

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

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

**7:00 PM**

**July 15, 2021**

**MINUTES**

**MEMBERS PRESENT:** Dexter Legg, Chair; Elizabeth Moreau, Vice Chair; Karen Conard, City Manager; Peter Whelan, Ray Pezzullo, Assistant City Engineer; Colby Gamester; Corey Clark; Peter Harris; Rick Chellman; and Polly Henkel, Alternate

**ALSO PRESENT:** Juliet Walker, Planner Director

**MEMBERS ABSENT:**  
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**I. APPROVAL OF MINUTES**

A. Approval of the Planning Board minutes from June 17, 2021 meeting

It was moved, seconded, and passed unanimously to **approve** the minutes from the June 17, 2021 Planning Board Meeting.

**II. PUBLIC HEARINGS – OLD BUSINESS**

Chairman Legg asked for a motion to group and discuss Applications II.A, IV.A, and IV.B for Stone Creek Realty, LLC and CPI Management, LLC.

It was moved, seconded, and passed unanimously.

Chairman Legg read the three applications into the record.

A. Application of **Stone Creek Realty, LLC, (Owner), and CPI Management, LLC, (Applicant)**, for property located **53 Green Street** for a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for the demolition of an existing building, construction of a 5-story mixed-use building and renovation of an existing parking area that will result in 98 square feet of impervious surface in the 25' to 50' tidal wetland buffer zone and 8,425 square feet of impervious surface in the 50' to 100' tidal wetland buffer zone representing an overall net reduction of 3,058 square feet of impervious surface in the tidal wetland buffer areas from the existing condition. Said property is shown on Assessor Map 119 Lot 02 and lies within the Character District 5 (CD5) District, the Historic District, and the North End Incentive Overlay District.

## **SPEAKING TO THE APPLICATION**

Patrick Crimmins of Tigie and Bond was present on behalf of the applicant to speak to the application. Also present were Jeff Johnston of and Neil Hansen of Cathartes, and landscape architect Robbie Woodburn. Mr. Crimmins said the tidal wetlands and buffers along the North Mill Pond were impacted by the existing urban condition. He said the lot contains an ell-shaped building located in the 100-ft buffer, as well as most of the parking. Along the North Mill Pond there are several small discontinuous forest areas that lie to the west of the building area and along the railroad tracks to the east and also small discontinuous disturbed shrub thickets to the northwest. The majority of the eastern portion of the property is paved parking with some maintained lawn. The property is within the North Mill Pond overlay district. The North Mill Pond final report noted that the plan calls for a linear greenway and a community park along the North Mill Pond which will create a north/south bicycle connection through a series of partnerships with private landowners. The property is a key connection for the greenway trail. The project includes the construction of a 5-story mixed-use building with first-floor commercial space along Green Street and 45 upper floor dwelling units, a parking garage, and associated site improvements including significant pedestrian and utility improvements, dark-sky lighting, enhanced landscaping, and stormwater management systems that will provide treatment for stormwater runoff to impervious surface where none is currently provided. A lot line revision is needed to adjust the lot between 53 Green Street and the adjacent railroad parcel. The proposed line will relocate the line for the project parcel and the adjacent railroad and increase the development by .12 acres for a total lot area of 1.78 acres.

Mr. Crimmins reviewed the site plan package. The wide sidewalks will create a good pedestrian experience and will also step the building back from the road and improve sight distance for the driveway access. A pedestrian connection will come out of the community space and will be nicely landscaped. There will be murals at the rear of the building along the path and site access of Green Street will be improved. A 24-ft driveway will be provided, with a decorative paving entrance area creating a loading spot. Visitor and ADA parking spaces will be provided. The 2-story garage will reduce impervious surface. The project will tie into the trail and provide access to the future North Pond trail. The project complies with all zoning requirements, including the front lot line buildout. Basement level parking will provide 86 parking spaces.

He reviewed the grading drainage and erosion control plan and said they would provide significant stormwater improvements by introducing a stormwater management system with an underground detention system to collect stormwater treatment and remove sediments before discharging into the North Mill Pond. It will then go into a stormwater treatment unit which will provide advanced treatment in accordance with NHDES alteration and terrain regulations and City of Portsmouth site plan regulations prior to discharging in the North Mill Pond. Another stormwater treatment measure designed as a porous asphalt design in the rear of the building will collect and infiltrate water for discharge into the North Mill Pond.

Mr. Crimmins said the utilities plan was standard and improvements would be done to the public roadways, like the proposed water main replacement plan within Green Street and introducing a duct bank to create a loop system for backup in a power loss. He said an easement plan is proposed for the community spaces including the pedestrian trail out to the North Mill Pond, the

North Mill Pond Trail and the greenway. The project will also provide an easement to the City for sewer access. The project will provide 22,621 square feet of community spaces between the sidewalk and pedestrian gateway connection and the North Mill Pond trail. Almost 30 percent of the total lot area will be community space, and the North Mill Pond greenway itself is 15,462 square feet of community space. Beyond the community spaces, the project will provide 35 percent open space on the development where only 5 percent is required.

The proposed work in the 100-ft tidal buffer is subject to CUP approval. The existing 100-ft tidal buffer is within the development area and mostly includes impervious parking surfaces, walkways, the building, and a large maintained lawn. The project will provide an overall improvement to that buffer by pulling the parking and a portion of the building's footprint further away from the North Mill Pond and will reduce the overall impervious surface. The project in the 0-25 ft. tidal buffer proposes no impact. In the 25-50 ft. buffer, there is currently 745 square feet of impervious surface and the project proposes 110 square feet of proposed surface for the existing tower. The 50-100 ft. buffer has existing impervious surface of 10,835 square feet that will be reduced to 8,253 square feet, for a net improvement of 3,218 square feet of less impervious surface. The project will not result in a net loss of pervious surface within the jurisdictional buffer. The project will result in significant landscape improvements to the buffer by replacing the lawn with low-mow grasses and planting native trees to enhance the previous disturbed wetland buffer. The work done by the proposed project within the 25-ft buffer to the North Mill Pond is limited to the construction of the outlet and will be restored and enhanced.

Landscape architect Robbie Woodburn said the landscape plan would extend the walkway along Green Street and plant shade trees. The building's south side will have a paver entry drive and courtyard with parking, and seating areas and planters will be added in pockets. A pedestrian connector between the hotel and existing building will be provided and the commercial use will have seating on the side and front of the building edged with a garden of small trees and an ornamental fence. There will be wayfinding signage to invite the public to sit in the garden and continue down the waterfront path. The side of the building will have colorful murals and the water side of the existing building has mowed lawn and some parking. The grade along the north face of the proposed building has been raised to soften the building. Mostly native plantings will be added along that slope and the rest of the building's face. The disturbed areas in the 25-ft buffer will be planted with shrubs and trees, and areas above the 25-ft buffer will be seeded.

Mr. Crimmins reviewed the land use permit application process. He said the 20 supporting materials in addition to the site plan package were provided and information was prepared and revised in response to feedback received from the Board, the Technical Advisory Committee (TAC) and the Conservation Commission. He said the project received approval from the Historic District Commission and will require State permitting and an AOT permit application for the stormwater management design. He said they anticipated a permit from NHDES in the next week. The project will also require a wetland impact permit. He said they met with NHDES in late winter and completed a full draft comprehensive application, which they would file in the coming weeks. He said they need a lot line revision permit for the adjustment between 53 Green Street and the railroad to add the .12 acres for total lot area of 1.78 acres, noting that they reviewed the Staff Memo and stipulations and took no exception to them. The project will also require a site plan review permit and they received a recommendation for approval with

stipulations from the Board in June and the City Staff indicated that the stipulations were addressed to their satisfaction. A wetlands CUP is required for the work within the 100-ft buffer, and approval was received from the Conservation Commission in April with four stipulations, three of which were addressed, one of which is carried over for Planning Board approval.

Mr. Crimmins reviewed the six criteria for the wetland conditional use permit and the zoning ordinance requirements and said they were met. He said they will promote and achieve many of the goals stated in the City's Master Plan. He said the design locates the building within unique site constraints in a manner that keeps it away from the railroad; it improves public safety along Green Street and provides emergency vehicle access to the rear of the building and to the North Mill Pond trail; it significantly improves the buffer with a reduction in impervious surface and enhancement in landscaping; it provides almost 30 percent of total lot area as community space and includes green community space along the North Mill Pond. He concluded that in the past seven months, they responded to feedback from the local land use boards and shown that the latest proposal will provide additional housing stock downtown, reduce traffic generation, reduce buffer impact, improve stormwater management, enhance the North Mill Pond tidal buffer, and provide a public benefit along the North Mill Pond.

Vice-Chair Moreau asked where the snow would be placed. Mr. Crimmins said the snow will be hauled off site. He said the trash will be stored inside the building and will be accessed via the doors of the trash room and brought out to the sidewalk in bins.

Mr. Chellman said the applicant cited from the ordinance section that the project is a mixed-use building, but that section applied to a detached liner building. He asked whether the next section should apply. Mr. Crimmins said it was possibly mislabeled. Mr. Chellman said the next section requires a CUP and that what was proposed was close to the criteria but not quite. He said it would require more open space in a CUP but the building has a garage and ground-floor parking and is not a detached liner unit.

Mr. Clark asked what condition the dock was in and if future repairs were needed. Mr. Crimmins said the dock was in good shape. Mr. Clark said some of the renderings didn't show if riprap would be used along the shoreline. Mr. Crimmins said they would not do any work within the wetland area. Mr. Clark said the headwall for the outfall was close to the walkway and asked if decorative form work would be done to soften it. Mr. Crimmins said they wouldn't be opposed to using decorative form work. Mr. Clark asked about lighting on the walkway between the hotel and the project. Mr. Crimmins said there was a photometric plan that showed dark-sky building-mounted lighting and that there would be no ground lighting but that it was adequately lit.

Chairman Legg said the pedestrian path is intended to be concrete and asked if a pervious surface could be used instead of concrete as the path enters the 100-ft buffer. Mr. Crimmins agreed.

Mr. Chellman said the open space requirement wasn't met because it required 30 percent and a CUP permit. Ms. Walker said the City and the applicant did an extensive review of the zoning.

Mr. Clark said the City was working with the applicant to relocate a public access easement behind One Raynes Avenue. Ms. Walker said there was a sliver of land between the Raynes

Avenue property and the city park being designed and the City had an access easement over that to construct the connection for the trail, but in discussions with the Conservation Commission, they talked about trying to move that path away from the water more. She said the Raynes Avenue project indicated that they were willing to do that, and if the Planning Board wanted to consider that as a condition of approval, it would help in continuing the trail location. Mr. Crimmins said they were happy to move the easement in both the North Mill Pond trail design and the Raynes Avenue design. Chairman Legg said it would be **stipulated** in the motion.

Mr. Chellman said site plan C1021 says 29 percent community space and the ordinance says 30 percent and thought the plan needed to be revised. He said the applicant met some of the criteria for the wetland issues but not the two relating to there being no alternative location outside the buffer and the alternative with the least adverse impact. He didn't see how proposing part of the building footprint going into an area that didn't currently have a building as well as proposing new impacts within the wetlands buffer conformed to those two criteria and that it could conform by shrinking the size of the building. Mr. Crimmins disagreed and explained why the overall design was an improvement within the buffer. He said the buffer wasn't a setback and they were allowed to do work in it. He said they met those provisions of the ordinance and City Staff ruled favorably and the Conservation Commission ruled unanimously that the criteria were met. He said the zoning in the neighborhood was designated to permit medium-to-high density buildings near the North Mill Pond and there was an incentive to create that. Mr. Chellman disagreed and said all the things in terms of enhancement aspects of the project were true except for adhering to the buffer. Chairman Legg said that issue would not be debated.

## **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-Chair Moreau moved to grant the **Wetland Conditional Use Permit** with the stipulation requested by the Planning Department:

- 1.1) The property owners shall utilize NOFA (Northeast Organic Farming Association) approved practices (or comparable equivalent) for maintenance of landscaped areas within the wetland buffer.

Vice-Chair Moreau added the following stipulation:

- The easement will be moved in both the North Mill Pond trail design and the Raynes Avenue design.

Mr. Gamester seconded.

Vice-Chair Moreau said she didn't like building new stuff close to the buffer, but the City changed the ordinance to be the 100-ft buffer. She said she was pleased to see that a lot of the stuff within the 25-50 ft. buffer would be removed, and the applicant was also doing a lot of plantings and drainage that would help. She said it was therefore a huge improvement and better

than leaving what's there now. Mr. Clark agreed and said a lot of impact was going on out there, but one of the biggest things affecting the North Mill Pond was stormwater runoff and what the applicant was doing on the site to control it was a benefit to the pond. Mr. Chellman said there were benefits to the project that would be enhanced by a smaller building, and the CUP criteria could also be met. He noted that the Board didn't address the size of the building and the common open space that was deficient based on the zoning ordinance.

The motion passed by a vote of 7-2.

Vice-Chair Moreau moved to grant **preliminary and final subdivision** approval with the stipulations recommended by the Planning Department:

- 2.1) The public sewer easement shall be 20' wide centered on the line (10' either side of the line) to the extent possible given the proximity to the property line. Final easement and deed to be reviewed and approved by the DPW Director and Legal Department prior to final acceptance by the City Council.
- 2.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.
- 2.3) GIS data shall be provided to the Department of Public Works in the form as required by the City.
- 2.4) The final plat and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

And the following additional stipulation:

- Increase the sewer easement from the 15 feet as noted on the plan to the 20-ft wide easement that's been requested.

Mr. Gamester seconded.

Vice-Chair Moreau said it was great that the applicant was able to get land out of the railroad.

The motion passed unanimously.

Vice-Chair Moreau moved to grant **site plan** approval with the stipulations recommended by the Planning Department:

**Conditions Precedent (prior to the issuance of a building permit):**

- 3.1) For the community space easement for the North Mill Pond Greenway, the City shall have maintenance rights for the trail, but any landscaped areas shall be maintained by the property owner.
- 3.2) 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.
- 3.3) The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments.
- 3.4) The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

**Conditions Subsequent:**

- 3.4) The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance;
- 3.5) A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted to the City's Planning and Public Works Departments.

Vice-Chair Moreau recommended the following additional stipulations:

- Move the easement that the City has requested,
- Change the surface of the path to the pervious surface, and
- The stormwater outlet shall have decorative form work to mimic natural stonework.

The motion was seconded by Mr. Gamester. The motion passed by a vote of 8-1.

**B. REQUEST TO POSTPONE** Application of **Brora, LLC, Owner, and 210 Commerce Way LLC, Applicant**, for property located at **Shearwater Drive (at intersection of Portsmouth Boulevard and Market Street)** for a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for an after the fact approval for cutting of vegetation on 88,700 square feet in the wetland and vegetated buffer areas. Said property is shown on Assessor Map 217 Lot 2-1975 and lies within the Office Research (OR) District.

**DECISION OF THE BOARD**

It was moved, seconded, and passed unanimously to **postpone** the request to the August Planning Board meeting.

**C. REQUEST TO POSTPONE** Application of **The Fritz Family Revocable Living Trust, Owner**, for property located at **0 Patricia Drive** for amended subdivision approval to revise the roadway design and stormwater treatment for a previously approved subdivision that proposes to subdivide a lot with an area of 137,549 s.f. and 414.15 of continuous street frontage on a private road into two (2) lots as follows: Proposed lot 1 with an area of 92,908 s.f. and 150 ft. of continuous street frontage on a private road; and Proposed Lot 2 with an area of 44,641 s.f. and 264.15 ft. of continuous street frontage on a private road. Said property is shown on Assessor Map 283 Lot 11 and lies within the Single Residence A (SRA) District.

**DECISION OF THE BOARD**

It was moved, seconded, and passed unanimously to **postpone** the request to the August Planning Board meeting.

**D. REQUEST TO POSTPONE** - Application of **The Fritz Family Revocable Living Trust, Owner**, for property located at **0 Patricia Drive** for amended wetland conditional use permit approval under Section 10.1017 of the Zoning Ordinance to revise the roadway design and stormwater treatment for a previously approved

subdivision which will result in 5,718 square feet of temporary wetland buffer impact. Said property is shown on Assessor Map 283 Lot 11 and lies within the Single Residence A (SRA) District.

### **DECISION OF THE BOARD**

It was moved, seconded, and passed unanimously to **postpone** the request to the August Planning Board meeting.

### **III. PUBLIC HEARINGS – CITY COUNCIL REFERRALS (OLD BUSINESS)**

- A. REQUEST TO POSTPONE** - Request of **David Higgins and Julia Higgins, Owners**, for the restoration of involuntarily merged lots at **344 Aldrich Road** to their pre-merger status pursuant to NH RSA 674:39-aa. Said property is shown on Assessor Map 166 Lot 50 and lies within the Single Residence B (SRB) District.

### **DECISION OF THE BOARD**

It was moved, seconded, and passed unanimously to **postpone** the request to the August Planning Board meeting.

- B. REQUEST TO POSTPONE** Request of **Vincent Zingariello and Monica Abruzzese, Owners**, for the restoration of involuntarily merged lots at **135 Thaxter Road** to their pre-merger status pursuant to NH RSA 674:39-aa. Said property is shown on Assessor Map 166 Lot 15 and lies within the Single Residence B District.

### **DECISION OF THE BOARD**

Mr. Gamester recused himself from the vote. It was moved, seconded, and passed (8-0) to **postpone** the request to the August Planning Board meeting.

### **IV. PUBLIC HEARINGS – NEW BUSINESS**

- A. Application of Stone Creek Realty, LLC, Owner, and Boston & Maine Corporation, Owner**, for properties located at **53 Green Street** and at the **intersection of Market Street and Green Street** requesting Preliminary and Final Subdivision approval (Lot Line Revision) to transfer 4,852 sq. ft. from Assessor Map 119 Lot 3 to Assessor Map 119 Lot 2 which will increase the total lot area for the receiving lot from 72,200 sq. ft. to 76,670 sq. ft. and the street frontage from 86 ft. to 104 ft. Said properties lie within the Character District 5 (CD5) District, the Transportation Corridor District (TC), Downtown Overlay District (DOD), Historic District, and the North End Incentive Overlay District.

### **DECISION OF THE BOARD**

See Section II.A.



- B.** Application of **Stone Creek Realty, LLC, Owner**, for property located at **53 Green Street** requesting Site Plan Review approval for the demolition of an existing building and construction of a 5-story mixed-use building with 121,544 sq. ft. of gross floor area and 29,374 sq. ft. building footprint that includes 1,898 sq. ft. of commercial space on the first floor, 48 upper floor residential units, 97 parking spaces and 22,095 sq. ft. of community space as well as paving, utilities, lighting, landscaping and associated site improvements. Said property is shown on Assessor Map 119 Lot 02 and lies within the Character District 5 (CD5) District, Downtown Overlay District (DOD), Historic District, and the North End Incentive Overlay District.

## **DECISION OF THE BOARD**

See Section II.A

- C.** Application of **City of Portsmouth, NH (Owner and Applicant)** for property located on **Marjorie Street** for a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance to construct a municipal wastewater pump station with associated pavement apron which will result in 1,540 square feet of impact in the 100' wetland buffer. Said property is shown on Assessor Map 232, Lot 25 and lies within the Single Residence B (SRB).

## **SPEAKING TO THE APPLICATION**

City engineers Zack Cronin and Terry Desmarais and Wright-Pierce Project Manager Britt Eckstrom were present. Mr. Cronin said they proposed a wastewater pump station at the end of Marjorie Street that would collect wastewater flows in the area and redirect them across Middle Street into first manhole on Essex Street. He noted that there were two existing pump stations in the City already, both similar in nature to the proposed pump station.

Ms. Eckstrom said the pump station was proposed because there was a need to reroute sewer into the public right-of-way for future maintenance access. She said the impacts would be within the 100-ft wetland buffer and that the proposed 11,165 square feet would be located within the right-of-way. She said they were not proposing any direct wetland impacts and that 4,210 square feet of the buffer would have temporary impacts to construct the station, install the new sewer force main, and construct the stormwater system. She said 1,540 square feet of permanent impacts within the buffer would be for the concrete structures and extension of the roadway. They proposed a stormwater system of crushed stone within the station itself, the addition of a grass swale along the pavement edge, a fire retention area at the end of the pavement, and shrubs at the edge of the fence. She noted that the Conservation Commission granted approval for their CUP with the stipulation that they add shrubs beyond the bio-retention area.

Vice-Chair Moreau asked how the sewer would be moved. Ms. Eckstrom said the gravity collection system was located outside the City's right-of-way and the applicant wanted to reroute the infrastructure into the City's right-of-way.

## **PUBLIC HEARING**

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the petition.

James Boyle said he was the trustee of 150 Greenleaf Realty Trust and was speaking against the petition. He asked if an abandoned paper street was a right-of-way. He referred to the criteria and said the construction was not in the public interest because it cost too much money and the existing sewer lines did a good job of moving sewage; there was no evidence that the second criteria of best management practices to minimize impacts would be met; the existing sewer line was an alternate feasible route, and there was no plan to protect any vegetation.

Chairman Legg called for second-time speakers.

Mr. Boyle said the Board was misled by the City Staff because the legal issue had gone beyond the scope and that his land was taken by imminent demand illegally. He said he should be told what it would cost to build the project and offered a check instead.

There were no third-time speakers, and Chairman Legg closed the public hearing.

## **DISCUSSION AND DECISION OF THE BOARD**

Vice-Chair Moreau moved to **grant** the conditional use permit with the following stipulation:

- The applicant shall add native trees and shrubs instead of the proposed grass seed mix.

The motion was seconded.

Vice-Chair Moreau said she believed the City had the right-of-way just because it was a paper street. She said they were asked all the time to give up their rights to paper streets, so she felt that they had the right-of-way and the ability to build that. She said the City Staff's knowledge was way more than needed as far as sewage and dealing with it and how it should travel and where it should go. She trusted that the City gave the Board the best advice.

Mr. Chellman asked if it was related to the pending litigation, and Chairman Legg said it wasn't relevant. He said the Board was asked to consider an application as it relates to the wetlands CUP and not whether what the City is doing is connected to anything other than that. Mr. Chellman said he felt that there was an existing alternative, the pipe serving the sewer.

The motion passed by a vote of 8-1.

- D. REQUEST TO POSTPONE** - Application of **Banfield Realty, LLC, Owner**, for property located at **375 Banfield Road** requesting a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for work related to the construction of an industrial building that will require the removal of pavement in the 100' wetland buffer to create a vegetated area which will receive some of the

stormwater runoff from the property. Said property is shown on Assessor Map 266, Lot 7 and lies within the Industrial (I) District.

### **DECISION OF THE BOARD**

It was moved, seconded, and passed unanimously to **postpone** the request to the August Planning Board meeting.

- E. REQUEST TO POSTPONE** - The application of **Banfield Realty, LLC, Owner**, for property located at **375 Banfield Road** requesting Site Plan review approval to demolish two existing commercial buildings and an existing shed and construct a 75,000 s.f. industrial warehouse building with 75 parking spaces as well as associated paving, stormwater management, lighting, utilities and landscaping. Said property is shown on Assessor Map 266 Lot 7 and lies within the Industrial (I) District.

### **DECISION OF THE BOARD**

It was moved, seconded, and passed unanimously to postpone the request to the August Planning Board meeting.

- F. Application of Chase Bailey (Owner and Applicant)** for property located at **3 Curriers Cove** requesting a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance to install a pool and patio area with a permanent impact of 360 square feet and a temporary impact of 320 square feet in the inland wetland buffer. Said property is shown on Assessor Map 204, Lot 12 and lies within the Single Residence A (SRA) District.

### **SPEAKING TO THE APPLICATION**

The applicant Chase Bailey was present to speak to the petition. He said he was granted permission from the Planning Board in 2018 to replace the pool, but the project was delayed and he had to return to the Conservation Commission to get a land use permit, so he needed a permit for the pool and patio. He said nothing had changed between the 2018 plans and now.

### **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.

### **DECISION OF THE BOARD**

Vice-Chair Moreau moved to grant the conditional use permit for the application as presented, seconded by Mr. Gamester.

Vice-Chair Moreau said it was good in 2018, so it's good now. The motion passed unanimously.

Chairman Legg asked for a motion to combine Applications IV.G and H. It was moved, seconded, and passed unanimously. Chairman Legg read the applications into the record.

- G. Application of Pease Development Authority, Owner, and Lonza Biologics, Applicant,** for property located at **55 and 101 International Drive**, requesting Subdivision (Lot Line Adjustment) Approval under Chapter 500 of the Pease Land Use Controls, Subdivision Regulations, to revise the lot line between the two lots increasing Map 305 Lot 6 by 2.66 acres from 43.37 acres to 46.02 acres. Said properties are shown on Assessor Map 305 Lot 6 and Lot 7 and lie within the Airport Business Commercial (ABC) District.

### **SPEAKING TO THE APPLICATION**

Neil Hansen and Patrick Crimmins of Tighe and Bond were present on behalf of the applicant to speak to the petition. Ricardo Santana of Lonza and Mike Bates of the Pease Development Authority (PDA) were also present.

Mr. Hansen said the proposed project is to expand Lonza's parking to support its growing development services and includes construction for a 200-space parking lot adjacent to the existing parking garage. He said additional parking was necessary for Lonza because the shell of the 101C expansion was built out and would add 250 employees to the existing 1200 employees. He said they were granted conceptual improvement by PDA in May and also received recommendation of approval from TAC with five stipulations, which they addressed. He said the project would require an Alteration of Terrain permit and a minor impact Wetlands Permit from NHDES, noting that both applications were submitted to the State on June 24. He said the wetland impact for the project did not fall under the jurisdiction of PDA regulations because the impact was 4,000 square feet, which was less than the threshold of the ¼-acre defined in the PDA regulations. He reviewed the existing conditions of the Lonza parcel, noting that the project area slopes down from the PDA parking lot toward Goose Bay Drive. He said the impacted wetland area is a stone-lined swale that falls at the toe of the existing slope, and the swale has filled with sediment and taken on wetland features over time.

He reviewed the site plan and said it showed the extent of the approved Master Plan for the Lonza site, including the Iron Parcel development that was approved in 2019. He said there were also three pre-approved small parking expansions areas totaling 60 spaces. The proposed parking lot would be accessed using the existing drive aisle into the parking garage and the 22-space parking lot that was part of the 2020 approval and will have 300 spaces, along with a center 12-ft wide landscape island and a single gated exit point back onto Goose Bay Drive. There will also be a sidewalk for pedestrian access through the parking lot. The 688 parking spaces would be added to the garage to meet the requirements for total ADA parking spaces on site.

He reviewed the proposed grading change and erosion control plan. He said the grade change requires the construction of a retaining wall between the PDA lot and the proposed lot. The proposed lot will slope from an elevation of 70 close to Goose Bay Drive up to 76 along the wall, needing a wall between 2-16 feet tall. The site is also graded to limit the amount of excess cut

produced as excess material is required to stay on site under PDA regulations and is why the front of the parking lot is elevated to balance the cut and fill on the site.

Mr. Hansen said stormwater management for the proposed parking lot consists of a collecting service runoff via catch basins that will connect to an underground detention system then ultimately flow through a stormwater infiltration unit prior to discharging into the existing stormwater system on Corporate Drive. The proposal will provide stormwater treatment for all proposed paved services plus an equivalent area of existing paved services as required by the PDA. The additional treatment of existing impervious surfaces will be done in three different areas and there is also a raingarden along Goose Bay Drive that will be treated.

The proposed utilities include conduits for the site, lighting, and power for the automated gate. The landscape plan proposes larger trees within the landscaped buffer, trees along the north end of the parking lot for screening, smaller trees and shrubs throughout the islands, and preserving street trees. He reviewed a photometric plan. A lot line revision is needed between 55 and 101 International Drive. A subdivision plan was prepared and a piece of land is the 2.66 acre that's part of the 55 International parcel that will be added to Lonza's 46-acre parcel.

Vice-Chair Moreau said the applicant returned each year for parking, and she asked if they would run eventually run out of parking spots. Mr. Hansen said the 60 spaces approved last year had not been constructed yet, and 200 spaces were needed for the final build-out of the 101C shell. Any future development on the site would have to happen on the Iron Parcel piece that has its own parking garage. He said the 101 building will be fully built out and the parking was necessary to support the employees for that building, and he didn't foresee additional parking.

## **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.

## **DECISION OF THE BOARD**

Vice-Chair Moreau moved to recommend **subdivision** approval to the Pease Development Authority as presented, seconded by Mr. Gamester. The motion passed unanimously.

Vice-Chair Moreau moved to recommend **site plan** approval to the PDA as presented, seconded by Mr. Gamester. The motion passed unanimously.

- H.** Application of **Pease Development Authority, Owner, and Lonza Biologics, 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 the construction of a new 200 space parking lot along with associated site improvements including lighting, landscaping, and stormwater management. Said property is shown on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District.

## DECISION OF THE BOARD

See Section IV.G.

- I. Application of **Bow St Brew LLC, Owner and Applicant**, for property located at **121 Bow St Unit C1**, requesting Conditional Use Permit Approval in accordance with Section 10.1112.14 of the Zoning Ordinance, for the provision of no on-site parking spaces where three (3) are required. Said property is shown on Assessor Map 105 Lot 1-1 and lies within the Character District 4 (CD4), Historic District, and Downtown Overlay District (DOD).

## SPEAKING TO THE APPLICATION

Attorney Monica Kaiser was present on behalf of the applicant. She said Unit C1 had been used as an office in the past but was sitting vacant because no one wanted to lease it, so the owner determined that its best use was as a residential unit. She said the unit could be converted but there was no parking for it. She noted that the nearby theater and community office were not required to provide parking and that the four upper condos shared three tandem parking spaces, and the Ale House Inn provided eight parking spaces and directed other patrons to the municipal parking lots. She said the parking situation will be improved because the applicant would removing the commercial use would reduce parking. City lots and parking garages would provide parking, so they didn't feel that dedicated parking was necessary.

In response to Vice-Chair Moreau's question, Attorney Kaiser said the unit would be rented.

## 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-Chair Moreau moved to grant the conditional use permit as presented, seconded by Mr. Gamester.

Vice-Chair Moreau said the presentation answered a lot of her questions and thought that changing it to a residential use would be good for the neighborhood and require less parking than was there now. Chairman Legg said it was a good tradeoff.

The motion passed unanimously.

- J. Application of **Kaarin Milne, Owner and Applicant**, for property located at **315 Wibird Street** requesting Conditional Use Permit approval in accordance with Section 10.815 of the Zoning Ordinance to change the use of a studio space above a detached garage to a garden cottage with 610 square feet gross floor area. Said

property is shown on Assessor Map 132 Lot 13 and lies within the General Residence A (GRA) District.

### **SPEAKING TO THE APPLICATION**

Applicant Kaarin Milne spoke to the application and said she bought the property in 2011 and updated the garage for safety concerns, added a bathroom, and wanted to use the studio space legally as a guest room. She said she wasn't sure how it would be used in the long term but thought visiting family could spend periods of time in it. She said the structure met all the criteria of a garden cottage and she wanted to have the full 904 square feet counted because she thought it made sense. She said everything else was approved by her engineer.

Vice-Chair Moreau asked why the applicant wanted to include the garage space, noting that it wasn't a habitable space. Ms. Milne said they were currently using it as storage and had never used it as a real garage. She said everything was upgraded to a high standard, so it would make sense to have a first-floor living space that could possibly be upgraded as a future in-law space. Chairman Legg said he was hoping that the Board would grant approval for the 600 square feet but the applicant wanted to use the entire 900 square footage. Ms. Milne said the garage met all the standards and that they might never change the building but they wanted to keep the use flexible. Ms. Walker clarified that Ms. Milne anticipated a potential expansion of the living space for the first floor, and Ms. Milne said it could be.

Ms. Walker told the Board to consider whether they were comfortable approving an application over 600 square feet that didn't show a modified use of that space because it was presented as a garage. Chairman Legg said that was the reason he wanted to move toward the 600 square feet because if the space was redesigned in the future and the first floor was used, the applicant would have to return for approval to use that space. Vice-Chair Moreau agreed. Ms. Milne said she was just removing the garage door and adding a bay of windows. Chairman Legg said the ordinance didn't allow it because it was only for 600 square feet.

### **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-Chair Moreau moved to find that the requested modification will not be consistent in our findings and the Board would rather grant a modification of 610 square feet of space. Mr. Gamester seconded.

Vice-Chair Moreau said there was no guarantee that the applicant would be the owner in the long term and that other buyers might do other things. She said the Board had to think about the property's long term, which was why she was leery of approving things that weren't presently being used as living space. Mr. Gamester said the Board's approval matched the current use, and if something changed in the future, the applicant could return to modify the overall cottage

garden space or request a further modification in the size. Mr. Chellman suggested that the upstairs bath and mud room of 610 square feet be added to the motion.

Vice-Chair Moreau moved to grant the **Conditional Use Permit** as modified by the Board with the following stipulation:

- The upstairs bath and mudroom of 610 square feet shall be added.

The following Planning Department stipulation also applied:

- 2.1) In accordance with Section 10.815.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Section 10.815, including the owner-occupancy requirement, and shall renew the certificate of use annually.

Mr. Gamester seconded. The motion passed unanimously.

- K.** The application of **Susan Alex, Owner and Applicant**, for property located at **50 Mount Vernon Street** requesting Conditional Use Permit approval in accordance with Section 10.815 of the Zoning Ordinance to construct a garden cottage with 425 square feet gross floor area of living space above an existing detached garage. Said property is shown on Assessor Map 111 Lot 29 and lies within the General Residence B (GRB) and Historic Districts.

## **SPEAKING TO THE APPLICATION**

Project designer Matt Beebe spoke to the application. Mr. Beebe said they received approvals for the design and renovation. He described the property and said they would meet all the criteria. He said they met the requirements of the garden cottage ordinance except that headspace was added. He said the dormers would not increase the building's footprint or height.

Vice-Chair Moreau asked if the dormer faced the backyard, and Mr. Beebe agreed. She said the yard seemed small and asked how close the neighbor's house was to it. Mr. Beebe said it was 30-40 feet but the neighbor's privacy wouldn't be affected because only a barn would be seen.

## **PUBLIC HEARING**

Chairman Legg asked if anyone was present from the public wishing to speak to, for, or against the petition.

The owner Susan Alex said the project was designed so that her son could move in and help with the house and grounds as well as eventually serve as her caretaker. She hoped it was the type of project that the City would encourage, and she said her neighbors were all in favor.

Chairman Legg asked for second or third time speakers. Seeing no one rise, he closed the public hearing.

## **DECISION OF THE BOARD**



A Board member abstained from the vote.

Vice-Chair Moreau moved to find that the requested modifications will be consistent with the required findings of Section 10.815.40 and to grant a **modification** to the requirements of Section 10.815.31 and .33. The motion was seconded by Mr. Gamester.

Vice-Chair Moreau said the Board looked at an aerial view of the property and did see a barn that would not impede on anyone's privacy, and all the neighbors are in support. Mr. Gamester said they were good modifications, noting that a garden cottage approval is probably the hardest one to get in the City, given the way the existing buildings are and the headroom and so on, so it made sense to have a slight modification to allow it to be under 600 square feet.

The motion passed unanimously by 8-0.

Vice-Chair Moreau moved to **grant** the conditional use permit, with the following stipulation as requested by the Planning Department:

- 2.1) In accordance with Section 10.815.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Section 10.815, including the owner-occupancy requirement, and shall renew the certificate of use annually.

The motion passed unanimously by 8-0.

## **V. PRELIMINARY CONCEPTUAL CONSULTATION**

- A.** Application of **The Sagamore Group, LLC** for property located at **1169 & 1171 Sagamore Avenue** for Preliminary Conceptual Consultation to construct a 10-unit condominium complex.

### **SPEAKING TO THE APPLICATION**

Mike Garrepy of Garrepy Planning Consultants was present to speak to the application and stated that the two lots would be merged. He said there were three single-family dwellings and a pool on the property, and the intent was to redevelop the site and create a condominium development by scrapping the site and building six single-family homes and four duplexes. He noted that there were several other condominiums and townhomes next to the site and that they would work with them to create buffering through landscaping and other screening methods.

Vice-Chair Moreau commented that there was a fair amount of ledge that would be built over and the project was close to the neighbors. Mr. Garrepy said there would be ledge removal and they would have pre-blast surveys done and so on. Mr. Clark said most of the site graded toward the north and the current flow would all go off site, so it might be tricky getting stormwater to stay on site. He noted that there was also several oaks on site. Given the presence of high ledge, he said it might be difficult to create new landscaping with all that ledge under the surface, and he recommended that as many oaks as possible be kept. He asked what the current status of the sidewalk buildout was. Ms. Walker said it was in the capital improvement plans and didn't know

what the current schedule was. Mr. Garrepy said they hadn't talked to City Staff about it yet. He said some of mature trees would have to be removed and they would keep as many as they could.

Chairman Legg said the stormwater management would be a challenge and that the Board would look for a very robust system, with Mr. Clark's guidance, to ensure that all the water stays on the lot. Mr. Chellman noted that the garage of the first unit was close to the entrance and suggested sliding all the buildings to the west to get some stormwater closer to Sagamore Avenue and also move the driveway further in a bit. It was noted that the garage could be moved instead.

Ms. Walker said the application would go before TAC for review and that the abutters would be notified at that point.

## **VI. OTHER BUSINESS**

### **A. Review of Zoning Ordinance Amendment Priorities**

Chairman Legg said six of them were works in progress that stopped due to COVID and others were brought to the attention of the Planning Director or the Chair. He said a few were items had come before the City, like murals. He asked that any additions, suggestions, or changes in priority be forwarded to the Planning Director. He said the intent was to consolidate all the input with the list and present an amended list at the August meeting.

## **VII. INFORMATIONAL ITEMS**

### **A. Request from City Council to review June 15, 2021 memo from Rick Chellman re: waterfront and building siting**

Chairman Legg said it would be considered at the August meeting.

## **VIII. ADJOURNMENT**

The meeting was adjourned at 9:40 p.m.

Respectfully submitted,

Joann Breault,  
Acting Secretary for the Planning Board