

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

APRIL 21, 2016

MEMBERS PRESENT: John Ricci, Chairman; Elizabeth Moreau, Vice Chairman; Rebecca Perkins, City Council Representative; David Allen, Deputy City Manager; David Moore, Assistant City Manager; William Gladhill; Gamester; Jay Leduc Dexter Legg and Jody Record, Alternate

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

MEMBERS ABSENT: None

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WORK SESSION ON MASTER PLAN

Ms. Berna said she was looking for feedback on the themes, goals and priorities, and wanted to focus on those items. Specifically, did these goals fully encapsulate everything they had been looking for, and she asked the Board what might need more explanation. She also wanted to focus on the first two themes of Vibrant and Authentic.

Mr. Gladhill suggested they put them in a priority order, and asked what the first priority would be. He said it seemed the way they were ordered, people would think they were prioritized. Chairman Ricci asked if priority was the right word, and Mr. Legg asked if these were rank ordered. Mr. Gladhill responded that it should be made clearer. Mr. Taintor said it was not intended to be ranked and that should be specified, because they were all priorities. He suggested they change the word Priority to the word Action, as they were all equally important.

Mr. Legg suggested they broaden the goals and themes, and talk about urban core, and Mr. Taintor said they would.

Mr. Moore asked if this draft incorporated previous comments, and Ms. Berna answered they did not. Mr. Moore wanted it to be clear that the staff had heard previous comments, and the comments were not lost. Mr. Taintor said in speaking with the consultants, they decided to pull out one of the actions for further elaboration. For example, "here was what you would do for a certain action", which would be like an illustrative narrative.

Mr. Legg asked if it was the intent to pick one priority for each theme and build it out in a narrative, and Mr. Taintor said yes.

Mr. Taintor said this process was engaging and created some challenges in linking sections and ideas, and they wanted to make some of those connections clearer. He said Section 1.3.1 was a challenge, and they would be looking at examples of what other communities have done to see what Portsmouth might be able to implement.

Mr. Moore said asked for clarification on the Master Plan for land use. He said that in reading the draft, some items came out as policy recommendations rather than land use, and regulation Section 1.1.4 seemed to be a specific policy recommendation that may or may not have ties to land use. Mr. Taintor said this was an issue with the Downtown, and because there was high density in the Downtown, they had problems with trash location. Mr. Taintor suggested this would be a way to think about infrastructure like parking and possibly implement consolidated trash locations. Mr. Moore suggested clarification on that idea, and Mr. Taintor agreed.

Mr. Moore said that Section 1.1.5 encouraged public access use and suggested wording change.

Mr. Gladhill asked how long the bridge would be out. Vice Chairman Moreau estimated maybe another year, and Mr. Allen was not certain. Mr. Gladhill asked about ideas in Section 1.2.3 or should they wait until the bridge opened. Mr. Taintor said it was a challenging area, the Portsmouth Paper building area had the most potential, and it was an underutilized area. He said this was a great area for mixed use, as per the consultants.

Mr. Gladhill wondered what the impact to businesses would be if bridge would be out for over a year. Vice Chairman Moreau didn't think it would be a huge impact to the businesses. Mr. Gladhill was thinking of GPS users not being able to access the area easily, and Mr. Taintor said that was a short term concern.

Vice Chairman Moreau asked what the goal was in Section 1.2.2. Mr. Taintor said the goal was to encourage development of mixed use, encourage liner buildings along the front, etc. Vice Chairman Moreau did not think that was clear in the way it was written, and said it needed more elaboration. Ms. Perkins said she had the same comment as Vice Chairman Moreau for Section 1.2.1.

Vice Chairman Moreau said that in Section 1.3.2, they needed to specify if something was City-wide to eliminate contradictions.

Mr. Moore asked what the differences were in Sections 3.1 and 3.2, and stated that they needed clarification. There have been new performances created lately, did that type of development need to be made clearer. Vice Chairman Moreau said they had heard the request for encouragement of more arts. She suggested a city-wide look at incubator space, and she said 3S Artspace has tried to offer smaller spaces for more people. Chairman Ricci said he preferred to keep it as broad thinking for the long term. Mr. Legg suggested they make Section 3.2 specific to the space, and keep Section 3.1 towards broad performance space. So, keep it broad, but with different focuses, he said.

Mr. Gamester suggested they should encourage more open spaces and expand and upgrade existing spaces, and that they should clarify that in Section 1.4. Mr. Moore agreed and said he liked expanding that section. Chairman Ricci said this was something that was done previously.

Regarding Section 4.2, Mr. Moore said that listing opportunities would narrow opportunities and it might be more effective for the staff to discuss how this can be organized to be more inclusive. He suggested “Seeking innovative partnerships to encourage outdoor space” as an example.

Mr. Taintor said Section 2.1.3 would be expanded to include some examples and different ways to update infrastructure standards. For example, in dealing with storm water along roads, engineers would give them suggestions in considering swales versus rain gardens for more urban sections. Mr. Allen said “public infrastructure” sounded too general. Chairman Ricci suggested review of streetscapes, but Mr. Taintor said it was more than that – it involved engineering. Ms. Berna stated there needed to be a different target approach for different parts of the community, and Mr. Taintor said the section would be expanded.

In referencing Section 2.2.2., Vice Chairman Moreau asked if they already performed design review. Mr. Taintor answered they do site review in the Historic District. Vice Chairman Moreau said they needed to be careful about terminology. Mr. Taintor stated they can only mandate design of buildings in the Historic District, and Mr. Allen said there needed to be clarification on this. Ms. Perkins said it sounded like they were adding a land use board to this section and she would prefer that it not sound like that. She added that she had the same comments regarding Section 2.1.1.

Mr. Gamester asked Mr. Taintor to read the wording for Section 1.2. Mr. Taintor read that “this would be to expand the site plan review process to allow the Planning Board to look at the architecture of buildings”, and Mr. Gamester said he would be against that wording. Mr. Taintor said it would require design standards and guidelines, which were not in place at this time. Mr. Gamester said it would be like Character Based zoning, but Mr. Taintor said it would be different. Mr. Gladhill said he recalled an instance when a design review process was triggered in the past. Adding that layer with the Planning Board having discretion over architectural design review could be very difficult unless design guidelines were in place before coming to the Planning Board. Mr. Taintor said this came up in the Master Plan 10 years ago, and it has been an issue, but it they needed to think about the aesthetic quality. Chairman Ricci said he was opposed to having that wording in there, and Ms. Perkins agreed with Chairman Ricci. Mr. Taintor said they would take it out if they did not want to talk about design. Mr. Legg said he would like to hear the Planning Department speak more about what the intent was before taking that out. He had spoken to Mr. Cracknell who suggested that providing guidance to developers outside of the HDC was actually helpful. Mr. Moore said he was unsure how he felt about it. He understood the reticence about keeping this in, and he would like to hear more, but he had heard the voices that night. Chairman Ricci felt they were taking a developers vision and not letting that developer live it out.

Vice Chairman Moreau asked if they would have a public hearing on this Mr. Taintor said they would have a public process. Vice Chairman Moreau said it would be nice to hear from all parties. Ms. Perkins stated they should consider if something raised by the public would not be feasible.

Mr. Gladhill said the HDC just passed its guidelines, and there have been demolitions recently that people were not happy about. He suggested they expand the HDC in some areas if people wanted purview before demolition, but it was important to recognize that there was a difference between existing buildings, and a space being a blank canvas. Mr. Taintor said there was nothing in the Master Plan that talked about expanding the HDC and asked if they wanted to add that. Mr. Taintor said they

thought about doing it as part of the inventory process of the HDC. Mr. Gladhill said priorities have changed, and some buildings might need to be moved into the line of the HDC for protection.

Mr. Gamester said regarding Section 2.1.1 in terms of neighborhoods, he would hate to see anyone in the West End or other neighborhoods having to go through more hoops in terms of character of buildings in individual neighborhoods. He would not be opposed to review of historic buildings, and said they had to draw that line. He added there might be buildings from 1940 that they would want to keep, but they had to stop at some point.

Ms. Perkins said if they were going to expand the HDC, then they should include the possible shrinkage of the HDC as well to make it more accurate.

Mr. Taintor said an inventory of buildings was added to the HDC. They expanded the HDC in 2009 and did not inventory those buildings. Many of the buildings were 1950s and 1960s, and they were in the area. The HDC was meant to enhance the approaches to the Historic District coming down Islington Street, for instance. Mr. Gladhill said contraction of the Historic District would not be advisable. A better flow between historic buildings would be preserved. He said not every building in the Historic District was not historically important.

The work session concluded at 6:57 pm.

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Chairman Ricci recognized Dave Allen and thanked him for his service, as it was his last meeting.

I. APPROVAL OF MINUTES

1. Approval of Minutes from the March 17, 2016 Planning Board Meeting;
Vice Chairman Moreau moved to approve the minutes, Mr. Gladhill seconded and the motion passed unanimously.

2. Approval of Minutes from the March 31, 2016 Planning Board Work Session;
Vice Chairman Moreau moved to accept the minutes, Mr. Legg seconded, and the motion passed unanimously.

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II. DETERMINATIONS OF COMPLETENESS

Mr. Gamester moved to consider Items A and B under Determinations of Completeness and Items C and D under Public Hearings New Business out of order for purposes of postponement. Mr. Gladhill seconded and the motion passed unanimously.

A. Subdivision:

- 1) The application of **Borthwick Forest, LLC, KS Borthwick, LLC, Atlantic Star Communications, HCA Realty, Inc., and Jackson Gray Condominium Association, Owners**, for property located **off Islington Street and Borthwick Avenue**, requesting Preliminary and Final Subdivision Approval.

Mr. Gladhill moved to postpone this item until the May 19, 2016 meeting. Mr. Gamester seconded, and the motion passed unanimously.

B. Site Plan Review:

- 1) The application of **HCA Realty, Inc., Owner**, for property located **off Borthwick Avenue**, and **Jackson Gray Condominium Association**, for property located at **330 Borthwick Avenue**, requesting Site Plan Approval

Vice Chairman Moreau moved to postpone this item until the May 19, 2016 meeting. Mr. Gladhill seconded and the motion passed unanimously.

- 2) The application of **2422 Lafayette Road Associates, LLC, Owner**, for property located at **2454 Lafayette Road (Southgate Plaza)**, requesting a Gateway Planned Development Conditional Use Permit

Vice-Chairman Moreau made a motion to determine that the application is complete according to the Site Plan Review Regulations and to accept it for consideration. Mr. Gamester seconded. The motion passed unanimously.

- 3) The application of **2422 Lafayette Road Associates, LLC, Owner**, for property located at **2454 Lafayette Road (Southgate Plaza)**, requesting Site Plan Approval

Vice-Chairman Moreau made a motion to determine that the application is complete according to the Site Plan Review Regulations and to accept it for consideration. Mr. Gamester seconded. 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 would be deemed waived.*

- A. The proposal to amend the Zoning Ordinance to implement Character-Based Zoning in the West End and Islington Street corridor, and to make various related amendments to the Zoning Ordinance and Zoning Map, as follows:

- (1) Delete the existing Article 5A – Character Districts in its entirety and insert in its place the new Article 5A – Character Districts dated 1/11/2016.
- (2) Amend Articles 4, 5 11, 12 & 15 of the Zoning Ordinance as set forth in the document titled “Conforming Amendments to Zoning Ordinance” dated 1/11/2016.
- (3) Amend the Zoning Map as set forth in the following maps dated 1/11/2016:
 - (a) Map 10.5A21A – Character Districts and Civic Districts;
 - (b) Map 10.5A21B – Building Height Standards;
 - (c) Map 10.5A21C – Special Requirements for Façade Types, Front Lot Line Buildout & Uses.
- (4) Amend the Zoning Map by changing the zoning designation of 52 parcels as set forth in the document titled “Proposed Additional West End Zoning Changes” dated 1/11/2016 and as shown on the map titled “Additional West End Zoning Changes – First Reading – January 11, 2016”.

(This item was continued from the March 17, 2016 Planning Board Meeting.)

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Chairman Ricci stated that the public meeting was still open.

Nick Cracknell said this process had been going on for 14 months, and he wanted to give an overview of the latest revision, which was the third go-round. There were nine changes that were made based on feedback received, including feedback from the Portsmouth Listens groups. He displayed a slide on the update on the Part 1 and Part 2 zoning amendments from the January 14th and March 17th drafts, which were all posted on the website.

He displayed the 10 key regulatory issues they had prioritized from the Portsmouth Listens groups, including land use; building heights; building footprints; ground floor uses; universal design; chain stores; liner buildings and parking; sidewalk width; design review; and decoupling the West End from downtown.

Based on what was presented in the work session the prior week, there were seven issues applied to the West End and five that applied to all character districts. There was incentive for increasing workforce housing. A concern that came out of Portsmouth Listens was there were too many uses that the people did not want to see happen in the West End. Downtown uses were not what people wanted to see in the West End. So Mr. Cracknell said they made modifications to the Business District and would allow certain businesses in the West End like gas stations, veterinarians and small restaurants, and they would exclude hotels, conference centers and nightclubs. These were all in the modified Business District for the West End, but not for the Islington corridor.

He said there had been concern about the building height, and that 70 feet would compete with other buildings in the area. He showed pictures of other buildings in the area that were currently 75 feet, and said it had been helpful to go out to look at those buildings, but they would reduce the height of buildings from 60 to 50 feet.

He stated there was a need along the Islington corridor to allow recessed entry to allow for universal access, which was modification.

Changing the building footprints from 10,000 sf to 20,000 sf in the CD4-W seemed like too big a jump, so they modified that to 15,000 sf. He also talked about the CD5 footprint modifications.

Ground floor residential uses would now be allowed in the row house building style.

Mr. Cracknell said that people may have thought the HDC would be reviewing architectural design outside of the Historic District, but that was not the case, so they would reword this to make that clear.

Workforce housing incentives would be a new revision. A 50 foot building height made sense, but less units would mean less incentives for developing workforce housing. He said they proposed keeping this at 50 feet and allowing a two story addition if the developer provided workforce housing and civic space.

He discussed the revisions that would affect all three Character Districts. Maximum building footprints of 15,000 sf in each of CD4-W and CD4 and 20,000 sf for CD5, with more if ground floor parking was included, making the potential 30,000, 30,000 and 40,000 sf respectively.

They would discourage large size chain stores, and as a comparison said that Whole Foods was proposed to be 40,000 sf.

Regarding the ground floor parking requirement, he stated that if someone were to put in at-grade parking, then the City should have control over someone just putting in some spaces to get an inflated building size. So they proposed a minimum parking requirement on the ground floor and reducing the parking requirement on the ground floor to support larger liner buildings.

It was important with taller buildings that wider sidewalks be built, so the City would require that developers provide a wider sidewalk, and allow that this area would count towards the required open space and/or community space.

They wanted to make sure that the code was very clear on the half-story or penthouse exemption. An attic or penthouse would not count as a story as long as it was no greater than 50 percent of the floor space below it as the limit.

Mr. Cracknell said that concluded the summary of the 12 changes from the second version to the third version.

Mr. Gladhill asked if the two story incentive would be double the workforce housing requirement, and Mr. Cracknell answered no, and offered some clarifications. He said that if someone built 70 feet, they

would have two extra floors but the workforce housing would be 30% of the living space, and the distribution would be equitable. Twenty percent would have to be developed as community space. This would make workforce housing more competitive and more likely to occur. Having the incentive to go two extra stories would guarantee workforce housing would be built.

Vice Chairman Moreau asked if there was a guarantee for a period of years or forever on whether workforce housing would remain as such. Mr. Taintor said there was no requirement for the workforce housing remaining as such in perpetuity, so they would have to work out a process for enforcing long term restrictions because it would be on the deed.

Mr. Allen said on the community space there was a requirement that no dimension shall be less than 20 feet, and yet they did allow for that additional sidewalk width to be counted as community space. In thinking about alleyways, he asked if that would create a conflict or would they need to adjust the 20 feet to have flexibility. Mr. Cracknell said that was a great idea and said he would lower it for sidewalks and alleys. Mr. Taintor offered a clarification on the wording and said they would not want a less than 20 foot alley between two buildings. Mr. Cracknell said that 15 feet might be a better number for the provision raised, and this would exempt the wider sidewalk.

The Chair opened the public hearing.

Rick Beckstead of 1395 Islington Street thanked the Board on this work. He said he attended the Portsmouth Listens and they had a hard time with the incentives because they were confusing with the 15,000 / 20,000 and the 20,000/30,000 sf limits. He still had questions about underground parking. Single family homes would get squeezed into the neighborhoods. He wanted to have the maximum requirement for parking, as a car was essential, and he did not want people to lose their parking. They have not had anyone come forward regarding the workforce housing incentive and said it came down to income. When a developer came in, it created a cap, and he has a hard time believing from a developer standpoint that a developer would come forward to put money in this.

Paul Mannle of 1490 Islington Street stated that Mr. Cracknell and the entire Planning Board have done a great job. He commented that most of the Portsmouth Listens groups said to restrict hotels, but they were still in there, and he was concerned about that. He said the West End should be the arts district. When he saw the overlay with 70 feet, he would like the incentives to be at the discretion of the land use boards which would make good planning sense and asked if anyone would be in favor of a 70 foot building in their backyard.

Mark Brighton of 285 Union Street said his concerns were openness and transparency. In the section for the CD-5 district regarding building footprints of liner buildings, he said they should call this spot zoning and to call it what it was.

Jerry Zellin of 70 Kensington Road distributed a handout and said he would speak later in the meeting.

Peter Weeks from PGW Real Estate Consulting referred to a letter he wrote to Ms. Berna, which was in the packets regarding a parcel of land at 1046 Islington Street. This zoning stopped at Dr. Chase's office at the corner of Islington and Spinney Road, he asked that they continue the zoning two more parcels up to the bridge, because it would be consistent with the zoning in the area. The lady he

represented was a lady whose property was bigger than Dr. Chases' property, so he asked they continue that zoning up to 1046 Islington Street. He clarified that he was talking about the white house, the two parcels up to the bridge.

The chair called second time speakers:

Jerry Zellin of 70 Kensington Road thanked the Board and the Planning Department for their work. He noted that he did not have a redline version of the amendments being proposed showing the changes being made to the existing ordinance. It was hard for a citizen to identify every change to understand it in context. It would be helpful to see all the language being changed from the existing ordinance. He asked that the Planning Department break these amendments into separate timetables and separate pieces. The limits on the size of commercial space Downtown had nothing to do with the West End, but it was included in this ordinance. He preferred a 10,000 sf limit. He said the building footprint limits seemed to be the same as Downtown and feared that the limits being proposed threatened the Downtown. He said there was a historic district ordinance and new buildings should be compatible. The scale of the areas should be preserved. The city was pedestrian friendly, and this should be preserved. He was concerned with big footprint limits for parking if they were to allow big buildings in the name of parking. He said the favorite buildings were like anchors lining State Street or Congress Street. Strings of buildings this tall would not be preferable. He referred to footprint limits on page 1 of his handout and talked about the sizes of building footprints of the buildings along State Street. The largest was the Rockingham hotel, the banks and the new buildings near the Memorial Bridge. The upper limit was 11,000 sf, and the new amendments would allow 15,000 sf and 30,000 sf if onsite structured parking were included. He said the bank lots along State Street would probably be developed.

Rick Beckstead of 1395 Islington Street said a project they worked on for over two years was a favorite building for a lot of reasons. Old Port Traders was the building, and people reacted positively to this building.

The Chair called third time speakers.

Jerry Zellin noted page 2 of his handout referring to bank lots along State Street. The People's United Bank lot was 28,000 sf. The proposed zoning amendment would allow the People's United Bank to fill the lot with a single building. It would allow the building to rise to 40 feet. He said they had the ability to create models based on the proposed ordinance and superimpose them on the vacant lots or lots that have buildings that could be demolished. He said they would be able to determine if the height, weight and depth would be compatible with the neighboring buildings. He said they were stewards of this special city.

Kim Rogers of 579 Sagamore Avenue thanked the Board and the Planning Department and hoped this moved forward.

Chairman Ricci asked the Board if they should close the public hearing or continue, and Mr. Gladhill said that with such a large ordinance they can always make improvements, but there was a point to bring it to a close. He thought it was a good ordinance and was ready to vote on it. Extending the

ordinance by two lots should have more conversation. Vice Chairman Moreau was ready to move on and Ms. Perkins agreed, saying the public had provided extensive input.

Mr. Allen commented that Mr. Cracknell could respond to Mr. Zellin's comments. Chairman Ricci said if they could make a recommendation that night then they can hear from Mr. Cracknell. All agreed they should vote that night.

Mr. Cracknell responding to Mr. Zellin said that the maximum building footprint was a response to a concern about very large buildings. Many of the numbers on the handout were favorites of many people. It was about recognizing first that a building be defined. The Merchants Row was one building with firewalls between it, which was built all at once, but there were others. He said there were individual ones with and without firewalls which were all under the existing ordinance. It may look like they were proposing the same number on all districts, but they looked at the range of successful buildings, and identified the types of buildings that people loved in Portsmouth, so there was no need for 3D models. He said they did not want to require developers to get a variance in the Downtown with or without parking. What made a building successful was the design of the building, and not just the numbers. This was about recognizing that they had a loophole that they could create very big masses using firewalls. A hill type design was not the intent of the Downtown area of Portsmouth. The numbers put forward were a compromise. He added they would need some structured parking in the West End in order to make the West End successful. We are trying to make the code closer to what the shared vision was.

The Chair said that he appreciated the input they receive from the public, he appreciated the time that people spent watching the meetings on television, and thanked all. He closed the public hearing.

Vice Chairman Moreau asked if they as Planning Board have a right to negotiate to have the ability to stipulate the number of years that a residence would remain as workforce housing. Chairman Ricci said it is something that should be run by the Legal Department. Ms. Perkins said it was always helpful to include minimum and maximum parameters so they could be objective. Mr. Taintor said that the definition simply referred to long term affordability, so they should come up with something objective. Chairman Ricci reiterated that it should go through the Legal Department.

Mr. Gladhill asked the staff about the two lots, why they had not been included in the first place, and he asked if they should be included. Mr. Taintor answered the line was determined by the end of business use, and if the line was extended, then they did not conform to use. The house of Mr. Weeks' client would have to be a row house if it was to be used as residential. Mr. Taintor said they felt it was commercializing existing residential areas. Mr. Gladhill said he would not be in favor of extending it the two lots for zoning.

Mr. Gladhill said he liked the workforce housing explanation by Mr. Cracknell and the ability of going up to 70 feet by providing both workforce housing and open community space.

Vice Chairman Moreau made a motion to recommend approval to the City Council of the proposed Zoning Amendments as presented at the April 21, 2016 Planning Board Meeting. Mr. Gladhill seconded the motion.

DISCUSSION:

Mr. Taintor said that for clarification that would be under item A in the Public Hearing Notice so where it says delete the existing 5A and replace it with the new Article 5A, we would adjust that to say “reflecting the version given to the Planning Board on April 21, 2016” and the versions that went to the Planning Board for the Work Session on April 14, 2016.

Ms. Moreau stated they would add the comment of seeking the addition to the workforce housing after speaking to the Legal Department.

Ms. Berna said there was the issue of the lots being changed to GRC. Mr. Allen asked if they could include, when it went to the City Council, that it have the adjustment for the footnote for the Civic space, and Ms. Berna added the definition of the workforce housing.

The motion to recommend approval to the City Council of the proposed Zoning Amendments as presented at the April 21, 2016 Planning Board Meeting passed unanimously.

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B. The application of the **Scott Mitchell, Owner, and Meredith Village Savings Bank, Applicant**, for property located at **2839 Lafayette Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for the demolition of two existing buildings and the construction of a proposed 70’ x 46’ bank building with drive-thru, with 4,010 ± s.f. of impact to the wetland buffer. Said property was shown on Assessor Map 286 as Lots 18 & 19 and lie within the Gateway (G) District. (This application was continued from the March 17, 2016 Planning Board Meeting.)

The Chair read the notice into the record.

Attorney Pelech stated that it must be continued as they were in front of the Conservation Commission, and they needed to come back to the Commission with requested changes. He said they hoped to come back to the May Planning Board meeting.

Vice Chairman Moreau moved they postpone the application until the May 19, 2016 meeting, and Mr. Legg seconded.

The motion to postpone the Conditional Use Permit application 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 would be deemed waived.*

A. The request of Maplewood Ridge, LLC, to re-zone 678 Maplewood Avenue and the adjacent vacant parcel from the Single Residence B (SRB) District to the Business (B) District.

The Chair read the notice into the record.

Mr. Taintor said he did not write a new memo, but it was the same request that was before the Board in March 2013, so he gave them an excerpt of his staff memo which showed dimensional regulations for the SRB and B districts. He said he also gave them an excerpt of a zoning map showing the zoning districts around it.

SPEAKING TO THE APPLICATION

Joseph Russell said he was referred by the City Council for this request for a small extension to be rezoned. He said this was before the Planning Board the previous year, but the current request was smaller in scope and was for two parcels on Maplewood Avenue. They would develop it for residential use, and the inclusion of workforce housing and micro units was intended. He referred to materials that showed what was envisioned. Workforce housing would be firmed up for 20 years, and the applicant was strongly invested in the City and the need for workforce housing. Dense development was the way forward and was the future for planning for the City, and workforce housing, which was sorely needed in the City, was economically and environmentally efficient. It would allow people currently priced out of Portsmouth to be contributing members of the City. The site was tailor made for this development. This was the sole SRB lot on Maplewood Avenue. The impact of the requested rezoning should be minimal due to buffers surrounding the lot. He said that at the Board of Adjustment meeting, there was opposition from some of the landowners in the area which was typical NIMBY. But this was not an extension of the B-zone toward these landowners. It was going away from them. Some might call this spot zoning, but they disagreed and call it smart planning. This was the only workforce housing development in front of the city boards right now, and they request the Planning Board recommend approval to the City Council.

Ms. Perkins asked about mitigating traffic, and Mr. Russell said there was a Wildcat bus route. He said there would be planned work on Maplewood Avenue that would include bike lanes and provide access to Downtown. There should be no impact from a transportation point of view, and the existing infrastructure would support this development.

The Chair opened the floor for public hearing.

Rick Beckstead of 1395 Islington Street said this was spot zoning. The attorney for the applicant talked about NIMBYs, but this was an entire neighborhood, not NIMBYs. These were the people that lived there now, and it was all single family homes. To change this, would be spot zoning according to state regulations. This was 20+ units and they would have an impact on the neighborhood.

Ed Miller of 5 Central Avenue said he lived across from the property and said that would make him a NIMBY. He said he was not against having things in his backyard, but he was against this project. He wrote a letter to the Board that listed his concerns on this. There needed to be some qualifications made. Yes there was a business zone across the street and nearby, but the point needed to be made and the Board needed to look at this parcel, because the uses there now were low intensity type uses. The

bus company and the electric company have their peak times, but they were slow and quiet. The Oddfellows met once a month. The barber shop also was a low use, but that property transitioned back to residential use.

Jeff Kisiel of 21 Wallace Road suggested they ask young people about housing. He said they wanted to live in Portsmouth but were getting squeezed out. Workforce housing would promote diversity. In addressing concerns, he did not believe the character of the neighborhood would be impacted. He said there were existing businesses, and this would not have a significant impact on the neighborhood. There would be no evidence of decreased property value. He said they cannot keep kicking this opportunity down the road, and this was a property with a purpose. He encouraged a positive recommendation on this.

Mr. Emerson of 56 Cass Street said he supported the zoning request because of the workforce housing. He has struggled to find an affordable apartment in the eight years that he's lived in Portsmouth. He felt fortunate having found his current apartment, but his lease ran out, and the landlord said the rent was going up, so he cannot afford to stay there. He now had to find a new place to live and that was frustrating. He did not have faith in the process of looking for an apartment, and this has caused him and his friends to feel they were being forced out of Portsmouth. He said they make up a large part of the community; that they were the hospitality workers, they were the musicians, they were the contractors, but they felt they were not being allowed to stay in Portsmouth because they were not uber rich.

Steve Munton of 1108 Maplewood Avenue said he was not against development, but was not in favor of this in the way it was configured. Workforce housing would be only 25% of this project. He stated a need for workforce housing. He said he read the engineer report, but that did not say there would be minimal impact. If this was smaller scale, but this was only 1.5 acres.

Steve Marchand of 310 FW Hartford Drive said that parking has always been an issue and so has workforce housing. He was a city councilor in the past. There was good intent, but they were not able to do a lot for a variety of reasons. None of the new development going up was workforce housing, and there was limited supply and high demand on this kind of project, but this was not the silver bullet. He said they have eliminated projects that would have helped a little bit. There were some units that would be at market rate. Even someone young would have a shot at living there based on where it would be. No project was perfect, but this was a great opportunity to move forward to where people wanted the City to go, and that they've heard for 15 years.

Ruth Griffin spoke in favor of the people that wanted to live in Portsmouth. She said they were not supplying housing for the right people. The workforce housing was the right thing, and said that her daughter lived in NYC in one room. In that room, she had her living room, bathroom, closets, and kitchen. Everything she needed, and what was wrong with that if she had a good quality of life. She said they should not be denying the building of all different types of workforce housing. There were a lot people that did not want a large house and yard, she said they did not need any higher rise condos that were out of the reach of the people of the community of Portsmouth. She stated she was in favor of this.

Jeremiah Johnson of 4 Fairview Drive said he thought certain businesses would be allowed in that space, and what was there today had nothing to do with what was before the BOA previously. Currently there were some units in town that might be considered workforce housing. Workforce housing rentals in the City were at \$1,160 was still expensive. The market rate must be high.

Kim Rogers of 579 Sagamore Avenue was a board president of workforce housing, and he saw this as an opportunity for much needed workforce housing in the city. He said the city provides incentives to build workforce housing, and here was a developer providing incentives to the City in order to build workforce housing. Maybe the incentives for the Downtown should be extended to the business districts as well. That might be your recommendation, he suggested.

Diana Frye of 217 Myrtle Avenue said an historical point was being missed. This was brought forward years ago, and it was determined that the scope should be made smaller. The scale was too big for this neighborhood. To say neighbors were against workforce housing was incorrect. It was the scale. To rezone for a spot was a waste of taxpayer money

Tim of 916 Maplewood Avenue said this was a spot zoning change which was not allowed. Only three units going in would be workforce housing, and guaranteeing it as such for 20 years was a drop in the bucket. This would change the neighborhood for only three units of workforce housing. This was way out of scale for the neighborhood. He said the people were pulling heartstrings.

Lenore Bronson of 828 Woodbury Avenue stated she was concerned about the traffic and the traffic on Maplewood Avenue. She has lived on her property for 30 years, and 15 years ago the MLA book said there was a small studio apartment in her home that she could rent. They used the apartment for family then rented it for a low rent. She was then sued by the City of Portsmouth because she had an apartment. She went to Court and found the paperwork in the archives. She found the MLS paperwork that showed the apartment had been grandfathered. She had to pay \$5,000 to have her garage roof reconstructed to permit the apartment. She was told she could not have a variance from the BOA. The current mayor who was on the BOA then, was appalled that she had an apartment. We were SRB, and not permitted to have apartments, but ours had been grandfathered, she said. To get an Occupancy Certificate, she needed an inspection from top to bottom before getting the certificate. It should not be that easy to change zoning. She did not understand how that could be permitted legally. The only thing permitted now by zoning was a single family residence. Under business zoning not even a townhouse would be permitted. She understood the plight of young people, but can't they live downtown, and aren't there enough buildings downtown that young people can live in, she asked. She stated she was against this, and it was not in the interest of the neighborhood.

Christine of 898 Maplewood Avenue said she was against changing the zoning to the business district. These plots of land were right behind New Franklin School. She said her two daughters went to school there. Changing that zoning would make more traffic go towards the school, which was not what they wanted. Kids as young as five were walking to school every day.

Mark Gianniny of 860 Maplewood Avenue spoke against the project. The application was about changing the zoning. He asked about putting stipulations on the project if it went forward. The neighborhood was primarily residential and this would change the fabric of the neighborhood.

Paul Mannle of 1490 Islington Street said this was Déjà vu. This was the same request the Planning Board rejected months ago. It was slightly smaller, but essentially the same project. What has changed, he asked. Not much, he said. Just like three years ago, it was just a discussion. He talked to Attorney Sullivan who said there would be nothing binding on the applicant to do anything. Contract zoning would be illegal. All the reasons for not supporting zoning changes then still were true today.

The Chair called second time speakers.

Ed Miller of 5 Central Avenue said he was not a nimby, and he was not against people trying to live and work in Portsmouth. He was age 40 before he was able to purchase his home in Portsmouth. This was about maximizing profit for this developer. This lot was perfect for building two single family houses. When this went before the BOA the members admitted this would be spot zoning if permitted. This was perfect for single family house development. The intensity of what the developer was trying to do to that land was very out of character for that neighborhood. He said they should be about building neighborhoods. There were houses that have been transformed into apartments that young people live in, and people were able to get housing without having to have a building built on such a small lot. There were at least 78 houses alongside Route 95. He said they did not need to transform this property into something they did not need. This was not the rich side of town, they were affordable. They may not be affordable to every 25 year old that wanted to live there, but they were affordable. He said if they changed this zoning to business, then anything would go and this would have a negative impact on the families already there. He asked they consider the entirety of the neighborhood.

Steve Marchand of 310 FW Hartford Drive read a quote, and he asked they note that it was about the process not just the project. He said that across the street was a residential area. If after all this conversation, if something different was done, anything else the developer would build would be met with lot of opposition

Jeff Kisiel of 21 Wallace Road said that 3-6 was the previous vote, noting that it was not unanimous against. He commented there were a lot of neighbors that night, but no an actual abutter was present. There was only one abutter, and if they were really concerned they would have attended.

Rick Beckstead 1395 Islington Street said Sweaterville was the building previously referred to. He reiterated that this was spot zoning. It was well intentioned, agreed, and that while everyone wanted to be in Portsmouth, when their time came, their time came to be able to be there. He asked that the Board stand by what their actions were three years ago.

Mr. Emerson of 56 Cass Street said he cannot maintain the cost of living in Portsmouth. If that problem persisted, then they cannot stay. He said they would like the opportunity to be able to move into an affordable area and was near Downtown. He suggested this project be viewed and accepted in a positive way to open the way for more workforce housing and other projects. He hoped that they would look at this as a positive thing, and not something that would change the neighborhood.

Tim of Maplewood Avenue said he would like a bigger house and he would like it cheaper. We would all like that. But they were not talking about that. They were talking about whether they were going to

spot zone so these guys can make a profit in a quick time. He said his kids walked to school. They had a neighborhood and it should be maintained.

Lenore Bronson of 828 Woodbury Avenue read an excerpt from zoning ordinance she had and stated there were six townhouses being proposed.

The Chair called for third time speakers.

Ed Miller of 5 Central Avenue said the earlier presentation about the West End Character Based Zoning made him think there was a lot of deliberate planning and he thanked the Planning Board to have the endurance to sort through all the issues and taking the time to do it right. Here, he said, they were talking about doing something that was not part of a deliberate plan. Deliberate was trying to sustain neighborhoods. They were trying to tell the Planning Board that they were preserving their neighborhood. The residents all purchased their homes based on what the zoning looked like when they made the purchase. There were plenty of places in the City that a high density project like this would make sense, but not here. On a nearby lot where there were six townhouses there were 18 parking spaces. He said if this received a positive recommendation, they would be giving the developer carte blanche. He asked why they would do that to the residents. Why would they try to disrupt their neighborhood.

Paul Mannle of 1490 Islington Street said people that call other people NIMBYs were the people that never had their back yard threatened. He would love to live Downtown. He did a Zillow search a week ago and said that for \$280,000 there were a number of units at that price.

Mr. Russell said they were asking for a zoning amendment to business. Next, they would come back for site plan review and would have to go back to the BOA. This was the first step in a long process. It showed the commitment to workforce housing and to the City of Portsmouth. If this was about maximizing profits, the developer would build a house and move on to elsewhere.

Christine of 898 Maplewood Avenue said please do not put a business next to the school.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Gladhill said they heard a lot from the public, they had a stack of letters, and they appreciated all the input. All that spoke against spoke about the change to business use. All those that spoke in favor only spoke about workforce housing, but that was only one aspect to this project. He asked if a business zone and all that would encompass correct for this neighborhood. There was a school nearby. He did not support changing the zoning that night.

Mr. Leduc said he agreed with Mr. Gladhill. He said he was not in favor of it either primarily because the zone change did not meet the criteria. The project seemed to have a lot of flaws regarding the size. He was concerned with the size not being appropriate for the neighborhood. The height of the building would be a concern, and he was surprised no one had mentioned that yet. The electric contractor was

more of an outlier in that neighborhood. This was more of a residential neighborhood and he did not see any reason to change the zoning based on what was provided.

Vice Chairman Moreau said she was a huge proponent for workforce housing and they need more in the City, but they needed to be thoughtful about every change in the city. She said they were just talking about the Master Plan in the Work Session, and they talked about rezoning many parcels but they always stopped and wanted to do the research first. She said she considered this spot zoning and they would need a vision plan like what has been done for other areas before rezoning. She was against this rezoning.

Ms. Perkins would be in favor of rezoning based on the record in front of them. She saw this as a local developer trying to be creative. She was glad to see all the folks here to speak, but she did not see additional residents threatening an existing neighborhood. The market wanted smaller units, and building more single family homes did not address that issue. Did the zoning meet current market needs, she asked and she also wanted to thank all that attended.

Mr. Legg said he supported the applicant. While he was sensitive to the neighborhood, he was not convinced that adding a different type of residence would impact the neighborhood or the school. As a former school board member, he has always been sensitive to impacts to schools. He said he worried that if it was zoned as business there would be no guarantee that this project would be executed as presented, and he did not know how to square that. He asked for clarification on what was spot zoning, and if they approved this to a business zone would that be spot zoning.

Mr. Taintor said it depended on a number of factors including the zoning of surrounding properties, and the relationship of the zoning to the City's Master Plan. He read from a memo, that stated when an area was singled out from surrounding land and treated differently and cannot be justified based on health, safety, morals or general welfare of the community then it was spot zoning. On the other hand, just because a property was small and the zoning request was made by a single owner did not make it a case of spot zoning if there was a public need. Mr. Taintor's technical analysis was that this was not spot zoning, but he did not necessarily support this request. He wanted to make it clear, that if this were rezoned to business, there must be a business use on the lot. There would have to be one third of the floor area for business use. He referred to his March 2013 memo on the same topic. He said the maximum buildout would be 28 dwelling units and 11,000 sf of commercial space.

Ms. Record said she would not be in support of this. They had spent a lot of time listening to Portsmouth Listens, so they needed to listen to the residents here.

Mr. Gladhill said by right they could potentially have a performance facility up to 500 people, for example. High intensity uses would be allowed.

Mr. Allen looked at the zoning map of the area and said there was a good chunk of business zoning in that area already. It almost made sense because of the embankment of I-95. That said, it did seem that the without a guarantee of what would go in there, and he did not support this project.

Mr. Moore said using the language as edge parcel, or infill to create affordable housing they had an opportunity here to do something that was requested by the neighborhood which was enhance and

protect, and that may be a housing reuse in the area, and that may not be achieved by this. Residential uses would protect and buffer the neighborhood. There may be another way that was less risky than this.

Mr. Taintor asked the Board to consider, referring to the colored zoning map. This was left over from when 95 ran through the neighborhood. Between Cutts and Central, those were different zoning districts, and on the north side of Maplewood Avenue. Only 1 lot was large enough to qualify for SRB. The others were too small and were GRA lots. From a planning point of view, those 10 lots should be zoned to residence, not business. With the SRB you could get four lots on this parcel of the night's discussion, but really only one, because there is only enough frontage for one lot. If it were zoned to GRA, they could get three or four duplexes, theoretically and that was getting closer to what the density was of the surrounding neighborhood, as opposed to 28 units which was what they would get with a business district. This may be right for GRA, they would get up to 13 units with three affordable units and that would be a compromise between one unit and 28 units. It would require a Conditional Use Permit from the Planning Board which would give the Planning Board very strong control. That could be considered in the future by the applicant. They would need to work with the neighbors, but it would make four of the eight lots across the street conform where they were non-conforming now. It would bring everything closer into the Master Plan.

Mr. Leduc said they would also want to consider the properties not shown on the zoning map south going down Emery Street. The current zoning of the property did not prohibit development, just this particular type of development. Mr. Taintor clarified there was not enough frontage now so they could only do one dwelling.

Vice Chairman Moreau said that reinforced the need for them to look at the zoning of the whole neighborhood and not just the parcels. The GRA might be a good solution.

Ms. Perkins said she was interested in what Mr. Taintor was proposing. It seemed like a city trying to work with this. She said they needed to consider all the ramifications and that the applicant also have feedback on the direction the City wanted to go in. She asked if there was anything they can do that night or if that was a separate conversation. Mr. Taintor said the Board could make a recommendation on what was actually appropriate, for instance they did not support this, but they supported something less. The process would not keep moving, the process would start again.

Chairman Ricci was concerned that this would be approving a business zone. He voiced concern about 28 units from a traffic study standpoint, and what would happen when the kids were going to and from school. He said that while he wanted workforce housing, he was not able to support a blank business use. It would be a disservice to the neighborhood to give a blank business use. There was a better project they can put on this, if the applicant met with the neighborhood.

Mr. Legg said he would not support the change to a business zone and encouraged the Board to look at a General Residence A. If they could move it to 10 or 13 units, that would be more suitable. He also stated the need affordable housing, not just workforce housing, and he suggested they go the way of GRA.

Chairman Ricci stated they should look at the whole area and not look at one lot zoning. He said the Planning Board has always taken public comment and public input.

Mr. Gladhill moved to recommend the City Council not rezone the parcels to the Business District. Vice Chairman Moreau seconded and the motion passed unanimously.

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B. Proposed Amendment to the Zoning Ordinance establishing a new Transportation Corridor District and amending the Zoning Map to rezone existing railroad right-of-ways to the new district.

The Chair read the notice into the record.

SPEAKING TO THE APPLICATION

Mr. Taintor said this was a measure that was taken in Hampton and North Hampton. He said they proposed to rezone that corridor, and there were four pieces to this: create district; create uses; define terms; include the parcels in the new district.

Vice Chairman Moreau asked for clarification on the area around the rail line. Mr. Taintor said Item D, the right of way varied in width. They should make sure the corridor did not get eroded away.

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

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to recommend the Zoning Ordinance for the Transportation Corridor District to the City Council, and Mr. Legg seconded. The motion passed unanimously.

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C. The application of **Borthwick Forest, LLC, KS Borthwick, LLC, Atlantic Star Communications, HCA Realty, Inc., and Jackson Gray Condominium Association, Owners**, for property located **off Islington Street and Borthwick Avenue**, requesting Preliminary and Final Subdivision Approval as follows:

1. To consolidate the following four lots:
 - a. Lot 25 as shown on Assessor Map 241 having an area of 22.807 ± acres,
 - b. Lot 26 as shown on Assessor Map 241 having an area of 4.927 ± acres,
 - c. Lot 113 as shown on Assessor Map 233 having an area of 13.815 ± acres,
 - d. Lot 112 as shown on Assessor Map 233 having an area of 0.732 ± acre;
 and to re-subdivide the consolidated lot into two new lots and a public right-of-way as follows:
 - a. Proposed Lot “25/26” having an area of 25.572 ± acres and 970.58 ± feet of continuous frontage on a proposed street,

- b. Proposed Lot "112/113" having an area of 15.262 ± acres and 889.92 ± feet of continuous frontage on a proposed street,
 - c. Proposed municipal land parcel having an area of 0.089 ± acres and 89.93 ± feet of continuous street frontage, and
 - d. Proposed City right-of-way having an area of 1.359 ± acres.
2. For a Lot Line Revision, to create a public right-of-way, as follows:
- a. Lot 2-2 as shown on Assessor Map 240 decreasing in area from 4.978 ± acres to 4.596± acres with 571.58 feet of continuous frontage on Borthwick Avenue,
 - b. Lot 7-4A as shown on Assessor Map 234 decreasing in area from 9.085 ± acres to 8.583 ± acres with 1,127.14 ± feet of continuous frontage on Borthwick Avenue,
 - c. Proposed City right-of-way having an area of 0.833 ± acre.
3. For a Lot Line Revision, to create a public right-of-way, as follows:
- a. Lot 114 as shown on Assessor Map 233 decreasing in area from .404 ± acres to 0.179 ± acre, with 84.64 ± feet of continuous frontage on Islington Street,
 - b. Proposed City right-of-way having an area of 0.225 ± acre.

The application also proposes to relocate and dedicate to the City as public rights-of-way two separate 60-foot rights-of-way across land owned by the Boston & Maine Railroad, which in conjunction with the above subdivision and lot line revisions would result in a new City street between Borthwick Avenue and Islington Street with a total length of 1,826 ± lf and a total right-of-way area of 2.764 ± acres.

Said properties were located in the Office Research (OR) District which requires a minimum lot size of 3 acres and 300' of continuous street frontage and Lot 114 as shown on Assessor Map 233 was in the Single Residence B (SRB) District which requires a minimum lot size of 15,000 s.f. and 100' of continuous street frontage.

The Chair read the notice into record.

Mr. Gladhill moved to postpone the application until the May 19, 2016 meeting. Mr. Gamester seconded, and the motion passed unanimously.

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D. The application of **HCA Realty, Inc., Owner**, for property located **off Borthwick Avenue**, and **Jackson Gray Condominium Association**, for property located at **330 Borthwick Avenue**, requesting Site Plan Approval for the reconfiguration of an existing parking area and construction of a roadway, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said properties were shown on Assessor Map 234 as Lot 7-4-A and Assessor Map 240 as Lot 2-2 and lie within the Office Research (OR) District

The Chair read the notice into the record.

Mr. Gamester moved to postpone the application until the May 19, 2016 meeting. Mr. Gladhill seconded and the motion passed unanimously.

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E. The application of **2422 Lafayette Road Associates, LLC, Owner**, for property located at **2454 Lafayette Road (Southgate Plaza)**, requesting a Gateway Planned Development Conditional Use Permit for the partial demolition of two existing retail buildings, the construction of a proposed 4-story, 94-unit residential building with a footprint of 28,700 ± s.f. and gross floor area of 112,550 ± s.f., the construction of two 1-story 2,000 ± s.f. restaurants and a 1-story 4,000 ± s.f. restaurant, and reconfiguration of the existing parking area, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property was shown on Assessor Map 273 as Lot 3 and lies within the Gateway (G) District.

F. The application of **2422 Lafayette Road Associates, LLC, Owner**, for property located at **2454 Lafayette Road (Southgate Plaza)**, requesting Site Plan Approval for the partial demolition of two existing retail buildings, the construction of a proposed 4-story, 94-unit residential building with a footprint of 28,700 ± s.f. and gross floor area of 112,550 ± s.f., the construction of two 1-story 2,000 ± s.f. restaurants and a 1-story 4,000 ± s.f. restaurant, and reconfiguration of the existing parking area, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property was shown on Assessor Map 273 as Lot 3 and lies within the Gateway (G) District.

Vice Chairman Moreau moved to hear both applications together. Mr. Gladhill seconded, and the motion passed unanimously.

The Chair read the notices into the record.

SPEAKING TO THE APPLICATIONS

Josh Levy from Waterstone said they bought Old Southgate Plaza in November 2006. They appreciate the Planning Board’s working with them along the way. They had just completed the Technical Advisory Committee (TAC) process, and they made a lot of changes based on those comments. He said the rentals would be market rate in a location that would be cheaper than downtown. He asked for support and looked for input.

Patrick Crimmins with Tighe & Bond said that also present were Dave Snell, Jason Cohen and Steve Pernaw the traffic engineer. Mr. Crimmins spoke about the history of the project and the process they have gone through. They met with the TAC in 2015, they took those comments and made the changes. He showed the existing Southgate plaza. The Water Country driveway was on the parcel, but Water Country had an easement. They would remove two existing spaces on the site, and one would result in an access drive. The proposed project would include three restaurants and a four story, 96 unit dwelling. Mr. Crimmins briefly described the access, the landscaping, and utilities.

He said they were looking for Site plan approval and a conditional use permit. They incorporated what they believed was the spirit of the Gateway Development Plan into this project. He said there was an eight page report in their packets, and they tried to show how they had addressed the criteria.

At the front of the plaza would be two restaurants. In between would be green space area. Based on concerns from staff, they created a barrier alongside the open space and directional signage. This was a change that came out of the TAC process. They put in traffic calming, and they would have additional

pavers and striping to improve circulation. The restaurant trash would be in enclosures inside. In the parking area they created improvements for pedestrian access.

This would be a pedestrian oriented site. There would be removable bollards for access for emergency vehicles. They incorporated signage for residents driving through the site. There were 150 designated parking spots for the residents and they would be numbered. Based on the TAC review, they have improved traffic circulation and changed some parking to green space. There were significant landscaping improvements, and some would screen the buildings.

The building was going in what was now a rain garden. They would put infiltration underground to replace that rain garden loss.

They would construct a 10 foot wide multi-use path along Constitution Avenue, and they would create a bus pull off. The applicant was planning to provide a \$10,000 contribution to the City of Portsmouth for future storm water study. He said that concluded the overview of the site.

Mr. Crimmins said they were seeking seven waivers from the GPD and four of them were because of the existing non-conformities in the plaza itself, and he wanted them listed in the record:

The following four waivers they sought were due to existing non-conformities in the plaza:

- 1) front yard setback along Lafayette Road was supposed to be 90 feet maximum, they had 151 feet because of the existing buildings;
- 2) For Nonresidential buildings not all entrances would be facing the primary street because that was an existing non-conformity.
- 3) Principal building having one entrance that did not require access through the parking lot, but they would need to access the buildings through the parking lot due to existing configurations of the buildings.
- 4) Building style not being associated with corporate chains, but the existing plaza included existing retail chain stores now.

The additional three waivers:

- 1) On building setback from Constitution Avenue where 45 was required, they proposed 51 feet, 7 inches. He said that Mr. Snell would go through and show where they did not conform.
- 2) On LEED-ND certification there were two parts to that requirement. This was a challenging site to achieve because of its existing location. But they were meeting part of the requirement. It would be LEED-NC certifiable and Jason would go through that.
- 3) Front parking setback along Constitution Avenue. They proposed to put 10 additional spaces within the 50 foot setback to support the residential building.

Mr. Crimmins read the 10 stipulations from the TAC April 5, 2016 Site Plan Approval, and he requested that the stipulations and their responses be placed in the record.

Stipulations from TAC April 5, 2016 Site Plan Approval:

- 1) “The drainage design shall be revised to bring the site into compliance with current design standards, including removing the daisy-chained catch basins or converting them to manholes and adding new catch basins. The final drainage design shall be reviewed and approved by DPW.
- 2) The final design of sewers and water mains shall be approved by the City Engineer.
- 3) The final fire pump system shall be approved by the City Engineer and the Fire Department.
- 4) A revised plan of entire site showing all hydrants shall be submitted for approval by the Deputy Fire Chief.
- 5) The final design of the electric infrastructure shall be reviewed by Eversource.
- 6) The three spaces adjacent to the diner (including two handicapped spaces) that back into the speed table and the two parking spaces that back into the intersection at the 99 Restaurant shall be removed or reconfigured to avoid hazards at these locations.
- 7) The two crosswalks at the front of the site shall be moved to the intersection with the main site driveway, in front of the stop bars.
- 8) The traffic study shall be revised to address new traffic movements and volumes on the Water Country access drive related to the three driveways, including all back-up data.
- 9) The applicant shall conduct pre- and post-construction bicycle and pedestrian counts in consultation with the Transportation Planner.
- 10) Sheet A1.22 (Roof Plan–Building Heights) shall be revised to include maximum allowed building height at each data point so that the magnitude of the requested waiver can be determined.”

Tighe & Bond responses to the above stipulations from TAC April 5, 2016 Site Plan Approval:

- 1) Mr. Crimmins said they were providing a sustainable drainage design. There were catch basins and there would be an underground infiltration system. They proposed storm water treatment units at the ends of the lines.
- 2) He said they had no issue with the final design of sewers and water mains being approved by the City Engineer.
- 3) He said there was a fire pump proposed which would be constructed in the existing residential building, but it would service the entire plaza. There was currently a water main loop system that went through the entire parking area, and they constructed a new main up through Water Country Drive to tie in to and improve that. They have been working with the Fire Department for several years, and Mr. Crimmins said they would provide a fire suppression system and construct it by July. They had forwarded the final engineering designs to the City Engineer that day.
- 4) They agreed to the stipulation to submit a plan showing all hydrants. He said the hydrants would show up on the site plans and all utility plans.
- 5) He said they were working with Eversource on the final design of the electric infrastructure, and he showed where some lines would be brought underground. He highlighted the instances where transformers were being relocated.
- 6) They have removed the three parking spaces in question.

- 7) They have provided tip down ramps on the wall section to provide a connection to the green area, and they have revised the crosswalks so they were now at the desired intersection.
- 8) He said Steve Pernaw was present and they have provided a full traffic study, with the inclusion of three addendums that Mr. Pernaw had prepared, and he said Mr. Pernaw would give an update on that study.
- 9) Mr. Crimmins said they agreed to conduct pre- and post-construction bicycle and pedestrian counts in consultation with the Transportation Planner.
- 10) He said they have provided that information regarding building heights.

Mr. Crimmins turned the floor over to Dave Snell from PCA.

Mr. Snell showed the renderings of the parks, residential buildings. He said the parks would be able to host events and give life to the whole place. He showed an aerial and ground level views. In the smaller green space was a quieter area which created a different scale there by choice within the complex.

From the aerial view of the residential buildings, he showed how the long end followed Constitution Avenue. All units on the ground floor would have their own terraces, and he showed the lobby and amenity space. He showed the building in proximity to Big Lots and the connection into the retail plaza from the residential buildings.

He said there would be a guardrail that was an architectural feature. The overall design inspiration was pulled from the white birch tree, with the whites the greys and the woods. They broke up the façade, introduced balconies and have added new park space, which would be a great amenity for the whole building.

Jason Cohen from PCA said they were requesting a waiver from the LEED-ND requirement, but they would commit to making it LEED certifiable.

Steven Pernaw, who prepared the traffic study, said they started with a scope meeting in August 2015. They did counts at Route 1 for morning, evening and Saturdays and did projections to 2016 and 2026. He said that 94 units would generate 58 trips in and out. The morning and Saturday estimates were lower. The impact on Route 1 would be a low 1-2%. He said they looked at signal operations without the development, which was a Level Service P. And with the development constructed, it would still be a Level Service P.

Based on TAC meetings, they looked at the Water Country driveway. They counted on a Saturday, midday peak hour period, and they looked at a Water Country peak hour of 5:00 to 6:00 pm leaving that driveway. He said there would be no change in level of service. He said the important finding was there were no modifications needed to the signal timing or sequencing. At the intersection of Constitution and Water Country, one approach lane would be sufficient.

Mr. Gladhill asked about the sidewalk that was constructed around the building, and if it would be a concrete pad. He asked if they would have to break ground, and he said it was near a cemetery. He said that if it were within 25 feet of a cemetery, they could not break ground by state law. Mr. Crimmins said they would look at that.

Mr. Taintor asked about the waiver for the retail chain design. He asked if they can assume the waiver would only be for those existing stores, and not apply to new buildings on the site. Mr. Levy said the rationale was that there were existing chain stores. The minimum waiver necessary was not to create new chain store designs.

Vice Chairman Moreau asked if these would be rental units, and Mr. Levy answered yes. Vice Chairman Moreau asked about Bus Route 41. Mr. Levy said it went Downtown, and the route would not change. Vice Chairman Moreau asked if the parking behind the Big Lot would only be for loading, and the answer was yes.

Vice Chairman Moreau asked about the storage units next to Big Lot. Mr. Levy described the internal storage containers. There would be stairs to get to the upper level, and the entire first floor would be ADA compliant.

The Chair opened the floor for public hearing.

John Pratt of Granite Bank said they owned the 1.5 acres next to Southgate, and they fully supported the application. He said the housing was needed, and the design would help traffic flow. These 94 units would have 130 residents. He said this was a great plan and thought it was very thorough. He said the folks from Waterstone have been cooperative. He added that Waterstone has been supporting the community quietly.

Rick Beckstead 1595 Islington Street said he followed this application all through the TAC process. He said housing stock was a must. The study regarding the Water Country traffic amounts was a concern. The residents of the neighboring developments would be impacted. He hoped they might have an alternative to get them on West Road. Maybe the city could work with Water Country to come up with a permanent alternative connector road. Water Country was looking into dormitories for their summer help. He said he would love to see this move forward where everyone was working together.

Mr. Levy from Waterstone said this was about the community, and they appreciated the input.

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

DISCUSSION AND DECISION OF THE BOARD

Chairman Ricci said originally Water County was not supposed to have had an impact, and he was concerned to hear now there would be no impact.

They were asking for waivers and the Board had the option to grant or deny. He said the housing sounded like workforce and maybe they should ask that 10% be workforce housing, because the developer should be vested in the City. It would be great for workforce housing as the bus stop was nearby. He said he was disappointed they did not offer it before.

Vice Chairman Moreau said they must start with Conditional Use Plan Item E.

Vice Chairman Moreau moved to grant the Conditional Use Permit for the Gateway Planned Development for the project as presented to the Board, with any modifications or stipulations required by the Board. Mr. Legg seconded, and the motion passed unanimously.

Mr. Moore said this had been an interesting night in the history of zoning. This was the planning process coming full circle, with the Master Plan goals and the zoning re-write. He asked about the LEED waiver, and Mr. Taintor said one of the criteria of LEED-ND had to do with dense street network. This area did not have that, and he said it would not be achievable.

Chairman Ricci said they would address all waivers for Item F.

Vice Chairman Moreau moved and Ms. Perkins seconded to grant Site Plan Approval with the following modifications and stipulations:

Modifications of standards pursuant to Sec. 10.738.30

1. Section 10.734.20 – Front yard setback from Lafayette Road for existing 151ft setback provided where 90ft maximum is required. (existing nonconforming)
2. Section 10.734.33 – Building height of 51'-7" at 30' setback from Constitution Avenue right-of-way line, where 45 ft (1.5 x 30 ft) is allowed.
3. Section 10.735.20 – Waiver request from Item (a) where ability to attain the minimum points for LEED-ND Certification (not including prerequisites) is required but not attainable due to plaza's location and existing conditions. The project meets the requirement for Item (B) as the new residential building is LEED-NC Certifiable.
4. Section 10.736.23.1 – Front parking setback from Constitution Avenue for 10 proposed spaces for the residential building within the 50 ft setback.
5. Section 10.737.11 – Nonresidential buildings shall have one entrance facing every abutting street where the existing commercial buildings do not have all entrances facing a primary street. (existing nonconforming)
6. Section 10.737.12 – Every principal building shall have at least one entrance that does not require passage through an off-street parking lot where the existing commercial buildings require passage through an off-street parking lot. (existing nonconforming)
7. Section 10.737.23 – Building styles for businesses in the Plaza existing on the date of this approval shall not be associated with corporate chains where the existing plaza includes some retail chains. (existing nonconforming). This modification shall not apply to new businesses or buildings constructed after the date of this approval.

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

1. The final drainage design shall be reviewed and approved by DPW.
2. The final design of sewers and water mains shall be approved by the City Engineer.
3. The final fire pump system shall be approved by the City Engineer and the Fire Department.
4. The revised hydrant layout shall be approved by the Deputy Fire Chief.
5. The final design of the electric infrastructure shall be approved by Eversource.

- 6. The traffic study shall be revised to address new traffic movements and volumes on the Water Country access drive related to the three driveways, including all back-up data.
- 7. The site plan shall be reviewed for consistency with RSA 289:3 concerning construction within 25 feet of a cemetery. Any required adjustments shall be subject to the approval of the Planning Director.
- 8. Any utility or access easements necessary to implement the plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.
- 9. Sheets C-3, C-3A, C-3B, C-16, C-17 and L1.10 (site plans and landscape plans) shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department
- 10. The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City’s Legal and Planning Departments.
- 11. The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.

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

- 12. The applicant shall conduct pre- and post-construction bicycle and pedestrian counts in consultation with the Transportation Planner.

The motion passed with three opposed.

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V. OTHER BUSINESS

A. Rockingham Planning Commission Membership.

Mr. Taintor said the Commission had four members from Portsmouth: Councilor Perkins, Councilor Denton, Chairman Ricci and Mr. Moore.

Mr. Taintor said they had not followed state law, because state law dictated that the Planning Board recommends and the City Council confirms the membership. He suggested that the Planning Board vote to confirm the membership of the City Councilors who were appointed. He asked if the current Planning Board members who were representatives wished to continue, because the terms had expired. Both Chairman Ricci and Mr. Moore said they were fine with continuing membership.

Mr. Gamester moved and Mr. Gladhill seconded to confirm the current member roster and recommend the reappointment of John Ricci and David Moore. The motion passed unanimously.

B. Waterline Easement – Nimble Hill Road, Newington.

Mr. Taintor said there was a small subdivision in Newington that would be provided with water service by the City. The road would eventually become a public road. He said the City needed to accept a waterline easement over that road while construction was underway.

**Mr. Allen moved they recommend acceptance of the Waterline Easement to the City Council.
Mr. Moore seconded, and the motion passed unanimously.**

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VI. ADJOURNMENT

A motion to adjourn at 11:38 PM was made, seconded and passed unanimously.

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Respectfully Submitted,

Marian Steinke
Acting Secretary for the Planning Board

These minutes were approved at the May 19, 2016 Planning Board Meeting.