

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

**CONFERENCE ROOM "B"
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 P.M.

APRIL 21, 2011

MEMBERS PRESENT: John Ricci, Chairman; Paige Roberts, Vice Chairman; Donald Coker; John Rice; Anthony Blenkinsop; MaryLiz Geffert; Cindy Hayden, Deputy City Manager (arrived late); and Richard Hopley, Building Inspector; and Norman Patenaude, Alternate; and William Gladhill, Alternate

MEMBERS EXCUSED: Eric Spear, City Council Representative

ALSO PRESENT: Rick Taintor, Planning Director

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I. APPROVAL OF MINUTES

A. Approval of Minutes from the March 17, 2011 Planning Board Meeting: Unanimously approved.

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II. PUBLIC HEARINGS – OLD 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.*

Mr. Rice made a motion to read in Public Hearings A & B and City Council Referral A together. Mr. Blenkinsop seconded the motion. The motion passed unanimously.

A. The application of **Bonhomme Richard Realty, Owner**, and **Chinburg Builders, Applicant**, for property located **off Kearsarge Way**, for a Conditional Use Permit Application under Section 10.1017 of the Zoning Ordinance for 4,997 s.f. of work within an inland wetland buffer, including grading, residential structures, driveways, retaining walls and drainage culvert pipe. Said property is shown on Assessor Map 212, as Lots 118, 119 and 122 and lies within the General Residence B (GRB) District. (This application was postponed at the March 17, 2011 Planning Board Meeting)

B. The application of **Bonhomme Richard Realty, LLC, Owner**, and **Chinburg Builders, Applicant**, for property located **off Kearsarge Way**, for Final Subdivision Approval to consolidate Lots 118, 119 and 122 as shown on Assessor Map 212, totaling 227,623 s.f. (5.2255 acres), and subdividing the lot into 20 individual lots varying in size from 5,053 s.f. to 54,871 s.f. Said lots lie within the General Residence B (GRB) District. (This application was postponed at the March 17, 2011 Planning Board Meeting)

A. Letter from John Chagnon, P. E., Ambit Engineering, regarding a Subdivision Application for property located off Kearsarge Way (Tax Map 212, Lots 118, 119 and 122).

The Chair read the notices into the record.

SPEAKING TO THE APPLICATION:

John Chagnon, of Ambit Engineering, addressed the Board. Also present was Dave Lauze, of Chinburg Builders and Jim Gove, of Gove Environmental. Mr. Chagnon stated the subdivision application was before the Board in November 18, 2010 and they received preliminary approval for a 21 lot subdivision. Since that time the plans have changed so that lots 17, 18 & 19 are now 3 lots where they were previously 4 lots. The road configuration remains the same. The Board granted waivers on the length and radius of the cul de sac and the pavement width.

Mr. Chagnon reviewed the concerns from the TAC meeting. One concern was that they showed a driveway for Lot 9 to be shared with Lot 8 via an easement and the matter was referred to TAC. They now show a driveway exiting onto Kearsarge Way. They have applied for a driveway permit from DPW which was taken under advisement as the lot doesn't exist yet.

They did some soil mapping as the preliminary plans did not show any wetlands but in the course of the mapping they found an area that showed up as a wetland. There was an old City street next to the railroad bridge. At some point in time a temporary road was built around construction work that was being done to either build or repair a bridge and it crossed the property. A City water line was brought in and drainage from Kearsarge Way was redirected. After talking to the State it was determined that it was not a wetland but was a drainage erosion washout. There are some wetlands adjacent to the site along the railroad tracks and the wetland channel on the westerly side is connected to other wetlands off site which create a 100' buffer. They have since filed for a Conditional Use Permit application for a small area of the project.

Mr. Chagnon indicated that they worked with TAC and resolved many issues. The water line crosses the property and is the main line that services the Atlantic Heights neighborhood. The City wants to move that line so the developer will relocate it around the development site and reconnect into Kearsarge Way. They will tie into the proposed water line and provide for more looping and better water pressure through the neighborhood.

They will be bringing in underground power to service the development, gas will be brought in from Kearsarge Way, and they will be constructing sewer infrastructure connecting to an existing manhole on Kearsarge Way.

They have worked on the drainage extensively with the City. The entire subdivision road drainage is brought down between lots 18 & 19 to the proposed infiltration pond. The runoff from the City street is also going to be directed around and down to the pond. There is a small area of development behind the houses that will run off directly into the woods. They are treating not only the impervious runoff from the roadway and the houses on the north side of the road but they are providing treatment for the off site sub-catchment area which runs through the City street collection system. The site has a proposed sidewalk on the south side to keep the cul-de-sac as small as possible and still provide the necessary truck turning radius. The Fire Department and the School Department have found it appropriate for their vehicles.

Mr. Chagnon confirmed that the proposal is for single family residences.

The applicant appeared before the Traffic & Safety Committee in March to look at site distance and they received approval. They appeared before the Conservation Commission in March and they postponed the matter as a result of concerns about the south lots extending all the way to the property line at the railroad tracks. They were concerned that the individual lot owners would have no restrictions to cut the trees on the slope which provide a buffer. Therefore, lot A was extended all the way along the boundary and it will be a dedicated fee transfer to the City so those trees would be under the protection of the City. They presented that plan to TAC and they received a recommendation of approval with conditions. They went back to the Conservation Commission on April 13th and they voted to recommend approval to the Planning Board.

Mr. Chagnon reviewed the plans and pointed out some of the features. The subdivision plan shows the metes and bounds of the lots and easements. For continued safety at the road intersection they are placing a sight easement on lots 9 and 10 and a utility easement in the back for the extension of the water line off site, drainage easements and an easement for a foundation drain on lot 9. Sheet C-1 shows the topography and the abandoned road.

Sheet C-2 shows the layout of the buildable areas on each lot and delineates the street trees. The middle of the cul-de-sac will be landscaped.

Sheet C-3 shows the underground utilities coming in and the relocation of the water line. Sheet C-4 shows grading. The westerly edge is steep and they are proposing to place retaining walls behind the houses to provide a break in slope to leave as much buffer as they can. The walls will be a maximum of 6' in height.

Sheet C-5 is the Conditional Use Permit Plan which shows the 100' buffer and lists the areas impacted in the buffer zone. It also shows the retaining wall.

Mr. Chagnon noted that the plan set also includes a Road Profile, a Soil Plan, six detail sheets and the Driveway Permit Plan.

There was a packet of information provided to them which included the results of the drainage analysis showing that they will be mitigating the peak volume of runoff from the pond to the railroad crossing post development. The site is sloping north to south and all runoff goes to the southerly abutter. They included the Inspection and Maintenance Plan for the drainage system. They included a soil report, a

report from the Natural Heritage Bureau, a letter from Unitel, Traffic & Safety Committee approval letter regarding the DPW driveway permit, and renderings of their houses.

Mr. Chagnon reviewed the TAC stipulations, the majority of which were completed. They continued the curbing at the entrance. They are placing a driveway on the City land to maintain the pond. They are planning a system that shows as grass but can be driven over. it's called "drivable grass" and is basically a collection of cement modules that are 2 ½" square, held together with wire, so it provides an area for soil and vegetation to grow but the stability to be able to drive on. That was a special feature of the design.

There will be no open connections between the foundation drains of the north lots of the drainage system and that is shown on the plan.

They were asked to work with PSNH for a solution to lighting at the intersection. Street lighting is shown on the plans and the lighting is the same that was approved for the Albacore Way subdivision. They will work with PSNH to see if they can get something a little taller.

They will work with the City regarding whether the City should receive a deed or an easement to Parcel A. Staff has recommended they deed Parcel A.

They have shown a location for a bus shelter for the school children. As the school department does not know the ages of the children in the development and therefore doesn't know where the buses will be stopping, the applicant felt it was premature to provide a bus shelter until the homes are occupied.

All easement deeds have been prepared and submitted to the City Legal Department for their review and approval. They will be preparing a Construction Management & Mitigation Plan.

Mr. Chagnon suggested adding a stipulation that they obtain the Alteration of Terrain Permit that is required because they are disturbing 100,000 s.f. with the roadway construction. They could build the road first and then built the houses later but they plan to built it all together and have it be a one-step project.

Mr. Chagnon reviewed the Conditional Use Criteria.

The land is reasonably suited to the use. They did a density analysis of the Atlantic Heights area and the proposed density is in keeping with the neighborhood as zoned. All zoning requirements are met and the land is suited to the use.

There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use. If they were restricted from the minor incursion into the buffer on the back lots essentially they would have to move the road back and it would affect 4-5 of the lots and probably make the project unfeasible. That would be unfortunate because the City would not receive the relocated water line on its own property and also other benefits of treatment to the untreated area.

There will be no adverse impact on the wetland functional values of the site or the surrounding properties. In their report it was identified that the functional values of the wetland resource, adjacent to the construction, will not be impacted.

Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. The houses are placed as far forward as possible, the driveways are small and the houses are relatively small as well. They have pulled away from the buffer as much as they can.

The proposal is the alternative with the least adverse impact to the areas and environments under the jurisdiction of this section. This wetland area is connected to the bigger wetland and the purpose of the buffer is to filter the water and they have left as much buffer in an undisturbed state as they could. The slope will provide some treatment and they are reducing peak volumes.

Mr. Chagnon stated that additionally they extended the protection to the next three lots outside of the buffer, further down the road.

Mr. Blenkinsop asked about the property being deeded to the City and asked how the boundary line would be marked so that it was clear where it was. Mr. Chagnon noted that was addressed on the subdivision plan in Note 9. They will place placards at each property corner and every 40' along the property line.

Mr. Blenkinsop asked about the approval of the street name, Laurel Court. All of the street names in Kearsarge Way are ship names and he wondered if they had given any thought to naming this street after a ship as well. Mr. Chagnon confirmed that there was a Coast Guard cutter called the "Laurel".

Ms. Geffert requested confirmation on how long the applicant would be obligated to maintain the drainage system. Mr. Chagnon stated that Chinburg will be the operator until the time the system is transferred to the City. They will need to determine at what time that will happen. It will be built first and maintained by the builder until the City takes it over. Ms. Geffert did not feel it was clear on the plans. Chairman Ricci stated that when the land is conveyed it will become the City's responsibility. Mr. Chagnon agreed and at that time the City will be responsible for maintaining the drainage structure because the City drainage will be treated by this structure.

Mr. Taintor advised the Board that this was discussed at TAC and because a good percentage of the stormwater going through the system is existing City stormwater, DPW understood that the City will be taking this on. It was felt that the City would be able to provide better management than the Homeowners Association. Ms. Geffert agreed but requested a note on the plan regarding a professional management commitment on the part of the operator. She understands that the City will do what it needs to do to maintain the system but she doesn't want to create something binding on the City in terms of maintenance requirements. Mr. Taintor felt that the Alteration of Terrain Permit will require a management plan for the stormwater system anyway. Mr. Chagnon indicated that the developer's contractor will have to pull the permit and contact the EPA after final stabilization and/or turning control of the site over to another operator. There will be a hand off of responsibilities. Mr. Chagnon assured Ms. Geffert that the City had reviewed the design and, after discussions, the developer redesigned the site at the request of the City to address their maintenance concerns.

Mr. Coker asked about the document submitted regarding the inspection and maintenance plan for the Laurel Court subdivision. He was troubled by a statement "Just because a Best Management Practice is listed here, it does not mean it is proposed for this particular project." Mr. Chagnon explained that they list all of the types of BMP's that could be utilized because it is up to the contractor when they go to the site and it would be hard for them to tell a site work contractor exactly how they are going to build it. As far as what this plan has for long term BMP's, those are shown on the Grading plan. Once the site is built out and stabilized, there is no erosion coming from the lots as they are seeded and the roads are in, there is a drainage collection system and the major sediment forebay will require the major long term maintenance. Mr. Coker rephrased his question to ask if the City would be in a position to monitor even if they don't own it. Mr. Taintor referred to the recommendation of staff on Page 6 of the Memo asking for the applicant to pay for services of an independent oversight engineer which will take care of that.

Mr. Coker noted that flow and runoff across the property line is sized for a 10 year storm. Mr. Chagnon stated that the treatment regime that is required is for a 2 year storm. The current configuration takes up to a 10 year storm with no outflow from the pond. Mr. Coker indicated that they have had two 100 year storms in the past five years and he asked where the runoff would go. Mr. Chagnon responded that after a 10 year storm it goes out the spillway on the west side of the infiltration pond where it will fill up to a certain level and then it will perk. Mr. Taintor confirmed that City regulations require a 10 year storm.

Mr. Hopley was interested in the retaining wall and the long term stability of the homes on lots 11, 12 and 13. There was not a lot of detail for the contractor and maybe there should be more engineering detail on the plans. Mr. Chagnon stated they were confident about the stability of the retaining wall. They are 6' high, dry laid to allow water pressure to be relieved, and they are showing fabric behind the walls. They can add more detail if required.

Mr. Hopley asked about the fence near the wall. He was not sure if the building code was applicable but he asked if they had any more ideas on what type of fence they wanted to build. Dave Lauze of Chinburg builders stated that they met with Roger Clum and they reviewed the code. They are not partial to any particular style of fence but they want to keep it consistent with the landscape scheme. They were looking at an open rail fence, possibly a post and rail, with some landscaping in front of it.

Chairman Ricci was trying to follow the utility layout. There was a CB1A that comes down from CB1 and he couldn't find any information on it. (Sheet C-3, between lots 18 & 19) Mr. Chagnon referred to Sheet P-1 which showed a cross culvert that comes in and CB1 is shown in a box. It has an invert in and invert out and 15" PC pipe. The catch basin will be a bigger diameter catch basin to handle the two pipes and it says 4' diameter but it should say 6'. Chairman Ricci asked that they call it on the plans.

Chairman Ricci felt that the drainage plan is very good but he had a concern with the massive amount of fills. He asked if they could give a proctor on Section DD. He would like to have them call out the specs for such a big fill and tell them exactly what they need.

Chairman Ricci was concerned with the bus stop for children and with the children running down to the forebays. There is nothing to keep them away from the 10' drop and if it is full there could be 4' of water in it. Mr. Chagnon indicated it could be full for 6 hours during a storm so they planned landscaping as a deterrent. Chairman Ricci thought they might want to add a gate.

Mr. Coker asked about adding fencing around the area where the 4' of water may be. Chairman Ricci just wanted a deterrent. Landscaping would work. If kids want to get in, they will get in. Mr. Coker felt the City would have some liability and a fence would make it more difficult.

Mr. Taintor referenced the Alteration of Terrain application and asked Mr. Chagnon to talk about the issues that may come out of addressing those concerns, in particular the way the project is designed will create a dam that would be subject to dam licensing.

Mr. Chagnon confirmed they had received a letter from the DES AOT Bureau requesting more information. The most critical of the comments was comment #8 where the State had determined that if you have a detention pond in the pipe and utility embankment and the top of the berm is more than 10' than it would qualify as a dam, regardless of how much water was being held in it. At its peak, Mr. Chagnon confirmed that they are only holding 14,616 cubic feet, which is a small amount of water. Their goal is to not have that classification because of the long term requirements of the City relative to reporting maintenance. The solution will be to take the center area of the pond and create three sections and lower a section so that it does not meet the 10' criteria. That will diminish the capacity of it and it was over-designed so it will meet all of the rules for pre and post runoff. Comment #11 suggested they include a note on the plan regarding management of invasive species.

Mr. Coker asked how they will address the request for more information. There are a lot of outstanding issues and he wants to be comfortable that there is some mechanism to make sure the conditions are met. Mr. Chagnon confirmed that the conditions have to be met because they have to get the AOT permit or they can't build the project. If the Planning Board approves this application with the condition that they obtain the AOT permit, they could also instruct staff to review the changes that need to be made and, if minor in nature, they could go forward. If not, they could come back for amended approval.

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

Conditional Use Application:

Mr. Patenaude made a motion to grant Conditional Use Permit approval. Mr. Rice seconded the motion.

The motion to grant Conditional Use Permit approval passed unanimously.

Final subdivision approval:

Chairman Ricci confirmed that all waivers were previously approved in November 2010.

Mr. Patenaude made a motion to grant final subdivision approval contingent upon the conditions in the Staff Memo. Mr. Rice seconded the motion.

Mr. Hopley requested that they add additional engineering information on the retaining wall prior to final sign off and additional detail on the style of fence. Of most importance, was the redesign of the detention area as it relates to the potential for the dam classification.

Chairman Ricci was very uncomfortable with the plans at this point and there was too much outstanding information. Mr. Coker asked Mr. Taintor if he considered comment #8 on the DES letter a minor alteration. Mr. Taintor could not answer that until he saw it. Mr. Coker agreed with the Chairman that there was an awful lot of information is missing. Chairman Ricci also felt that the retaining wall was a big item and he felt they need more coordination regarding the City taking ownership of the basin as well as the gate, fence and scrubs around the basin.

Mr. Patenaude withdrew his motion. Mr. Rice was agreeable to withdraw as well.

Chairman Ricci stated that he wants everything on the drawings, in the final stages, without leaving it to staff. The outstanding items have been discussed at tonight's meeting and Mr. Chagnon confirmed that he was comfortable with the issues.

Mr. Coker made a motion to postpone this application to next month's Planning Board meeting. Ms. Roberts seconded.

Ms. Geffert stated for discussion purposes that the Board had a favorable impression of this project but was just asking for more details.

The motion to postpone to the next Planning Board meeting passed unanimously.

City Council Referral:

Mr. Coker suggested that as they postponed the subdivision there is no land to transfer. Mr. Taintor agreed but he did not believe the lot will change so they could move the process forward. Mr. Blenkinsop asked if this will be impacted by the retention pond. Mr. Taintor added that the lot areas are so tight in terms of meeting the minimum lot area and setbacks that there is not much room for adjustments regarding Lot A. Ms. Geffert did not want to hold up the conveyance but she wants to make it clear to the Council the status of the process. Chairman Ricci did not believe that would change anything. Mr. Coker disagreed. They granted the Conditional Use and postponed the subdivision. The piece of land has no boundaries because the subdivision has not been approved. Mr. Blenkinsop agreed with Mr. Coker and felt it would be better to wait until the subdivision was finalized.

Mr. Coker made a motion to postpone this matter to the next regular Planning Board meeting. Mr. Blenkinsop seconded the motion.

The motion passed unanimously.

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III. 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 application of **Regeneration Park, LLC, Owner**, for property located at **3612 Lafayette Road**, requesting an Amended Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for development within an inland wetland buffer, including the addition of a 12’ x 30’ shed and the relocation of the previously approved generator and transformer. Said property is shown on Assessor Map 297 as Lot 3 and lies within the Gateway District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Shannon Alther, from TMS Architects, appeared for Regeneration Park, along with Erik Saari of Altus Engineering. He displayed a Site Plan for reference and pointed out the items they were amending, including relocation of the transformer, generator, 12’ x 30’ shed and an outside patio for the restaurant dining. They met with the Conservation Commission last week and received a favorable recommendation.

Ms. Roberts asked what the purpose of the shed was. Mr. Shannon explained that they have had an issue of low water pressure from the street as they are the end of the line. They are required to have sprinkler systems for the restaurant so they ended up with three 2,000 tanks inside the buildings which took up a lot of mechanical storage space. They are now asking to have storage space in the back for the water tanks for water for the sprinkler systems.

Chairman Ricci asked about the construction of the shed. Mr. Shannon stated the current building is a combination of cement block and stucco and metal. He is proposing a metal shed. He handed out an exhibit showing what it would look like.

Mr. Alther also mentioned that he discussed access to the outdoor seating with Mr. Taintor and the City recommended access locations which were not shown on the current plans.

Mr. Blenkinsop asked about landscape around the generator. Mr. Alther indicated they could do that although they were keeping the landscaping minimal. They are planting conservation grass mix where the pavement was. They would probably have to go back to the Conservation Commission to adjust that.

Mr. Taintor clarified that this was just the amendment to the Conditional Use Permit and they will be back next month for amended site review approval when the landscaping around the generator can be raised.

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. Blenkinsop made a motion to grant amended Conditional Use approval. Mr. Patenaude seconded the motion.

The motion to grant amended Conditional Use Permit approval passed unanimously..

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B. The application of **William L. Pingree, Owner**, for property located at **6 Sagamore Grove**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for development within a tidal wetland buffer, including the relocation of a 552 s.f. garage into the wetland buffer, the construction of a 542 s.f. addition, a 276 s.f. addition and a 60 s.f. entry; and the removal of 502 s.f. of paved driveway. Said property is shown on Assessor Map 201 as Lot 5 and lies within the Single Residence B (SRB) District.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernard W. Pelech was present on behalf of Dr. Pingree. Also present were Dr. Pingree and John Davis, the engineer. An exhibit was handed out to the Board members which reflected a change as a result of the Conservation Commission meeting last week.

Attorney Pelech explained that the Pingree home is at the end of the road and is surrounded on three sides by Sagamore Creek. The lot is heavily forested with a leach field. The house sits within the 100' buffer as it predates the wetland regulations. Dr. Pingree had some severe snow conditions this winter so he is proposing to move the garage and connect it to an addition so he can access the garage internally. He is also proposing a small addition to the garage.

Attorney Pelech stated that they met with Peter Britz, the City Environmental Planner, who suggested they get rid of some of the circular driveway hot top. Therefore, they are eliminating about 900 s.f. of hot top within the 100' buffer. They are adding 200 s.f. of impervious within the 100' buffer with the addition and relocated garage but it will be clean roof runoff. The Conservation Commission suggested diverting the water away from Sagamore Creek so they created a rain garden where the old garage was located. The roof runoff from the addition and new garage will either go into the rain garden or the drip edge and not into the creek.

Attorney Pelech believed this application meets the criteria for the permit.

The land is reasonably suited to the use, activity or alteration. Attorney Pelech stated that the property is in a residential district and the existing and proposed use is residential. The lot is large and heavily vegetated. They are taking down about 4 trees. Most are ornamental hemlocks and one is a large oak tree which is rotting at its base.

There is no alternative location outside of the wetland buffer that is feasible and reasonable to the proposed use, activity or alteration. Attorney Pelech stated there is no alternative location outside the wetland buffer that is feasible. Any addition to the house will have to fall within the buffer.

There will be no adverse impact on the wetland functional values of the site or surrounding properties. Attorney Pelech felt the value will probably improve. They have removed a lot of impervious htopp and redirected all stormwater towards the rain garden.

Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. The area is barren where they are putting the new structures. They are not affecting the heavily forested area.

The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Section. It is believed that this is the most reasonable and feasible alternative.

Chairman Ricci noted that they were removing existing pavement but there were no instructions to the contractor on what he should do afterwards. Will it have loam and seed? Attorney Pelech stated he will add a note that it will be loamed and seeded. Chairman Ricci requested a seed mix spec and a detail on the depth of the loam.

Mr. Coker asked what the addition will it be used for. Bill Pingree, owner, explained that his house is built on ledge so cellar space is minimal and it has no attic. He needs more storage space for his screens, his snow blower and old furniture. Mr. Coker asked about the notation that there is a lot line that will be abandoned. Dr. Pingree reminded Mr. Coker that the lot line relocation was approved last month for Craig Sieve.

Mr. Blenkinsop asked what a drip line trench does. Dr. Pingree responded that a drip line infiltration trench works the same as a rain garden. The water collects in the trench and slowly absorbs into the ground. Attorney Pelech added that DES put out a publication on how to build your own rain garden and they showed the drip line infiltration trench.

Mr. Rice asked if the Conservation Commission blessed the drip line trench. Attorney Pelech confirmed that they suggested the rain garden which was added.

Mr. Britz addressed the Board and stated that the Conservation Commission approved the application and didn't want to specify what the applicant should do but wanted to make sure the water stayed away from Sagamore Creek. Mr. Britz felt that they did a nice job. He added that the mulch on the rain garden might float away and they may want to try something else.

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. Hopley made a motion to approve Conditional Use Permit approval with stipulations. Mr. Patenaude seconded the motion.

The motion to grant Conditional Use Permit approval passed unanimously with the following stipulations:

1. Add a loam and seed detail for the area where the pavement is being removed.
2. Add mulch specifications for rain gardens from the UNH Stormwater Center Guidelines to the rain garden detail.

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C. The application of the **City of Portsmouth, Owner, and Verizon Wireless (Cellco Partnership), Applicant**, for property located at **680 Peverly Hill Road**, requesting Site Plan approval to attach antennas and cables to an existing telecommunications tower and install a 12' x 30' equipment shelter and propane tank, with related paving, utilities, lighting, landscaping, drainage and associated site improvements. Said property is shown on Assessor Plan 254 as Lot 8 and lies within the Municipal district.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney James Valeriani, appeared on behalf of Verizon Wireless as their Regional Permitting Attorney. Attorney Valeriani explained that they are seeking Site Plan approval for their co-location on an existing tower behind the DPW facility next to the recycling center. The tower was permitted and constructed 10 years ago and since that time three carriers have co-located their equipment on the tower. Verizon will also be constructing a 12' x 30' shelter for equipment and a stand-by generator. The facility is unmanned. The tower location is a gravel covered 80' x 80' fenced compound. Their technician visits the site twice a month. They are outside of the 100' buffer zone of the wetlands in the rear.

Attorney Valeriani advised the Board that this application was before them two years ago and the applicant allowed it to lapse due to other projects that Verizon had underway. They would like to get this re-approved.

What triggers their Site Plan approval is their equipment shelter as it is considered an increase in building footprint at the site. The other carriers do not use shelters but Verizon has more equipment so they require a shed.

Chairman Ricci asked what the technicians do when they visit twice a month. Attorney Valeriani explained that they are computer technicians who monitor the equipment. It is a secured shelter and is locked. The alarms connect to their main center and are tested once a week on a timed program. They do not use any diesel fuel. The building will meet fire code and will be inspected by the Fire Inspector.

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 made a motion to approve Site Plan review. Mr. Blenkinsop seconded the motion.

The motion to grant site plan review passed unanimously.

Mr. Hopley advised Attorney Valeriani that the Building Inspector will need their load calculations for the antennae.

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IV. CITY COUNCIL REFERRALS/REQUESTS

*The Board's action in these matters has been deemed to be legislative 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.*

B. Letter from Attorney Robert Ciandella, regarding a Zoning Amendment to Section 10.440, use number 19.40, to allow, by Special Exception, Drive-Through Facilities as an accessory use to a permitted principal use in the Central Business A (CBA) Zone.

Mr. Taintor clarified that this is not a public hearing and is simply a referral. The Board can decide to make a recommendation or postpone for a work session at the next meeting. This is a request to change the table of use regulations from an "N" to "SE" to allow a drive-through facility as accessory use in the Central Business A District. The staff memo outlines the areas affected by this.

There are two CBA Districts. One is the strip of buildings between Bow Street and the water and Market Street and Ceres Street and there is absolutely no possibility of doing a drive through in those sites. Therefore, the area in the Northern Tier is the only area that could be affected.

Mr. Taintor explained that the applicant is the owner of the former Portsmouth Herald building and has proposed a bank building on the corner of Maplewood, Raynes and Vaughan. They applied to the BOA for variances and the BOA noted that since the City had just recently rezoned the area to prohibit a drive-through in the area and there did not seem to be any special hardship that would justify a variance, they denied the variances. Mr. Taintor advised the applicants that a revised plan would be unable to meet the objections of the BOA and a better approach would be to directly address the policy issue. Mr. Taintor did not make a recommendation and he wanted to give the Board an opportunity to

discuss this and decide whether they have enough information at this point to make a recommendation to the City Council.

Mr. Coker did not understand why the BOA turned it down. Mr. Taintor responded that this Board and the City Council specifically adopted zoning changes to prevent drive throughs and they would have to show a hardship to obtain a variance. The City has specifically said they do not want a drive through and there are many uses that could be placed there.

Ms. Roberts stated she would be strongly opposed to changing the policy. Chairman Ricci agreed and stated he would be opposed as well due to the unintended consequence. Ms. Roberts felt that a drive through does not add to the health of the downtown and it is not the direction they want to move in.

Mr. Gladhill stated he would be opposed. He had safety concerns. As this area gets developed there will be more pedestrians and traffic.

Mr. Taintor indicated that the Board has the ability to do various things. The City Council is asking for a recommendation and it could be modified. They can look at changing the zoning district, they can look at putting certain conditions on drive throughs, but they wouldn't have the time to work out modifications tonight.

Mr. Coker felt they would have a review of the drive through with a traffic study at Site Plan review.

Mr. Blenkinsop asked if this were allowed by special exception, would that be pretty wide open or are there definite standards that would govern it. Mr. Taintor responded that there would be general standards that would govern it and they are all judgment questions.

Chairman Ricci mentioned that the Master Plan encourages walkability. He felt this would be promoting the wrong thing in the downtown.

Mr. Gladhill added that the downtown is moving down Maplewood Avenue and in five years from now it will be very different in that area. Chairman Ricci felt it would set a bad precedent.

Ms. Roberts made a motion to recommend no change in the Zoning Ordinance. Mr. Gladhill seconded the motion.

The motion to recommend no change in the Zoning Ordinance passed unanimously.

(Mr. Rice was excused during this discussion and was not present for the vote.)

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C. Proposed amendments to the Zoning Ordinance and Zoning Map, as set forth in the Downtown Parking Omnibus dated March 18, 2011:

1. Section 10.1115 – Off-Street Parking Provisions in the Downtown Overlay District, sections 10.1115.21 and 10.1115.23 [Downtown Parking Omnibus, item 1].
2. Section 10.1115.30 – Optional Payment in Lieu of Providing Required Off-Street Parking Spaces, and Section 10.1115.40 – Amount of Payment in Lieu [Downtown Parking Omnibus, item 2].
3. Section 10.440 – Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, and Section 10.813 – Multifamily Dwellings in the Business (B) District [Downtown Parking Omnibus, item 3].
4. Section 10.521 – Table of Dimensional Standards – Residential and Mixed Residential Districts [Downtown Parking Omnibus, item 4].
5. Rezoning of six parcels on Islington Street from General Residence C (GRC) to Mixed Residential Business (MRB) [Downtown Parking Omnibus, item 5]

Mr. Taintor indicated that this goes back to the adoption of the new Zoning Ordinance when discussing off street parking. The parking requirements for downtown were reduced and the in lieu payment amount was increased from \$1,300 to \$5,000. The BOA granted a variance for the first in lieu payment that came in. It went to the City Council where it was ultimately reduced to \$2,000 per space with a request to the Planning Board to come up with a new approach. The Downtown Parking Group made a number of recommendations including the elimination of downtown parking requirements for all uses except certain large uses with an overall target of 2.1 or 2.2 parking spaces per 1000 s.f. of gross floor area. There was also discussion of payment in lieu for the larger uses and the idea was the payment would disappear except for the large uses. There were ideas including constructing a garage on the Worth lot. The report went to the City Council and staff was directed to bring a comprehensive package of parking policy changes back to the City Council. In that process they had a couple of work sessions with the EDC and a joint work session with the EDC and City Council. The Downtown Parking Omnibus report was prepared. The EDC brought up a concern about shifting the balance of land uses from commercial to residential and they wanted to include something to address that. Therefore, this report is a combination of all of that and included 10 initiatives, 5 of which are zoning. The first addresses the changes in the parking requirements per square foot, the second addresses the in-lieu fee, the third and four deal with residential and the fifth is an add-on to address some left-over parcels from the last Zoning Ordinance change.

Item one, Page 3 of the Omnibus, includes requirements for single family, two family and townhouses which cannot be developed in the CBD so there's no reason to preserve that. The key change is the nonresidential uses showing no requirement for the first 20,000 s.f. of floor area per lot and one space per 200 s.f. Mr. Taintor felt that was higher than it needs to be and suggested they aim for 2.1 or 2.2 spaces per 1,000 s.f.

Ms. Geffert would like to see live-work lower, either one space or no spaces. She asked how many potential 20,000 s.f developments they have in this district. Mr. Taintor responded that the Downtown Parking Focus Group (DPFG) Report said that 10% of downtown lots are over 20,000 s.f. but most are already developed. There might be 6 or so.

Mr. Coker, as Chairman of the DPFG, and for the record, stated they did not make most of these recommendations. They recommended that they eliminate off street parking in CBA and CBB. He made some other comparisons between the DPFG Report and the Omnibus Report. He felt it was important to clarify what the DPFG recommended.

Mr. Taintor agreed that many items were not in the DPFG report and they did not say that all recommendations came from that group. It would be wrong to take the viewpoint of just one group and adopt them. They also met with the EDC and then the City Council as well as a discussion with the Planning Board. It has been an evolutionary process.

Mr. Taintor stated that this matter was not advertised as a public hearing so they will not take public comment. Chairman Ricci felt they should schedule a work session as it will take quite a while to discuss all five items.

Deputy City Manager Hayden suggested that staff do some examples of how these would be applied as it might help people understand them better. Also consider what other information would be helpful to the Board to have at that work session. For example, if a certain proposal was applied, what would the cost be and what would be the total number of spaces required.

Chairman Ricci asked if staff can highlight how many buildings they are talking about downtown, by size. They will set up a work session from 6:00 – 7:00 pm before the next regular meeting.

Mr. Coker felt public input would be very important and asked when that would happen. Deputy City Manager Hayden felt they should let the Planning Board finish their work session so that they can create a proposal for the public to weigh in on.

Chairman Ricci confirmed that the Planning Board could have a public hearing after their work session and after a proposal was completed. Mr. Taintor stated there is no requirement for the Board to have their own public hearing in addition to the City Council's public hearing but they certainly could have one.

Mr. Taintor felt they may want to have the work session on just the first two items

Ms. Geffert indicated she does not have a good handle on what the City is looking at. She felt it would be very helpful to know whether the Worth Lot was going to be developed. Mr. Taintor stated that the DPFG report said they have a shortage of 300 – 350 parking spaces and the Worth Lot garage would solve the shortage problem. Further growth would require future parking spaces be created. He would also want to look at how much parking the City would have to build under different scenarios. Deputy City Manager Hayden agreed it all goes back to who pays for parking.

Chairman Ricci asked if they could get some idea from the City on their future plans. Deputy City Manager Hayden confirmed they could bring the Board up to date on the Worth Parking lot and parking fee changes.

Mr. Blenkinsop made a motion to defer action on this item and schedule a work session. Ms. Roberts seconded the motion.

The motion passed unanimously.

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V. NEW BUSINESS

A. The application of **Mitchell A. Hyder and Edward A. Hyder, Owners**, for voluntary merger of four lots at **295 Woodbury Avenue, Woodbury Avenue (unnumbered), 677 Dennett Street and 659 Dennett Street** into a single lot containing 49,277 s.f (1.1313 acres). Said property is shown on Assessors Map 161 as Lots 31 and 32, and on Assessors Map 175 as Lots 6 and 6A, and lies within the General Residence A (GRA) District.

John Chagnon, of Ambit Engineering, addressed the Board and requested to consolidate the four parcels on the corner of Dennett Street and Woodbury Avenue. There were residential structures on the three Dennett Street lots but they are all gone. There is a PSNH easement on the back lot. The owners plan to go forward with a development for multi family buildings on the combined lot.

Mr. Taintor indicated this is unusual in that the State law provision states that as long as the application meets certain criteria, which it does, the Planning Board must vote to approve it and designate the Planning Director to sign off on it.

Mr. Patenaude made a motion to approve the application for a voluntary merger and authorize Mr. Taintor to sign off on it. Mr. Rice seconded the motion.

The motion passed unanimously

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VI. PLANNING DIRECTOR’S REPORT

97-99 Porpoise Way. Mr. Taintor indicated that there is a special provision in the Zoning Ordinance for lots shown on the 1919 Subdivision Plan in Atlantic Heights for the separation of lots. The property owners simply need to notify the Planning Director who in turn needs to notify the Planning Board that they are separating the lots as shown on the 1919 plan. No action is required by the Board.

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VII. ADJOURNMENT

A motion to adjourn at 9:40 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 June 16, 2011.