

**SITE PLAN REVIEW TECHNICAL ADVISORY COMMITTEE
PORTSMOUTH, NEW HAMPSHIRE**

**CONFERENCE ROOM A
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

2:00 PM

June 6, 2023

MINUTES

MEMBERS PRESENT:

Peter Stith, Chairperson, Planning Manager; David Desfosses, Construction Technician Supervisor; Patrick Howe, Deputy Fire Chief; Shanti Wolph, Chief Building Inspector; Nicholas Cracknell, Principal Planner; Zachary Cronin, Assistant City Engineer, Eric Eby, Parking and Transportation Engineer; Mike Maloney; Deputy Police Chief

MEMBERS ABSENT:

Peter Britz, Director of Planning & Sustainability

ADDITIONAL

STAFF PRESENT:

Kate Homet. Associate Environmental Planner

I. APPROVAL OF MINUTES

- A.** Approval of minutes from the May 2, 2023 Site Plan Review Technical Advisory Committee Meeting.

P. Howe made a motion to approve the May meeting minutes. N. Cracknell seconded the motion. The motion passed unanimously.

II. NEW BUSINESS

- A.** The request of **CP Management Inc (Applicant)** and **Sarnia Properties INC, (Owner)**, for property located at **933 US Route 1 BYP** requesting a Conditional Use Permit in accordance with Section 10.1112.14 of the Zoning Ordinance to provide 83 parking spaces where 114 are required. Said property is located on Assessor Map 142 Lot 37 and lies within the Business (B) District. (LU-23-76)

SPEAKING TO THE APPLICATION

Chris Mulligan, Craig Annis (Vanguard Key Club), and Dana (?), the principal manager, came to present this application.

[7:21] Mr. Mulligan proceeded to describe the application and the proposed fitness center use, where the building owner will rent out the existing space with the same square footage in order to be a Vanguard Key Club fitness center. The applicants believed that the parking requirements are excessive and not necessary for this proposed use. They plan to use only the north corner of the parking lot as you are coming off of Emery Street. The proposed new tenant, Vanguard Key Club, would not require any staff parking. The current location of the facility on Raynes Avenue has 41 spaces which has been enough for that use currently.

Staff Comments:

- *The supplemental information provided has answered my initial questions. I am satisfied that there will be enough parking available on or near the site to accommodate the change in use.*
- *Please update plan set to reflect proposed project and parking calculations.*

The applicant will provide data on the parking usage at the current Vanguard Key Club location in Portsmouth to see if there are any shortages. The applicant is also in discussion with an abutting business that has different peak hours that may allow them to share or borrow parking. The applicant will need a conditional use permit for providing less than the required number of parking spaces but they are of the opinion that they have more than enough currently.

[10:20] E. Eby asked the applicant whether they would be re-striping the parking lot.

Mr. Annis responded that having the parking lot sealed and re-striped would be optimal.

[10:50] E. EBy asked if they would be constructing a new entrance to the building.

Mr. Annis responded that they would be. There is currently a concrete pad about 52 inches above the finished floor grade which they will add a glass door to, creating an entrance.

[11:53] Chairman Stith asked if there had been any consideration in constructing parking spaces in the back of the lot.

Mr. Annis responded that the area in the back was all for loading and unloading of large trucks.

PUBLIC HEARING

[12:28] Chairman Stith opened the public hearing. No one spoke. The public hearing was closed.

DISCUSSION AND DECISION OF THE BOARD

[12:58] D. Desfosses made a motion to recommend approval. E. Eby seconded the motion. The motion passed unanimously.

- B.** The request of **Murdock Living Trust (Owner), 15 Lafayette Road** requesting Preliminary and Final Subdivision Approval to subdivide one lot into two lots to create the following: Proposed Lot 1 to be 9,129 square feet of lot area and 73.8 feet of frontage and Proposed Lot 2 to be 8,172 square feet of lot area and 102 feet of frontage. Said property is located on Assessor Map 152 Lot 2 and lies within the General Residence A (GRA) and Historic Districts. (LU-23-26)

SPEAKING TO THE APPLICATION

[13:55] Bruce Scammon of James Verra Associates came to present this application on behalf of the Murdock Trust. They are proposing to add a new lot onto the site through a subdivision with no plans to develop the lot. A series of notes (13-18) had been added to the subdivision plan to require that any future developer would have to come in for any and all permits such as sewer, water, etc.

Staff Comments:

- *TAC does not recommend granting waivers. The information requested to be waived will be required for TAC to recommend approval to the Planning Board.*

Mr. Scammon noted that this information for the permits would be provided in the future at the time of development.

DISCUSSION AND DECISION OF THE BOARD

[17:11] D. Desfosses made a motion to approve the application with the stipulation that note 15 on the plans be corrected. S. Wolph seconded the motion. The motion passed unanimously.

- C.** 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. (LU-20-259)

SPEAKING TO THE APPLICATION

[18:21] Robert Graham of Banfield Realty LLC, Joseph Coronoti from Jones & Beach Engineers, Bill Wilcox from Wilcox and Barton, and Lynn Preston from Sheehan Phinney came to present this application. This application had previously been at TAC and was now back with NHDES approvals and EPA approvals for their remediation and work plans.

[19:31] Mr. Coronati proceeded to explain the proposed site work - including the construction of a 75,000 square foot industrial building and a driveway off of Banfield Road, with parking on site and loading in the back. The plans have not changed since 2021 but the applicants have obtained their alteration of terrain, wetland, and septic permits. They have already completed work involving shoring up the shoulders of the curbs on Banfield Road for trucks.

[21:05] Mr. Wilcox went on to describe the different NHDES and US EPA permits that had been acquired and the overall plan for remediation of onsite contaminants in the soils.

[21:53] D. Desfosses asked what the timeline was for the remediation.

Mr. Wilcox responded that it would happen concurrently with the project construction.

[22:30] Z. Cronin asked the applicants about the tap for the fire line coming off of Banfield Road, noting that the lines coming into the building and into the hydrant were both 6 inches. He noted that the line should be at least 8 inches coming off of Banfield until it splits into the two 6 inch lines.

Staff Comments:

- *All traffic concerns were previously addressed.*
- *All DES conditions must be met*
- *Staff recommends applicant return to the conservation commission to reaffirm recommendation from 6/9/2021*

PUBLIC HEARING

[23:37] Chairman Stith opened the public hearing.

David Ecker, a property owner at 422 Banfield Road, came to speak. Mr. Ecker passed out the original real estate listing for the applicant's property, a groundwater contamination report for the site, and multiple photos of the stream on his neighboring property. He mentioned that he would not like to see a building built on this property until it is completely cleaned up and the stream health is improved. He would prefer to see this property cleaned and turned into a park that would be dedicated to those displaced during Portsmouth's urban renewal era.

[35:14] Chairman Stith closed the public hearing.

DISCUSSION AND DECISION OF THE BOARD

[35:24] N. Cracknell asked if NHDES had signed off on the ability to sell the property and if they had agreed with the statement that all remediation was complete.

Mr. Graham responded that NHDES had told them that no further action was needed for an arsenic issue that had been under monitoring.

[36:44] N. Cracknell asked the applicants what had prompted further investigation into this site.

Mr. Graham noted that he was hired after the sale of the site and had done more research into the history of the site, which prompted him to send this information to the property owner and Mr. Wilcox. This led to the discovery that there were outstanding work orders from NHDES for this site that had not been completed by the former owners. The applicants went further into details about the applications with NHDES and the two remediation plans for the property.

[39:57] N. Cracknell asked what assures the City and the public that they would complete the project and remediation measures once the building is up.

Ms. Preston responded that under NHDES they are required to clean up the site and if the applicants did not clean it up, they would be subject to a lawsuit and their liability under owner operator liability.

[41:32] P. Howe brought up that one of the staff comments had suggested that the applicant go back to the Conservation Commission before the Planning Board for their Wetland Conditional Use Permit.

Chairman Stith noted that P. Britz had made that comment due to this application last being presented to the Commission two years ago for a Wetland Conditional Use Permit, which they received a recommendation for approval. But the applicant never went to the Planning Board for that permit and the Commission may want to reaffirm their position on this application before a Wetland Conditional Use Permit is sought again.

[43:11] S. Wolph asked for specific details on the proposed cap and its design to prevent contaminated soils and water from leaving the site.

Mr. Wilcox responded that they are proposing a cap on the upland portion of the site with a cap consisting of either the building foundation itself, asphalt or it could have two feet of clean fill material. He went on to explain the different phases of remediation, the purposes of the different cap components in containing different levels of contaminants and where the contaminated soil would be located on site.

[48:21] D. Desfosses asked if there would be any sort of liner with the cap, such as a landfill liner to prevent groundwater from touching the contaminated material.

Mr. Wilcox responded that there was no liner planned. The purpose of the cap is to prevent direct contact with the contaminated material. There would be a deed restriction put onto the property to prevent anyone from digging up the area of contamination. The materials that would be capped would be those contaminants between 400 and 4000 ppm of lead materials and PCB's between 1 and 10 ppm.

[49:49] N. Cracknell asked what would happen to the areas located outside of the cap, specifically those that are within the wetland buffer.

Mr. Wilcox responded that there was only a small area within the wetland buffer that is located where the stormwater outfall would go. This area would have two feet of clean soil material placed on top of it.

N. Cracknell asked if there was any contamination within the wetland and/or wetland buffer that would need remediation as well.

Mr. Wilcox noted that within the upland portion of the site that is currently being proposed it is just within that area near the proposed stormwater outfall where that contaminated soil will be removed and two feet clean soil will replace it.

[50:44] P. Howe asked if the lowland area was part of the remediation plan from NHDES.

Mr. Wilcox responded that the NHDES have approved their sampling plan for the lowland portion and once their sampling is done, they can start to create a remediation plan for that site with the approval of NHDES. Mr. Graham noted that on sites like these, they never allow you to tear up the whole site at once, everything needs to be phased which can take some time.

[52:12] Chairman Stith asked if the lowland portion of the site would require offsite or downstream testing of the contamination on the site.

Mr. Wilcox stated that the state has requested testing both up-gradient and down-gradient of the site, to the geographic extent that the data will show in future investigations.

[53:37] S. Wolph asked the applicant what the end use would be for the building.

Mr. Graham responded that they do not yet have a tenant for it.

[54:37] S. Wolph noted that the client is doing something, the plan is there and is approved by NHDES, and that since the remediation will be occurring, this would be a win-win.

[55:32] N. Cracknell mentioned that the applicant should make sure that the Planning Board has some sort of performance guarantee or surety that the remediation will be completed.

[57:21] S. Wolph asked if there was some sort of summary letter from NHDES and EPA that shows what the applicant was required to do and the penalties they would face if not completed.

Mr. Wilcox responded that this was not something that had been put into the rap but that the State holds them to a report that must be completed before 90 days post-construction that documents the completion of the project and allows for recording the deed restriction of the project.

N. Cracknell noted that the NHDES and EPA are the only experts that we have in these cases to refer to and depend on for jurisdictional overview for the environmental issues presented with this cleanup.

[1:056:22] N. Cracknell discussed what Planning & Sustainability Director Peter Britz had commented in an email to staff with comments for this application. Mr. Cracknell added in his own language and after discussion among TAC members and the applicants, created a stipulation of approval for this project and officially made a motion for approval. The stipulation reads as follows:

Subject to assurance and any required surety for performance provided to the Planning Board, the applicant shall conduct work in accordance with all requirements of the NHDES letter dated April 26, 2023, which includes investigation work in the proposed upland development areas, approval of an Activities and Use limitation and the completion of a remedial action implementation plan for the upland development area. In addition, as presented by the applicant, they shall continue their investigation of the lowland area, including full characterization of any reportable site contaminants in compliance with any and all remedial action plans or other permits from NHDES or the EPA.

[1:19:31] Z. Cronin added a second stipulation to the notion, that the fire service line shall be at least 8” in diameter up until where it splits to meet the two 6” lines.

[1:20:01] S. Wolph seconded the motion, the motion passed unanimously.

III. OTHER BUSINESS

IV. ADJOURNMENT

The meeting adjourned at 3:18 p.m.

Respectfully submitted,

Kate E. Homet
Secretary for the Technical Advisory Committee