

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

SEPTEMBER 19, 2013

MEMBERS PRESENT: John Ricci, Chairman; David Allen, Deputy City Manager; Richard Hopley, Building Inspector; John Rice, Vice Chairman; William Gladhill; Colby Gamester; Nancy Novelline Clayburgh, City Council Representative; Elizabeth Moreau, Alternate Jay Leduc

MEMBERS EXCUSED: Karina Quintans

ALSO PRESENT: Rick Taintor, Planning Director

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I. ELECTION OF VICE-CHAIR

Deputy City Manager Allen made the motion to elect John Rice as Vice Chairman of the Planning Board, previously vacated by Anthony Blenkinsop. Councilor Novelline Clayburgh seconded the motion, and the motion passed unanimously.

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 the motion to read Item A. Public Hearings - Old Business and Item A. Public Hearings - New Business out of order for purposes of postponement and rescheduling. The motion passed unanimously.

Item A. Public Hearings – Old Business

A. The application of **143 Daniel Street, LLC, Owner**, and **Steven P. Wilson, Applicant**, for property located at **143 Daniel Street**, requesting Site Plan Approval to add a 2 ½ story addition over the existing “gym” and construct a new 60’ x 40’3-story addition on the existing parking lot for the development of a mixed use building including commercial use, 14 residential units and 18 lower level parking spaces, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 105 as Lot 19 and lies within the Central Business B (CBB) District, the Historic District and the Downtown Overlay District (DOD). (This application was postponed at the June 20, 2013 Planning Board meeting)

Mr. Rice made a motion to postpone this application to the Thursday, October 17, 2013 Planning Board meeting. Ms. Moreau seconded the motion, and the motion passed unanimously.

Item A. Public Hearings – New Business

A. Request of Tom and Zelita Morgan to expand the Historic District.

Mr. Taintor said the City Council had asked that the public hearing be held at that night's meeting, but the Planning Department was unable to send out legal and public notifications in time, so he recommended rescheduling the public hearing to the October 17, 2013 Planning Board meeting.

Deputy City Manager Allen made a motion to schedule a public hearing on the proposed expansion for the Planning Board meeting on October 17, 2013. Mr. Gladhill seconded the motion, and it passed unanimously.

B. The application of Hillcrest of Portsmouth, LLC, Owner and Applicant, and The RLD Revocable Trust and The AMD Revocable Trust, Co-Applicants, for property located at 3201 and 3203 Lafayette Road and abutting vacant lot located on Lang Road, requesting Preliminary and Final Subdivision approval to subdivide one lot into four lots as follows:

- a. Proposed Lot 1 consisting of 6.02 acres and 561' of continuous street frontage.
- b. Proposed Lot 2 consisting of 67.11 acres and 200' of continuous street frontage.
- c. Proposed Lot 3 consisting of 11.38 acres and 1084' of continuous street frontage.
- d. Proposed Lot 4 consisting of 126.99 acres and 156.87' of continuous street frontage on Lang Road.

Said properties are shown on Assessor Map 291 as Lot 7 and Map 289 as Lot 1 and lie within the Gateway District where a minimum lot area of 43,560 s. f. and 200' of continuous street frontage is required, the Rural (R) District where a minimum lot area of 5 acres and no continuous street frontage is required and the Garden Apartment/Mobile Home (GA/MH) district where a minimum lot area of 15,000 s. f. and no continuous street frontage is required. (This application was postponed at the July 18, 2013 Planning Board meeting)

Chairman Ricci read the notice into the record.

SPEAKING TO THE APPLICATION:

Steve Oles of MSC Civil Engineers and Land Surveyors, Attorney C. Alan Beagle, Attorney David Brown, Phil and Tracy Defosses, Applicants, and Glen Gidley, Owner, were present.

For location purposes, Mr. Oles gave a brief rundown and said the property was located south of the Credit Union Building on Lafayette Road. They went before the Planning Board in May and were asked to address some questions. They worked with the DPW on an infiltration plan and they submitted the information. Postponements were done in July and August, and Mr. Oles felt that they had addressed all outstanding issues and were there to request Preliminary and Final Subdivision Approval.

Chairman Ricci mentioned that Peter Rice, Director of the Portsmouth DPW, was also present to answer questions.

Councilor Novelline Clayburgh said that Mr. Taintor's report had listed conditions subsequent to be completed prior to the final release of the subdivision security and asked if they were going to discuss those. Chairman Ricci said they would be able to discuss those after a motion was made.

Deputy City Manager Allen asked if they could go through the report and the program for the sewer rehabilitation.

QUESTIONS FOR THE APPLICANT:

Phil Defosses said they submitted a detailed report to the DPW. Several evaluating steps were done throughout December, and Underwood Engineering was hired to conduct a study of the infiltration problem and recommend solutions. The remaining work to be done was outlined in Mr. Rice's report to the Board and consisted of about \$88,000 worth of work that would remedy the problem.

Deputy City Manager Allen thought there were some recommendations that went beyond the \$88,000 and felt that the \$88,000 was Step 1, and then there were other recommendations due to associated issues. For example, the report referenced 30 possible sewer lateral connections where there could be issues, 14 of which had no issues and the remaining 16 of which had the potential for subsequent work.

Mr. Defosses believed Deputy City Manager Allen was referring to page 12 of the Underwood Report, which said additional work might be necessary, but he did not believe it would be necessary. The Underwood Report suggested that they do the work over the next 12 months and complete it by Spring (the rainy season), and the DPW recommended that the work be done by December 31 for reasons they were not sure of but did not have objections to.

Chairman Ricci asked Mr. Peter Rice for a review of the timeline and an update of where they stood from their last meeting to the present.

Peter Rice, Director of Public Works, said that, since the last meeting, the Applicant had completed an intensive Infiltration and Inflow Study. From that study, there were a number of recommendations, including items that had been completed to date. The study outlined \$100,000 worth of work. He believed it was appropriate and important to commit to that level of work as part of the stipulation of this, in addition to the \$88,000. The challenge they faced was the same as the City faced. He said the City has been under a consent decree for a number of years to the EPA, and in the last 15 years they have spent over \$50 million to address the excess flow in the system. Considering the impacts to the southern portion of the City as well as the investments that have been made throughout the City, he felt it was money that was appropriate to spend as a part of the facility's upgrades and he did not believe they were excessive in terms of the requirements. In terms of specifics that had been completed by the Applicant, he could not speak to that. He knew there were a number of fixes, including the manholes that had been pressure routed, so there should be improvement relative to those areas. Those were some of the main sources of inflow. The services themselves were problematic as well as the service connections under the mobile home units, so he believed a continuous effort of getting the bulk of the work done in the fall and then completing the recommended efforts, including the smoke test effort, to identify additional excess flow sources was appropriate and that the Applicant would be well served by making those investments.

Deputy City Manager Allen said he would like to make sure that, if they went forward with the recommendation, they were very clear which items in the report were to be included as being done. Mr. Peter Rice said the items on pages 10, 11, and 12 were clearly identified and all appropriate.

Deputy City Manager Allen asked about the recommendation that all work be completed by December 31 and followed up with monitoring.

Mr. Rice said the one year monitoring period would determine the success of the efforts, and if the efforts were not successful or if the areas addressed were not really the sources of the inflow, they would have the opportunity to address those problems.

Mr. Desfosses said that Mr. Peter Rice referred to items on pages 10, 11, and 12 but said he had addressed the items on page 12 in his earlier remarks to the Board. He said page 12 consisted of a step to be taken if the work was done by December 31. It was the next step but was conditional on the effectiveness of the page 10 and 11 steps, and he was not sure if that distinction was clear.

Mr. Peter Rice wanted to clarify that he understood it was a building measure approach, but he would rather have the commitment made to take those efforts and realize that they may not be necessary rather than have to go back and go through the effort again. At this point, he thought it was appropriate to have those steps as part of the agreement so that they were clearly identified as steps to be taken. The majority of the work would most likely get done in the fall, and they would commit to doing the additional work next spring.

Chairman Ricci asked if the monitoring would give the Board the information they needed to know if it would have to be done in the spring. Mr. Rice said it would, but it would be stipulated on DPW approval.

Mr. Desfosses said there may be some kind of disconnect because the items on page 12 had additional laterals that might be an issue, but he did not think they would be a problem. They were committed to resolving the problem, and the community would be there for a long time. The reported recommendation to the Board was whether they wanted to do pages 10 and 11 and, if necessary, do page 12. They did not have a problem doing them, but it was a difference in the steps that the Underwood firm recommended in their report and was extensively reviewed by the DPW.

Chairman Ricci thought that was what Mr. Rice meant, that they were debating the timeframe between pages 10, 11 and 12 .

Mr. Defosses said the recommendations to the Board and the Underwood report clearly envisioned page 12 as steps to be taken if necessary. Chairman Ricci agreed.

Deputy City Manager Allen said he was confused because the only thing that page 12 added was the monitoring and excess, and removal with 1 year flow data. Then it talked about 16 laterals to be repaired, break and service taps to be evaluated and repaired, and other possible inflow sources to be investigated. If everything else on those previous pages was committed to, and that one item on page 12 was what they were talking about, he would feel more comfortable if they did the spring evaluation. If those issues came up in the spring, then the work would be done. He thought they wanted some sort of bonding that would protect the City, so if more work needed to be done, it would be done.

Mr. Defosses said he had no problem with the suggestion. They did not have a cost estimate for that bulleted item but could have Underwood prepare the cost estimates and provide them to the City. When they drafted the bonding agreement, they would have the figures together.

Chairman Ricci asked, if pages 9 and 10 were done, how soon they would be able to verify that page 12 needed to be done. Mr. Peter Rice said that the monitoring is typically done in the spring after the freeze, so it would be about late March or April.

Chairman Ricci asked when they would suggest that page 12 be implemented if they had not achieved the intended results. Mr. Rice said it would be after the monitoring results come in for them, in May or June.

Mr. Taintor said the draft recommendation was one year of continued flow data, but they were discussing having an interim step of 2 or 3 months of monitoring. He wanted to verify that was what they were suggesting.

Mr. Peter Rice said that after one year was a better approach, but it depended on how wet the winter season was. If it were a dry winter where groundwater was very low, they would not get good results, but if it were a wet season, they could get results in 3 months. He said that committing to a timeframe was challenging, and one year was more appropriate because there would be a possibility of a wet period in that timeframe.

Chairman Ricci asked Mr. Rice if that should be rewritten to say 'two springs'. If they had a dry winter, would the Planning Board get an accurate account this spring, and what would happen if they had a wet winter in 2014. Mr. Rice said he did not want to leave it too open-ended. It was not typical to see a dry period that extended beyond an entire year, so they should be able to capture a wet period within that timeframe.

Deputy City Manager Allen said perhaps they could coordinate it with the DPW within that one year period. If they could do it sooner, that would be fine. The DPW could monitor it. Mr. Defosses said it would not be a problem and he would deal with it as it came up.

Chairman Ricci asked if anyone present from the public wished to speak to, for or against the application. Seeing no one rise, Chairman Ricci closed the public hearing.

DECISION AND DISCUSSION OF THE BOARD:

Mr. Hopley made a motion to approve the subdivision plan based on the Subdivision Rules and Regulations. Vice Chairman Rice seconded the motion.

Mr. Hopley added that his motion was based on the nine bullet points in the Staff Memorandum but said they may want to discuss the final wording due to a typographical error in Stipulation #8.

DISCUSSION OF THE MOTION:

Mr. Taintor said Stipulation #1 should be referenced to Stipulation #7.

Deputy City Manager Allen said the first bullet about rehabilitation work items identified on the TAC Memorandum dated September 10, on pages 10 and 11, referenced that "the Applicant shall submit to the DPW the cost of the item listed on page 12, study to be done within the year, approved by the DWP, and if work is necessary to remediate additional infiltration they will take the steps to do that, and post a bond to cover that amount of work."

Mr. Taintor said it was at the bottom of Stipulation #8, where it referenced “listing the same things with a separate bond.”

Mr. Hopley asked if Stipulation #8 covered items on page 12 because page 12 was referenced, otherwise Stipulation # 1 needed to be #7.

Chairman Rice asked if they needed language saying that page 12 would happen when the DPW recommended that work be done. Deputy City Manager Allen thought the stipulations were covered.

Mr. Desfosses wanted clarification as to whether it was one year from January 1, 2014, and whether they would complete the work by December 31 and would start the year then. Chairman Ricci agreed.

DECISION OF THE BOARD:

The motion to grant Preliminary and Final Subdivision approval passed unanimously with the following stipulations::

Conditions Precedent (to be completed prior to recording of the final plat):

1. The applicant shall submit a notice of voluntary lot merger with Map 289 Lot 1 as indicated on the plan, and shall record the lot merger at the Registry of Deeds.
2. The applicant shall revise the subdivision plans to reflect the new lot lines after the lot merger.
3. The proposed access easement along Desfosses Avenue shall be subject to approval by the Legal Department.
4. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
5. GIS data shall be provided to the Department of Public Works in the form as required by the City.

Conditions Subsequent (to be completed prior to the final release of subdivision security):

6. The final plat and all deeds and easements shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.
7. The sewer system rehabilitation work items identified in the Underwood Engineers Technical Memorandum, dated September 10, 2013, pages 10-11, shall be completed to the satisfaction of the Department of Public Works by December 31, 2013. Subdivision security in the amount of the estimated implementation costs, as approved by the Department of Public Works, shall be provided in a form and amount approved by the City (along with security for other site costs).
8. The applicant shall monitor and assess the success of infiltration and inflow removal using one year of continuous flow data, starting on or after the date that all work required in stipulation #7 has been completed, and shall provide such data to the Department of Public Works. If average and peak flows exceed the targets established in the Technical Memorandum (21,000 gpd infiltration and 84,000 gpd peak daily total system flow from a 1” storm), the applicant shall implement the additional mitigation actions recommended on page 12 of the Underwood Engineers Technical Memorandum:

- repair the 16 suspected leaking service laterals identified in the report,
- evaluate and repair break-in service taps,
- investigate other possible inflow sources through smoke testing and mitigate them, and
- evaluate and repair previous repairs as necessary.

This condition shall be secured by a separate bond or other security in a form and amount approved by the City.

9. If the continuous flow data indicate that infiltration and inflow are significantly more than the flow measurements completed in June and July 2013, the City may request additional improvements or investigations.

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. Request of Tom and Zelita Morgan to expand the Historic District.

(Moved to beginning of record in order to postpone).

B. The application of **2422 Lafayette Road Associates, LLC**, for property located at **2454 Lafayette Road (Southgate Plaza)**, requesting Amended Site Plan Approval to revise the new retail building, add a rain garden at the rear of the site, and make related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 273, Lot 3 and lies within the Gateway District.

Councilor Novelline Clayburgh made a motion to **postpone** the application to Thursday, October 17, 2013. Mr. Hopley seconded the motion, and it passed unanimously.

C. The application of **Carol S. and Joseph G. McGinty, Owners**, and the **Frances T. Sanderson Revocable Trust and Lynn J. Sanderson Revocable Trust, Paul G. Sanderson, Trustee, Owners**, for property located at **300 Spinney Road and off Spinney Road**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested between two lots as follows:

- a. Lot 6 on Assessor Map 169 decreasing in area from 30,000 s. f. to 28,363 s. f. and with continuous street frontage on Spinney Road decreasing from 150 ft. to 132.54 ft.
- b. Lot 24 on Assessor Map 170 increasing in area from 181,725 s. f. to 183,362 s. f. with 139.06 ft. of continuous street frontage on Middle Road.

Said properties are located in the Single Residence B (SRB) District which requires a minimum lot size of 15,000 s. f. and 100 ft. of continuous street frontage.

Chairman Ricci read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Malcolm McNeil presented on behalf of the Applicant. Also present were Christopher Berry, Site Designer and Engineer of Berry Surveying and Engineering and David Smith, Principle of LLC and also of Graystone Builders.

Attorney McNeil said the piece of land had previously been before the Board for subdivision. There have been a number of considerations of how to use the property. The last time the owner was considering developing the property, it consisted of 6 lots. Despite the fact this did not require TAC review, they were going to TAC and had also consulted with City officials, which resulted in many changes. One significant issue was that the number of lots had been reduced from 6 to 5 which was important from an environmental perspective. There was no Conditional Use Permit required for the site for wetland buffer impacts. He said the land is presently open field with some woodland to the east and an existing stone wall between two lots which currently exist. The land slopes from the south to the north, to the wetland area northeast of the property. Despite the fact that there is water and sewer, the soils are well drained and are hard panned, with the pan being very sandy. The property is in the SRB zone. The lots all comply with zoning requirements and no variances are required. There are presently three areas of frontage on the property. There is 70' of frontage on Spinney Road, 130' of frontage on Middle Road, and 60' of frontage on Thaxter Road at the rear of the site. All of the lots are at least 15000 s. f. and all setbacks are complied with.

The proposal is to construct a municipal roadway to the City's specifications with a cul de sac for access to five residential lots. There are 237' of alignment to the neck of the cul de sac, and around the cul de sac there are 524' of alignment. Vertical granite curbing and all municipal utilities are provided within the development. The Applicant is committed to landscaping along Middle Road to shield the activity from the road as well as allowing for a 10' no-cut buffer for the abutters. Along the buffering between the lots of Middle Road, they are proposing that these two lots be accessed by the new road being constructed and that the front of their buildings will face the new road.

All of the houses fit in the established footprints and building profiles for the property. They are also proposing extensive buffering along Lot 3 to provide for buffering for the existing house. Middle Road is a connector road with some degree of volume and a 30-mph speed limit. It is a mature neighborhood, and most of the houses and driveways are very close to the road. Vehicles are parked in a fashion where they have to back out onto Middle Road to get on the street. There will be two rain gardens for drainage purposes, which will be maintained by a Homeowners Association and approved by the City Attorney. They will also maintain the existing stone wall. They agree with all of the conditions of approval with regard to the lot line adjustments. The lot line adjustments were necessary to permit the flares on the roadway and are not significant. There was no comment in the staff memorandum other than requesting that the lot lines be appropriately identified.

Regarding the subdivision, they needed to request a waiver pertaining to Section VI.2.A that requires lot lines radiate to the curb street lines as practical.

In order to avoid a wetlands buffer, they eliminated one lot and have developed the property in this particular manner. He said it is pleasing to the eye, reasonable, and an effective layout in a compact area of town.

He said the Planning staff had recommended that the dwellings on Lots 1 and 2 have their frontage on the Middle Road street side. They considered that and discussed it with their marketing staff, the brokers, and the architect. They believe it is reasonable for the frontages of the houses to front on the street that provides them access, which is the cul de sac road, with the provision that this area of

ground be heavily landscaped and buffered with some kind of fencing or other means of blockage from the roadway.

Their reasoning for this decision is that this will be a new neighborhood, the houses will be built by the same contractor, and they feel this is solely subdivision approval, and not the HDC, not site review, and not designing homes. This is a dimensional consideration of compliance with subdivision regulations, all of which they provide except for the waiver that was previously mentioned.

They consider Middle Road to be a true connector road of some degree of speed. The houses on the road are very close to the street and appear to be 50-60 years old, but he said all those people had no choice as to where their driveways and frontage would be.

There are many front yards that contain extensive materials such as outdoor furniture. More important, however, is that there are motor vehicles parked along the street, and these vehicles have to be backed out onto Middle Road. The Spinney and Middle Road intersection is wide and has good sight distances in both directions, so someone exiting the new roadway and wishing to go down Middle Road to get into the City has a safe way of doing that. If someone wanted to go to Spinney Road to get to Islington Street, they would not have to deal with Middle Road at all.

Attorney McNeil asked the question, who is to say a front yard is more attractive than the backyard? Another developer could come in and create additional lots and develop houses. He said the Planning Board does not design houses. The buffering will make it very difficult to see what the backyards will even look like. They were advised by those that market the houses that a driveway to the back of the house did not make sense. He gave as an example the Douglas Hospital in Dover, where the front of the hospital is actually in the back. He also suggested that the Board members think of their own houses – would they prefer to back out from their house into the small five-lot public street or would they want to be on Middle Road backing out into traffic and contributing to the existing traffic.

The alternative for the Applicant would be to build two road access points onto Middle Road and come in that direction, resulting in everyone else in the new development using the cul de sac and Middle Road. He was asking that the Planning Board not require that the back of the house be the front of the house and that they permit access from the small residential street to the front of the houses and let the owners operate their houses in a fashion consistent with this type of subdivision. He had met with municipal officials and had accommodated all the City's requirements except for this provision. He said he had been doing this for quite a while and subdivision approvals did not involve house designs but designs of land and the environmental constraints that go with them. Site Review and HDC approvals were different.

Mr. Berry displayed the Existing Conditions Plan for the site. They determined that the soils were good (B quality) and allowed for moderate infiltration in the natural condition. Whatever did not infiltrate in a natural condition flowed down over a slope to a wetland that was contained on the site. From the wetland, it drained between two structures to the City infrastructure and then was carried offsite. The wetland's center had some ponded water that could be a nuisance in large storm events to both of the abutting parties, but they would ensure that the development on the hill did not increase stormwater to the general area but only specifically to the final discharge point that they analyzed. To mitigate the drainage concerns where the site drained into a general area, they used a rain garden to capture the stormwater in the center of the cul de sac and stormwater that came off the houses in other areas. They redesigned the plan to stay out of the buffer. Water from both points would be brought down to a drain manhole and piped over to another location then sent through a large rock-lined level

spreader, where it would disperse to the point designated from the jurisdiction wetlands analysis. They were able to mitigate the stormwater on all of the sites through the two devices that offset the flows from the rear of certain structures.

QUESTIONS FOR THE APPLICANT:

Deputy City Manager Allen said the scale of the road sections was inappropriate, especially the section near the rain garden and the slope. They did not make sense to him and he could not get the cross-sections to match the detail. Mr. Berry said the details were a little superfluous and not to scale. One section showed the stone and outlet structure, but they could clarify the other sections to match the proposed intent of the plan.

Deputy City Manager Allen asked if the intent was to have vertical granite curbing. Mr. Berry said it was their intent because the DPW wanted vertical, not slope.

Mr. Hopley said he was surprised that the street had no sidewalks, given all the positive work the City had done on Middle Road and South Street relative to sidewalks. He thought new streets required sidewalks. Mr. Berry said they discussed the specific sidewalk requirements with the Environmental Planner and the Chief Planner and decided that a sidewalk was not required in the development because the street was so short.

Mr. Hopley asked whether it was not required by a regulation, or whether it was not required by someone who did not think it was necessary. Mr. Berry believed it was by the regulation stating that sidewalks are required at the discretion of the Board, and he said Mr. Taintor could provide more detail on the issue.

Mr. Taintor said the regulation stated that sidewalks are required for a residential street as designated by the Site Review Committee, which he thought was odd because normally the Site Review Committee does not review subdivisions. He said the regulations were old, so he always interprets it as being required by the Planning Board.

Chairman Ricci found the Site Plan troubling because it contained no legend, notes, or mention of Digsafe, and he asked if this was typical. Mr. Berry said some companies may have a certain line type or a legend, but they call out every specific structure through notations.

Chairman Ricci asked about Digsafe. Mr. Berry said it typically was and that their final construction drawings would have details on Digsafe, natural gas, and other items of that nature.

Chairman Ricci said there was a P.E. stamp, so he assumed the drawings were ready to go, but Mr. Berry seemed to be indicating they were not. There was no legend to show the proposed grades. Mr. Berry said they did Digsafe notes, and that would be the sort of thing they added to the detail sheets when they were printed for construction.

Chairman Ricci repeated that there was no legend on the drawings that told him anything, and he was having a hard time figuring out the proposed grades. Mr. Berry said their proposed grades denoted the letter 'F' for future grading and everything else had the typical line. Chairman Ricci asked how he was supposed to know that. Mr. Berry said he understood his point.

Chairman Ricci said some of the notes, like Lot 3 on page 8, pointed to a 2" SDR force main but there was nothing there. It showed a force main coming out, but the symbol seemed to drop off the line. He was uncomfortable with the plan's lack of detail. In the Planning Board's history of approving things, it was not typical that the Applicant would say they would 'add that stuff afterwards'. He said the legend troubled him, plus the fact that there were no notes at all. Typically the Planning Board had notes to contact the local utilities or call Digsafe. The grading lines looked like they were digitized by hand and were hard to follow. He said they have tried to get away from 'hay bales', like silt socks instead of a silt fence. Looking at the second rain garden, he saw that the pipe took a 135-degree bend and asked how that worked because normally it would be in a manhole.

Mr. Berry said that, in that area, the angle moving into the drain area was sharp, so typically they put an angle on the pipe. He said they could modify the structure.

Chairman Ricci said the drawings were not ready for construction based on what the Board was accustomed to seeing.

Deputy City Manager Allen agreed and said the cross-section had fuzzy details that he was concerned about. It was going to be a municipal street, and there was drainage being picked up and going to a rain garden instead of being maintained by the Homeowners Association. He assumed that the City would be maintaining the pipes and, if that were the case, the interfacing on the drawing seemed awkward at best. There was a drain line discharging into a back yard, and he asked whose yard that was. If it was a municipal draining system, he asked if the City would be maintaining it. If so, he had a hard time seeing the DPW Director Peter Rice's truck cleaning out a drain line in a backyard and doing maintenance. There was no real detail as to how that would end. He wondered if they had erosion protection. Some real technical details were missing from the Plan, and the issue of ownership maintenance was troubling.

Mr. Berry said they could work with Attorney McNeil and Mr. Rice to determine who took care of what and how the interface worked.

Mr. Gladhill changed the topic and mentioned the Subdivision Rules and Regulations. He found a line at the top of Lot 1 and two lines facing Middle Road and asked whether or not that would bring two of the homes closer to Middle Road to fit the Regulations objective. Attorney McNeil said it made sense from a traffic and safety perspective to have the driveways on the street and asked if it made more sense to have the two houses connect in the same fashion as all of their other neighbors.

Mr. Gladhill asked why they could not bring the houses forward and still have three driveways go out on the new street. Attorney McNeil said he was having trouble understanding why it was even an issue. If the developer was building a house within the footprint and was in compliance with the regulations, was Mr. Gladhill asking if they wanted a front door in the back of the house or was he saying that they wanted access to Middle Road on that side. Attorney McNeil asked if it would not be preferable to screen the whole area with what they were proposing and give the homeowner the safest access to a road that has four other houses on it.

Mr. Gladhill said that he was looking at the two lots as being more on Middle Road than on the new road because it was simply the way it was laid out. They seemed to fit.

Attorney McNeil said they could clean up the plans. The question was whether they could resolve other issues and if they could be handled administratively. Chairman Ricci said that would be

something they could talk about as a Board, but in all candor, the level of detail in the plans was way off from what he would expect to be handled administratively.

Vice Chairman Rice posed the question that, if they were the neighbor abutting the two houses, would they rather have the driveway close to their house or going off to the new road. Mr. Gladhill said it was an opinion and that he had seen houses with short and long driveways. Chairman Ricci agreed that it was an opinion but stressed that there has to be compliance with the regulations.

Vice Chairman Rice said he found the buffer zone on page 7 'pedestrian'. There was a split rail fence that had to be maintained by someone and it was different from the rest of the streetscape. The arborvitae would be food for deer in the middle of the night, so it would not screen much. The white pines, as they grew taller, would just be trunks with no vegetation and nothing to serve as a buffer. He felt that the proposed buffer zone may not be acceptable.

Attorney McNeil said if the Board would like different plants, he would be happy to listen to their suggestions, but that the buffer would be on the Middle Road lots regardless. If the Board insisted on a driveway being there, depending on how the developer reacted to it, it would be a buffer anyway.

Vice Chairman Rice said if the Planning Board approved the houses on Lots 1 and 2, he liked the idea of the buffer but did not think it was very effective.

Attorney McNeil said they would think of a different fence, maybe an opaque one, and would consider evergreen trees with greater blocking ability. They would also be happy to consider suggestions for the buffer on the other lots. He mentioned that the City used to have an arborist and that they could meet with the arborist. Their idea had been to respect the fact that the neighborhood was compact and to diminish the impacts as much as possible. That was why they felt that driveways in front of houses should be off a road that had the least impact on the neighborhood yet were consistent with a small residential subdivision with a short cul de sac. Regarding the sidewalk, he said it was a very short street and that it would be an inexpedient expenditure for the City and the developer to maintain the sidewalk.

Chairman Ricci opened the public hearing and asked if anyone was present from the public who wished to speak to, for or against the application.

Donald Green of 277 Middle Road wanted to clarify whether or not they had said that the water would be piped right into the bog after it had been treated in the rain garden. He said the Wetland Regulations, Article 6, did not allow any leached material to go into the wetland buffer and wondered why they were even discussing it. People may think, 'Oh, well, the water can be treated and it will get rid of all the chemicals'. He said he was a Biochemistry Program Director at the National Science Foundation 20 years ago and could tell them the rule was, if you can drink it, then the water's okay, but he would not advise them to start drinking that water. He asked why they were using that odd device when there was a sewer trunk down Middle Road and they could drain it out. To him, it was just a matter of organizing the flow into the rain garden and then running it straight down into the City's wastewater system.

Mr. Berry said they were not piping it into the wetlands but were piping it into the rear of a stone structures where it would discharge overland flow for 100' into the wetlands. The DPW would be unhappy if they discharged into their municipal system on Middle Road. With the level of treatment that was required nowadays, that was not an option.

Leslie Dolleman, of 257 Middle Road said she lives in one of the houses in the old neighborhood and it seemed like they were focusing a lot of energy on the new neighborhood rather than focusing on the existing Middle Road neighborhood. She was concerned that cars coming down the cul de sac would beam their headlights into her living room. Another concern she had were the houses. There was water on the upper part of the lot that ran down and collected in her driveway and then ran sideways, and she did not see a provision on how to handle that. She was concerned that they were sacrificing an existing neighborhood for a new neighborhood behind it.

John Lyons of 76 Fells Road said if they were to look at the Existing Conditions Map that was posted on the wall, his property lot line was in the middle of the stream that drains into the wetlands at the bottom of the hill. He said the wetland abuts all their property lines and there can be no more water coming down that hill than there presently was. He said Deputy City Manager Allen had been to his house on a few occasions and knew what he meant. It had been a significant problem until the new sewer lines were put in. but even today, the stream that runs between his home and his neighbor's home was often full and often had runoff. He felt if additional water were to run down that hill, it would take his property.

He thought people had the right to develop their property, but he could not support it because he couldn't tell from the plans if enough conditions had been designed that would prevent the water flow. He said that Attorney McNeil mentioned it was not the Board's responsibility to design houses, but the engineer had to take into account certain conditions to determine if the rain gardens were sufficient to address the water flow. He also asked if someone moved into one of the new houses could they put in a swimming pool. He said Mr. Gamester lived up the street and could tell them about all the properties that had basements filled with water due to large storms.

He could not tell the grades from the plans. He felt that the City Staff does what it can, but the proposal needed to be redesigned so that there was a guarantee that no additional water would run down the hill because it would flood all the properties below. He said when the plan was redesigned to meet all the approvals, conditions needed to be tied in to the size of homes and driveways. He asked who was going to maintain the rain gardens. He referred to the discussion about running the discharge pipe from the garden into the City sewer and said that the development on the other side of Spinney Road was allowed to have a rain garden that discharges into the City system. On Fells Road, the easement was granted to allow runoff between properties go into the City sewer. Therefore, the water in his area that would discharge from the rain garden down the hill could be designed such that it went into the City sewer. More important, he asked what kind of fill would be brought in to the property and what conditions the engineer relied on in saying no more water would go down that hill.

Mr. Lyons asked, what guarantee did he and his neighbors have once the plan was approved. He asked what would happen if the builder or owners decide to bring in more fill and expand the footprint of their property with add-ons. He was concerned about the large lot and the storage of materials, such as boats. He wanted a restriction on storing materials. He said he could not support the application because the plan did not give sufficient details, especially about additional water going down the hill.

David Cavaretta of 342 Spinney Road said his house was between the two road frontages. He did not know a lot about where the water pooled up but was concerned about what buffers may exist between his property and the new properties behind him. He was also concerned about the type of buffer that would be between Middle Road and the new properties leading back to the new street. He wanted to make sure that the setbacks were be adhered to for the five houses.

Chairman Ricci said that the front and rear setbacks from the property line on each side were 30' in the rear and 10' on the side, and from Mr. Cavaretta's backyard line toward the other lot, 10' would be the closest they could build.

Chairman Ricci called for second time speakers.

Donald Green of 277 Spinney Road mentioned the effect of the five houses on Spinney Road and said they would come out against the North Church Meeting House, which often had a lot of people there, so there would be congestion. On the two sides of the lower part of Spinney Road, there were five houses on one side and four houses on the other, making nine new houses. He said there was a lot of traffic in the road but no sidewalks. He always had to look behind him when he walked down the street and actually had to climb on someone's front lawn to avoid getting hit by a car.

He mentioned an experience he had when there was a party at the house below the water tower at Spinney Road. Most of the cars stuck out into the road and blocked road access, and he had to go into the other lane. He said traffic has increased because people come up on Islington Street to go east, and when the new bridge is completed, traffic from Islington will no longer go up Islington but will go up Spinney Road (with no sidewalks) to go west to get to the bridge. He said the situation is a mess, and that the Planning Board was responsible for ensuring that there was enough road access when adding 15 houses as well as enough vehicle spaces.

Attorney McNeil said the Applicant completed a drainage study and recognized that he could not increase the amount of flow off the property. He said the condition Mr. Lyons was talking about was an existing condition, not one caused by the project. They could not exacerbate that condition. They were hopeful that, if there was a need for improvement on the plans, the City in the interim would review the drainage study. Regarding the rain gardens, they were discussed in consultation with Peter Britz and the plan was submitted to TAC, even though they were not required to do so. In terms of the comments regarding the sidewalk along Spinney Road, the City never put in a sidewalk on that road with all those houses. To suggest that a sidewalk on this 5-lot subdivision would be appropriate was inconsistent with the City's own practices. Recognizing the comments that had been made and perhaps the obligation felt by the Board in not being able to act on the proposal that evening, Attorney McNeil requested that the engineer upgrade the plans. He respectfully requested that the DPW and the City's environmental consultants review the plans relative to the drainage issues raised by Mr. Lyons and the other abutters. To the extent that the City had in-house expertise with regard to buffering, the Applicant would be happy to consult with them on the buffering issues. He said he would appreciate an indication on the position of the Planning Board relating to the two houses on Middle Road because that would influence the course they take on the project. He would leave it to Chairman Ricci as to whether or not it was appropriate to consider that now.

Chairman Ricci called for additional second time speakers, then for third and final time speakers. There were none, so he closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD:

Councilor Novelline Clayburgh recused herself from the vote.

Chairman Ricci said they had two applications before them, and they would do Item C for Preliminary and Final Subdivision Approval first.

Mr. Taintor said Item C was the lot line revision with the adjoining property and had to do with lot area transfers in the back and non-radial issues. It took the large tract and the parcel showing new lot lines and changed the alignment so it did not deflect the overall Subdivision Plan. He said there were several stipulations, one of which was the full Boundary Survey, which was not performed.

Mr. Taintor said they needed to accept the application for consideration subject to providing final information.

Deputy City Manager Allen made the motion to accept the proposal for consideration subject to providing final information. Vice Chairman Rice seconded the motion.

Vice Chairman Rice asked how that dovetailed into Item B.

Mr. Taintor said procedurally they were accepting an application for consideration before actually voting on it because New Hampshire State Law required it. He said the application was complete subject to the addition of those dimensions on the 300 Spinney Road parcel. Then they would grant Preliminary and Final Subdivision Approval for the 3 remaining stipulations.

Vice Chairman Rice confirmed that it was really just the modifications to that 300 Spinney Road parcel.

The motion was passed unanimously.

Chairman Ricci then said they would move onto Item B, Preliminary and Final Subdivision Approval for the Lot Line Revision.

Deputy City Manager Allen said he would prefer to postpone this decision because it was so integral to the other application. Enough was missing from the following application that he would not be comfortable granting the subdivision if they got the entire revised package.

Deputy City Manager Allen made a motion to postpone the Lot Line Revision application to Thursday, October 17, 2013. Vice Chairman John Rice seconded the motion.

Ms. Moreau asked for clarification on whether this motion was to postpone both applications, the Lot Line Revision and the Subdivision. Vice Chairman Rice said no, that it was just the Lot Line Revision at this point.

The motion to postpone Preliminary and Final Subdivision Approval for the Lot Line Revision was passed unanimously.

D. The application of the **Frances T. Sanderson Revocable Trust and Lynn J. Sanderson Revocable Trust, Paul G. Sanderson, Trustee, Owners, and Spinney Road Land Holdings, LLC, Applicant**, for property located **off Spinney Road and Middle Road**, for Preliminary and Final Subdivision Approval to subdivide two lots into five lots with a new public right-of-way, with the following: Lot 5 on Assessor Map 167 having 263,937 s. f. (6.06 acres) and Lot 24 on Assessor Map 170 having 183,362 s. f. (4.21 acres), to be consolidated and subdivided into five separate lots ranging in size from 15,500 s. f. (0.36 acre) to 352,414 s. f. (8.09 acres), and all with a minimum of 100 ft. of

continuous frontage on the proposed public right-of-way. Said properties are located in the Single Residence B (SRB) District which requires a minimum lot size of 15,000 s. f. and 100 ft. of continuous street frontage.

Chairman Ricci read the notice into the record.

DISCUSSION AND DECISION OF THE BOARD:

Deputy Manager Allen made a motion to postpone the application to Thursday, October 17, 2013. Mr. Hopley seconded the motion.

Mr. Hopley asked if they needed internal discussions about all the issues that had come up that evening prior to the vote. Chairman Ricci said it would help the Applicant, and although they did take input from TAC, TAC was just advisory to the Board and the Board was not beholden to TAC, or DPW or the Conservation Commission, although they appreciated their input.

Mr. Taintor reminded them that TAC did not take a vote on this.

Mr. Hopley referenced Sheet 9 and asked the Applicant to recheck the outfall from the two rain gardens. He did not think the engineer meant E15. He took exception to what Attorney McNeil had said about the lack of sidewalks and said the Board did not ask that the new 9 lots on Spinney Road provide sidewalks because it was an existing street. He questioned where the builder's responsibility begins and ends when working on one section of a longer City street. The developer was building a new City street, and that was totally different. Right now the sidewalk on a new City street would go nowhere at this time, but he believed it was the intent of the City that Spinney Road would have a sidewalk in the future. He believed the land has been set aside by the Applicant on that side of the road to do exactly that, down at the bottom of the hill, and the intent was to join in with the new sidewalks below. He also indicated that he was still in a quandary about where the two houses should go.

Mr. Gladhill said it was a new development but they created two lots on a well established street, and for the pedestrian experience, it would be better to bring those houses forward to continue the experience on Middle Road. Some of the arguments were against longer driveways, but Lot 3 had a long driveway compared to the other four houses. The argument was about wanting a house with a longer driveway or not, but they were providing that, and he was against it on Lot 3 because it would be the last lot sold out of the 5 lots due to nobody wanting a longer driveway.

A second argument was that there would be a house with an address on Middle Road, but the occupants would tell their guests to go on another road to come into their house. They had done that to a house on Spinney Road and turned their current driveway into a new road. He felt it was still the same argument.

Ms. Moreau said she was torn and saw both sides. She agreed it should fall into the historic nature of the neighborhood but she could also see the safety aspect of being on a quieter road for accessing one's property.

Mr. Leduc asked if they could pose the question to the two abutters in the audience. Chairman Ricci said the public hearing was closed and the motion was to postpone, but there would be another public meeting the following month and they could discuss the matter then.

Mr. Leduc said he was torn as well. He understood the safety reasons and the neighborhood being torn apart. Since the abutters didn't bring up that issue, maybe it was not important to them. He thought it would be good if the Applicant spoke to the neighbors and abutters to see how they felt about the issue.

Mr. Taintor said they were not exhausting the options by fronting on Middle Road or on the new road. There were two lots with frontage on two different streets. Perhaps they could redraw the lot line on one house that had frontage on Middle Road and the backyard would face the other house's backyard, and the other house would have frontage on the cul de sac. That way, the historic feel of Middle Road could be preserved. He said the Board was concerned about it because they like the historic character of Portsmouth. It would be more of a struggle in setback requirements, but it could be done. Mr. Gladhill said they did that on Laurel Court.

Chairman Ricci said that he originally thought he wanted the houses to face Middle Road because when he drives by, he loves the charm of the houses where the neighbors live, but sometimes in the mornings there are deer around. An idea that the Applicant had not mentioned was the choice of having a fence or something else. To him, a fence meant 'keep out', so maybe it would be better to have the property heavily landscaped instead, or maybe have a 30-40' pocket park that the City could maintain, where people could sit or walk their dogs. The houses would stay up close but revert some of that natural corridor back to the City.

Mr. Gladhill said he liked Mr. Taintor's idea of having the backs of houses face each other. He also liked Chairman Ricci's idea of a pocket park. He asked if they could do both.

Mr. Hopley was concerned about the drainage system and the responsibility and how they would structure the capture and discharge points of the rain gardens. He had not thought of the complexities of measuring the outfall and not impacting the houses at the bottom of the hill.

Deputy City Manager Allen said the Board expected to have a summary of the snapshot overview of the finished product before diving into the numbers, and he could not see it. He thought it was difficult to get into the detail and understand what the discharge effect would be as well as the maintenance, easements, etc. with the drain system.

Ms. Moreau said maybe if Lot 3 were made smaller like the rest of the lots, the remainder of the land could go to the City or even a Homeowners Association, where the residents would all have a stake in taking care of it. Mr. Taintor said Lot 3 needed the rain garden for the frontage.

Deputy City Manager Allen thought that it was an awkward subdivision because of the non-radial property line coming out of Lot 4. He mentioned the massive wrap-around and the house tucked over in one leg of the property along with all the other property associated with that one parcel.

Chairman Ricci said he would like to see each house graded out, over the pipes and rip-rap apron, And because there was no grading from the road's right-of-way, they should strongly consider putting in drywells for each house. It was inexpensive and it recharged groundwater and eliminated surface water. He would like to see legends, notes, and grading lines with more detail, like the utilities that were labeled on the plan. He would like the proposed contours tied into the existing contours. One more detail he felt the Board would expect to see on the site drawings was the finished grading around each house. He also recommended that the Applicant talk to the abutters because some good ideas could come from it.

Mr. Hopley said when the application came back, he would suggest a condition for the Board about engineering oversight of the road and the drainage development. He said the Planning Board got 'burned' the last time they had a new road due to the lack of oversight and felt they needed the overview from an independent source.

The Board voted to postpone Preliminary and Final Subdivision approval and place it on the Planning Board Agenda for Thursday, October 17, 2013 at 7:00 pm.

E. The application of **Frances T. Sanderson Revocable Trust and Lynn J. Sanderson Revocable Trust, Owners, and Spinney Road Land Holdings, LLC, Applicant**, for property located **off Spinney Road and Middle Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within a wetland buffer to install a rain garden of which a portion is within the wetland buffer, with 3,120 s. f. of impact to the wetland buffer. Said property is shown on Assessor Map 170 as Lot 24 and lies within the Single Residence B (SRB) District.

Chairman Ricci read the notice into the record.

Councilor Novelline Clayburgh made a motion to postpone Conditional use Permit Approval to the October 17, 2013 meeting. Ms. Moreau seconded the motion, and it passed unanimously.

F. The application of **Christine M. Davidson Trust, Owner**, for property located at **137 Walker Bungalow Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within a wetland buffer, to construct a new one-story 504 s. f. addition, relocate a 184 s. f. deck, and two rain gardens as stormwater improvement features in the wetland buffer. Said property is shown on Assessor Map 202 as Lot 4 and lies within the Single Residence B (SRB) District.

Chairman Ricci read the notice into the record.

SPEAKING TO THE APPLICATION:

Christine Davidson, Owner, and Paul Messier, Contractor presented.

Mr. Messier said they prepared the applications themselves and they were not lawyers or engineers. He pointed out an error on the agenda. They decided to have one dry well and one rain garden. The application showed that, but the agenda showed two rain gardens.

Ms. Davidson said the existing rain garden was to the right of the house where it would continue to be, and the dry well would be on the left side.

Mr. Messier said it was on the proposed page that showed the setbacks and the side measurements. The dry well was on the left side and the rain garden was on the right.

Chairman Ricci asked if anyone assisted them in sizing the dry well or rain garden or if they did it from the cut sheets. Mr. Messier said they did the research. The number of square feet that they tried to capture from the roof was about 30%, so if they had 500 s. f. they would need around 160-170 s. f.

of rain garden. On the left-hand side, they captured half of the new addition and half of the back of the garage, so the total was a ratio of 1-3, and as a precaution and because the cost of a dry well was so minimal, they decided to oversize the dry well by going to three containers. They felt the safety aspect of re-introducing the water through infiltration was better than the runoff possibility.

Chairman Ricci asked if they knew what the existing soil was. Mr. Messier said about 60 years ago, the lot was filled in, and the soil was sand and gravel.

Chairman Ricci asked if he knew that for sure or if he just thought that. Ms. Davidson said they knew it for sure because they had gone down to investigate. Mr. Messier said they did some test holes and saw that the water drains away by itself.

QUESTIONS FOR THE APPLICANT:

Deputy City Manager Allen said he saw a conflict between the hand sketch of the property and a computer sketch. The existing home on one sketch was listed as 12' x 42,' and they were adding a 12' x 21' family room, but the other sketch showed a 24' x 42' house.

Mr. Messier interrupted him and asked if he was referring to a certain diagram. Deputy City Manager Allen said yes. Mr. Messier explained that on that diagram, they wanted to show the amount of square footage of the roof so they only drew the rear portion of the addition and showed a small portion of the house for reference. Deputy City Manager Allen said he understood.

Chairman Ricci asked if anyone present from the public wished to speak to, for or against the application. Seeing no one rise, Chairman Ricci closed the public hearing.

DECISION OF THE BOARD:

Vice Chairman Rice made the motion to grant Conditional Use Approval with stipulations. Ms. Moreau seconded the motion.\

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

1. The dry well and the rain garden shall remain in place and shall be maintained by the current and future property owners.
2. The Conditional Use Permit application and the Planning Board's letter of decision shall be placed in the City's building permit file for this property.

G. The application of **John P. and Amy L. Sheehan, Owners**, for property located at **130 Aldrich Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within a wetland buffer, for repairs/replacement of the existing shed foundation and associated improvements, with 192 s. f. of impact to the wetland buffer. Said property is shown on Assessor Map 153 as Lot 4 and lies within the Single Residence B (SRB) District.

Chairman Ricci read the notice into the record.

SPEAKING TO THE APPLICATION:

John Sheehan, Owner, presented.

He said he bought the property 18 months ago and was restoring it to its 1920's version. The small 12' x 16' shed was rotting and the concrete and brick foundation was crumbling. He planned to put a concrete pad underneath the shed, shore up the foundation, and replace all the wiring. He received a favorable recommendation from the Conservation Commission the previous week.

Chairman Ricci asked if anyone present from the public wished to speak to, for or against the application. Seeing no one rise, Chairman Ricci closed the public hearing.

DECISION OF THE BOARD:

Ms. Moreau made the motion to grant Conditional Use Permit Approval as presented. Vice Chairman Rice seconded the motion.

The motion to grant Conditional Use Permit approval passed unanimously.

H. The application of **Scary Realty, LLC, Owner, and Jay S. Gibson Revocable Trust and Mary Pat H. Gibson Revocable Trust, Owners**, for properties located at **279 & 285 Richards Avenue**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested between two lots as follows:

- a. Lot 53 on Assessor Map 130 decreasing in area from 12,359 s. f. to 8,730 s. f. with 39.92 ft. of continuous street frontage on Richards Avenue.
- b. Lot 54 on Assessor Map 130 increasing in area from 3,425 s. f. to 7,054 s. f. with 46.25 ft. of continuous street frontage on Richards Avenue.

Said properties are located in the General Residence A (GRA) which requires a minimum lot size of 7,500 s. f. and 100 ft. of continuous street frontage.

Chairman Ricci read the notice into the record.

SPEAKING TO THE APPLICATION:

Mary Driscoll, on behalf of Scary Realty LLC, and Jay Gibson, Owner, were present.

Ms. Driscoll said she went to the site a few weeks ago because she owns 279 Richards Avenue, the property on the left, which is an L-shaped lot extending behind the house at 285 Richards Avenue. Her lot is greater than Mr. Gibson's lot. When she and her husband bought the property in 2008, there was a dilapidated 8-bay garage that extended the whole width of the back lot line. Her original plan was to take down the garage and rebuild it. After buying the property, they realized the garage was on a cinder block, not a concrete slab, so they could not rebuild it on the same spot. Their plan stalled for a bit, then she came up with the idea that they would still rebuild the garage as seen on the diagram, perpendicular to the house at 279 Richards Avenue. Ms. Driscoll's access for their tenants is shared between her driveway and Mr. Gibson's driveway. Mr. Gibson has an easement that allows for his tenants to park in the 2 spaces directly behind his building. It made sense to split the lot so that the portion behind 285 Richards Avenue would be accessed by Mr. Gibson and make his lot more conforming without changing the conformity of her lot.

Mr. Gibson said the agreement allowed him parking relief. He had no backyard and only 2 parking spaces, so vehicles would frequently be parked on the street. He said it would alleviate the situation as well as improve the property with green space.

QUESTIONS FOR THE APPLICANTS:

Ms. Moreau asked how the ownership of the driveway would work if they were going to move the lot line location.

Ms. Driscoll said the lot line would extend straight back beyond where it was now, separating the two properties. It would extend back a little further and then make an angle to the right. The lot line was presently 16' off Mr. Gibson's structure, and Mr. Gibson had a 10' access easement for his tenants to cross behind his building. His easement did not cover the whole driveway width. They were increasing the width of the easement to 14' so it would extend to the edge of the pavement.

Ms. Moreau asked if there would still be access. Mr. Gibson said he would provide an easement to Ms. Driscoll for the additional amount that she would need for her property.

Deputy City Manager Allen asked if the 1-story garage was part of the plan. Ms. Driscoll said it was not. She planned to build the garage and to place it the same distance as the lot line from the house, which was 3' off the lot line. She went to the Board of Adjustment a few weeks prior and was granted a variance, but ruled that the distance had to be 6', so the plan was amended.

Mr. Taintor thought there was a small error on the plan and said that Note 9 referring to the 5' easement should say Note 10. Mr. Driscoll agreed with him. Mr. Taintor suggested that correcting the error be a condition of approval.

Mr. Hopley noted that there were two Note 9s. Mr. Driscoll said the one for the 5' easement should refer to Note 10.

Chairman Ricci asked if anyone present from the public wished to speak to, for or against the application. Seeing no one rise, Chairman Ricci closed the public hearing.

DICUSSION AND DECISION OF THE BOARD:

Mr. Taintor said the Planning Board needed to grant a waiver because the lot was non-conforming according to the Subdivision Rules and Regulations.

Chairman Ricci said that the Staff Memorandum had 3 items.

Ms. Moreau made a motion to determine that the application is complete according to the Subdivision Rules and Regulations, and to accept the application for consideration. Mr. Gladhill seconded the motion, and it passed unanimously.

Ms. Moreau made a motion to grant a waiver from Section VI.2.B of the Subdivision Rules and Regulations requiring lot dimensions to conform to the requirements of the Zoning Ordinance. Mr. Gladhill seconded the motion, and it passed unanimously.

Finally, Ms. Moreau made a motion to grant Preliminary and Final Subdivision Approval (Lot Line Revision) with stipulations. Mr. Gladhill seconded the motion.

The motion to grant Preliminary and Final Subdivision approval pass unanimously with the following stipulations:

1. The reference to the five foot access easement shall be changed to Note 10 rather than Note 9.
2. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
3. GIS data shall be provided to the Department of Public Works in the form as required by the City.
4. The final plat and all deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

I. The application **Deborah B. Fortin Revocable Trust of 2001 and Paul P. Fortin Revocable Trust of 2001, Owners**, for property located at **355 F.W. Hartford Drive**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer, to construct a garage addition and associated stormwater improvements in the wetland buffer, with 378 s. f. of impact to the wetland buffer. Said property is shown on Assessor Map 270 as Lot 12 and lies within the Single Residence B (SRB) District.

Chairman Ricci read the notice into the record.

SPEAKING TO THE APPLICATION:

Paul Fortin, Owner, presented.

Mr. Fortin wished to build an addition to his 24' x 24' garage. Over the years, he has accumulated additional vehicles, so he wanted to build an 18' x 21' addition to the existing garage to be used for storage. There would be minimal access in and out of the area because the vehicles were seasonal.

Chairman Ricci asked Mr. Fortin if he had received approval from the Conservation Commission, and Mr. Fortin said he had.

Vice Chairman Rice said the photo of the red and silver vehicles was helpful in showing where the proposed garage would go.

Chairman Ricci asked if anyone present from the public wished to speak to, for or against the application. Seeing no one rise, Chairman Ricci closed the public hearing.

DICUSSION AND DECISION OF THE BOARD:

Mr. Leduc asked what the reason was for the lawn. Mr. Taintor said it was because the new garage would be used mainly for vehicle storage and not regularly, so the lawn would keep it more pervious.

Mr. Hopley made a motion to **grant** Conditional Use Approval with two stipulations. Mr. Rice seconded the motion.

The motion to grant the conditional use permit passed unanimously with the following stipulations:

1. The entrance to the new garage shall remain lawn area and shall not be paved in the future.
2. The letter of decision from the Planning Board on this Conditional Use Permit application shall be placed in the City's building permit file for this property.

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.*

A. Request by Rob Sevigny, of the Paper Patch, for an easement from the City of Portsmouth to repair a step on Ladd Street;

Mr. Taintor said he did not have a recommendation due to time constraints, but he and Peter Rice went out to look at the site. The step had existed for a while and the door had been closed and not in use, so when the sidewalk was repaired, the step was removed. The Applicant wanted to reopen the door and was requesting an easement to allow for a new step to be installed on the City sidewalk. The new sidewalk was narrow, but they measured it and found that there was room for one step and the required space for ADA compliance to go around the step. The step's height complied with the building code. There was a concern about an easement as a permanent relinquishment of rights from the City, so Mr. Taintor and the DPW Director recommended that the Owner be granted a license to allow construction for the step with the condition that the step be constructed according to building code, and that the foundation and re-bricking of the sidewalk around the step be done to the satisfaction of the DPW.

Deputy City Manager Allen made a motion to **grant** an easement the recommended stipulations. Ms. Moreau seconded the motion.

The motion passed unanimously with the following stipulations:

- 1) The step shall be constructed to code and shall be subject to approval by the Department of Public Works.
- 2) The sidewalk area disturbed to install the step shall be reconstructed to specifications approved by the DPW.

B. Request by Mark Ayotte requesting the City return all rights and privileges to him as an abutter to 9 Garden Street from their current property line to the centerline of both Garden Street and Colonial Drive.

Mr. Taintor said this request was a recommendation not to release the City's interest in Garden Street and Colonial Drive because they are both paper streets. Garden Street has about 70-80' of road that is not developed, but both have City utilities and there is concern about relinquishing the City's rights. Both streets have a significant amount of frontage that would impact the Doble Center and the Woodbury Manor developments, so it would involve a lot of public interest. He recommended that the Board vote that the City not release its interest in either street.

Deputy City Manager Allen made a motion to **recommend** to the City Council that the City not release its interest in Garden Street or Colonial Avenue. Ms. Moreau seconded the motion, and it passed unanimously.

V. PLANNING DIRECTOR'S REPORT

Mr. Taintor discussed a tentative date regarding the Form Based Zoning initiative. H said he tried to find a date early in November but the election made it difficult, so he scheduled it for November 24th, even though that meant 3 Planning Board meetings in a row.

The next Planning Board Meeting would be on October 24th instead of November 6.

Chairman Ricci informed the Board that Karina Quintans submitted her resignation from the Planning Board due to work commitments, and he thanked her for her service.

VI. ADJOURNMENT

At 9:20 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Joann Breault
Temporary Secretary for the Planning Board.

These minutes were approved by the Planning Board on February 20, 2014.