

**REGULAR MEETING
PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

7:00 PM

JUNE 27, 2019

MEMBERS PRESENT: Dexter Legg, Chairman; Elizabeth Moreau, Vice-Chairman; Ray Pezzullo, Assistant City Engineer; Colby Gamester; Jeffrey Kisiel; Rebecca Perkins, City Council Representative; Corey Clark, Alternate, and Polly Henkel, Alternate

ALSO PRESENT: Juliet Walker, Planner Director; Jillian Harris, Planner I

MEMBERS ABSENT: Jody Record; John P. Bohenko, City Manager; Jay Leduc;

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I. 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.*

Vice Chairman Moreau moved to consider Other Items Item E out of order and hear that presentation first, seconded by Mr. Kisiel. The motion passed unanimously.

A. The application of **The Society for the Protection of Forests, Owner and Altus Engineering, Inc., Applicant** for property located at **400 Little Harbor Road** requesting a Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance to demolish the entire existing house along with existing pavement surfaces resulting in approximately 1,400 square feet of impact in the tidal wetland buffer. Said property is shown on Assessor Map 203 as Lot 8 and lies within the Rural (R) District. LU #19-109.

SPEAKING TO THE APPLICATION

Corey Belden from Altus Engineering spoke to the Wetlands CUP application for the wetland impacts in the 100-foot buffer. This application and presentation was not for the demolition permit. The project for the proposed demolition will impact 1,450 square feet of the buffer. The impact would be removing the building, re-grading the area back to existing grades, and planting grass. 20,000 square feet of impervious access roads and parking area would be removed and restored to grass. This project would be an environmental benefit. The application received a unanimous recommendation for approval with conditions from the Conservation Commission. One of the conditions was to maintain the silt fence through construction until the site is stabilized. The other was to properly remove invasive species. The Forest Society is working with a potential tenant to restore the property. This project is now the Plan B.

The applicants are proceeding with this process on dual course. The applicants are also working with the tenant to restore building, but that is not finalized.

Vice Chairman Moreau questioned if it was realistic to save the big tree on the property. Mr. Belden responded that the tree is 6 feet in diameter and is of significant importance and priority to save. They would remove the pavement with delicacy. Removing the impervious surface around it would help the tree by allowing infiltration.

Vice Chairman Moreau requested clarification on the potential tenant. Mr. Belden responded that they have a potential tenant and are working out a contract and long-term lease. That's a process and it could take a couple months to finalize. That is why they are moving forward with this process, so this would be the back up plan. Vice Chairman Moreau questioned if they would get a detailed update by next week for the Demolition Committee. The applicant's lawyer, Elizabeth Buckley, responded that they would not be able to provide anything in writing next week because they were still in negotiations.

PUBLIC HEARING

Charles Doleac from 365 Little Harbor Road commented that the Demolition Review Board requested a report on the status of this project before July 4, 2019. That will not happen now. This is the last critical permit before it's demolished. Mr. Doleac suggested that the Board not vote on this application until the applicants provide a status of the property to the Demolition Board.

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

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to grant the wetland conditional use permit, seconded by Mr. Gamester with the following stipulations:

1. A plan shall be provided to the Planning Department indicating how invasive species will be controlled as part of the demolition.
2. A silt sock shall be installed prior to demolition and stay in place until the site is stabilized.

Vice Chairman Moreau commented that the Demolition Review Committee did request a letter with the status, but the Committee has no power to require that. The Committee can't hold up the process longer than July 3, 2019 due to the Statuettes in the City. This is the last hurdle that involves a public hearing and Board, but there are still a number of things that has to be done with the City and State.

Chairman Legg noted that the Board was being asked to consider a Wetland CUP. They are not being asked to consider the demolition. This Board does not have that authority. There is no reason to delay this application. Chairman Legg noted that he would vote in favor of the CUP because it does in fact improve the wetland. That's what they are being asked to consider.

The motion passed unanimously.

B. The application of **Paul Mullen, Owner** and **Savoie Nolan Architects, LLC, Applicant** for property located at **97 Eastwood Drive** requesting Conditional Use Permit approval in accordance with Section 10.814 of the Zoning Ordinance for the addition of a 746 sq. ft. Attached Accessory Dwelling Unit to the first floor of an existing home. Said property is shown on Assessor Map 288 as Lot 3-20 and lies within the Single Residence B (SRB) District. LU #19-110.

SPEAKING TO THE APPLICATION

Paul Mullen and Abby Zucker from Savoie Nolan Architects spoke to the application. The property is a single family home with a partially finished basement on a 4 bedroom septic. The proposal is to add an Attached Accessory Dwelling Unit (AADU) for an in-law apartment. The AADU would be an addition on the left side of the house. It would consist of an open concept living space with a living room, kitchen and eating area. There will be one bedroom with a bathroom. It would be a single story structure and would be well below the building height limit. The house meets all of the zoning setbacks restrictions and main regulations. One of the bedrooms in the main house will be turned into a den to maintain the 4-bedroom status. The Building Inspector was fine with that. The addition fits the character of the house and neighborhood. As part of the proposed work, the owner will do some upgrades to the house like siding improvements, a new roof, and landscaping. Ms. Zucker added that the single story addition would be oriented to be the further most alignment from the street. The floor area is less than 750 square feet. It will just have one bedroom. The façade facing the street is 16% of the overall façade. The windows on the second floor will be maintained by adjusting the roofline. There will be a secondary entrance, which will be accessible from the driveway. There will be an interior door that connects the principle unit to the AADU.

Vice Chairman Moreau questioned if the washer and dryer would be shared between the units. Ms. Zucker confirmed that was correct.

PUBLIC HEARING

Chairman Legg asked if anyone 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

Vice Chairman Moreau moved to find that the application satisfies the requirements of Section 10.814.60 of the Zoning Ordinance, seconded by Mr. Gamester. The motion passed unanimously.

Vice Chairman Moreau commented that the applicants had done a great job respecting the zoning requirements and she appreciated it.

Vice Chairman Moreau moved to grant the conditional use permit, seconded by Mr. Gamester with the following stipulation:

1. In accordance with Sec. 10.814.90 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.

The motion passed unanimously.

C. The application of **Public Service Company of New Hampshire d/b/a Eversource Energy, Applicant** and the **City of Portsmouth and HCA Health Services of NH, Inc., Owners**, for properties located on **Borthwick Avenue** requesting a Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for the replacement of three utility poles adjacent to Borthwick Avenue. The project proposes a temporary impact of 2,227 sq. ft. in the wetland area and 4,567 sq. ft. in the wetland buffer. Said properties are shown on Assessor Map 234 & 240 as Lots 7-3, 2-1001 & 2-1 and lie within the Natural Resource Protection (NRP) and Office Research (OR) Districts. LU #19-114.

SPEAKING TO THE APPLICATION

Lenny Lord from Tighe and Bond and Ed Monroe from Eversource spoke to the application. Mr. Lord commented that the proposal is to replace two utility poles. One is a three-pole wooden structure that will be replaced by a steel pole. The other is a single wooden pole that will be replaced with steel pole. There will be 2,227 square feet of temporary wetland impact and 4,567 square feet of temporary buffer impact. There is a proposed 12-foot wide gravel access road to get the equipment in and a 60-foot by 60-foot work pad that will be placed in the wetland. There alternate access to get to the single pole will be off Borthwick Ave. The intent is to get both access roads approved. The goal is to come in from Borthwick Ave. for both pole replacements, but if they can't then the access road will be used. It is not a high value wetland and is 100% invasive phragmites. The temporarily impacted areas will be restored back to original conditions. Tighe and Bond will be out there weekly to ensure the construction is in compliance.

Vice Chairman Moreau clarified that these poles were being replaced due to maintenance. Mr. Lord confirmed that was correct.

Mr. Clark questioned if there were any other poles out there that needed to be replaced at the same time. Taking care of as many poles as possible in a sensitive area at once is beneficial. Mr. Lord responded that it was Eversource's policy to grade poles, but they don't want to replace more than they need to. Mr. Monroe added that they inspect poles once every 5 years and look for degradation. Maintenance is scheduled as needed. Right now it's just those that need to be replaced. It is easier to go into a wetland once, so if there was any hint that any more needed to be replaced, then it would have been included.

PUBLIC HEARING

Chairman Legg asked if anyone 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

Vice Chairman Moreau moved to grant the wetland conditional use permit as presented, seconded by Mr. Gamester. The motion passed unanimously.

D. The application of **Annemarie D'Aversa, Owner** and **Tara Jenkins, Applicant** for property located at **123 Sparhawk Street** requesting a Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance to construct a 140 sq. ft. shed, level the rear yard and remove an existing rock wall all within the 100 foot tidal buffer zone. Said property is shown on Assessor Map 159 as Lot 4 and lies within the General Residence A (GRA) District. LU #19-111.

SPEAKING TO THE APPLICATION

Tara Jenkins and Matt Newick were present to speak to the application. The proposal is for a 14 by 10 by 10 shed to accommodate the two-family home. The shed will be set on cinder blocks with crushed gravel underneath. There is also a small rock wall that will be removed in the middle of the yard, and the yard will be leveled in that area. Vegetation will be added because it's on the wetland. Mr. Newick clarified that the previous owner put in the rock wall to divide the yard because they rented part of the house out. The proposal is to take out rock wall and level that area. Ms. Jenkins added that the shed would be 8 feet from the neighbor's fence.

PUBLIC HEARING

Chairman Legg asked if anyone 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

Vice Chairman Moreau moved to grant the wetland conditional use permit, seconded by Mr. Gamester with the following stipulations:

1. During construction, the downslope edge of the yard shall have a silt sock installed to prevent siltation and erosion down the bank.
2. The planting beds shall be mulched or covered around the new planting beds.
3. There shall be no more than six cubic yards of loam brought in for fill to level they yard.

The motion passed unanimously.

E. The application of **Chinburg Development, LLC, Owner**, and **Brendan Vesey, Applicant** for property located at **110 Brewery Lane** requesting a Conditional Use Permit in accordance with Sections 10.240 and 10.440 (#19.50) of the Zoning Ordinance to allow an Outdoor Dining or Drinking Area as an accessory use. Said property is shown on Assessor Map 155 as Lot 5 and lies within the Character District 4-W (CD4-W) District. LU #19-101.

SPEAKING TO THE APPLICATION

Brenden Vesey spoke to the application. The request is to add a small seasonal fully removable patio that will only be used in warm weather. The planters, barriers, chairs, and tables will all be put into storage when the patio is out of season. The existing ground and lighting will stay the same. The patio will take 8 feet of the 12-foot sidewalk.

Vice Chairman Moreau questioned if they would be taking away any parking. Mr. Vesey responded that it would not.

Chairman Legg questioned how many seats the patio would have. Mr. Vesey responded it would have 18 seats.

PUBLIC HEARING

Chairman Legg asked if anyone 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

Vice Chairman Moreau moved to find that the proposal meets the conditional use permit criteria as listed in Section 10.243.20 of the Zoning Ordinance, seconded by Mr. Kisiel.

Vice Chairman Moreau commented that these were wide sidewalks and the patio would not take away parking. This project is different from last weeks because it will be located in a more congested area. That is what makes it different from the application that was presented last week.

The motion passed unanimously.

Vice Chairman Moreau moved to approve the conditional use permit as presented, seconded by Mr. Kisiel. The motion passed unanimously.

II. OTHER BUSINESS

A. The request of **Barbara R. Frankel** for property located at **89 Brewery Lane** for a 1-year extension of the Site Plan Review approval that was granted on July 19, 2018.

Vice Chairman Moreau moved to determine that no change has taken place that would materially affect the current site plan approval and approve a 1-year extension of the Site Plan Approval to expire on July 19, 2020, seconded by Mr. Clark. The motion passed unanimously.

B. The application of **Maud Hett Revocable Trust, Owner** and **MSC a division of TFMoran, Applicant** for property located on **Banfield Road** requesting Preliminary Conceptual Consultation for the construction of 22 new single family residential units and a new driveway as an Open Space Planned Unit Development in accordance with Section 10.725 of the Zoning Ordinance with related paving, utilities, landscaping, drainage and associated site improvements. Said property is located on Assessor Map 256 as Lot 2 and lies within the Single Residence A (SRA) District.

Corey Colwell from TF Moran, Rick Green and Jenna Green from Green and Company, and Jim Gove from GES Environmental spoke to the design. The proposal is for an open space residence development on 44.9 acres. There would be 22 single-family homes built on a private street that will cross the wetland. Banfield Road has public water, but not public sewer. The homes are proposed to be served by septic. There are two large wetland areas on the property. There are two large upland areas and some other pockets of upland. 24.3 acres of the land is upland. The proposed homes would be built on the largest upland area and the remaining land would remain forested. They have delineated the wetlands and have the density for to build 24 homes. The final plan will have somewhere between 22 and 24 units. The private street will be just under 800 feet in length and 20 feet in width. This plan complies with all zoning requirements, and there would be no variances necessary. The plan needs a wetland CUP for the road. Mr. Colwell commented that they would appreciate any and all feedback.

Vice Chairman Moreau commented that she was concerned about safety because there was only one way in and one way out. There are good reasons to have the narrow roads, but Vice Chairman Moreau questioned if they would be accessible for fire trucks. Mr. Colwell responded that the subject came up at TAC. Deputy Fire Chief Howe thought these homes would have to be sprinkled, so he was not as concerned about the narrow roads.

Mr. Clark requested more information about the wetland impacts. Mr. Colwell responded that the first crossing would be 90 feet and would have wetland and buffer impacts. At this stage they do not believe any mitigation is required. The second crossing is based on preliminary wetlands. The wetlands are slightly off and there may be less impact than what is shown on the plan. All of the rest of the development will be outside of the buffer. Mr. Gove added that they are crossing at the closest point to the road, which is 90 feet long. The east wetland drains from the Girl Scout Camp and under the road. The larger wetland is the most valuable. It has flood storage and two vernal pools along the side of the property. There are also two vernal pools deeper in the wetland. Mr. Gove commented that there were wildlife corridors. The key element in connectivity is that the design needs a corridor to allow for wildlife movement.

Chairman Legg questioned if they were envisioning an opening to allow for wildlife to cross. Mr. Gove responded that would be required by DES. They will have to work with fish and game and need a significant opening.

City Council Representative Perkins questioned how they decided on 22 units. Mr. Colwell responded that 22 units is somewhat explained in note 3. There is 22.15 acres of developable land and 1 acre per lot is required. The wetlands delineation showed there was actually 24 acres available; so 24 units could be built. City Council Representative Perkins questioned if there was an opportunity for cluster zoning to allow for more units. Ms. Walker responded that they probably could cluster, but would be limited because of the septic. They have gotten feedback from the City to connect to the sewer, so there will be more to follow up on this.

Vice Chairman Moreau questioned if there was a plan to create an HOA for homeowners to be responsible for the upkeep of the wetlands. Mr. Colwell responded that if these units are intended to be condos. They will have a Condo Association and will maintain the open space and community areas.

Chairman Legg commented that it was good that the design was not asking for any variances. The goal of the density is to protect the wetlands.

C. The application of **Arbor View & The Pines, LLC, Owner** and **Altus Engineering, Inc., Applicant** for property located at **145 Lang Road** requesting Preliminary Conceptual Consultation to construct two (2) three-story, multi-family buildings with associated site improvements, grading, utilities, stormwater management and landscape improvements. Said property is shown on Assessor Map 287 as Lot 1 and lies within the Garden Apartment/Mobile Home Park (GA/MH) District. #LUPD-2.

Corey Belden from Altus Engineering spoke to the design. The existing Arbor View apartments are on a 35.5-acre lot with 145 units in 5 apartment buildings. This lot was developed in the 1980s prior to zoning and storm water regulations. This past November they received zoning relief for the proposed density, which would provide 186 units on the site. There will be 2 additional multi family buildings one with 18 apartments and one with 24 apartments. There will be a total increase of 41 units on the site. There has been a detailed survey to map the wetlands. A Wetland CUP will be required. The only wetland impact is to replace a pipe in the storm water system. The existing pipe is made of corrugated metal. The pipe will be replaced all the way to the outlet, which outlets to the wetland area in a man made drainage ditch. The new pipe will be made of HDPE. This is an existing site, so there will be no new access points. The access is along Lang Road and Joan Road, which connects to Heritage Ave. The proposal includes 47 additional parking stalls. Mr. Belden understood there were concerns about the parking. There are 239 parking stalls now, so a little over 2 stalls per unit. The current zoning only allows 1.3 parking stalls per unit. The expansion of the project will need to bring the entire site up to zoning. The plan is to ask for a CUP because even though parking will be added, they will be reducing the number of stalls per unit for the entire site with this proposal. Storm water treatment will be provided. The parking will be put in with porous pavers. The site will not have any increases in peak runoff and will provide treatment for all improvements and additional areas on site.

City Council Representative Perkins commented that this project would be adding housing, which is sorely needed, and questioned how the number of units was decided upon. Mr. Belden responded that the owners went through the process of what they felt was reasonable. It is consistent with some of the other developments on Lafayette Road.

Vice Chairman Moreau clarified that the building placement was where it was to avoid wetlands. Mr. Belden confirmed that correctly.

Chairman Legg requested clarification on the parking. Mr. Belden responded that there were 239 parking spots for 145 units currently. The proposal would be to add 42 units and 38 parking stalls. The existing units would no longer have 2 parking spots per unit. This will need to go through TAC. They will not be eliminating existing spaces, just adding fewer new ones. Chairman Legg noted that they might want to rethink the parking. It might be possible to consolidate the parking and create green space. It's a very dense space and green space would be nice to add. Mr. Belden responded that they were trying to work with the owners on their needs. There are a lot of families with 2 working adults in most of the existing units. The parking is a balance.

Mr. Clark questioned if the entire storm water system was made of corrugated pipe. Mr. Belden responded that most of it was corrugated. Anything that they will touch with the project will be

replaced. The outlet would be replaced as well. The existing storm drains that outlets to the other side of the site won't be touched right now. Mr. Clark commented that now might be the time to look at all of it and increase the size of the rain garden to rework the configuration up there.

Vice Chairman Moreau commented that the gap between the buildings could potentially be used as free space behind the existing buildings in the buffer. That might be a safe way to use that land that's there. Mr. Belden responded that the owners are proposing to put in playground on an adjacent lot. There are 4 lots in the area owned by them. They put in new swimming pools on adjacent lots and there is a big green space there where there might be a playground added there.

D. The request of **Michael and Denise Todd** for property located at **254 South Street** for a 1-year extension of the Wetland Conditional Use Permit approval that was granted on August 23, 2018.

Vice Chairman Moreau moved to determine that no change has taken place that would materially affect the current site plan approval and approve a 1-year extension of the Site Plan Approval to expire on August 23, 2020, seconded by Mr. Gamester. The motion passed unanimously.

E. The application of **4 Amigos, LLC, Owner** and **MHF Design Consultants, Inc., Applicant** for property located at **1400 Lafayette Road** requesting Preliminary Conceptual Consultation for a multi-unit Garden Style & Townhouse Style residential development with associated site improvements, parking, grading, utilities, stormwater management and landscaping. Said property is located on Assessor Map 252 as Lots 4, 5 & 9 and lies within the Gateway Neighborhood Mixed Use Center (G2) District. #LUPD-1.

SPEAKING TO THE APPLICATION

Chris Tumula with MHF Design spoke to the design. The site was built in 2013 and has the Rite Aid, Five Guys, and Newburyport Savings Bank. This presentation is for input on the conceptual design of a residential component in the rear of the site. There would be a 22 unit garden style complex off Peverly Hill Road with a parking garage underneath. There would also be 18 townhouses adjacent to that building all with two car garages. Access will line up with the existing driveways. There will be 16 exterior parking spaces, green space, and community open space that will all be part of phase 1 of the development. Phase 2 would include 11 townhouses and 9 exterior parking spaces and more community space. In total there is 29 townhouse units, 22 garden style units and 111 parking spaces. There is about 25% open space.

Vice Chairman Moreau commented that it did not look like there was a good flow for traffic and parking. Vice Chairman Moreau questioned if they had thought through the loading zones, safety of a playground so close to the traffic, and trash pick ups. Mr. Tumula responded that they lined up the driveway with the Five Guys. There is an exit curb cut on the other end. The idea is to promote traffic to flow in one direction. The playground is placeholder, but that space will be a community space amenity. It may not be best location for playground. Vice Chairman Moreau clarified that phase 2 was not on the open land but where the house is now. Mr. Tumula responded that phase 2 would be on Lot 4, Lot 5 and a portion of Lot 9. It is north of the loop road, but the intent would be to permit it all at once.

Mr. Clark questioned if the concrete pad was existing and noted that it was really big. Mr. Tumula responded that it was the existing trash enclosure. It is the standard for Rite Aid. Mr. Clark questioned if the storm water treatment had been thought about. Mr. Tumula responded that they were not there yet, but he worked on the original design. It is a closed range system with deep sunk catch basins. There would probably be a similar design for that. They filed for AOT for the original plan, so that would need to be amended for the changes.

Chairman Legg questioned why it would be two phases. Mr. Tumula responded that it would be phased by location, but would be permitted all at once. Chairman Legg questioned if there would be significant time difference between the phases. Mr. Tumula responded that it was phased for financing. The goal would be to get everything done as fast as possible. Ms. Walker commented that they don't do phased approvals. If there would be a big lag between the phases, then it should be two permits.

Chairman Legg commented that it was nice to see that the public side of the building was in fact the public side. There have been some developments where the side facing the street is the back of the building. The side the public sees everyday should be an attractive part of the building and not the outdoor space for the units.

Chairman Legg questioned if both curb cuts were existing. Mr. Tumula confirmed that was correct.

III. CITY COUNCIL REFERRAL

A. Guiding Parking Principles discussion

Ms. Walker provided a summary memorandum. City Council held a joint work session with other land use committees and boards that have input in parking. The City's guidance parking principles were adopted in March 2012. There has been interest in revisiting it and educate why they are there and how they fit in. The attendees reviewed the proposed revisions from Staff. Ms. Walker provided a summary of the discussions and a red line version based on the input. It was provided to Council and they requested it come back to the Committees to review and send back. Each staff member who supports the Boards will help facilitate the consolidated list of feedback.

City Council Representative Perkins commented that it made sense to submit comments to Ms. Walker then review the proposed revision as a group.

Chairman Legg agreed and noted they would review at the next meeting.

IV. ADJOURNMENT

Vice Chairman Moreau moved to adjourn the June 27, 2019 Planning Board Meeting at 8:43 p.m., seconded by City Council Representative Perkins. The motion passed unanimously.

NOTICE TO MEMBERS OF THE PUBLIC WHO ARE HEARING IMPAIRED

If you wish to attend a Planning Board meeting and need assistance, please contact the Human Resources Office at 610-7270 one week prior to the meeting.