

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

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

7:00 PM

July 18, 2019

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

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

MEMBERS ABSENT: Jay Leduc; John P. Bohenko, City Manager; Rebecca Perkins, City Council Representative; Jeffrey Kisiel

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I. APPROVAL OF MINUTES

- A. Approval of Minutes from the June 20, 2019 and June 27, 2019 Planning Board Meetings.

Vice Chairman Moreau requested that Public Hearing Action be changed from Chairman Legg to Vice Chairman Moreau on the application the Chair recused from on the June 20, 2019 minutes. Vice Chairman Moreau requested her comment be clarified on page 6 by adding "This project is different from last weeks because it will be located in a more congested area." in the June 27, 2019 minutes.

Ms. Record moved to approve the June 20, 2019 and June 27, 2019 Planning Board Minutes as amended, seconded by Mr. Clark. The motion passed unanimously.

II. DETERMINATIONS OF COMPLETENESS

A. **SUBDIVISION REVIEW**

1. The application of **Noele Clews, Owner** and **Ambit Engineering, Inc., Applicant** for property located at **799 South Street** requesting Preliminary and Final Subdivision approval.

Vice Chairman Moreau moved to postpone this item to the August 15, 2019 meeting, seconded by Ms. Record. The motion passed unanimously.

B. **SITE PLAN REVIEW**

1. The application of **Michael De La Cruz, Owner** for property located at **63 Congress Street** requesting Site Plan Review approval.

Vice Chairman Moreau moved to determine that the application is complete according to the Site Plan Review Regulations and to accept the application for consideration, seconded by Ms. Record. The motion passed unanimously.

2. The application of **2219 Lafayette Road, LLC, Owner** and **MSC a division of TFMoran, Inc., Applicant** for property located at **2219 Lafayette Road** requesting Site Plan Review approval.

Vice Chairman Moreau moved to determine that the application is complete according to the Site Plan Review Regulations and to accept the application for consideration, seconded by Ms. Record. The motion passed unanimously.

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. The application of **Arbor View & The Pines, LLC, Owner**, for property located at **145 Lang Road** requesting a Conditional Use Permit in accordance with Section 10.1112.14 of the Zoning Ordinance for provision of 367 parking spaces where a maximum of 336 are allowed by Section 10.1112.51 of the Zoning Ordinance. Said property is shown on Assessor Map 287 as Lot 1 and lies within the Garden Apartment/Mobile Home Park (GA/MH) District.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to postpone this item to the August 15, 2019 meeting, seconded by Ms. Record. The motion passed unanimously.

- B. The application of **Arbor View & The Pines, LLC, Owner**, for property located at **145 Lang Road** requesting Amended Site Plan Review approval to construct two (2) three-story multi-family buildings and 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. LU #19-100.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to postpone this item to the August 15, 2019 meeting, seconded by Ms. Record. The motion passed unanimously.

- C. The application of **Michael De La Cruz, Owner** for property located at **63 Congress Street** requesting Site Plan Review approval to convert an existing basement and driveway into a small residential parking garage with a gross floor area of approximately 15,000 square feet. Said property is shown on Assessor Map 117 as Lot 5 and lies within the Character District 5 (CD5) District. LU 19-128.

SPEAKING TO THE APPLICATION

Michael De La Cruz spoke to the application. The proposal is to put a parking garage in the basement of the building. It currently has the proper head clearance. A variance was obtained to allow a 12-foot maneuvering lane from Fleet St. to the ramp down to the garage. The travel lane is narrow as 12

feet in some spots and as wide as 20 feet in others. There will be 27 spaces, some will be tandem, but most will pull straight in. There will be two standard means of egress and the exit ramp. Walker Parking Consultants designed the plan and proposed a simple gate control on Fleet St. There will be a signal light at the bottom of the ramp. The gate stays closed until someone on Fleet St. wants to enter. When someone wants to exit they will come to a full stop behind the elevator, then the gate at the street will stay closed until that car reaches the gate. There are other examples in town with that flow. There will be a standard ventilation system.

Vice Chairman Moreau commented that she was concerned about redundancy with entering and exiting, and questioned if they accounted for someone not paying attention to the signals. There should be another barrier in the garage to safeguard that. Mr. De La Cruz responded that there are several things in place to prevent that. There are multiple sensors in the lane, which detects where cars are. If there is someone in the travel lane, then the gate won't let anyone else in. A car can always back up if needed. Vice Chairman Moreau was concerned about if a car had already driven in and someone ignored the stop signal. Mr. De La Cruz responded that there would be a red flashing light and they could back up.

Mr. Clark requested clarification about the walkway near spot 27. Mr. De La Cruz responded that cars would drive over that walkway to get to the space. Mr. Clark questioned if some columns were in the spots themselves. Mr. De La Cruz confirmed that was correct.

PUBLIC HEARING

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

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to find a waiver will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to waive the following regulations:

- a) Section 2.13.1 – Recording of Site Plans

Seconded by Mr. Clark. The motion passed unanimously.

Vice Chairman Moreau moved to grant Site Plan Review approval of the application as presented, seconded by Ms. Record.

Vice Chairman Moreau commented that it was a long distance from the street to the garage and they should take to heart her concerns to ensure there would not be any crashes.

The motion passed unanimously.

- D. The application of **2219 Lafayette Road, LLC, Owner** and **MSC a division of TFMoran, Inc., Applicant** for property located at **2219 Lafayette Road** requesting Site Plan Review approval for the construction of a 6,830 square foot addition to an existing car dealership and related changes to the parking and display areas with associated landscaping, drainage, and other site improvements. Said property is shown on Assessor Map 272 as Lot 1 and lies

within the Gateway Neighborhood Mixed Use Corridor (G1) and the Single Residence A (SRA) Districts. LU 19-84.

SPEAKING TO THE APPLICATION

Chris Rice from TF Moran spoke to the application. The existing Acura building is 11,200 square feet and has been there for 10 years. This application is to construct 4 additions; one on each side of the building. The total of the additions will add 6,800 square feet to the building. The new building will be a total of 18,000 square feet. There were some adjustments made to the islands in the parking lot to provide a better flow. The lot will have the 67 parking spots that are required. A variance was acquired to allow 18-foot space depth. The traffic analysis showed that there were 13 trips added in the morning and 17 trips in the evening. There will be minimal impact to the traffic. The addition is for additional parts storage and display area. It will improve the service drop off. There is a 12-foot easement on Lafayette Rd. and a 10-foot easement for a walking path. There will be no changes to the drainage system that is currently in place. The existing swale is not properly maintained. That area will be cleaned up and reseeded. This application has been before TAC and all of their comments have been addressed. There are no waivers or relief needed other than the one variance. The applicant agreed with the conditions left out in the staff memo. Mr. Rice requested clarification on the storm water infrastructure comment in the Staff Memo. Mr. Rice questioned if that only applied to the swale area or if there was more. Ms. Walker confirmed it was just the swale area.

Vice Chairman Moreau noted that there were cars parked on the truck movement plan and questioned if they would be parked there normally. Mr. Rice responded that those were parked there to show that's where the service bay is, so cars could be coming in. Vice Chairman Moreau requested clarification on the little box in the parts delivery area of the plan. Mr. Rice responded that it was a loading area for an existing loading door. It is just striping on the pavement. Vice Chairman Moreau requested that it be labeled.

Mr. Clark requested clarification on the storm water rehab regarding the swale. Mr. Rice responded that they would just be removing trash, debris and scrub shrub. There will not be any re-grading just reseeding. Mr. Clark questioned if they intended to use fertilizer. Mr. Rice responded that it would loamed and seeded. They would not use fertilizer. Mr. Clark commented that the note says it would be loamed, seeded, fertilized and mulched. Mr. Rice confirmed that the note would be updated to clarify there would be no fertilizer in that area.

PUBLIC HEARING

John Trapane of 120 FW Hartford Dr. discussed most of his concerns with Mr. Rice before the meeting, which mitigated a lot of the issues the abutters had. 6,800 square feet is not a significant problem, but that tree area is a significant sound buffer for the community. There is a significant concern about cutting down or tearing down trees in that area. Mr. Trapane had no objection to current the addition, but was concerned about future development. Mr. Trapane wanted to alert the Board to be aware of what may come in the future.

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

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau questioned if there was something in the zoning that talked about a buffer between a residential neighborhood and commercial development. Ms. Walker confirmed that a buffer was required.

Mr. Rice added that they would need a variance or a wetland to expand. There are no plans to expand into that buffer or cut any trees. The closest abutter is 1,000 feet. Chairman Legg added that they would have to come before this Board if anything were to happen in the future.

Vice Chairman Moreau moved to grant the request, seconded by Mr. Clark with the following stipulations:

Conditions precedent (to be completed prior to issuance of a building permit)

- 1) The domestic water line note shall be updated to indicate that the water meter will need to be located just inside an outside wall in a conditioned space.
- 2) The site plan (Sheet C2) shall be updated to include metes and bounds for the lot.
- 3) The proposed easement plans and deeds shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by City Council.
- 4) The site plan and any easement plans and deeds shall be reviewed for the pre-approval by the Rockingham County Registry of Deeds and subsequently recorded, as deemed appropriate by the Planning Department.
- 5) A note shall be added to the plan set indicating that no fertilizer shall be used in the swale adjacent to the wetland edge.
- 6) A note shall be added to the site plan labeling the striped loading zone on the rear southeast corner of the building.

Conditions subsequent (to be completed prior to completion of the project)

- 7) After construction, the Engineer of Record shall submit a written report to the City (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed according to the approved plans and specifications and will meet the design performance.

- E. The application of **Noele Clews, Owner** and **Ambit Engineering, Inc., Applicant** for property located at **799 South Street** requesting Preliminary and Final Subdivision approval to subdivide a lot with an area of 76,889 s.f. and 395' of continuous street frontage into three (3) lots as follows: proposed Lot 1 with an area of 9,004 s.f. and 100' of continuous street frontage; proposed Lot 2 with an area of 58,885 s.f. and 95' of continuous street frontage; and proposed Lot 3 with an area of 9,000 s.f. and 100' of continuous street frontage. Said property is located on Assessor Map 132 as Lot 24 and lies within the General Residence A (GRA) District. LU 19-32.

DISCUSSION AND DECISION OF THE BOARD

Vice Chairman Moreau moved to postpone this item to the August 15, 2019 meeting, seconded by Ms. Record. The motion passed unanimously.

- F. The application of **Kenneth Young, Owner** and **Charles Hoyt Designs, Applicant** for property located at **346 Colonial Drive** requesting Conditional Use Permit approval in accordance with Section 10.814 of the Zoning Ordinance for the addition of a 515 sq. ft. Attached Accessory Dwelling Unit above a proposed garage addition. Said property is shown on Assessor Map 260 as Lot 136 and lies within the Single Residence B (SRB) District. LU #19-131.

DISCUSSION AND DECISION OF THE BOARD

Ms. Record moved to accept withdrawal of this request, seconded by Vice Chairman Moreau. The motion passed unanimously.

- G. The application of **Jay and Audra Mayski, Owners** of property located at **210 FW Hartford Drive** requesting Wetland Conditional Use Permit approval in accordance with Section 10.1017 of the Zoning Ordinance to relocate an 8' by 12' shed into the wetland buffer adjacent to the house. Said property is shown on Assessor Map 270 as Lot 32 and lies within the Single Residence B (SRB) District. LU #19-138.

SPEAKING TO THE APPLICATION

Owner Jay Mayuski spoke to the application. There is a shed that is currently partially on the neighbor's property, and the proposal is to move it fully on Mr. Mayuski's property.

Vice Chairman Moreau questioned what would happen to the area the shed has been sitting on. Mr. Mayuski responded that it was just a knoll with grass before. Grass will be planted in that area. It is not in the wetland buffer.

Ms. Record requested clarification on the sand put around it. Mr. Mayuski responded that there was gravel and stone under it. That will be removed and brought back to grade. The shed was on the side of a hill that had to be made level. That's where the gravel and rocks are. It will be removed and grass will be laid.

PUBLIC HEARING

Chairman Legg asked if anyone else was present from the public wishing to speak to, for, or against the petition. 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. Clark with the following stipulation:

- 1) The applicant shall remove any sand or other fill material, which was brought in when the shed was originally placed and seed the area with grass or other suitable plantings to restore the area to a vegetated condition. Given a portion of this work will need to be done on the adjacent property the applicant shall work with the City's Environmental Planner to coordinate the planting with the adjacent property owner.

The motion passed unanimously.

- H. The application of **Liberty Mutual Insurance, Owner**, and **Altus Engineering, Inc., Applicant** for property located at **225 Borthwick Avenue** requesting Wetland Conditional Use Permit approval in accordance with Section 10.1017 of the Zoning Ordinance for improvements to an existing parking lot including regrading, re-striping and improvements for accessibility all within the footprint of the existing paved area with an impact of 16,900 square feet in the inland wetland buffer zone. Said property is shown on Assessor Map 240 as Lot 1 and lies within the Office Research (OR) District. LU #19-139.

SPEAKING TO THE APPLICATION

Jeff Clifford from Altus Engineering and Bill Martenson from Liberty Mutual spoke to the application. The proposal is to re-grade the parking to ADA parking at the Liberty Mutual parking lot. The work is all within the existing curb line. There will be no disturbance to the wetlands. The work is within the wetland buffer and they are required to get a CUP. There will be 16,900 square feet of impact and additional work outside of the wetland buffer. This application has been to the Conservation Commission. They had some comments about providing silt sacks in the existing catch basins. That was incorporated into the plan.

Vice Chairman Moreau questioned if there would be an increase use of something that shouldn't be in the buffer like salt. Mr. Clifford responded that the area would be a little flatter, so there will be less opportunity to slip. Mr. Martenson added they he would have to confer with the landscape company to see how they actually manage ice and snow removal. Chairman Legg clarified that there were existing handicap spots now. Mr. Martenson confirmed that was correct as well as two visitor spots. There will be no change to the maintenance.

Mr. Clark questioned if they would replace the curbing around the entire area and re-point all the joints. Mr. Martenson confirmed that was correct. The interior curbing along the parking would be replaced. The exterior curbing would not.

PUBLIC HEARING

Chairman Legg asked if anyone else was present from the public wishing to speak to, for, or against the petition. 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 Ms. Record with the following stipulation:

- 1) Silt bags shall be installed along the two existing catch basins during construction.

The motion passed unanimously.

IV. OTHER BUSINESS

- A. Request for Design Review for property located at **200 Chase Drive**, submitted by **Altus Engineering, Inc.** on behalf of **The Bethel Assembly of God**, Owner.

Ms. Walker commented that this was required for site review regulations. Because it is still in the design conceptual review the details like architectural design elements and roof lines will probably not be appropriate at this level. This is between conceptual review and site plan. The Board can vote to schedule a public hearing for August if they determine the plan is adequate. Chairman Legg commented that this came before the Board and City Staff asked to consider a third Gateway Zone. The Board at that time determined that two zones were enough. Chairman Legg commented that he personally wished this were not before the Board tonight. The correspondence from the attorney representing the abutters has been asking the Board to postpone the decision has been reviewed. However, the plans are sufficient enough to move forward.

Vice Chairman Moreau moved to accept the Design Review, seconded by Ms. Henkel.

Vice Chairman Moreau commented that she had a lot of concern about moving forward without having further discussion about zoning. There is nothing holding this back other than that. Ms. Walker commented that the design review is recognized in NH. It is not just to provide a loophole to get around local zoning. It's to provide predictability to landowners when they are deciding what to do with the land. The design review is a mechanism to help draw a line in the sand about where to look in the zoning and provide some assurance that they have the ability to move through the land use boards without uncertainty. The G3 zoning that was originally proposed was not substantially different. Zoning changes are a multi-meeting proposal. They are still many meetings out even if the Planning Board recommends a change. Vice Chairman Moreau commented that when they put the design review into place there were a lot of complaints on both sides. Chairman Legg added that it was a state statute. Because zoning changes are so significant to property owners', the City goes through a lengthy public process to give plenty of warning to a potential change to a property. G3 would be several months away at best. There is nothing in this that could be denied.

The motion passed unanimously.

- B. Proposed Zoning Amendments to remove a portion of 361 Hanover Street from the Downtown Overlay District and designate a height area properties along Foundry Place.

Ms. Walker commented that this was a zoning amendment Staff wanted to make because it adds a height area around Foundry Place. Most streets in the Downtown have a height area. Right now there is no line down Foundry showing a height area. 361 Hanover St. is in an odd situation because the ground floor would be required to have a commercial space. The owner would like to redevelop the property and would like to have clarity about accepted uses on the first floor. Chairman Legg clarified that this agenda item was just to schedule a public hearing. They would get more detail later.

Vice Chairman Moreau moved to schedule a public hearing, seconded by Ms. Record. The motion passed unanimously.

- C. Guiding Parking Principles discussion.

Ms. Walker provided the Board with a handout of their comments based on the proposed draft of the Parking Principles. All of the comments have been incorporated. Ms. Walker proposed going through the proposed changes to consolidate all suggested revisions before it goes back to City Council.

1. The revision was to clarify the terminology used for downtown and other commercial space and call them mixed use centers.
2. The second revision was to replace "convenient" with "data driven" or "evidence based description."

- a. Vice Chairman Moreau commented that it should say evidence to the parking need. Ms. Henkel commented that evidence based parking was not clear. Chairman Legg suggested removing that terminology and putting a period after “private parking residents’ responsibility.”
3. The next revision was to change the wording to say if it is too difficult or expensive to find parking to access the destination.
4. The next revision was to include a comment about making Portsmouth difficult to walk in by providing too much parking.
 - a. Vice Chairman Moreau commented that it should say less pedestrian friendly. Ms. Walker noted that they could remove the last sentence. Chairman Legg agreed it should be removed.
5. The next revision was to include a comment about managing parking at the garage in accordance with best practice pricing principles.
 - a. Chairman Legg questioned if the comment was saying they would continue to increase the supply of public parking. Ms. Walker responded that it was acknowledging expanding access not just increasing. It may be connecting better to other facilities.
6. The next revision was to add data driven or evidence based again.
 - a. Vice Chairman Moreau commented that they should remove that sentence add a period like they did above.
7. The next revision was to add data driven or evidence based again.
 - a. Ms. Walker questioned if that should be removed like above. Ms. Henkel confirmed that was correct.
8. The next revision dealt with safe and convenient parking.
 - a. Ms. Henkel responded that the first sentence of comment 8 should be removed and then comment 8 and 19 should be combined.
9. Ms. Henkel requested clarification on a parking term comment.
 - a. Ms. Walker responded that it meant they pay more by staying. Vice Chairman Moreau responded that they should get rid of the second sentence.
10. The next revision dealt with a comment about best practices and urban planning for density and using parking data usage.
 - a. Ms. Henkel commented that it was redundant and should be removed.
11. The next revision was for a comment about a parking garage shouldn’t compromise best practices in managing overall parking.
 - a. Vice Chairman Moreau commented that it had to do with free residential parking on Sundays or snow storms. The comment about compromise best practices should be removed. Ms. Record questioned if they had defined best practices. Ms. Walker confirmed they had not. Chairman Legg noted that they should add appropriate accommodations to residents and the last part should be deleted.
12. Ms. Walker suggested that the next revision should be edited to say “for all residents.” Chairman Legg agreed. Ms. Henkel added that she used to live in the South End and giving someone special accommodation if a parking problem arises in the neighborhood should be handled for residents. Ms. Walker commented that they should add something about balancing residential demand. Chairman Legg noted that they should take this out because presumes policies are set.

Mr. Clark commented that this may be the time to start thinking about electrical vehicle usage and parking. Right now there are no extension cords coming from houses and people are not hogging chargers. However, there may be more of an electric car demand in the future. Ms. Walker agreed they should add in a recommendation to add principles for electric vehicles and over all curb share management. That will account for electrical cars and ride shares etc.

V. ADJOURNMENT

Mr. Gamester moved to adjourn the meeting at 8:16 p.m., seconded by Ms. Record. 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.