

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

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

**7:00 pm**

**JANUARY 16, 2020**

**MINUTES**

**MEMBERS PRESENT:** Dexter Legg, Chairman; Elizabeth Moreau, Vice-Chairman; Colby Gamester; Jay Leduc; Karen Conrad, City Manager; Ray Pezzullo, Assistant City Engineer; Corey Clark, Alternate, and Polly Henkel, Alternate

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

**MEMBERS ABSENT:** Jody Record

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**I. ELECTION OF OFFICERS**

Mr. Gamester moved to nominate Dexter Legg for another term as Chairman, seconded by Mr. Leduc. The motion passed unanimously.

Mr. Gamester moved to nominate Elizabeth Moreau for another term as Vice Chairman, seconded by Mr. Leduc. The motion passed unanimously.

**II. APPROVAL OF MINUTES**

A. Approval of Minutes from the December 19, 2019 Planning Board Meeting

Mr. Kisiel moved to approve the Minutes from the December 19, 2019 Planning Board Meeting, seconded by Mr. Gamester.

Mr. Kisiel commented that he was in attendance at the December Meeting. Ms. Walker commented that Jillian Harris was absent. The attendance section should be reviewed.

The motion passed unanimously.

**III. DETERMINATION OF COMPLETENESS**

**1. SITE PLAN REVIEW**

A. The application of **Dagny Taggart, LLC, Owner**, for property located on **Daniel Street (aka 60 Penhallow 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 Mr. Gamester. The motion passed unanimously.

- B. The application of **Five Hundred Five Lafayette Rd., LLC, Owner**, for property located at **605 Lafayette Road** requesting Amended 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 Mr. Gamester. The motion passed unanimously.

- C. The application of **Pease Development Authority, Owner**, and **Lonza Biologics, Inc., Applicant**, for property located at **101 International Drive** requesting Site Plan Review approval under Chapter 400 of the Pease Land Use Controls, Site Review Regulations.

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 Mr. Gamester. The motion passed unanimously.

#### IV. 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. **POSTPONED** The application of the **Maud Hett Revocable Trust, Owner**, for property located on **Banfield Road**, requesting a Wetland Conditional Use Permit to impact 4,013 square feet of inland wetland and 21,089 square feet of wetland buffer to construct 22 single family homes. Impacts include installation of three forty-two foot wide culverts for a road crossing through a wetland and wetland buffer impacts for road construction and stormwater management. Said property is shown on Assessor Map 256 Lot 02 and lies within the Single Residence A (SRA) District. **POSTPONED**

Chairman Legg commented that this application has already been postponed and no action was required.

- B. **POSTPONED** The application of **James and Mallory Parkington, Owners**, for property located at **592 Dennett Street** requesting a Conditional Use Permit according to Section 10.814 of the Zoning Ordinance to construct an attached Accessory Dwelling Unit with 672 s.f. +/- of gross floor area in the second story of a newly constructed attached garage. Said property is shown on Assessor Map 161, Lot 18 and lies within the General Residence A (GRA) District. **POSTPONED**

Vice Chairman Moreau moved to **postpone** this request until the next regularly scheduled Planning Board meeting, seconded by City Manager Conrad. The motion passed unanimously.

#### 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. **POSTPONED** The application of the **Bethel Assembly of God, Owner**, for property located at **200 Chase Drive** requesting a Conditional Use Permit in accordance with Section 10.1112.14 of the Zoning Ordinance for provision of 109 on-site parking spaces where a minimum of 134 are required. Said property is shown on Assessor Map 210, Lot 02 and lies within the Gateway Neighborhood Mixed Use Center (G2) District. **POSTPONED**

Vice Chairman Moreau moved to **postpone** this request until the next regularly scheduled Planning Board meeting, seconded by City Manager Conrad. The motion passed unanimously.

- B. **POSTPONED** The application of the **Bethel Assembly of God, Owner**, for property located at **200 Chase Drive** requesting Preliminary and Final Subdivision approval to subdivide a lot with an area of 2.7 acres (116,591 s.f.) and 1,635 ft. +/- of street frontage into two (2) lots as follows: proposed Lot 1 with an area of 89,054 s.f. and 1,106 ft. +/- street frontage and proposed Lot 2 with an area of 27,537 s.f. and 529 ft. +/- street frontage. Said property is shown on Assessor Map 210, Lot 02 and lies within the Gateway Neighborhood Mixed Use Center (G2) District. **POSTPONED**

Vice Chairman Moreau moved to **postpone** this request until the next regularly scheduled Planning Board meeting, seconded by City Manager Conrad. The motion passed unanimously.

- C. **POSTPONED** The application of the **Bethel Assembly of God, Owner**, for property located at **200 Chase Drive** requesting Conditional Use Permit approval for a Development Site according to the requirements of Section 10.5B40 of the Zoning Ordinance and Site Plan Review approval for the construction of a new 22-unit residential apartment building with a footprint of 7,660 s.f. and 29,607 s.f. GFA with grading, lighting, utilities, stormwater management, landscape improvements, and community space. Said property is shown on Assessor Map 210, Lot 02 and lies within the Gateway Neighborhood Mixed Use Center (G2) District. **POSTPONED**

Vice Chairman Moreau moved to **postpone** this request until the next regularly scheduled Planning Board meeting, seconded by City Manager Conrad. The motion passed unanimously.

- D. **POSTPONED** The application of the **Weeks Realty Trust, and Carter Chad, Owners and Tuck Realty Corporation, Applicant** for property located at **3110 Lafayette Road** requesting Site Plan Review approval for the construction of 18 residential townhomes in 5 structures with a footprint of 15,880 s.f. and 47,252 GFA with associated site improvements, grading, utilities, stormwater management and landscape improvements. Said property is shown on Assessor Map 292, Lot 151-1 and lies within the Single Residence B (SRB) District. **POSTPONED**

Vice Chairman Moreau moved to **postpone** this request until the next regularly scheduled Planning Board meeting, seconded by City Manager Conrad. The motion passed unanimously.

- E. **WITHDRAWN** The request of **Dagny Taggart, LLC, Owner**, for property located on **Daniel Street (aka 60 Penhallow Street)** requesting Design Review for the construction of a 4-story commercial building with community space and associated site improvements. Said property is shown on Assessor Map 107, Lot 27 and lies within the Character District 4 (CD4) District.  
**WITHDRAWN**

Mr. Gamester moved to accept the withdrawal of this request, seconded by Vice Chairman Moreau. The motion passed unanimously.

- F. The application of **Dagny Taggart, LLC, Owner**, for property located on **Daniel Street (aka 60 Penhallow Street)** requesting Conditional Use Permit approval under Section 10.5A43.43 of the Zoning Ordinance and Site Plan Review approval for the construction of a new 4-story commercial building with a footprint of 17,200 s.f. +/- and 59,600 s.f. +/- GFA with associated site improvements, grading, utilities, stormwater management, landscape improvements, and community space. Said property is shown on Assessor Map 107, Lot 27 and lies within the Character District 4 (CD4) District.

#### **SPEAKING TO THE APPLICATION**

Ms. Walker clarified two items in the application. The first was the additional building height. They are allowed an additional story in height by providing 20% community space. This is allowed by right with no additional approval from the Planning Board. The applicant is building to the maximum height of 40 feet, but only building 4 stories. The other item is the additional building footprint particularly for properties with underground parking, which this project does have. That requires a CUP from the Planning Board. The applicant is asking for 17,000 s.f., which exceeds the maximum allowed of 15,000 s.f. There are limitations on the gross floor area, and they are required to provide 30% community space.

Tracy Kozak with JSA Architecture, Owner Mark McNabb, John Chagnon with Ambit Engineering, Robbi Woodburn with Woodburn and Company Landscaping, Attorney FX Bruton, and Rebecca Brown with GPI were present to speak to the application. Ms. Kozak commented that they were here in November for a Preliminary Conceptual Review. This is part of the Brick Market Development, which includes 60 Penhallow St., 3 Pleasant St., and 30 Penhallow St. The project goals include creating a welcoming and vibrant pedestrian friendly atmosphere, creating a distinct sense of place and providing connectivity via public ways throughout the site. The building design has been a deliberate effort to create a special building that will honor Portsmouth's maritime history. There will be retail and restaurants on the ground floor. The upper floors will be offices and there will be underground parking.

Ms. Woodburn commented that 30% of the total Brick Market Development has been devoted to community space. There will be a simple plaza with pocket parks and wide pedestrian sidewalks. The overall goal is to create an exciting activated pedestrian courtyard with connectivity. The City sidewalks will be the same brick as the rest of the downtown along Penhallow St. The courtyard will have a lighter pavement and bands of blue stone bands reflecting ripples coming out of the building. They will be edged in a red granite that will tie into the City sidewalks. The center of the courtyard will have a fountain with low sprays and boulders. There will be serpentine seat walls with wood benches. Additionally, there will be plantings above the seat walls. Curving mural walls will hide utilities along the building. There is a feature bench in the side alleyway of Penhallow St. There will also be small clusters of furniture for people to gather in the courtyard. There will be signage. On the south side of 30 Penhallow St. there will

be a shared pedestrian and vehicle access. It will have a flush brick walkway. There will be standard City light poles on the street. There will be catenary lighting inside the courtyard. The fountain will have LED lights in the water and the benches will have strip LED lighting under the wood seats. There may be lighting on the mural walls, but that is not planned yet.

Ms. Brown prepared the traffic assessment for this project. Ms. Brown met with the Planning Department and DPW to develop a study area and the time periods to be reviewed. They identified 16 intersections to look at for traffic. The City has a requirement that any intersection that gets an increase of over 50 trips within a peak hour needs to be looked at. That analysis narrowed the area to 6 intersections that exceeded the 50 trips threshold. The City asked them to do a traffic impact based on the weekday p.m. peak hour. It is assumed that because of the mixed-use nature of the building some trips may stay internal, for example office workers could walk to the restaurant for lunch. The site is also located in the central business district and may have people visit from the general downtown. Additionally, some people may walk to work. It is assumed 5% would be walking to work. Based on all the assumptions the report indicated 90-400 peak hour trips of one vehicle entering or one vehicle leaving. 200 people would be coming to the site during the peak. After that analysis only 3 intersections were found to exceed the 50-trip increase on a weekday p.m. peak. Those intersections are Maplewood Ave. and Hanover St., Concord St. and Daniel St., and Daniel St. and Penhallow St. It is assumed that people will use the City's garages to get to the restaurant. This information has been reviewed by TAC. The information from this study is being sent to the City's consultant for inclusion in the city's downtown live traffic model. They will work with the City to determine mitigation if necessary. It would most likely be minor signal timing adjustments, striping and sign improvements.

Mr. Chagnon commented that they have decreased the impervious area in the plaza and made a pocket park. There is still a slight increase in impervious area to the site primarily due to create usable community space. That is mitigated for with the separation from sewer and drainage for 3 Pleasant St. There was no increase in impervious area in that project. The drainage separation effort is continuing with this proposal with a new drainage line up Daniel St. There is also more detail for offsite improvements for power. They are committed to providing underground utilities in the area. The transformers need to be relocated and have been moved onto the developer's property. An easement plan has been added. TAC recommended approval for the site plan with stipulations that needed to be completed prior to coming to the Planning Board. They have been completed. The applicant has no objections to the other stipulations. The CUP request is for a 17,200 s.f. building footprint. This ordinance allows the applicant the ability for this developer to subdivide the property, which could have 15,000 s.f. per lot. This CUP is for a small increase.

Mr. McNabb commented that there is a small increase in storm water. That will be offset through mitigation with the sewer separation. There will be public beautification by putting the power lines underground. This plan also includes a communal trash area with stainless steel chutes and an underground dumpster. It will be out of sight and contained. This will be the first contemporary building in Market Square. It will not be a fake historic building. The shared sidewalk and car access was not calculated in community space, and it does have an easement. There will be solar panels on the roof.

Vice Chairman Moreau commented that the project had a lot of merit. Some of the community space areas may need to be relabeled to ensure they match the correct City definition. Mr. McNabb confirmed they would be updated. Vice Chairman Moreau commented that there should be easements for access. Mr. McNabb confirmed that there would be.

Mr. Clark commented that he was concerned with cars coming in and out of the garage at a 14% slope. That slope ends right at the sidewalk. There should be ample space for cars coming up to keep everyone

safe. Mr. Chagnon responded that the building goes up to the street edge, but the garage is set back 16 feet. There is enough space for a car to come. It will be flatter at the top. There will also be warning signals for pedestrians. Mr. Clark questioned why drainage test pits were done. Mr. Chagnon responded that they were not for soil infiltration. It has to do with digging down to uncover utilities. Mr. Clark questioned what the snow removal plan for the site was. Mr. McNabb responded that they would use a Bobcat for snow removal. They will be privately removing it.

Vice Chairman Moreau questioned if an alarm would go off to warn cars that pedestrians actually see the warning sign. Mr. Chagnon responded that a car coming out of any driveway in the downtown would have to proceed with caution.

Ms. Walker questioned where the transformer was and how much clearance there was. Mr. Chagnon responded that the hatched area in the plan showed the transformer. The box will be much smaller than normal. It will be 7 feet from the edge of the transformer and the building base.

Vice Chairman Moreau questioned if the transformers would have a cover around them. Mr. Chagnon responded that the transformers were not required to be in locked enclosures. The secure elements would have a lock and there will be bollards.

Chairman Legg questioned what the height of the granite retaining walls were. Ms. Woodburn responded that the seat walls vary. The average bench height should be 18 inches with a wood bench cap on top.

Mr. Kisiel questioned how high the water table was. The parking is going down two stories and there are a lot of buildings in that area. It could become an issue. Mr. McNabb responded that they looked at that. The test pits did not hit the water table in 3 areas and the other 3 didn't hit it until 18 feet. There is ledge under the site.

Mr. Clark questioned if there would be any ledge excavation and how that would take place. Mr. McNabb responded they would not blast it. They will pull the ledge out.

## **PUBLIC HEARING**

Bernard Mulligan of 18 Congress St. commented that he was an abutter and was concerned about the impact this project may have to street parking. Mr. Mulligan commented that he had heard the sidewalk was widening and some parking was being removed. The COAST bus is making changes to their service as well. There is no space for a loading zone for trucks and losing parking would be an issue. Water could be an issue for underground parking. There should be more than sump pumps to prevent that. The underground parking would be good, but the street parking should stay.

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**

Chairman Legg requested that the applicant clarify the street parking and loading zone details. Mr. McNabb responded that it was their desire from the beginning to eliminate parking on Daniel St. to put in a wider sidewalk and loading zone. That is not part of this plan now. The City has been studying Market Square



comprehensively. They are waiting for that study to finish before making any changes to parking. This plan does not eliminate any street parking and the existing loading zone at the property remains. Also, TAC requires them to build the underground parking as a waterproof structure. There will be rubber membranes in the foundation.

Ms. Walker clarified the comments made on public transit. COAST is adding a new line on Daniel St. that will stop in front of this project. COAST is reshuffling their stop in Market Square, but there will still be a stop there.

The Board voted to **grant** the request as follows:

1. Vice Chairman Moreau moved to find that the application satisfies the requirements of Section 10.5A43.43 and to grant the Conditional Use Permit to allow a building footprint of 17, 200 square feet, seconded by Mr. Gamester.

Chairman Legg commented that it was a marginal increase, so he was comfortable supporting the motion.

The motion passed unanimously.

2. Vice Chairman Moreau moved to grant Site Plan Review Approval, seconded by Mr. Gamester with the following stipulations to be completed prior to building permit issuance:

- 1) The applicant shall complete the traffic modeling and any required mitigation for transportation-related improvements according to the following requirements:

- a) The Applicant will be responsible for all costs associated with the Third Party contract and Three Party Agreement to finalize the City's traffic model.

- b) Should any further reasonable traffic engineering be required as determined by the Planning Director, then the Applicant agrees to pay those additional costs.

- c) The Applicant agrees to make any traffic improvements, as determined by the Planning Director in consultation with the Department of Public Works, not to exceed \$20,000.

- d) If cost of traffic improvements required exceeds \$20,000 or the parties have any disagreement that is unable to be resolved, then the Applicant will be required to seek amended Planning Board Approval for this condition.

- e) No building or construction permits shall commence until the above stipulations have been satisfied.

- 2) Drainage test pits shall be completed to validate the design of the stormwater system, which subject to final review and approval by DPW.

- 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) All off-site improvements shall be subject to final review and approval by DPW as part of the excavation permitting process.

5) Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by City Council.

6) The site plan shall be reviewed for pre-approval by the Rockingham County Registry of Deeds and subsequently recorded by the City or as deemed appropriate by the Planning Department.

Mr. Clark commended the developer and team for putting as much solar as they did on the building. Vice Chairman Moreau also thanked them for working with all the neighbors and incorporating them in the trash plan.

The motion passed unanimously.

G. The application of **Five Hundred Five Lafayette Rd., LLC, Owner**, for property located at **605 Lafayette Road** requesting Amended Site Plan Review approval for installation of a dumpster including a concrete pad and enclosure. Said property is shown on Assessor Map 229, Lot 09 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

### **SPEAKING TO THE APPLICATION**

Attorney Bernie Pelech spoke on behalf of the applicant. When this project was originally approved, they did not anticipate a need for outdoor dumpsters. However, they are now needed. The request is to amend the site plan to approve outdoor dumpsters. TAC recommended approval with some stipulations. There will be employee only parking near the dumpsters, and that will be marked with signs. The proposal is to put dumpsters in a brick enclosure with gates.

Chairman Legg questioned what the original plan for trash storage. Mr. Pelech responded that there was an indoor trash room with receptacles. The space is not sufficient for the tenants.

### **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**

The Board voted to **grant** the request as follows:

1. Mr. Gamester moved to find that 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, seconded by Mr. Leduc:



- a) Section 9.3.5 – requiring dumpsters or other waste container pads to be a minimum of 20 feet from any property line or yard.

Chairman Legg commented that he was not thrilled because they came here originally with a plan for indoor trash storage, but the Chairman supported it because enclosure looked nice. Vice Chairman Moreau agreed.

The motion passed unanimously.

2. Mr. Gamester moved to grant Site Plan Review Approval, seconded by Mr. Leduc with the following stipulations:

- 1) Plans should include an alternative dumpster screen commensurate with the quality and character of the recently constructed principal building.

The motion passed unanimously.

H. The application of **Pease Development Authority, Owner, and Lonza Biologics, Inc., Applicant**, for property located at **101 International Drive** requesting Site Plan Review approval under Chapter 400 of the Pease Land Use Controls, Site Review Regulations, for parking expansion at three different locations within the site resulting in a total of sixty new parking spaces with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 305 Lot 06 and lies within the Airport Business Commercial (ABC) District.

### **SPEAKING TO THE APPLICATION**

Neil Hansen and Patrick Crimmins from Tighe and Bond spoke to the application. Mr. Hansen commented that the project is a parking expansion for the existing facility to create 60 additional parking spaces in three separate areas throughout the site. The first is the northern expansion area. It will have 22 spaces, and is adjacent to the parking garage. The second parking expansion will be off the main area and the third expansion is adjacent to the most recent building expansion. Each will be treated for storm water separately and they are mitigating the impervious surface. The northern expansion shares an entrance with the garage and will be treated by a rain garden. The second expansion will be treated with underground chambers and the third expansion will be treated with a jellyfish filtration system. There were three stipulations from TAC. The first was to add 2 more ADA spaces to increase the total to 15 ADA spaces. They have been added in the main parking area. The second was to add trees along Goose Bay and they have been added to the site plan. Trees were also added to the new islands in the parking lots. The Fire Department asked to verify that their access was not restricted. They have received confirmation from Deputy Chief Howe that it is acceptable.

Mr. Clark questioned if the drainage plan overlapped with the Iron Parcel at all. Mr. Hansen responded that the drainage system was completely separate from the Iron Parcel. All of the drainage connects into the drain system for existing storm water and goes to the pond. None of the storm water goes to the Iron Parcel. Mr. Clark commented that the Iron Parcel captured some drainage that went to the drainage pond and questioned if these changes would affect the AOT permit. Mr. Hansen responded that they spoke with DES and the permit will be amended to include those areas and make sure they are on record. Mr.

Pezzullo commented that they get a copy of the report. If there are any adjustments shown that are substantial, then he can notify the Board.

## **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**

Mr. Gamester moved to recommend Site Plan approval as presented, seconded by Mr. Leduc. The motion passed unanimously.

- I. **POSTPONED** The application of **Hope for Tomorrow Foundation, Owner**, for property located at **355 (315) Banfield Road** requesting Amended Site Plan Review approval for the construction of a 17,000 s.f. freestanding gymnasium and associated parking area to serve the existing private school on the property with related paving, lighting, utilities, landscaping, and drainage improvements. Said property is shown on Assessor Map 266 Lot 05 and lies within the Industrial (I) District. **POSTPONED**

Mr. Gamester moved to **postpone** this request until the next regularly scheduled Planning Board meeting, seconded by Mr. Leduc. The motion passed unanimously.

- J. **POSTPONED** The application of **DPF 1600 Woodbury Avenue, LLC, Owner**, for property located at **1600 Woodbury Avenue** requesting Amended Site Plan Review approval to upgrade the existing shopping center with new and additional signage, a new driveway entrance off of Woodbury Avenue, and repurposing of the former supermarket space to separate retail space and new grocery space with accessory café/food court. Said property is shown on Assessor Map 238 Lot 16 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District. **POSTPONED**

Mr. Gamester moved to **postpone** this request until the next regularly scheduled Planning Board meeting, seconded by Mr. Leduc. The motion passed unanimously.

- K. **POSTPONED** The application of the **Maud Hett Revocable Trust, Owner**, for property located on **Banfield Road** requesting Conditional Use Permit approval for an Open Space Planned Unit Development according to the requirements of Section 10.725 of the Zoning Ordinance and Site Plan Review approval for the construction of 22 single-family homes and a new road with related parking, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 256 Lot 02 and lies within the Single Residence A (SRA) District. **POSTPONED**

Mr. Gamester moved to **postpone** this request until the next regularly scheduled Planning Board meeting, seconded by Mr. Leduc. The motion passed unanimously.

## VI. OTHER BUSINESS

- A. The request of **Patrick Liam Hughes** for property located at **65 Fields Road** for a 1-year extension of the Conditional Use Permit for an Attached Accessory Dwelling Unit that was granted on February 21, 2019.

Vice Chairman Moreau moved to **grant** a one-year extension to expire on February 21, 2021, seconded by Mr. Gamester. The motion passed unanimously.

- B. Request for a water services access easement to be granted to the City of Portsmouth for property located on Fox Point Road in Newington, NH.

Mr. Kisiel recused himself.

Ms. Walker commented that the Board reviews acquisition of land and that includes easements. Vice Chairman Moreau questioned if this was reviewed by the Legal Department. Ms. Walker confirmed that it was.

Mr. Gamester moved to **recommend approval** of this request to the City Council, seconded by Mr. Leduc. The motion passed unanimously.

- B. of **Vaughan Street Hotel, LLC and Stone Creek Realty, LLC, Owners and XXS Hotels, LLC, Applicant**, for properties located at **299 Vaughan Street and 53 Green Street** for Preliminary Conceptual Consultation for the construction of a 5-story hotel with community space. Said properties are shown on Assessor Map 124 Lot 10 and Assessor Map 119 Lot 2 and lie within in the Character District 5 (CD5) District.

Patrick Crimmins with Tighe and Bond and Jeff Johnston spoke to the application. Mr. Crimmins commented that the project was at the existing AC Hotel parcel and the back two buildings. The proposal is for a lot line adjustment between the two lots. This hotel would be part of the AC Hotel parcel. It will be a 5-story hotel with 80 rooms. They are looking at using the incentive for a 7,000 s.f. hotel footprint. The proposal is for shared parking between the two lots, which will need a CUP. There will be a curb cut off Green St. There will be a reduction in impervious surface by creating green space on the lot. They will coordinate with the AC hotel to for some amenities like trash. A lot of the technical details were worked out for the AC Hotel with TAC, so hopefully that simplifies this application. The proposal includes 30% community space to get the incentive to go to a 5<sup>th</sup> story. There will be a pedestrian alley connection that will connect to the North Mill Pond Trail. There will also be a pocket park that will be part of 299 Vaughn St. The pedestrian walkway will be covered. There will be an easement and continuation, so it can be connected to the North Mill Pond Greenway Project.

Vice Chairman Moreau questioned if they would be tearing down the existing building. Mr. Crimmins responded that it is attached, but a separate structure. Vice Chairman Moreau questioned if the dumpsters would sit on dirt. Mr. Crimmins responded that they would look at it again. Vice Chairman Moreau commented that she was concerned about putting 80 units in a compact space with shared parking. The

math does not look correct. Mr. Crimmins responded that the shared parking is offset with percentages. A narrative can be included to clarify the calculations.

Mr. Clark questioned if this was going to effect storm water permitting for the Vaughn Project. Mr. Crimmins responded that it shouldn't but confirmed they would look at it. Mr. Clark questioned if there was any community space already being used for previous approvals. Mr. Crimmins responded that the 30% of the community space would all be on the 299 Vaughn St. lot. Ms. Walker added that should be included as an exhibit. Mr. Crimmins confirmed that they would.

Chairman Legg commented that the community space was covered by the 2<sup>nd</sup> floor of the hotel and questioned if any day light would come in there. Mr. Crimmins responded that anything toward the AC Hotel will be open. It won't be completely enclosed. There will just be a covered area. Chairman Legg questioned how high the parking area was in the AC. Mr. Crimmins responded that it was 2 story and the AC was 5 stories. Chairman Legg's commented that they need to make certain that the community space is inviting and not just a long tunnel to get to the park. Mr. Johnston commented that the first floor of the lobby will be attached to the walkway and there would be an opportunity to attach to a pocket park. The AC Hotel will be an active area. They will continue to work on it.

Mr. Kisiel commented that it would be interesting to see some numbers and occupancy rates etc. to show there is a need for another hotel in that area.

- D. The request of **JSA Trust and Powerhouse Realty Trust, Owners**, for property located at **361 Hanover Street** for Preliminary Conceptual Consultation for construction of a 2-story, 2,645 s.f. addition to the existing office building, a 14,615 s.f. addition to the existing building and a 3-story mixed-use building consisting of a ground floor non-residential use and 2-stories of residential use. Said property is shown on Assessor Map 138 Lot 63 and lies within the Character District 5 (CD5) District.

Vice Chairman Moreau recused herself.

Corey Colwell spoke to the application and Nicholas Bouquet spoke to the application. Mr. Bouquet commented that the property as it stands is on a condo structure broken into 2 components Unit A and Unit B. JSA owns Unit A, which is the larger of the two existing buildings. Unit B is owned by Powerhouse. A portion of the site near the property line is land owned by the City. It is common owned land that is used as parking. There are 72 parking spaces on site. Three are dedicated to Unit B, 10 are in the common land, and the rest are for Unit A. The proposal is to redevelop the existing building. It will be renovated and repositioned to expand the footprint and add 2 floors for residential use. There will also be a new 3 story mixed use building on the parcel. The ground floor will be commercial and the upper floors will be residential. There will be 18 units and they will be a mix of 1- and 2-bedroom units. The parking will be reduced to 40 spaces onsite. Three spaces will remain with Unit B and the other 37 will be for the rest of the units.

Mr. Colwell commented that the existing building is a two-floor brick building. The proposal is to create 25,000 s.f. of commercial space with two floors of residential space above it. The new building would also be 3 stories with a 3,800 s.f. first floor and a slightly larger footprint for the upper floors. The new building would be a mix of 1, 2 and 3 bed units. There would be columns around the first

floor to support the upper floors. Two access points exist today, one is on Hanover St. and the other one is on Hill St. The Hanover St. access will shift 40 feet to the east. There is a third access on Sudbury. The parking calculation is included. The required parking is 36 spaces and the plan is to provide 40 spaces. It will be resident only parking. There are adequate utilities adjacent to the street. The required open space is 5% and this proposal is to provide 11.8%. There will be landscaping in front of the Heinemann building and along Hanover St. The condo form of ownership for Unit A and Unit B will remain as it is. Each new residence would become part of the condo association.

Chairman Legg questioned how many total residential units there would be. Mr. Colwell responded that there would be 27 condo units.

Mr. Kisiel questioned if the access from Hill St. to Hanover St. would still be there. Mr. Colwell confirmed it would be two-way access there.

Chairman Legg questioned if there would be affordable housing. Mr. Bouquet responded that they did smaller units to drive down pricing. However, the small scale of the development doesn't lend itself to apartments.

Mr. Leduc questioned if the parking would be in the back of the three-story building. Mr. Colwell responded that the parking would be eliminated in the back. There will be parking under the new building and it would be open air parking. The upper floors would go over the parking. Mr. Leduc clarified so that when people look at the building, they will see cars under the units. Mr. Colwell confirmed that was correct. There will be 18 units with open air parking underneath.

Chairman Legg clarified that the residential units in the north building would look out onto parked cars at the front building. Mr. Colwell responded that both buildings would be 3 stories. Their view would be parked cars on the ground level.

Chairman Legg questioned if the City land would still be a parking area. Mr. Bouquet responded that they were not assuming parking spaces there. It will be landscaped green space. It is shown as paved area now but can be landscaped if the City is amenable.

Mr. Leduc commented that he was concerned about the aesthetics of the parking. Chairman Legg agreed that it doesn't lend itself to a quality space with open first level parking. It would be a more complete building if it were enclosed.

Mr. Pezzullo commented that he was concerned with the traffic flow through the property. There is one lane that is too narrow to be two-way traffic. Mr. Colwell responded that they would look into it.

Ms. Walker commented that they should think about the traffic circulation into and across the site. There are a number of access points and the proposed circulation should be clear.

Mr. Clark questioned if the double doors would be access for trash service for both buildings. Mr. Colwell confirmed that was correct.

## **VII. DESIGN REVIEW – ACCEPTANCE OF REQUEST**

- A. The request of **JSA Trust and Powerhouse Realty Trust, Owners**, for property located at **361 Hanover Street** for Design Review of construction of a 2-story, 2,645 s.f. addition to the existing office building, a 14,615 s.f. addition to the existing building and a 3-story mixed-use building consisting of a ground floor non-residential use and 2-stories of residential use. Said property is shown on Assessor Map 138 Lot 63 and lies within the Character District 5 (CD5) District.

Vice Chairman Moreau recused herself.

Mr. Kisiel moved to accept the request and scheduled a public hearing for the February 20, 2020 Planning Board meeting, seconded by City Manager Conrad. The motion passed unanimously.

- B. The request of **Vaughan Street Hotel, LLC and Stone Creek Realty, LLC, Owners and XXS Hotels, LLC, Applicant**, for properties located at **299 Vaughan Street and 53 Green Street** for Design Review for the construction of a 5-story hotel with community space. Said properties are shown on Assessor Map 124 Lot 10 and Assessor Map 119 Lot 2 and lie within in the Character District 5 (CD5) District.

Mr. Kisiel moved to accept the request and scheduled a public hearing for the February 20, 2020 Planning Board meeting, seconded by City Manager Conrad. The motion passed unanimously.

## VIII. CITY COUNCIL REFERRALS

- A. Request for restoration of involuntarily merged lots at 27 Thaxter Road, Assessor Map 166, Lot 39.

Ms. Walker commented that this application came to the Planning Board in April 2018. The Planning Board will give a recommendation for City Council. They make the final decision. The original decision was appealed and went to the Zoning Board of Adjustment. They heard the appeal and decided to send it back to City Council. They considered it again in December and sent it back to the Planning Board. There is no presentation expected, but the applicant and City Attorney are here for any questions.

Attorney Ralph Woodman represented the Jennings. There was an approval in 2004 from the Zoning Board of Adjustment. There were 4.5 lots that were considered by the City as merged. The lots were 42-43 Islington St. and 44-45 half of 46 on Thaxter Road. The previous owner wanted to separate 42 and 43 from the 4.5 lots and submitted a variance request. That created 2 new lots. 42, 43 Islington St. became one lot and the rest became a second lot.

Attorney Bernie Pelech commented that Mr. Woodman was incorrect. The lots were never merged in the first place. Attachment A in the appeal is the old original plan, but the tax maps that were in effect when Mr. Gupta submitted the application to separate the lots showed 42 and 43 Islington St. was one lot and the rest was a separate lot. It was not merged into 4.5 lots. The tax map was very clear in 2004 that the two lots on Islington St. were considered one lot and the lots on Thaxter Rd. were considered another lot. Mr. Gupta asked to separate because they were contiguous lots in common ownership. It was substandard in size and needed a variance to separate. That's what he did. At the time he filed the application there were 2 separate lots. There is no evidence that those 2.5 lots had ever been voluntarily merged. The municipality has the burden of proving that these lots were voluntarily merged. Nowhere has the City produced that evidence.

Vice Chairman Moreau asked for the City’s Legal Department’s opinion. City Attorney Bob Sullivan commented that what Mr. Pelech said was correct. The statutory assumption does favor the lots be unmerged. Unless the Board finds some evidence that shows the current or past owner voluntarily merged the lots then the statutory assumption says the lots should be unmerged.

Vice Chairman Moreau moved to recommend to the City Council restoration of the involuntarily merged lots, as originally recommended, seconded by Mr. Gamester.

Chairman Legg commented that Attorney Sullivan stated it clearly. This statuette is strongly written in support of the property owner. Chairman Legg did not see any evidence and because of that deferred to the statuette.

Vice Chairman Moreau commented that it was controversial the first time. There is no evidence and the BOA decision is not evidence. The Planning Board making action on it would have been persuasive, but there is no evidence of that.

Mr. Gamester agreed with the previous comments.

The motion passed unanimously.

**IX. ADJOURNMENT**

Vice Chairman Moreau moved to adjourn the meeting at 9:49 p.m., seconded by Mr. Gamester. The motion passed unanimously

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Respectfully submitted,

Becky Frey,  
Acting Secretary for the Planning Board