

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

6:00 PM Master Plan Update

7:00 Public Hearings begin

August 21, 2025

MEMBERS PRESENT: Rick Chellman, Chairman; Joseph Almeida, Facilities Manager; Beth Moreau, City Councilor; Members Paul Giuliano, Andrew Samonas, William Bowen, Ryann Wolf; and Alternates Frank Perier and Logan Roy

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ALSO PRESENT: Peter Stith, Planning Department Manager

MEMBERS EXCUSED: Anthony Coviello, Vice Chair; Karen Conard, City Manager

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Chair Chellman called the meeting to order at 7:00 p.m. Alternates Logan Roy and Frank Perier took voting seats in the place of Vice-Chair Coviello and Ms. Conard, who were excused from the meeting. Mr. Almeida arrived at the meeting later.

Note: Item 2.A, Staff Presentation on Capital Improvement Plan Process. was heard first.

I. MASTER PLAN UPDATE

A. Presentation by Utile

[Timestamp 18:32] Utile Principal Mathew Littell was present to discuss the Master Plan Update, with his associate Zoe Mueller. Mr. Littell gave an overview of the plan and how the process would work. He discussed Utile's experience and expertise in comprehensive planning. He gave an overview of the prior Master Plan and said the revised Master Plan's focus would be housing, the economy, development patterns and urban form. He said the City's Planning Department, the Master Plan Advisory Group, and the Planning Board would guide the Master Plan. He said they would distill the priorities that were identified and find common ground to align them with new priorities. He discussed the four phases of the planning process, which consisted of learning, visioning, developing, and documenting. He said they were currently moving into the visioning phase. He discussed the site visit they had and the comment cards that were online and in physical places so that citizens could submit comments. Ms. Mueller discussed the platform called Polis and said it was a tool to group or pattern people's opinions on key topics and that there would be open houses and workshops.

[Timestamp 45:40] Mr. Roy asked if the plan was to edit what existed or start from scratch. Ms. Mueller said they generally used the prior plan and patterns and treated it as a resource but started fresh. Mr. Bowen said Portsmouth was the center of a metropolitan area and not a stand-alone city, and that most people who worked there lived elsewhere in the county. He said Portsmouth as the focus was the right idea but that it had to be in the context of being in a metropolitan area. He noted that Pease had 10,000 jobs located in Portsmouth but not managed by Portsmouth government. He said the redevelopment of the Fox Run Mall in Newington would have huge implications for Portsmouth's business community. He said there were also implications for housing and transportation. He said a second concern was that there was lots of discussion about development and the preservation of what Portsmouth already had, and much of what the Board did in land use did not have aesthetic components. He said the plan could be a way to understand what Portsmouth had and how to protect it. Ms. Mueller said they were observing regional different patterns and the suburban relationship to downtown and the principles that should be applied beyond Portsmouth. Ms. Wolf asked how the visioning process would be done. Ms. Mueller said they mostly focused on events throughout the summer and were putting comment card collection boxes out. Mr. Giuliano said the Portsmouth Naval Shipyard in Kittery was important for Portsmouth's economy because they could not meet their workforce needs with New Hampshire. Ms. Mueller said Pease had control over their own needs and functions. She said her group had not reached out to the shipyard but expected to do so because economic and housing relationships at the border were also what the plan was about as well as shaping the strategy and communication.

[Timestamp 1:00:00] Mr. Samonas suggested that the Planning Board attend the next site visit because there were nuances of why certain sites looked certain ways. He said no one knew how to quantify or qualify success in that area, so he thought a better question in Utile's presentation would be what failure looked like instead of success. He suggested changing the verbiage of Market Square being Portsmouth's epicenter because the Route One corridor and western and southern Portsmouth were getting more attention lately. Councilor Moreau said the City Council had been asking how to get residents to spend more time downtown. She said the zoning also failed in a few areas, like the urban cores next to dense neighborhoods. She said it would be helpful to see what uses were really happening and which ones made sense and how the City interacted with outside urban areas. She said there would be more residential development near Route One and other outer areas and it would be good to see how those neighborhoods could transition better. Ms. Mueller said Utile would be discussing those topics. Chair Chellman said the Planning Board could engage with Utile and come up with solutions. Ms. Mueller said there would be two training sessions on public outreach that the Board could attend.

There was no action taken by the Board.

II. PRESENTATIONS

A. Staff Presentation on Capital Improvement Plan Process.

[Timestamp 7:25] Director of Planning and Sustainability Peter Britz reviewed the Capital Improvement Plan (CIP) for FY 2027 through FY 2032. He said the CIP was to identify capital needs, plan for funding allocation, and maintain the City's infrastructure.

[Timestamp 13:10] Mr. Bowen said the City Council had housing as a top priority a year before but there was nothing included in the CIP's \$100M budget. He said if housing were really a priority, it should show up in the building infrastructure for housing or some other housing subsidiary. He asked if the Housing Committee had an agenda item relating to the CIP plan so that they could work with Mr. Britz to identify potential ways that some funds could be allocated to housing over the next six years. Mr. Britz said the housing committee was advisory so they could make a recommendation. He said there was a housing trust fund that had funds in it, but ways could be explored to add more funds to facilitate more workforce or below-market rate housing. He said it was up to the to the different committees and boards and ultimately the City Council to put actual dollars into housing beyond what the housing trust fund had. Chair Chellman said those details would be in the next step of the CIP process and that a Planning Board subcommittee would participate in it. Councilor Moreau added that the City Council met with the purpose of looking at all resident requests and deciding which ones fit into the CIP process or a different process. Mr. Bowen asked if there was a similar place for parking questions. Councilor Moreau said citizen requests that were submitted by September 19 would go into that pool and would be discussed by the City Council and that there would be time for public comment at the end. It was further discussed. There was no action taken by the Board.

Note: At this point in the meeting, Mr. Almeida arrived.

III. APPROVAL OF MINUTES [Timestamp 1:12:15]

A. Approval of the July 17, 2025 meeting minutes.

*Mr. Giuliano moved to **approve** the July 17 minutes as presented, seconded by Councilor Moreau. The motion **passed** with all in favor.*

IV. DETERMINATIONS OF COMPLETENESS [Timestamp 1:12:30]

SUBDIVISION REVIEW

- A. The request of **361 Hanover Steam Factory LLC (Owner)**, for property located at **361 Hanover Street** requesting Site Plan Review approval and Preliminary and Final Subdivision Approval for the addition of four new residential structures and the renovation of the existing commercial building at 361 Hanover Street with the associated and required site improvements.

*Mr. Giuliano moved to grant the request, seconded by Mr. Almeida. The motion **passed** with all in favor (7-0), with Councilor Moreau and Mr. Samonas recused.*

SITE PLAN REVIEW

- A. The request of **361 Hanover Steam Factory LLC (Owner)**, for property located at **361 Hanover Street** requesting Site Plan Review approval and Preliminary and Final Subdivision Approval for the addition of four new residential structures and the renovation of the existing commercial building at 361 Hanover Street with the associated and required site improvements.

*Mr. Guiliano moved to grant the request, seconded by Mr. Almeida. The motion **passed** with all in favor (7-0), with Councilor Moreau and Mr. Samonas recused.*

- B.** The request of **Bromley Portsmouth, LLC (Owner)**, for property located at **1465 Woodbury Avenue** requesting a Conditional Use Permit from Section 10.5B41.10 for a Development Site, a Conditional Use Permit from Section 10.440, Use 19.40 for a drive-through facility, and Site Plan Review Approval for the construction of a ±2,847 square-foot, single-story banking facility with drive-through and associated site improvements including parking, pedestrian access, utility infrastructure, stormwater management systems, lighting and landscaping.

*Councilor Moreau moved to grant the request, seconded by Mr. Samonas. The motion **passed** with all in favor.*

- C.** The request of **The City of Portsmouth (Owner)**, for property located at **35 Sherburne Road** requesting review of Site Plan Review and Conditional Use Permit applications within the Highway Noise Overlay District for a recommendation to the City Manager for the construction of 127-workforce housing units in three buildings including demolition of the rear gym of the school and converting the remaining structure into 8 units, construction of a 4-story 90 unit building, construction of a 3-story 29 unit building and associated site improvements including utilities, lighting, landscaping, stormwater, parking and access.

*Councilor Moreau moved to grant the request, seconded by Mr. Samonas. The motion **passed** with all in favor.*

V. PUBLIC HEARINGS -- OLD BUSINESS [Timestamp 1:17:05]

- A. REQUEST TO POSTPONE** The request of **SLF Realty Group LLC (Owner)**, for property located at **400 Spaulding Turnpike** requesting an amended Site Plan approval to change the temporary access path to a permanent access path. Said property is located on Assessor Map 238 Lot 2 and lies within the Gateway Corridor (G1) District. **REQUEST TO POSTPONE (LU-25-50)**

*Councilor Moreau moved that the Board postpone to the September meeting with a new legal notice of the application. Mr. Giuliano seconded. The motion **passed** with all in favor.*

- B. REQUEST TO POSTPONE** The request of **SLF Realty Group LLC (Owner)**, for property located at **400 Spaulding Turnpike** requesting an after-the-fact Wetland Conditional Use Permit for permanent wetland buffer impacts that were not included in the original wetland conditional use permit for this project. The new request is an increase in wetland buffer impacts from 1,644 square feet to 3,685 square feet. Said property is located on Assessor Map 238 Lot 2 and lies within the Gateway Corridor (G1) District. **REQUEST TO POSTPONE (LU-25-50)**

*Councilor Moreau moved that the Board postpone to the September meeting with a new legal notice of the application. Mr. Giuliano seconded. The motion **passed** with all in favor.*

VI. PUBLIC HEARINGS – NEW BUSINESS

- A.** The request of **Ryan Leibundgut (Owner)**, for property located at **137 Walker Bungalow Road** requesting an after-the-fact Wetland Conditional Use Permit for work done within the 100' wetland buffer and 100' vernal pool buffer without a permit. The applicant had previously removed a 6 x 12' rear deck and footings and new concrete footings were poured and a new 6 x 12' deck was built. Crushed stone underneath the deck, a set of stairs and a 5 s.f. concrete landing, and new plantings within the buffer area are all proposed with this application. Said property is located on Assessor Map 202 Lot 4 and lies within the Single Residence B (SRB) District. (LU-25-81)

SPEAKING TO THE PETITION

[Timestamp 1:18:27] Eric Leibundgut was present with his son, the applicant/homeowner Ryan Leibundgut, and reviewed the petition. He said they would do plantings to improve the buffer and that the deck and stairs would match the size of the previous ones.

[Timestamp 1:19:27] Counselor Moreau verified that Mr. Leibundgut said the deck was on cement blocks before and that the blocks would be replaced with sonic tubes in the same location. Mr. Leibundgut agreed. Mr. Samonas asked when the old deck was removed, and Mr. Leibundgut said it was removed six months before.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD [Timestamp 1:20:32]

- 1) *Councilor Moreau moved that the Board 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. Mr. Almeida seconded. The motion **passed** with all in favor.*
- 2) *Councilor Moreau moved that the Board grant the Conditional Use Permit with the following **condition**:*
 - 2.1) *In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. Markers are to be placed along the 25' vegetative buffer at 50-foot intervals and must be permanently installed.*

*Mr. Almeida seconded. The motion passed **with** all in favor.*

- B.** The request of **361 Hanover Steam Factory LLC (Owner)**, for property located at **361 Hanover Street** requesting Site Plan Review approval and Preliminary and Final Subdivision Approval for the addition of four new residential structures and the renovation of the existing commercial building at 361 Hanover Street with the associated and required site improvements. Said property is located on Assessor Map 138 Lot 63 and lies within Character District 5 (CD5) and Downtown Overlay District. (LU-24-196)

SPEAKING TO THE PETITION

[Timestamp 1:21:57] Attorney John Bosen was present, with the owner Steve Wilson, architect Shayne Forsley, engineer John Chagnon and landscape architect Terrence Parker. Attorney Bosen reviewed the history of the project. Mr. Chagnon said the plan was to build four residential buildings with a total of 40 units. He said the new project design was thoroughly reviewed by other boards and had approvals from them with some conditions. He said it included the subdivision of the existing parcel to create two lots. He discussed the easements for access, utilities, and a sidewalk. He reviewed the building types, condo documents, stormwater management plan, and landscaping plan. He said there would be 66 parking spaces.

[Timestamp 1:36:13] Mr. Bowen asked if the Hill Street Condominium Association had a current easement across the applicant's property that would interfere with Building E. Mr. Chagnon said the condo had an easement but a document allowed the project proponent and owner of the site to relocate that easement at their expense. He said the plan included a relocated easement that complied. He said the document was signed by the parties at the time and stated that the owners of the property could relocate the easement. Attorney Bosen said it was a complicated issue that was currently being litigated but that the applicant had the right to relocate that easement as long as they provided unimpeded access. It was further discussed. Chair Chellman said the applicant had been through several revisions of the easement and that it was noted in the packet that the easement would be redefined. He asked if the applicant had determined where the new location would be. Attorney Bosen said they would relocate the easement as shown on the plan. Chair Chellman said the easement was the one that the applicant proposed and that it was based on the right that the applicant had to do that, so it would be redefined as shown. It was further discussed. Mr. Bowen asked how the access to the Last Chance Garage would be affected. Attorney Bosen said the garage would have continued access to their property and that they were in support of the subdivision. Mr. Giuliano asked if there was dedicated parking or loading for the garage, and Attorney Bosen agreed.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION [Timestamp 1:47:10]

First Round Speakers

Elizabeth Bratter of 159 McDonough Street said a mansard roof could be a flat roof or a hip roof, and it was flat, it measured all the way to the top, but if it was a hip, it measured midway. She said some of the applicant's roofs were flat but showed runoff and drainage.

Michelle Worth of 439 Hanover Street said she was concerned about the number of parking spaces and the overflow. She said the development should have pedestrian access to Foundry Place to encourage parking at the garage. She said Building C was supposed to be three stories.

Mark Delorenzo of 349 Hanover Street said the building would be 47 feet tall, with lighting 15 feet away from his building, and would also block the sun. He said the easement was to be relocated in exchange for giving up something but that the applicant did not give up anything. He said the applicant had not maintained the easement but instead tore up the road.

Abby Kirschner of 7 McDonough Street said she was concerned about her children riding bikes in the area because the project would make the neighborhood even more dense.

Robin Husslage of 27 Rock Street said the site plan did not comply with the City's site plan review regulations. She said the revised Building C added another story of height and would be an eyesore. She said the plans did not have streetscape renderings.

Bryn Wardwick of 3 Parker Street said he was concerned about traffic safety and the development's density and size. He said the traffic should go onto Foundry Place and that there should be pedestrian access to the garage. He said Building C was too high.

Marcie Vaughan of 407 Hanover Street said the project did not respect the neighborhood's rights because Building C was higher and would tower over her house. She said the development's five decks would also look into her yard and diminish her property value.

Owner Steve Wilson said they used the same hip top mansard roof measurements on other approved projects. He said the parking was almost 1.6 spaces per unit. He said Hill Street had not been noted as an access or egress to/from the development's property but was a private way with access to the garage. He said he did not own any frontage on Foundry Place except for the Last Chance Garage, but there was a pedestrian accessway on the side of Foundry Place that was adjacent to his property. He said the intent for a mansard roof was to avoid having the same roofs three in a row. He said the extra floor was only a half story. He said the Downtown Overlay District did not dictate building elevations and that they went from 52 units to 40 units. He said the density was the same as the neighborhood's median density.

Dayl Soule of 349 Hanover Street said Buildings A, C, and D would be 48'5" tall and that the 21 abutting homes had an average height of 24 feet. She said the buildings should be shorter.

Landscape architect Terrence Parker said they were trying to alleviate the abutters' concerns, noting that there was a fair amount of landscape materials between the power lines and Building C at corner of Rock and Hanover Streets, and the trees would grow to 40-60 feet.

Second Round Speakers [Timestamp 2:12:12]

Elizabeth Bratter of 159 McDonough Street said the mansard roof violated zoning and should be corrected. She said TAC had asked if it was okay to have two guest parking spots in Building A and if all the residents would be able to access that parking lot for their guests, but she saw only one external parking space, which would be used for loading. She said the buildings were too close together and the driveway was not wide enough. She said the easements were an issue.

Mark Delorenzo of 349 Hanover Street said the project would add 66 parking spaces, and the drivers would have the potential choice to enter and exit the property via Hill Street and the private right-of-way, even though there was no legal easement granting them that right. He said no traffic studies were done that mentioned the existence of Hill Street. He explained why the easement plan was not acceptable, noting that a large portion of it for 394 Hanover Street was missing and that there was a risk of two vehicles backing into each other.

[Timestamp 2:22:51] Applicant Steve Wilson said Building C went from 36 feet high to 39 feet and was well under what was allowed. He said the parking lot degradation was because they dug test pits and backfilled them, leaving shallow potholes but people could get around them. He said they did not block off any of the driveway. He said the lawsuit claimed that the other three buildings on Hill Street had access to his property, which was untrue. He said he would install signs that would preclude his residents from driving down that way. He said there was plenty of site distance to back out of the development's garages safely and that TAC did not cite any problems. He said the driveway from Lot A was 14 feet at its narrowest point, not 10 feet, and it had served as that building's driveway for a long time. He said the buildings were significantly lower than what the code allowed and that they tried to terrace the property down to the neighborhood. He said there were buildings in the Rock Street neighborhood that were higher than 24 feet. He asked that the inaccurate information not stand in the way of a good project.

Marcie Vaughan of 407 Hanover Street asked that the Board place conditions on the request and take into consideration Building C's height and the impediments to her privacy.

Bryn Wardwick of 30 Parker Street said the new plans did not respect the neighbors.

Third Round Speakers [Timestamp 2:33:29]

Mark Delorenzo of 394 Hanover Street said he could share the court documents with the Board and show where it stated that there was an emergency injunction.

No one else spoke, and Chair Chellman closed the public hearing.

DISCUSSION OF THE BOARD [Timestamp 2:34:30]

Mr. Bowen asked Mr. Stith to confirm that the buildings shown to the Board conformed to the zoning requirements as to heights. Mr. Stith said they did. Mr. Giuliano said the site plan approval had recommended conditions that any easement plans and deeds would be recorded at

the Registry of Deeds by the City or as deemed appropriate by the Planning Department, and he asked if those were granted to the City. Mr. Stith said sometimes there were also private easements that went along with developments and that the Planning Department made sure those were recorded as well. Mr. Giuliano asked what happened if they were not recorded. Mr. Stith said those easements would be tied to the site plan approval and had to be executed before the City recorded the site plan. He said it all got recorded together and happened before the building permit was issued. Mr. Bowen said if the Board had a conditional approval that related to the easement, he asked if that would put it off until the court could make such a determination. Chair Chellman said it was not the Board's purview and said the applicant showed the Board what they presented as an easement that had been relocated. He said it provided access for Lot 1 and for the condo development next door. He said the fact that there was an agreement endorsed by the court meant that it was a binding agreement, but there could be a settlement before the end of 2026. He said there was enough information for the Board to act. It was further discussed. Mr. Roy said the neighbors were concerned about the lighting, and he thought the dark sky compliance and shielding would address that but that maybe it was not as obvious as the plan showing the light at ground level. He said it was something to consider going further. He said the previous design consultations in public hearings did not mention the sidewalk at Foundry Place or the weird-shaped piece of land that the City owned. He said a direct path to Foundry Place would be easier if the City could find a way to put a pathway directly through that piece of land, and that it might help the neighborhood. Chair Chellman noted the retaining wall, grade change, and utilities in the ground and said it would not be easy. It was further discussed.

DECISION OF THE BOARD [Timestamp 2:42:47]

- 1) *Mr. Giuliano moved that the Board find that the Subdivision Application meets the requirements set forth in the Subdivision Regulations and adopt the findings of fact as presented. Mr. Almeida seconded. The motion **passed** with all in favor (7-0), with Councilor Moreau and Mr. Samonas recused.*
- 2) *Councilor Moreau moved that the Board grant Preliminary and Final Subdivision Approval with the following **conditions**:*
 - 2.1) *The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
 - 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.*

*Mr. Almeida seconded. The motion **passed** with all in favor (7-0), with Councilor Moreau and Mr. Samonas recused.*

1) *Mr. Giuliano moved that the Board find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and to adopt the findings of fact as presented. Mr. Roy seconded. The motion **passed** with all in favor (7-0), with Councilor Moreau and Mr. Samonas recused.*

2) *Mr. Giuliano moved that the Board 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.

2.2) The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments unless City staff determines that such plan is not needed.

2.3) 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.

2.4) Owner shall provide an access easement to the City for water valve access and leak detection. The easement shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.

2.5) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit: <https://www.portsmouthnh.gov/publicworks/stormwater/ptap>

Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy:

2.6) 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.

2.7) A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/Public Works Department.

*The motion **passed** with all in favor (7-0), with Councilor Moreau and Mr. Samonas recused.*

Chair Chellman said the Board was bound by the zoning regulations in place, even though there was talk about changing the zoning. He said if some of the issues that were brought up rose above the zoning requirements, then the Board would have the authority to do things, but he did

not see it based on the zoning. He said he thought the project complied. Mr. Almeida agreed. Mr. Roy said the construction management plan condition would be key, and Chair Chellman agreed.

- C. The request of **Bromley Portsmouth, LLC (Owner)**, for property located at **1465 Woodbury Avenue** requesting a Conditional Use Permit from Section 10.5B41.10 for a Development Site, a Conditional Use Permit from Section 10.440, Use 19.40 for a drive-through facility, and Site Plan Review Approval for the construction of a ±2,847 square-foot, single-story banking facility with drive-through and associated site improvements including parking, pedestrian access, utility infrastructure, stormwater management systems, lighting and landscaping. Said property is located on Assessor Map 216 Lot 3 and lies within the Gateway Corridor (G1) District. (LU-25-93)

SPEAKING TO THE PETITION

[Timestamp 2:56:44] Project Manager Neil Hansen was present on behalf of the applicant. He said they were planning an entrance and exit and a two-way drive into the bank plaza, with some parking at the front, and a one-way access drive to the rear. He said they would add 13 parking spaces and that the rear dumpster enclosure would have a fence screening. He reviewed the grade and drainage plan and said all the surface runoff would flow to a new rain garden and that they would save the two trees along the entrance drive. He reviewed the utility plan. He said the project would provide two acres of community space, which would be converted to a recordable easement plan upon approval. He said they would improve the space with seating areas, walking paths, and so on. He said they also had a traffic study and architectural drawings for the building.

[Timestamp 3:02:22] Councilor Moreau asked for more detail about the community space. Mr. Hansen said a few areas within the larger site would be designated as community space and each one would be programmed. He said there would be a few picnic tables and landscaping around the old Wendy's building, a walking path, some benches and additional landscaping at the entrance lawn area, a few picnic tables by Market Basket, and a few connections to the sidewalk to the south of the bank. Councilor Moreau asked if more screening could be done, especially near the Wendy's building along Woodbury Avenue, to make it more inviting. Mr. Hansen said new plantings and trees would be added as well as new landscaping to the existing landscaping. Mr. Giuliano said the property had not been kept up and that something had to happen in the grassy area in front of the plaza and the old schoolhouse restaurant. He asked if the traffic flow at the Market Street and Woodbury Avenue intersection would be improved. Mr. Hansen said it would not as part of the project. Chair Chellman asked for more information about the pedestrian circulation, and it was further discussed. Chair Chellman asked about the large parking lot to the east. Mr. Hansen said they could do some striping and add a crosswalk for a pedestrian crossing from the plaza. Mr. Stith said the property owner would do all the improvements to the community space. Mr. Hansen said the applicant could remove the odd piece of land by the old schoolhouse. The new tree species were discussed. The applicant said they had to retain vision lines for security and that they would revisit screening and accessibility. Councilor Moreau asked if the owner would be responsible for maintaining the rain gardens and retention areas. Mr. Hansen said he believed so.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION

No one spoke, and Chair Chellman closed the public hearing.

DECISION OF THE BOARD [Timestamp 3:16:40]

*Councilor Moreau moved that the Board find that the Conditional Use Permit application meets the criteria set forth in Section 10.5B11 and 10.5B73 and to adopt the findings of fact as presented. Mr. Samonas seconded. The motion **passed** with all in favor.*

*Councilor Moreau moved that the Board grant the Conditional Use Permit for the development site. Mr. Perier seconded. The motion **passed** with all in favor.*

*Councilor Moreau moved that the Board find that the Conditional Use Permit application meets the criteria set forth in Section 10.243 and to adopt the findings of fact as presented. Mr. Samonas seconded. The motion **passed** with all in favor.*

*1) Councilor Moreau moved that the Board grant the Conditional Use Permit for the accessory drive through facility. Mr. Samonas seconded. The motion **passed** with all in favor.*

*Councilor Moreau moved that the Board 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. Ms. Wolf seconded. The motion **passed** with all in favor.*

*2) Councilor Moreau moved that the Board 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.

2.2) 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.

2.3) Owner shall provide an access easement to the City for water valve access and leak detection. The easement shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.

2.4) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit: <https://www.portsmouthnh.gov/publicworks/stormwater/ptap>

- 2.5) Move the end of the curved community space sidewalk south of Wendy's to curve more easterly into the development and away from the access drive to Woodbury.*
- 2.6) Remove the proposed community space by the old schoolhouse if not needed to meet the requirement.*
- 2.7) Add additional crosswalks where needed to be reviewed and approved by the Planning & Sustainability Department.*
- 2.8) Applicant shall work with the Planning & Sustainability Department to enhance the landscaping in the proposed community space areas.*

Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy:

- 2.9) 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.*
- 2.10) A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/Public Works Department.*

*Mr. Samonas seconded. The motion **passed** with all in favor.*

D. The request of **The City of Portsmouth (Owner)**, for property located at **35 Sherburne Road** requesting review of Site Plan Review and Conditional Use Permit applications within the Highway Noise Overlay District for a recommendation to the City Manager for the construction of 127-workforce housing units in three buildings including demolition of the rear gym of the school and converting the remaining structure into 8 units, construction of a 4-story 90 unit building, construction of a 3-story 29 unit building and associated site improvements including utilities, lighting, landscaping, stormwater, parking and access. Said property is located on Assessor Map 259 Lot 10 and lies within the Municipal (M) District. (LU-25-94)

SPEAKING TO THE PETITION

[Timestamp 3:24:21] Andrea Pickett representing the Portsmouth Housing Authority(PHA) was present, along with Corey Colwell and Jack McTigue of TFMoran, Sara Addieg of Market Square Architects, consultant Todd Scheffer, and Mark Lentz, PHA Facilities Director. Deputy City Attorney Trevor McCourt was also present. Ms. Pickett said the physical design and layout complied with surrounding uses and that there was adequate parking and landscaping. Mr. Colwell addressed all the statements, reports, and studies that were in the packet. He said they had three community outreach meetings as well as meetings with TAC and incorporated the feedback into their design. He said they planned to build workforce housing units on City-owned property, with a total of 127 units during two separate projects (or phases). He said the front

portion of the school would be preserved and that much of the multi-unit buildings would be masked by the school. He said all the units could not be built at once due to funding. He said the first project would be a 90-unit building at the rear of the site, with parking, access, a playground, and landscaping, and there would be 124 parking spaces as well as two bike storage racks, underground utilities, stormwater treatment, dark-sky compliant lighting, and amenities such as a community garden, walking paths, and landscaping. He said Project 2 would include the renovation of the front portion of the academy building into eight residential units, the removal of the gym portion, and the construction of the 29-unit building. He said there would be 44 additional parking spaces and a courtyard, a new fire access road, and four EV parking spots with chargers. He said 40 percent of the site would remain as green space.

[Timestamp 3:46:49] Ms. Addieg reviewed the architectural plans.

[Timestamp 3:48:07] Councilor Moreau asked how the topography would look when the project was done. Mr. Colwell discussed the elevation changes in detail and said that much of the grade difference would be in the middle of the site where the 29-unit building was going. Councilor Moreau asked how long Project 1 would take and if Project 2 would start when the first project was finished. Mr. Colwell said Project 1 would take about 17 months to construct and then schematic design and finance applications would be initiated for Project 2. He said the start of construction would be contingent on the availability of financing and permits and the availability of cost materials and labor, which would take several months. He said the time between the start of Project 1 and the end of Project 2 would probably be 2-1/2 to 3 years. Councilor Moreau how the existing school would be maintained while Project 1 was going on. Mr. Colwell said they would provide five new sidewalks for the academy as part of Project 1 and six pedestrian entrances. Chair Chellman asked who would maintain the academy during that period. Mr. Lenz said PHF was working in cooperation with the City and the City had already done maintenance on the school. He said he was working on bids to repaint the front façade and possibly the sides and to do necessary repairs. He said the City was using the academy for storage and that the applicant might provide safety fencing around the building while Project 1 was being built. Deputy City Attorney Trevor McCourt was present and said that, pursuant to the option of ground lease by PHA, PHA would be in control of the property including the building and the responsibility of taking care of it.

[Timestamp 3:58:08] Mr. Samonas asked if a shadow study was done and how the lighting would affect the lower two buildings in the front. Mr. Colwell said the lighting plan demonstrated how the ground at every few square foot interval would be lighted. Mr. Samonas asked if it included sun exposure and shadows. Ms. Addieg said the angles of the 90-unit building would provide maximum daylight. She said there would be a 50-ft separation distance between the two buildings, and with the gym being replaced by the 20-story building, there would not be a significant difference in height. Mr. Samonas asked if there was consideration to move the 29-unit building to the triangular parking area and put the parking area near the larger building. Mr. Colwell said they chose the southerly triangle area for the parking because it would be between the academy building and the 29-unit building. Mr. Samonas asked if there would be amenities inside the buildings. Ms. Addieg said there would be a community room in the 90-unit building. Mr. Perier asked if there would be temporary structures after the first building was

completed that would affect walkability. Mr. Colwell said most of the construction and infrastructure would take place for Project 1, so Project 2 would be much easier to construct.

[Timestamp 4:04:32] Mr. Bowen asked how the development would be protected from the highway noise. Mr. Scheffer said they were following HUD's guidance on the noise and that most of the 90-unit building would block a lot of the noise from the highway. He said fencing could be an option in the final designs to block the noise. It was further discussed. Mr. Scheffer said everything facing the highway on the long end of the building would be where the highest noise attenuating windows would be. He said standard construction currently had a 27 percent decibel reduction and the standard wall unit had at least a 50 decibel reduction. Mr. Scheffer said the fence would be nice for the noise reduction and to not see the cars. He said it would also depend on what the final grading looked like on that side. Chair Chellman asked Mr. Sheffer whether he recommended a fence, based on his study. Mr. Scheffer said a fence wouldn't hurt but didn't know if it was necessary for the outdoor space. Mr. McTigue said the buildings would have more insulation than the standard house and would be weatherproof and soundproof.

[Timestamp 4:12:38] Councilor Moreau asked if there would be a transformer for the EV chargers in Project 2. Mr. Colwell said the drawing called for a transformer on a pad but that they could provide some type of screening. Mr. Samonas asked if mirrors could be placed on the northeast blind corner for pedestrians and cars backing up. Colwell said if all the parking stalls on the east side were filled, it would create visual obstruction, otherwise someone could see between the building and the generator. He said that corner was steep and was designed to slow traffic down, but that the project could consider mirrors. A speed table, caution sign, and moving the crosswalk east away from the backing vehicles were discussed.

Chair Chellman opened the public hearing.

SPEAKING TO, FOR, OR AGAINST THE PETITION [Timestamp 4:19:20]

First Round Speakers

Aaron Garganta of 423 Colonial Drive said the southernmost driveway should have a one-way entrance and a one-way exit through the property. He said the driveway would be close to the corner and delivery trucks coming in and out would interact with inbound traffic to the Pannaway Manor neighborhood. He said it would be safer if the exit came from the northern-bound driveway. He recommended that the team work with NHDOT on the I-95 property to remove the fence at the driveway's northern end to improve the visibility situation. He asked if the noise study included the concrete barrier on the other side of the neighborhood.

Manuel Garganta of 471 Colonial Drive asked who would maintain the front building on Project 2. He said he did not see anyone do a traffic study. He said about 230 more cars would be added.

Eric Anderson of 38 Georges Terrace said the NHDOT made assessments for what areas qualified for construction of sound barriers and that it did not qualify the Sherburn School. He said it was determined that the concrete sound barriers would reflect sound toward the school.

He asked if any recalibration of those results were calculated. He asked the Board to consider a sound barrier to mitigate the sound coming from the west side of the highway.

Second Round Speakers [Timestamp 4:28:32]

Aaron Garganta of 423 Colonial Drive said the project was recent information for the neighborhood and that it was a big concern to see the new large buildings. He said preserving the school and masking the new buildings was a great compromise but there were concerns that there did not seem to be a guarantee that Phase 2 would occur. He asked if the lease agreement should have language stating that the original school building had to be preserved .

Eric Anderson of 38 Georges Terrace said he did not find anything in the lease agreement that would obligate PHA to be responsible for maintaining the school building, and he hoped there would be language in the final agreement for it. He said the Board could postpone the acceptance of the proposal because there seemed to be enough time before funding took place.

Manuel Garganta of 471 Colonial Drive said his whole family went to the school, and he said it should be written into the lease that the school would stay.

No one else spoke, and Chair Chellman closed the public hearing.

DISCUSSION OF THE BOARD [Timestamp 4:36:13]

Attorney McCourt explained the legal authority for the construction of the below-market rate housing on City property and the reason why the City and PHA were offering the review of the project. Under State law, he said the use of governmental property or municipal property for governmental use was generally exempt from zoning review. He said the project had both and that there was a specific statute relating to Housing Authorities that permitted local municipalities to contract with their local Housing Authority for the construction of below-market rate housing on municipal-owned property. He said the City had several housing properties on City property. He said the City Council authorized the City Manager to enter into a land use compliance agreement with PHA, which set out the parameters by which the City Manager and the Board would have to review the project. He said the two biggest pieces of that were the site plan review regulations and the Overlay District regulations. He said a review of the project relative to the RFP that was put out on the Sherburne property was also contained in the agreement as well as PHA's response to the RFP and the addendum. He said the review was in the best interest of the City and that all the comments from the public, TAC, the Planning Board and so on would go to the City Manager for her final approval. He said the Board did not have to concern themselves with the ground lease for now because the only body in the City that could accept it was the City Council. He said that document would come back to the Board for comment before it went back to the City Council for their final acceptance or rejection.

[Timestamp 4:41:02] Councilor Moreau clarified that when the ground lease came back to the Board, it would not a public hearing but would be just for the Board to discuss. She said citizens could speak at the City Council meeting, however. Attorney McCourt agreed and said either the

Board or the City Council could suspend its rules and accept public comment if they wanted to. Mr. Bowen asked how the Board could increase the likelihood that the project would comply with the Noise Overlay District requirements. Attorney McCourt said PHA contracted with an expert who submitted his findings to the Board regarding noise at the site. He said there were comments made about changing conditions or the viability of a fence and that the Board could make a commentary and recommendations to the City Manager, and that the Board could recommend the conditions that had to be satisfied before or after the building permit issuance.

[Timestamp 4:43:41] At this point in the meeting, Chair Chellman asked for a motion to continue the remaining agenda items to another meeting.

*Councilor Moreau moved to **continue** the remaining agenda items to the September meeting, seconded by Mr. Samonas. The motion **passed** with all in favor.*

Ms. Wolf asked if the Sherburne School was on any historic register. Attorney McCourt said it was not but that part of PHA's funding plan was to apply for historic tax credits, which would involve some historic restrictions placed on the property. Chair Chellman said the Board could make a recommendation to ensure that the building would be maintained. Mr. Samonas said he took comfort in the fact that any material change would come back before the Board and that the community would have a say in it as well. He said he had confidence in the way it was currently written and did not think PHA would jeopardize their Federal funding by trying to circumvent the school. Councilor Moreau agreed. Chair Chellman said his concern was that Phase 2 could not happen for a while if things got held up. It was further discussed. Mr. Stith said a condition of approving the Conditional Use Permit would be reconsidering the sound issue after the sound walls were up. Mr. Samonas said the Board should recommend a fence. Chair Chellman said a fence may not be needed due to the way the building would be built.

DECISION OF THE BOARD [Timestamp 4:51:19]

Planning Department Recommendation **Highway Noise Overlay District - Conditional Use Permit Project 1**

- 1) Councilor Moreau moved that the Board find that the Conditional Use Permit Application meets the requirements set forth in Section 10.674 of the Ordinance and recommend the City Manager adopt the findings of fact as presented for Project 1 and Project 2. Ms. Wolf seconded. The motion **passed** with all in favor.*
- 2) Councilor Moreau moved that the Board recommend the City Manager approve Conditional Use Permit as presented for Project 1 with the following **condition**:*
 - 2.1) Applicant shall review the sound analysis based on current conditions including the sound wall across I95, and update as necessary.*

*Mr. Bowen seconded. The motion **passed** with all in favor.*

3) Councilor Moreau moved that the Board recommend that the City Manager approve the Conditional Use Permit as presented for Project 2. Mr. Samonas seconded. The motion **passed** with all in favor.

1) Councilor Moreau moved that the Board find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and recommend the City Manager adopt the findings of fact as presented for Project 1 and Project 2. Mr. Samonas seconded. The motion **passed** with all in favor.

2) Councilor Moreau moved that the Board recommend that the City Manager grant Site Plan approval for Project 1 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.

2.2) 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.

2.3) Owner shall provide an access easement to the City for water valve access and leak detection. The easement shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.

2.4) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit: <https://www.portsmouthnh.gov/publicworks/stormwater/ptap>

2.5) Applicant shall look at sightlines coming in and out of the project and if one way through the site would be better solution.

2.6) Applicant shall revise plan to add raised pedestrian crossings at the back of the 90-unit building on each side.

Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy:

2.7) 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;

- 2.8) *A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/ Public Works Department.*

*Mr. Roy seconded. The motion **passed** with all in favor.*

Planning Department Recommendation
Site Plan Approval Project 2

- 1) *Councilor Moreau moved that the Board recommend the City Manager grant Site Plan approval for Project 2 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:

- 1.1) *The applicant has 2 years from the issuance of the first building permit for Project 1 to obtain a building permit for Project 2.*
- 1.2) *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.*
- 1.3) *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.*
- 1.4) *Owner shall provide an access easement to the City for water valve access and leak detection. The easement shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.*
- 1.5) *Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit: <https://www.portsmouthnh.gov/publicworks/stormwater/ptap>*

Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy:

- 1.6) *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.*
- 1.7) *A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/ Public Works Department.*

*Mr. Samonas seconded. The motion **passed** with all in favor.*

NOTE: The rest of the agenda items were voted to be continued to the September meeting.

- E.** The request of **Market Square LLC (Owner)**, for property located at **1 and 15 (21) Congress Street** requesting a Conditional Use Permit from Section 10.440, Use 1.71 Coliving. Said property is located on Assessor Map 117 Lots 12 & 14 and lies within the Character District 4 (CD-4), Character District 5 (CD-5), Historic, and Downtown Overlay Districts. (LU-22-12)

VII. PRELIMINARY CONCEPTUAL CONSULTATION

- A. WITHDRAWN** The request of **St. Nicholas Greek Orthodox Church (Owner)**, for property located at **0 Lafayette Road** requesting Preliminary Conceptual Consultation. Said property is located on Assessor 229 Map Lot 6A and lies within the Gateway Corridor (G1) District. **WITHDRAWN** (LUPD-25-8)
- B.** The request of **Double MC LLC (Owner)**, for property located at **134 Pleasant Street** requesting Preliminary Conceptual Consultation. Said property is located on Assessor Map 116 Lot 30 and lies within the Character District 4 (CD4) and Historic Districts. (LUPD-25-9)

VIII. OTHER BUSINESS

- A.** Zoning Amendments
- B.** Chairman updates and discussion items
- C.** Board discussion of Regulatory Amendments & other matters

IX. ADJOURNMENT

The meeting adjourned at 10:57 p.m.

Submitted,

Joann Breault
Planning Department Meeting Minutes Taker