

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE
EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 PM Public Hearing Begins

March 21, 2024

ACTION SHEET

I. APPROVAL OF MINUTES

- A.** Approval of the February 15, 2024 meeting minutes.

The February 15, 2024 meeting minutes were accepted as presented / approved as amended.

- B.** Approval of the February 21, 2024 meeting minutes.

The February 21, 2024 meeting minutes were accepted as presented / approved as amended.

- C.** Approval of the February 29, 2024 meeting minutes.

The February 29, 2024 meeting minutes were accepted as presented / approved as amended.

Motion: *J. Almeida, Second: G. Mahanna Motion passed with all in favor to approve the February 15th and 29th as presented and the February 21st minutes as amended.*

II. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

- A.** The request of **Martingale LLC (Owner)**, for property located at **99 Bow Street** requesting site plan approval to allow the expansion of the existing deck to include expanded seating for the business as well as public access to the Piscataqua River. Said property is shown on Assessor Map 106 as Lot 54 and lies within the Character District 5 (CD5), Downtown Overlay, and Historic Districts. Said property is located on Assessor Map 106 Lot 54 and lies within the Character District 5(CD-5) and Downtown Overlay District.

The Board voted to determine that Item A is complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Section IV of the agenda) and to accept the application for consideration.

Motion: *G. Mahanna, Second: J. Almeida Motion passed with all in favor. A. Samonas recused.*

III. PUBLIC HEARINGS – NEW BUSINESS

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

- A.** The request of **Public Service Company of NH (Owner)**, for property located at **300 Gosling Road** requesting a Wetland Conditional Use Permit according to Section 10.1017.60 for the removal of 0.6 miles of the existing T-13 Transmission Line and installation of a new 0.6-mile 34.5 kV Distribution Line to connect the new Portsmouth terminal. Additionally, the project requires the replacement of existing structures along the 3171 Transmission Line from 212 Ocean Road to 100 Borthwick Avenue and a second area off 300 Gosling Road from Schiller Substation to Resistance Substation. The proposed project requires approximately 256,869 sq. ft. of temporary wetland impact and 79,310 sq. ft. of temporary buffer impact in the uplands for access and work pad placement. Said property is located on Assessor Map 214 Lot 3 and lies within the Waterfront Industrial (WI) and Office Research (OR) Districts. (LU-24-2)

1) The Board voted to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.60 of the Ordinance and adopt the findings of fact as presented.

***Motion:** B. Moreau, **Second:** J. Almeida Motion passed with all in favor.*

*2.) The Board voted to **grant** the Conditional Use Permit with the following **conditions**:*

- 2.1) Silt sock shall be used wherever practical.*
- 2.2) Plans and documents need to require a mat cleaning process to remove invasive species.*
- 2.3) Prior to construction, a pole inspection shall be conducted to identify any other poles within the project area that might need to be replaced within two years of the date of inspection. This information shall be provided in a letter report to the Planning Department, including the locations of any such additional poles.*

***Motion:** B. Moreau **Second:** K. Conard Motion passed with all in favor.*

- B.** The request of **Suzanne Winslow Revocable Trust (Owner)**, for property located at **999 Islington Street** requesting a Conditional Use Permit in accordance with Section 10.440, Use 19.50 for an outdoor dining and drinking area as an accessory use. Said property is located on Assessor Map 171 Lot 15 and lies within the Character District 4-W (CD4-W). (LU-24-14)

1) The Board voted to find that the Conditional Use Permit application meets the criteria set forth in Section 10.243.20 and to adopt the findings of fact as presented.

***Motion:** P. Guiliano, **Second:** A. Samonas Motion passed with all in favor.*

*2) The Board voted to **approve** the conditional use permit as presented.*

***Motion:** P. Guiliano, **Second:** A. Samonas Motion passed with all in favor.*

C. The request of **Rosemary L. Gardner Revocable Trust (Owner)**, for property located at **50 Odiorne Point Road** requesting an after the fact Wetland Conditional Use Permit in accordance with Section 10.1017 to come into compliance for a wetland violation for construction without permits of a 376 s.f. stone wall within a prime and tidal wetland buffer and within an inland wetland and wetland buffer and construction of a 776 s.f. stone swale to redirect stormwater into the salt marsh, and installation of 444 s.f. of crushed stone in the buffer. Said property is located on Assessor Map 224 Lot 10-3 and lies within the Single Residence A (SRA) District. (LU-24-7)

1) *The Board voted to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.50 of the Ordinance and adopt the findings of fact as presented.*

Motion: P. Guiliano, **Second:** J. Almeida Motion passed with all in favor.

2.) *The Board voted to **grant** the Conditional Use Permit with the following **conditions**:*

2.1) *The property owner considers abiding by NOFA standards for all landscaping activities.*

2.2) *A simplified map will be created for use by future landscapers and property owners that clearly defines what areas can and cannot be mowed, along with what areas should not be maintained and/or manicured.*

2.3) *In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers. We suggest that these markers are placed along the 25' vegetative buffer at intervals of every 50' along the property. These must be installed prior to the start of any construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.*

Motion: P. Guiliano, **Second:** J. Almeida Motion passed with all in favor.

D. The request of **Jewell Court Properties LLC (Owner)**, for property located at **33 Jewell Court, Unit S1** requesting a Conditional Use Permit in accordance with Section 10.1112.14 to allow 205 parking spaces where 242 are required. Said property is located on Assessor Map 155 Lot 5-S1 and lies within the Character District 4-W (CD4-W) and Historic District. (LU-23-205)

1) *The Board voted to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1112.14 of the Ordinance and adopt the findings of fact as presented.*

Motion: B. Moreau, **Second:** A. Samonas Motion passed 8-1 with Member Begala voting against.

2.) *The Board voted to **grant** the Conditional Use Permit as presented.*

Motion: B. Moreau **Second:** K. Conard Motion passed 8-1 with Member Begala voting against.

- E.** The request of **Ash Chicooree (Owner)**, for property located at **90 FW Hartford Drive** requesting an after the fact Wetland Conditional Use Permit in accordance with Section 10.1017 for the unauthorized removal of 28 trees within the wetland and wetland buffer area. Said property is located on Assessor Map 269 Lot 45 and lies within the Single Residence B (SRB). (LU-23-142)

1) The Board voted to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.60 of the Ordinance and adopt the findings of fact as presented.

Motion: *A. Samonas, **Second:** G. Mahanna Motion passed with all in favor.*

*2.) The Board voted to **grant** the Conditional Use Permit with the following **conditions**:*

2.1) A monitoring report for the first two years after planting will be required to be submitted annually to the Planning and Sustainability Department. The first report shall be submitted after the restoration work has been completed. This report will include an update on all plant health, growth, and establishment. Additionally, it should include invasive management techniques, methods for irrigation and information on routine maintenance practices. The report must demonstrate at least an 80% survival rate of new plantings after the first two years of monitoring, if not, then replanting will be required.

2.2) A visual barrier will be placed on the property to designate where the 'no mow' line starts and ends.

2.3) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers. We suggest that these markers are placed along the 25' vegetative buffer at intervals of every 50 feet. These must be installed prior to the start of any construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.

2.4) If the existing shed is found to be within the 100' wetland buffer, a separate after the fact Wetland Conditional Use Permit will have to be applied for.

2.5) Prior to the removal of any tree stumps within the wetland and/or wetland buffer, the applicant will need to apply for a separate wetland conditional use permit.

Motion: *A. Samonas, **Second:** K. Conard Motion passed with all in favor.*

- F.** The request of **Martingale LLC (Owner)**, for property located at **99 Bow Street** requesting site plan approval to allow the expansion of the existing deck to include expanded seating for the business as well as public access to the Piscataqua River. Said property is shown on Assessor Map 106 as Lot 54 and lies within the Character District 5 (CD5), Downtown Overlay, and Historic Districts. (LU-24-21)

1) The Board voted to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented.

Motion: *B. Moreau, **Second:** K. Conard Motion passed with all in favor. Member Samonas recused.*

2.) *The Board voted to **grant** Site Plan Approval with the following **conditions**:*

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:

2.1) *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.*

a. *Easements on the plan and instrument recorded at the registry shall depict the easement to run from Bow Street to and through the stairwell to be inclusive of the area depicted as the public deck in the McHenry plan A9 to include ADA access to run with the land.*

2.2) *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 the City Council.*

2.3) *Applicant is to do pre-site inspection and vibratory monitoring throughout the project to identify any impacts to for abutting properties.*

2.4) *Property owner will work with city staff to resolve trash issues through the Construction Management and Mitigation Plan (CMMP) process.*

Prior to the issuance of a Certificate of Occupancy or release of the bond:

2.5) *Proper signage shall be posted for public space to be consistent with the Board's request from the Street to the public space.*

2.6) *Deck to be built in its entirety including public space for this project to be considered complete.*

2.7) *Property owner is to be responsible for maintenance of the deck forever.*

Motion: *B. Moreau, **Second:** J. Almeida Motion passed 6-2 with Member Begala and Member Hewitt voting against and Member Samonas recused.*

G. The Planning Board will consider a recommendation to City Council to adopt amendments related to electric vehicles and associated support equipment and facilities by amending the following: Chapter 10 – Article 4 – ZONING DISTRICTS AND USE REGULATIONS, Section 10.0440, Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, Article 8 – SUPPLEMENTAL USE STANDARDS, Section 10.811 Accessory Uses to Permitted Residential Uses and Section 10.843.30 Motor Vehicle Service Stations, Article 11 – SITE DEVELOPMENT STANDARDS, Section 10.1112.32 Parking Requirements for Nonresidential Uses, and Article 15 – DEFINITIONS, Section 10.1530 – Terms of General Applicability, of the Ordinances of the City of Portsmouth.

The Board voted to recommend to City Council to hold first reading on the zoning amendments dated

Action Sheet, Planning Board Meeting, March 21, 2024

3/14/24 with the following **edits**:

- 1) To change EV fueling space 1 and 2 to EV fueling space A and B; and;
- 2) To change Use 19.70 EV fueling space B as an accessory use from Permitted to Conditional Use Permit in the G1, G2, B, and CD4-W districts.

Motion: B. Moreau, **Second:** J. Almeida Motion passed with all in favor.

IV. CITY COUNCIL REFERRALS

- A. Electric Vehicle Amendments (See Item G above)
- B. Home Occupation

*The Board voted to recommend to City Council to schedule a public hearing at the **April 18, 2024** meeting on the zoning amendments for home occupation.*

Motion: J. Almeida, **Second:** P. Guiliano Motion passed with all in favor.

V. OTHER BUSINESS

- A. Chairman updates and discussion items
- B. Board discussion of Regulatory Amendments, Master Plan Scope & other matters

VI. ADJOURNMENT

The meeting was adjourned at 10:53 PM