



**TOWN OF PORTSMOUTH
PLANNING BOARD**

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

**PORTSMOUTH PLANNING BOARD
Regular Meeting
September 13, 2018**

Members Present: Guy Bissonnette, Luke Harding, David Garceau, Michael James, Ryan Tibbetts and Kathleen Wilson

Members Absent: Edward Lopes

Others Present: Leon Lesinski, Administrative Officer, Portsmouth Planning Board, Atty. Kevin Gavin, Portsmouth Town Solicitor and Michael Asciola, Assistant Town Planner.

The Meeting was called to order by Mr. Bissonnette at 7:00 p.m.

1. Agenda Continuances/Modifications:

Mr. Lesinski stated that there are no agenda continuances for which he is aware. Mr. Bissonnette announced that Atty. Cort Chappell, who represents the applicant for Agenda item #3, requested a continuance due to a personal engagement which conflicts with the approved meeting date change to September 13.

2. Approval of minutes for Planning Board meeting of August 8, 2018

MOTION: Mr. Harding made a motion, seconded by Ms. Wilson, to approve the minutes of the August 8, 2018 regular meeting with the following correction: Page 3, first motion, insert the wording "parking lot at the" before the term "current location". All in favor. So voted.

**3. Sakonnet Bluffs, LLC, AP 59, Lots 5A – 5P, Vanderbilt Lane –
Continuation of request to reduce Road Bond for the Sakonnet Bluffs
Subdivision**

In response to Atty. Cort Chappell's request to Mr. Bissonnette, the Planning Board made the following motion.

MOTION: Mr. Harding made a motion, seconded by Ms. Wilson, to continue Sakonnet Bluffs, LLC, AP 59, Lots 5A – 5P, Vanderbilt Lane to the October 10, 2018 regular meeting. All in favor. So voted.

**4. Cort and Jamie Chappell, AP 16, Lot 40, 80 Evans Way (corner of
Therien Road & West Shore Road) – Approve Final Plan Decision**

MOTION: Mr. Tibbetts made a motion, seconded by Mr. Harding, to approve the

Final Plan Decision for Cort and Jamie Chappell, AP 16, Lot 40, 80 Evans Way as submitted by Leon Lesinski, Administrative Officer, Portsmouth Planning Board. All in favor. So voted.

5. Ragged Island Brewery Company, AP 28, lot 17 (54 Bristol Ferry Road) – Request for Advisory Opinion to Town Council for Zoning Ordinance change for Farm Brewery.

Atty. Girard Galvin, Galvin Law, 10A Washington Square, Newport, RI appeared representing Donovan Gray Distributing, LLC (DGD) with a request for an advisory opinion to the Town Council for a change to the Zoning Ordinance for a defined use or identified use for “farm brewery”. He explained that his clients have a purchase agreement with Van Hoff Land Associates (Van Hoff Nursery and Island Garden Shop) for the property located at 54 Bristol Ferry Road, which is zoned R-20. He noted that the intent of DGD is to move its brewery operations, Ragged Island Brewing Company, to the property and preserve a portion of the property as a working farm for the cultivation of hops and other crops used in the production of beer. The purchase is contingent upon DGD receiving all zoning approvals including a provision for special use permit for “farm brewery” which is currently not provided in the Zoning Ordinance. Atty. Galvin reviewed the process of developing the proposed Zoning Ordinance Amendment conducted with the cooperation of Town staff. He asked that a professional report on the proposed amendment be entered into the record as Exhibit 1 - (James A. Houle, Rhode Island Certified General Appraiser, James A. Houle & Associates, 198 Union Street, Portsmouth, RI, 02871, “Report Relating to the Proposed Zoning Ordinance Amendment: For Inclusion of a Farm Brewery Use in the Portsmouth Zoning Code, Chapter 405, Article II and The Ramifications in Its Application to the Ragged Island Brewing Company at a Property at 54 Bristol Ferry Road, Portsmouth, Rhode Island”, September 12, 2018.”) Atty. Galvin requested a favorable advisory opinion to the Town Council for the proposed amendment as to its consistency with the Comprehensive Community Plan. He highlighted certain consistencies of the proposed amendment with Element 1, Land Use, Element 3, Economic Development and Element 8, Agriculture of the Comp Plan.

Mr. Harding inquired as to whether or not the existence of a brewery would compromise the transition of the current Senior Center building back to its original use as a school. Atty. Galvin stated that, if the Town Council approves the proposed amendment, the DGD project would undergo the regulated approval process, during which its specifics would be determined to be consistent with the Comp Plan and meet the requirements of the Zoning Ordinance. Mr. Bissonnette commented that the Town would not be restricted as to the use of the Senior Center building because the brewery would be a pre-existing, non-conforming use. Atty. Kevin Gavin, Town Solicitor stated that consideration of the town-wide ramifications influenced his recommendations to Atty. Galvin in the writing of the proposed amendment.

Mr. Tibbetts inquired as to how the applicants are working with residential neighbors to communicate their intentions. Atty. Galvin stated that at the onset of the proposed amendment process, DGD held informational meetings with the neighbors. Mr. Tibbetts inquired as to whether Atty. Galvin is noticing similar ordinance changes in other Rhode Island communities given the growing micro-brewery trend. Atty. Galvin deferred comment to Mr. Gray.

Matthew Gray, Principal, Ragged Island Brewery and Donovan Gray Distributing, LLC, 87 Colonel Christopher Drive, Portsmouth stated that the Town of Exeter, RI changed its zoning ordinance to accommodate Tilted Barn Brewing Company which operation a hops farm and brewery. He noted that the Town of Middletown is considering similar changes to allow farm breweries of 16 acres or more. He commented that Trillium Brewing Company, Canton, MA is establishing a farm brewery in Stonington, CT. He said the trend is connected to the farm-to-table movement in which small, family owned farms engage in crop cultivation to end product manufacturing.

Mr. Bissonnette inquired as to how a brewery is a farm. Atty. Galvin explained that, according to the proposed ordinance, a portion of the land within a proposal would have to be cultivated to meet with the requirements of the State farm exemption. Mr. Gray explained that 22 acres of the Van Hoff property are undevelopable wetlands. He intends to have hops and other crop cultivation for beer production on ten acres along West Main Road. Mr. Bissonnette questioned the wording of the first line of the proposed ordinance, "A facility located on a farm or as part of an agricultural operation...." After discussion, Atty. Galvin stated that he is open to the deletion of the phrase "...or as part of an agricultural operation..." provided that the town staff is in agreement. Michael Asciola, Assistant Town Planner and Atty. Gavin agreed with the phrase deletion.

Mr. Bissonnette called for public comment.

Richard Kissell, 24 Bristol Ferry Road, abutter to Island Garden Shop, 54 Bristol Ferry Road expressed concern for the two intended breweries at the property and their impact on the rural nature of Bristol Ferry Road. He stated that, during the residential information session, the applicants did not elaborate on the vision for the project and brewery production. Mr. Bissonnette noted that most agricultural cultivation is associated with manufacturing and production. He emphasized that the applicants will have to present the details of their venture during the application process. Atty. Galvin stated that if the proposed ordinance is approved, then his clients' proposal starts from scratch with full engineering and designs within the application process. Mr. Bissonnette clarified that the matter before the Planning Board is to consider whether an allowance for "farm brewery" use within the Zoning Ordinance is consistent with the Comprehensive Community Plan.

Mr. Harding inquired as to whether the whole parcel would be eligible for the farm tax exemption. Atty. Galvin stated that the exemption only applies to the portion of land used for crop cultivation.

Caitlin Thomas, 90 Bristol Ferry Road expressed her approval for DGD's intent to establish a farm brewery at 54 Bristol Ferry Road. Mr. Bissonnette clarified that the Planning Board was not hearing DGD's proposal but rather making a determination of a policy issue allowing farm breweries throughout the town through the Zoning Ordinance. Ms. Thomas expressed her desire to retain open land and her approval of the Van Hoff family in turning down other proposals that may have increased density in the area. Mr. Bissonnette called for further public comment to which there was none. He closed the public comment portion of the hearing.

MOTION: Mr. Tibbetts made a motion, seconded by Mr. Harding, to make a favorable advisory opinion to the Portsmouth Town Council for a proposed Zoning Ordinance Amendment to define "farm brewery" in Chapter 405, Article II and to include "farm brewery" in Article V, Section C, Agriculture Uses, by special use, as presented in writing to the Town Council on August 21, 2018 by Atty. Girard Galvin, Galvin Law, 10A Washington Square, Newport, RI, with the following recommendation: Under Item 1, Chapter 405, Article II, Farm Brewery, remove the phrase "...or as part of an agricultural operation,..." and to further determine that said proposed ordinance amendment, as revised, is consistent with the Portsmouth Comprehensive Community Plan.

Mr. Bissonnette clarified that requests for special events at farm breweries are allowable by special use permit under "Agricultural Special Events" use.

All in favor. So voted.

6. Kevin and Megan Reed, AP 54, Lot14C (20 Vanderbilt Lane) – Preliminary application for Minor Subdivision (2 lots)

Atty. David Martland, Silva, Thomas, Martland & Offenber, Ltd., 1100 Aquidneck Avenue, Middletown, RI appeared representing Kevin and Megan Reed with a request for preliminary plan approval for a minor, 2-lot subdivision of property located at 29 Vanderbilt Lane at the south-easterly corner of Vanderbilt Lane and East Main Road, zoned R-20. He described the proposed lots. Lot 14C-1 is 30,001 square feet with an existing, two-family, residential structure. Lot 14C-2 is 22,902 square feet. He noted that both lots are conforming with frontage on Vanderbilt Lane. The garage on 14C-2 will have to be razed to meet this conformity. Atty. Martland introduced Tom Principe as the project engineer.

MOTION: Mr. James made a motion, seconded by Ms. Wilson, to accept Tom Principe, P.E., Principe Company Inc. as an expert in the field of civil

engineering. All in favor. So voted.

Mr. Principe presented the specifics of the plan. He noted that, based on soil testing, the plan proposes advanced treatment septic systems. He noted that the frontage of each lot exceeds that minimum requirement of 110 linear feet.

Mr. Bissonnette called for public comment to which there was none.

MOTION: Mr. Harding made a motion, seconded by Ms. Wilson, to grant preliminary plan approval for Kevin and Megan Reed, AP 54, Lot14C (20 Vanderbilt Lane). All in favor. So voted.

7. Evelyn Schulz and Maria Mare-Schulz, AP 22, Lot 14 (44 Mare Terrace) – Request for Advisory Opinion to Zoning Board regarding application for two (2) lot subdivision requiring a variance for lot size

Atty. Jay Lynch, Moore Virgadamo & Lynch, Ltd., 97 John Clarke Road, Middletown, RI appeared representing the applicants with a request for an advisory opinion to the Zoning Board of Review for lot size variance for a two lot, major subdivision, located on Mare Terrace. He explained that the parcel consisted of three substandard lots until 2005 when they were merged into one, conforming, buildable lot. Evelyn Schulz, applicant lives in an existing dwelling. The plan proposes a non-conforming lot around her residence thus leaving enough of the parcel for a second conforming, buildable lot. Both lots have adequate frontage on Mare Terrace. Atty. Lynch noted that when the plan receives the variance from the Zoning Board of Review, he will return with a request for additional approvals. He requested that the Planning Board combine Master, Preliminary and Final plan approvals for the application. Mr. Bissonnette stated that Atty. Lynch would have to make that request at the time of the plan hearings. In response to Mr. Tibbetts, Atty. Lynch confirmed that the request creates a non-conforming situation. Atty. Gavin noted that because of the non-conforming lot, proposal is for a major subdivision, requiring Zoning Board of Review variance. Atty. Lynch confirmed that while Maria Mare-Schultz owns the parcel, Evelyn Schultz holds life estate rights to it. Both women are in agreement with the proposal. Mr. Bissonnette called for public comment to which there was none.

MOTION: Mr. Harding made a motion, seconded by Ms. Wilson, to make a favorable advisory opinion for lot size variance to the Zoning Board of Review for Evelyn Schulz and Maria Mare-Schulz, AP 22, Lot 14 (44 Mare Terrace). The motion is carried, five votes for, one against. Mr. Bissonnette opposing.

8. Kento Development Company, AP 48, Lot 35 (McCorrie Lane) – Concept Plan review for Major Subdivision

Atty. Jay Lynch, Moore Virgadamo & Lynch, Ltd., 97 John Clarke Road, Middletown, RI presented a concept review of a 21 lot, major subdivision off

McCorrie Lane. The 12.6-acre, farmland parcel is located just south of the recently approved Windrock subdivision. There are no wetlands associated with the parcel. Atty. Lynch introduced Kevin DeMers, PE, DiPrete Engineering, 90 Broadway, Newport, RI as the project engineer.

Mr. DeMers presented a review of the concept plan. He noted that based on the lot area, the parcel yields a maximum density of 26 units. The plan proposed 21 lots, two of which are indicated for a community leach field (Lot 21) and the storm drainage management system (Lot 20). The proposed road circles through the development with 19 residential lots located throughout the outer and inner road edges. The proposed road connects with Ferreira and Pleasant View Avenues to the south and to the undeveloped road associated with the Windrock subdivision. Mr. Bissonnette emphasized the Planning Board position that drainage systems should be designed based on 100-year storm calculations even though town regulations are set at the lower, 25-year standard. Mr. DeMers agreed, noting that RIDEM requires the 100-year storm calculations. He noted that Lots 2, 12, 14 and 15 do not have the required, 110 foot, frontage at the road but rather at the front yard setback with adequate, buildable area of 20,000+ square feet, excluding the 30 foot setback. Mr. DeMers stated that he is not proposing any variances at the present time. He noted that water service is from the main on Ferreira Avenue. In response to Mr. Bissonnette, Mr. DeMers confirmed that the sewage for the subdivision is pumped uphill to the community leach field on Lot 21. Mr. Bissonnette commented that the Board views the two points of ingress and egress favorably. In response to Mr. Harding, Atty. Lynch stated that the applicants have not considered including LMI units.

Jonathan Kent, Kentco Development Company, 39 Nooseneck Hill Road, West Greenwich, RI stated that his firm is developing the entire subdivision. He noted that Kentco purchased a portion of Prescott Point and developed that parcel.

Atty. Lynch noted that that Kentco is contemplating a senior, 55 and over, development on the site. Mr. Bissonnette commented that such developments render a lesser burden on the town from a tax perspective. Mr. Bissonnette noted that there were no members of the public present for comment.

Michael Kent, Principle, Kentco Development Company, 39 Nooseneck Hill Road, West Greenwich, RI stated that the timing of the execution of the sale is tied to the approval process for the condominium. Atty. Lynch clarified that the condominium would undergo a special use permit process. In response to Mr. Bissonnette, he also clarified the legal designation of ownership for Lots 20 and 21 based on either concept. In response to Mr. Bissonnette, Michael Kent confirmed that if his firm went with a condominium development, the plan would have more units. Mr. Bissonnette stated that he would prefer to see LMI units in a condominium development.

9. Discuss Aquidneck Island Planning Commission (AIPC) report of AIPC activities

Ms. Wilson reported on the AIPC activities and developments including the retreat on September 15, 2018, the election of three representatives from Portsmouth to the AIPC Executive Board, the contracts for St. Mary's pond, funding from the Van Beuren Charitable Foundation and changes to the AIPC by-laws.

10. Approve Monthly Project Status Reports, Administrative Subdivisions and Plat Plan Recording

Mr. Lesinski presented Monthly Project Status Reports, Administrative Subdivisions and Plat Plan Recording, September 13, 2018.

MOTION: Mr. Harding made a motion, seconded by Ms. Wilson, to accept the Portsmouth Planning Board Monthly Project Status Reports, Administrative Subdivisions and Plat Plan Filings, September 13, 2017 and to place it into the record. All in favor. So voted.

At 8:21 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