



MEMORANDUM

To: Planning Board
From: Juliet T.H. Walker, Planning Director *JTW*
Subject: Staff Recommendations for the January 18, 2018 Planning Board Meeting
Date: 1/12/2018 (updated 1/16/2018)

CAPITAL IMPROVEMENT PLAN

- Presentation and adoption of **FY 2019–2024 Capital Improvement Plan**

Description

The proposed FY 2019-2024 Capital Improvement Plan (CIP) will be presented by the Planning Board's CIP Advisory Committee and City staff. Following consideration of this Plan, the Board is asked to adopt it and forward it on to the City Council with a favorable recommendation. The Planning Board CIP Advisory Committee met with City Department heads on December 6th to review all of the CIP project requests. After reviewing department capital project requests totaling \$2.467 million, the Advisory Committee recommended an appropriation of \$2.18 million (or about 2% of the Fiscal Year 2018 General Fund budget).

Planning Department Recommendation

Vote to adopt the document entitled "Capital Improvement Plan, FY 2019 – FY 2024" as the Board's recommended program of municipal capital improvement projects for the City of Portsmouth, New Hampshire.

III. DETERMINATIONS OF COMPLETENESS

A. SITE REVIEW

1. The application of **Robert J. Fabbriatore Irrevocable Trust, Owner**, for property located at **177 State Street**.
2. The application of **Happy Dreams, LLC, Applicant**, for property located at **1 International Drive**.
3. The application of **Ethel V. Ross Trust, Owner, and Joseph Caldarola, Applicant**, for property located at **142 Mill Pond Way**.
4. The application of **National Propane LP, Owner, and Unitil Corporation, Applicant**, for property located at **1166 Greenland Road**.

Planning Department Recommendation

Vote to determine that the applications are complete according to the Site Plan Review Regulations and to accept the applications for consideration.

IV. 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 \pm s.f. restaurant/take-out building and 195 \pm s.f. attached patio, with drive thru service and a walk –up window, with 6,870 \pm 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 December 21, 2017 Planning Board Meeting).

Description

The applicant has requested to postpone to the February 15, 2018 Planning Board meeting.

Planning Department Recommendation

Vote to postpone this application to the February 15, 2018 Planning Board meeting.

- B. 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 \pm s.f.) from 3 stories to 4 stories (gross floor area of 66,800 \pm 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 December 21, 2017 Planning Board Meeting).

Description

The applicant has requested to postpone to the February 15, 2018 Planning Board meeting.

Planning Department Recommendation

Vote to postpone this application to the February 15, 2018 Planning Board meeting.

- C. The application of **Carolyn McCombe, Trustee; Elizabeth Barker Berdge, Trustee; and Tim Barker, Owners**, for property located on **Martine Cottage Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct a 1,936 \pm s.f. single family home and a 1,200 \pm s.f. detached barn, with a 22' x 52' paved parking area and a 25' x 5' rain garden, with 23,125 \pm s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 202 as Lot 14 and lies within the Rural (R) District. (This application was postponed at the December 21, 2017 Planning Board Meeting).

Description

The applicant has requested to postpone to the February 15, 2018 Planning Board meeting.

Planning Department Recommendation

Vote to postpone this application to the February 15, 2018 Planning Board meeting.

IV. PUBLIC HEARINGS – OLD BUSINESS (cont.)

It is recommended that Item IV.D. and Item VI.H. be discussed together and voted on separately.

A motion is required to consider these two items together.

- IV.D.** The application of **National Propane LP, Owner and Unitil Corporation, Applicant**, for property located at **1166 Greenland Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland for the installation of above ground piping to facilitate cleaning and inspection operations on the existing underground gas main, with 7,070 \pm s.f. of impact to the wetland. Said property is shown on Assessor Map 280 as Lot 2 and lies within the Industrial (I) District. (This application was postponed at the December 21, 2017 Planning Board Meeting).
- VI.H.** The application of **National Propane LP, Owner, and Unitil Corporation, Applicant**, for property located at **1166 Greenland Road**, requesting Site Plan Approval for installation of a launch and retrieval/maintenance facility along the regional gas main that runs along Greenland Road, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 280 as Lot 2 and lies within the Industrial (I) District.

Description

The application proposes to install a launch and retrieval/maintenance facility along the regional gas main that runs along Greenland Road. The proposed facility straddles the City/Town line between the City of Portsmouth and the Town of Greenland. The proposed project has been located based upon distance of the facility to other similar maintenance facilities on the gas main and the applicants stated desire to minimize site and environmental impacts. The applicant received approval from the Zoning Board of Adjustment at their December 19, 2017 meeting for a Special Exception to allow a utility related structure providing a community-wide or regional service where the use is only allowed by special exception. And a variance to allow an 8' +/- primary front yard setback where 70' is required.

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 the new piping in a wetland and wetland buffer area. The direct wetland impact in the City of Portsmouth is 1,214 square feet of permanent impact and 616 square feet of temporary impact. The impact in the wetland buffer is 557 square feet of permanent buffer impacts and 932 square feet of temporary buffer impact. While the applicant has stated the wetland areas are filled with invasive species it is not clear what functions the wetland currently provides.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The applicant has stated that the location on this site where the project can be constructed in order to not disrupt the

existing business. It is not clear what on-site and off-site alternative locations were explored which could reduce the wetland impacts.

3. There will be no adverse impact on the wetland functional values of the site or surrounding properties. The applicant has not proposed any alternative for the loss of functional value to this wetland. For instance if the wetland provides filtration for stormwater a stormwater treatment unit may be able to offset the impact for the loss of this wetland area.

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. The applicant has stated that the project has been designed to minimize impacts to the wetlands, however no information has been provided to show how this was accomplished.

5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section. The proposed project includes direct wetland impact and wetland buffer impact. There is no statement about other alternatives that were explored on this project.

6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible. The applicant has stated that the impacted area will be stabilized and seeded with a native seed mix. The applicant has not proposed additional plantings or stormwater treatment to offset the impact to the wetland areas.

The Commission reviewed this application at the December 13, 2017 meeting and voted 4 to 3 to recommend approval with the following two stipulations:

- 1) That the treeline area shown on the plan be replanted with woody vegetation and that a monitoring report is submitted to the City of Portsmouth 18 months after the planting. If planting success is below 80%, the applicant shall replant and report again in 1 year with the same reporting requirement.
- 2) That the applicant shall design and install a stormwater treatment area at the outlet of the drainage pipe shown on the plan to reduce impacts from the loss of wetland area.

Three Commission members voted to recommend denial of this project as they did not think the loss of the wetland area had been adequately addressed by the applicant. There was also concern by two members that the stormwater coming off Greenland Road was not adequately treated and since there is a loss of wetland area this stormwater needs to be addressed by the applicant.

Technical Advisory Committee Review

The TAC reviewed this application on January 2, 2018 and voted to recommend approval with the following stipulations, to be completed prior to Planning Board submission:

- 1) A detail should be included in the plan set for the decorative fencing with the columns proposed.

- 2) Additional guardrail should be added as directed by TAC and should be carried around to protect the southwest side of the enclosure.
- 3) Force main shall be at least 3' from fence.

On January 9, 2018, the applicant submitted revised plans addressing item 1 above to the satisfaction of the Planning Department. Items 2 & 3 have been included in the Planning Department recommendation below.

Planning Department Recommendation

A) Wetland Conditional Use Permit

Vote to ~~grant~~ ~~recommend~~ approval of the conditional use permit with the following stipulations:

1. The treeline area shown on the plan shall be replanted with woody vegetation and a monitoring report shall be submitted to the Planning Department 18 months after the planting. If planting success is below 80% the applicant shall replant and report again in 1-year with the same reporting requirement.
2. The applicant shall design and install a stormwater treatment area at the outlet of the drainage pipe shown on the plan to reduce impacts from the loss of wetland area.

B) Site Plan Review

Vote to grant Site Plan Approval with the following stipulations to be completed prior to the issuance of a building permit:

1. An additional guardrail shall be added to the Site Plan as directed by TAC and shall be carried around to protect the southwest side of the enclosure.
2. The force main shall be at least 3' from fence.
3. The Site Plan (Sheet 4) shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

IV. PUBLIC HEARINGS – OLD BUSINESS (cont.)

- E. The application of **Bluestone Properties of Rye, LLC, Owner**, for property located at **135 Congress Street**, requesting Site Plan Approval to construct an addition to the rear of the existing building, with a footprint of 1,424 \pm s.f. and gross floor area of 2,943 \pm s.f., for restaurant expansion and function space, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 126 as Lot 5 and lies within the Character District 5 (CD5), the Downtown Overlay District (DOD) and the Historic District. (This application was postponed at the December 21, 2017 Planning Board Meeting).

Description

The applicant proposes to construct an addition to the rear of the existing building for restaurant expansion and function space, along with a restoration of the historic Congress St. facade including brick, windows, bays, and woodwork. The Historic District Commission approved the proposed design at their July 5, 2017 meeting with no stipulations.

Technical Advisory Committee Review

The TAC reviewed this application on December 5, 2017 and voted to recommend approval with the following stipulations, to be completed prior to Planning Board approval:

1. Character District standards shall be included on the cover sheet of the site plan set or on the site plan sheet itself.
2. Any unprotected openings on the west side of the building shall comply with Chapter 6 of the International Building Code.
3. The detail for the catch basin located in the dumpster area shall be changed per DPW's specifications for catch basins in similar locations.
4. A note shall be added to the Site Plan that no kitchens are to be located below ground level.
5. The applicant shall provide appropriate documentation/details to support the installation of a 1,000 gallon grease trap in the basement and shall meet with the City Engineer and the Health Officer for review and approval prior to Planning Board submission.
6. All stories of the building should be labeled appropriately according to guidance from the Building and Fire Departments regarding code definitions for a mezzanine.

The TAC also voted to recommend approval of the following waiver requests:

- Section 2.5.3.2D – A document from each of the required private utility service providers indicating approval of the proposed site plan and indicating an ability to provide all required private utilities to the site.
- Section 2.5.4.3J – Outdoor lighting plan
- Section 7.4.4.1 – Stormwater Management Plan

On December 12, 2017, the applicant submitted revised plans addressing items 3-4 & 6 above to the satisfaction of the Planning Department. After meeting with staff from the Health Department and DPW on January 12, the applicant has received approval for the

grease trap and satisfied the requirement for item 5. Items 1-2 have been included in the Planning Department recommendation below.

Planning Department Recommendation

1. Vote to find that granting of waivers will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to waive the following regulations: [Note: An affirmative vote of six members of the Planning Board is required to grant a waiver.]

- 1) Section 2.5.3.2D - A document from each of the required private utility service providers indicating approval of the proposed site plan and indicating an ability to provide all required private utilities to the site.*
- 2) Section 2.5.4.3J – Outdoor lighting plan*
- 3) Section 7.4.4.1 – Stormwater Management Plan*

2. Vote to grant Site Plan Approval with the following stipulations to be completed prior to building permit approval:

- 1) A complete list of the zoning standards shall be included on the cover sheet of the site plan set or on the site plan sheet itself (Table format is preferred).*
- 2) A note shall be added to the Site Plan and Elevations as follows:
"Any unprotected openings on the west side of the building shall comply with Chapter 6 of the International Building Code."*
- 3) The site plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

V. PUBLIC HEARINGS – NEW BUSINESS

- A. The application of **Michael Delacruz, Owner**, for property located at **75 Congress Street**, requesting Conditional Use Permit approval pursuant to Section 10.1112.52 of the Zoning Ordinance for seven parking spaces where none are provided. Said property is shown on Assessor Map 117 as Lot 5 and lies within the Character District 5 (CD5), the Downtown Overlay District (DOD) and the Historic District.

Description

Based on recent amendments to the off-street parking requirements, the applicant is requesting a Conditional Use Permit to provide less than the minimum required by Section 10.1112.30. The applicant's proposal is to create 15 residential units on the top floors of the existing structure. Eight of the units have been determined to be vested by the Legal and Planning Department in accordance with a prior 2007 approval and are thus exempt from the parking requirements which did not exist in 2007. The Planning Department has determined that the remaining 7 proposed residential units are not governed by a 1984 special exception requiring no parking for the structure, or the 2007 vested approval. Thus, the Applicant is required to seek a Conditional Use Permit pursuant to the newly enacted zoning amendment to provide less than the minimum off-street parking spaces required. The 7 units require 1.3 spaces per unit or 9 spaces, however provisions of Section 10.1115.23 allow a credit of 4 spaces in the downtown Overlay District. Thus, the minimum off-street parking requirement is 5 spaces, the applicant is proposing to provide no parking spaces.

The application for a Conditional Use Permit must include a parking demand analysis. In addition, requests to provide less than the minimum number of off-street parking spaces required shall also include permanent measures to reduce parking demand, including but not limited to provision of rideshare services, proximity to public transit, and shared parking on a separate lot.

According to the applicant's parking demand analysis, the applicant believes that the availability of public parking and public transit in proximity to the property is sufficient to meet the off-street parking demands of the residential tenants.

Planning Department Recommendation

Vote to grant a conditional use permit pursuant to Section 10.1112.52 of the Portsmouth Zoning Ordinance to permit no parking spaces where 7 are required.

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- B.** The application of **Scott and Sara Lupkas, Owners**, for property located at **33 Blossom Street**, requesting Conditional Use Permit approval to create a one-bedroom, garden cottage on the second floor of a 22' X 24' existing garage, with a gross floor area of 450±. Said property is shown on Assessor Map 110 as Lot 2 and lies within the General Residence B (GRB) District and the Historic District.

Description

The applicants propose to convert an existing garage to a garden cottage dwelling unit and therefore the provisions of Sec. 10.815 apply. Different from an Accessory Dwelling Unit, a Garden Cottage that complies with the standards of Section 10.815 is otherwise exempt from the residential density standards of the Zoning Ordinance (e.g. minimum lot area per dwelling unit).

Under the recently amended off-street parking requirements, the garden cottage and principal dwelling are required to provide 2 off-street parking spaces. The property has one parking space in the garage (under the proposed garden cottage) and room for more than one parking space in the driveway.

The Ordinance requires that a Garden Cottage comply with the following standards (Section 10.815.30).

Required Standard	Planning Department Comments
The existing accessory building shall not be expanded either vertically or horizontally, other than through the addition of a front entry not to exceed 50 sq. ft., or a side or rear deck not to exceed 300 sq. ft.	The applicants do not propose to modify the building vertically or horizontally.

Required Standard	Planning Department Comments
<p>The principal dwelling unit and the garden cottage shall not be separated in ownership (including by condominium ownership); and either the principal dwelling unit or the garden cottage shall be occupied by the owner of the property. The owner must provide documentation to the City that one of the units is his or her principal place of residence.</p>	<p>The applicants have indicated they comply with this requirement. As owners, they intend to occupy the principal dwelling unit. However, the applicants do not reside on the property full-time so there will be extended periods during the year when the principal residence will be un-occupied, while the garden cottage is intended to be occupied year round. The owners have indicated they do not intend to rent out the principle residence when they are not living there. The owners have indicated that they consider this their principal place of residence. As it is required that they provide documentation that this is the case, the Planning Department is consulting with the Legal Department to determine how this can be confirmed. More information will be provided at the meeting.</p>
<p>The garden cottage shall not be larger than 600 sq. ft. gross floor area.</p>	<p>The gross floor area of the proposed garden cottage is 450 sq ft.</p>
<p>A garden cottage that is within the required yard for the zoning district shall not have any windows or doors higher than eight feet above grade facing the adjacent property.</p>	<p>The garden cottage is located within the required right side yard for the zoning district. The applicant is requesting that the Planning Board grant a modification to this requirement to permit them to retain the existing 2nd floor window on this side.</p>

As allowed under Section 10.815.60, the Planning Board may modify a specific dimensional or parking standard. The applicant is requesting that the following standards be modified:

1. The proposed garden cottage will retain the existing 2nd floor window that is within the right side yard setback.

In order to grant a conditional use permit for a Garden Cottage, the Planning Board must first make the following findings (Sec. 10.815.40):

Required Findings	Planning Department Comments
1. Exterior design of the Garden Cottage 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 change the exterior of the existing building substantially in a way that would change the existing architectural character.
2. The site plan provides adequate open space and landscaping that is useful for both the Garden Cottage and the primary dwelling.	Both the primary dwelling and the garden cottage will have access to usable open space. No additional landscaping has been proposed.
3. The Garden Cottage will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties.	The applicant is not proposing to change the exterior of the existing building substantially in a way that would change the existing character. The privacy of adjacent properties should not be impacted significantly.
4. The Garden Cottage will not result in excessive noise, traffic or parking congestion.	The addition of the Garden Cottage is not anticipated to result in a significant increase in traffic for this residential neighborhood and the off-street parking appears to be sufficient. The proposed conversion of an existing garage without any expansion to the footprint is not anticipated to have a significant impact on noise levels.

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 10.815.40.*
2. *Vote to grant the conditional use permit as presented including the requested modification to the dimensional requirements to allow the existing second story right side window to remain, with the following stipulation:*
 - a. *In accordance with Sec. 10.815.50 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. 10.815, including the owner-occupancy requirement, and shall renew the certificate of use annually.*

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- C. The application of **Kathryn Michele Arbour, Owner**, for property located at **86 Emery Street**, requesting a Conditional Use Permit approval to construct a two-bedroom, one-story detached accessory dwelling unit (21'3" x 35'3"), with a footprint of 749 \pm s.f. and gross floor area of 694 \pm , with associated paving, lighting, and utilities. Said property is shown on Assessor Map 220 as Lot 87-1 and lies within the Single Residence B (SRB) District.

Description

The applicant is requesting Conditional Use Permit Approval to construct a two-bedroom, one-story detached accessory dwelling unit.

The applicants are in the process of converting the existing barn on the property to a single family dwelling and, though they own the property, they do not yet live on the property. When they originally came to the Planning Department to review their proposal to add a detached accessory dwelling unit, the staff advised that the proposed accessory dwelling unit did not meet the criteria of the ordinance for such a use. The Planning Department's concerns are explained further below. Given that the applicants are anxious to begin construction on the second unit at the same time that they are renovating the principal house, the staff advised that the only potential option was for them to apply to the Zoning Board of Adjustment for zoning relief (a variance) to allow a second free-standing dwelling unit on the property. In that case, the new unit would be considered a principal dwelling unit, not an accessory unit, and the occupancy requirement would not apply.

The applicant went in front of the Board of Adjustment in December 2017. At that meeting, the Board voted to postpone the decision on the request and advised the applicant to apply to the Planning Board to seek a conditional use permit for an ADU. By tabling the application, rather than denying it, the Board of Adjustment put the applicants in a situation where they could potentially have two different (and conflicting) land use applications in front of two different land use boards at the same time. As the City of Portsmouth does not allow this, the Planning Department requested the applicant withdraw their application from the Zoning Board of Adjustment for a second free-standing dwelling unit so that they could apply to the Planning Board for an accessory dwelling unit. This does not rule out their ability to re-apply to the Board of Adjustment in the future.

Because the resulting unit will be a detached accessory dwelling unit (DADU), the provisions of Sec. 10.814.50 apply.

Section 10.521 Dimensional Standards

	Required	Provided / Proposed
Min. lot area (sf)	15,000	39,204
Lot area / dw unit (sf)*	15,000	39,204
Street frontage (ft)	100	190
Lot depth (ft)	100	>100
Primary front yard (ft)	30	31
Right side yard (ft)	10	42
Left side yard (ft)	10	10
Rear yard (ft)	30	>30
Height (ft)	35	<35
Bldg coverage (%) max.	1.83	3.74
Open Space (%) min.	40	94.67
Parking (#)	2	4

*In the Single Residence districts, the lot area per dwelling unit requirement only applies to the principal single family use.

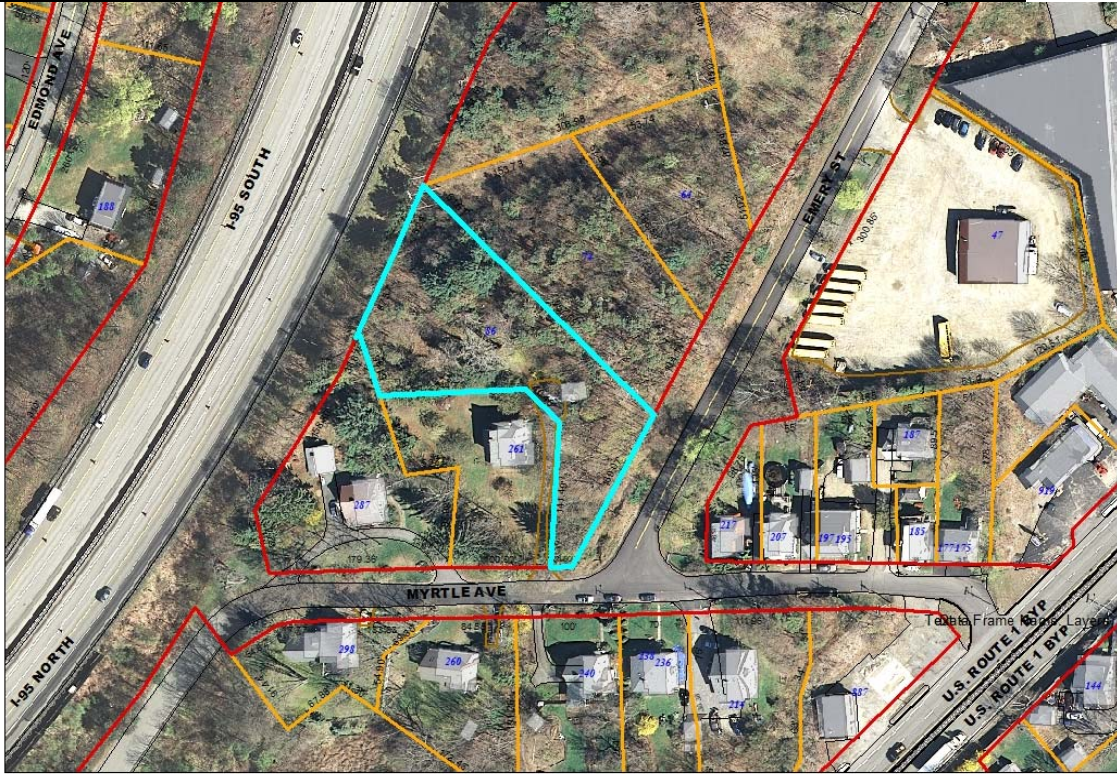
In addition to the dimensional requirements of Section 10.521 above, the Ordinance requires that a DADU comply with the following standards (Section 10.814.30 and 10.814.50).

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 owner shall provide documentation that one of the units is his or her principal place of residence.	As the principal dwelling is currently under construction, the owner does not currently occupy the principal dwelling. As required by the Ordinance (Section 10.814.32), the owners must provide verification that the principal dwelling unit or the accessory dwelling unit is their principal place of residence. This is one of the reasons the Planning Department staff initially advised that the applicant could not apply for a CUP for an accessory dwelling unit until such a time as they occupy one of the units as their principal place of residence. The applicant is requesting that the Planning Board consider granting the approval for the CUP contingent upon them occupying the principal unit as their principal place of residence in the future. It has been the Planning Department's view that the Ordinance does not allow the Planning Board to modify the requirements of the ordinance for accessory dwelling units unless they relate to dimensional or parking requirements as specifically mentioned in 10.814.80. Granting a conditional approval related to owner-occupancy would be a modification to one of the requirements.
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 applicants have indicated they intend to comply with this requirement.
The DADU shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area.	The proposed DADU has two bedrooms and the applicant has proposed a total occupiable space of 694 s.f.
The DADU shall be separated from the single-family dwelling by at least 20 feet.	The proposed DADU will be 20.5' from the principal dwelling.

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 proposing to make the exterior design of the DADU compatible with the principal residence through the use of similar construction materials and architectural form. Although the proposed DADU will be smaller in scale than the principal dwelling, it will be located toward the front of the lot between the street and the principal dwelling. The Planning Department staff has advised the applicant that, as an accessory unit, the DADU should be subordinate in location and size to the principal dwelling. The applicant and some members of the Board of Adjustment do not necessarily agree with this interpretation as it is not specifically mentioned in the criteria and standards for an accessory dwelling unit.
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 proposed accessory dwelling unit will have access to usable open space and landscaping on the property.
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.	The applicant has indicated that the proposed DADU will be compatible to adjacent properties in terms of design. However, the location of the accessory unit in the front of the principal dwelling makes the accessory dwelling more like a principal dwelling and the result is that the proposed project is more akin to having two single family homes on the property. For this reason, the location of the accessory unit has potential to the impact the privacy and character of the neighborhood, which is in a single family district.
4. The ADU will not result in excessive noise, traffic or parking congestion.	Adequate off-street parking is provided and by limiting the occupiable GFA to 694 sq. ft., this DADU is unlikely to create substantial additional traffic.

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



Planning Department Recommendation (three options provided):

Should the Board agree with the Planning Department's assessment that, due to its proposed location, the accessory dwelling unit does not maintain a compatible relationship to adjacent properties and has the potential to impact privacy as a result and/or that the exterior design of the DADU is not compatible with the existing residence due to the fact that it is not subordinate in location to the principal dwelling:

- 1) *Vote to find that the application does not satisfy the requirements of 10.814.60.*
- 2) *Vote to deny the conditional use permit as presented.*

Should the Board disagree with the Planning Department's assessment regarding the proposed location, but disagree with the applicant's interpretation that the owner-occupancy requirement can be a condition of approval [Note: this would allow the applicants to reapply at a future date once they have established this as their principal residence]:

- 1) *Vote to find that the application satisfies the requirements of 10.814.60.*
- 2) *Vote to deny the conditional use permit as presented.*

Should the Board disagree with the Planning Department's assessment regarding the proposed location and agree with the applicant's interpretation that the owner-occupancy requirement can be a condition of approval:

- 1) *Vote to find that the application does not satisfy the requirements of 10.814.60.*
- 2) *Vote to grant the conditional use permit as presented, with the following stipulations:*
 - a) *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.*
 - b) *Prior to being issued a certificate of use and within 1-year of the Planning Board's approval, the applicant shall obtain a certificate of occupancy for the principal dwelling and shall provide documentation to the Planning Department that one of the units is their principal place of residence.*

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- D. The application of **Martin F. Kurowski and Christina Galli, Owners**, for property located at **212 Walker Bungalow Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for replacement of an existing detached garage with a new attached garage, addition of a new septic tank, reconfiguration of the existing driveway and stormwater management, 10,359 ± s.f. of impact to the inland wetland buffer. Said property is shown on Assessor Map 223 as Lot 21 and lies within the Single Residence B (SRB) District.

Description

The applicant is proposing to add an addition to an existing home, replace an existing detached garage with a new attached garage upgrade an existing septic system and install stormwater treatment areas in the tidal buffer.

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 substantial addition to the house on this site reconstruct the garage, upgrade the septic and install stormwater treatment in the buffer. Given that this entire property is in the buffer the impacts to the wetland buffer have not been fully described. While the site does not have an overall increase in impervious surface the buffer is being used for stormwater treatment. Beyond the standard rain garden treatment there is no information provided about treatment of existing and proposed vegetation in the buffer.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* While the entire site is in either the tidal or inland wetland buffer it is not clear if the applicant has looked into additional methods to reduce stormwater impacts without creating new treatment areas in the buffer. For instance could porous pavement be used to reduce the need for a raingarden directly adjacent to a tidal area.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* It is not clear from this application that the how the functional values of the wetland will be impacted by this project. There is no information about how the raingarden slopes and vegetated swale will be planted to enhance the buffer. The swale and raingarden should have very specific information about the use of fertilizer as section 10.1018.24 has specific requirements about the use of fertilizers in buffer areas.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* The applicant has stated that only lawn areas will be impacted by the project.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The proposed project includes tidal and inland wetland buffer impacts due to the expansion of the house, new garage and

new stormwater treatment areas. It is not clear if other alternatives were explored to reduce the area of impact, enhance the buffer with plantings and to provide alternative stormwater treatment techniques further from tidal wetland areas.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant has not proposed additional plantings or stormwater treatment to offset the impact to the wetland areas. It appears there are opportunities to provide more plantings in the buffer to enhance the site plan.

The Commission reviewed this application at the January 10, 2018 meeting and voted unanimously to recommend approval with the following stipulations:

1. The applicant shall include an organic lawn maintenance plan with the overall property Maintenance plan and shall file this plan with the Rockingham County Registry of Deeds.
2. The applicant shall not mow the proposed wetland buffer planting area.
3. The applicant shall provide the same number of native trees in the 100' wetland buffer as the number removed for this project.
4. The applicant shall update the site plan and maintenance plan to insure that the mulch proposed for the raingarden is limited to the minimum amount necessary.
5. The applicant shall provide a planting plan for the raingarden and stormwater swale.
6. The applicant shall provide a plan showing the impact in the inland wetland buffer for the proposed septic system.

On January 11, the applicant submitted updated plans addressing items 2 through 6 to the satisfaction of the Planning Department. Clarification regarding item #1 is included in the Planning Department recommendation below.

Planning Department Recommendation

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

1) An organic lawn maintenance plan shall be incorporated into the overall property maintenance plan and this plan shall be filed with the Rockingham County Registry of Deeds by the City or as deemed appropriate by the Planning Department.

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- E. The application of **Robert J. Fabbriatore Irrevocable Trust, Owner**, for property located at **177 State Street**, requesting Site Plan Approval for the construction of a 2-story addition to a mixed use building, with a footprint of 748 ± s.f., and gross floor area of 1,216 ± s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 107 as Lot 44 and lies within the Character District 4 (CD4) and the Historic District.

Description

The applicant proposes to renovate the interior and exterior of the existing building, build a small addition on Penhallow Street and change the building use to first floor retail and residences on the second and third floors. The Board of Adjustment, at their July 25, 2017 meeting, granted the following variances:

- From Section 10.5A41.10C to allow 5.6% open space where 10% is the minimum required.
- From Section 10.1112.30 to allow 1 off-street parking space to be provided where 9 are required.
- From Section 10.1114.32(b) to allow vehicles to enter the property by backing into or from a public street.

The Historic District Commission reviewed and approved the proposal at their October 4, 2017 meeting with no stipulations.

Technical Advisory Committee Review

The TAC reviewed this application on January 2, 2018 and voted to recommend approval with the following stipulations, to be completed prior to Planning Board approval:

1. Add additional information to the plans as noted by TAC including:
 - Include building addition footprint and gross floor area in plan notes.
 - Include a location plan with zoning boundaries on the cover sheet.
 - Provide table of character district dimensional requirements, including existing and proposed.
 - Include a statement on measures to minimize impervious surfaces per Section 7.4.3.
 - Proposed utilities need to be differentiated on the plans from existing utilities.
2. Penhallow Street infiltration detail shall be reviewed and approved by DPW prior to Planning Board submission.
3. Trash enclosure area shall be included in the sprinkler plan to be reviewed as part of the Building Permit approval.
4. Add a note specifying that no vehicles shall protrude out of the parking space into sidewalk area.

On January 9, 2018, the applicant submitted revised plans addressing the items above to the satisfaction of the Planning Department.

Planning Department Recommendation

Vote to grant Site Plan Approval with the following stipulation:

- 1. The Site Plan (Sheet 2) shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- F. The application of **Happy Dreams, LLC, Applicant**, for property located at **1 International Drive**, requesting Site Plan Approval for the construction of a 7,130 \pm s.f., 3-story building expansion to the Residence Inn which will include 36 additional rooms and a 29 space reserve parking area to be constructed in the future, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor Map 303 as Lots 4, 5, & 87 and lie within the Pease Airport Business Commercial (ABC) District.

Description

The proposed project consists of a 36-room expansion to the Marriott Residence Inn located on the Pease International Tradeport at 1 International Drive. The hotel expansion consists of an approximately 7,130 sq.ft. footprint constructed to the south side of the existing hotel. The design includes a reserve parking area with 29 spaces should the applicant determine in the future that additional parking is needed to support hotel operations. There is currently an excess of on-site parking and the applicant does not anticipate the need to construct additional parking at this time.

The proposed project received Concept Approval from the PDA Board on November 16, 2017.

Technical Advisory Committee Review

The TAC reviewed this application on January 2, 2018 and voted to recommend approval with the following stipulations, to be completed prior to Planning Board approval:

1. Add a note to the landscape plan that all silty/clay soils need to be removed in their entirety from the bottom of the rain garden until sandy material is exposed. An inspection is required including the Engineer and the City to determine if the underlying soil is appropriate for rain garden use.
2. Add note to plan that yard drain near NW corner shall be no closer than 3' from the fire main.
3. A second Fire Dept. connection to the buildings sprinkler and standpipes shall be added.
4. The hydrant shown as out of service shall be put into service or an additional hydrant added in the area to serve the second Fire Dept. connection.
5. Add note on how the proposed addition will be served by water, both domestic and fire protection.
6. Estimated water usage calculations shall be noted on site plan.
7. Additional Water/Sewer permit shall be required.

On January 9, 2018, the applicant submitted revised plans addressing the items above to the satisfaction of the Planning Department.

Planning Department Recommendation

Vote to recommend Site Plan Approval.

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- G. The application of **Ethel V. Ross Trust, Owner, and Joseph Caldarola, Applicant**, for property located at **142 Mill Pond Way**, requesting Site Plan Approval for the construction of a 2-story, three unit townhouse with a footprint of 5,560 \pm s.f. and a gross floor area of 18,514 \pm s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 140 as Lot 20 and lies within the General Residence A (GRA) District.

Description

The applicant proposes to construct a 2-story, three unit townhouse with a footprint of 5,560 s.f. with related paving, lighting, utilities, landscaping, drainage and associated site improvements.

Technical Advisory Committee Review

The TAC reviewed this application on January 2, 2018 and voted to recommend approval with the following stipulations, to be completed prior to Planning Board approval:

1. Add additional information to the plans as noted by TAC including:
 - A.) Sketch for utilities shall be reviewed and approved by DPW prior to Planning Board submission.
 - B.) Grading plan should be updated to revise direction of runoff from driveway for Unit 3 to travel directly to small wetland. Grading should be adjusted to berm or flatten lawn outside of driveway so drainage is slowed and filtered by lawn area before entering wetland. A post-construction drainage analysis shall be required to confirm if any changes are required.
 - C.) Include a Green Building Statement per Section 2.5.3.1A. Footprint and GFA should be included per Section 2.5.3.1B. Add engineers stamp and wetland scientist stamp per Sections 2.5.4.1D and 2.5.4.1E.
 - D.) The statement required per Section 2.5.4.2E should be added to the plans. Indicate where Low Impact Development Design practices have been incorporated per Section 7.1.
 - E.) 7.4.3 Include a statement on measures to minimize impervious surfaces per Section.
 - F.) Include a calculation of the maximum effective impervious surface as a percentage of the site per Section 7.4.3.2.
 - G.) Add boulders to plans as proposed to protect propane tank from vehicles.
 - H.) Raingarden #1 should meet separation requirement for state standards.
 - I.) Provide separation distance of SHWT from bottom of rain garden #2 on details.
 - J.) Provide cleanouts at change in direction of sewer service pipe and proposed drain pipe from rain garden #1.

On January 9, 2018, the applicant submitted revised plans addressing but staff identified a number of issues on the plans that will need to be updated and corrected by the

applicant. The staff is currently working with the applicant on these issues. If they are not resolved and updated plans are not able to be provided in a timely fashion, the staff will be recommending postponement to the February meeting.

Planning Department Recommendation

To be provided prior to the meeting.

VI. OTHER BUSINESS

A. City easements for the **Islington Street Corridor Project**

The City is planning to construct improvements to the Islington Street corridor between Spinney Road and Dover Street. The project will include replacement of underground water, sewer and drain lines, replacement of the traffic signal at Bartlett Street, reconstruction of the street and widening of sidewalks. To accommodate the widened sidewalks and street reconstruction, the City requires easements from seven private parcels abutting Islington Street.

Planning Department Recommendation

Vote to recommend that the City Council accept the easements identified in the Memorandum from Suzanne Woodland, dated January 11, 2018 to accomplish the Islington Street project.