

**ACTION SHEET**

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

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

**7:00 P.M.**

**APRIL 20, 2017**

**MEMBERS PRESENT:** Dexter Legg, Chairman; Nancy Colbert-Puff, Deputy City Manager; David Moore, Assistant City Manager; Colby Gamester; Jay Leduc, Jody Record; Jeffrey Kisiel, and Jane Begala, Alternate

**ALSO PRESENT:** Mr. Taintor, Planning Director

**MEMBERS ABSENT:** Elizabeth Moreau, Vice Chairman; Rebecca Perkins, City Council Representative and Corey Clark, Alternate

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**I. DETERMINATIONS OF COMPLETENESS**

A. Subdivision

1. The application of the City of Portsmouth and Peter Happny, Owners, for property located at Rock Street Park and 66 Rock Street

Voted to determine that the application is complete according to the Subdivision Rules and Regulations and to accept it for consideration.

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**II. PUBLIC HEARINGS – OLD BUSINESS**

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

A. The application of **J&M Family Properties, LLC, Owner, and Dunkin' Donuts, c/o JFS Management Co., LLC, Applicant**, for property located at **802 Lafayette Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer for pavement and drainage improvements and onsite stormwater quality treatment, with 11,200 ± s.f. of impact to the tidal wetland buffer. Said property is shown on Assessor Map 244 as Lot 2 and lies within the Gateway (GW) District. (This application was postponed from the November 17, 2016 Planning Board Meeting.)

As a result of said consideration, the Board **granted** Conditional Use Permit Approval with the following stipulations:

1. The New England Roadside Matrix Upland Mix shown on the Landscape Plan shall be replaced with either a New England Conservation/Wildlife Mix or a New England Coastal Salt Tolerant Grass Mix.
2. Silt socks be used in place of silt fence.
3. The final NHDES approval shall be submitted to the Environmental Planner for review to ensure consistency with the Conditional Use Permit plan.
4. Maintenance as specified by the manufacturer shall be conducted on the proposed “First Defense” stormwater unit, and copies of a maintenance report shall be provided to the Environmental Planner annually.

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B. The application of **J&M Family Properties, LLC, Owner, and Dunkin’ Donuts, c/o JFS Management Co., LLC, Applicant**, for property located at **802 Lafayette Road**, requesting Amended Site Plan Approval to re-develop the parking lot for improved site and drive-through circulation, revised parking layout, new trash enclosure, drainage improvements and stormwater management, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 244 as Lot 2 and lies within the Gateway (GW) District. (This application was postponed from the November 17, 2016 Planning Board Meeting.)

As a result of said consideration, the Committee voted as follows:

- A. The Board voted to **deny** your request for a waiver from the following regulations:
  1. Sec. 2.5.4 – Site Plan Specifications and Required Exhibits and Data, item 3.(j) – Outdoor Lighting (type and placement of outdoor lighting fixtures, and photometric plan).
  2. Sec. 10.2 – Compliance with Zoning Ordinance (All projects shall comply with the outdoor lighting dark sky friendly standards provided in the Zoning Ordinance).
- B. The Board voted to **grant** Site Plan Approval with the following stipulations:
  1. The site plan shall be revised to include (a) the crosswalks shown on the sketch plan submitted at the April 20 Planning Board meeting and (b) striping to define the bypass lane where it crosses the dumpster pad, subject to any changes determined appropriate by the Traffic Engineer.
  2. The site plan shall show replacement of the existing floodlights with fixtures complying with the dark sky friendly requirements of the Zoning Ordinance.
  3. The New England Roadside Matrix Upland Mix shown on the Landscape Plan shall be replaced with either a New England Conservation/Wildlife Mix or a New England Coastal Salt Tolerant Grass Mix.

4. The following notes shall be added to the Landscape Plan (Sheet No. 7 of 9), as required by Section 2.13.3 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.”
5. The maintenance requirements for the “First Defense” stormwater unit shall be added to the site plan.
6. Silt socks be used in place of silt fence.
7. The Site Plan (Sheet 4 of 9) and Landscape Plan (Sheet 7 of 9) shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department

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C. The application of **Mark McNally, Owner**, for property located at **21 Brewster Street**, requesting Site Plan Approval for the conversion of a former boarding house to 6 dwelling units with a footprint of 4,160 ± s.f. and gross floor area of 11,742 ± s.f., and the construction of a 6-bay attached garage with a footprint of 1,404 ± s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 138 as Lot 11 and lies within the General Residence C (GRC) District. (This application was postponed from the March 16, 2017, Planning Board meeting.)

As a result of said consideration, the Committee voted as follows:

- A. Voted to **grant** the requested waiver to allow the electrical lines to be above ground.
- B. Voted to **grant** Site Plan Approval with the following stipulations:

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

1. The Site Plan shall include the following notes:
  - “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.”
2. The Site Plan and Landscape Plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.
3. The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City’s Legal and Planning Departments.
4. Applicant shall provide documentation regarding maintenance of the stormwater management system in perpetuity to be reviewed and approved by DPW.

5. The additional cost for relocating the City's DMH #6 shall be added to the fee for the required stormwater permit.
6. The applicant shall provide confirmation from the Inspection Department that appropriate egress is provided for the basement unit.

Conditions Subsequent (to be completed prior to the issuance of a Certificate of Occupancy):

1. The stormwater system shall be inspected during construction.

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### III. PUBLIC HEARINGS – NEW BUSINESS

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

- A. Proposed amendment to the Zoning Ordinance, Article 12 – Signs, to exempt signs and other elements related to public parking in private parking lots from specific zoning standards when authorized under a permit from the Department of Public Works. (City Council referral)

The Planning Board recommended that the Ordinance be amended as proposed.

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- B. Proposed amendment to the Zoning Ordinance, Article 5A – Character-Based Zoning, Section 10.5A46 – Incentive Overlay Districts, to allow excess community space provided by a development to be credited for use in another development in the same Incentive Overlay District. (City Council referral)

The Planning Board recommended that the proposed zoning ordinance be further amended by:

1. Inserting the new subparagraph as recommend in memo.
2. Additional clarification in draft ordinance for (2) (a) to insert “excess” in front of “unimproved”.

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- C. The request of Raymond and Maryrose Richer for the City to release any interest it may have in the portions of two paper streets (Moffat Road and Woodworth Avenue) adjoining their property at 85 Woodworth Avenue. (City Council referral)

The Planning Board recommended that the City release any interest it may have in the paper streets abutting 85 Woodworth Avenue, as shown on the exhibit titled “Woodworth Ave / Moffat St / Swett Ave”, prepared by the Planning Department for this meeting, with the following exception:

1. The area between the end of the accepted portion of Woodworth Avenue and the intersection with Moffat Street shall be reserved for snow storage.

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D. The proposal by the City of Portsmouth to acquire from Peter Happny a sewer easement off Rock Street in connection with the construction of the new municipal parking garage; and to convey to Mr. Happny 2,275 ± s.f. of City-owned land adjoining Rock Street Park. (City Council referral)

The Planning Board recommended that the City Council accept the sewer easement and grant the land conveyance as proposed.

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E. The application of the **City of Portsmouth and Peter Happny, Owners**, for property located at **Rock Street Park and 66 Rock Street**, requesting Preliminary and Final Subdivision Approval (Lot Line Revision) between two lots as follows:

- (1) Map 138, Lot 60 decreasing in area from 62,807 ± s.f. (1.4418 acres) to 60,532 ± s.f. (1.3896 acres) with 71.50 feet of frontage on Rock Street and Sudbury Street.
- (2) Map 138, Lot 61 increasing in area from 12,508 ± s.f. (0.2871 acres) to 14,783 ± s.f. (0.3394 acres) with 47.50 feet of frontage on Brewster Street.

Said lots lie within the Municipal (M) district and Character District 5 (CD5) which have no minimum requirements for lot area or street frontage.

As a result of said consideration, the Board voted as follows:

- A. Voted to recommend that the City Council accept the sewer easement and grant the land conveyance as proposed.
- B. Voted to waive the following requirements of the Subdivision Rules and Regulations:
  - (a) Sec. III.B.1.d., requiring Technical Advisory Committee review for a subdivision plan showing construction of a public sewer facility.
  - (b) Sec. V.5, requiring the subdivision plan to show the entire area proposed to be subdivided.
- C. Voted to **grant** Preliminary and Final Subdivision Approval 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 all easement deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

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F. The application of **Alan G. Brady and Kendall E. Perkins, Owners**, for property located at **123 Clinton Street**, requesting Conditional Use Permit approval to create a two-bedroom, 750 s.f. detached accessory dwelling unit on the second story of a detached garage (to be constructed), with associated paving, lighting, and utilities. Said property is shown on Assessor Map 162 as Lot 41 and lies within the General Residence A (GRA) District.

The Board voted to **grant** the conditional use permit as presented, with the following findings and stipulation:

Findings:

1. Exterior design of the ADU is compatible with the existing residence on the lot through architectural use of building forms, scale and construction materials.  
Comment: The proposed garage/ADU structure will be a gable-roofed building with two shed dormers, and thus not dissimilar to other buildings in the neighborhood. Compared to the existing dwelling, the new building will be 30% wider (27.4 ft. vs. 21 ft.), approximately the same depth, and about 6 feet shorter at the ridge line (25.5 ft. vs. about 31 ft.).
2. The site plan provides adequate open space and landscaping that is useful for both the ADU and the primary dwelling.  
Comment: The site plan shows approximately 1,500 sq. ft. of open space along the side and rear of the proposed garage/ADU structure, with a large yard remaining to serve the existing dwelling.
3. The ADU will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties.  
Comment: The proposed garage/ADU structure and driveway/parking area are in a traditional location for accessory residential parking, situated toward the rear of the lot. The closest existing building to the proposed structure will be a shed at the rear of 139 Clinton St. To buffer the new structure from abutting properties, 4 mature maple trees will be preserved (3 along the side lot line and one in the rear), and a row of 10 arborvitae will be planted along the rear lot line.
4. The ADU will not result in excessive noise, traffic or parking congestion.  
Comment: Adequate off-street parking will be provided.

Condition Precedent (to be completed prior to the granting of a certificate of occupancy):

1. In accordance with Sec. 10.814.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.
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G. The request of **299 Vaughan Street, LLC, and Sanel Realty Co., Inc., Owners**, and **299 Vaughan Street, LLC c/o Cathartes, Applicant**, for property located at **299 and 225 Vaughan**

**Street and off Vaughan Street**, for design review under the Site Plan Review Regulations for the construction of a hotel with 143 guest rooms and 2,500± s.f. of commercial space, a 43,325± s.f. public park along the North Mill Pond waterfront (to be constructed in two phases), and a 2,869± s.f. public path from Vaughan Street to the waterfront park. Said properties are shown on Assessors Map 123 as Lot 15 and Assessors Map 124 as Lots 10 and 11, and lie within Character District 5 (CD5), the North End Incentive Overlay District, the Downtown Overlay District (DOD) and the Historic District.

As a result of said consideration, the Committee voted that the design review process of the application has ended.

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**IV. ADJOURNMENT**

A motion to adjourn at 10:40 pm was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse  
Acting Secretary for the Planning Board