



TOWN OF PORTSMOUTH PLANNING BOARD

2200 East Main Road
Portsmouth, RI 02871
401-683-3717

PORTSMOUTH PLANNING BOARD Regular Meeting March 8, 2023

Members Present: Edward Lopes, Luke Harding, David Garceau, Kathleen Wilson, Ryan Tibbetts and Nora Kane-Daly

Members Absent: Chris O'Connell

Others Present: Leon Lesinski, Administrative Officer, Portsmouth Planning Board, Lea Hitchen, Town Planner and Atty. Kevin Gavin, Town Solicitor

The Zoom meeting was called to order in the Town Council Chambers by Mr. Lopes at 7:00 p.m.

1. Agenda Continuances/Modification: none

2. Approval of minutes for Planning Board meeting of February 8, 2023

MOTION: Mr. Harding made a motion, seconded by Ms. Wilson, to approve the February 8, 2023 minutes. All in favor. So voted.

3. Applicant: Joseph Lacerda and Lori Lacerda, Co-Executors, Owner: Estate of Joseph F. Lacerda – AP64, Lots 14 &15 and AP61, lot 2 (Paquins Lane) - Request for approval for the Master Plan decision and Preliminary Plan and Final Plan approval to subdivide non-conforming lots AP 64, Lots 14&15 and AP61, Lot 2

MOTION: Mr. Harding made a motion seconded by Ms. Wilson, to approve the written decision for Master Plan Approval for *Joseph Lacerda and Lori Lacerda, Co-Executors, Owner: Estate of Joseph F. Lacerda – AP64, Lots 14 &15 and AP61, lot 2 (Paquins Lane)*. All in favor. So voted.

Atty. Robert Silva, Silva, Martland, Thomas & Offenberg, Ltd, 1100 Aquidneck Avenue, Middletown, RI appeared representing the applicants with a request for Preliminary and Final Plan approval to subdivide three non-conforming lots, AP64, lots 14 & 15 and AP 61, lot 2 into two new lots. He noted that the subdivision request is pursuant to the Last Will and Testament of Joseph Lacerda, the applicants' father.

Mr. Lopes called for public comment from the audience or in the Zoom meeting to which there was none.

MOTION: Mr. Harding made a motion, seconded by Ms. Wilson, to grant the combined Preliminary and Final Plan approval for *Applicant: Joseph Lacerda and Lori Lacerda, Co-Executors, Owner: Estate of Joseph F. Lacerda – AP64, Lots 14 & 15 and AP61, lot 2 (Paquins Lane)*. All in favor. So voted

4. Agenda Item #6: Applicant: 1200 West Main Road, LLC – Owner: P & G Realty, LLC – AP 44, Lots 7 & 8 (1200 West Main Road) - Request for a modification to the approved Master Plan regarding a major land development

MOTION: At the request of Lea Hitchen, Town Planner, Mr. Tibbetts made a motion, seconded by Mr. Harding to break the agenda and raised up Agenda item #6. All in favor. So voted

Atty. J. Russell Jackson, Miller Scott Holbrook & Jackson, 112 Touro Street, Newport, RI appeared representing the applicant with a request for a continuance to the April 12, 2023 regular meeting.

MOTION: Mr. Tibbetts made a motion, seconded by Mr. Harding, to continue Agenda Item # 6, *Applicant: 1200 West Main Road, LLC – Owner: P & G Realty, LLC – AP 44, Lots 7 & 8 (1200 West Main Road) - Request for a modification to the approved Master Plan regarding a major land development* to the next regular Planning Board meeting scheduled for April 12, 2023. All in favor. So voted.

5. Agenda Item # 4: Applicant & Owner: Jesus Sosa – AP20, Lots 255 & 255A (24 Riverside Street) - Request for Advisory Opinion to Zoning Board to relocate property lines between two non-conforming lots

Atty. Cort Chappell, Chappell & Chappell, 171 Chase Road, Portsmouth, RI appeared representing the applicant with a request to move a property line between two lots located at 24 Riverside Drive, Portsmouth. He explained that relief from the Zoning Board is needed because the lots are non-conforming and that the proposed plan shifts the shared lot line to take four feet of land from Lot 255 and give the same to Lot 255A. He explained that the subdivision is needed to allow for the construction of a residence of a more reasonable width. In response to questions from Planning Board members, Atty. Chappell noted that the two lots are separate lots of record and that he is not requesting a variance for building height. He emphasized that the lot line relocation does not involve any issues with utilities or septic. Mr. Lopes called for public comment to which there was none.

MOTION: Mr. Harding made a motion, seconded by Mr. Tibbetts to make a favorable advisory opinion to the Zoning Board of Review for *Applicant & Owner: Jesus Sosa – AP20, Lots 255 & 255A (24 Riverside Street) - Request for Advisory Opinion to Zoning Board to relocate property lines between two non-conforming lots*. All in favor. So voted.

6. Agenda Item # 5: Applicant & Owner MBandCC, LLC – AP29, Lot 116 (3076 East Main Road) - Request for Advisory Opinion to Zoning Board regarding the construction of a commercial building for Ocean State Air Solutions, Inc.

Mr. Harding recused himself from his agenda item and sat in the audience.

Craig Clark, Principal, MBandCC, LLC, 701 Park Avenue, Portsmouth, RI appeared with a request for an advisory opinion to the Zoning Board of Review for a special use permit regarding the construction of a commercial building at 3076 East Main Road for Ocean State Air Solutions, Inc. which currently operates at 1844 East Main Road. Atty. Gavin explained that the special use permit is necessary for commercial buildings over 5000 square feet. Mr. Clark verified that the proposed building is 5700 square feet.

MOTION: Ryan Tibbetts made a motion, seconded by Mr. Garceau to qualify John Braga, P.E., Certified Land Surveyor, P.O. Box 544, Portsmouth, RI as an expert in the field of civil engineering and land surveying. All in favor. So voted.

Mr. Braga reviewed the existing conditions for the 1.93 acre site for the proposed commercial building which is located at 3076 East Main Road with Portsmouth High School to the west, Narragansett Engineering to the north and the Wentworth Terrace to the southwest. He noted that RIDEM has granted ISDS approval for 30 employees and that the Portsmouth Fire Department has commented on the plan, requesting a gated 20-foot emergency access off Wentworth Terrace. He noted that the plan uses the existing 26-foot curb cut on East Main Road and that no permit from RIDOT is required. The plan does not indicate gas service and accesses water from Wentworth Terrace. Mr. Braga reviewed the proposed drainage system, consisting of three separate basins, which more than meets requirements.

In response to Mr. Lopes, Mr. Braga confirmed that, while he had not yet read the staff report issued by Ms. Hitchen with specific comments from Brian Woodhead, Director of Public works, he has made changes to the plan to meet Mr. Woodhead's requirements. In response to Ms. Wilson, Mr. Braga state that a RIDOT approval is not necessary because the drainage plan ties into the Town easement which feeds to the system on East Main Road.

Mrs. Kane-Daly expressed concern that Design Review Board (DRB) Advisory Opinion comments that the building and the site has no exterior lighting. Mr. Clark stated that the proposed building features sensor lighting.

Melissa Hutchinson, AIA, MH Architect, LLC, 203 Hooper Street, Tiverton, RI noted that at the TRC meeting, she explained that the proposed lighting is on the corners of the building and operates by motion detectors and a timer. She noted that this is sufficient to illuminate the parking lot during business hours and allows for intermittent use when the business is closed. She noted that the lightening is designed so as not to shine in the adjacent neighborhood. Ms. Hutchinson verified that the fire access is gated and for Fire Department use only. She commented that the proposed site rain gardens are designed to be attractive with indigenous plantings. She noted that the front building,

which is most visible, is designed with an appealing color scheme and materials like the Casey Oil building on West Main Road. She noted that the proposed rear structure is a Morton building.

Mr. Lopes reviewed the comments from the DRB.

MOTION: Mr. Tibbetts made a motion, seconded by Ms. Wilson, to accept into the record the *Portsmouth Design Review Board Advisory Opinion, March 6, 2023 for Applicant & Owner MbandCC, LLC – AP29, Lot 116 (3076 East Main Road)* as Exhibit I. All in favor. So voted

MOTION: Mr. Tibbetts made a motion, seconded by Mrs. Kane-Daly, to accept into the record the *Staff Report; MbandCC, LLC (Owner and Applicant), March 8, 2023*, as Exhibit II. All in favor. So voted.

In response to Mr. Tibbetts, Mr. Braga clarified the changes to the plan to address Mr. Woodhead's comments listed in the staff report. Ms. Wilson suggested that Mr. Braga have the plan reviewed by RIDOT for a possible Physical Alteration Permit (PAP).

In response to Mr. Tibbetts, Mr. Clark verified that proper notice to the abutters is executed. Mr. Lopes called for public comment to which there was none.

MOTION: Mr. Tibbetts made a motion, seconded by Mr. Garceau to make a favorable recommendation to the Zoning Board of Review for a special use permit for *Applicant & Owner MbandCC, LLC – AP29, Lot 116 (3076 East Main Road)* on the following conditions and findings:

1. The Applicant will abide by, and the Town will enforce, Article X, Design and Improvement Standards, under the Land Development and Subdivision Regulations, as it pertains to commercial development as stated on page 6 of Exhibit I
2. The application is compliant with the five standard provisions (findings of fact) of R.I.G.L. Section 45-23-60 as listed on page 6 of Exhibit II.
3. The applicant will address and incorporate into the plan the listed concerns with the plan and the proposed drainage from the Director of the Portsmouth Department of Public Works, on page 4 and 5 of Exhibit II, including the submission of required drainage calculations and a drainage Operation and Maintenance plan
4. The proposed plan is consistent with the recommendations of the Portsmouth Design Review Board as listed on page 6 of Exhibit I
5. The application engineer will present the proposed plan to the RIDOT for review for possible PAP.

All in favor. So voted.

7. Applicant & Owner: WC Coastal Development, LLC and WC Upland Development, LLC – AP43, Lots 3, 4, & 7, and AP50, Lots 6 & 7 (Weaver Cove &

Burma Road) - Request for Master Plan Approval for a major Planned Marina Village Development

Mr. Lopes continued his recusal from this agenda item and sat in the audience. He turned over the proceedings to Mr. Harding, Vice Chairman.

Atty. Girard Galvin, Galvin Law, 10A Washington Square, Newport, RI appeared representing WC Coastal Development, LLC and WC Upland Development, LLC with a request for master plan approval for an application for a planned marina village at Weaver Cove. He explained that the concept plan is a joint venture of the Karam family, under First Bristol Corporation and the Marshall family, under Marshall Properties, Inc. He presented background information regarding the site and the proposed development which was presented for concept review to the Portsmouth Planning Board in February of 2022. He noted that the application has received a preliminary determination from CRMC and positive feedback from the Portsmouth Economic Development Committee, the Portsmouth Harbor Commission, the Portsmouth Design Review Board (DRB) and the Portsmouth Planning Department Technical Review Committee (TRC).

James Karam, Co-Managing CEO, First Bristol Corporation, 10 North Main Street, Fall River, MA and WC Coastal Development, LLC and WC Upland Development, LLC explained that the site was purchased in a joint venture with Marshall Properties, Inc. in 2018 at a foreclosure auction under the previous owner, O'Neill Property Group (OPG). He noted that the proposed development is downscaled from the OPG design, now indicating 400 residential units and 350 boat slips.

Mr. Karam gave testimony in response to questioning from Atty. Galvin. He commented on the existing conditions of the property as a brownfield site under the U.S. Navy ownership as well as the project efforts to classify areas of contamination and obtain estimates for clean-up. Mr. Karam confirmed that the plan included the components of a planned marina village development including a marina which is comparable in size to the number of dwelling units, a public coastal greenway required by CRMC and space for retail and services businesses like a restaurant and offices. He explained that plan meets the 10% LMI housing requirement and further includes 6 additional LMI units which were transferred from the previous Newport Beach Club. Mr. Karam stated that initial architectural designs from Union Studio are in line with the New England Shingle Style. He noted that the existing Weaver Cove boat ramp will remain intact with public access. Mr. Karam confirmed that, to date, he has received no objections from abutters and the public, and that he will continue discussions with the neighbors.

Atty. Galvin and Mr. Karam responded to questions from the Planning Board members. They stated that Union Studios may be the project architectural firm in conjunction with other firms. Atty. Galvin confirmed that the project will have a traffic study prior to preliminary review. He confirmed that the proposed plan will incorporate and address all the comments from the Director of the Department of Public Works and the Fire Department which are outlined in the Planning Department staff report. He suggested that a condition of master plan approval be that the applicant satisfy staff considerations in the report. Mr. Karam confirmed that the 10% LMI units and the 6 additional units will

be constructed on a pro rata basis with the market rate units. He noted that water and sewer service is established through agreements with Newport Water and the U.S. Navy. He noted that all development roads are privately maintained. He stated that the residential units are offered as condominiums and long-term rentals.

MOTION: Mr. Tibbetts made a motion, seconded by Ms. Wilson, to enter into the record the *Staff Report for Master Plan Public Information Meeting on "Weaver Cove," a Planned Marina village Development (PMVD) Major Land Development*, from Lea Hitchen, Portsmouth Town Planner, March 8, 2023, as Exhibit I. All in favor. So voted.

Atty. Galvin, Mr. Karam and the Planning Board members agreed to a site visit sometime prior to preliminary approval. Atty. Galvin and Mr. Karam reviewed the northern portions of the plan as the location of the restaurant and retail/services businesses. Atty. Gavin confirmed that he and the applicants are aware of the town staff comments as they appear in the staff report.

Lyn Small, P.E., Northeast Engineers & Consultants, Inc., 6 Valley Road, Middletown, RI gave testimony on the proposed site plan. She described the layout of the existing lots. She then reviewed the site plan as proposed on Sheet C-2. She noted the components including residential units, the pool, the retail and offices spaces, all associated parking, and a proposed railroad crossings and roadway. She noted that since the area to the west of the railroad is in a high velocity zone, some parking is located beneath the residential building behind the pool. Ms. Small noted that the area to the east of the railroad and Burma Road has a steep slope which affects the building architectural design and lends itself to structured parking. She reviewed the utilities (water and electric), noting the existing pump station to the west of the railroad tracks in the northern portion of the site. Noting that the southern portion of the site to the existing boat ramp is narrow, Ms. Small stated that some parts are limited to parking and that the architectural designs of the residential units are limited to multifamily townhomes with lower-level parking due to the existing flood plain. She confirmed that the existing public parking for the boat ramp remains unchanged. She also spoke on the conceptual plans for the three marina components on the coastal side of the site as well as the proposed 50-foot, vegetative coastal greenway which will be open to the public. She noted that CRMC requires that the greenway be continuous and thus it may have to be directed inland across the railroad.

After her review of the site plan, Ms. Small answered questions from the Planning Board members. She confirmed that the coast greenway is designed within CRMC requirements and must be 6 to 8 feet wide with an ADA compliant surface. It also must have access to a public bathroom. She stated that the intent is to have the path connect to the boat ramp parking and go along the entire length of the coastal frontage of about 2000 feet.

In response to Mr. Garceau, Mr. Karam noted that the marina is intended for resident and public use. In response to Mr. Harding, Atty. Galvin stated that infrastructure for electric vehicle charging stations throughout the project could be considered. In

response to Mr. Harding, Ms. Small explained that the PUD allowance for building height for the inland residential structures is 60 feet.

Ms. Small gave testimony in response to questioning from Atty. Galvin on the master plan proposal. She stated that the proposal has no adverse impact to the surrounding properties and that it complies with the standards and provisions of the zoning code. She stated that the proposal poses no significant negative environmental impact, rather it creates a stormwater quality treatment system and remediates a contaminated site. Ms. Small stated that the proposal does not create new individual lots with constraints to development and administratively joins the two lots located inland of Burma Road. She stated that the proposal provides adequate and permanent access to public streets. She explained that the proposed development integrates into the surrounding area by respecting the coastline, providing public access and increasing roadway accessibility with additional railroad crossings. She noted that the proposed public greenway enhances and adds to the existing public boat ramp area thus securing safe pedestrian environments.

MOTION: Mr. Tibbetts made a motion, seconded by Ms. Wilson, to accept James Houle, James A. Houle & Associates as an expert in the field of certified real estate appraisal and land use. All in favor. So voted.

Jim Houle, RI Certified General Appraiser and Land Use Consultant, James A. Houle & Associates, 198 Union Street, Portsmouth, RI reviewed his findings in two reports which he completed on the proposed development: 1. *Report Relating to the Proposed Development at Weaver Cove, Portsmouth, RI 02871; Outline of economic impact to the Town of Portsmouth, RI as it relates to the proposed development, February 15, 2023* and 2. *Report of Findings Related to the Master Plan Review for Weaver Cove Development Proposal, March 4, 2023*. He distributed the second report to the Planning Board members; the first report was included in the Planning Board pre-meeting package.

MOTION: Mr. Tibbetts made a motion, seconded by Mr. Garceau, to enter into the record as Exhibit II, *Report of Findings Related to the Master Plan Review for Weaver Cove Development Proposal, James A. House & Associates, March 4, 2023*. All in favor. So voted

Mr. Houle stated that the purpose of his first report is to determine the economic impact of the proposed development on the town using a conservative approach based on current real estate assessment values and making allowances for LMI units. He explained this process in some detail as set forth on pages 4-7 of his report. He concluded that the projected annual income from real estate property taxes associated with the development is \$2,549,241. He projected that the annual increase in town services would be \$700,000, thus yielding a net annual income to the Town of Portsmouth of \$1,849,241. Mr. Houle emphasized that his analysis does not take into consideration premiums in land values, such as water views, and that it does not evaluate compounded positive economic impacts, like benefits to other town

businesses. He noted that the impact to the public school system is minimal as the development units will likely be purchased by seniors and that the school system could absorb any enrollment increases associated with additional children living in the development. Atty. Galvin stated that a subsequent economic impact statement at the preliminary plan stage would further analyze the impact of the development on the school system.

In response to questioning from Atty. Galvin, Mr. Houle commented on his findings in his second report, the purpose of which is "...to opine whether the proposed plan conforms to all necessary related criteria in the Portsmouth Zoning Code and is in harmony with the Comprehensive Land Use [Community] Plan. Reviewing pages 3-4, Mr. Houle stated that the proposed development meets the criteria *d-e* for approval of a major land development found in the Zoning Ordinance, Article VIII, Land Development Projects, Section D #11, Procedure and Decision. Criteria *e* stipulates the development's consistency with the Portsmouth Comprehensive Community Plan, which is analyzed on page 4 of Mr. Houle's report.

Mr. Harding called for public comment.

Atty. Mike Daly, Pierce Atwood LLP, Providence, RI, 118 Franklin Street, Bristol, RI appeared representing Talaria Real Estate Holdings, LLC, The Hinckley Company with two concerns. He spoke on the existing easement which is overlaid on the site plan by Regatta Drive which extends from the Hinckley boatyard at Little Harbor Drive to the north portion of the site. He stated that if considerable traffic on Regatta Drive is generated by the proposed development, thus overburdening the easement, then its use will have to be addressed due to the existing amount of vehicular activity on the boat yard property. Chris Ruhling, General Manager, The Hinckley Company, 1 Little Harbor Landing, Portsmouth, RI spoke on the current amount of traffic used by the Regatta Drive easement.

Atty. Daly raised an issue with the northern marina slip layout which butts up to the Hinckley property fixed pier as seen on Sheet C-2 of the site plan. He explained that the layout is directly over a sunken tugboat and a barge which are active wave attenuators providing protection to the Hinckley marine area. He noted that if these assets are to be removed to accommodate the proposed slips, then his clients and the developer will have to determine how, when and by whom that would be accomplished. Atty. Galvin assured the Planning Board that he will continue the dialog between the applicants and The Hinckley to achieve satisfactory results on these matters.

Kyle Fenton, 71 Canochet Drive, Portsmouth, RI raised several concerns about the proposed development. He commented that Burma Road is a main arterial for U.S. Navy and NUWC employees in a 45 mile per hour zone. He raised safety concerns for future residential pedestrians and patrons of the Newport Dinner Train. He noted the regular stormwater drainage issues that result in closures of Burma Road. He expressed concern for boat interactions with the proposed marina. Mr. Tibbetts noted that the applicant must demonstrate that the proposed development will not result in an

increase in stormwater run-off. Mr. Harding explained that many of Mr. Fenton's concerns will be addressed with greater design and engineering details at the preliminary plan review.

Steve Johnson, 44 Wapping Road, Portsmouth, RI, given his position as Chair of the Portsmouth Economic Development Committee (EDC) and as a member of the Aquidneck Island Planning Commission, spoke on the EDC meetings with the applicant. He said that he is pleased to see the EDC concerns addressed in the site plan thus far. He spoke on the transportation concerns in the area, the need for workforce housing and the remanufacture of Burma Road to State standards. He noted that the West Side Master Plan requires updating to ensure that developments like the application are in line with what is desired by the town and the Aquidneck Island community. He inquired as to whether the LMI units could be constructed offsite. Mr. Harding stated that it is possible if the units are built in Portsmouth. Mr. Johnson, speaking as an individual, stated that the proposed development is potentially a positive economic contributor to the Town of Portsmouth if all the environmental, transportation, housing, climate resiliency issues are addressed before final approval.

Ms. Hitchen called for public comment from the Zoom participants to which there was none.

Atty. Galvin made final comments before again requesting master plan approval based on the testimony presented during the hearing. In response to Mrs. Kane-Daly, he stated that the current intent is to include the LMI units required by the ordinance in the development plan but that, given the opinion of some LMI experts that there are better approaches to secure community LMI housing, he will reserve those opportunities for the application should they become feasible, satisfactory and implementable.

MOTION: Mr. Tibbetts made a motion, seconded by Ms. Wilson, to grant Master Plan Approval to *WC Coastal Development, LLC and WC Upland Development, LLC – AP43, Lots 3, 4, & 7, and AP50, Lots 6 & 7 (Weaver Cove & Burma Road)* based on the following conditions:

1. The design plan incorporates the comments by the Department of Public Works and the Fire Department as listed and mentioned on page 9 of Exhibit I, Portsmouth Planning Staff Report
2. The approval is made in consideration of Exhibit II, James A. Houle & Associates, Report of Findings, March 4, 2023
3. The approval incorporates the documents relevant to the record that were submitted by the petitioner including:
 - a. The Weaver Cove Master Plan application, The Site Plan Sheets C-1 through C-7 by Jeremy Rosa, P.E., Northeast Engineers & Consultants, Inc., February 14, 2023
 - b. The Weaver Cove/Portsmouth Precedent Types, Union Studio Architecture & Community Design
 - c. The Report Relating to the Proposed Development at Weaver Cove, Portsmouth, RI 02871; Outline of economic impact to the Town of

Portsmouth, RI as it relates to the proposed development, James A. Houle & Associates, February 15, 2023

4. The applicant schedules a site visit for the Planning Board members, accessing features and characteristics of the area prior to requesting preliminary plan approval
5. The applicant will make consideration of transportation, pedestrian, railroad safety and flow protections including mitigations of the Regatta Drive easement access concerns of the abutters, while conforming to the Portsmouth Fire Department recommendations, prior to requesting preliminary plan approval
6. The design plan includes additional LMI units beyond the 10% required by the ordinance to honor the Newport Beach Club commitment
7. The applicant constructs the LMI units on a pro-rata basis with the market rate units.
8. The design plan meets the CRMC requirement to incorporate a continuous, connected layout for the coast greenway design feature
9. The applicant will comply with the preliminary plan application process according to Paragraph 5, Page 13 of Exhibit 1, Portsmouth Planning Staff Report.

All in favor. So voted.

8. Discuss process for approving and recording written Planning Board Decisions (past and future practice)

Ms. Hitchen spoke on the Planning Board practice of approving written decisions during Planning Board meetings. She suggested that the Planning Board dispense with its practice of approving written decisions by means of a motion during Planning Board meetings. She feels confident in collaborating with Atty. Gavin and Mr. Lesinski, they can produce proper and correct written decisions. Atty. Gavin agreed with Ms. Hitchen noting that there is no requirement that precludes this approach.

7. Approve March 8, 2023 Monthly Project Status Report, Administrative Subdivisions, Plat Plan Recording and status of new road construction.

MOTION: Mr. Tibbetts made a motion, seconded by Mr. Garceau, to accept and place on file the March 8, 2023 Monthly Project Status Report, Administrative Subdivision, Plat Plan Recording and status of new road construction. All in favor. So voted.

At 10:17 p.m., a motion was duly made and seconded to adjourn the meeting. All in favor. So voted.

Respectfully submitted:
Dede Walsh
Recording Secretary for:

Leon Lesinski
Administrative Officer