

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

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

7:00 PM

October 21, 2021

MINUTES

MEMBERS PRESENT: Peter Britz, Interim Planning Director; Dexter Legg, Chair; Peter Whelan, City Councilor; Karen Conard, City Manager; Ray Pezzullo, Assistant City Engineer; Colby Gamester; Corey Clark; Peter Harris; Rick Chellman; Stefanie Casella, Planner 1

ALSO PRESENT:

MEMBERS ABSENT: Elizabeth Moreau, Vice Chair; Polly Henkel, Alternate

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I. APPROVAL OF MINUTES

A. Approval of the Planning Board minutes from the September 16, 2021 meeting.

Mr. Chellman moved to approve the Planning Board minutes from the September 16, 2021, meeting, seconded by Mr. Gamester. The motion passed unanimously.

II. DETERMINATIONS OF COMPLETENESS

SUBDIVISION AMENDMENT REVIEW

A. The request of **Frederick W. Watson Revocable Trust (Owner)**, for property located at **1 Clark Drive** requesting for Subdivision Amendment approval.

Mr. Pezzullo moved to determine that the application is **complete** according to the Subdivision Review Regulations, and to accept the application for consideration, seconded by City Manager Conard. The motion passed unanimously.

B. REQUEST TO POSTPONE The request of **Elizabeth B Larsen Trust (Owner)**, for property located at **668 Middle Street** for Preliminary and Final Subdivision approval. **REQUEST TO POSTPONE**

Chairman Legg noted that this application would be postponed later in the agenda.

SITE PLAN REVIEW

- A. Request of Green & Company (Applicant), and Philip J. Stokel and Stella B. Stokel (Owners)** for property located at **83 Peverly Hill Road** for Site Plan Review approval.

Mr. Pezzullo moved to determine that the application is **complete** according to the Site Plan Review Regulations, and to accept the application for consideration, seconded by Mr. Clark. The motion passed unanimously.

- B. REQUEST TO POSTPONE** Request of **Ricci Construction Company Inc. (Owner)** and **Green & Company Building & Development Corp. (Applicant)** for property located at **3400 Lafayette Rd** for Site Plan Review approval. **REQUEST TO POSTPONE**

Chairman Legg noted that this application would be postponed later in the agenda

III. PUBLIC HEARINGS – OLD BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- A. REQUEST TO POSTPONE** The request 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. **REQUEST TO POSTPONE (LU-20-259)**

DISCUSSION AND DECISION OF THE BOARD

Mr. Pezzullo moved to **postpone** to the November Planning Board meeting, seconded by Mr. Gamester. The motion passed unanimously.

- B. REQUEST TO POSTPONE** The request 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. **REQUEST TO POSTPONE (LU-20-259)**

DISCUSSION AND DECISION OF THE BOARD

Mr. Pezzullo moved to **postpone** to the November Planning Board meeting, seconded by Mr. Gamester. The motion passed unanimously.

- C. Request of Green & Company (Applicant), and Philip J. Stokel and Stella B. Stokel (Owners),** for property located at **83 Peverly Hill 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 56 single-family homes and a new 2,950-foot public road with related utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 242 Lot 4 and lie within the Single Residence A (SRA) and Single Residence B (SRB) Districts. (LU-21-74)

SPEAKING TO THE APPLICATION

Corey Colwell from TF Moran and Attorney John Bosen spoke to the application. Mr. Colwell commented that the application was for a 56-unit PUD on a 110-acre parcel on Peverly Hill Rd. They met with the Planning Board in August to discuss the previous Planning Board action taken in 2015. The Board voted to waive the 500-foot cul-de-sac regulations. The waiver would run with this property and be effective for any subdivision plan within 10 years. The conceptual drawing presented in September of last year showed 60 units and similar loop road with an additional 1,000 feet of road. The Board did not like the extra road and felt the homes on it were disconnected from the rest of the development. The design has been altered. The proposal will keep over 2/3 of the property in its natural state. There will be a public park and access to trails from the development. There will be 56 single family homes on a new public road. The new road from Peverly Hill Road to the loop will be 26 feet wide. The loop will be 22 feet wide except where the hydrants are located; it will be 26 feet there. There will be a 5.5-foot-wide concrete sidewalk on north the side of the road. There is a crosswalk at the intersection. The utilities will be in the right of way. The road will have a vertical curb, catch basins and bio retention areas in the middle part of the loop. That will hold and treat storm water generated from the first half of the road. The back half will drain into gravel wetlands located to the west. There will be an infiltration basin in the middle of the loop to capture and infiltrate into the ground. The plan complies with AOT and city regulations. The traffic study was done by Steve Pernaw and peer reviewed by TEC. They have addressed all concerns from TEC. This development will increase 2-way traffic by 2% heading north and 1% heading south by 2032. All traffic will operate well below capacity in the intersections with the neighborhood fully occupied. A lot of thought was put into landscaping the neighborhood. 83% will be open space and the remaining 17% will be landscaped. They will impact as little vegetation as possible with no buffer impacts. There will be a natural wooded look and the houses were placed as close to the road as allowed. The backyards will be landscaped. There will not be any buffer or wetland impacts. The landscape plan includes mostly native species, and the remaining plants were selected for their hardiness. There will be smaller understory trees to attract wildlife. The shrubs

chosen will produce a layering effect. The mix of plants will provide massing and screening between the homes. There will be 1,200 shrubs/trees overall and 21 per unit. There will be a pocket park at the intersection of the stem and the loop of the road. It will be 9,100 sf in and have a game court, tables, grills, landscaping and a bike/ped path. This park is intended to be for homeowners only. The pedestrian path will go through the middle of the loop to a crosswalk at the far point of loop. There will be a second pocket park that will be for the homeowners and the public. There will be a bike rack, water filling station, benches, and landscaping. There is a bike/ped path proposed at the southern end of the park out to the Boston Main Rail Trail. The length of the gravel path from the park to the rail trail will be 1,400 feet. There will be bike symbols painted on the road to direct people to the park. There will be 4 public parking spaces. There will also be a multi-use path on the west side of Peverly Hill Rd. This path will run to Middle Rd. and tie into the sidewalk. A painted crosswalk and signal will also be installed. They will donate a conservation easement to the city for all the property that is not being developed. The proposed conservation easement is 77 acres, and it adjoins land already in conservation. This site is appropriate for a PUD. The lot is 106 acres in size and almost entirely vegetated with one existing single-family home. The majority of the surrounding property is conservation land. There is 60 acres of upland and 45 acres of wetland on the property. A PUD allows for clustering the units and no impacts to the wetland. A PUD reduces the amount of impervious surface and tree clearing that would be required in a traditional subdivision. A conventional subdivision would take up most of the property, generate more storm water, and require a longer 32-foot-wide road. A PUD would reduce the road length and width. A conventional subdivision would require a minimum lot size of 1 acre and each home would be owned in fee by individual homeowners. The layout would impact all of the upland and require them to cross the wetland. The PUD impacts 30% of the property and allows for 70% to go in a conservation easement. A PUD will generate less traffic than the conventional subdivision. According to the ITE single family detached units have the highest trip generation rate. Condo units generate fewer trips than single family homes because they are smaller in floor plans and family size. The difference in market value PUD and a conventional subdivision are negligible. A PUD is far less detrimental to the environment. It reduces roadway and impervious area. There will be less tree clearing. Storm water runoff will be reduced. It will allow for a conservation easement. They will in a condo form of ownership, so the property will be easier to police.

Mr. Clark clarified that a resident on Middle Rd. can come up Peverly Hill Rd. and access the whole site to get to the rail trail. Mr. Colwell confirmed that was correct. Mr. Clark questioned if the language of the conservation easement included that it be open to the public. Mr. Bosen responded that the easement runs in favor of the city to preserve open space. At the present time there is no access to the public but they would be happy to make a recommendation along that line if the Board wishes. Mr. Clark commented that the southeast parcel is currently posted. It's preserved, but no one can use it. It would be good if the land could be open to the public.

Mr. Clark questioned who would maintain the properties at the condos. Mr. Bosen responded that the condo association will do the maintenance. Mr. Clark commented that the NOFA standards were not called out in the maintenance manual in the drainage analysis. Mr. Bosen responded that it was in the condo documents, but it can be added there too.

Chairman Legg commented that when this first came before the Board as a preliminary design it was a bit of an overreach. After taking feedback from the city and Boards, this is a much better project. That is appreciated. Chairman Legg questioned if there was any wayfinding signage to get the public through bike path to the second pocket park and rail trail. Mr. Colwell responded that there would be bike symbols painted on the road to lead people to the park and rail trail. Chairman Legg questioned if the path in the center was for the public. Mr. Colwell responded that it was not. The intent was for the residents to have use of the path and for the public to use the road. Chairman Legg commented that the Board should consider a stipulation for putting in a wayfinding sign at the entrance to the second public park, the pedestrian trail, and the parking spaces to be clear about the public access. It is a challenge to make sure the public feels welcome. They need to make sure that happens and that the condo owners understand the public has access to those areas. Mr. Colwell confirmed that was a good suggestion.

City Council Representative Whelan commented that he appreciated that the applicants were not building in the 100-foot buffer zone. It's a good project and 77 acres donated to the city means a lot.

Mr. Chellman questioned if they used the overall calculation method for the density calculations. Mr. Colwell confirmed they calculated the total area and subtracted the wetland to derive it. The total number of units allowed is 74 and the project is proposing 56 units. Mr. Chellman questioned where the public parking was located. Mr. Colwell responded that there would be 4 spaces next to the second pocket park. One would be handicap. Mr. Chellman questioned if the street would be signed no parking. Mr. Colwell responded that it would have vertical granite curbs and sidewalks to deter parking, but there would not be any signage. If it becomes a problem, then they can add signage later. Mr. Chellman questioned how the contribution amount was determined. Mr. Colwell responded that it was determined by DPW. They will be building a temporary multi use path from this project to Middle Rd. and giving an easement to the city for the path. They will also be contributing \$100k toward the construction of the path. Mr. Chellman questioned if the salt restriction in the plan was for all salts. Mr. Colwell responded that was the result of the Conservation Commission meeting and would apply to walkways and driveways. It's a city street and the city will be salting it. The road is beyond the 100-foot buffer. Mr. Britz clarified that it was a restriction on sodium chloride.

Mr. Gamester commented requested more details on the neglected burial ground next to the second pocket park. Mr. Colwell responded that they were told by the previous owners that all of the bodies had been removed however no one has gone through the state process to deem it non burial grounds. They are treating it as sacred ground just in case.

PUBLIC HEARING

Paul Mano of 1490 Islington St. spoke in favor of the project. Green and Company has done wonderful work for the city.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Clark moved that the application for the proposed OSPUD would not be more detrimental than a conventional Subdivision, seconded by Mr. Gamester by finding that:

- 1.1) The Site is appropriate for an OSPUD, and;
- 1.2) The anticipated impacts of the proposed OSPUD on traffic, market values, stormwater runoff or environmental factors would not be more detrimental to the surrounding area than the impacts of conventional residential development of the site.

The motion passed unanimously.

Mr. Clark moved to grant waivers to the Subdivision Regulations Residential Streets Standards (Appendix to the Subdivision Regulations) and Minimum Right of Way requirements (Section VI(3)(b)) by finding that specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations, seconded by Mr. Gamester.

Mr. Clark noted that they were trying to match the spirit and intent of the regulations and by granting the waiver they would be able to. Chairman Legg added that the size of the residential streets had input from the city as it was developed. The intent was to minimize the impervious surface on the property. Mr. Chellman noted that a common concern in subdivisions is speeding. The narrow road will help prevent that.

The motion passed unanimously.

Mr. Clark moved to find that the requested waiver to the Site Plan Review regulations 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 requirement:

- Requirement of Section 2.5.4.3(c) requiring use of AASHTO truck turning templates.

The motion passed unanimously.

Mr. Clark moved to grant the conditional use permit and site plan review approval, seconded by Mr. Gamester with the following stipulations:

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

- 4.1) The Applicant or its engineer shall submit a copy of a completed Land Use Development Tracking Form using the Pollutant Tracking and Accounting Program (PTAP) online portal currently managed by the UNH Stormwater Center or similar form approved by the City;

4.2) The applicant shall enter into a development agreement with the City per the requirements of the Zoning Ordinance and subject to review and approval by the Planning and Legal Departments.

4.3) It is understood the homeowners and/or homeowners association will own all stormwater facilities, drainage pipes and outfalls outside the roadway easement/ROW. This will include all activities associated with ownership and maintenance of the stormwater facilities and pipelines. For this reason, easements will be required in order for the City to have drainage and flowage rights for any stormwater draining from the public road into the private facilities or across private property.

4.4) All easements to benefit the City shall be reviewed and approved by the DPW, Planning and Legal Departments prior to final acceptance by the City Council. Metes and bounds describing the easement area shall be required.

4.5) Applicant shall provide an easement to benefit the City to have drainage and flowage rights for any stormwater draining from the public road into the private facilities or across private property.

4.6) A Construction Mitigation and Management Plan shall be required for this project, to include a proposed approach to progress of constructions in the areas with significant fill.

4.7) Plans indicated a significant amount of the construction for new utilities and roadway will be in areas to be filled. The approach to construction will be important for the stability of the proposed utilities and longevity of the roadway. Applicant shall provide means and methods in the construction specifications for the construction of roadways and utilities and specific areas that need to be filled to the satisfaction of DPW and City selected 3rd party reviewer at the cost of the applicant.

4.8) The City will require a full set of construction plans and specifications for site improvements and utilities prior to construction. This will be reviewed by a third party at the cost of the applicant.

4.9) The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site;

4.10) The applicant shall provide an easement along the frontage on Peverly Hill Road for construction of the shared use path. The easement must be donated to the City of Portsmouth for the shared use path per Federal Requirements. The City will provide the appropriate documentation for the applicant's use. The applicant shall provide a contribution for future construction of the section from the new roadway to the south of property line in the amount of \$100,000.

4.11) Prior to construction, applicant will coordinate with DPW to ensure no interference between drainage pipes and main water pipes

4.12) The conservation easement for the conservation land being provided will include a provision to allow public access to the property.

4.13) NOFA Standards will be added to the stormwater maintenance manual for maintenance of the vegetation in the stormwater system

4.14) Way finding signs will be placed at entrance to the public Right of Way and trail with clear documentation in the HOA materials supporting public access to the public recreation spaces.

4.15) Applicant will coordinate with the City DPW to construct multi-use path on Peverly Hill Road

4.16) The use of Sodium Chloride will be restricted on private walkways and driveways.

Conditions Subsequent:

4.17) The applicant shall install signage/markers indicating the location of the wetland buffer boundary;

4.18) 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;

4.19) A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted to the City's Planning and Public Works Departments.

4.20) All permits shall be obtained per State and Local regulations.

Mr. Clark commented that they worked really hard to make a great project that follows the intent of the regulations. It will be good to see how it all comes together.

The motion passed unanimously.

Mr. Clark moved to postpone discussions on street name recommendation to the November 18, 2021, Planning Board meeting, seconded by Mr. Gamester. The motion passed unanimously.

D. REQUEST TO POSTPONE Request of **Ricci Construction Company Inc. (Owner)**, and **Green & Company Building & Development Corp., (Applicant)**, for property located at **3400 Lafayette Rd** requesting a wetland Conditional Use Permit under section 10.1017 to construct 50 town homes on an undeveloped lot. The applicant is proposing five areas of wetland impact for a total of 21,350 square feet of permanent impact and three areas of temporary impact for a total of 2,350 square feet. Said property is shown on Assessor Map 297 Lot 11 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District and the Natural Resource Protection (NRP) District. **REQUEST TO POSTPONE (LU-21-98)**

DISCUSSION AND DECISION OF THE BOARD

Mr. Gamester moved to **postpone** to the November Planning Board meeting, seconded by Mr. Clark. The motion passed unanimously.

E. REQUEST TO POSTPONE Request of **Ricci Construction Company Inc. (Owner)** and **Green & Company Building & Development Corp. (Applicant)** for property located at **3400 Lafayette Rd** requesting Conditional Use Permit for a

Development Site in accordance with Section 10.5B40 of the Zoning Ordinance and Site Plan Review approval for construction of a 50-unit multi-family residential development that includes community space and related landscaping, drainage, paving, utilities and other site improvements. Said property is shown on Assessor Map 297 Lot 11 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District and the Natural Resource Protection (NRP) District. **REQUEST TO POSTPONE** (LU-21-98)

DISCUSSION AND DECISION OF THE BOARD

Mr. Gamester moved to **postpone** to the November Planning Board meeting, seconded by Mr. Clark. The motion passed unanimously.

IV. PUBLIC HEARINGS – NEW BUSINESS

- A.** The request of **Karen Butz Webb Revocable Living Trust (Owner)**, for the property located at **910 Sagamore Avenue** requesting a Wetland Conditional Use Permit according to article 10.1017 to expand an enclosed living space by 362 square feet which will create a disturbance of 3,375 square feet within the inland wetland buffer. The living space is supported by piles over an area of crushed stone to allow infiltration of stormwater. The roof runoff will be captured in gutters which will be directed to stone infiltration trenches with 4’x4’ stone outlet area for any stormwater that does not infiltrate. The applicant is disconnecting the existing septic system and will connect to a new City sewer line. The mowing of the wetland at the rear of the property will be discontinued and the area will be planted with wildflowers and other buffer plantings. Said property is shown on Assessor Map 223 Lot 26A and lies within the Waterfront Business (WB) District. (LU-21-170)

SPEAKING TO THE APPLICATION

Alex Ross spoke to the application. The project involves a small house addition. The site is just past the Sagamore Creek Bridge behind the scuba shop. It is a corner lot with a gravel roadway. The house is in the northern corner. There is an existing bump out off the rear of the house. That will be removed, and a new bump out will be constructed. It is a fully developed parcel that is already landscaped. The lot is just over half an acre and there is a little finger of high tide that comes in at the corner. This parcel has a large 24-inch culvert that collects flow from across the street. It goes under the parcel and the concrete structure flows out to the high tide area. For years the wetland buffer has been used as a mowed backyard. There is an old septic system on the property with a leach field in the lower left corner of the parcel. It is close to the wetlands and high tide area. The city has plans to run a new sewer line down the gravel roadway. When that happens, they will discontinue the septic and tie directly into the city line. They will plan to remove the invasive plants in the wooded area. Currently there are no storm water measures on

the site. The new addition will be supported by posts, and not have a foundation. There will be a stone infiltration area for roof drainage. Along the edge of the delineated non tidal wetlands they are proposing a line of plantings. They will also plan to follow an organic land management plan outlined by NOFA. A large portion of the backyard is wetland. The owner is willing to give that up and let it go back to a natural restored wetland area. There will be buffer plantings around that area, and it will not be mowed anymore. Overall, the project will benefit the buffer and wetland. It will restore the wetland, provide storm water infiltration, discontinue the septic and improve protections.

Mr. Gamester questioned what access the owner had to the tidal inlet. Mr. Ross responded that it was minimal. The backyard is wooded and there is a steep slope.

Mr. Clark commented that this site came here for a new septic a few years and questioned if that was ever installed. Mr. Ross responded that it was not. Mr. Clark commented there was nothing in the erosion notes that referred to the NOFA standards. That note should be included throughout the plan to ensure there is no confusion.

Chairman Legg questioned if the existing septic would still be accessible with the new addition. Mr. Ross pointed out the addition area and the septic and leach field on the plan. There should not be any conflict if this is built before the property ties into the sewer. They can work around the pipe. Chairman Legg commented that it was not a condition of approval that the owner transitions to the public system. The Board has to decide if these improvements to the wetland are significant enough to do the addition.

PUBLIC HEARING

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Clark moved to **grant** the conditional use permit as presented, seconded by Mr. Gamester with the following stipulations:

- 1) NOFA standards shall be maintained.
- 2) Install and maintain wetland buffer plantings along the delineation line as marked in the application every 4 ft. (recommended plantings).
- 3) The stone infiltration, as shown on the plan, shall be terminated at the wetland delineation line.

Mr. Clark commented that letting the designated wetland return to a natural state, what doing in following NOFA standards, and adding infiltration were all benefits to the site.

The motion passed unanimously.

- B. REQUEST TO POSTPONE** The request of **Elizabeth B Larsen Trust (Owner)**, for property located at **668 Middle Street** requesting Preliminary and Final Subdivision approval to subdivide 1 existing lot with 81,046 square feet of lot area, and 69.83 feet of street frontage into 3 lots as follows: Proposed Lot 1 with 18,646 square feet of lot area and no street frontage; Proposed Lot 2 with 18,756 square feet of lot area and no street frontage; Proposed Lot 3 with 43,644 square feet of lot area and 69.83 feet of street frontage. The existing buildings will remain and be on Proposed Lot 3. Said property is shown on Assessor Map 147 Lot 18 and lies within the General Residence A (GRA) and Historic Districts.
REQUEST TO POSTPONE (LU-21-23)

DISCUSSION AND DECISION OF THE BOARD

City Manager Conard moved to **postpone** to the November Planning Board meeting, seconded by Mr. Clark. The motion passed unanimously.

- C.** The request of **Frederick W. Watson Revocable Trust (Owner)**, for property located at **1 Clark Drive** requesting Amended Subdivision approval to correct the previously approved plan, approved on March 18, 2021, to include an additional lot that encompasses the proposed road with an area of 25,524 square feet, bringing the total to five (5) proposed lots. The previously approved plan consists of four (4) residential lots that will not be changing in size or shape and have the following dimensions: Proposed lot 1 with an area of 20,277 s.f. and 137.23 ft. of continuous street frontage; Proposed Lot 2 with an area of 17,103 s.f. and 100 ft. of continuous street frontage; Proposed Lot 3 with an area of 20,211 s.f. and 100 ft. of continuous street frontage; and Proposed Lot 4 with an area of 53,044 s.f. and 592.50 ft. of continuous street frontage. Said property is shown on Assessor Map 209 Lot 33 and lies within the Single Residence B (SRB) District. (LU-21-10)

SPEAKING TO THE APPLICATION

Eric Saari from Altus Engineering spoke to the application. The Board has seen this plan before. During the process of initial approval, it had 4 residential lots and a street proposed as a public way. It is now going to be a private way and must be another lot. That makes it a 5-lot subdivision. The road will be a separate lot. Nothing has changed on the plan other than a note that calls out the road as a separate lot.

PUBLIC HEARING

Mr. Hart of 165 Cutts St. commented that he was in support of the original approval it was a nice development. Now that there is another house lot Mr. Hart was in opposition. A lot of side roads dump onto Cutts St. Getting out onto Maplewood Ave. is difficult. An additional house would complicate matters.

Eric Saari clarified that this was a 5-lot subdivision. There will still be 4 house lots and the 5th lot is just the road. It will be for infrastructure only.

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

DISCUSSION AND DECISION OF THE BOARD

Mr. Clark moved to **grant** the Subdivision Amendment Approval, seconded by Mr. Gamester with the following stipulations:

- 1) All conditions of original Planning Board approval as amended shall remain intact.
- 2) The amended Site Plan shall be recorded at the Registry of Deeds by the City as deemed appropriate by the Planning Department, but not before the legal department has been provided with, and has reviewed the first deeds for each lot.

Mr. Clark commented that this was exactly what has already been approved. The additional lot is for the road. There is no additional house.

The motion passed unanimously.

V. PUBLIC HEARING – CITY COUNCIL REFERRALS

- A.** The request of **Borthwick Forest, LLC (Owner)**, for Amended Easement Documents for the property located at **0 Borthwick Forest**, now known as **Eileen Dondero Foley Avenue**, to amend four easements relative to the Approved Site Plan for Borthwick Forest. Easements are specific to municipal rights to both new and existing public water lines as well as to public bicycle and pedestrian infrastructure. Easements include the following subject properties: Map 234 Lot 07-4a, Map 241 Lots 25 and 25-1, Map 165 Lot Lot 14, Map 233 Lots 111, 114 and 115.

SPEAKING TO THE APPLICATION

Chairman Legg requested Mr. Crimmins summarize the 4 easements and explain if there are any amendments to those easements.

Patrick Crimmins from Tighe and Bond commented that there were no changes to the easements from what was originally approved. The first easement is for the existing water line. It is a 20-foot easement that runs across the several properties in the subdivision, the proposed road, and path. Easements 2 and 3 are for 20-foot-wide easements for the public water and sewer and part

of the water main construction. Easement 4 is for the trail across the property to provide a connection to the future rail trail.

Chairman Legg commented that the Interim Deputy City Manager Suzanne Woodland was also present and requested that she explain why this was in front of the Board.

Ms. Woodland commented that this was brought before City Council for the acceptance of these easements and the Council noted that there had been some time since the approval went through. The Council thought it would be useful for residents to have the opportunity to understand and hear again what the easements entail and get the Planning Board's easement acceptance.

PUBLIC HEARING

Paul Mano of 1490 Islington St. spoke at that City Council Meeting. Mr. Mano never received an abutter's notice. Mr. Mano requested that the Planning Board deny this because the final approved plan is not being followed by the developers. The gated bike path was supposed to be 20 feet off the office building. Now it's on Islington St. It's now a 20-foot-wide bike path. That's a road not a path. The neighborhood's biggest concern is that it is a road. They tried to get a connecting road from Islington St. to Borthwick Ave., but they did not get it. Once easements are granted, they must follow it. There are penalties for not following it. The Planning Board should add a stipulation that the property owner cannot ask for a variance to make a connecting road between Islington St. and Borthwick Ave.

Rash Richard of 1507 Islington St. is a direct abutter to the bike path. Before this was put in there was a lot of illegal dumping and traffic in that area. That has now ceased. Mr. Richard believed that the property was developed the way the plans showed it to be.

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 commented that they should make sure city staff has looked at the drawings to ensure that the developer did what they were supposed to have done.

Mr. Clark moved to recommend the City Council approve the easements as shown on the plan set and as previously approved by the Planning Board, seconded by Mr. Gamester as follows:

- 1) Proposed sewer and water easement to the City of Portsmouth.
- 2) Proposed 10' wide public access easement for bicycles/pedestrians to the City of Portsmouth.
- 3) Proposed access easement for stormwater to the proposed private road lot.
- 4) Proposed 20' wide water and public access easement for bicycles/pedestrians to the City of Portsmouth.
- 5) City Staff verify the development is consistent with the approved plans

Mr. Chellman noted that the plan limits this to bikes, pedestrians and utilities. No vehicular use is permitted. Mr. Clark added that the easements carry forward to future owners.

The motion passed unanimously.

VI. DESIGN REVIEW APPLICATION ACCEPTANCE

- A. The proposed project is the application of **Hill Hanover Group, LLC (Applicant)**, for the property located at **181 Hill Street**, for the demolition of three existing buildings and the construction of one three story building containing 12 units with basement level parking accessed from Autumn Street. Said property is shown on Assessor Map 125 Lot 14 and lies within the Character District 4-L1 (CD4-L1) (LUPD-21-9)

John Chagnon from Ambit Engineering was present to speak to the proposal.

Chairman Legg clarified that the purpose of this was to determine that the documentation was thorough enough for the Board to understand what was being proposed. If it meets that threshold then, the Board will agree to accept it and schedule a design review for the next meeting.

Mr. Clark questioned if the Board voted to schedule a design review, then could the applicant make changes. Chairman Legg responded that they refine it. They just could not lessen the information.

Mr. Clark questioned if vesting occurred when they voted to close the design review process. Chairman Legg responded that the project is vested when it reaches the completion of the design review. Mr. Chellman clarified that it would be vested for a year. Chairman Legg confirmed that was correct.

Mr. Chagnon commented that they were trying to determine if a preliminary conceptual consultation was needed as well. Chairman Legg responded that the applicant could work with city staff. If it needs to be added, then they can vote on the preliminary conceptual consultation and design review in the same meeting.

City Council Representative Whelan moved to **accept** the application and scheduled a Design Review and public hearing for the November Planning Board Meeting, seconded by Mr. Clark. The motion passed unanimously.

VII. OTHER BUSINESS

There was no other business.

VIII. ADJOURNMENT

Minutes, Planning Board Meeting, October 21, 2021

Mr. Gamester moved to adjourn the meeting at 9:48 p.m., seconded by Mr. Clark. The motion passed unanimously.

Respectfully submitted,

Becky Frey,
Secretary for the Planning Board