

ACTION SHEET

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 PM

MARCH 21, 2019

MEMBERS PRESENT: Dexter Legg, Chairman; Elizabeth Moreau, Vice-Chairman; Colby Gamester; Ray Pezzullo, Assistant City Engineer; Jody Record; Polly Henkel, Alternate and Corey Clark, Alternate

ALSO PRESENT: Juliet T H Walker, Planning Director, Jillian Harris, Planner I

MEMBERS ABSENT: John P. Bohenko, City Manager, Jeffrey Kisiel

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I. APPROVAL OF MINUTES

A. Approval of minutes from the February 21, 2019 Planning Board meeting.
The minutes from the February 21, 2019 meeting were unanimously approved.

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II. DETERMINATIONS OF COMPLETENESS

A. None.

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III. PUBLIC HEARINGS– OLD BUSINESS

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

A. The application of **Thomas and Ann Taylor, Owners**, for property located at **43 Whidden Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to install permeable pavers for two parking spaces and plantings, with 400 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 109, as Lot 2 and lies within the General Residence B (GRB) and Historic District. (This application was postponed at the February 21, 2019 Planning Board Meeting).

Voted to **postpone** the request to the April 18, 2019 Planning Board meeting.

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IV. ZONING AMENDMENTS – PUBLIC HEARINGS – NEW BUSINESS

A. The request of James McSharry to amend the zoning for the property located at 15 Middle Street, Map 126, Lot 12 (former Salvation Army building) from the CIVIC District to Character District 4 (CD4).

Vote to **recommend** to the City Council to re-zone this property as follows:

- 1) From CIVIC District to Character District 4 (CD4); and
- 2) From no height standard to 2-3 stories (40’).

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V. PUBLIC HEARINGS – NEW BUSINESS

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

A. The application of **Cate Street Development, Owner & Applicant**, for property located at **428 Route 1 Bypass**, requesting Wetland Conditional Use Permit pursuant to Section 10.1017 of the Zoning Ordinance for 19,567 square feet of temporary impacts and 50,225 square feet of permanent impacts for a total of 69,792 square feet of wetland buffer disturbance to redevelop the lots for residential living space including office and retail space. Said property is shown on Assessor Map 172 as Lot 1, Assessor Map 173 as Lot 2, Assessor Map 165 as Lot 2 and Assessor Map 163 as Lots 33 & 34 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

The Board **granted** the request with the following stipulations:

- 1. The plan shall be updated to reflect silt socks instead of silt fence where feasible;
- 2. Hydrocad data shall be included in the plan set;
- 3. Fertilizer note on Sheet CD.5 shall also be included on the landscaping plan; and,
- 4. The plans shall be updated to reflect best management practices for removal of invasive species.

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B. The application of **Cate Street Development, Owner & Applicant**, for property located at **428 Route 1 Bypass**, requesting a Conditional Use Permit under Section 10.5B71.20 of the Zoning Ordinance for a residential density of 22 dwelling units per acre and related modifications to building length and number of dwelling units per building in Section 10.5B25 of the Zoning Ordinance. Said property is shown on Assessor Map 172 as Lot 1, Assessor Map 173 as Lot 2, Assessor Map 165 as Lot 2 and Assessor Map 163 as Lots 33 & 34 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

The Board **granted** the request as follows:

- 1) Vote to find that the proposed project and the proposed conditions of approval satisfy the requirements in Section 10.5B73 and that the proposed project is consistent with the purpose and intent set forth in Section 10.5B11.

- 2) Vote to find that the following modifications to the standards of the Ordinance will promote design flexibility and overall project quality, are required for the development to provide the proposed workforce housing component, and are consistent with the purpose and intent set forth in Section 10.5B11:
 - A) A modification to the requirements of Section 10.5B25 to allow building lengths of 355 feet, 205 feet, 305, and 340 feet where a maximum of 200 linear feet is allowed;
 - B) A modification to the requirements of Section 10.5B72.10 to allow buildings with 132 and 118 dwelling units per building where a maximum of 36 is allowed;
 - C) A modification to the requirements of Section 10.10.5B73.10 to allow 10% of the dwelling units to be workforce housing units where at least 20% is required; and
 - D) A modification to the requirements of 10.5B73.10 to allow units that are affordable to a household with an income of 80% of the median income for a 3-person household for the Portsmouth-Rochester HUD Metropolitan Fair Market Rent Area (HMFA) instead of 60% of the median income to qualify as workforce housing units.

- 3) Vote to grant the conditional use permit to allow 22 dwelling units per acre with the requested modification of standards with the following stipulations:
 - A) Prior to receiving final site plan approval for the project, the applicant shall provide documentation confirming that the proposed housing units qualify as workforce housing units as defined by this Ordinance and as modified above;
 - B) Prior to receiving final site plan approval for the project, the applicant shall provide a proposed covenant or other legally binding agreement that provides enforceable restrictions as to price and occupancy to ensure long-term availability and affordability of the units for a minimum of 30-years (such agreement shall be reviewed and finalized according to the requirements of the City prior to issuance of a building permit)
 - i. The applicant shall work with the City’s Planning and Legal Departments to consider the feasibility of including an option in the workforce housing covenant to extend the term by 10 years; and,
 - C) This conditional use permit shall expire unless a building permit is obtained within one year from the date granted. The Board may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date.

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C. The request of **Ambit Engineering, Inc., Applicant** and the **Donahue Realty Trust, Owner**, for property located at **278 Ocean Road**, for Earth Products Removal and Placement in accordance with Section 10.1020 of the Zoning Ordinance for placement of 814 cubic yards of fill. Said property is shown on Assessor Map 282 as Lot 03 and lies within the Single Residence A (SRA) District.

The Board voted to **grant** the request with the following stipulations:

1. The application shall be subject to final review and approval by the Department of Public Works; and,
2. The applicant shall verify the Department of Public Works where the fill will come from.

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D. The application of **William L. Pingree, Owner**, for property located at **11 Sagamore Grove**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to infill a previously excavated depression, smooth a 7 ft. path for utility/emergency vehicle access, and the removal of 6 trees with 1,850 s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 201 as Lot 1-1 and lies within the Single Residence B (SRB) District.

The Board voted to **grant** the Conditional Use Permit as submitted.

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VI. CITY COUNCIL REFERRAL

A. Proposed land swap at 428 Route 1 By-Pass, owned by Cate Street Development, LLC.

Vote to **recommend approval** of the land swap to the City Council with the understanding that City staff will be providing additional guidance to the Council related to this matter.

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VII. ADJOURNMENT

It was moved, seconded, and passed unanimously to adjourn the meeting at 8:28 p.m.

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Respectfully Submitted,
Tracy Gora,
Acting Secretary for the Planning Board