

**MINUTES**

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

**CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

**7:00 P.M.**

**JANUARY 24, 2013**

**MEMBERS PRESENT:** John Ricci, Chairman; John Rice; Anthony Blenkinsop; David Allen, Deputy City Manager; William Gladhill; Karina Quintans, and Elizabeth Moreau, Alternate

**MEMBERS EXCUSED:** Richard Hopley, Building Inspector and Nancy Novelline Clayburgh, City Council Representative;

**ALSO PRESENT:** Rick Taintor, Planning Director

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**I. APPROVAL OF MINUTES**

1. Approval of Minutes from the September 13, 2012 Planning Board Work Session – Unanimously approved.

2. Approval of Minutes from the September 20, 2012 Planning Board Meeting – Unanimously approved.

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**II. NEW BUSINESS**

A. Election of Officers

**Chairman:** Mr. Gladhill nominated John Ricci. Mr. Blenkinsop seconded the motion. The motion to re-elect John Ricci as Chairman passed unanimously.

**Vice Chairman:** Mr. Allen nominated Anthony Blenkinsop. Mr. Rice seconded the motion. The motion to elect Anthony Blenkinsop as Vice Chairman passed unanimously.

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**III. 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.*

A. The application of **Michaels Realty Trust and ESUM Realty Trust, Owners, and 4 Amigos, LLC, Applicant**, for property located at **1390 and 1400 Lafayette Road** requesting Amended Site Plan Approval to amend a condition of approval which was granted on August 16, 2012 by the Planning Board regarding the installation of curbing or other barriers to prevent vehicles from entering or exiting the parking spaces on the adjacent parcel from the shared driveway. Said properties are shown on Assessor Map 252 as Lots 7 and 9 and lie within the Gateway (GW) District. (This application was postponed from the December 20, 2012 Planning Board Meeting.)

Mr. Taintor advised the Board that the Applicant had actually made the request in December to withdraw this application however the Board postponed it instead. They are looking for a motion to withdraw.

Mr. Rice made a motion to accept the applicant’s request to withdraw. Mr. Allen seconded the motion. The motion to withdraw this application passed unanimously.

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**IV. PUBLIC HEARINGS – NEW BUSINESS**

Karina Quintans and Elizabeth Moreau recused themselves as they are both abutters to this application.

A. The application of **John L. Ahlgren and Bessie Palmisciano, Owners**, for property located on **Langdon Street**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into four lots with the following:

- a. Proposed Lot 1 consisting of 5,022 s.f. and 63.35’ of street frontage.
- b. Proposed Lot 2 consisting of 5,301 s.f. and 68.50’ of street frontage.
- c. Proposed Lot 3 consisting of 4,965 s.f. and 43.23’ of street frontage.
- d. Proposed Lot 4 consisting of 7,920 s.f. and 40.94’ of street frontage.

Said lot lies within the Mixed Residential Business (MRB) where a minimum of 7,500’ of lot area and 100’ of street frontage is required and also within the Office Research (OR) District where a minimum of 3 acres of lot area and 300’ of street frontage is required.

The Chair read the notice into the record.

**SPEAKING TO THE APPLICATION:**

John Chagnon, of Ambit Engineering, appeared on behalf of the owners, John Ahlgren and Bessie Palmisciano. Also present was Dave Lauze and Paul Kerrigan from Chinberg Builders, Inc.

Mr. Chagnon stated the proposal is to subdivide one existing lot into three buildable lots and an additional lot to be deeded to the City accessing utilities. The property is at the corner of Langdon and McDonough Street and also abuts the Boston & Maine railroad. The lots will start at McDonough Street and will continue down Langdon Street. The fourth lot will allow for utility improvements in the corridor that runs along the railroad and it would also allow for a connection of access between Brewster Street and Langdon Street for plowing. The lots are consistent with the neighborhood, although they do not meet the lot size minimum of 7,500 s.f. Within 200’ of the parcel there are 36 neighboring lots and only four meet the ordinance requirement and the average lot size of those 36 lots

is 3,600 s.f. That is 25% less than the proposed lots. They obtained BOA approval for the lot size and the Board found the lots to be consistent with the neighborhood.

Mr. Chagnon noted that the Staff Memorandum recommended approval and he was in agreement with the proposed conditions.

Mr. Rice asked if the structures being built are going to all be of the same design. Under the scope of their review, the character of the neighborhood is part of their review. Mr. Chagnon displayed renderings. The structures will be similar but will have individual architectural features. Some of that will depend on the individual buyers.

Mr. Blenkinsop was aware that water is an issue in this area and he asked what they were planning relative to that. At the end of Brewster Street there is often flooding from rainwater. Mr. Chagnon confirmed they were aware of the issues and were also aware that the City is addressing those issues. They will do whatever they need to do on site to work with the City.

Mr. Allen advised the Board that the next phase of the McDonough Street area improvements is focusing on storm drainage for this area. They are going before City Council at their next meeting to get an easement to get a couple of drainpipes under the railroad for an outlet, particularly for the Brewster area and the proposed Lot 4 is intended to be the drainage connection. It is all designed although Mr. Blenkinsop has a valid concern that the timing of the two projects is important. Mr. Allen stated that he has concerns as well.

Mr. Taintor talked to Dave Desfosses today and he mentioned sub-levels. They will want to look more at what the appropriate first level is in these houses and whether basements are actually feasible. They are just under the 100 year flood level which will be increasing in future years. They need to make sure they are not approving something that will cause a hazard for the new home owners. They talked about looking at preliminary subdivision approval tonight and then final subdivision approval after they have been able to work these things out at the February meeting.

## **PUBLIC HEARING**

Shelley Tamis, of 98 Brewster Street, stated that her property was owned by the City at one point and she often deals stormwater and sewer overflow surrounding her home. She is concerned they are creating more impervious surfaces and will take the only low lying area away when they level those lots. She knows they are working very hard to make changes to the infrastructure but the timing of this will be critical. She is concerned about giving the 4<sup>th</sup> lot to the City and how that will affect her as an abutter. She has another neighbor who always accesses their property through that lot and that is something everybody would like addressed. In general she is not concerned with the development and they will probably add value to the neighborhood.

Ramona Conneolly, of 82 Brewster Street, indicated her house was just a little house located behind the other big houses. Her house used to flood but the City repaired some pipes in the street and her flooding issue has ceased. She shares a driveway with Ms. Tamis and every time there is a storm the City puts a big pump into the hole so she is unable to get into her driveway. Although the flooding is an issue, it is not as bad as it was.

John Chagnon referred to the right of way access and believes the area is off of Brewster Street to the RR side of Ms. Tamis' house. That access allows her to go back to the second house. He noticed one recommended stipulation was that the City Council would have to accept Lot 4 and he felt the Planning Board might want to make a stipulation that the property line be expanded a little bit to allow her to access the driveway.

The Chair asked if anyone else 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. Taintor thought it would best to act on the subdivision as preliminary and not deal with the City Council at this time. Mr. Allen asked if they normally put the stipulations on with just preliminary approval. Mr. Taintor stated they do not.

Mr. Allen made a motion to grant preliminary subdivision approval. Mr. Blenkinsop seconded the motion.

Chairman Ricci asked Mr. Allen exactly what was left to be done in the area. Mr. Allen confirmed there is a plan in place and is in the Capital Improvement Plan. A large portion is funded but some funding will be coming as of July 1<sup>st</sup>. It includes new sewers, separating the sewers, new drain lines with an outfall into the North Mill Pond, and upgrading water lines. It is all designed and is in easement acquisition and permitting. The intent was to begin construction this season although it may be later in the summer and also depends on the availability of funding. Chairman Ricci asked if the sewer separation would help with the drainage system. Mr. Allen confirmed that was correct. What they have done upstream has already reduced the frequency of events in this area and they have seen improvement. This is really the final piece of the puzzle to improve this area. Chairman Ricci asked what the City intends to do with Lot 4. Mr. Taintor stated the primary purpose was to enable the City to more easily plow the streets. Mr. Allen added it also provides a corridor for the drain line.

The motion to grant Preliminary Subdivision approval passed unanimously. Chairman Ricci confirmed that they will be on the Agenda for next month for Final Subdivision approval.

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**V. 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.*

- A. Letter from Aphrodite and Louis Georgopoulos regarding zoning of property located at 1900 Lafayette Road.

Mr. Taintor indicated that this has been before the Planning Board at least three times. They had a proposal a number of years ago for a brew pub/brewery operation which the Planning Board recommended in favor of zoning but it was defeated at the City Council. In 2009 this was proposed to be included in the Gateway District which the City Council removed from the other revisions. Last

year the Army Reserve came in and develop their site. They were able to do so without complying with Office Research zoning. There are seven parcels in this Office Research district and only one vacant parcel left. Several parcels do not meet the zoning requirements because of variances or zoning changes. The owners of this lot have become very frustrated being unable to do anything with the parcel and the Board recommended several changes to the dimensional regulations and the use regulations and, again, it was defeated the City Council level. Mr. Taintor felt that the major reason for the City Council defeat last year was the use changes for an assisted living center and for fraternal club organizations. This area is meant to be a buffer area between the residential and industrial districts. There has been a very strong resistance to office/retail use. Mr. Taintor state that he was basically at a loose about what to do with this lot. They could resubmit the dimensional changes from last year to the City Council with the omission of the two uses but he is open to other suggestions.

Mr. Allen asked Mr. Taintor to review the permitted uses in OR. Mr. Taintor listed them as : RT – Professional offices and business offices, schools, banks, publishing facilities, hospitals, medical offices and clinics, shops for plumbers, electricians, etc., hotel and motel with strict limitations. No retail uses or restaurants are allowed.

Mr. Blenkinsop asked for a refresher on why they recommended the use changes. Mr. Taintor responded that the reason was that he was looking for something that would give additional flexibility. They thought assisted living would be appropriate because it was across from residential. He thinks people thought this would be a backdoor into getting the CCRC back in.

Mr. Rice wondered, with the changes that are recommended by Mr. Taintor, what the applicant would be able to develop. Mr. Taintor explained it would be the same except the dimensional regulations wouldn't be as strict. The setbacks would be the same as the Industrial District which does not help with flexibility for land use. Mr. Rice asked if this would redefine the entire OR. Mr. Taintor confirmed that it would which is why in his newest memo he included a map of all OR districts in the City. The OR is a funny district with a variety of things. There are OR areas where nothing in the area meets the requirements or there is no developable land.

Mr. Rice asked about the down side of easing the restrictions. Mr. Taintor did not know and didn't think there was one. There also isn't much of an upside. It's hard to see how they could make it work better for the owner. It is an isolated parcel.

Mr. Allen asked if the lot could be subdivided. Mr. Taintor stated it could not. The key change that would really help it is the setback requirement.

Attorney Paul McEachern, representing the owners, stated this was an unintended casualty of zoning. Originally they thought they were going to sell to the Army but the City expressed some reluctance to that as it would take it off the tax rolls so the Army reduced their purchase to just the one abutting parcel. This district is basically undevelopable and is a land bank in the City. Any development would require a variance. There is no question it was zoned that way as a buffer and so the City could have strict purview of what would go in there however Lafayette Road has developed in spite of it. The businesses that are located on the north side of Lafayette Road have all been developed with the opposition of the owners across the street. This lot is left and the owners have been paying taxes on it for a long time. He would suggest that the logical answer would be to put it back in Gateway where it belongs. Anything that goes in would have to have a blessing of the neighbors and he thought the last

recommendation had that but they ran into the CCRC situation. The Planning answer, and not the political answer, is to make it Gateway.

Mr. Blenkinsop stated that when they did the Gateway District, this OR district became an isolated island and this is the last remaining lot to not be developed. He asked about putting it into Gateway so that it was consistent with the rest of the roadway. Mr. Taintor can see it both ways. He felt this area was different than other parts of the corridor as there is residential across the street. This increasingly busy road with headlights and traffic continues to concern the residents. Ideally he felt it should be Gateway but he has come around to think it should be some other type of zoning. Maybe it should be something that allows multiple family units.

Mr. Blenkinsop asked if there was a way to propose changes with a residential aspect, along with their past recommendation. Mr. Taintor mentioned that one thing they talked about previously was creating a second Gateway District that would be more of an office/residential Gateway district rather than a retail Gateway district. It might be worth spending some time on that. Mr. Blenkinsop asked if Mr. Taintor felt there were other lots that would fit into the Gateway II. Mr. Taintor felt it would basically be these seven lots and not much is going to happen with the other lots as they re already developed. He feels there might be other areas in the City where that type of use (multi-family) would work.

Mr. Gladhill agreed with Mr. Taintor regarding a Gateway II District. He would rather spend some additional time and developing something that would work for this lot. Mr. Taintor it might not be another version of the Gateway. It might be a version of the Business district, which does allow mixed use.

Chairman Ricci felt this neighborhood has a very strong and vocal group so their input will be important to whatever they decide to do. He was not a big fan of OR for this district. He felt something new would be better.

Mr. Taintor indicated the Planning Department will come back in a couple of months with a new proposal.

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B. Letter from Jean and Gordon Willis requesting the transfer of ownership of Artwill Avenue to the City of Portsmouth. (This request was referred to DPW for a report back at the December 20, 2012 Planning Board Meeting).

Mr. Taintor stated that he did not have a chance to sit down with Steve Parkinson to review this and asked the Board to postpone it to the February Planning Board meeting.

Mr. Blenkinsop made a motion to postpone to the February 21, 2013 Planning Board meeting. Mr. Rice seconded the motion. The motion passed unanimously.

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**VI. OTHER BUSINESS**

A. Request from 3S Artspace, Owner, for a one year extension of Site Plan Approval granted on February 16, 2012, for property located at 319 Vaughan Street.

Mr. Taintor stated this request is for both their Site Plan approval and Conditional Use Permit approval. The regulations allow one request for extension that is normally automatically granted. This project is having some challenges with financing so they have requested a one year extension of their approvals. Mr. Taintor also mentioned that although the Department did not list both approvals on the Agenda, it was the same letter that requested the Site Plan approval and the Conditional Use Permit approval and the City Attorney has opined that as long as the neighborhood was aware that this was on the Agenda, they could move forward with both.

Mr. Rice made a motion to grant a one year extension for both Site Plan approval and Conditional Use Permit approval. Mr. Allen seconded the motion. The motion passed unanimously.

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B. Proposed amendments to the Zoning Ordinance.

Mr. Taintor reminded the Board that last February they reviewed quite a few zoning amendments and sent several of them to the City Council but, for a variety of reasons, they did not move forward and they are now at the point to bring them back again. He felt it would be a good idea to give them another chance to look at the proposed changes and they will move them on in two batches. He thought they should send the neighborhood commercial use proposal separately as that is a little more complex. The rest are in the nature of housekeeping and solving some problems they have identified since the ordinance was originally adopted. Mr. Taintor asked if the Board wanted him to run through all of them or did they just want to ask questions. Chairman Ricci felt the Memo was well prepared and the Board should ask questions.

Mr. Rice asked about the HDC and that applicants do not need to submit plans for a work session which doesn't give anyone anything to look at in advance. This amendment simply requires that they provide materials with the application to improve the process.

Mr. Allen had a question about building coverage where they are exempting ground mounted mechanical equipment. As currently written it allows the generator to be placed on the property line. He has concerns because of how accurate people are when they install them. He would like some type of setback from the property line, using either the same standard for an accessory structure or 5'. Mr. Taintor explained that the accessory structure setback for a structure not greater than 10' in height or 100' in area is 5' from the rear lot line. Chairman Ricci asked if they could just change the definition of accessory structure to include generators. Mr. Taintor felt that would be a good way to address it.

Mr. Gladhill referred to page 12, stating that a projecting shall project no closer than 1' to the edge of the vehicle travelway and asked if the sign can go all the way from the building to 1' from the travelway. Mr. Taintor explained that this is what the previous requirement was, before they revised the Zoning Ordinance, and through inexperience and administering the Zoning Ordinance they made it stricter than it had to be. Ladd Street or Fleet Street, for example, have fairly narrow sidewalks and

they are getting variance requests for very appropriate signs. This size would be very reasonable and the Inspection Department would be very happy as it would make their life a lot easier. Mr. Taintor also pointed out that there is a limit of the total sign size and they are proposing to reduce the allowed size of a projecting sign in the CB district. They have determined that only three signs actually meet or exceed their maximum size limit.

Mr. Blenkinsop asked about projections into required yards. On page 2, he asked why there wasn't a maximum projection into the yard for porticos. Mr. Taintor thought it looks like a type-O or maybe it is because it is less than 20 s.f. in area. However, they could put one into the section. Mr. Blenkinsop felt they would be able to build right up to the property line as this is written. Mr. Taintor was not sure they actually define a portico so he will make sure that is added as well as a maximum projection. Mr. Blenkinsop felt they would run into problems with designs if it is not defined

Mr. Taintor indicated that Mr. Hopley was in support of these revisions other than a few minor comments which he had written down. He had a question about the wording in the neighborhood uses where it says that the Planning Board may grant a Conditional Use Permit. He wanted to make sure it was clear that the Planning Board may or may not grant a Conditional Use Permit. Mr. Blenkinsop felt it was inherent.

Where it talked about any alcohol sold in a neighborhood commercial use shall occupy less than 15% of the gross floor area of the business and he wanted more clarity on how we would be measuring that.

The Planning Board is supposed to make a determination on market values and he was concerned about how they would do that. Mr. Taintor felt they could use property values instead.

Lastly, Mr. Hopley was very happy about the revisions to projecting signs.

Mr. Taintor asked how the Board would like to proceed. Do they want to see the wording again before going to City Council. Chairman Ricci was fine with the changes. Mr. Blenkinsop was comfortable without seeing them come back.

Mr. Allen made a motion to make the changes to Article 5, 6, and 12 as discussed and forward them to the City Council. Mr. Gladhill would like to come back and look at the neighborhood changes. Mr. Blenkinsop seconded the motion.

The motion passed unanimously.

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**VI. PLANNING DIRECTOR'S REPORT**

**A. 2013 Planning Board Meeting Schedule**

Mr. Taintor provided schedule of additional Work Sessions for 2013. They include Work Sessions on the Coastal Resilience Study, Zoning Ordinance Amendments, Form-Based Zoning, the Master Plan, a Bicycle-Pedestrian Plan and a Wayfinding Plan.



Chairman Ricci asked what time worked best for the members and it was agreed to start the Work Sessions at 6:30 pm.

B. Planning Project Update

This was provided in their packet.

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**VII. ADJOURNMENT**

A motion to adjourn at 8:05 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 April 18, 2013.