

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

NOVEMBER 19, 2015

MEMBERS PRESENT: John Ricci, Chairman; Elizabeth Moreau, Vice Chairman; David Allen, Deputy City Manager; Robert Marsilia, Building Inspector; William Gladhill; Colby Gamester; and Jay Leduc

MEMBERS EXCUSED: Michael Barker; Jack Thorsen, City Council Representative; and Justin Finn, Alternate

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

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CAPITAL IMPROVEMENT PLAN – Public Information Meeting

City Manager John Bohenko stated that input from various people indicated that they would like to see more involvement earlier on in the process. He explained the process to the Board, saying that he typically came before them in January and then moved into the City Council's public hearing. He felt that the neighbors had a good point by wanting a front-end input into some of the planning of the Capital Improvement Plan (CIP). As a result, he said he reviewed the plan and schedule and worked with Juliet Walker, Transportation Planner in the Planning Department, to put together different element sheets. He noted that they had also done a CIP 101 in September that was successful. City Manager Bohenko stated that Ms. Walker would do a presentation of how the process would go forward and asked Chairman Ricci to then request that the public give their input on the capital projects they were interested in. He then introduced Ms. Walker.

Ms. Walker stated that the City updated the CIP every year and the Planning Board developed it and then forwarded it to the City Council. Since the CIP covered six years, the Planning Board was preparing for Fiscal Years 2017 and 2022. Legal authority oversaw the process, and the CIP was one way to implement the Master Plan. Ms. Walker said that the CIP in Portsmouth formed the development of the City budget and included all the proposed projects and their costs, and she explained the process further. She showed a diagram of the CIP and the annual budget process. She also showed a diagram of the timeline. She explained how the first subcommittee meeting would be held on December 2, and then the Planning Board CIP subcommittee would meet with each department to finalize capital requests. On January 21, the Planning Board would adopt the CIP and forward it to the City Council for a February 8 work session. The final plan would be ready in March. Ms. Walker then reviewed the CIP components.

Bernie Pelech of 175 Baxter Road stated that he wanted a sidewalk on his portion of the road, explaining that there were two sidewalks that came up from Islington Street and stopped at his

property. He said that a minimum of 25 people walked or jogged on his street daily. He felt a sidewalk was also important because the portion of the street that had no sidewalk had a big curve and a blind spot that caused many near-misses.

Cliff Lazenby, of 303 McKinley Road, was Chairman of the City-wide Neighboring Committee, who was asking citizens for improvements on the CIP prioritization process. He said that the CIP could be daunting, and some neighborhoods wondered whether their area was getting as much consideration as others. He said the committee had done an analysis of the last 16 years of CIP plans and found projects that were more specific in benefits to certain neighbors. He asked that the CIP process include a geographic distribution category so that it could maintain some balance and all the neighborhoods could share in the benefit of the capital investment.

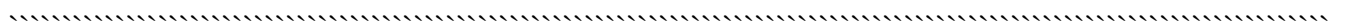
Walter Hamilton of 47 Meredith Drive noted that the work on Peverly Hill kept getting unscheduled, and he asked who was responsible for unscheduling it or whether it was even in the CIP.

City Manager Bohenko said that, from the Planning Board’s perspective, they didn’t have the final say relative to the appropriations, which were done through the budget process. There were two ways, one of which was through the general fund on an annual basis using the 2% factor, or as identified in the plan for general obligation bonds. There was also a second approval phase that would go to the City Council later in the fiscal year and then have a public hearing. He said that Peverly Hill Road had frustrated people and the City because the City always tried to leverage any government funds. Sometimes they deferred projects out a few years based on the fact they might get 80% funding and save on the tax base by doing that. Peverly Hill Road was a tortured project in terms of what happened with some of the federal programs and the sequestering. It was ready to go on time, but unfortunately, was stopped on the State level. He explained the ripple effect impacted the construction part of the project and presented a major cost factor. City Manager Bohenko said there would be further discussion with the City Council.



I. APPROVAL OF MINUTES

- 1. Approval of Minutes from the October 15, 2015 Planning Board Meeting – Approved, with Mr. Gladhill abstaining.



II. DETERMINATIONS OF COMPLETENESS

A. Subdivisions:

- 1. The application of **Robert W. and Constance M. Bushman, Trustees, Owners**, for property located at **34 Marne Avenue and 43 Verdun Avenue**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested.

Vice-Chair Moreau made a motion to determine that the application was complete according to the Subdivision Rules & Regulations and to accept it for consideration. Mr. Gamester seconded the motion.

The motion passed unanimously.

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

Mr. Gamester made a motion to determine that the application was complete according to the Subdivision Rules & Regulations and to accept it for consideration. Mr. Marsilia seconded the motion.

The motion passed, with Vice-Chair Moreau abstaining.

- 3. The application of **Wayne Semprini, Owner**, for property located at **1 Fairview Drive**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into two lots.

Vice-Chair Moreau made a motion to determine that the application was complete according to the Subdivision Rules & Regulations and to accept it for consideration. Mr. Gamester seconded the motion.

The motion passed unanimously.

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III. PUBLIC HEARINGS – OLD BUSINESS

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

A. The application of **955 Sagamore Realty Trust, Owner**, for property located at **955 Sagamore Avenue**, requesting Final Subdivision Approval to subdivide one lot into two lots as follows:

- 1. Proposed lot #1 having an area of 63,100 ± s.f. (1.45 acres) and 141.82’ of continuous street frontage on Sagamore Avenue and 171.49’ of continuous frontage on Sagamore Grove; and
- 2. Proposed lot #2 having an area of 24,000 ± s.f. (.5510 acres) and 123.13’ of continuous street frontage on Sagamore Grove.

Said property is shown on Assessors Map 201 as Lot 1 and is located in the Waterfront Business (WB) district which requires a minimum lot size of 20,000 s.f. and 100’ of continuous street frontage. (This application was postponed at the October 15, 2015 Planning Board Meeting.)

Chairman Ricci recused himself and Vice-Chair Moreau assumed his seat.

Vice Chair Moreau read the notice into the record.

SPEAKING TO THE APPLICATION:

The consultant Peter Weeks, on behalf of 955 Sagamore Realty Trust, stated that they had been before the Board for a preliminary subdivision approval for the proposed lot. He said he met with the Technical Advisory Committee (TAC) and stipulations were agreed upon. The City Council amended the zoning to reflect changes. The concern from the last Planning Board meeting was from City Councilor Thorsen about not giving up any water frontage on Lot 1 and creating a lot for the SRB and leaving the rest for the waterfront businesses. Mr. Weeks said the Board was asked to pass the final subdivision. The City Council was holding a public hearing on December 2, and Mr. Taintor had asked that the lot not be rezoned until the hearing took place. Mr. Weeks said they agreed to that.

Vice Chair Moreau asked if anyone was present from the public wishing to speak to, for, or against the petition. Seeing no one rise, Chair Moreau closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Mr. Taintor stated that, because the hearing was advertised with the previous acreage, the motion should reflect the revised square footage on the plan and refer to the date of the plan

Deputy City Manager Allen made a motion to grant final subdivision approval based on the Subdivision Plan dated June 30, 2015, and revised on November 6, 2015, with the stipulations in the Planning Director’s Memorandum. Mr. Gamester seconded the motion.

The motion to grant final subdivision approval based on the Subdivision Plan dated June 30, 2015, and revised on November 6, 2015, passed unanimously with the following stipulations:

1. Lot numbers as determined by the Assessor shall be added to the final plat.
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 easements shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

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B. The application of **Hillcrest at Portsmouth, LLC, Owner**, for property located at **3201 Lafayette Road**, requesting Site Plan approval to replace up to 80 manufactured homes over the next 10 years, to create a 20’ x 20’ yard waste compost site, and to create 5 new pad sites for future homes, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 291 as Lot 7 and lies within the Gateway (GW) District, Garden Apartment/Mobile Home (GA/MH) District and Rural (R) District. (This application was postponed at the October 15, 2015 Planning Board Meeting.)

Mr. Taintor suggested a motion to take Item A and Item B from IV Other Business together with this application.

A. Proposed amendments to the Zoning Ordinance, Article 8 – Supplemental Use Standards, inserting new Manufacturing Housing Park Dimensional Standards, and making minor conforming

revisions to other sections of the Zoning Ordinance; and proposed repeal of the City Ordinances Chapter 13 – Mobile Home Ordinance, in its entirety.

B. Proposed amendments to the Zoning Ordinance, Article 10 – Environmental Protection Standards, (1) establishing a new Wetland Protection Plan option for certain uses, (2) permitting activities within a wetland buffer that are consistent with an approved Wetland Protection Plan, and (3) inserting a new definition for “impervious surface.”

Chairman Ricci read the notices into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernie Pelech on behalf of the applicant stated that they had several meetings with the Planning Department and had come to an understanding and agreement regarding the language of the new Zoning Ordinance. The old one was antiquated regarding mobile homes. The message they got from the last meeting was that the Planning Board wanted to see the as-built site plan, approve, it, and then come up with a methodology to go by in the future and replace vacant spots with new units, deal with wetland issues, and have a comprehensive wetlands mitigation plan. Attorney Pelech thought the new Ordinance did that. He said they had also tentatively agreed on a methodology whereby, until the new Ordinance was approved by the City Council, there would be a mechanism where Hillcrest could begin to get their permits to replace some units by following the procedure. He believed that all the things that needed to be submitted for approval of the as-built plan were included as well as a lot of additional evidence over the past 14 months that would enable them to go forward with an overall wetlands plan after the new Ordinance was enacted. He said it would call for them to receive ten administrative approvals, replace the units, and when the approvals for those units were granted, they could submit a new revised as-built plan.

Mr. Taintor asked Ms. Berna to go through the zoning changes because the two items were closely related. Vice-Chair Moreau asked that Items A and B be added under Other Business, and then read them. Mr. Taintor said there should be new versions that had a few minor changes.

Ms. Berna gave an overview, stating that a lot of the houses started out as falling under Chapter 13, the Mobile Home Ordinance, designed to address homes with wheels and an engine. Over time, there was a transformation into mobile house parks that had more mobile units and a different character and use. Currently, the Planning Department didn't have any dimensional requirements in their zoning, because it was such a unique use such as unique use, and the overall standards did not apply. The first Ordinance was to add dimensional standards focusing on that particular use of a manufactured housing park. The second Ordinance was a concurrent concern on the property that much of it was in and around wetlands and there was no exemption for manufactured housing units in the Ordinance, even for small expansions, and it was difficult to address the overall site through a CUP process. She said they were trying to come up with a process that would address it holistically.

Ms. Berna stated that the dimensional standard was 20 feet between units, excluding sheds, and there was a provision to allow for a closer distance and to replace in-kind units, but the homes had gotten larger over time and the setback could be reduced up to ten feet. The height was also restricted to 18 feet in a one-story and a cap was also added for the footprint. Ms. Berna said the second Ordinance

was more complicated and was an attempt to look holistically and approve impacts within the wetland buffer through a Wetlands Protection Plan. She explained the application process. The Wetlands Protection Plan had standards to minimize impacts within the buffer, which she described in detail.

Ms. Berna added that, at the last meeting when the Planning Board asked the applicant for an Existing Conditions Plan to approve for a site plan, there was also a request for stipulations. They had discussed an interim measure. Currently it was a permitted use in the District, but there were no operative standards. She said that one option would be to have the proposed dimensional standards in the first Ordinance for any application coming forward.

Mr. Taintor summarized by saying that the Board had the application for site plan approval for the Existing Conditions Plan and the proposed zoning, and they were recommending that the applicant schedule a public hearing on the proposed zoning changes for the December meeting. The Planning Board would then bring it to the first City Council meeting, and if it went smoothly, the zoning changes could be done by the end of February and the applicant could file the CUP application by March. It would start the process.

Mr. Marsilia said, with regard to the setback, they needed a maximum size identified for sheds. Secondly, he also asked how decks and at-grade patios were handled in regard to setbacks. Ms. Berna stated that anything attached to the unit was included in the setback of 20 feet, and there was no maximum size for a shed, except for 225 square feet, including decks and porches.

Mr. Leduc asked about the two line types in the legend, and Mr. Taintor said they indicated the edge of the wetlands and the setback. There was some confusion, and Mr. Leduc said it should be clarified.

Vice-Chair Moreau stated that the Board would move forward in changing the Ordinance. They had the Existing Conditions that they asked for and would take the dimensional standards from one of the two Ordinances and use those for administrative changes to make it a condition. She said the Board didn't have to worry about the wetlands at that point.

Vice-Chair Moreau asked if anyone was present from the public wishing to speak to, for, or against the petition. Seeing no one rise, Chairman Ricci closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Mr. Taintor asked whether there were specific waivers requested in the application. Attorney Pelech said they would submit a waiver from the submission requirements.

Mr. Gamester made a motion to grant the applicant a waiver as stated in the Planning Board memorandum. Mr. Marsilia seconded the motion.

The motion to find that a waiver will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations and, therefore, waive compliance with such provisions of the Regulations as requested by the applicant, passed unanimously.

Mr. Taintor stated that a motion for Site Plan approval could be made with the seven stipulations included in the Staff Memo, plus the two stipulations that were discussed, which were to revise the wetland and buffer lines in the plan and to use the proposed Zoning plan in the future.

Mr. Gamester made a motion to grant site plan approval of the existing features plan with 7 stipulations as listed in the Staff Memo, plus the revisions referred to by Mr. Taintor.

The motion to grant Site Plan Approval of the Existing Features Plan passed unanimously with the following stipulations:

1. The plan title shall be changed to "Site Plan."
2. The following notes shall be added to the Site Plan as required by Sections 2.13(3) and 2.13(4) of the Site Plan Review Regulations:
 - "1. This Site Plan shall be recorded in the Rockingham County Registry of Deeds.
 2. All improvements shown on this Site Plan shall be constructed and maintained in accordance with the Plan by the property owner and all future property owners. No changes shall be made to this Site Plan without the express approval of the Portsmouth Planning Director.
 3. The property owner and all future property owners shall be responsible for the maintenance, repair and replacement of all required screening and landscape materials.
 4. All required plant materials shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse and debris. All required fences and walls shall be maintained in good repair.
 5. The property owner shall be responsible to remove and replace dead or diseased plant materials immediately with the same type, size and quantity of plant materials as originally installed, unless alternative plantings are requested, justified and approved by the Planning Board or Planning Director."
3. The wetland buffer lines shall be merged to eliminate overlaps.
4. The Site Plan shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department.
5. The site plan approval shall be subject to a future Zoning Ordinance amendment, to be adopted by the City Council within one year after the date of the subdivision approval, to allow manufactured housing park as a use distinct from mobile home park, and establishing standards as to separation of structures, coverage by buildings and impervious surfaces, wetlands protection, etc.
6. The dimensional standards contained in the draft Zoning Ordinance amendment dated November 11, 2015 shall apply to building permit applications submitted for administrative approval until a final amendment has been enacted by the City Council.
7. Fire hydrants are to be tested yearly to ensure that all are working at all times.

- 8. Changes to the approved site plan resulting from subsequent conditional use permits and site development shall be updated on the site plan and submitted to the Planning Department for review and administrative approval.
- 9. The owner shall address any remaining sewer infiltration and inflow issues that have not been completely addressed by the prior owner under the subdivision approval, and shall be responsible for any costs for eliminating excess infiltration and inflow beyond what is covered by the prior subdivision approval, as determined by the Department of Public Works. The amount of the Site Plan Review security shall be sufficient to cover all such costs.

Mr. Gamester made a motion to schedule a public hearing on the Zoning Amendments under Other Business. Mr. Leduc seconded the motion.

The motion passed unanimously.

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IV. PUBLIC HEARINGS – NEW BUSINESS

A. The application of **Rye Port Properties, Owner, Charter Foods North, LLC, Applicant**, for property located at 2319 Lafayette Road (formerly 2299 Lafayette Road), requesting amended Conditional Use Permit Approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer to construct a 6” pvc sewer service from an existing sewer line at the rear of the site to the new Taco Bell building, with 3,015 ± of impact to the wetland buffer. Said property is shown on Assessor Map 272 as Lot 10 and lies within the Gateway (G) District.

Chairman Ricci read the notice into the record.

SPEAKING TO THE APPLICATION:

Mark Gross of MHS Design Consultants stated that the property was currently under construction and due to open as soon as the sewer line issue was resolved. He said that the Conservation Committee had recommended approval for a CUP. The impact was a temporary one of 3,015 square feet, so one of the conditions for construction was that they agree to remove the top two feet of material in the trench area that contained invasive species and then restore the trench area and replant that area. Mr. Gross went through the criteria, noting that the land was reasonably suited to use activity or alteration.

Mr. Leduc asked why Mr. Gross was not connected to the one in the front on Lafayette Road. Mr. Gross replied that the original approval from the Board was for that connection. A plan done for Advanced Auto showed a sewer connection coming across to the property, and they found out that it didn’t exist, so they had to install a new sewer connection. When DOT found out that they were looking at a different location, they wouldn’t issue it and said they would only allow it if Advanced Auto didn’t agree to the easement needed or if the City disapproved the CUP. Mr. Gross said that he received the consent from Advanced Auto that evening and approval from the landowner.

Mr. Taintor asked whether the third page of the easement sent to him would be signed, and Mr. Gross said he would send it to him the next day. Mr. Taintor asked whether the dates would be filled in on the new version, and Mr. Gross agreed. Mr. Taintor said if the CUP was granted and the DPW signed off on the permit, then he would sign the administrative site plan approval. Deputy City Manager Allen asked whether Public Works was okay with the connection. Mr. Taintor said they were okay with the design but concerned with the easement rights and right of access for the City to inspect. The easement document granted the City the license to go on with the inspection.

Chairman Ricci stated that it was the first CUP he had seen with no erosion control measures. Mr. Gross stated that it was added after the Conservation Commission meeting and could provide it. Chairman Ricci asked Mr. Gross whether he looked at directional boring to tie into the sewer on Route One, and Mr. Gross said there was a lot of ledge out there and the contractor had said it would not be feasible. They discussed alternatives other than direct drilling.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Taintor stated that he understood that the Conservation Commission voted for approval for the application as presented, but there were stipulations added, and he asked that the motion to grant the CUP include that stipulations from the Conservation Commission were requested. (After checking, it was determined that the Conservation Commission did not recommend any stipulations.)

Vice-Chair Moreau made a motion to grant amended Conditional Use Permit approval. Mr. Gamester seconded the motion.

Mr. Gladhill stated that he would not vote for it because of the clause in the CUP indicating no alternative, but he felt that there was a viable alternative, even if it wasn't easy. In response to Mr. Gladhill's comment, Mr. Marsilia said he agreed with the applicant that it was dangerous and difficult and not feasible.

The motion to grant Amended Conditional Use Permit approval passed with a 5-2 vote. (Chairman Ricci and Mr. Gladhill voting against.)

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B. The application of **Roger D. Greeley, Owner**, for property located at **71 Cliff Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to remove an existing 6' x 20' sunporch and construct a 14' x 20' addition at the back of the house; to construct a 6' x 12' addition adjacent to the rear addition; to remove an existing 7' x 12' porch and construct a 6' x 8' deck off the south side of the house; and, to remove an entryway and construct a 7' x 9'6" mudroom on the front of the house, with 400 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 223 as Lot 10 and lies within the Single Residence B (SRB) District.

Chairman Ricci read the notice into the record.

SPEAKING TO THE APPLICATION:

The owner Roger Greeley reviewed his petition and stated that most of the addition was 400 square feet on the back of the property. The addition would come out 14 feet and be in the buffer zone. He proposed to offset the effect of the impervious nature of the addition by adding a drain around the house and also adding landscaping and plantings to offset the effect.

Mr. Greeley said that what was missing on the application was the fact that the original septic system was in the buffer zone and was active up until a year ago when they put a new septic system to the left of the house out of the buffer zone. He said the Conservation Commission recommended approval.

Vice-Chair Moreau asked why the addition needed to go on that particular side of the house, and Mr. Greeley said it was to expand the small kitchen on that side.

Mr. Gladhill said it looked from the proposed renderings that there might be a lot of changes. Mr. Greeley pointed out on the photos where the addition would go.

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

DISCUSSION AND DECISION OF THE BOARD

Vice-Chair Moreau made a motion to grant the Conditional Use Permit as presented. Deputy City Manager Allen seconded the motion.

The motion to grant Conditional Use Permit approval passed unanimously.

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- C. The application of **Robert W. and Constance M. Bushman, Trustees, Owners**, for property located at **34 Marne Avenue and 43 Verdun Avenue**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested between two lots as follows:
 - a. Map 222 Lot 33 decreasing in area from 17,448 ± s.f. to 7,461 ± s.f. with 101.04' of continuous street frontage along Marne Avenue.
 - b. Map 222 Lot 34 increasing in area from 9,097 ± s.f. to 19,084 ± s.f. with 216.61' of continuous street frontage along Verdun Avenue.

Said lots lie within a General Residence A (GRA) District which requires a minimum lot size of 7,500 s.f. and 100' of continuous street frontage.

Chairman Ricci read the notice into the record.

SPEAKING TO THE APPLICATION:

Dave Hislop, representing the Bushmans, stated that the Bushmans wanted to move the lot line to allow access to the barn on Marne Avenue and also wanted to split the parking area so that the one-story house could use part of it. He said there was a stone retaining wall where they wanted to put the lot line, but they would end up with 39 feet less area than needed for the lot, which they received a

variance for. He explained the clearance issues and said they wanted to move the barn onto their property so they could sell the one-story house more easily. He said they got the variance for the setback issue as well.

Vice-Chair Moreau stated that the subdivision regulations called for perpendicular lines whenever possible, and the applicant was taking two regularly shaped lots and making them irregular. She asked whether there was a way to configure it to have more perpendicular lines. Mr. Hislop said if they shifted it toward the one-story house it might be, but it would take away some of the parking area. He also wanted to be able to walk around the barn if the barn was part of the house. He saw no way to make the lot line longer without reducing the area of the house.

Chairman Ricci asked if anyone was present from the public wishing to speak to, for, or against the petition.

The owner Robert Bushman of 43 Verdun Avenue said he and his wife had lived on the property for 44 years and that the house was originally owned by the Shea Farm. When they bought the house, the barn was not part of the land, and they wanted to reunite the barn with the house. The objective was to make the barn and back yard more accessible to make the property more valuable and easier to sell.

Seeing no one rise, Chairman Ricci closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Vice-Chair Moreau made a motion to grant preliminary and final subdivision approval with the recommended stipulations in the Department Memorandum. Mr. Gladhill seconded the motion.

Mr. Gladhill said it was a unique case, and that normally the Board would work harder to make the line more perpendicular, but they were trying to unit a house and barn under the same lot line that was originally together, and that was why he was supporting it.

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

1. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
2. GIS data shall be provided to the Department of Public Works in the form as required by the City.
3. The final plat and the deed shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

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

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

Said lot is shown on Assessor Map 138 as Lot 48 and lies within the Mixed Residential Business (MRB) where a minimum of 7,500' of lot area and 100' of street frontage is required and also within the Office Research (OR) District where a minimum of 3 acres of lot area and 300' of street frontage is required.

Vice-Chair Moreau recused herself. Chairman Ricci read the notice into the record.

SPEAKING TO THE APPLICATION:

John Chagnon of Ambit Engineering on behalf of the applicant explained the project, saying it was a vacant lot and they wanted to subdivide it into four lots. Lots 1, 2 and 3 would be on Langdon Street and Lot 4 was a narrow lot that would allow the City to connect Langdon Street with Brewster Street by way of a road extension. He said the project was previously approved in May 2013 but the approval lapsed, so they needed re-approval. He had the Existing Conditions and had done a subdivision plan showing potential house sizes, and the project had received a variance, which also lapsed. Mr. Chagnon said he received approval from TAC subject to conditions, which they met. The Staff Memo outlined other relevant conditions that were part of the 2013 approval. The only issue was that the 2013 approval had Condition #8, which was a condition subsequent to the filing of the recorded plan, and had moved to Condition/Precedent #6. The Staff Memo indicated that the applicant should convey Lot 4 to the City.

Mr. Chagnon said it was one of the conditions subsequent and he wanted to continue it because the construction of the homes would occur only after work was done to improve Langdon Street and the variance was granted due to the lot size of 22,000 square feet. The lot in its entirety would support a 3-unit building. They received a variance because a 3-single family home was more suitable to the neighborhood. If Lot 4 weighed in, it would give the developer an option to back to a 3-unit home in the future.

Mr. Gladhill said the lot line cut through a brick patio for the middle house and asked whether there was an easement to use the patio on the other side of the property line. Mr. Chagnon said he would pass out a Notice of Fence Encroachment and License. He said the current owner had been gracious with the neighborhood and let them park their cars in the winter. When it was discovered that there were encroachments to the east neighbors, he let them keep them but reserved the right to revoke the license.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Taintor stated that it might be more appropriate to grant preliminary approval and postpone final approval until the variances were granted.

Deputy City Manager Allen made a motion to grant preliminary subdivision approval. Mr. Leduc seconded the motion.

The motion to grant Preliminary Subdivision approval passed unanimously.

Deputy City Manager Allen made a motion to postpone final subdivision approval to the February Planning Board meeting. Mr. Gamester seconded the motion.

The motion to postpone final subdivision approval to the February Planning Board meeting passed unanimously.

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E. The application of **Wayne Semprini, Owner**, for property located at **1 Fairview Drive**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into two lots as follows:

- a. Proposed lot #1 having an area of 15,388 ± s.f. (0.3533 acres) and 79.97’ of continuous street frontage on Fairview Drive; and
- b. Proposed lot #2 having an area of 14,052 ± s.f. (0.3226) and 134’ of continuous street frontage on Woodbury Avenue and 57’ of continuous street frontage on Fairview Drive.

Said property is shown on Assessor Map 219 as Lot 26 and is located in the Single Residence B (SRB) District which requires a minimum lot size of 15,000 s.f. and 100’ of continuous street frontage.

Chairman Ricci read the notice into the record.

SPEAKING TO THE APPLICATION:

Attorney Bernie Pelech representing Bluebird Holdings, John Chagnon of Ambit Engineering, and Kevin Drohan, Principal of Bluebird Holdings, were present to speak to the application. Attorney Pelech stated that the lot was created in the 1940s subdivision and a large goldfish pond pool was located on the lot and filled in during the mid-70s. They were proposing to subdivide the 30,000 s.f. lot into two large lots. Attorney Pelech said the BOA granted the variances for the subdivision to be approved and TAC gave their recommendation. There was also a Staff Memo recommending preliminary and final approvals. Attorney Pelech stated that many abutters spoke in opposition at the TAC and the BOA meetings, but all of their concerns had do more with tree cutting, driveway safety, and whether there was an underground spring, which TAC conditions could deal with.

Mr. Chagnon said there was City infrastructure that straddled the lot line in the southern part of Lot 2, so TAC had asked that the City grant an easement for utility purposes. He said there would be sewage and drainage improvements in that corridor and the lots could tie into the drainage.

Mr. Gladhill said that TAC recommended that the driveways of Lot 1 and Lot 2 be off Fairview Drive and noted that Woodbury Avenue was a major thoroughfare. He asked whether it was appropriate for the house to be built on Lot 2, even though it gave the appearance of facing Woodbury Avenue.

Attorney Pelech replied that one area was a densely wooded tree line that they wanted to maintain to keep noise down, and they planned to face the house that way, with the driveway off Fairview Drive. He said that a concern of an abutter was not to remove the tree line, and if they faced the house toward Woodbury Drive, they would either have to cut the trees or have the back of the house face Fairview Drive, which was not practical due to the woods.

Mr. Gladhill said that the lot had been untouched for a long time and had prominent features left over from the Frank Jones Mansion, and he didn't know what had been dumped in the point. He asked what would happen if anything archaeological was discovered on the property. Attorney Pelech said he was present when the pond was filled in with gravel, and he didn't think there was anything archeologically sensitive, but if there way, they would have someone look at it.

Chairman Ricci said he'd like to see a drywell installed to support the runoff from the house itself. Mr. Chagnon agreed.

Chairman Ricci asked if anyone was present from the public wishing to speak to, for, or against the petition.

Zoe Stewart of 8 Fairview Drive said that the frontage on Woodbury Avenue would be two lots with a total of 134 s.f. under the required 200 s.f. footage for both lots. There was a dangerous curve on a dead-end street, and the residents were concerned about the safety of putting two driveways near that curve. She said they were told that the trees would not be cut down, but there was no way to build on the lot without doing so. They had also been told that the cottage would not be torn down but then told it would be the footprint for a garage.

Ryan Akers of 999 Woodbury Avenue stated that serious issues were not addressed. He said the pond was larger than Lot 2 and he was concerned because it was a springfed pond and he wondered where the water would go when it was excavated. He said the only way to build the large homes they wanted was to cut down the trees, which would increase noise and decrease the privacy of the neighbors. He asked that the Board issue a continuance to get the conditions met.

Fred Lewis of 1238 Maplewood Avenue said he and his wife watched the pond be filled in with gravel and building materials. He asked how TAC would deal with the concerns about the trees as a buffer around the lot's periphery for him and other abutters, in addition to excessive paving. He wanted to see proof in writing that those concerns would be addressed. He said his main concern was the pool because they had water in their basement periodically, and he wanted a hydraulic study done to investigate the nature of the pool water and asked that it be a condition.

Kelly Twohig of 999 Woodbury Avenue stated that removing the trees could cause problems because the roots held the ground together. She said a study could see what the impact would be.

Lenore Bronson of 828 Woodbury Avenue stated that the property had been there for a long time and wondered why the owner wanted to build on it so quickly. She said the pool was spring fed and a map of the estuary showed a lot of underground water, which she thought the Conservation Commission should look into. She stated that the abutting properties would be affected by water problems. She

referenced Section 10 of the Ordinance referring to bodies of water to make her point and said she wanted to keep the integrity of the neighborhood as well as its value and peace of mind.

Kevin Drohan of 1240 Maplewood Avenue stated that he was an abutter as well as Principal of Bluebird Holdings. He said he knew the property would be developed but wanted to ensure that it was done in a tasteful way so he could preserve his property's value. He had a vested interest.

Chairman Ricci called for Second-Time Speakers.

Attorney Bernie Pelech stated that there was nothing irregular about the timing of the procedure because notices and applications were filed timely and sent out to the abutters for the TAC and BOA meetings. He saw no reason to question what had transpired over a month and no reason for the Board to continue the case because nothing would be gained from it. He said there were no wetlands on the property and no need to involve the Conservation Commission. The water was 10-12" below ground and the pool could have been excavated down to the ground water and found that there was no spring there. He asked why it would prevent the property from being subdivided and pointed out that the lots were almost double the size of the other lots. They were not over-intensifying the use of the neighborhood or creating a dangerous situation. He said the BOA said it would result in 7-8% more traffic on the street. He also stated that the buffers would be retained and that a house could be built without substantial tree cutting.

Ryan Akers said he disagreed because the trees were huge.

Fred Lewis said he only asked for a condition to investigate the pond to appease the abutters and felt that an engineer could do the job.

Lenore Bronson asked where the owner was and what permits he received from the City. She asked what kind of filling he used and whether there was a spring in that location. She said if the water flowed, it was part of an estuary and part of the natural system that needed to be protected.

Chairman Ricci called for Third-Time Speakers:

Attorney Pelech stated that the owner did not fill the pond it, his father did, and he got the necessary approvals to do so.

Seeing no one rise, Chairman Ricci closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

Deputy City Manager Allen made a motion to grant preliminary and final subdivision approval for purposes of discussion. Mr. Gladhill seconded the motion.

Deputy City Manager Allen said he didn't think traffic was an issue and thought that the DPW would look at driveway permits. He thought the potential for ground water could be an issue but could be handled by some sort of study, but he didn't see it as a reason not to subdivide because the issue was more of a building process.

Mr. Gladhill said he didn't know what was under the land and could be surprised. The Board knew there was a pool and didn't really know how it was fed. He said he was concerned about the ground water but agreed that it was more of a building process than the actual subdivision of the land.

Mr. Gamester asked Deputy City Manager Allen whether there was a study involved in the building permit process and whether it could be a condition for the permit if something was found that would affect the building of the foundation. Deputy City Manager Allen gave an example of a subsurface system tying into a municipal drain line.

Mr. Marsilia asked whether the Board would have to ensure, if the excavation showed groundwater or an elevated water table, that the runoff didn't go to the neighbor properties, and was told that something would be done to prevent it, but normally one didn't get water through their foundation.

Chairman Ricci suggested that the Board make a condition that a study had to be performed on site. Deputy City Manager Allen asked whether that meant that the Board would get the information prior to approvals being issued. He also noted that the drywall to absorb the runoff from the house should be part of the subdivision approval. Mr. Taintor suggested test pits for both lots. Mr. Gladhill asked about a stipulation to protect the tree line. Chairman Ricci recommended that the owner and the abutters come up with something that both parties agreed on.

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 plan):

1. Lot numbers as determined by the Assessor shall be added to the final plat.
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 easements for the sewer lines and drain lines shall be granted and approved by the City Attorney.

Recording:

5. The final plat and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

Conditions Subsequent (to be completed prior to the issuance of any building permit):

6. The utility connections for Lot 2 (and Lot 1, if reconstructed) shall be approved by the City Engineer.
7. Test pits shall be dug at the foundation of each proposed new house and logged by a soil scientist to determine the seasonable high water table. The results shall be presented to the Inspection Department with the application for a building permit.
8. Drywells shall be installed for each new house to support the run-off from the building.

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V. CITY COUNCIL REFERRALS

A. The renaming of Ledgewood Drive in accordance with the specification of E-911. (This matter was postponed at the September 17, 2015 Planning Board Meeting.)

Mr. Taintor stated that the Fire Chief agreed to rename Ledgewood Drive but had not recommended a new name. He said it would be the Planning Board’s responsibility to rename it.

Attorney Bill Scott representing Winchester Apartments on Ledgewood Drive stated that they were not in favor of the name change and also not in favor of public safety issues. He said he didn’t know why Ledgewood Drive had to be renamed when other streets had more similar names. He also noted that there was an identifying factor for Ledgewood Drive that made it different from other streets, like Edgewood and Wedgewood, because it had the greatest number of people who would be affected and also different numbered apartment buildings. He said he understood the dispatch issues but thought there should be further analysis done.

Mr. Gladhill asked Attorney Scott whether he thought Ledgewood Drive was being singled out and if he preferred to keep the name and keep street private. Attorney Scott noted that the church asked to be a public street and not the apartment complex. He further discussed the issue.

Mr. Gamester said he was against renaming Ledgewood Drive and agreed that Attorney Scott made some good points. He noted that lots of other streets had similar names and the Fire Chief’s response was vague. Chairman Ricci agreed and said he was not in favor of changing it.

Mr. Taintor said it had begun in 2008, but everyone was opposed so it was dropped. Mr. Leduc asked whether there had been recent incidents that brought it back, but Mr. Taintor said there weren’t. He said at the time, a fire truck was dispatched to the wrong street.

Mr. Gamester made a motion that the Planning Board recommend to the City Council that Ledgewood Drive should not be renamed. Mr. Gladhill seconded the motion.

The motion passed unanimously.

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VI. OTHER BUSINESS

A. Proposed amendments to the Zoning Ordinance, Article 8 – Supplemental Use Standards, inserting new Manufacturing Housing Park Dimensional Standards, and making minor conforming revisions to other sections of the Zoning Ordinance; and proposed repeal of the City Ordinances Chapter 13 – Mobile Home Ordinance, in its entirety.

This was consolidated with Item B under Public Hearings – Old Business. See above.
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B. Proposed amendments to the Zoning Ordinance, Article 10 – Environmental Protection Standards, (1) establishing a new Wetland Protection Plan option for certain uses, (2) permitting activities within a wetland buffer that are consistent with an approved Wetland Protection Plan, and (3) inserting a new definition for “impervious surface.”

This was consolidated with Item B under Public Hearings – Old Business. See above.

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VII. PLANNING DIRECTOR’S REPORT

Mr. Taintor stated that PS 21 was scheduling a meeting on affordable housing for January 28, 2016 at either the library or 3S Artspace, and a follow-up workshop would take place the next day.

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VIII. ADJOURNMENT

A motion to adjourn at 9:30 pm was made and seconded and passed unanimously.

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Respectfully Submitted,

Joann Breault
Acting Secretary for the Planning Board

These minutes were approved at the December 17, 2015 Planning Board meeting.