
MEMORANDUM

To: Planning Board
From: Juliet T.H. Walker, Planning Director *JTW*
Subject: Staff Recommendations for October 19, 2017 Planning Board Meeting
Date: October 13, 2017

II. DETERMINATIONS OF COMPLETENESS

A. SITE REVIEW

1. The application of **City of Portsmouth, Owner**, for property located at **305 Greenland Road**, requesting Site Plan Approval.
2. The application of **Borthwick Forest, LLC, and KS Borthwick, LLC, Owners**, and **Borthwick Forest, LLC, Applicant**, for property located **on proposed subdivision road to be created off Borthwick Avenue**, requesting Amended Site Plan Approval.
3. The application of **Deer Street Associates, Owner**, for property located at **181 Hill Street**, (“Lot 6”), requesting Site Plan Approval.
4. The application of **Provident Bank, Owner**, for property located at **25 Maplewood Avenue**, requesting Site Plan Approval.

Planning Department Recommendation

Item 2 has requested a postponement to the November 16, 2017 Planning Board Meeting. Vote to determine that the applications for Items 1, 3 & 4 are complete according to the Site Plan Review Regulations and to accept the applications for consideration.

B. SUBDIVISION

1. The application of **Westwind Townhomes of Portsmouth Condominium Association, Owner**, for property located at **1177 Sagamore Avenue**, and **Kevin P. Slover, Owner**, for property located at **20 Odiorne Point Road**, requesting Preliminary and Final Subdivision Approval (Lot Line Revision).

Planning Department Recommendation

Vote to determine that the application is complete according to the Subdivision Regulations and to accept the application for consideration.

III. PUBLIC HEARINGS – OLD BUSINESS

- A. The application of **Goodman Family Real Estate Trust, Owner, and Aroma Joe's Coffee, Applicant**, for property located at **1850 Woodbury Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct a 785 ± s.f. restaurant/take-out building and 195 ± s.f. attached patio, with drive thru service and a walk –up window, with 6,870 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 239 as Lot 9 and lies within the General Business (BD) District. *(This application was postponed at the August 17, 2017 and September 21, 2017 Planning Board Meeting).*

Description

The applicant has requested to postpone to the November 16th Planning Board meeting.

Planning Department Recommendation

Vote to postpone this application to the November 16, 2017 Planning Board meeting

III. PUBLIC HEARINGS – OLD BUSINESS (cont.)

- B.** The application of **City of Portsmouth, Owner**, for property located at **305 Greenland Road**, requesting Site Plan Approval for the construction of a recreational field, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 241, Lot 18 and lies within the Municipal (M) District. *(This application was postponed at the September 21, 2017 Planning Board Meeting).*

Technical Advisory Committee Review

The TAC reviewed this application on January 31, 2017 and voted to recommend approval with the following stipulations:

- 1) DPW will do final review to address the questions that were raised by members of the public at the TAC hearing.

The DPW has completed a final review and held a neighborhood meeting on October 4, 2017 and no modifications have been made to the plans as a result.

<u>Planning Department Recommendation</u>

<i>Vote to grant site plan approval as presented.</i>

III. PUBLIC HEARINGS – OLD BUSINESS (cont.)

- C. The application of **Cristin Pugliese, Owner**, for property located at **5 Buckminster Way**, requesting Conditional Use Permit approval to create a two-story, two-bedroom 1,083 ± s.f. attached accessory dwelling unit in an existing building, with associated paving, lighting, and utilities. Said property is shown on Assessor Map 282 as Lot 6-23 and lies within the Single Residence A (SRA) District.

Description

The applicant is proposing to convert an existing two-story addition to a two-bedroom accessory dwelling unit.

Because the resulting unit will be an attached accessory dwelling unit (AADU), the provisions of Sec. 10.814.40 apply. Per Section 10.814.80, the applicant is seeking modifications to the dimensional requirement for the size of the accessory dwelling unit.

Section 10.521 Dimensional Requirements

	Required	Provided / Proposed
Min. lot area (sf)	43,560	43,995
Lot area / dw unit (sf)*	43,560	43,995
Street frontage (ft)	150	>150
Lot depth (ft)	200	>200
Primary front yard (ft)	30	>30
Right side yard (ft)	20	>20
Left side yard (ft)	20	>20
Rear yard (ft)	40	>40
Height (ft)	35	<35
Bldg coverage (%) max.	10%	<10%
Open Space (%) min.	50%	>50%
Parking (#)	4	4

* For an attached accessory dwelling unit, the lot area per dwelling unit requirement only applies to the principal single family use.

In addition to the dimensional requirements of Section 10.521 above, the Ordinance requires that an AADU comply with the following standards (Section 10.814.30 and 10.814.40).

Required Standard	Planning Department Comments
The principal dwelling unit and the accessory dwelling unit shall not be separated in ownership.	The applicant has indicated compliance with this requirement, verification will be required in order for a certificate of use to be issued.
Either the principal dwelling unit or the accessory dwelling unit shall be occupied by the owner of the dwelling.	The applicant has indicated compliance with this requirement, verification will be required in order for a certificate of use to be issued.
Neither the principal dwelling nor the accessory dwelling unit shall be used for any business, except that the property owner may have a home occupation use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.	The applicant has indicated compliance with this requirement.
In addition to the two off-street parking spaces required for the single-family dwelling, two parking spaces shall be provided for an ADU larger than 400 sq. ft.	Adequate off-street parking is being provided.
An interior door shall be provided between the principal dwelling unit and the ADU.	An interior door is being provided.
The ADU shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area.	The application has requested a modification to this requirement to allow the ADU to be 1,000+/- sq. ft. to allow the creation of a 2-story, 2-bedroom accessory unit with 1 full bath and kitchen, in addition to a living room and den. With the larger GFA and as currently designed, the AADU would be more akin to a principal dwelling than an accessory unit. Having two principal dwellings on a lot is not consistent with the intended purpose of a single family residential district and a similar request was denied by the Zoning Board of Adjustment in the past.

Required Standard	Planning Department Comments
Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling.	The applicant is not proposing any modifications to the exterior of the residence.

In order to grant a conditional use permit for an ADU, the Planning Board must first make the following findings (Sec. 10.814.60):

Required Findings	Planning Department Comments
1. Exterior design of the ADU is compatible with the existing residence on the lot through architectural use of building forms, scale and construction materials.	The applicant is not proposing to modify the exterior of the existing residence and the proposed AADU will be located in an existing addition.
2. The site plan provides adequate open space and landscaping that is useful for both the ADU and the primary dwelling.	Both the primary dwelling and the AADU will have access to usable open space and the existing landscaping on the property will not be altered.
3. The ADU will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties.	While the exterior design of the building is not changing, with the request to allow a larger GFA and as currently designed, the AADU would be more akin to a principal dwelling than an accessory unit. Having two principal dwellings on a lot is not consistent with the intended purpose of a single family residential district.
4. The ADU will not result in excessive noise, traffic or parking congestion.	Adequate off-street parking is provided and the location of this property at the intersection of two principal roads is unlikely to create a noticeable change in traffic. If the AADU is used more like a principal dwelling than an accessory unit as a result of the increased GFA, there is some potential for impact on noise and traffic, while unlikely to be excessive.

Aerial photo showing the relationship of the lot to surrounding lots and buildings:



Planning Department Recommendation

1. *Vote to find that the application satisfies the requirements of 10.814.60.*
2. *Vote to grant the conditional use permit, with the following stipulations:*
 - a) *The ADU shall be restricted to the first floor of the addition only.*
 - b) *The owner shall provide documentation from the NH Department of Environmental Services that the property has adequate septic capacity for the additional 2-bedrooms.*
 - c) *In accordance with Sec. 10.814.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.*

III. PUBLIC HEARINGS – OLD BUSINESS (cont.)

- D. The application of **Paul and Janice Lanzoni**, Owners, for property located at **411 South Street**, requesting Conditional Use Permit approval to create a 1-story, one-bedroom attached accessory dwelling unit on the second floor of a two-car garage, with gross floor area of 588 ± s.f., with associated paving, lighting, and utilities. Said property is shown on Assessor Map 112 as Lot 55 and lies within the General Residence A (GRA) District. *(This application was postponed at the September 21, 2017 Planning Board Meeting).*

Description

The applicant proposes to demolish an existing detached garage and construct an attached garage in its place with an accessory dwelling unit on the second floor.

Per the requirements of Section 10.814.20, except as otherwise modified in Section 10.814, a property that is adding an accessory dwelling unit is subject to all of the land use regulations that would be applicable to a single family dwelling including dimensional requirements. Because the existing and proposed garage/AADU does not conform for rear yard setback, side setback and building coverage, zoning relief is required. This application is on the agenda for the Zoning Board of Adjustment for October 17, 2017.

Because the resulting unit will be an attached accessory dwelling unit (AADU), the provisions of Sec. 10.814.40 apply.

Section 10.521 Dimensional Requirements

Required Provided / Proposed

Min. lot area (sf)	7,500	8,581
Lot area / dw unit (sf)*	7,500	8,581
Street frontage (ft)	100	>100
Lot depth (ft)	70	>70
Primary front yard (ft)	15	>15
Right side yard (ft)	10	10
Left side yard (ft)	10	>10
Rear yard (ft)	20	6.5
Height (ft)	35	<35
Bldg coverage (%) max.	25%	26.4%
Open Space (%) min.	30%	37.3%
Parking (#)	4	4

* For an attached accessory dwelling unit, the lot area per dwelling unit requirement only applies to the principal single family use.

In addition to the dimensional requirements of Section 10.521 above, the Ordinance requires that an AADU comply with the following standards (Section 10.814.30 and 10.814.40).

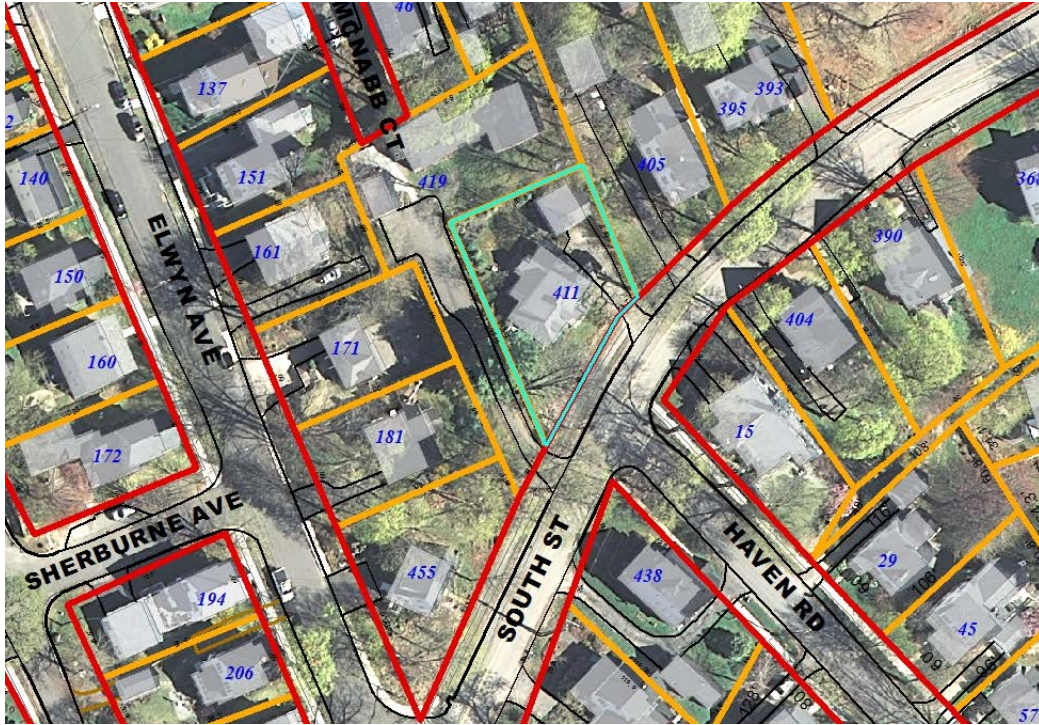
Required Standard	Planning Department Comments
The principal dwelling unit and the accessory dwelling unit shall not be separated in ownership.	The applicant has indicated compliance with this requirement, verification will be required as a condition of approval.
Either the principal dwelling unit or the accessory dwelling unit shall be occupied by the owner of the dwelling.	The applicant has indicated compliance with this requirement, verification will be required in order for a certificate of use to be issued.
Neither the principal dwelling nor the accessory dwelling unit shall be used for any business, except that the property owner may have a home occupation use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.	The applicant has indicated compliance with this requirement.

Required Standard	Planning Department Comments
In addition to the two off-street parking spaces required for the single-family dwelling, two parking spaces shall be provided for an ADU larger than 400 sq. ft.	Adequate off-street parking is being provided.
An interior door shall be provided between the principal dwelling unit and the ADU.	An interior door is being provided.
The ADU shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area.	The application meets these requirements.
Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling.	Planning Department staff have provided comments on the proposed exterior design of the attached ADU below.

In order to grant a conditional use permit for an ADU, the Planning Board must first make the following findings (Sec. 10.814.60):

Required Findings	Planning Department Comments
<p>1. Exterior design of the ADU is compatible with the existing residence on the lot through architectural use of building forms, scale and construction materials.</p>	<p>1. The ordinance defines an accessory dwelling unit as being “subordinate” to the principal building. With that in mind, staff feels that the height of the attached ADU addition should not be higher than the primary dwelling unit.</p> <p>2. The south (front) elevation and the three windows on the proposed dormer should all be dimensioned/interspersed equally. Additionally, they should match the windows in the existing doghouse dormers.</p>
<p>2. The site plan provides adequate open space and landscaping that is useful for both the ADU and the primary dwelling.</p>	<p>Both the primary dwelling and the AADU will have access to usable open space and the existing landscaping on the property will not be altered substantially.</p>
<p>3. The ADU will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties.</p>	<p>Staff comments regarding Criteria (1) also apply here.</p>
<p>4. The ADU will not result in excessive noise, traffic or parking congestion.</p>	<p>Adequate off-street parking is provided and the location of this property on a primary road through a densely built neighborhood is unlikely to create a noticeable change in traffic.</p>

Aerial photo showing the relationship of the lot to surrounding lots and buildings:



Planning Department Recommendation

1. *Vote to find that the application satisfies the requirements of 10.814.60.*
2. *Vote to grant the conditional use permit as presented, with the following stipulations:*
 - a) *The applicant shall modify the architectural design of the proposed AADU according to the guidance provided by the Planning Department.*
 - b) *In accordance with Sec. 10.814.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.*

III. PUBLIC HEARINGS – OLD BUSINESS (cont.)

- E. The application of **James A. Mulvey Revocable Living Trust, Robert J. Bossie Revocable Trust and Peter Brown Living Trust, Owners**, for property located at **150 Spaulding Turnpike**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to remove two buildings, remove pavement and replace with pervious and impervious pavement, for a truck sales outlet with vehicle storage, with 2,570 ± s.f. of permanent impact to the wetland buffer. Said properties are shown on Assessor Map 236 as Lots 34, 35 & 36 and lie within the General Business (GB) District. *(This application was postponed at the September 21, 2017 Planning Board Meeting).*

Description

The applicant has requested to postpone to the November 16th Planning Board meeting.

Planning Department Recommendation

Vote to postpone this application to the November 16, 2017 Planning Board meeting.

III. PUBLIC HEARINGS – OLD BUSINESS (cont.)

- F. The application of **Borthwick Forest, LLC, and KS Borthwick, LLC, Owners**, and **Borthwick Forest, LLC, Applicant**, for property located on **proposed subdivision road to be created off Borthwick Avenue**, requesting Amended Site Plan Approval to increase the height of the proposed office building (footprint of 16,700 ± s.f.) from 3 stories to 4 stories (gross floor area of 66,800 ± s.f.), with related paving, lighting, utilities, landscaping, drainage, multi-use path and associated site improvements. (Original Site Review approval was granted by the Planning Board on May 18, 2017). Said properties are shown on Assessor Map 241 as Lots 25 & 26 and Assessor Map 233 as Lots 112, 113, & 114 and lie within the Office Research (OR) and the Single Residence B (SRB) Districts. *(This application was postponed at the September 21, 2017 Planning Board Meeting).*

Description

The applicant has requested to postpone to the November 16th Planning Board meeting.

Planning Department Recommendation

Vote to postpone this application to the November 16, 2017 Planning Board meeting

IV. PUBLIC HEARINGS – NEW BUSINESS

- A. Request for Involuntary Merged Lots to be restored to their pre-merger status for **346 Bartlett Street** (City Council Referral).

Description

The parcel at 346 Bartlett St (Assessor Map 162 Lot 54) appears to have been created from 2 previous existing lots, which the owner indicates were described in the City's tax records dating back to 1908. The owner is requesting that the lots be restored to 2 lots measuring 0.12 acres and 0.13 acres. The 0.12 acre parcel (Lot 092 037 on the tax cards provided) would front on Bartlett St and does not include any buildings, the 0.13 acre parcel (Lot 092 038) would front on both Bartlett St and Thornton St and includes the existing single family home. This request is being made pursuant to RSA 674:39-aa, Restoration of Involuntarily Merged Lots.

Statutory Requirements

RSA 674:39-aa requires the City Council to vote to restore "to their premerger status" any lots or parcels that were "involuntarily merged" by municipal action for zoning, assessing, or taxation purposes without the consent of the owner. Unlike all other lot divisions, there is no statutory role for the Planning Board in this process, but the City Council is referring such requests to the Board for its review and report back.

The statute defines "voluntary merger" and "voluntarily merged" to include "any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line" (RSA 674:39-aa, I). It is therefore the City Council's responsibility to determine whether a merger was voluntary (i.e., requested by a lot owner) or involuntary (implemented by the City without the owner's consent). If the merger was involuntary, the Council must vote to restore the lots to their premerger status. Following such a vote, the City GIS and Assessing staff will update zoning and tax maps accordingly. It will then be up to the owner to take any further action to confirm the restoration to premerger status, such as recording a plan at the Registry of Deeds.

It is important to note that the granting of a request to restore lots to their premerger status does not mean that the resulting lots will be buildable or, if already developed, will conform to zoning. The statute states that "*The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing land use ordinances*" (RSA 674:39-aa, V). For example, the restored lots may not comply with current zoning requirements for lot area, frontage and depth, and the re-establishment of a lot line between any two premerger lots may introduce a new nonconformity with respect to maximum allowed building coverage or a minimum required side yard where a building already exists on one of the premerger lots. In such cases, the owner(s) of the

applicable lot(s) would have to apply to the Zoning Board of Adjustment for the necessary variances to restore zoning compliance or to allow future development.

Analysis

While no original subdivision plan has been provided by the owner, a cursory review of the Rockingham County Registry of Deeds records by the Planning Department found a recorded deed dated August 14, 1908 that described these lots as lots 11 and 9 as shown on the "Plan of the Bilbruck Property". Further search of the County Records located an unnamed plan dated August, 1908 which appear to show the lots referenced in the deed. The lots described on these two documents from the Registry are also consistent with the dimensions provided in the tax cards provided by the owner in his request to restore the two lots to their premerger status. Copies of these documents are included below for the Planning Board's reference.

Planning Department Recommendation

Vote to recommend to the City Council to restore the involuntarily merged lots at 346 Bartlett St to their premerger status.

Know all Men by these Presents,

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THAT I George I. Richbuck of Portsmouth in the County of Rockingham State of New Hampshire

Bellmuck
to
Goady

for and in consideration of the sum of one dollar to me in hand, before the delivery hereof well and truly paid by John B. Goady of said Portsmouth

del. to the receipt whereof I do hereby acknowledge, have given, granted, bargained and sold, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm unto the said John B. Goady and his heirs and assigns forever,

certains lot of land at the corner of Bartlett and Thornton Streets in said Portsmouth known as lot 10 on a plan of the Richbuck Property as called, bounded northerly by said Thornton Street fifty feet more or less; easterly by said Bartlett Street one hundred and eight feet more or less; southerly by lot No. 11 called to said Goady, fifty feet more or less; and westerly by lot No. 10 called to said Bartlett, one hundred and eight feet more or less; the course of said lot being marked by stakes driven in the ground. Also, another lot of land known as lot No. 11 on said plan, bounded easterly by said Bartlett Street fifty feet, six inches more or less; northerly by said lot No. 9 and lot No. 10, one hundred feet more or less; westerly by other land of said Richbuck fifty three feet, six inches more or less; and southerly by lot No. 2 called to James Coffeyman, one hundred feet more or less, the course of said lot being marked by stakes driven in the ground. Being a part of the premises which I acquired under the will of George Richbuck deceased and by deed of Mary A. Monahan

To have and to hold the said granted premises, with all the privileges and appurtenances to the same belonging, to me the said John Goady and his heirs and assigns, to have and their only proper use and benefit forever. And I the said Richbuck for myself and my heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said Goady and his heirs and assigns, that until the delivery hereof of the said premises, and my seized and possessed thereof in my own right in fee simple, and have full power and lawful authority to grant and convey the same in manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever; and that I and my heirs, executors and administrators, shall and will warrant and defend the same to the said Goady and his heirs and assigns, against the lawful claims and demands of any person or persons whomsoever.

And I, Mrs. V. Bellmuck, wife of the said George I. Richbuck in consideration aforesaid, do hereby release my right of dower in the above mentioned premises.

And we and each of us do hereby release, discharge and waive all such rights of exemption from attachment and levy or sale on execution and such other rights as are reserved or secured to us, or either of us, by the Statute of the State of New Hampshire, passed July 4, 1851, entitled "An Act to exempt the Homestead of Families from attachment and levy on sale on execution," or by any other Statute or Statutes of said State.

In Witness whereof I have hereunto set my hand and seal this 14th day of August 1905 in the year of our Lord one thousand nine hundred and 1905.

John B. Bartlett
Family Notary
George I. Richbuck (sd)
Mrs. V. Bellmuck (sd)

STATE OF NEW HAMPSHIRE, ROCKINGHAM, ss. August 14th 1905 A. D. 1905
Personally appeared the above named George I. Richbuck and Mrs. V. Bellmuck and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME:
John B. Bartlett Justice of the Peace
Received and Recorded August 15 - 8 A. M. 1905
John W. Green Register

Unofficial Document Unofficial Document Unofficial Document

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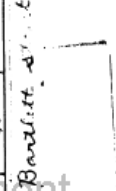
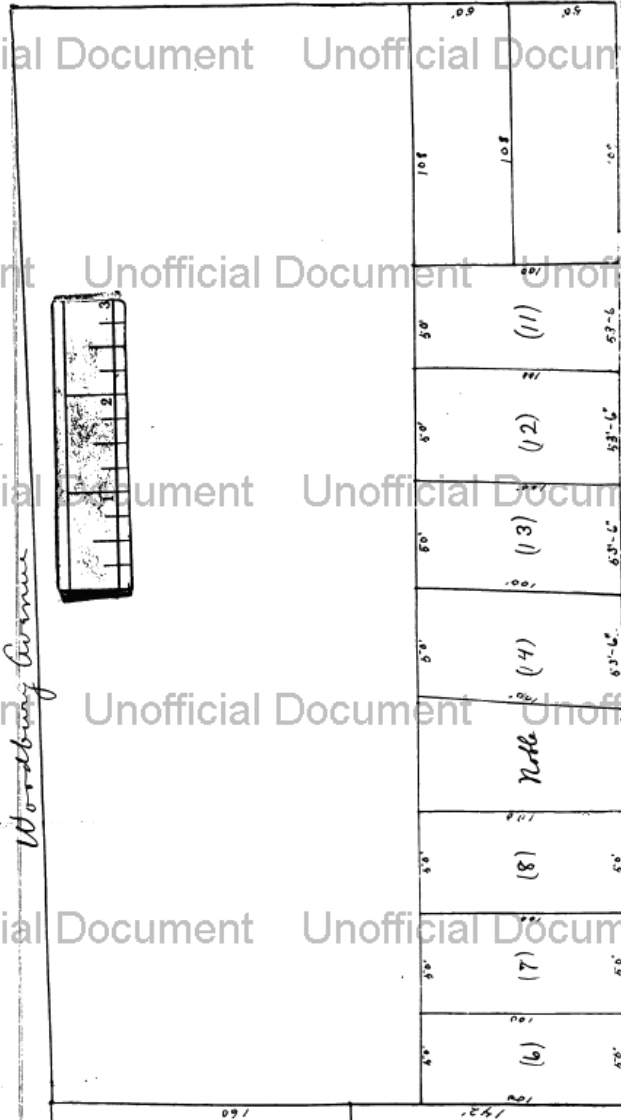
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IV. PUBLIC HEARINGS – NEW BUSINESS (cont.)

- B. The application of **Christopher and Rachel Delisle**, Owners, for property located at **250 McKinley Road**, requesting Amended Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to replace an existing single-lane driveway with a double-lane driveway with stormwater mitigation which includes a rain garden at the foot of the driveway and gravel edging, with 300 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 250 as Lot 117 and lies within the Single Residence B (SRB) District).

Description

This is a request for an amendment to an application that was before the Commission in June of 2017. The applicant is looking to expand a single driveway to a double driveway and is proposing a rain garden to reduce the impacts of the runoff.

Conservation Commission Review

According to *Article 10 Section 10.1017.50* the applicant must satisfy the following conditions for approval of this project.

1. The land is reasonably suited to the use activity or alteration. The applicant is proposing to expand the amount of impervious surface in the buffer while providing a small treatment area for stormwater coming off the proposed driveway expansion. Given the fact that the project is proposed in a lawn area and the drainage is away from the wetland this project is suited to the alteration.

2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration. The proposal is to expand the size of the driveway and this location is the only area suitable for such an expansion.

3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.

The proposed project will provide treatment to stormwater runoff before it enters the City stormdrain which could be a slight improvement over the existing situation if constructed and maintained properly.

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. There is some lawn area being removed as part of this application a portion of which is proposed to be replaced by the new driveway and a portion of which will include new plantings and a rain garden.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The proposed project is a fairly small impact within the wetland buffer and it is in an areas where the water flows away from the wetland. The applicant is proposing some treatment for the stormwater running off of the new area which should reduce any any impacts from the proposed driveway expansion.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.*

This project proposes to remove some lawn area and install a driveway and plantings. While the plantings are not in the wetland buffer the are in the flowpath for the runoff from the proposed driveway and should help reduce impacts to the stormwater leaving the site.

The Commission reviewed this application at the October 11, 2017 meeting and voted 4 to 1 to recommend approval with no stipulations.

Planning Department Recommendation

Vote to recommend approval of the conditional use permit.

IV. PUBLIC HEARINGS – NEW BUSINESS (cont.)

- C. The application of **Robert and Pamela Smith**, Owners, for property located at **240 McKinley Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to expand an existing driveway and install a rain garden for stormwater mitigation, with 77 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 250 as Lot 118 and lies within the Single Residence B (SRB) District.

Description

This is an application very similar to the application for 250 McKinley where the applicant is looking to replace a single driveway with a double driveway and is proposing a rain garden to reduce the impacts of the runoff. This application has a smaller footprint in the wetland buffer (77 square feet) and also includes new raingarden and plantings to reduce impacts of the new runoff from the proposed driveway expansion.

Conservation Commission Review

According to *Article 10 Section 10.1017.50* the applicant must satisfy the following conditions for approval of this project.

1. *The land is reasonably suited to the use activity or alteration.* The applicant is proposing to expand the amount of impervious surface in the buffer while providing a small treatment area for stormwater coming off the proposed driveway expansion. Given the fact that the project is proposed in a lawn area and the drainage is away from the wetland this project is suited to the alteration.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The proposal is to expand the size of the driveway and this location is the only area suitable for such an expansion.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.*

The proposed project will provide treatment to stormwater runoff before it enters the City stormdrain which could be a slight improvement over the existing situation if constructed and maintained properly.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There is some lawn area being removed as part of this application a portion of which is proposed to be replaced by the new driveway and a portion of which will include new plantings and a rain garden.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The proposed project is a fairly small impact within the wetland buffer and it is in an areas where the water flow away from the wetland. The applicant is proposing some treatment for the stormwater running off of the new area which should reduce any impacts from the proposed driveway expansion.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.*

This project proposes to remove some lawn area and install a driveway and plantings. While the plantings are not in the wetland buffer they are in the flow-path for the runoff from the proposed driveway and should help reduce impacts to the stormwater leaving the site.

The Commission reviewed this application at the October 11, 2017 meeting and voted 5 to 0 to recommend approval with no stipulations.

Planning Department Recommendation

Vote to recommend approval of the conditional use permit.

IV. PUBLIC HEARINGS – NEW BUSINESS (cont.)

- D. The application of **Charles J. and Kimberle S. McCue**, Owners, for property located at **105 Middle Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct a freestanding 375 s.f. ground level deck with stormwater mitigation which includes a 6' x 8' flower bed, gravel at the foot of the driveway and crushed stone under the deck, with 395 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 152 as Lot 18 and lies within the Single Residence B (SRB) District.

Description

This is an application is to construct a free standing deck at the rear of the property within the wetland buffer. In addition the applicant is proposing to install plantings and gravel below the deck to improve on-site infiltration.

Conservation Commission Review

According to *Article 10 Section 10.1017.50* the applicant must satisfy the following conditions for approval of this project.

1. The land is reasonably suited to the use activity or alteration. The applicant is proposing to construct a deck over bare ground at the rear of the house. The deck will have gravel under to drain water into the ground. Additional new drainage areas and infiltration opportunities are being provided as part of this application.

2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration. Given the small size of the applicant's lot this is the area furthest from the edge of wetland (approximately 60') where a deck can be constructed.

3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.

The proposed project will provide infiltration opportunities and new plantings in the buffer. There should be no adverse impacts from this project upon completion.

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. The area where the deck is being proposed is on the North side of the house shaded by the house and is bare ground with very little vegetation. This project will improve infiltration in this area and drainage around the house.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section. The proposed project should reduce impacts from stormwater flowing into the wetland buffer and wetland area off-site. Given the fact that the deck will allow water to flow through and provisions are being made for drainage this project will not have an adverse impact on the wetland or buffer.*

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.*

The applicant is proposing a new raised bed and new plantings in the wetland buffer.

The Commission reviewed this application at the October 11, 2017 meeting and voted 4 to 1 to recommend approval with the following stipulation:

1. The plans should include crushed stone under the deck to provide optimal infiltration

Planning Department Recommendation

Vote to recommend approval of the conditional use permit with the following stipulation:

1. *The plans should include crushed stone under the deck to provide optimal infiltration.*

IV. PUBLIC HEARINGS – NEW BUSINESS (cont.)

- E. The application of **The City of Portsmouth**, Owner, **Little Harbor School**, Applicant, for property located at **50 Clough Drive**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct an outdoor classroom using native plants, shrubs, trees, peastone bedding and stone blocks for seating and to create a buffer to screen the school dumpsters, with 1,262 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 206 as Lot 20 and lies within the Municipal (M) District.

Description

This application is to create an outdoor classroom using native shrubs trees pea stone bedding and stone blocks for seating. Create a buffer to screen school dumpsters.

Conservation Commission Review

According to *Article 10 Section 10.1017.50* the applicant must satisfy the following conditions for approval of this project.

1. *The land is reasonably suited to the use activity or alteration.* This is a grass area which is proposed to be converted to a pervious area for class activities.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The proposed location is behind the school and in view of Little Harbor. They have located the site as far from the edge of wetland as possible while keeping clear of school access.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.*

Given that this area is currently lawn the proposed use is in keeping with the current site. Additionally, the application proposes to include wetland buffer plantings to screen the dumpsters which will also provide additional wetland buffer functions.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* This area is currently lawn and will be replaced with pervious area and wetland buffer plantings.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* Given that this area is currently lawn and the new proposal will have pervious areas and new buffer plantings this proposal should not create an adverse impact.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.*

The applicant is proposing to plant approximately 600 square feet of new buffer plants which should more than offset the proposed outdoor classroom impacts.

The Commission reviewed this application at the October 11, 2017 meeting and voted 4 to 1 to recommend approval with no stipulations.

Planning Department Recommendation

Vote to recommend approval of the conditional use permit.

IV. PUBLIC HEARINGS – NEW BUSINESS (cont.)

- F. The application of **Westwind Townhomes of Portsmouth** Condominium Association, Owner, for property located at **1177 Sagamore Avenue**, and **Kevin P. Slover**, Owner, for property located at **20 Odiorne Point Road**, requesting Preliminary and Final Subdivision Approval (Lot Line Revision) between two lots as follows:
- (1) Map 224, Lot 10-1 decreasing in area from 125,606 ± s.f. (2.93 acres) to 122,206 ± s.f. (2.81 acres) with 273.67' of continuous street frontage on Odiorne Point Road
 - (2) Map 224, Lot 13 increasing in area from 52,678 ± s.f. (1.2093 acres) to 56,168 ± s.f. (1.2894 acres) with 223.74' of continuous street frontage on Sagamore Avenue.

Said lots lie within the Mixed Residential Office (MRO) District where the minimum lot area is 7,500 s.f. and the minimum continuous street frontage is 100'.

Description

The property at 1177 Sagamore Avenue (Map 224, Lot 13) received Site Plan approval in May 2017 for the demolition of an existing structure and the construction of three new condominium dwelling units (two separate buildings, seven total units). Since that time, the applicant has completed the conditions of that approval and is now proposing a lot line adjustment with Map 224, Lot 10-1 in order to move the foundations for two of the units back towards the rear property line, still within the setbacks, but thereby allowing more green space between the existing and new units.

Planning Department Recommendation

Vote to grant Preliminary and Final Subdivision Approval with the following stipulations:

- 1. Any resulting modifications to the approved site plan will require a separate Amended Site Plan Approval.*
- 2. Lot numbers as determined by the Assessor shall be added to the final plat.*
- 3. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
- 4. GIS data shall be provided to the Department of Public Works in the form as required by the City.*
- 5. The final plat and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

IV. PUBLIC HEARINGS – NEW BUSINESS (cont.)

- G. The application of **Deer Street Associates**, Owner, for property located at **181 Hill Street, (“Lot 6”)**, requesting Site Plan Approval for the construction of a 4-story mixed use building with a penthouse (including interior parking garages on two levels, retail space on the ground floor, office space on the first floor and 43 residential units on the second, third, fourth and penthouse floors) with a footprint of 12,574 ± s.f. and gross floor area of 81,498 ± s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 138 as Lot 62 and lies within the CD5 District.

Description

This project is part of a 5-lot mixed use development project for properties owned by Deer Street Associates. This project will front on Hill Street, which is a private road, and the future Foundry Place public street, which is being constructed by the City as part of the construction of the new Foundry Place Parking Garage.

Technical Advisory Committee Review

The TAC reviewed this application on October 3, 2017 and voted to recommend approval with the following stipulations:

- A) Revisions to be completed prior to Planning Board approval:
- 1) Applicant shall remove proposed stop sign coming out of garage as shown on Site Plan.
 - 2) The curb at each end of the private road shall be rounded.
 - 3) Sheet 5 – Any water or sewer pipes designated as “CIP” outside of the building should be revised to “PVC” and notes shall be adjusted as well.
 - 4) A note shall be added to Site Notes on Sheet C1.1 that any damage during construction by applicant to curbing constructed by the City shall be repaired by applicant.
 - 5) Correct error noted in Drainage Study p.3.
- B) Recommended conditions to be satisfied prior to issuance of a building permit:
- 1) A peer review of geohydrologic study and drainage design shall be required to evaluate groundwater rates and ability of detention system to accommodate groundwater flow now and into the future. Based on the results of the peer review to be coordinated with DPW, the permanent

foundation dewatering system discharges to City's drainage system may require a storm drain permit and a capacity use surcharge.

- 2) The construction groundwater dewatering discharge shall require a temporary dewatering discharge permit. DPW shall determine if the groundwater needs to be sampled/tested for both the temporary and permanent connection to the City's drainage system to determine if any treatment is required prior to discharge.

On October 10, 2017, the applicant submitted revised plans addressing items A) 1-5 above to the satisfaction of the Planning Department. Items B) 1-2 have been included in the Planning Department Recommendation below.

Planning Department Recommendation

Vote to grant Site Plan Approval with the following stipulations:

Conditions Precedent (to be completed prior to the issuance of a building permit):

1. A peer review of geohydrologic study and drainage design shall be required to evaluate groundwater rates and ability of detention system to accommodate groundwater flow now and into the future. Based on the results of the peer review to be coordinated with DPW, the permanent foundation dewatering system discharges to City's drainage system may require a storm drain permit and a capacity use surcharge.
2. The construction groundwater dewatering discharge shall require a temporary dewatering discharge permit. DPW shall determine if the groundwater needs to be sampled/tested for both the temporary and permanent connection to the City's drainage system to determine if any treatment is required prior to discharge
3. The site plan, landscape plan, and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.
4. The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments.

IV. PUBLIC HEARINGS – NEW BUSINESS (cont.)

- H. The application of **Provident Bank**, Owner, for property located at **25 Maplewood Avenue**, requesting Site Plan Approval for a proposed 3-story mixed use building with a footprint of 9,355 ± s.f. and gross floor area of 36,597 ± s.f., including retail and parking on the first level, office use on the second level and residential on the third and attic level, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 126 as Lot 2 and lies within the Character District 5 (CD5), the Downtown Overlay District (DOD) and the Historic District.

Description

This project proposes to replace the existing 2-story office building on site with a 3-story mixed-use building with related paving, lighting, utilities, landscaping, drainage and associated site improvements. The Zoning Board of Adjustment granted relief from Section 10.5A41.10D – maximum finished floor surface of ground floor above sidewalk grade, Section 10.5A41.10D – Façade glazing and Section 10.5A43.32 – roof appurtenance height at their August 22, 2017 meeting. The Historic District Commission granted permission to demolish an existing structure and allow a new free standing structure at their September 6, 2017 meeting.

Technical Advisory Committee Review

The TAC reviewed this application on October 3, 2017 and voted to recommend approval with the following stipulations:

- A) Revisions to be completed prior Planning Board Approval:
- 1) A note shall be added to the Demolition Plan/Demolition Notes that the existing City wayfinding sign on Maplewood Ave shall be removed prior to start of construction and provided to City for storage during construction. City Planning Department notification and approval shall be required prior to removal of the sign.
 - 2) Revise Note 17 on Sheet GN-1 under Site Notes to specify that no restaurants shall be allowed without providing an exterior grease trap.
 - 3) Provide delineation of the brick, concrete, and landscaped areas and other surface treatments on the site plan. This may be provided as a separate exhibit and does not need to be on a recordable plan sheet.
 - 4) Landscape Plan shall be stamped by a registered landscape architect
 - 5) Applicant shall add the location of the evaporative trench to the grading and drainage plan

B) Recommended conditions to be satisfied subsequent to Planning Board Approval:

- 1) Details of temporary and permanent (if applicable) groundwater dewatering design shall be submitted to DPW for final approval.
- 2) Any required stormwater connections to the City's drainage system shall require a stormwater connection permit. A capacity surcharge fee may apply based on further investigation by the applicant in consultation with the DPW.
- 3) Applicant shall coordinate with DPW on final traffic signal and pedestrian control locations and designs and related electrical conduit layout.
- 4) Subject to final approval by DPW, the applicant shall either replace the light in front of LaCarreta or keep it functional by replacing the electrical run.

On October 10, 2017, the applicant submitted revised plans addressing items A)1-5 above to the satisfaction of the Planning Department. Items B) 1-4 have been included in the Planning Department Recommendation below.

Planning Department Recommendation

Vote to grant Site Plan Approval with the following stipulations:

Conditions Precedent (to be completed prior to the issuance of a building permit):

- 1) Details of temporary and permanent (if applicable) groundwater dewatering design shall be submitted to DPW for final approval.
- 2) Any required stormwater connections to the City's drainage system shall require a stormwater connection permit. A capacity surcharge fee may apply based on further investigation by the applicant in consultation with the DPW.
- 3) All easement plans, licenses, and deeds in which the City is an interested party shall be reviewed and finalized by Planning and Legal Department and are subject to final vote by City Council.
- 4) The site plan, landscape plan, and any easement plans or deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.
- 5) The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments.

Conditions Subsequent (to be completed prior to the issuance of a Certificate of Occupancy):

- 1) Applicant shall coordinate with DPW on final traffic signal and pedestrian control locations and designs and related electrical conduit layout.
- 2) Subject to final approval by DPW, the applicant shall either replace the light in front of LaCarreta or keep it functional by replacing the electrical run.

V. OTHER BUSINESS

A. Request for Preliminary Conceptual Consultation regarding property located at **2075 Lafayette Road.**

Description

The Site Plan Review Regulations provide two options for “pre-application review” as authorized by RSA 676:4,II: “preliminary conceptual consultation” and “design review”. For many projects, preliminary conceptual consultation is at the option of the applicant. However, in September 2016 the Regulations were amended to require preliminary conceptual consultation for certain proposals, including (1) the construction of 30,000 sq. ft. or more gross floor area, (2) the creation of 20 or more dwelling units, or (3) the construction of more than one principal structure on a lot. The current proposal shows the construction of two 24-unit, 3-story multi-family residential housing buildings with related open space, parking, and related site improvements.

Preliminary conceptual consultation is described in the statute as follows:

[P]reliminary conceptual consultation ... shall be directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the board and statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken. The board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan.

The preliminary conceptual consultation phase provides the Planning Board with an opportunity to review the outlines of a proposed project before it gets to detailed design (and before the applicant refines the plan as a result of review by the Technical Advisory Committee and public comment at TAC hearings). In order to maximize the value of this phase, Board members are encouraged to engage in dialogue with the proponent to offer suggestions and to raise any concerns so that they may be addressed in a formal application.

In *The Planning Board in New Hampshire: A Handbook for Local Officials*, the NH Office of Energy and Planning stresses the importance of limiting the discussion to concepts:

New Hampshire statutes place great emphasis on the obligation of the planning board to provide notice to the abutters and the public of any substantive discussions on specific development proposals. Neither the applicant nor the planning board may go beyond the general and conceptual limits and begin discussing the design or engineering details of a proposal until the abutters and general public have been notified. This must occur either

prior to the design review phase of the pre-application review or when a completed application has been filed.

Preliminary conceptual consultation does not involve a public hearing, and no vote is taken by the Board on the proposal at this stage.