

**SOMERSWORTH PLANNING BOARD  
MINUTES OF MEETING  
December 20<sup>th</sup>, 2023**

**MEMBERS PRESENT:** Jason Barry, Jeremy Rhodes, Chris Horton, Bob Belmore-City Manager, David Witham, Paul Goodwin, Doug Haberman, Mark Richardson, and Paul Robidas

**EXCUSED MEMBERS:** Kenneth Vincent and Ron LeHoullier

**STAFF PRESENT:** Michelle Mears, Director of Development Services  
Anna Stockman, Planning Secretary

The meeting was called to order at 6:30pm.

Rhodes appointed Goodwin and Haberman as full voting members.

- 1) **Approval of the minutes**
  - A) November 15, 2023 meeting minutes

Robidas MOVED to accept the minutes as presented.  
The MOTION was SECONDED by Barry.  
The MOTION CARRIED 8-0-1 with Richardson abstaining.

2) **COMMITTEE REPORTS**

**Land Use Board Reports (ZBA, Conservation Commission, SRTC, Minor Field Reports):**  
None.

**City Council Report:** Witham stated the traffic signalization upgrade on the High Street corridor is nearing completion. He noted the improvement of traffic flow and said there will be more analysis and programming to fine tune that. He noted the completion of improvements to handicap access at all intersections. He said at the last City Council meeting, the Council voted down the amendment to Chapter 13 of the Zoning Ordinance regarding the Historic Overlay District. He said the Council had considered a reduction in size of the District in three different areas. He noted there was a lot of conversation around the need to improve the process for structures within the Historic District, and that there was a general consensus that the current system needs some fine tuning. He said the incoming mayor, Mayor-Elect Gerding has promised to appoint a special commission to dive deeper into the Historic District rules and regulations and the tools they use for evaluating criteria. He said that would likely be a joint workshop between the Historic District Commission (HDC) and the City Council, as well as possible community involvement.

**Strafford Regional Planning Commission (SRPC) Update:** Richardson stated the group is about to start looking at the next ten-year plan and evaluating various projects in communities including grading and listing them in order of what members believe deserve the most to be focused on. He noted the group has gone on field trips in recent months including a visit to JEMS by Pensole in Somersworth. He noted the impressive facility and the vision of the employees and owners to become a major competitor in high-end sneakers. He noted it is nice to see the shoe industry come back to this part of New Hampshire. He said last week, the group attended a tour in Durham at the University of New Hampshire. He said the subject was about the cooperation between the University and the town for growth.

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**Eyes on 30 (2030 Committee):** Barry stated at their last meeting, a major topic was beautification. Committee member and Councilor Cameron invited her friend, the founder of the Don't Trash Dover program. It was an informational meeting to understand how the program was created. He said it is similar to a clean streets program. He provided an overview of the program which involves monthly gatherings where participants collect trash in a certain area. He said there have been conversations about bringing a similar program to Somersworth though it is not official yet. He said he would keep the Board informed.

### **Community Power Coalition:**

Horton stated the Community Power Coalition met in late November. He said a public hearing was held and the Committee forwarded the Somersworth Aggregation Plan to City Council for review and action. He noted representatives from the New Hampshire Power Coalition provided a presentation at a recent City Council meeting and the Council approved the Aggregation Plan for the City Manager to submit to the Power Utilities Commission of New Hampshire. He said on a biannual basis, the Commission votes on new committee members. He noted the City can expect to receive a follow-up regarding the acceptance of their application in June.

Witham echoed Horton's statement that they are considering a June timeframe to join the Community Power Coalition. He said joining is dependent on whether or not their rates would be lower than the current power rate Eversource provides. He noted a recent announcement from Eversource regarding a significant decrease in their rates.

### 3) **OLD BUSINESS**

A) Any old business that may come before the Board.

### 4) **NEW BUSINESS**

A) **Hawkins Family Revocable Trust is seeking [minor site plan](#) and [conditional use permit](#) approval for commercial and residential use at a property located at 5 Main Street in the Business (B) District, Map 11 Lot 210 SITE#20-2023, CUP#05-2023.**  
**PUBLIC HEARING**

Mears provided an overview of the application. She stated the applicant is proposing to reuse the existing building to have two commercial units on the first floor, two one-bedroom ADA apartments on the first floor, and four two-bedroom units on the second level. She said a Conditional Use Permit (CUP) is being sought to allow the two residential units on the first floor of the existing building. She said the property is located within the Business District in the Form Based Code Overlay Area 3 and the Special Parking Overlay District. She noted the applicant is seeking four waivers including the traffic study, drainage study, school availability, and landscape design standards.

**FX Bruton** of Bruton and Berube, representative of the applicant, **Matt Hawkins**, and **Kevin McEneaney** of CivilWorks were in attendance to represent the application. He noted the applicant is excited to be investing in Somersworth with this project. He stated the project is the revitalization of the former police station. He noted the reasoning behind why the project needs a CUP and site plan approval, due to the project's location within the Form Based Code Overlay which doesn't allow for residential use on the first floor. He said this project will not involve any changes to the building façade or the footprint, all work is going to be internal. He noted the proposal is for two ADA one-bedroom units on the first floor. He said the Zone does not require any parking but they plan to provide the spaces onsite if they are unable to lease the spots from the City. He said there

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would be four two-bedroom units in the upper portion of the building and the lower portion of the building would be two commercial businesses, one would be a grab and go eatery in the downstairs area and the other commercial space would be an indoor play area for children. He said there may be a small patio but it wouldn't impact public access to the park area on the property. He provided an overview of their responses to the CUP requirements with reference to public use of the park area, the revitalization of the building façade, the benefits of providing ADA units, and the project's alignment with the City's Master Plan.

Rhodes opened the public hearing.

No comments or correspondence were received.

Rhodes closed the public hearing.

**MOTION:** Belmore MOVED that the site plan and conditional use permit application for Hawkins Family Revocable Trust be ACCEPTED AS COMPLETE FOR REVIEW.

The MOTION was SECONDED by Robidas.

The MOTION CARRIED 9-0-0.

Haberman asked about the requirements that would ensure the units are ADA compliant and what would qualify individuals to reside in an ADA unit.

Bruton stated the architect will be qualified to ensure the units are ADA compliant.

Belmore stated the leasing of City parking spaces would need to be approved by City Council.

Bruton stated he understood and that if the leasing of City parking spaces is not an option, they will put the parking onsite.

Goodwin asked for clarification on what is triggering site plan review. He asked whether the reasoning is that zoning requires ground floor commercial use and because the proposal is for residential on the first floor is what is triggering site plan review.

Mears stated the waiver requests are what triggers site plan review and the conditional use permit, as she can't waive Site Plan Review Regulations.

Goodwin asked for a visual of how they are proposing to reopen the storefront on the ground floor. He asked whether the units are going to be low income or a type of subsidized housing. He noted they are waiving landscaping completely. He said he is mostly ok with using existing vegetation onsite but if anything is damaged during construction, at minimum it needs to be replaced.

Bruton responded no, it is their intent to have those units utilized by individuals that require ADA units. He said they would maintain all existing vegetation and replace as needed. He referenced photos the Board has of the site including existing vegetation.

Witham echoed Belmore's statement that the approval of leasing City parking spaces would go through the City Council. He suggested the applicant consider planning to locate the parking spaces on their site as the City has limited handicap spaces in the downtown area. He said beyond that, he supports the project, restoring the building to what it once was. He noted a unique feature is that very few properties have onsite parking like this site. He noted there is a need for ADA units in the region and said he supports the CUP and the waivers. He said he welcomes a lot more kids in our

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school system as limited enrollment impacts educational programs and lessens educational opportunity for existing students. He reiterated his support for the project.

Richardson stated the City does need more kids in the school system. He said part of his concern is when Main Street is shut down for a City event. He said it is important to make sure handicap people still have access to those spaces.

Bruton noted those parking spaces are City-owned. He said there's so much parking in the parking field across the street, in the case that the handicap spaces have restricted access.

Robidas stated he has often thought it would be nice to see the building be brought back to what it used to look like. He said he is in support of the project including the waivers and the CUP. He noted the eatery wouldn't be a full-fledged restaurant and said another restaurant would be a benefit to the downtown.

Bruton stated they are limited by the size of the space but they are looking to be profitable. He reemphasized that there will likely be a small patio for people that visit the site but it would not be intrusive to the public park that is existing.

Witham noted that is not part of what the Board is reviewing but he said he assumes it could be minimal enough to be completed through an administrative process.

Mears responded yes, that can be done administratively.

Rhodes said he is encouraged to see the ADA spaces mentioned, more developers should be looking into it. He said having units like this in a downtown space allows for more opportunities for people to age in place. He noted he likes to see the maintenance of green space.

### Regional Impact

**MOTION:** Belmore MOVED that the site plan and conditional use permit application for Hawkins Family Revocable Trust **DOES NOT** HAVE POTENTIAL FOR REGIONAL IMPACT  
The MOTION was SECONDED by Horton.

Motion Carries 9-0-0.

### Waiver Requests:

#### 1. Section 10.1.2. Specifications for Plans and Documents to be Submitted – Traffic Study Per 22.A.12.4

**MOTION:** Belmore MOVED that the request of Hawkins Family Revocable Trust for a waiver from Section 10.1.2. requirement to provide a traffic study be APPROVED

The MOTION was SECONDED by Robidas.

The MOTION CARRIED 9-0-0.

#### 2. Section 10.1.3. Specifications for Plans and Documents to be Submitted – Drainage Study per 22.A.12.17

**MOTION:** Belmore MOVED that the request of Hawkins Family Revocable Trust for a waiver from Section 10.1.3. requirement to provide a drainage study be APPROVED.

The MOTION was SECONDED by Horton.

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The MOTION CARRIED 9-0-0.

3. **Section 12.11 School Availability (Residential Projects)** Information relative to the schools' availability shall be supplied by the applicant using the appropriate method and data outlined in The new Practitioner's Guide to Fiscal Impact Analysis, by Robert W. Burchell, David Listokin, and William R. Dolphin (1985: Rutgers, The State University of New Jersey), as hereafter updated.

**MOTION:** Belmore MOVED that the request of Hawkins Family Revocable Trust for a waiver from Section 12.11 requirement to provide information on School Availability be APPROVED.

The MOTION was SECONDED by Robidas.

The MOTION CARRIED 9-0-0.

4. **Section 12.6.b.xii LANDSCAPING DESIGN STANDARDS - General Requirements:** The applicant may request that the Planning Board determine that existing vegetation is suitably located, sufficiently visually impervious, and vigorous enough to be substituted for landscaping material required by these regulations

**MOTION:** Belmore MOVED that the request of Hawkins Family Revocable Trust for determination that the existing landscaping meets the intent of the landscaping design standards be APPROVED.

The MOTION was SECONDED by Witham.

The MOTION CARRIED 9-0-0.

### Conditional Use Permit

**MOTION:** Belmore MOVED that the request of Hawkins Family Revocable Trust for conditional use permit to allow two (2) residential units at street level be **APPROVED WITH THE FOLLOWING CONDITIONS:**

19.32.E.4 Criteria for granting a Conditional Use Permit:

- a. Both public and private buildings and landscaping contribute to the aesthetic value of the right of way and provide civic spaces.
- b. Development adequately accommodates automobiles, while respecting the pedestrian and the spatial form of public areas.
- c. The design of streets and buildings reinforces a safe environment, but not at the expense of accessibility.
- d. The architecture and landscape designs are inspired by local climate, topography, history, and building practice.
- e. Civic spaces and public gathering places are provided as locations that reinforce community identity and activity.

The MOTION was SECONDED by Robidas.

The MOTION CARRIED 9-0-0.

### Site Plan Application

**MOTION:** Robidas MOVED that the request of Hawkins Family Revocable Trust for [minor site plan](#) approval for commercial and six (6) residential unit multifamily use at a property located at 5 Main St be **APPROVED WITH THE FOLLOWING CONDITIONS:**

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### 1. PLAN REVISIONS:

- a. Please show the location of dumpster on the plan, this will need to be screened from public view as per Chapter 11A Dumpsters;
- b. Please show onsite parking;
- c. Please note the locations of existing landscaping on the plan;
  - i. The landscaping will be required to be kept in good condition; any dead or dying vegetation will need to be replaced
- d. Please show Utility connections upon submission of the As-built records;
- e. Include a note on the plan that indicates the development complies with current ADA standards;
- f. Please note on the plan that all commercial loading/unloading for deliveries shall not use the Main Street parking. Station Street or the private parking area shall be utilized to limit the infringement on traffic flow and parking.
- g. Please list all waivers granted on the plan.
- h. Parking shall be located on site.

### 2. CONDITIONS THAT MUST BE MET PRIOR TO FINAL APPROVAL

- a. The final plans shall bear the stamp and signature of the engineer, licensed land surveyor. Please submit five folded 24" x 36" paper copies of the full set of plans to the Office of Development Services for final endorsement.

### 3. CONDITIONS TO BE COMPLETED PRIOR TO THE START OF SITE WORK:

- a. Construction Cost estimate for this project shall be submitted to the Department of Development Services.
- b. A performance surety, in an amount agreeable to the Department of Development Services, but no less than 25% of the cost of site construction determined by the engineer's estimate of construction value, will be established for on-site erosion control and site restoration prior to any site work and off-site improvements. If all site work is completed as proposed this account will be refunded.
- c. Building Plans shall bear the stamp of a Certified Fire Protection Engineer licensed in New Hampshire to certify compliance with all egress, emergency lighting, smoke, heat, and CO detection systems, fire alarm monitoring and reporting systems, fire suppression systems, and any other fire protection or related life safety systems required by National and/or NH Code.
- d. A preconstruction meeting is required prior to the start of work. Please contact the Department of Development Services to schedule this at least 1 week prior to breaking ground.
- e. The applicant shall apply for a new Water and Sewer Connection Permit. The applicant will be required to pay standard water and sewer connection fees assessed on new properties connecting to the water and sewer system. Water fees will be based on the size of water meter needed and the sewer connection fees will be based on estimate of water used and equivalent number of bedrooms.

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- f. Per Section 19.23.E.9 the building shall display the designated address number in such a manner as to be a plainly visible from the street which abuts the main entrance to the property. Such numbers shall be a minimum of 3.5 inches in height and must be reflective.

### 4. CONDITIONS APPLICABLE DURING AND AFTER CONSTRUCTION:

- a. All outdoor lighting (including security lights) shall be down lit and shielded so no direct light is visible from adjacent properties and roadways.

### 5. AS-BUILT PLANS:

- a. Within thirty days of the completion of the project and prior to the issuance of an occupancy permit, an electronic As-Built Plan of the proposed development with details acceptable to the Department of Development Services shall be provided in a .pdf and paper copy. Once approved by the Department of Development Services the applicant shall submit final Asbuilts in both paper copy and on CD. This plan must be in a dwg or dxf file format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates.

**DURATION OF APPROVAL:** All conditional approvals shall be valid for a period of 120 days in which time all precedent conditions must be met or the approval shall be null and void. The applicant may request an extension no later than 14 days prior to expiration.

In accordance with NH RSA 676:-a and 674:39 if active and substantial development is NOT reached within 24 months after the date of approval the Planning Board may revoke the approval because of changes in City or State regulations and policies, changes in drainage patterns or traffic counts and/or changes in municipal utility considerations

**EXTENSIONS:** All requests for extension must be submitted in writing to the Department of Development Services no later 14 days prior to expiration with the appropriate fees. Failure to comply with the deadline dates without submission of a written request for extension will result in the approval being null and void.

**APPEAL PROCESS:** Pursuant to RSA 677:15, an aggrieved party may appeal this decision to the Strafford County Superior Court within 30 days of the date the Board voted to approve or disapprove the application, or to the ZBA pursuant to RSA 676:5, III within 30 days of the date the Board made its decision.

### **Discussion:**

Witham asked for clarification about Item F regarding commercial loading and unloading.

Mear stated the Site Plan Review Regulations require commercial loading and unloading to take place on a side street rather than a main street. She stated the utilization of Station Street is permitted.

The MOTION was SECONDED by Belmore.

The MOTION CARRIED 9-0-0.

**B) 85 Elm Street Somersworth LLC are seeking a [site plan amendment](#) to add residential units on a property located at 85 Elm Street and 20 Green Street the Business with Historic and Form-Based Codes Overlay (BHFBC) District, Assessor's Map 10 Lots 176 & 177, SITE#20-2022. PUBLIC HEARING**

Mears provided an overview of the application. She stated the applicant is seeking a site plan amendment to remove the underground parking garage and replace with twenty-four (24) residential units for a total of one hundred and fifty units (150) within the new four-story building. She said with the proposed revisions there have been changes made to the exterior of the building that have been approved by the HDC at their October meeting. She said the application was reviewed by the Site Review Technical Committee. She noted the updated traffic memo was recently submitted by the applicant. She said the application is complete and ready for review by the Board.

**MOTION:** Robidas MOVED that the application of 85 Elm Street Somersworth LLC be ACCEPTED AS COMPLETE FOR REVIEW.

The MOTION was SECONDED by Horton.

The MOTION CARRIED 9-0-0.

**Neil Hansen** of Tighe & Bond, the civil engineers for the project, project architect, **Adam Morrill**, and the applicants **Ben Stebbins** and **Rob Previti** were in attendance to represent the application. Hansen said since site plan approval in March, the building has been redesigned to add additional units where underground parking was previously located. He clarified the current total count for units is one hundred and fifty-two (152) residential units, including the six existing units, which brings the unit count to one hundred and fifty-eight (158) total units onsite. He said an original approval was for a reduction in parking with the condition that they receive a 1.3 parking space per unit ratio, he noted the applicant is still committed to meeting that ratio. He said the original conditions of approval were addressed in the plan set which were recently submitted in addition to revised plans to address comments received from the SRTC on December 6<sup>th</sup>. He noted they received additional peer review from the traffic engineer. He provided an overview of the amendments made to the site plan related to the additional units, including minor modifications to the Church Street driveway, six additional parking spaces on the south side of the building, the updated drainage report, and revisions to the landscaping plan.

Morrill stated the project received approval from the HDC in October 2023 for the infill of the lower-level Elm Street parking garage with units. He said during the approval process, there was a substitution to remove the lower-level brick and substitute it with clapboard siding. He noted the use of stamped concrete on the lower level was ultimately approved by the HDC.

Rhodes opened the public hearing.

**Matt Dinola**, an abutter, said he would like a timeline where he would be provided with information on any impact to him and his business including groundbreaking, utilities, power outages, access to Church Court, and any other items that may impact his land and business. In terms of traffic, he asked to be notified of any changes or potential impacts anticipated so he can plan appropriately. He expressed his concern about noise levels that may impact his business or tenants and he would like to see a schedule adhered to that does not impact himself or his property. He said he will require access to his property from Green Street and Church Court and would like to see access to his backyard from Church Court. He expressed his concern that lighting during and after construction be appropriately provided so as not to be too bright after dark. He said if there is

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any access issue to his property and his utilities, that he be notified well in advance of these events. He said if current parking be impacted, some agreeable solution be reached, and that he be contacted by the City or the developer. He noted he would prefer any abutting property to be landscaped tastefully with trees and shrubs to provide a visual and audible barrier between his property and the development. He requested that any utilities be maintained when the road gets repaired.

No additional comments or correspondence were received.  
Rhodes closed the public hearing.

Barry stated he is happy to see the applicants return before the Board and that things went well with the HDC. He said he likes the building design. He asked about the former plan to use 67 Elm Street for parking.

Previti stated 67 Elm Street is a great parcel for potential redevelopment. He said since their initial meetings with the SRTC, they have reconsidered how to utilize the parcel, as they have different options for where offsite parking will be. He said they would like to reserve 67 Elm Street for potential redevelopment in the future. He said if they have the opportunity to redevelop it as something other than a parking lot, they could come back without needing site plan approval. He said they would like to ensure to give the land the best possible use rather than for the area to be a parking lot.

Barry asked for information regarding the plan for leasing off-street parking and where that would be located.

Stebbins stated the off-street parking is all private and within two-to-three blocks of the site.

Previti stated they have 67 Elm Street in their back pocket as a source of offsite parking, but they don't want to necessarily incorporate the parcel into the project and prevent future redevelopment.

Robidas stated asked whether the existing building at 67 Elm Street will be demolished while they are considering how to redevelop 67 Elm Street.

Previti stated they have a demolition permit that requires the building to come down by the end of 2024.

Witham stated he doesn't have any objection to removing underground parking and converting that space into residential units. He noted that does require more creativity for meeting the 1.3 parking ratio. He asked whether offsite spaces need to be articulated as part of site plan approval.

Mears stated that is discussion for the Board. She noted the applicant is working on reserving parking spaces within walking distance of the site. She said she thinks staff could handle this administratively to ensure the applicants meet the 1.3 parking ratio requirement.

Previti stated they are trying to avoid making long-term lease commitments prior to receiving site plan approval. He said they would like to handle that in the period between site plan approval and applying for the building permit.

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Witham presented the scenario where a property owner sells their property and the new owner doesn't renew the parking lease agreements with the applicants. He asked how they would navigate that situation to ensure they meet the parking ratio agreement.

Previti stated that is their risk. He said they are hoping to secure parking long term so changes in ownership wouldn't be a concern.

Mears stated there is a condition in final plan approval that lease agreements would have to be recorded at the Registry of Deeds and would need legal review as well.

Witham stated it is important that the parking agreement be memorialized and recording the lease agreements will do that. He said a net positive of the project is that they will reduce the grade on Church Street. He asked if there will be a vertical granite curb installed on Church Street when it gets reconstructed.

Hansen responded yes; they are installing drainage structures at the bottom of the hill. He said the grade is a percent better but the road is steep.

Richardson stated he was glad to see the project was approved by the HDC. He asked for more information on the plan for the dumpster.

Hansen stated they have not changed the original configuration, there will be one location and two roll-out dumpsters. The dumpsters would need to be rolled out of the enclosure for the truck to pick them up. He noted they are smaller than a traditional dumpster so the pickup frequency will likely need to be higher than a typical apartment building.

Goodwin stated the original proposal was for one hundred and twenty-eight (128) units, and asked whether they are proposing to convert the underground parking level to fourteen additional units and they are picking up ten additional units from reconfiguring the existing unit layout.

Morrill stated they are picking up eleven units on the lower level and the thirteen additional units are from reconfiguring existing unit layouts. He noted the units were originally oversized and now they are a reduced market size.

Goodwin stated they are in need of 206 parking spaces and they have 147 spaces secured, leaving 59 spaces to secure. He said he would like to have a sense of security that those are secured. He said he likes the revised building design, it's an improvement. He noted he recalls there was more vegetation on Elm Street. He said he's not too worried about the height of the structure but it's an unforgiving street experience on Elm Street and it would be improved by additional plantings. He referenced the current landscape plan along Elm Street and said he's worried about the gaps.

Hansen stated he doesn't believe they removed any landscaping from Elm Street that was on the prior approval.

Goodwin asked whether they would be open to installing additional landscaping.

Hansen stated the concrete goes right up to the building on eighty percent of the building.

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Goodwin encouraged them to install additional tall shrubs to soften up the edge between the six-story building and the sidewalk.

Previti stated they are open to that if it could be administrative.

Horton stated he likes the amendments to the plan. He asked whether the proposed lighting plan will remain. He asked whether, throughout the project, good communication could be maintained with the Planning Department to ensure abutters are notified of impacts.

Hansen stated the intent of the lighting plan would be the same as the original approval. Layout of the parking area didn't change. One of the original approvals had to do with adding lighting on Elm.

Previti stated there will be a construction mitigation plan that will cover that.

Witham stated he thinks the abutter's comments regarding lighting are addressed by the prior plan set. He stated the Department of Public Works and the City Engineer will keep abutters informed. He noted Dinola's request is reasonable to receive notice so he can plan accordingly.

### Regional Impact

**MOTION:** Horton MOVED that the request of 85 Elm Street Somersworth LLC **DOES NOT HAVE POTENTIAL FOR REGIONAL IMPACT**

The MOTION was SECONDED by Robidas.

The MOTION CARRIED 9-0-0.

### Site Plan Application

**MOTION:** Horton MOVED that the request of 85 Elm Street Somersworth LLC for site plan amendment to remove the underground parking and add 24 additional residential units for a total of 152 units within the new 4-story building and a total of 158 units on site **APPROVED WITH THE FOLLOWING CONDITIONS:**

#### 1. PLAN REVISIONS:

- a. Revise Sheet 1 of 1 by Horizons be updated for Lot 176 to reflect the applicant owns the property and the ownership of Church Court to be updated as City owned ROW;
- b. Please update G-100 Notes, under Grading and Drainage Notes #8 for the contractor to confirm with City staff the condition of the manhole in Washington Street. The structure may need to be replaced to upsize the storm drain connection if in poor condition at developer's expense.
- c. Any outstanding comments from the Third-Party Review completed by Horsley Witten for the drainage report shall be addressed to the satisfaction of the Director of Planning and Community Development .
- d. All outstanding comments associated with Site Plan amendment from Third Party Review Vanasse and Associates, INC. will be addressed to the satisfaction of the Director of Planning and Community Development.

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- e. Landscaping shall be added to Elm Street side of building to the satisfaction of the Director of Planning and Community Development.
2. CONDITIONS THAT MUST BE MET PRIOR TO FINAL APPROVAL
    - a. Applicant shall provide draft lease agreements/site plan identifying offsite parking prior to final endorsement of plans. These lease agreements will be required to be reviewed by the City's legal. An escrow shall be collected in the amount of \$1,000 or as determined by the Director of Planning and Community Development to cover the cost of review. All parking lease agreements/license and associated site plan shall be recorded at the Strafford County Registry of Deeds prior to the issuance of the Certificate of Occupancy. This shall also include access/parking easements for Map 10 Lot 178.
    - b. The final plans shall bear the stamp and signature of the engineer, licensed land surveyor, and the landscape architect. Please submit five folded 24" x 36" paper copies of the full set of plans to the Office of Development Services for final endorsement.
    - c. FEDERAL AND STATE PERMITS: All Federal and State permits shall be in place before plan signing and recording, including NHDES Alteration of Terrain.
  3. CONDITIONS TO BE COMPLETED PRIOR TO THE START OF SITE WORK:
    - a. Construction Cost estimate for this project shall be submitted to the Department of Development Services.
    - b. Building Plans shall bear the stamp of a Certified Fire Protection Engineer licensed in New Hampshire to certify compliance with all egress, emergency lighting, smoke, heat, and CO detection systems, fire alarm monitoring and reporting systems, fire suppression systems, and any other fire protection or related life safety systems required by National and/or NH Code.
    - c. A preconstruction meeting is required prior to the start of work. Please contact the Department of Development Services to schedule this at least 1 week prior to breaking ground.
    - d. An escrow account, in an amount set by the City's contract Engineer and agreeable to the Department of Development Services, will be established for site construction inspections prior to any site work.
    - e. A performance surety, in an amount agreeable to the Department of Development Services, but no less than 25% of the cost of site construction determined by the engineer's estimate of construction value, will be established for on-site erosion control and site restoration prior to any site work and off-site improvements. If all site work is completed as proposed this account will be refunded.
    - f. The applicant shall apply for a new Water and Sewer Connection Permit. The applicant will be required to pay standard water and sewer connection fees assessed

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on new properties connecting to the water and sewer system. Water fees will be based on the size of water meter needed and the sewer connection fees will be based on estimate of water used and equivalent number of bedrooms.

- g. Erosion control shall be properly installed on site PRIOR to any construction. Erosion control shall be properly maintained throughout construction; any breaks or breeches shall be repaired within 48 hours of the storm event.
- h. All applicants requiring a Stormwater Management and Erosion Control Plan shall submit relevant pollutant accounting information to the Director of Planning and Community Development as required by the Director of Public Works. Relevant pollutant tracking information shall be submitted prior to holding the pre-construction meeting. Post construction pollutant information must be entered at the time as-builts are submitted.
- i. The applicant shall obtain all applicable permits through the Department of Public Works, this shall include but not limited to, driveway permit, utility pole license and trench permits.
- j. LANDSCAPING SURVIVAL SECURITY: Ten percent (10%) of the total cost of landscaping or a minimum of five hundred (\$500) dollars, whichever is greater, shall be held for a period of 2 growing seasons to guarantee the survival of the landscaping installation.
- k. The structures will require new address assignments. Please submit a request for a new address to the City Engineer. If a hearing before the E-911 Committee is required, this hearing must occur prior to the issuance of Building Permits.
  - i. Per Section 19.23.E.9 the building shall display the designated address number in such a manner as to be a plainly visible from the street which abuts the main entrance to the property. Such numbers shall be a minimum of 3.5 inches in height and must be reflective.

#### 4. CONDITIONS APPLICABLE DURING AND AFTER CONSTRUCTION:

- a. A copy of the completed Stormwater Inspection & Maintenance Log shall be provided to the Development Services Department annually on or before July 1st. This requirement shall be an ongoing condition of approval and noted on the final plans.
- b. All landscaping shown on plans shall be maintained and any dead or dying vegetation shall be replaced in a timely manner as long as this site plan remains valid.
- c. All outdoor lighting (including security lights) shall be down lit and shielded so no direct light is visible from adjacent properties and roadways, except for those permitted by the Planning Board.
- d. All conditions listed in the March 15, 2023 SITE#20-2023 and CUP#01-2023 notice of decision shall remain applicable to this project.

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- e. Proper backflow devices shall be installed prior to the issuance of a Certificate of Occupancy

### 5. AS-BUILT PLANS:

- a. Within thirty days of the completion of the project and prior to the issuance of an occupancy permit, an electronic As-Built Plan of the proposed development with details acceptable to the Department of Development Services shall be provided in a .pdf and paper copy. Once approved by the Department of Development Services the applicant shall submit final As-builts in both paper copy and on CD. This plan must be in a dwg or dxf file format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates.

**DURATION OF APPROVAL:** All conditional approvals shall be valid for a period of 120 days in which time all precedent conditions must be met or the approval shall be null and void. The applicant may request an extension no later than 14 days prior to expiration.

In accordance with NH RSA 676:-a and 674:39 if active and substantial development is NOT reached within 24 months after the date of approval the Planning Board may revoke the approval because of changes in City or State regulations and policies, changes in drainage patterns or traffic counts and/or changes in municipal utility considerations

**EXTENSIONS:** All requests for extension must be submitted in writing to the Department of Development Services no later than 14 days prior to expiration with the appropriate fees. Failure to comply with the deadline dates without submission of a written request for extension will result in the approval being null and void.

**APPEAL PROCESS:** Pursuant to RSA 677:15, an aggrieved party may appeal this decision to the Strafford County Superior Court within 30 days of the date the Board voted to approve or disapprove the application, or to the ZBA pursuant to RSA 676:5, III within 30 days of the date the Board made its decision.

The MOTION was SECONDED by Goodwin.

### **Discussion:**

Witham stated he appreciates the reference to the March 15<sup>th</sup> conditions of approval. He said a lot of work has been completed to get where the project is today. He said in the March 15<sup>th</sup> conditions of approval, a significant discussion point was about a pest mitigation plan, which is still a condition of approval.

The MOTION CARRIED 9-0-0.

- C) **Bridgestone Retail Operations, LLC are seeking a [site plan amendment](#) to remove the rear door closure requirement on a property located at 442 High Street, Map 38, Lot 3 SITE#21-2023. PUBLIC HEARING**

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Mears provided an overview of the application. She referenced a condition of approval of the applicant's site plan to keep the rear garage doors closed with the exception of vehicles entering and exiting. She noted the requirement for the existing vegetation on the northeast side of the lot along the applicant's property line shall be preserved in an effort to retain a buffer from the commercial use. She noted the applicant received a special exception through the Zoning Board to operate a Motor Vehicle Repair Garage Station, with a note from the ZBA that the Planning Board shall pay special attention to the noise of the garage and impact to residential neighborhoods on High Street and Middle Street, and traffic flow on Middle Street. She noted the applicant has been before the Planning Board for compliance hearings regarding the condition of approval to keep their garage doors closed during business operations. She said the applicant is seeking an amendment to the site plan by requesting to remove the rear door closure requirement.

**MOTION:** Horton MOVED that the application of Bridgestone Retail Operations, LLC be ACCEPTED AS COMPLETE FOR REVIEW  
The MOTION was SECONDED by Robidas.  
The MOTION CARRIED 8-0-0.

**Patrick Casella**, Area Manager of Firestone Complete Autocare was in attendance to represent the application. He said they are seeking the amendment to their site plan due to the number of hearings he has been called to versus the number of complaints they have received from residents about keeping the garage doors open. He said in 2022, the business received a notification from a resident that had submitted a complaint regarding noise from the garage doors being left open. He said the business took swift action to correct the issue by placing signage inside the building and heightening the awareness of their procedures and policies in place by putting a timestamp on closing the doors. He noted the second time he was called before the Planning Board was in June. He said he commends the City for holding the business accountable for their requirements. He said he wants to make it clear if the site plan amendment is approved, it will not change the business' behavior in ensuring awareness of their bay doors and that they are shut in a timely fashion.

Mears stated she did not have any correspondence to share.

**Jessica Brackett** of **3 Shabot Street** stated the disturbances do not equate to the number of escalations the area manager expressed, they are frequent and severe. As a neighbor at the time of the original Planning Board approval, she said she had expressed concern about another vehicle repair garage being built so close to the neighborhood and there were multiple waivers and very few conditions. She said Firestone has not been respectful of the agreement and they often keep their garage doors open. She said the requirement should be enforced more strictly, not allowed to be removed. She said she has an unobstructed line of sight of their garage doors and security lights from her living room. She said her and her neighbors are denied enjoyment of their own property as they are subjected to loud banging of metal on metal and mechanics yelling while in their homes and in their yards. She said the mechanics use the neighborhood as their test track which requires that they illegally turn left into their cul de sac and drive with excessive noise and speed. She said she strongly recommends that Firestone be denied the removal of the rear door closure requirement, and noted it is a very reasonable expectation. She said just because they are courteous and try to be tolerant does not mean they are not disturbed. She asked that the Board more strictly enforce the requirement.

**David Parker** of **1 East Street** stated there have been a number of complaints where the business has not abided by the rules established by the Planning Board. He said it appears they are willing to

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violate the regulations and he hopes the Board doesn't take away the requirement to protect their quiet neighborhood from the noise.

**Andre Martineau** of **6 East Street** stated he and his family walk their dogs around the neighborhood several times a day. He said the last two days, they have observed the doors have been open. He said their quality of life has changed dramatically since Firestone opened their business. He said the business' lights are so high, they shine into their houses, the doors are left open, and the tools and equipment are loud, and he sees the mechanics conducting test drives in the neighborhood. He shared a recent occurrence where his daughter had to pick up his granddaughter due to cars speeding in the neighborhood. He said the doors are open almost all the time, it's not watched or regulated. He said they keep their doors to the backyard closed because it is so loud. He said it's unfair to residents. He noted the vinyl fence and trees that were installed for a buffer that offer little to no noise protection. He said the business has installed signs along High Street which makes it difficult to see cars when turning right. He said he hopes the Board will listen to abutters' concerns and not approve the site plan amendment.

**Mike Machado** of **2 Ruel Street** stated he abuts the site. He referenced the landscape buffer and he said the buffer trees on his property are fine but the buffer trees on the other side of the property line are dead. He said he built a big porch and he can't sit out there anymore. He noted the noise created by the business is irritating.

**Cynthia Paraski** of **27 Ruel Street** stated she has lived in the neighborhood for twenty years. She stated the doors will be open and vehicles travel the wrong way down the street and race around the neighborhood. She said instead of removing the restriction, it should be further enforced. She said the business is disrupting their lives and the neighborhood hasn't been the same since Firestone moved in.

**David Brackett** of **3 Chabot Street** stated he is in agreement with all the opinions that have been voiced. He said this is not the first time they have dealt with vehicle repair and tire shops in their neighborhood. He referenced a former issue with subletters at the back of what was previously Bread and Butter where they experienced issues with unmitigated auto repair. He said if enforcement is removed, any promises of continued behavior have no weight. He said they need the ability to have a recourse to address these issues. He said the fact that they have so many infractions shows they aren't true to their word.

**Josh Baro** of **4 Ruel Street** stated he recently moved to Somersworth. He said Firestone came up with the realtor when he asked about noise. Their realtor referenced the condition of approval that the rear doors need to be kept closed. He said he notices the doors are often left open. He said a sign with no penalty doesn't stop anything from happening as there is no incentive. He said he thinks the penalties should be increased.

**Lori Martineau** of **6 East Street** stated their first few years were wonderful since moving to their property in 2016. She said now she needs to keep her french doors closed. On some days, she said the noise is so loud she is forced to go into the office, as she typically works from home. She noted it is difficult to enjoy their backyard due to noise from the business.

Rhodes closed the public hearing.

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Witham stated there have been two compliance hearings held with Firestone, which are generated when violations of site plan approval processes occur. In this case, the violation was the condition of approval to keep the rear doors shut. He noted the issue of the door being left open was recently identified by the City's Code Compliance Officer. He said he understands the doors being open creates a nuisance and it may seem odd to have a condition for a door to remain shut. He said he believes the applicant is trying; however, the weakest link is the human element and like many businesses, there is an ebb and flow of employees, it's hard to maintain a consistent workforce. He said he can't support the site plan amendment tonight. He referenced the new Jeep dealership that abuts a residential neighborhood. He said the Planning Board had a robust discussion about their doors and noise. He noted the space where the mechanics work in the Jeep dealership is air conditioned and the mechanics use battery operated tools. He said this is an issue that will require ongoing work but at this time, removing this requirement doesn't help the cause.

Barry thanked the abutters for coming out. He noted that having a business with rear doors facing a neighborhood will project sound, it's unclear how loud it will be. He noted the efforts that have been made by installing trees and the fence. He said he doesn't think there should be doors on the back of the building at all. He asked whether the Board has the ability to advise to turn the doors into a wall. He asked Casella for his thoughts on the building having doors on one side.

Casella stated he doesn't think it's a solution, as removing those doors heightens the risk of safety to employees and compliance issues. He said he thinks the next course of action would be getting timers on the doors to close automatically within a particular timeframe. He said even with the front doors open, there would likely be a little bit of sound that reaches the back of the building.

Barry stated what may be considered a normal sound to a mechanic can be excruciating to a resident. He noted his previous recommendation to consider doors with timers that close within 45 seconds and to keep them as closed as possible.

Casella stated the last thing they want to do is impact the lives of residents and the fact that the business is impacting them is a problem.

Belmore stated at the last compliance hearing, it was expressed that the mechanics weren't conducting test drives in the neighborhood but the testimony today is different. He noted the Code Compliance Officer has been noticing the door remaining open, in addition to himself and Councilor Witham. He encouraged the neighbors to call the Code Office if they notice a compliance issue. He said there is nothing the Board can do besides revoke the site plan itself and the Board would require Firestone to install door timers if they reapplied. He said he would speak with the Police Department about ensuring there is directed patrol in the neighborhood from time to time to ensure mechanics are not speeding.

Casella stated their mechanics are advised to drive onto High Street and into the Walmart parking lot to test vehicles.

Belmore stated he concurs with the abutters' comments regarding Monro Muffler. He said they have been in business in that location for twenty years and he has never heard of any complaints from abutters about noise being an issue.

Goodwin stated he is not in favor of removing the condition. He said he thinks the City's zoning shouldn't allow these types of uses this close to residential. He said the City wants to be business

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friendly but not at the expense of residents' lives. He said on Middle Street, there are arborvitae plants located along the fence line. He asked if those plants are still in place.

Casella stated Northeast Landscape controls their landscaping.

Mears stated Firestone was out of compliance for their landscaping, so the Code Compliance Officer sent them a notice of violation for that. She said they did replant some of their landscaping this summer.

Goodwin stated the strip of land behind the business' fence could be an opportunity to plant a taller evergreen tree that would shield the light and sound from going into the neighborhood. He noted that would be a low-cost way to mitigate concerns but monitoring the doors is the key issue.

Casella stated they would be open to that option; their only delay would be the weather.

Richardson referenced a mechanic in Dover where the doors close when not obstructed. He made the point that the business is responsible for abiding by the regulations set forth by the City.

Casella stated it is the first time he is hearing the test drive route has not been modified. He noted it was the Board's recommendation to apply for a site plan amendment to resolve the issue. He assured the Board these issues will be addressed immediately.

**MOTION:** Robidas MOVED that the request of Bridgestone Retail Operations, LLC for a [site plan amendment](#) to remove the condition to require that the rear door shall remain closed during business operations with the exception of vehicles entering and exiting on property located at [442 High Street](#) be DENIED.

The MOTION was SECONDED by Belmore.

### **Discussion:**

Rhodes stated over the course of the past few years since Firestone opened, there were conditions placed on the original approval to try to reduce the impact to the neighborhood and those have not been followed. He said it is clear the business is not abiding by the conditions put on them and he suggested the City begin gathering the documentation to revoke the site plan.

The MOTION CARRIED 9-0-0.

**D)** Any new business that may come before the Board.

### 5) **WORKSHOP BUSINESS**

**A)** Revision of Subdivision Regulations – Chapter 22

**MOTION:** Belmore MOVED to TABLE the Workshop Business to the January 15<sup>th</sup>, 2024 Planning Board meeting.

The MOTION was SECONDED by Horton.

The MOTION CARRIED 9-0-0.

### 6) **COMMUNICATIONS AND MISCELLANEOUS**

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Mears asked that the Board review the Subdivision Regulations prior to the next meeting and to bring any comments they may have.

Witham stated he has been following the construction of the new car wash on High Street. He said he flagged the trench that was dug into High Street for either water or sewer to Public Works. He said he thinks the project changed hands after the Planning Board approved it and he asked that staff review the plan set the Board approved.

Robidas noted there is a project on Route 108 behind the ambulance operation that should be monitored and reviewed.

**MOTION: Robidas** MOVED to ADJOURN the meeting.

The MOTION was SECONDED by Belmore

The MOTION CARRIED 9-0-0.

The meeting was adjourned at 8:43pm.

Respectfully submitted,  
Anna Stockman, Planning Secretary