 having 19,428 ± s.f. (.446 ± acres) and 113.5' off of a right of way; and Proposed Lot 3 having 19,428 ± s.f. (.446 ± acres) and 114' off of a right of way; and lying in a zone where a minimum lot area of 7,500 s.f. and 100' of continuous street frontage is required. Said property is shown on Assessor Plan 147 as Lot 19 and lies within a General Residence A (GRA) District and Historic District A; *(The Board action in this matter 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.)*

Voted to **postpone** to a time indefinite with the following stipulations:

- 1) That the application shall be reviewed and acted upon by the Board of Adjustment;
- 2) If the Board of Adjustment's ultimate action is deemed favorable, that a Plat Plan that conforms to preliminary plat requirements shall be submitted to the Planning Board for scheduling as a public hearing at some future meeting; and
- 3) That the City's Legal Department shall research and report back to the Planning Board regarding the right-of-way.

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F. The application of **150 Greenleaf Avenue Realty Trust, James G. Boyle, Trustee, owner**, for property located at **150 Greenleaf Avenue**, wherein Site Review approval is requested to revise parking and drainage and add a new parking area and a drainage treatment area, with related paving, utilities, lighting, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 243 as Lot 67 and lies within the General Business district; *(The Board action in this matter 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.)*

Voted to **postpone** a motion to approve to the August 21, 2008 Planning Board Meeting.

In taking this action, the Board made note of the following stipulations that were entered into the record:

**Stipulations from the July 1, 2008 Technical Advisory Committee Meeting (as amended):**

- 1) That the applicant and Dr. Roseen shall have final concurrence in writing on the design of the gravel wetland, prior to Planning Board approval;
- 2) That a note shall be added to the Site Plans that all exterior lights shall be dimmed to the night study levels by 10:00 pm;
- 3) That Note 8 on Sheet C-3 shall be removed from the Site Plans;
- 4) That the sign details shall be revised, for approval by the City Traffic Engineer and in conformance with the Zoning Ordinance;
- 5) That all grass areas shall be noted on the Site Plans to avoid the possibility of cars parking on them;
- 6) That all pavement areas shall be clearly marked on the Site Plans as overlay or reclamation areas;
- 7) That the applicant shall communicate to the Planning Board that there will be no invasive species or dead trees on the site;
- 8) That a note shall be added to the Site Plans that light poles shall be no more than 20' from the ground;

- 9) That the applicant shall provide the Planning Board with a full description of how the 554 parking spaces will be utilized;
- 10) That the poles from the wetland and/or wetland buffer shall be removed, with all necessary approvals, prior to the return of the Site Review Bond;
- 11) That a note shall be added to the Site Plans that no outdoor public address system shall be used;
- 12) That a Construction Management & Mitigation Plan (CMMP) shall be prepared by the applicant, for review and approval by the City.

**Stipulations made at the July 17, 2008 Planning Board Meeting:**

- 13) That Dr. Roseen, in his written letter, shall evaluate the catch basin elevations (see Stipulations #1);
- 14) That any new signs shall meet the City Sign Ordinance;
- 15) That the Landscaping Plan shall be approved by the Planning Board, with increased tree planting along Route One;
- 16) That a note shall be added to the Site Plans that there shall be no parking on grass anywhere on the site;
- 17) That the sewer line note #8 shall be added to the Site Plans;
- 18) That the gravel wetland dimensions shall be added to the Site Plans;
- 19) That all vehicle storage spaces shall be striped for a maximum of 416 display vehicle spaces;
- 20) That a sheet shall be added to the Site Plans for the night study lighting plan, in addition to the normal lighting plan;
- 21) That there shall be no change to the 10:00 pm cut off for dimming lights to the night study levels (see Stipulation #2);
- 22) That the dimensions of the paved areas shall be added to the Site Plans;
- 23) That the parking count information which was provided by Attorney Pelech in his email to David Holden shall be added to the Site Plans;
- 24) That the light levels, post construction, shall meet the night study levels as proposed, before the release of the Site Review Bond;
- 25) That the Landscaping Plan shall include a planting detail;
- 26) That a special inspection shall be made by Dr. Roseen of the subsurface section prior to having it back filled;
- 27) That a Maintenance Plan for the gravel wetland shall be added to the Site Plans, for review and approval by David Allen;
- 28) That a maintenance report of the gravel wetland shall be provided to DPW semi-annually (twice a year);

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G. The application of **Old Tex Mex, LLC, Owner**, for property located at **3510 and 3518 Lafayette Road**, wherein Site Review approval is requested to construct a 4,275 ± s.f. warehouse building with a 1,400 ± s.f. mezzanine office, with related paving, utilities, lighting, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 297 as Lots 7 and 8 and lies within the Single Residence A district; *(The Board action in this matter 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.)*

Voted to **postpone** to the August 21, 2008 Planning Board Meeting.

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H. The application of **Kentucky Fried Chicken of Portsmouth, Inc., Owner, and Churchill & Banks Company, Inc., Applicant**, for property located at **1840 Woodbury Avenue**, wherein Site Review approval is requested to construct a 1,750 s.f. addition to an existing building, with related paving, utilities, lighting, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 239 as Lot 8 and lies within the General Business and Single Residence A districts; *(The Board action in this matter 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.)*

Voted to **grant** Site Review approval with the following stipulations:

**Stipulations from the July 1, 2008 Technical Advisory Committee Meeting:**

- 1) That the 1,000 gallon external grease trap and a note indicating that the sewer service may need to be reconfigured shall be added to the Site Plans;
- 2) That all easements shall be reviewed and approved by the City Legal Department for content and form;
- 3) That the applicant shall confirm with the Planning Department that the BOA Site Plan is the same as the Site Review Site Plans;
- 4) That if the building looks like it is being demolished after the applicant has obtained a building permit, the City will issue a cease and desist order until the proper variances are obtained;
- 5) That a note shall be added to the Site Plans indicating which walls are coming down and exactly what will be removed;
- 6) That the Applicant and a representative from DPW will look at the 6” water line to determine whether it is public or private and whether it can be capped;
- 7) That a lighting cut sheet shall be added to the Site Plans, and all lights shall be Dark Sky Friendly;
- 8) That a fence around the dumpster shall be added to the Site Plans;
- 9) That the applicant shall obtain a letter from PSNH confirming that the pole down the street is acceptable to run underground utilities from, for review and approval by David Desfosses, DPW;
- 10) That the Site Plans shall reflect that the curbcut 40’ down the road shall be filled, that granite curb and paved sidewalks shall be added and the sidewalk shall be rebuilt and noted on the Site Plans;
- 11) That the fog line shall be repaired wherever the asphalt will be patched and re-striping shall be done as needed;
- 12) That the applicant shall receive approval from the Traffic & Safety Committee prior to Planning Board approval;
- 13) That handicapped signs shall be added to the Site Plans;
- 14) That the front island shall be landscaped and added to the Site Plans;
- 15) That “Do Not Enter” signs shall be added to both sides of the exit and added to the Site Plans;
- 16) That in and out markings shall be added to the pavement and noted on the Site Plans;
- 17) That all new signage shall comply with the current version of MUTCD;
- 18) That additional pavement markings shall be added to the Site Plans to show new parking spaces;
- 19) That the Landscape Plan shall be reviewed and approved by Deborah Finnigan and Lucy Tillman;
- 20) That a detail shall be added to the Site Plans for the handicapped parking space and a handicapped detail on the van side;
- 21) That the applicant shall update the ITE numbers, include the proposed hours of business and the actual counts from Kentucky Fried Chicken, if available;

- 22) That the applicant is only required to show utility lines to the edge of their property on the Site Plans;
- 23) That a Knox Box shall be provided and added to the Site Plans;
- 24) That the stipulations from the Conditional Use Approval shall be noted on the Site Plans as follows:

Stipulations from the May 14, 2008 Conservation Commission Meeting (as amended by the Planning Board):

- 1) That there shall be routine maintenance as recommended by Best Management Practices for the storm water management system;
- 2) That there shall be routine trash removal from the parking areas and general sweeping of the parking lot;
- 3) That the sloped areas shall be vegetated with native plant materials to minimize the need for mowing;
- 4) That there shall be routine trash removal 200' from edge of the pavement;

Stipulations from the June 19, 2008 Planning Board Meeting:

- 5) That the Site Plans shall be amended to show that the roof drains go into the treatment swale;
- 6) That the soils within the 47' elevation shall be removed down two feet and replaced with loam;
- 7) That the silt fence shall be removed once vegetation is established;
- 8) That the applicant shall assess the possibility of providing additional stormwater treatment to the south of the property;
- 9) That the silt fence shall be relocated around the riprap apron leading to the infiltration basin;
- 10) That the applicant shall report stormwater maintenance to DPW on an annual basis
- 11) That the applicant shall explore the possibility of reducing the number of parking spaces;

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I. The application of the **Commerce Way, LLC, Owner**, for property known as the private right of way entitled **Commerce Way**, wherein a Conditional Use Permit is requested as allowed in Article VI, Section 10-608(B) of the *Zoning Ordinance* for the reconstruction of Commerce Way in order to meet City roadway standards, including increasing the curve radius for safety and traffic purposes, relocation of overhead utilities to underground utilities, upgrading of closed drainage systems, landscaping, guardrail construction, roadway lighting and the addition of 6,325 s.f. of sidewalk, all within an Inland Wetlands Protection District. Said property is shown on Assessor Plan 216 as Lot 1 and lies within an Office Research District; (This application was postponed from the June 19, 2008 Planning Board Meeting) (*The Board action in this matter 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.*)

Voted to **approve** Conditional Use Approval with the following stipulation:

- 1) That approximately 20' of sloped granite curbing be placed adjacent to the wetlands, centered on the culvert or thereabouts, to allow for wildlife passage.
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J. The application of **Martingale Wharf, LLC, Owner**, for property located at **99 Bow Street**, wherein an amendment to Site Review approval granted on April 27, 2006 is requested to relocate utility lines and poles along Bow Street, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 106 as Lot 54 and lies within the Central Business A District, Historic A District and Downtown Overlay District; *(The Board action in this matter 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.)*

Voted to **grant** Amended Site Review approval with the following stipulations:

- 1) That the Department of Public Works shall review and approve all aspects of this relocation;
- 2) That any poles that are no longer needed to service this area shall be removed at no expense to the City; and
- 3) That any necessary licenses/easements shall be secured from the City Council as part of this process.

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K. The application of **Atlantic Point Builders, LLC, Owners**, for property located at **13, 20, 25, 33, 44 and 57 Albacore Way**, wherein an amendment to Site Review approval granted on March 16, 2006 is requested to revise slope grading and a retaining wall at the intersection of Albacore Way and Saratoga Way, with related paving, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor Plan 212 as Lot 123 and lies within a General Residence B District; *(The Board action in this matter 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.)*

Voted to **postpone** to the August 21, 2008 Planning Board Meeting, to allow Planning Board members to visit the site prior to that meeting.

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L. The application of the **City of Portsmouth, Owner, and PHA Housing Development, LTD, Applicant**, for property located at **100 Lafayette Road**, wherein an amendment to Site Review approval granted on January 17, 2008 is requested to construct an at grade handicapped accessible entrance, relocate the HVAC units, remove the emergency generator, and modify the limits of the chain link fence, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 151 as Lot 8 and lies within the Municipal District; *(The Board action in this matter 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.)*

Voted to **grant** Amended Site Review approval.

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M. The application of **Cross Roads House, Inc., Owner**, for property located at **600 Lafayette Road**, wherein an amendment to Site Review approval granted on January 17, 2008 is requested to reduce the previously approved building footprint, the relocate the transformer pad, the addition of an outdoor picnic area and the reconfiguration of the sewer service and the waterline, with related paving, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 243 as Lot 2-A and lies within the General Business District; *(The Board action in this matter*

*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.)*

Voted to **grant** Amended Site Review approval.

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**III. NEW BUSINESS**

A. Request of Parade Office, LLC for property located at 195 Hanover Street (Parade Mall) for a one year extension of Site Review Approval granted on July 26, 2007;

Voted to **grant** a one year extension of Site Review Approval which was granted on July 26, 2007. Approval now expires on July 26, 2009.

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B. Request for amended Site Review Approval for Property Located at 549 Route One (Traffic Circle), to add a 10' X 11.5' pavilion next to the proposed hotel;

Voted to **grant** an amendment to Site Review Approval of February 21, 2008, to add a 10' X 11.5' pavilion next to the proposed hotel.

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Not on Agenda:

C. Request of Fred Lowell, for property located at 62 Deer Street for a one year extension of Site Review Approval granted on July 26, 2007;

Voted to **grant** a one year extension of Site Review Approval which was granted on July 26, 2007. Approval now expires on July 26, 2009.

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**IV. ADJOURNMENT**

A motion to adjourn at 12:20 am was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse  
Acting Secretary for the Planning Board