

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

Remote Meeting Via Zoom Conference Call

Per NH RSA 91-A:2, III (b) the Chair has declared COVID-19 outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-10, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

7:00 pm

AUGUST 20, 2020

MINUTES

MEMBERS PRESENT: Dexter Legg, Chair; Elizabeth Moreau, Vice Chair Karen Conard, City Manager; Peter Whelan, City Council Representative; Ray Pezzullo, Assistant City Engineer; Jeffrey Kisiel; Jody Record; Colby Gamester; Jay Leduc and Polly Henkel, Alternate

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

MEMBERS ABSENT: Corey Clark, Alternate

I. APPROVAL OF MINUTES

- A. Approval of Minutes from the July 16, 2020 Planning Board Meeting

City Manager Conard moved to approve the Minutes from the July 16, 2020 Planning Board Meeting, seconded by Vice Chairman Moreau. The motion passed unanimously.

II. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

- A. The application of the **Maud Hett Revocable Trust, Owner**, for property located on **Banfield 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.

- B. The application of **St. John's Church, Owner**, for property located at **105 Chapel 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.

- C. The application of **3201 Lafayette Road, LLC, Owner**, for property located at **0 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.

SUBDIVISION REVIEW

- A. The application of the **Judith Howard Revocable Trust and James & Laura LaJeunesse Family Trust, Owners**, for properties located at **80 Burkitt Street and 161 Thornton Street** requesting Preliminary and Final Subdivision (Lot Line Revision) Approval.

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

- B. The application of the **Edward Mallon Revocable Trust and 56 Middle Street, LLC, Owners**, for properties located at **42 and 56 Middle Street** requesting Preliminary and Final Subdivision (Lot Line Revision) Approval.

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

III. PUBLIC HEARINGS – OLD BUSINESS

- A. The application of the **Maud Hett Revocable Trust, Owner**, for property located on **Banfield Road**, requesting a Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance to construct 22 single family homes and an access road with an impact of 4,013 s.f. of inland wetland area and 21,089 sq. ft. in the wetland buffer. Said property is located on Assessor Map 256 Lot 02 and lies within the Single Residence A (SRA) District.

Mr. Gamester moved to review Public Hearings Old Business A and B together and vote on them separately, seconded by City Manager Conard. The motion passed unanimously.

SPEAKING TO THE APPLICATION

Corey Colwell from TF Moran, Attorney John Cosinavich, Applicants Rick Green, Jenna Green and Michael Green, Gregg Mikolaities from August Consulting, Jim Gove from Gove Environmental, Jack McTigue from TF Moran, Gary Spaulding, and Tom Severino were present to speak to the application.

Mr. Colwell commented that the application is for a 22-unit development on a private road. The units would be single family homes in condo ownership. This was presented as a preliminary concept to the Planning Board. It continued to be reviewed with the City and the State. This proposal preserves most of the property as open space. There will be 22 new homes on a new 900-foot-long private drive. It is a 44.9-acre property with frontage on Banfield Rd. 43% of the lot is wetland. 26 acres of the lot is upland. The majority of the wetlands are contiguous and adjacent to Banfield Rd. It must be crossed to access the uplands. The new road will be 20 feet wide. The first 86 feet off of Banfield Rd. crosses the wetland. The permanent impact will be 2,693 square feet for the wetland crossing. The remainder of the road is in the upland. The Conservation Commission suggested moving the road to its present location to reduce the buffer impact. The application has addressed all of the Commission's concerns and has been reviewed by NHDES. NHDES gave approval on May 18, 2020. The proposal had three hearings with the Conservation Commission. At the last hearing the Commission voted unanimously to recommend approval because the proposal addressed their concerns. One of the original concerns was the wetland crossing. To maintain hydrologic connection and facilitate wildlife movement the plan is proposing eco-passages. There will be three passages that will be open bottom with native soil and grates on the top to provide sunlight. This will make the animals feel safe when crossing. All of the homes are entirely in the uplands and in compliance with the zoning ordinance. 25% of the site will be permanently dedicated to common open space. The Wetland CUP is for the roadway, grading, and storm water treatment only. For storm water treatment there will be 4 units at the site entrance. The underground storm water treatment system will capture runoff from the roadway, driveways and buildings. There will be two bio retention areas, and a conventional bio retention area in the center of the cul-de-sac. Two infiltration basins will capture roof runoff. The remaining runoff will be captured through the vegetated buffer. It is not a complicated storm water treatment plan. It is the best management with the least wetland and buffer impact. This proposal reduced the buffer impact by 17,000 sf and reduced tree cutting from 91 trees to 36 trees. The total wetland buffer impact is 14,390 sf. The drainage design was reviewed by DPW, TAC, and CMA engineers. The applicants hired their own independent reviewers as well. AOT reviewed and approved the design. The plan reduces runoff, provides pretreatment and retention. It reduces off site runoff and improves the quality of runoff. Post construction 84% of the site will be untouched. 60% of the lot will be landscaped. The goal is to create a community and impact the wetland as little as possible. The houses are placed with the garages facing the living areas of the other houses. The landscape going in will enhance the buffer. 86% of the plants selected are native. The remaining were selected for their hardiness, colors, and textures. Typically, the landscape budget for a new home would be \$4-5,000 per home. The applicants are budgeting \$17 – 20,000 per home. There will be a total of 777 trees and shrubs planted on the site. The density, drainage, wildlife impact and open space impact were continual concerns that have now been addressed. The density was calculated per the zoning ordinance and it would allow for 27 units. The applicant is proposing 22 units. Only 16% of the prop is being developed. 70.3% of upland will remain natural and 95.5% of the wetland will remain untouched. The State also has density regulations because the homes are on septic. These homes will have 14 effluent disposal areas. They are required to be 50 feet from the wetland. All of these are a minimum of 100 feet away. The effluent disposal will use a geo mat leaching low profile system for maximum treatment. The State guidelines allow for 59-99 new

homes on this site. They are proposing 22 units. The application proposes 8 different types of low impact storm water treatment. The R-tanks treat 25% of the runoff. There is no impact to the wetland or buffer beyond the road. The systems will be easy to inspect and maintain. The wildlife activity concerns were addressed with the eco-passages and lowering/eliminating the retaining walls. The wetland buffer impact is reduced by 73%. Three wildlife reports were included and they all support this design. The open space planned unit permits cluster the homes to preserve the natural features and create common open space. Conventional lots have more impact than a PUD. Lots owned in fee would not have a homeowner association to monitor the wetland and buffer violations. 25% of the lot would need to be cleared vs. the 16% clearing that a PUD requires. The conservation easement will provide connectivity to other conservation land to the north and west.

Mr. Severino commented that the underground storm water system was more reliable. They require less maintenance and repairs because they are not subject to weather.

Attorney Cosinavich commented that they used many independent reviews by experts. The evidence is overwhelming that the subdivision complies with the technical requirements. It is evident that the site is appropriate for a PUD. The applicants are amenable to preserving open space. It is clear that the storm water runoff and environmental concerns are vastly improved by a PUD. Comparing plan to plan is only one way to evaluate impacts. It would be arbitrary to reduce units without evidence.

Mr. Mikolaities commented that he was retained 6 months ago to review what was submitted to date. Mr. Mikolaities was impressed with the work that's been done. The applicants have engaged five different consultants to look at drainage and three consultants to look at wildlife impacts. The team has done a great job and responded well to comments and concerns.

Vice Chairman Moreau questioned if there was a dedicated maintenance plan for the common open space that let homeowners know what they should or should not maintain. Mr. Colwell responded that a lot of that is in the condo document provisions. They have offered to put most of the land in conservation, which requires documentation on what can and cannot happen in that space. Chairman Legg noted that the conservation easement can be a condition of approval.

Vice Chairman Moreau questioned if the proposal would accommodate overflow parking and fire access with the narrow roadways. Mr. Colwell responded that the original plan had pull over areas, however, during the TAC process it was suggested they be removed. Each home has a garage and driveway for a total of four parking spaces per home. Any additional parking necessary would need to be pulled off to the side of the road. Fire access was addressed and approved during TAC. All homes will have sprinkler systems.

Vice Chairman Moreau questioned if the snow removal included salt and sand instructions. Mr. Colwell responded that the storm water management plan includes salt management and how to prevent it from going into the buffer and wetland.

Mr. Kisiel questioned if residents would need to drag the trash to the end of the road for pick up. Ms. Walker noted that the City generally does not collect trash for a private road unless there is an agreement made. Mr. Kisiel questioned if there would be a sign at the entrance to the road. Mr. Kisiel also commented that at the initial presentation there was a concerned abutter and questioned if their concern had been addressed. Mr. Gove responded that they were concerned about any kind of disruption to their operations of the Girl Scout area specifically the wildlife impact to their area.

Based on analysis there will be no disruption to the wildlife on their site. There will not be any runoff or other impacts to their site. They are up slope.

Chairman Legg questioned if private trash pickup was required in the condo association agreement. Mr. Colwell responded that trash pick up would be part of the condo fees. Chairman Legg questioned if the City would have any responsibility for maintaining the road. A potential resident should not buy in thinking that they are getting trash picked up by the City and be surprised that they aren't. They should be clear about that. Mr. Colwell confirmed that it would be clear.

City Council Representative Whelan questioned how maintenance will be handled on shared septic systems. Mr. Spaulding responded that the condo association would handle the maintenance and costs for the shared systems. The condo documents have a section on septic pumping which would be part of association's responsibility. If the system fails it will get fixed. There should not be any long-standing issues with the wetland because of septic failures.

Chairman Legg commented that the team did a good job responding to the Commission's feedback and it was clearly a better project because of that. The level and number of experts brought to the project is appreciated. Chairman Legg commented that he was comfortable with the design, but uncomfortable with CUP for the open PUD. One of the specific criteria the Board has to find is that the proposed open space has less or the same impact as a conventional plan. In the presentation Mr. Colwell listed 5-6 items that clearly make it a better project. Chairman Legg questioned if there was anything in the documentation to support what was presented. Mr. Colwell responded there was not. There was no conventional layout done because it was clear that the PUD was the better option. Chairman Legg noted that there should be some document to point to. Mr. Colwell responded that they did work on a conventional layout but stopped because even at 10 lots there was more environmental impact, more runoff, and more tree clearing. A conventional plan would require a certain amount of frontage, but a PUD doesn't need it. A conventional plan is required to have city street standards. A conventional plan would take away land going into the conservation easement because it will be owned in fee by individual owners. Chairman Legg commented that it would have been good to include even a 15-unit plan with the impacts itemized. Documentation should have been included. Then a person outside of the project could see how it was determined that a PUD made more sense. Mr. Colwell responded that they can include a document or memorandum that talks about the impacts.

Mr. Pezzullo requested more information on how the open space would be used. Mr. Colwell responded that the entire frontage is wetland. The conservation land will link with other conservation land. It can be open for people to utilize and enjoy, but there will not be a parking area for the public to use. It will be linked with other land to make it available to the public. Chairman Legg commented that the land abuts to a cemetery, and they could add signage there. Mr. Colwell confirmed that they could add signage.

Ms. Record requested clarification on what was conservation space and what would be useable open space. Mr. Colwell responded everything beyond the 100-foot wetland buffer surrounding the homes will go into the conservation easement. The common open space is shown on plan to show compliance with article 7 of the zoning ordinance. The useable space is common open space is in the upper right-hand corner. Ms. Walker added that the conservation easement has not been submitted yet and suggested that the Board consider allowing public access in some form.

PUBLIC HEARING

Mr. Colwell commented that they appreciated questions and comments tonight. The City does a thorough job reviewing a project. The applicants are amenable to every comment and question that came up tonight.

Rick Green commented that providing documentation and data on the conventional subdivision vs. a PUD could be a condition of approval. That list is an oversight and they would be happy to put that together.

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

City Council Representative Whelan questioned if the easement would be managed by a land trust, conservation group, or the City. Ms. Walker responded that would be determined after it was drafted. Mr. Britz noted that they could leave it to applicant to determine. The key is to have the right language to ensure it is in perpetuity and allows for public access. It is fine to leave it to the applicant to determine.

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

- 1.1) Add yellow advisory sign of 15 mph along at the wildlife crossing location;
- 1.2) Add WILDLIFE CROSSING signs at crossing locations;
- 1.3) Provide details on plan showing planting of wetland seed mix in areas where site disturbance occurs within 25' of wetlands;
- 1.4) Provide information in condominium documents that restrict use of pesticides and fertilizers in buffer areas equal to or greater than as required in the City's Zoning Ordinance;
- 1.5) Provide a Conservation Easement In perpetuity that includes all the common open space and expands the protected area to including all wetland and upland areas up to the wetland edge of the 100' buffer surrounding the limited common areas. Such easement deed shall be reviewed and approved by the Planning and Legal Departments prior to recording. Such easement shall be held by a public body (such as the City) which shall maintain the land as open space for the benefit of the general public or a private non-profit organization which has as a purpose the preservation of open space through ownership and control;
- 1.6) That there should be a connection in the condominium document that references the chloride reduction guidance stated in the maintenance guide;
- 1.7) Change the wording of removal of dead and diseased tree removal on open space only to the removal necessary to protect buildings and infrastructure.

The motion passed unanimously.

Vice Chairman Moreau commented that a lot of thoughtful and careful work went into this plan. Vice Chairman Moreau was pleased to see the advancements this plan made.

Chairman Legg commented that it was a robust plan with a lot of experts. The applicants responded favorably to the feedback they got from Staff and the Commission.

- B.** 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.

DISCUSSION AND DECISION OF THE BOARD

City Council Representative Whelan moved to **postpone** this request to the next Planning Board meeting, seconded by Mr. Kisiel.

Chairman Legg commented that this was one of the two items the Board needed to consider. There should be a document provided to show the direction and order of magnitude. It should be part of the formal record before the approval is granted.

Mr. Kisiel noted that during the conceptual design the applicants were asked by the Board to cluster housing. That's what brought them to a PUD. They need to show the documentation in order for the Board to make the decision.

Vice Chairman Moreau commented that a document was not needed because the City has subdivision rules and regulations. Those show why this doesn't work. It is so clear that it won't work that the documentation is not as big of a deal.

Mr. Gamester agreed with Vice Chairman Moreau. The zoning ordinance doesn't list specifically what needs to be provided.

The motion passed by a 7-0-2 vote. Vice Chairman Moreau and Mr. Gamester voted against the postponement.

- C.** The application of **Richard Fusegni, Owner**, for property located at **1574 Woodbury Avenue** requesting a Conditional Use Permit for a drive-through facility in accordance with Section 10.440 (19.40) of the Zoning Ordinance and Site Plan Review Approval for the construction of a new retail bank with parking, utilities, landscaping, lighting, drainage and associated site improvements. Said property is shown on Assessor Map 238 Lot 17 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

SPEAKING TO THE APPLICATION

Alan Rosco spoke to the application. The proposal has been updated to address the TAC comments. The waivers have been submitted. One waiver was to not do a full traffic study and the other was for the dumpster location. The redesign will add open green space, add enhanced storm water treatment and comply with setbacks. The project meets the zoning criteria and site plan requirements.

Vice Chairman Moreau questioned why there were so many entrances and exits. Mr. Rosco responded that the northerly access was convenient for trash removal. It is a tight site. It is convenient for customers to enter the driveway for the center drive. The exit only for the drive through lane is there to meet compliance.

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 that the granting of the waivers 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. Kisiel:

- a) Section 3.6.3 – requiring a Traffic Impact Study to be submitted for an application containing a drive-through facility;
- b) Section 9.3.5 – requiring dumpsters or other waste container pads to be a minimum of 20 feet from any property line or yard.

The motion passed by an 8-1-0 vote. Mr. Gamester abstained.

Vice Chairman Moreau to grant Site Plan Review Approval, seconded by Ms. Record with the following stipulations:

2.1) The site plan shall be recorded at the Rockingham County Registry of Deeds or as deemed appropriate by the Planning Department.

2.2) Tree Planting detail and notes on Sheet LP-2 shall be updated to reflect the City's Standard Tree Planting detail.

The motion passed by an 8-1-0 vote. Mr. Gamester abstained.

IV. PUBLIC HEARINGS – NEW BUSINESS

- A. The application of **St. John's Church, Owner**, for property located at **105 Chapel Street** requesting Site Plan Review approval for the construction of a 1,043 +/- s.f. building

addition with associated site improvements. Said property is shown on Assessor Map 106 Lot 62 and lies within the Civic District.

SPEAKING TO THE APPLICATION

Eric Sorry from Altus Engineering spoke to the application. The site currently has the church building with a parish hall and the cemetery. The proposal is to build a connector between the two buildings and add an exterior handicap ramp. All the ADA parking spaces are down the hill and the church has no handicap access. This addition will create an ADA route to access the buildings. The internal hall space will be used for overflow and there will be a back patio. The existing power will be moved to underground. The patio will have staircases to connect to existing walkways. The new ramp will either be brick or concrete. They will be rebuilding the handicap ramp on Chapel St. The plan will include a drainage component. Right now, the water goes to the sewer. Both roof gutters are tied into it. The proposal is to collect runoff in the basins and tie it into the existing sewer manhole. The City has a shovel ready project to redo Chapel St. including the drainage system. When it is funded this drainage will be extended to that system by the DPW. This should not cause overflow issues based on drainage analysis. The application went to HDC and got approval. There is a waiver request for the landscaping plan. It is a small project. Only 1,040 sf. It is all grass now. There is a nice existing shade tree that will remain. There is also a waiver request for the lighting plan. It is tiny site with no parking lot to illuminate. The addition will have sconces on the door.

Mr. Kisiel requested more detail on the roof lines. Mr. Sorry responded that one section of the roof is hitched and the other is flat. Everything comes to the front sewer on Chapel St. The hitched roof matches the architecture and the flat roof protects the windows.

Vice Chairman Moreau questioned what would happen if they changed the ramp from brick to concrete. Mr. Sorry responded that they would have to go back to the HDC for administrative approval.

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 that the granting of waivers will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, seconded by Mr. Gamester and to waive the following regulations:

- 1a) Section 6.2 – requiring a Landscaping Plan to be submitted.
- 1b) Section 10.3 – requiring a Lighting Plan.

1c) Section 7.4.2.8 – requiring measures to control the post-development peak rate of runoff so that it does not exceed pre-development runoff.

The motion passed unanimously.

Vice Chairman Moreau moved to grant Site Plan Review Approval, seconded by Mr. Gamester with the following stipulation:

2.2) The site plan shall be recorded at the Rockingham County Registry of Deeds or as deemed appropriate by the Planning Department.

The motion passed unanimously.

- B. The application of the **Judith Howard Revocable Trust and James & Laura LaJeunesse Family Trust, Owners**, for properties located at **80 Burkitt Street and 161 Thornton Street** requesting Preliminary and Final Subdivision (Lot Line Revision) Approval for 2 lots as follows: Lot 34 on Assessor Map 159 decreasing in area from 8,232 s.f. to 8,102 s.f. and Lot 33 on Assessor Map 159 increasing in area from 6,011 s.f. to 6,141 s.f. Said properties are shown on Assessor Map 159 Lots 33 & 34 and lie within the General Residence A (GRA) District.

SPEAKING TO THE APPLICATION

Attorney Bernie Pelech spoke to the application. One neighbor wants to acquire 2.5-3 feet of land from an agreeable abutter to have a driveway to access the garage in the rear of the property. The Thornton St. lot remains conforming. The Burkitt St. lot becomes a little more nonconforming. The application meets all the requirements to grant the lot line adjustment.

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 grant Preliminary and Final Subdivision (Lot Line Revision) Approval, seconded by Mr. Gamester with the following stipulations:

- 1.1) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- 1.2) GIS data shall be provided to the Department of Public Works in the form as required by the City.
- 1.3) The final plat(s) shall be recorded at the Registry of deeds by the City or as deemed appropriate by the Planning Department.

The motion passed unanimously.

- C. The application of **3201 Lafayette Road, LLC, Owner**, for property located at **0 Lafayette Road** requesting Site Plan Review approval to add 5 manufactured homes for display, 1 temporary manufactured home with office space and utility connections and boat or trailer storage with associated site improvements. Said property is shown on Assessor Map 291 Lot 8 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

SPEAKING TO THE APPLICATION

Corey Colwell from TF Moran spoke to the application. The lot is 6.02 acres. The site currently has a 2-story office building and a detached garage. The proposal is to demolish the garage and transport 6 manufactured homes to the lot. One building will be staffed and the remaining 5 homes will be for display. There will be 4 parking spaces for staff and homes. One of them will be an ADA space. There will be a crushed stone parking area for boats and RVs. It will also be temporary storage for manufactured homes. There will be 10 spaces for boats and 3 spaces for temporary manufactured homes. All homes will be served by electricity and propane. Only the staff home will have sewer and water. The trip generation memorandum shows the proposed use will add 3 trips during the am peak, 4 trips during the pm peak, and 7 trips for Saturday. The proposal will have a negligible effect on the intersection. Storm water management will utilize surface flow and the crushed stone parking area. There will be no increase in peak runoff from any storm event. There are two waivers with this project. The first is for the lighting plan and the second is for the elevations. The homes are interchangeable, so the elevations are not necessary. The plan provided pictures of what the homes would look like. The project has received a special exception to allow manufactured homes in a G1 zone. In summary the site been used in the past to display model homes and this application is seeking approval for 5 homes, one staff home, and parking in the back for boat and RV storage.

Vice Chairman Moreau questioned why there was no lighting for the boat and RV storage area. Mr. Colwell responded that there was a pole at the back of that area that provides light to the storage area.

Mr. Kisiel questioned if the temporary housing storage was for houses to sit while they got the lot ready of if they were for longer storage. Mr. Colwell responded that it was just to park during site prep.

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 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, seconded by Mr. Gamester and to waive the following required submissions:

- a) Section 2.5.4.3(j) – type and placement of outdoor lighting fixtures. b) Section 2.5.4.3(b) – Elevations of buildings.

The motion passed unanimously.

Vice Chairman Moreau moved to grant Site Plan Review Approval, seconded by Mr. Gamester with the following stipulation:

2.1) The site plan shall be recorded at the Rockingham County Registry of Deeds or as deemed appropriate by the Planning Department.

The motion passed unanimously.

- D. The application of **C & P Gallagher Properties, LLC, Owner**, for property located at **801 Islington Street** 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 and Drinking Area as an accessory use. Said property is shown on Assessor Map 165 Lot 8 and lies within the Character District 4-W (CD4-W) District.

SPEAKING TO THE APPLICATION

Bob Morton spoke to the application. The proposal is to put in outdoor patio for seating for Luigi's restaurant. The proposed area would be 1,000 sf with a walkway attached to the walkway on Islington St. The patio will be on the Islington St. side and will be 35' by 23' by 25'. There will be a 3-foot buffer with ornamental stone and a short wall to make the patio level. There will be a fence on top of the wall and a proposed 4-foot-high metal fence. It will be a permeable patio.

Vice Chairman Moreau questioned if the patio was handicap accessible. Mr. Morton confirmed that it was from both ends. There is a covered walkway they can access patio there and the main parking lot has accessibility too. Vice Chairman Moreau requested more details on the lighting for the patio. Mr. Morton responded that the lighting would come off the building and would be the responsibility of the owner.

Chairman Legg questioned if there was also a fence on the 23-foot edge of the patio. Mr. Morton responded that there was a 12-foot buffer between the alleyway and the beginning of the patio. This plan doesn't have a fence. The patio will not be used in the winter. The intent is to have a fence that can be removed for snow storage.

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

Mr. Gamester moved to **grant** the request as presented, seconded by Mr. Kisiel. The motion passed unanimously.

- E. The application of the **Edward Mallon Revocable Trust and 56 Middle Street, LLC, Owners**, for properties located at **42 and 56 Middle Street** requesting Preliminary and Final Subdivision (Lot Line Revision) Approval for 2 lots as follows: Lot 19 on Assessor Map 126 decreasing in area from 10,128 s.f. to 10,016 s.f.; and Lot 20 on Assessor Map 126 increasing in area from 1,828 s.f. to 1,941 s.f.. Said properties are shown on Assessor Map 126 Lots 20 and 19 and lie within the Character District 4-L1 (CD4-L1) District.

SPEAKING TO THE APPLICATION

John Chagnon from Ambit Engineering spoke to the application. The proposal is a lot line change to clean up old boundary lines that don't match what's going on, on the ground today. This will clean up the ownership boundaries and match the current ground usage. The detail section of the plan shows the line changes. The result will clean up the boundary lines going forward.

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

Mr. Kisiel moved to grant Preliminary and Final Subdivision (Lot Line Revision) Approval, seconded by Mr. Gamester with the following stipulations:

- 1.1) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- 1.2) GIS data shall be provided to the Department of Public Works in the form as required by the City.
- 1.3) The final plat(s) shall be recorded at the Registry of deeds by the City or as deemed appropriate by the Planning Department.

The motion passed unanimously.

- F. **POSTPONED** Public Hearing on Council Referral for a report back on a request from **Jeremy Conte, Owner** for the restoration of involuntarily merged lots at **1240 Islington Street** to their pre-merger status pursuant to NH RSA 674:39-aa. **POSTPONED**

Mr. Gamester moved to **postpone** this request, seconded by City Council Representative Whelan. The motion passed unanimously.

V. PEASE DEVELOPMENT AUTHORITY

- A. The request of the **Pease Development Authority, Owner and the State of New Hampshire Department of Transportation, Applicant**, for property located at **185 Grafton Road** requesting a recommendation for Subdivision approval under Chapter 500 of the Pease Development Authority Subdivision Regulations, per part 503.01(c), for a lease acquisition area of 14.04 acres at the Portsmouth Transportation Center. Said property is shown on Assessor Map 300 Lot 1 and lies within the Natural Resource Protection (NRP) District.

Jason Pohopeck from DOT spoke to the application. They are seeking a subdivision approval. They are not proposing to transfer any fee title. It is just lines showing the limit of a proposed lease. It will define the limits of the right of way for Grafton Drive. A permeant drainage easement is labeled as drainage easement 1. The southward portion of the plan has a slight adjustment to the right of way to better depict the area and clean it up. There are 4 other drainage easements that accommodate the existing infrastructure. This would enable DOT's ability to maintain the structures.

City Manager Conard moved to **recommend** Subdivision approval, seconded by Ms. Record. The motion passed unanimously.

VI. PRELIMINARY CONCEPTUAL CONSULTATION

- A. The request of **238 Deer Street, LLC, Owner**, for property located at **238 Deer Street** for Preliminary Conceptual Consultation for the construction of a 3-4 story mixed-use building with ground floor retail and 21 micro-apartments. Said property is shown on Assessor Map 125 Lot 3 and lies within the Character District 4 (CD4) District.

Architect Jeremiah Johnson spoke to the project. The property is at 238 Deer St. It is currently the Statey Bar and Grill. The lot is in the CD-4 Historic District and in the Downtown Overlay. The site is 6,000 sf. It is a single-story building with a basement. The proposal is to take down the building that exists and build a mixed-use building. The ground floor would be commercial space with 3 stories of residential units on top of that. It would be four stories total. It would be a 2,500-3,000 sf building. The site is small compared to the properties around it. There would be about 7 residential units per floor. They would be around 400 sf and would meet the micro apartment definition. The proposed heights and stories of the buildings in the neighborhood are included for context. Mechanical systems would be on the first floor and in the basement. The plan is struggling to meet the parking and building size requirements. This is the only CD-4 lot that is not built on. Everything on the other side of the street is CD-5 and the one next door was grandfathered in for height. They have worked through parking options. Building an underground garage would be cost prohibitive. The building is too small and the ramp would take up too much space. The site is close to the Foundry Garage. They have also

looked at purchasing nearby property for lease or shared parking. The parking count for these micro unit would be 11 spots with a 4-spot credit. Overall a total of about 6-8 parking would be required for this building.

Vice Chairman Moreau questioned if they had thought about bike storage. It would be a good parking alternative. Leased parking would be big. Taller buildings need to address storm water management closely.

Chairman Legg commented that this could be the first potential micro unit property and questioned if they had a sense of the market for those. Mr. Johnson responded that there is a lack of building stock in location and size in that price point, so there should be a market. The person looking for a unit like this would be someone who doesn't have a car or shares a car with a partner. Chairman Legg commented that he supported the concept of adding different types of housing and this segment has not been met yet by Portsmouth development. It would be encouraging to see something like this go forward. It would be more affordable than a one or two bed apartment downtown.

Mr. Kisiel questioned if the parking lot on the corner of Deer St. was deeded parking to the Cove Building. Mr. Johnson confirmed that it was. They met with them and showed them drawings and options. They may consider an agreement to use that property. Mr. Kisiel commented that another project on Court St. did something similar because the tandem parking did not meet requirements. Mr. Johnson responded that the applicant for that project did go procure an agreement with the garage then got a lease agreement with the Black Heritage Trail.

Chairman Legg questioned if they could lease 6-8 spots in the garage from the City. City Manager Conard responded that would not be ideal. It would set a precedent. Ms. Walker noted that the proximity to the garage is one criterion the Board can consider when granting a CUP for parking. Tenants would still have the ability to use the garage.

- B. The request of the **SB & NA Stokel Trust and Philip Stokel, Owners**, for property located at **83 Peverly Hill Road** for Preliminary Conceptual Consultation for a 60-unit Open Space Planned Unit Development (OSPUD). Said property is shown on Assessor Map 242 Lot 4 and lies within the Single Residence A (SRA) District.

Attorney John Cosinavich commented that in April of 2015 the Planning Board voted to waive the 500-foot cul-de-sac length limitation in the subdivision regulations. Mr. Cosinavich wanted to make sure that this was enforceable and wanted to make sure they were in tune with the present Board. The intent of this presentation was just to get feedback on the length of the cul-de-sac to determine if the application was going to have an issue with prior Board's vote on the cul-de-sac length limitation waiver.

City Attorney Sullivan commented that they are here tonight because of the conversation he had with Attorney Cosinavich. The potential buyer for the property wanted to know what kind of reception the buyer might get to develop a property with a cul-de-sac longer than 500 feet. The best way to get the question answered is to come to the Planning Board for this. The Planning Department Memo is accurate. Five years ago, the Planning Board voted to waive the requirements and record it in the Registry of Deeds to document waiving the requirement. This was done as a final piece of settling a long-complicated lawsuit. They supported the decision made at that time. The provision read is

enforceable in accordance with its terms. Any cul-de-sac for this lot should be treated as though there is no 500-foot requirement. The Planning Board should treat the 500-max limitation as non-existent for this lot.

Ms. Walker added that the Planning Board should keep in mind that other things might influence the length of the road like safety. Other factors may be raised in the technical review process.

Vice Chairman Moreau commented that she was on the Board when this was voted on originally. After everything the Board went through the first time around, they felt comfortable making this decision because they made sure life safety and other factors were accounted for and considered.

VII. OTHER BUSINESS

A. Proposed Revisions to the City of Portsmouth Site Plan Review Regulations.

Ms. Walker provided documentation for reference. They are working on revisions in response to State changes to requirements for storm water and best management practices. They are working with an outside consultant and making recommendations. The draft is primarily related to storm water management. There is also tree planting guidance with input from the City Arborist. The process for site plan review modifications is in the Planning Board per view. There is a public hearing process required. Ms. Walker suggested to try to schedule time next month to review. Chairman Legg confirmed they could schedule it next month if there was a light agenda.

B. The request of **Arbor View and The Pines, LLC, Owners** for property located at **145 Lang Road** for a 1-year extension of Site Plan Review approval to construct two (2) three-story, multi-family buildings with associated site improvements, grading, utilities, stormwater management and landscape improvements that was granted on August 15, 2019.

Ms. Record moved to **grant** a 1-year extension to expire on August 15, 2021, seconded by Vice Chairman Moreau. The motion passed unanimously.

C. The request of **Arbor View and The Pines, LLC, Owners** for property located at **145 Lang Road** for a 1-year extension of the 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 that was granted on August 15, 2019.

City Manager Conard moved to **grant** a 1-year extension to expire on August 15, 2021, seconded by Mr. Gamester. The motion passed unanimously.

Conard gamester unanimous.

- D.** The request of **HCA Health Services of New Hampshire, Inc., dba Portsmouth Regional Hospital. Owner**, for property located at **333 Borthwick Avenue**, for a 1-year extension of a Wetland Conditional Use Permit for a two-story building addition with a footprint of 1,220 square feet in the area of the former mobile-MRI unit. The applicant proposes a permanent disturbance of 2,954 square feet and temporary disturbance of 1,610 square feet all within the 100' inland wetland buffer. This was originally granted on November 21, 2019.

City Manager Conard moved to **grant** a 1-year extension to expire on November 21, 2021, seconded by Ms. Record. The motion passed unanimously.

VIII. CITY COUNCIL REFERRALS

- A. Acceptance of drainage easement at 185 Edmond Avenue.

Ms. Walker commented that DPW has been working on improvements in this area and in the course of that it was discovered that a portion of the drain line is over private property. It is good to clean up situations like this when they are discovered.

Ms. Record to recommend approval of this easement to the City Council, seconded by Mr. Gamester. The motion passed unanimously.

IX. ADJOURNMENT

Vice Chairman Moreau moved to adjourn the meeting at 10:24 p.m., seconded by Mr. Gamester. The motion passed unanimously

.....

Respectfully submitted,

Becky Frey,
Acting Secretary for the Planning Board