

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

SEPTEMBER 17, 2015

MEMBERS PRESENT: Elizabeth Moreau, Vice Chairman; Jack Thorsen, City Council Representative, David Allen, Deputy City Manager; Robert Marsilia, Building Inspector; William Gladhill; Colby Gamester; Michael Barker; Jay Leduc

MEMBERS EXCUSED: John Ricci, Chairman; Justin Finn

ALSO PRESENT: Rick Taintor, Planning Director and Jessa Berna, Associate Planner

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I. APPROVAL OF MINUTES

1. Approval of Minutes from the August 20, 2015 Planning Board Meeting – Unanimously Approved
2. Approval of Minutes from the August 27, 2015 Planning Board Work Session – Unanimously Approved

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II. DETERMINATIONS OF COMPLETENESS

A. Site Plan Review

1. The application of **Chinburg Development, LLC, Owner**, for property located at **1163 Sagamore Avenue**, requesting Site Plan Approval.

Mr. Gladhill made a motion to determine that the application is complete according to Site Plan Review Regulations and to accept it for consideration. Mr. Barker seconded the motion.

The motion passed unanimously.

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Vice Chairman Moreau requested a motion to take Items B, C and E, Old Business, out of order for the purposes of postponement.

Mr. Gladhill made a motion to take Items B, C, and E, Old Business, out of order for the purposes of postponement. Mr. Barker seconded the motion.

The motion to take Items B, C, and E, Old Business, out of order for the purposes of postponement passed unanimously.

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 **Moray, LLC, Owner**, for property located at **235 Commerce Way**, and **215 Commerce Way, LLC, Owner**, for property located at **215 Commerce Way**, requesting Site Plan Approval for a proposed 4-story office building with a footprint of 28,125 ± s.f. and gross floor area of 112,500 ± s.f., and 640 parking spaces serving the proposed building and an adjacent existing office building (including a parking deck with 161 spaces below grade), with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor Map 216 as Lots 1-8A and 1-8B and lies within the Office Research (OR) District. (This application was postponed at the June 18, 2015 Planning Board Meeting.) (This application was postponed at the August 20, 2015 Planning Board Meeting.)

The Vice-Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Sharon Somers, Donahue, Tucker and Ciandella, PLLC was present to speak to the application. Patrick Crimmins, Tighe and Bond, was also present. Ms. Somers requested that the application be moved to the end of the agenda so that all Board members could hear the application (Councilor Thorsen was not yet present).

Deputy City Manager Allen made a motion to move consideration of the application to the end of the agenda. Mr. Gladhill seconded the motion.

The motion to move consideration of the application to the end of the agenda passed unanimously.

Sharon Somers, Donahue, Tucker and Ciandella was present to speak to the application. Patrick Crimmins, Tighe and Bond, was also present. Ms. Somers stated that she appreciated the flexibility of the Planning Board in moving the application to the end of the agenda in order for the entire Board to hear the application. They focused on the waiver issue.

Mr. Crimmins stated that the site is currently a vacant lot. The project consists of a 112,000 s.f. office building. They are seeking approval to phase the project. Phase 1 will be a 63,000s.f. office space and surface parking area. Subdivision approval was granted at the last meeting. They have merged the two lots (215 and 235 Commerce Way). Phase 2 will be a 49,000s.f. addition (with associated structured parking) onto the office building constructed in Phase 1. The top story will be at the level of the office building constructed in Phase 1. The entrance into the lower level parking deck will be off 215 Commerce Way. Utilities will connect into Commerce Way as part of Phase 1 (to feed Phase 2). The applicant will stub the utilities so they do not have to cut into the fresh pavement. The project required a variance for parking between a building and the street. The variance and the waiver request were

approved. There was an elaborate landscape design along the front of the buildings. They will provide street trees along Portsmouth Boulevard, as required. They are present this evening to discuss the driveway waiver. Site plan regulations only allow for 1 driveway per lot. There are three driveways on this site. The first driveway is the existing driveway for 215 Commerce Way. There was not much discussion around the first driveway. The waiver is for the 2 driveways on Portsmouth Boulevard. The vote last time was 5-1, in favor. For a waiver request, they must have 6 votes in favor. They are asking the Planning Board to reconsider and approve the 3 driveways this evening. Mr. Crimmins discussed the reasons for having 2 additional driveways; one is site access and the other is fire safety. It is also needed for large truck maneuvering. They feel that 3 driveways is the best plan and best design. The Fire Department also feels that 3 driveways is the best design. He provided alternative designs in the package recently submitted. Deputy Chief Roediger stated earlier to Mr. Crimmins that he wholeheartedly supports 3 driveways for fire safety reasons. The applicant also feels that the driveway plan is the least intrusive means to access the site. There are engineering design/principles behind the design. For loading, the ordinance states that a 12' X 45' loading area must be provided once 100,000s.f. is exceeded. Mr. Crimmins referenced Ashtot (the standard for roadway design), which requires that site distance be 280' apart. They have situated the driveways so as to provide a 280' site distance. They provided a traffic study in the previous plans. With the addition of the building, the actual queueing and delays will be minimal, almost negligible, compared to the traffic that already exists. He added that driveway lighting does not shine into the abutters properties. The applicant has already provided screening for the office park. In addition to the enhanced landscaping, there are evergreen trees in the design. The street trees are deciduous. The applicant is providing dark sky compliant fixtures. There is a photometric plan included. They have provided housing shields for the lights along Portsmouth Boulevard. They have made a good faith effort to address abutters concerns.

Mr. Gladhill thanked Mr. Crimmins for his presentation and for providing alternative plans. He stated that the presentation tonight was much more informative than at the last meeting. It is the presentation/information that he needed. The Planning Board was shown tonight what the project would be like without 3 driveways, and it was convincing to him.

Mr. Marsilia inquired about coming down Portsmouth Avenue (towards Commerce) and stated that it is critical on the radius to the right that there will be a clear view of vehicles exiting. There must be a clear sightline for traffic exiting, as well as for the traffic coming down Portsmouth Avenue.

Mr. Crimmins stated that this is why the evergreens were pulled back. There are Honey-Locusts (deciduous trees) located in the area of concern. They would be happy to accommodate a stipulation that branch height must be limited to 6'.

Councilor Thorsen stated that Portsmouth Boulevard narrows in this area quite a bit. The traffic may be fine for this particular development, but it is an unknown as to what else will be developed down the road. He wondered if the road should be widened.

Mr. Crimmins stated that he anticipates that the road is wide enough. He acknowledged that trucks would take the whole road. DPW did not have an issue with the width of the road. However, he would be willing to revisit this. The lanes are 12'.

Councilor Thorsen stated he would take direction from DPW.

Deputy City Manager Allen stated that the traffic will be heavier. Widening doesn't allow for more traffic. It increases perceptive speed or the feeling that one can travel faster due to the width of the road. He doesn't support wider streets.

Councilor Thorsen stated that he would be more comfortable not being so close to traffic travelling in the other direction, so having wider lanes is a better alternative in his opinion.

Mr. Taintor stated that if the lanes are narrower, cars will drive more slowly and it will lend itself to safer travelling.

Angela Lambert, 3 Osprey Drive, was present to speak to the application. She was one of the residents that spoke at the last hearing. She reiterated that from her perspective the size of the building is too large. Three driveways do seem to be the best fit, however, she pointed out that if 3 are needed to accommodate the number of vehicles, the building is too large relative to the character of the neighborhood. The square footage is twice the size of any building in the park. She stated that she read the traffic report and from her understanding, 300 cars is the projection for vehicular activity. This is a substantial increase in traffic. Projections during construction are smaller, but she is looking at this more long term.

Mr. Crimmins stated that with regard to the 300 cars that Ms. Lambert is referring to, during peak am weekday times, the development will see 102 cars heading in, and for weekday pm peaks, the projection is for 93 cars to be leaving.

Ms. Lambert shared a last comment regarding the traffic report. The ultimate projection is for 300 cars during peak hours. During construction, the estimates are lower, but she is looking at long-term, more permanent effects.

Mr. Gladhill stated that the applicant is offering a contribution to the City for reconstruction of the sidewalk on Portsmouth Boulevard and signal upgrades. When these upgrades happen, he inquired as to whether the City could invite residents to provide input and share concerns.

Mr. Taintor stated that a new sidewalk is not being built and that the contribution is just for repairs to bring the sidewalk to City standards.

The Vice-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

Motion on Waiver:

The Vice-Chair called for a vote to waive compliance with Section 3.3.2(3) of the Site Plan Regulations which limits the number of driveways to one per lot, and to allow the proposed development lot to have three driveways as shown on the Site Plan.

Mr. Gamester made a motion to waive compliance on Section 3.3.2(3) of the Site Plan Regulations which limits the number of driveways to one per lot, and to allow the proposed development to have three driveways as shown on the Site Plan. Mr. Gladhill seconded the motion.

The motion passed unanimously.

Mr. Gladhill stated that he voted in the negative at the last meeting because he felt the presentation didn't warrant a waiver request. He felt that with the information provided this evening, 3 driveways were warranted.

Mr. Leduc clarified that one of the driveways already existed.

Mr. Taintor confirmed this.

Vice-Chairman Moreau stated that the lots were merged at the last meeting. She had reservations about the number of driveways. However, she felt with tonight's presentation that 3 driveways lend itself to better fire safety and access. The building is set away from the corner. The applicant has done a number of things to help the neighborhood. They have the right to build and to do what they are doing, although she is sensitive to the abutters concerns. She supports the application.

Motion on Site Plan Approval:

Mr. Barker Made a motion to grant Site Plan Approval with the stipulations as stated in the Department Memorandum. Mr. Gamester seconded the motion.

The motion passed unanimously with the following stipulations:

Conditions Precedent (to be completed prior to the issuance of a building permit):

1. The Site Plan (Sheets C-2A, C-2B and C-2C) and the Landscape Site Plan (Sheet L-01) shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department.
2. The applicant shall contribute \$42,000 to the City for reconstruction of the sidewalk on Portsmouth Boulevard between Commerce Way and Market Street, and \$6,900 toward traffic and pedestrian signal upgrades at the intersection of Market Street and Portsmouth Boulevard.
3. The Construction Management and Mitigation Plan shall include specific provisions to address the displacement of required parking spaces during Phase 2 construction.

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

4. The applicant shall videotape construction routes to the project prior to the initiation of site work, and shall be responsible for repairing any damage during construction. The site plan security shall be sufficient to cover any such repair.

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B. The application of **Chinburg Developers, LLC, Owner**, for property located at **1163 Sagamore Avenue**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer for demolition of an existing clubhouse and construction of 11 residential units including a private access drive, stormwater/drainage structures and sewer upgrade along Sagamore Avenue, with 9,682 ± s.f. of total impact to the wetland buffer (7,295 ± of impact for on-site improvements, 649 ± for off-site stormwater/drainage structures and 1,738 ± for off-site sewer improvements along Sagamore Avenue). Said property is shown on Assessor Plan 224 as Lot 17 and lies within the Mixed Residential Office (MRO) District. (This application was postponed at the June 18, 2015 Planning Board Meeting.) (This application was postponed at the August 20, 2015 Planning Board Meeting.)

Mr. Gladhill made a motion to postpone consideration of the Conditional Use Permit to the October 15, 2015 Planning Board meeting. Mr. Barker seconded the motion.

The motion to postpone consideration of the Conditional Use Permit to the October 15, 2015 Planning Board meeting passed unanimously.

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C. The application of **Chinburg Development, LLC, Owner**, for property located at **1163 Sagamore Avenue**, requesting Site Plan Approval for the demolition of existing building and the construction of 11 single family dwellings and a private roadway, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 224 as Lot 17 and lies within the Mixed Residential Office (MRO) District. (This application was postponed at the August 20, 2015 Planning Board Meeting.)

Mr. Gamester made a motion to postpone consideration of Site Plan Approval to the October 15, 2015 Planning Board meeting. Mr. Barker seconded the motion.

The motion to postpone consideration of Site Plan Approval to the October 15, 2015 Planning Board meeting passed unanimously.

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D. The application of **Gregory C. and Sandra M. Desisto, Owners**, for property located at **36 Shaw Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland and tidal wetland buffers to renovate an existing house, including the addition of a second floor, the addition of a new garage, breezeway, porches and deck, and landscape improvements, with 14,060 ± s.f. of permanent impact and 1,353 ± s.f. of temporary impact to the wetland buffer. Said property is shown on Assessor Map 223 as Lot 22 and lies within the Single Residence B (SRB) District. (This application was postponed at the August 20, 2015 Planning Board Meeting.)

The Vice-Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

Cory Colwell, MSC Engineers, was present to speak to the application. Greg and Sandy Desisto, Owners, were also present. The applicant intends to remove the existing dwelling from its foundation and construct a new 2-Story dwelling in its place. In the front (Sheet C2) will be a new garage, breezeway and front entrance. There will be a new screen porch and deck and landscaped terraces in the back. The site is located within the 100' wetland buffer of Sagamore Creek. It is also located within the 100' inland wetland buffer from the adjacent property (to the east). The two buffers occupy more than 90% of the lot. Because of the proximity to Sagamore Creek, the applicant has proposed improvements. They will move the garage further from the Creek. Currently, it is approximately 15' from the Creek. It will be moved and relocated 70' away from the Creek. They are installing a new septic system. It will be located as far from the creek as possible (Sheet C3). There is an underground oil tank (Sheet C1) off the front of the property located between the driveway and the building. They will remove the tank. In the back of the property, the swimming pool and deck will be removed. The pool is currently about 25' away from the Creek. This will be removed in its entirety. They will also remove the invasive species from the property. They will improve drainage by reducing peak flow, velocity and volume. They're reducing impervious area in the wetland buffer zone. There will be 6 new raingardens (Sheet C2 and C3) to store and treat stormwater runoff. The 5 new raingardens proposed that will surround the house and garage will be connected by a storm drain. The result of the raingarden system is cleaner stormwater. Peak Flow runoff will be reduced for the 100-year storm event by 41%. Velocity will be reduced by 3% and volume is reduced by 23% for the 100-year storm event. Impervious area in the 50', 100' buffer and for the overall site will be reduced. Impervious area will be reduced in the 50' buffer by 50%. This is due to the removal of the deck and pool. In the 100' buffer, impervious area will be reduced by 1%. Overall site coverage is reduced by 4%. The application received unanimous approval from the Conservation Commission with 4 stipulations. The first stipulation specified that a post-construction long-term management plan shall be implemented and recorded. However, the applicant felt that recording the maintenance plan will have a negative impact in the future on the property. They did not agree to this maintenance plan and felt that it will create an unnecessary encumbrance and is over-restrictive. They felt that previous projects in not having a recorded maintenance plan set a precedent. They will implement the maintenance plan, however. The second stipulation put in place by the Conservation Commission was that detail on the sitting/retaining wall around the hot tub shall be provided. This is included on the Landscape Plan. The third stipulation is that the applicant shall clarify the source and outlet for the drain under the driveway (Sheet C3). There was confusion about where the underdrains were going. The fourth stipulation specified that no fertilizer was to be used within the 100' buffer. They have removed all references on Sheet C3 to fertilizer. They have complied with the stipulations of the Conservation Commission. They have met the 5 conditions of the CUP.

Greg Desisto was present to speak to the application. He explained the reticence on the stipulation that drainage maintenance be attached to the deed in any way. They were surprised at the mention at the Conservation Commission meeting to record the maintenance. It does not enhance the property or the process in any way. It could be viewed as restrictive by anyone else viewing the property. They are very motivated to maintain the property and will do so. They felt that this particular stipulation was an encumbrance and is counter-intuitive. He hopes that the Planning Board will embrace their view.

Mr. Barker wished to clarify. His understanding is that the plan has to be recorded, but the applicant doesn't have to update the plan, or provide annual maintenance schedules to the City to demonstrate that the gardens are being maintained. It could be more restrictive than this stipulation. The level of

restriction is not out of character considering how close the applicant is to the water. Regarding the fertilizer, he inquired about the plan for this.

Mr. Colwell stated (Sheet C3) that they had previously indicated the use of fertilizer. On the revised plan, they have taken off any reference to the use of fertilizer.

Mr. Barker stated that it would've been best to explain why the reference is being removed rather than just removing the references to the use of fertilizer.

Mr. Colwell stated that he concurred with Mr. Barker and will make the change accordingly.

Mr. Gladhill stated that this was one of the most involved projects within the 100' buffer in his time on the Planning Board. He stated that there were a lot of additions in the project. He acknowledged that the applicant is adding many raingardens, but without the maintenance plan as part of the deed, the next owner of the house will not have to abide by the conscientious measures that this applicant has put in place. To have no maintenance plan that guarantees what will be done (or not done) in terms of proper maintenance in the future is unsettling.

Mr. Marsilia inquired about the square footage of the current house and the square footage of the proposed habitable area.

Mr. Colwell stated that he doesn't have the numbers at his fingertips. However, they are on the architectural plans. On Sheet C2, the limit of the existing house is shown as the dashed line. It depicts that they are reducing the part of the house closest to the Creek.

Mr. Desisto stated that the existing footprint is approximately 2,400s.f (including the garage). The new structure including the second floor and new garage is (4,200s.f.). He reiterated that they are removing impervious area. The size of the building increases, but they have made up for it in other areas. The second floor of the new structure while it adds to the total square footage, does not increase impervious area.

Mr. Barker stated that he doesn't see a reduction.

Mr. Leduc stated that Sheet C3 states that overall impervious area is significantly reduced.

Mr. Taintor clarified the ordinance around use of fertilizer in and around the buffer. The ordinance prohibits any use of fertilizer within the 50' buffer. The ordinance allows low phosphate fertilizer between the 50-100' area of the buffer. He felt that the Conservation Commission was stating that there should not be use of any fertilizer with 100'. He felt they were trying to be more conservative on this issue.

Mr. Colwell stated that the Conservation Commission request was in reference to a particular note (Sheet C3, Note 1 under grading notes) on the plans. He stated that the Conservation Commission requested that all notes in reference to fertilizers be removed. Mr. Colwell took the reference off the plans. If it is of concern, he would be happy to review the minutes with the staff.

Vice-Chairman Moreau stated that the reason for recording the maintenance plan would be that future owners will know that the raingardens have to be maintained. She is in favor of having stipulations recorded for the raingardens. The applicant is being allowed to build a larger structure in a buffer and in return, the City wants assurance that future owners will be held to a maintenance standard.

The Vice-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

Deputy City Manager Allen made a motion to grant the Conditional Use Permit with all four stipulations as recorded by the Conservation Commission. Mr. Barker seconded the motion.

Deputy City Manager Allen stated that while he appreciates all the efforts by the applicant as well as their commitment to maintenance of the raingardens, the project will have a significant impact to the buffer and he agrees with all 4 stipulations as listed by the Conservation Commission. He concurs with the comments of Mr. Gladhill and Vice-Chairman Moreau.

Councilor Thorsen stated that he has no issue with putting the stipulation into the deed because the agreement needs to follow the property not the owner. The fertilizer stipulation seems to counter an ordinance, however. An ordinance is a matter of property rights. It cannot be taken away by stipulation. That seems to be what the Planning Board is doing with this action.

Deputy City Manager Allen stated that he is not so certain that the Planning Board doesn't have the authority to stipulate further restriction over and above an ordinance. Fertilizer in a water body can impair the function of it. The City has the authority to assert stipulations as it sees fit to do so. He is comfortable with the stipulations.

Mr. Gamester asked for clarification from Mr. Taintor on the ordinance. He wondered about stipulating the use of organic fertilizer within the 100' buffer.

Mr. Taintor stated that there is no use of fertilizer within the 50' buffer and use of low phosphate fertilizer within the 50-100' area. The buffers (fresh water and tidal) overlap on this site and 75% of the property is within the 50' buffer from either the tidal or freshwater wetland. The plan should depict this.

Mr. Gladhill stated that the ordinance is more of a blanket application. This is about a specific parcel. There is allowance for decisions based on particular properties and varying sets of circumstances.

Mr. Thorsen stated that the ordinance is law. The law must be followed. If the criteria are met, the Board allows a CUP. A CUP allows a loosening of what is written in the law. What the Planning Board is proposing by not allowing any fertilizer is more restrictive, not a loosening, and there is no avenue for this in the law (the ordinance). He doesn't see the path for disallowing something that is allowed by ordinance. If this is the case, the law ought to be changed to make things more restrictive. If he understands it correctly, this Board does not make determinations divergent from the ordinance, the directive is to ensure the ordinance is followed. He stated that the BOA has more authority with

regard to ordinances. He is uncertain whether the Board has the power to make the restrictive changes that are being suggested.

Mr. Barker stated that the homeowner can challenge the decision if they do not agree with it yet he concurs with Councilor Thorsen. He recommends that the Board do what Mr. Taintor is suggesting.

Deputy City Manager Allen stated that he changes his motion to coincide with the use of fertilizer in the 50' buffer as stated in the ordinance. The motion includes the recording of the maintenance plan.

The motion passed unanimously with the following stipulations:

1. The Wetlands Permit Plan (Sheet C-2) shall be revised to show the area that is more than 50 feet from both the inland wetland and the tidal wetland, and shall include a note stating that no fertilizer shall be used on the property except in this area.
2. The plan set shall be revised to show details on the sitting/retaining area around the hot tub and to clarify the source and outlet for the drains shown under the driveway.
3. The Site Post Construction Maintenance Plan shall be revised for approval by the Environmental Planner to include:
 - a) A requirement for draining the hot tub requiring no chlorine and infiltration into ground rather than directly draining to Sagamore Creek;
 - b) A maintenance plan including schedule for raingardens; and
 - c) A maintenance plan including schedule for pervious pavers.
3. The Wetlands Permit Plan and the Site Post Construction Maintenance Plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

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E. Proposed amendments to Site Plan Review Regulations, Section 2.5 (Application Requirements), relative to site development within a Character District. (This matter was postponed at the August 20, 2015 Planning Board Meeting.)

The Vice-Chair read the notice into the record.

Deputy City Manager Allen made a motion to postpone consideration of the proposed amendments to Site Plan Regulations to the October 15, 2015 Planning Board meeting. Mr. Barker seconded the motion.

The motion to postpone consideration of proposed amendments to Site Plan Regulations to the October 15, 2015 Planning Board meeting passed unanimously.

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IV. PUBLIC HEARINGS – NEW BUSINESS

*The Board’s action in these matters has been deemed to be quasi-judicial in nature.
 If any person believes any member of the Board has a conflict of interest,
 that issue should be raised at this point or it will be deemed waived.*

A. The renaming of Ledgewood Drive in accordance with the specification of E-911.

The Vice-Chair read the notice into the record.

A memorandum (from Mr. Taintor), dated September 17, 2015, regarding the renaming of Ledgewood Drive in order to conform to requirements of the E-911 system, was distributed to members of the Planning Board.

Mr. Taintor provided some history around the issue. At its meeting on July 20th, 2015, the City Council voted to request that the Planning Board recommend a new name for Ledgewood Drive in accordance with enhanced 911(E-911) specifications. He stated that this issue dates back 9 years. There are names that are similar (Wedgewood and Edgewood) and as a result, create confusion. In July of 2006, the City's Communications Supervisor provided a list of 40 name pairs and triplets that were confusingly similar. The Fire and Police Chiefs noted that there were two separate incidents involving the Wedgewood and Ledgewood addresses where police and fire units were sent to the wrong address due to the difficulty in initially ascertaining from the reporting party where they were calling from. The issue was dropped after 2008. The parcel that would be significantly impacted by an address change is Winchester Apartments.

Mr. Marsilia stated that due to life-safety issues, he agrees with a name change.

Bill Scott was present and was appearing on behalf of Winchester Apartments. He was not present to speak against life-safety issues. However, the road has been known as Ledgewood Drive for 42-43 years. He stated that life safety issues dictate that streets having similar names should not exist. In the case of Ledgewood, they are not aware of City Fire or Police having any issues between Ledgewood, Edgewood, Wedgewood. Moreover, the addresses at Ledgewood would be different than those at Edgewood. There are approximately 150 units at Winchester Apartments. To go through a name change means utilities, banks, government loans, schools, employers, voter registration, healthcare providers would have to be notified. In addition, the apartment complex has business cards, websites, and advertising. All that would have to be changed. They are mindful of safety issues. He reiterated that they are not aware of any issues for City Fire or Police with the address. They ask that the name change not occur.

Mr. Gladhill asked Mr. Scott if there have been any reported cases in which a municipality had been sued due to emergency services going to the wrong address.

Mr. Scott stated that due to the naming of streets being a discretionary function and that there are statutory immunities, he doesn't think this would be an issue. He is not unaware of any cases of what Mr. Gladhill is referring to. However, he has not looked into the matter.

Mr. Scott stated that in speaking to the Manager of the complex, a number of residents were notified that the issue would be before the Planning Board this evening.

The Vice-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. Marsilia asked for clarification that there have been 2 incidents with emergency personnel going to the wrong address.

Vice-Chairman Moreau read from the Department Memorandum the instances of incidents: “The Chiefs noted that there were two separate incidents involving the Wedgewood and Ledgewood addresses where police and fire units were sent to the wrong address due to the difficulty in initially ascertaining from the reporting party where they were calling from. This information was presented again in a memorandum from the Deputy Police Chief in April 2008 with a subsequent presentation to the City Council.”

Mr. Leduc asked for clarity around dates wondering if it had been an issue since 2007.

Vice-Chairman Moreau stated that it had been an ongoing issue.

Mr. Taintor stated that on the issue of street names, due to controversy, the issue was dropped in 2008. When the City Council was asked to accept Ledgewood Drive (it was never a City Street) as a City street recently, and they did accept it as a City Street, this issue came up again in an effort to meet E-911 requirements.

Mr. Leduc wondered whether this issue would surface again and again with other names.

Mr. Taintor stated that this was certainly a possibility. Also, someone may go to Elwyn Road when they should’ve gone to Elwyn Avenue, and so on.

Mr. Leduc inquired about the incidents in 2007/2008.

Mr. Taintor stated that his file contains nothing regarding any incidents after 2008.

Councilor Thorsen stated that liability is really not an issue, but safety is an issue to consider. It is hard to determine with a couple of incidents how much of an issue safety really is. If the Board is concerned about the liability issue, the City attorney can be consulted. In regards to making changes (in address) with government agencies, which Mr. Scott referred to, everything gets confused and tends to fall apart. It is a difficult situation.

Mr. Marsilia stated that the memorandum reads that the City Council is asking the Planning Board to recommend a name. Given this, perhaps there should not be a discussion on whether to rename, but what to rename the street to.

Mr. Taintor confirmed that the City Council is asking the Planning Board to recommend a name and not whether or not to rename.

Mr. Taintor stated that there are three streets with similar names, two need to be renamed. There are fewer people on Edgewood so the line of thinking was that this would be the easier street to rename. In addition, someone on Edgewood had actually requested a name change in 2007.

Mr. Gamester wondered about a motion to postpone in order to clarify the matter with the City Council, City Attorney as well as have time to consider the issue more fully. If the Board is considering, Edgewood, Ledgewood and Edgewood, why not consider Elwyn Road and Elwyn Avenue, Aldrich, Aldrich Court, among others. If there were only 2 incidents in 2007/2008 and none since that time, he would not recommend a name change based on those two incidents.

Mr. Barker wondered how dire the issues were with all the change of addresses that really should happen. Finally, he wished to clarify what the Planning Board is being asked to do.

Mr. Taintor stated that the request was to report back to the City Council on the renaming of Ledgewood Drive in accordance with 911 services.

Vice-Chairman Moreau stated that she felt that the Planning Board does not have the proper information in order to move forward. She inquired as to whether the Planning Board could obtain reports on safety from Fire and Police, as well as liability from the City Attorney. Perhaps this was a larger issue that the Planning Board should be looking at. Updates on all similar name changes from the Police and Fire Departments would be helpful.

Mr. Gladhill was in favor of postponing the consideration of a name change in order to gather additional pertinent information to make a more informed decision. He also wished to inform the City Council of why the Planning Board was postponing.

Mr. Gamester made a motion to postpone consideration of the renaming of Ledgewood Drive to the November 19, 2015 meeting and to include a notice to the City Council as to why the Planning Board is recommending postponement. Mr. Gladhill seconded the motion.

The motion passed unanimously.

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B. The application of **Strawbery Banke, Inc., Owner**, for property located on **Washington Street**, requesting Amended Site Plan Approval to extend the season of the ice skating rink from three months to four months. Said property is shown on Assessor Map 104 as Lot 7 and lies within the Mixed Residential Office (MRO) District and the Historic District.

The Vice-Chair read the notice into the record.

Mr. Barker and Mr. Gamester recused themselves of voting on this application.

SPEAKING TO THE APPLICATION:

Rodney Rowland, Strawberry Banke, was present to speak to the application. The applicant is requesting an extension of the season for the ice skating rink. An amendment to the plan is justified given the success of the rink; 22,000 people used the rink last year. There were no complaints.

Cynthia Harvell, Chairman of the Board of Trustees of Strawberry Banke, was present to speak to the application. She stated that the Board of Trustees fully supports the extension of the season. They offered 2 free skates for residents every week regardless of ability to pay. Ms. Harvell provided statistics of success. The character of the neighborhood has not been altered and the value of the properties has not been diminished. An extension would allow them to offer more services this year.

Ann Weidman, Resident of Portsmouth and Co-Chairman of Liberty Family Skate, was present to speak to the application. She stated that last spring the Labrie Family Skate was honored by Planned NH as an outstanding new project in the state of NH. Planned NH believes that where, how and what is built has an influence on the health and vibrancy of the community. Their mission champions smart growth and livability principles. Skaters can tell the story well of what is so special about Puddle Dock Pond. Ms. Weidman read testimonials from the community about what makes Puddle Dock Pond so special. She hopes the season will be extended.

Mr. Gladhill inquired about the dates for the 4-month period.

Mr. Rowland stated that the BOA approved a floating 4-month operation. The first day of operation on the ice would start the clock for the 4-month time period. It is somewhat dependent on weather.

Mr. Taintor inquired about what an extension would mean for the entire operation given set-up, take-down and weather uncertainties.

Mr. Rowland stated that the plan is to open the day after thanksgiving. However, Strawberry Banke closes October 31st so the plan is to put a shovel in the ground on November 1st and begin the set-up process. The hope is to open the day after Thanksgiving.

The Vice-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 stated that the wording should be exactly the same as the Board of Adjustment in order to avoid ambiguity between the Boards.

Deputy City Manager Allen made a motion to amend the Site Plan Approval granted on March 20, 2014, by replacing stipulation 4 with the following stipulation. Councilor Thorsen seconded the motion.

Mr. Gladhill wondered whether there should be a date specified for operations to cease.

Deputy City Manager Allen stated that it is weather dependent.

The motion passed unanimously with the following amended Stipulations #4:

- 4. The skating area may be operated for a running four-month period each year beginning with the first day operations commence and the skating area is open to the public.

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C. The application of **30 Maplewood, LLC, Owner**, for property located at **30 Maplewood Avenue**, requesting Amended Site Plan approval for the following: repositioning of the switching vault, elimination of a basement under the new addition, elimination of two outdoor patios, relocation of building entrances and walkways, relocation of bicycle racks, elimination of two grease traps, relocation of condenser units to the roof, redesign of the Hanover/Bridge Street patio, addition of a fenced in utility area on the Bridge Street side, change in walkway surface material and removal of a tree, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 125 as Lot 2 and lies within Character District 4 (CD4), the Downtown Overlay District (DOD), and the Historic District.

The Vice-Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

John Chagnon, Ambit Engineering, was present to speak to the application. Steven Kelm was also present. The applicant is requesting an Amended Site Plan Approval. The most recent Site Plan Approval was in 2012. Mr. Chagnon stated that changes to the approved drawing centered around switching orientation of the transformer enclosure. The proposed addition along Bridge Street was constructed without a basement. The patios proposed along Bridge Street and Maplewood Avenue have been removed. There was no need for them. Landscaping was introduced in place of the patios. Building entrances and walkways have shifted slightly. The applicant has relocated a bicycle rack to Maplewood Avenue. Two potential grease trap locations have been added. A second grease trap will be installed. Condenser units have been relocated. The patio has been redesigned. Utility condensers will not be visible from the street; they will be behind a fence. The grease trap was updated to City standards. The lighting locations have been shifted. Walkway material has been changed to brick. The applicant is proposing a temporary asphalt sidewalk on the north side of the building in anticipation of Phase 2 of the project (in the next 9 months). There was a tree on the north side of the building that was removed. The Planning Board memorandum stipulated conditions that are acceptable to the applicant.

Mr. Gladhill inquired about the aluminum cabinet, how large it would be and whether or not it will be covered by shrubbery.

Mr. Chagnon stated that it is similar to the black cabinet at Maplewood and Deer (for Portwalk). There is no plan to put anything in front of it to cover it. It is in an easement area that the City controls.

Mr. Gladhill stated that it is in the historic district and he is concerned with the appearance of the cabinet.

Mr. Chagnon stated that it will be painted black.

The Vice-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

Deputy City Manager Allen stated that he does not care for the front of the project compared to what was approved on the Site Plan. He inquired as to whether the revision went through the HDC.

Mr. Gladhill confirmed that this revision as well as many others had been reviewed by the HDC.

Deputy City Manager Allen stated that it seems the character of the site/project has been pared down.

Mr. Taintor stated that TAC pushed to have the benches installed. TAC was also concerned about losing the vitality on the Maplewood Avenue side of the site.

Mr. Gladhill stated that the plan/application has changed since its inception.

Mr. Barker made a motion to grant Site Plan Approval with the stipulations as outlined in the Department Memorandum. Mr. Gamester seconded the motion.

Stipulation:

1. The plan set shall be revise as follows:

(a) In Note 4, change the specification for the electrical control cabinet from Hoffman fiberglass to a Type M aluminum cabinet meeting the City’s current standards.

The motion passed unanimously with the following stipulation:

- 1. Sheet C2 – Layout & Landscaping Plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

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D. The application of **319 Vaughan Street Center, LLC, Owner**, for property located at **319 Vaughan Street**, requesting Amended Site Plan approval for landscape revisions, construction of a trash enclosure, revisions to a previously approved transformer enclosure, and related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 124 as Lot 9 and lies within Character District 5 (CD5), the Downtown Overlay District (DOD), and the Historic District.

The Vice-Chair read the notice into the record.

SPEAKING TO THE APPLICATION:

John Chagnon, Ambit Engineering, was present to speak to the application. Mr. Chagnon stated that the last approval by the Planning Board was April 14, 2014. The cover letter that the Board has describes the changes from the last Plan Set. The previous Plan Set had a Landscape Plan. Specific

plantings have been added (as shown on the Amended Site Plan). A seating bench has been added. Decorative rocks (that provide framing for the bench) have been added. The stones on the south side of the building will be relocated (due to interference with an egress). A new sidewalk access from an exit door will be installed. There were plantings along the foundation in the previous application. This has been revised to a stone drip apron. The trash enclosure was added. In the original Site Plan, it was proposed to be inside the building. The tenants constructed a trash enclosure outside the building. The enclosure is partially on City property. The trash area will need to be brought to City Council to be licensed to be on City property. The tree on City property will be removed. Four bollard lights have been added along the front of the property. Gas service has been relocated. The 3S identification sign (approved by HDC) has been added. TAC approved the changes on September 1, 2015.

Councilor Thorsen stated that he was concerned about the odor from the garbage (being next to a walkway). He acknowledged that the present location may be the best location for internal operations, but perhaps not for public foot traffic.

Mr. Chagnon acknowledged that Councilor Thorsen had a good point, but the present location was really the most suitable area on site to locate the trash enclosure. The plan is to use totters which will have closing lids (to contain the odor).

Mr. Marsilia stated that DPW requested that a drain be installed to facilitate cleaning of the trash bins. He stated that the drain does not show on the plans.

Mr. Chagnon stated that the decision regarding whether or not to install a drain was left up to the City Health Department. He spoke with Kim McNamara, City Health Officer, and she had stated that having the totters negated the need for a drain as long as there was a place to wash and clean the totters. Mr. Chagnon explained that there will be an exchange of totters. New ones will be brought in to replace the existing while they are taken off site to be cleaned. The problem with installing a drain was that there was a path issue (trying to get the drain to connect into the grease trap). It would require ripping up the sidewalk and the entire trash enclosure area.

Mr. Marsilia stated that the drain was necessary and felt it should be a stipulation.

Mr. Gladhill stated that he also felt that the drain was necessary. If not the drain, some guarantee must be made that the totters will be cleaned offsite. Otherwise, it was very likely that they would be hosed down in the back, which would be very undesirable.

Vice-Chair Moreau stated that she concurs with Mr. Marsilia and Mr. Gladhill. Even with the totters that have tops that should be closed, they do not get closed. It is an issue downtown in the area where she lives. Even with the best of intentions, the lids do not get closed.

Mr. Chagnon stated that if the concurrence of the DPW could be included, that would be helpful. DPW had the concern of stormwater runoff going into the drain and getting into the system. They would want to review the design.

Mr. Marsilia stated that this application is above the curb so he doesn't feel that what Mr. Chagnon was describing would happen, but said that he would be happy to talk with DPW.

Mr. Taintor stated that the drain issue is important. The drain will be on the City property. He stated that almost the entire enclosure is on City property.

Mr. Marsilia stated that he thought that only a portion of the enclosure was on City property.

Mr. Chagnon stated that only a couple of feet are on the applicant's property.

Mr. Marsilia inquired about how the slab was pitched.

Mr. Chagnon stated that he thought that it was flat. It is not pitched and would have to be taken up.

The Vice-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. Marsilia made a motion to grant the Amended Site Plan with the following stipulations as noted in the Department Memorandum. Councilor Thorsen seconded the motion.

Stipulations:

1. The applicant shall install a trench drain, with approval from the DPW.
2. Prior to having the application placed on the Planning Board agenda, the applicant shall provide the

Councilor Thorsen inquired as to whether there was a way to control odor for the public.

Mr. Taintor stated that due to the fact that the enclosure is on City property, it requires a lease from City Council and as a result there would be a lot more control. If it doesn't work in the end, the applicant can be required to move the trash bins back into the building.

The motion passed with a 5-1 vote (Mr. Gamester voted against), with the following stipulations:

1. The location and dimensions of the street light bases shall be subject to review and approval by the Department of Public Works.
2. The plan shall include a drain for the trash enclosure, with the location and configuration to be approved by the Department of Public Works.
3. Sheet C2 – Layout & Landscaping Plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

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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. Proposed Easements for a Bicycle/Pedestrian Path Along North Mill Pond.

Mr. Taintor stated that included in the Planning Board packet is a depiction of the proposed bicycle pathway running from Market Street to Bartlett Street. The matter of having a bike/pedestrian path goes back to 1997 and appeared in the Bicycle/Pedestrian Plan last year, and in the North End Vision Plan this year. The City Manager has asked that a Concept Plan be prepared. There will be a 10' wide path along the entire length of the pathway. There would be a short on road segment on Maplewood Avenue. Due to conflicts with traffic at one end, there will be a boardwalk over the pond. Due to the acquisition, the Planning Board is required to give a report before the City Council can act on the acquisition of easements.

Mr. Gladhill inquired as to whether there was any residential property that crosses the path at any point.

Mr. Taintor stated that there was no *existing* residential, but if there was redevelopment, there could be residential properties at some point.

Mr. Taintor stated that on the Ricci Lumber side, there is potential for redevelopment of the building.

Vice-Chairman Moreau stated that she is excited to see this finally come to fruition. She lives in the area and it will be nice for people to be able to use it more.

Mr. Gamester inquired if the boardwalk could ever be built strong enough to support vehicles.

Mr. Taintor stated that it could be built to support vehicular traffic, but it could never be made wide enough.

Mr. Barker stated that he loves the proposal.

Mr. Barker made a motion to support the North Mill Pond Path project and to recommend that the City Council authorize the City Manager to proceed with acquisition of the land and/or easements necessary to implement the project. Deputy City Manager Allen seconded the motion.

The motion passed unanimously.

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Mr. Taintor provided an upcoming meeting schedule.

Tuesday, September 22, 2015 - The first of 3 Community workshops on the Master Plan. The meeting will be held at the Urban Forestry Center. The subject will be residential Neighborhood Development.

Wednesday, September 23, 2015 - The Capital Improvement Plan Process. The meeting will be held at the Portsmouth Public Library in the Levenson Room at 6:30pm.

Thursday, September 24, 2015 - Planning Board Work Session on affordable housing; NH Housing and the Workforce Housing Coalition will attend. The meeting will be held in Council Chambers

Saturday, September 26, 2015 - Demonstration of designing the bike lane project (Middle Street and Lafayette Road). The meeting will be held from 9-11am.

Monday, September 28, 2015- Master Plan Community Work Shop on major development corridors. The meeting will be held at the Middle School at 7:00pm

Monday, September 28, 2015 - The NH Division of Historic Resources will present their work on the inventory of downtown for a national register nomination.

Wednesday, September 30, 2015 - Public meeting on the Middle Street bike lane project. This meeting will be held in Council Chambers.

Tuesday, October 6, 2015 - PS21 will be hosting Robert Campbell, Former Architecture Critic for the Boston Globe. He will speak about neighborhood architecture and place-making.

Wednesday, October 3, 2015 - Master Plan meeting. The meeting will be held at the New Franklin School at 7:00pm.

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VI. ADJOURNMENT

A motion to adjourn at 9:26pm was made and seconded and passed unanimously.

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Respectfully Submitted,

Toni McLellan
Acting Secretary for the Planning Board

These minutes were approved at the October 15, 2015 Planning Board Meeting.