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**MEMORANDUM**

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**To:** Planning Board  
**From:** Juliet T.H. Walker, Planning Director *JTW*  
Jillian Harris, Planner 1  
**Subject:** Staff Recommendations for the August 23, 2018 Planning Board Meeting  
**Date:** 8/20/2018 rev

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**I. PUBLIC HEARINGS – OLD BUSINESS**

- A. The application of **Jon and Joan Dickinson, Owners**, for property located at **220 Walker Bungalow Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer to demolish the existing home and detached garage, construct a new 1,968 s.f. single family residence with attached 756 s.f. garage, a new septic system and the relocation of the driveway, with 8,990  $\pm$  s.f. of impact to the 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 proposes to raze the existing single-family house and garage and to construct a new single family home and garage on site.

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 house proposed is more than 15% larger than the existing house and the garage on the site but the new home is further from the wetland and has stormwater and wetland buffer vegetation proposed. Given there is a house on the site today it is reasonable to propose a replacement home on this property.
- 2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The entire house is in the wetland buffer and there is no opportunity to build completely outside of the wetland buffer. The applicant has made an effort to move the house further from the edge of wetland to 28 feet where the current house is approximately 20 feet from the edge of wetland.
- 3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed house and garage are being designed with a porous driveway and stormwater treatment for roof runoff. In addition the project includes buffer plantings along the edge of the tidal wetland. Given there is an existing home there the proposed application should reduce the impacts from what is there today.
- 4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* The proposed application does not remove any natural vegetation but does propose a fairly extensive buffer planting plan.
- 5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The applicant has clearly taken steps to reduce the impact of the proposed home. With the exception of increasing the size of the home thereby limiting the open space on the lot there are improvements on the site over the existing home. The paved area near the current garage has been removed, the current garage is being removed and a new garage further from the wetland is proposed. The applicant has provided a reduced size more efficient septic system, a raingarden to treat roof runoff and a buffer planting area between 10 and 15 feet wide along almost the entire tidal frontage of the property. Given all of the improvements and the developed nature of the site this is a less impacting alternative than what is existing.
- 6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant has shown an area of buffer plantings between 10 and 15 feet wide along the shoreline of the property.

The Conservation Commission reviewed this application at the August 8, 2018 meeting and voted unanimously to recommend approval with a stipulation.

Planning Staff Review

The applicant is proposing a fairly intensive development on an already developed site. The measures provided to offset impacts on the site should reduce impacts on the site to below what is currently on the site. The recommended stipulations are intended to ensure that future maintenance of the rain garden and buffer planting area is conducted. Staff recommends that a plan with this information be recorded at the registry of deeds requiring the site is maintained by this and future property owners.

Planning Department Recommendation

*Vote to grant the wetland conditional use permit with the following stipulations:*

- 1. Any reference to asphalt for the new driveway material shall be removed from any final plans and reports submitted to the Planning Department.*
- 2. The applicant shall provide a recordable plan showing the buffer planting and rain garden area and referencing the required maintenance. The plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*



**I. PUBLIC HEARINGS – OLD BUSINESS (Cont.)**

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- B. The application of **Robert and Whitney Westhelle, Owners**, for property located at **198 Essex Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct a wood 12' X 18' garden shed, on cement blocks, with 216  $\pm$  s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 232 as Lot 128 and lies within the Single Residence B (SRB) District.

Description

The applicant has requested to postpone to the September 27, 2018 Planning Board meeting.

Planning Department Recommendation

*Vote to postpone this application to the September 27, 2018 Planning Board meeting.*



**I. PUBLIC HEARINGS – OLD BUSINESS (Cont.)**

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- C.** The application of **Pease Development Authority, Owner, and Lonza Biologics, Inc., Applicant**, for property located at **70 and 80 Corporate Drive**, requesting Conditional Use Permit approval, under Chapter 300 of the Pease Land Use Controls, Part 304-A Pease Wetlands Protection, for work within the inland wetland buffer for the construction of three proposed industrial buildings: Proposed Building #1 with a 132,000 s.f. footprint; Proposed Building #2: 150,000 s.f. footprint; Proposed Building #3 with a 62,000 s.f. footprint; and two 4-story parking garages, with 55,555± s.f. of impact to the wetland, 66,852 ± s.f. of impact to the wetland buffer and a 1,000 l.f. stream restoration for Hodgson Brook resulting in 42,500 s.f. of wetland creation. Said property is shown on Assessor Map 305 as Lots 1 & 2 and lies within the Pease Airport Business Commercial (ABC) district. (This application was postponed at the June 21, 2018 Planning Board Meeting.)

Planning Department Recommendation:

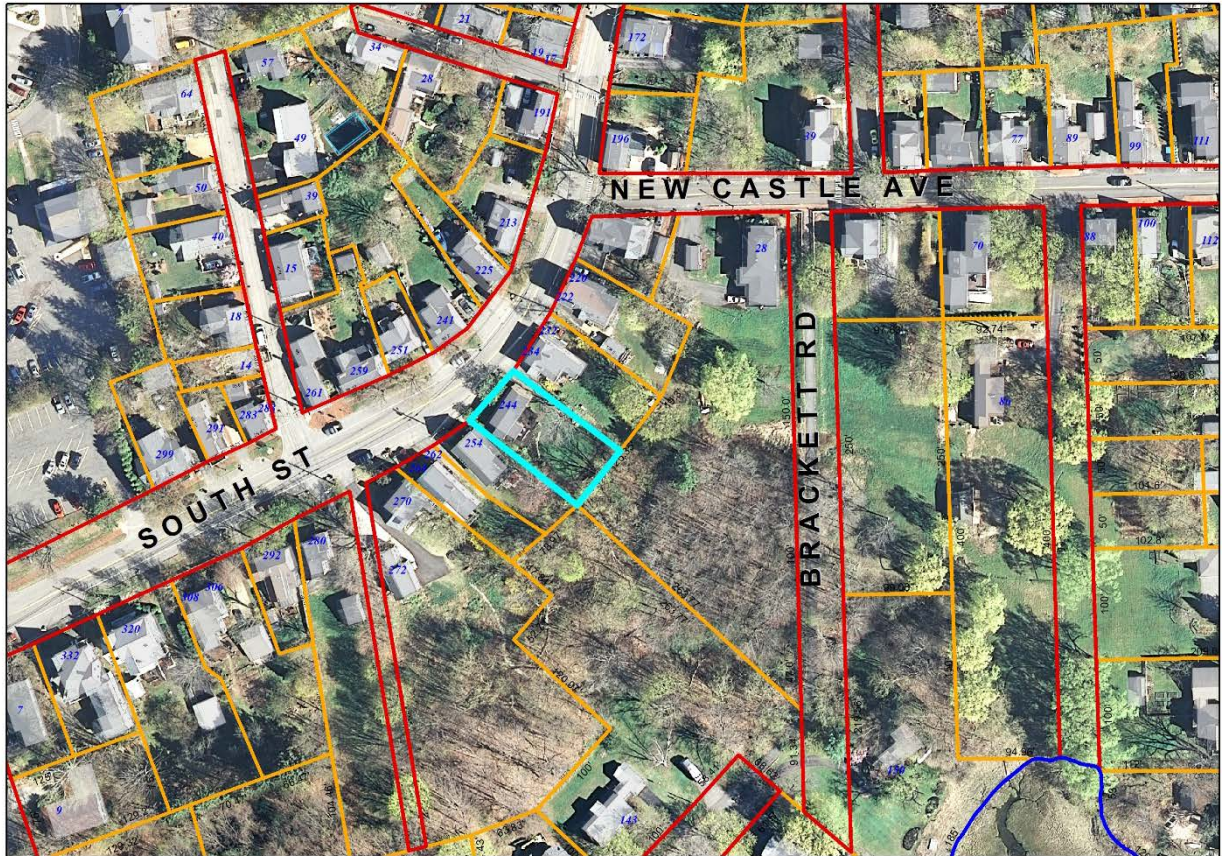
*No vote required, the Planning Board previously voted to postpone this application so that it can be considered at the same time as the applications for Subdivision and Site Plan Review. The Subdivision and Site Review applications are still under review by the Technical Advisory Committee.*



## II. PUBLIC HEARINGS – NEW BUSINESS

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- A. The application of **Swirly Girl II, LLC, Owner**, for property located at **244 South Street**, requesting Amended Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for the reconstruction of a retaining wall, relocation of granite steppers, relocation of low retaining wall, increased permeable walkway and driveway, and increased plant and buffer enhancement areas, with 1,091 + s.f. of impact to the wetland buffer, resulting in a net reduction of impervious surface of 133 s.f.. Said property is shown on Assessor Map 111 as Lot 3 and lies within the Single Residence B (SRB) District.



### Description

This application is an amendment to an approved Conditional Use Permit application approved on June 5, 2017 for this property. The proposed amendment seeks to change

the grade behind the building to allow for a small retaining wall and patio area. In addition the applicant has added some additional permeable driveway and walkway areas.

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 has proposed some minor changes identified during the landscape work on the site. The improvements proposed should not impact the wetland beyond the existing uses on the site.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The proposed work is within the same area of the buffer where the Conditional Use Permit was originally granted. The changes are just a refinement of the landscaping for the project.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed amendments will not create additional impacts on the wetland functional values of the site or surrounding properties.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There is no change proposed to the natural vegetation on the site.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The applicant is providing additional landscape features which will not create adverse impacts.
6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant provided new plantings in the buffer with the original application.

The Conservation Commission reviewed this application at the August 8, 2018 meeting and voted unanimously to recommend approval as presented.

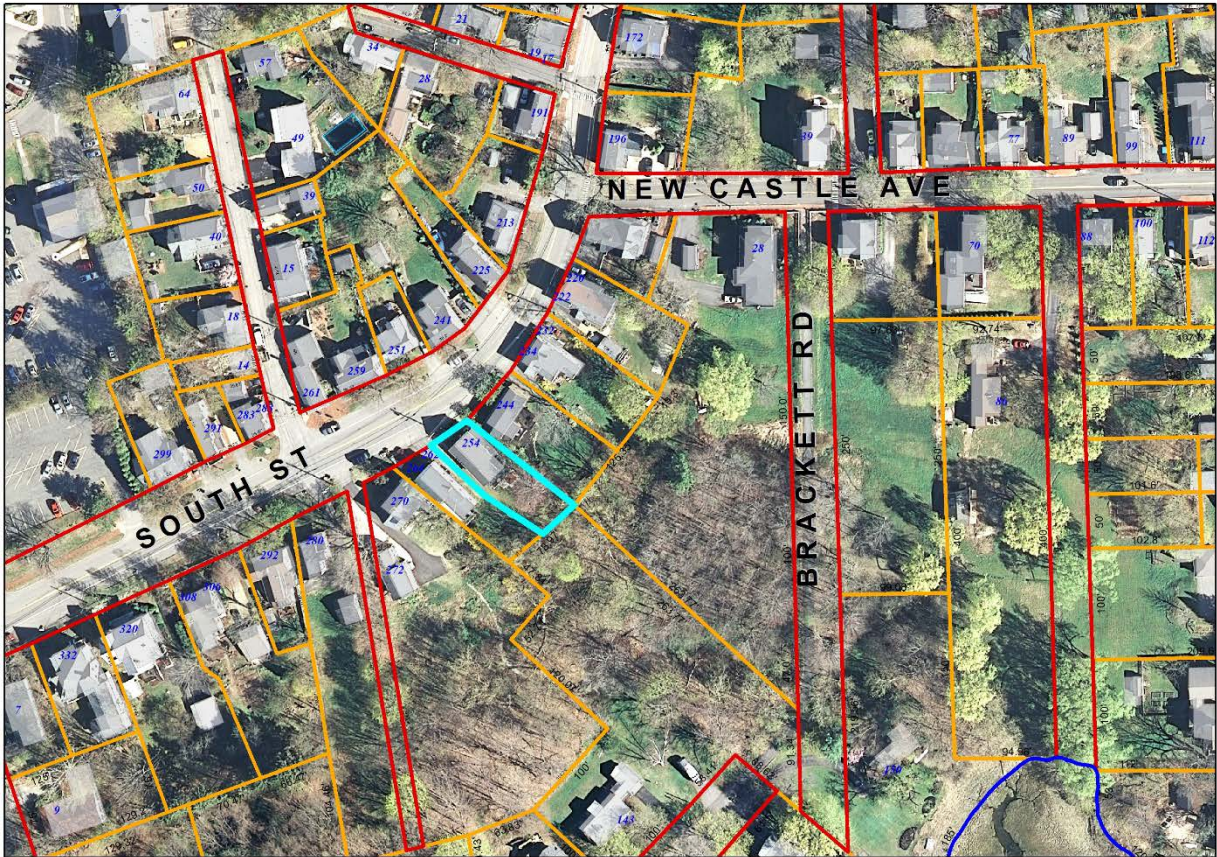
Planning Department Recommendation

*Vote to grant the wetland conditional use permit as presented.*

## II. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

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- B. The application of **Michael and Denise Todd, Owners**, for property located at **254 South Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for the addition of a 157 s.f. deck and a 140 s.f. ground level patio in crushed stone or permeable pavers, and additional plantings on the east side to offset disturbance, with 297 + s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 111 as Lot 4 and lies within the Single Residence B (SRB) District and the Historic District.



### Description

This application is proposing to construct a deck and patio area at the rear of the house with stone infiltration area for drainage.

### 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 a small deck with storage area below in the buffer at the rear of the property. Given the distance from the wetland and vegetation in between, the proposal is reasonable.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The proposed work is to extend the outdoor living space and provide a space for storage.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed amendments will not create additional impacts on the wetland functional values of the site or surrounding properties.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There is no change proposed to the natural vegetation on the site.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The applicant is providing additional landscape features which will not create adverse impacts.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant has provided plans showing new plantings in the buffer on the site.

The Conservation Commission reviewed this application at the August 8, 2018 meeting and voted unanimously to recommend approval as presented.

<u>Planning Department Recommendation</u>
<i>Vote to grant the wetland conditional use permit as presented.</i>

## II. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

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- C. The application of **Mary A. Mahoney, Owner**, for property located at **206 Northwest Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer for the removal of the existing paved driveway and walkway and an existing 127 s.f. screen house and the construction of a 23' x 25' two-car garage with a permeable driveway and walkway, with 1,700 + s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 122 as Lot 6 and lies within the General Residence A (GRA) District and the Historic District.



### Description

This applicant is proposing to construct a new garage and porous paver driveway and walkway for the house on 206 Northwest Street. The project also includes removal of an existing screen house in the wetland 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 remove a paved driveway and replace it with a garage and porous driveway. Given the existing driveway the site is suited to this proposal.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The proposed work is to extend the outdoor living space and provide a space for storage on a developed site.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed project is in a developed (paved) portion of the site. The replacement with a garage and pavers should not create an adverse impact.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There is no change proposed to the natural vegetation on the site. The application does show a 10' native buffer planting area but no plans show specific plantings.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The applicant is using porous pavers to provide a driveway area on the site. The replacement of a driveway with a garage should not create an adverse impact to the site or surrounding properties.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant has provided plans showing a 10' native buffer area.

The Conservation Commission reviewed this application at the August 8, 2018 meeting and voted unanimously to recommend approval as presented.

<p><u>Planning Department Recommendation</u></p>
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<p><i>Vote to grant the wetland conditional use permit as presented.</i></p>
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## II. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

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- D. The application of **Seacoast Development Group, LLC, Owner**, for property located on **Rockingham Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for the removal of a 285 + s.f. foundation with 1,187 s.f. of temporary impacts and 654 + s.f. of permanent grading impacts to the inland wetland buffer. Said property is shown on Assessor Map 235 as Lot 2 and lies within the Single Residence B (SRB) District.



### Description

This application is proposing to remove a foundation which is partially located within the buffer to create a drainage swale and install a proposed driveway in a portion of the wetland 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 majority of the impacts are temporary in nature and when the project is complete there will be only 3 square feet of pavement in the buffer with the rest vegetated with lawn or natural vegetation.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The proposed work is to remove an existing foundation in the buffer to prepare for house construction on the site outside of the buffer.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed project will not create additional impacts on the wetland functional values of the site or surrounding properties.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There is no change proposed to the natural vegetation on the site.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* With the exception of 3 square feet all of the impact is temporary in nature and will provide for a vegetated buffer when the project is complete.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The proposal does not specify plants within the 100' buffer but it will be vegetated.

The Conservation Commission reviewed this application at the August 8, 2018 meeting and voted unanimously to recommend approval with a stipulation.

Planning Department Recommendation

*Vote to grant the wetland conditional use permit with the following stipulation:*

*1. Applicant shall update plans, labeling the rain garden as a bio-retention area.*

## II. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

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- E. The application of the **City of Portsmouth School Department, Owner**, for property located at **32 Van Buren Avenue (Dondero Elementary School)**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for playground renovations, including the replacement and/or relocation of old play structures and play areas, creating multiple earthen mounds, and imported sculpted earth on the edge of the edge of the wetland, with 2,259 + s.f. of impact to the inland wetland and 15,500 ± s.f. of impact to the inland wetland buffer. Said property is shown on Assessor Map 250 as Lot 106 and lies within the Municipal (M) District.



### Description

This application is proposing to renovate the playground of the Dondero Elementary School. The work includes replacing existing play structures with new play structures and areas, new extensive landscaping where there is currently lawn, drainage swales to treat runoff from paved surfaces and a new paved area for fire access to the rear of the school. While Municipal projects are exempt from local zoning, it is typical for municipal projects to come before local land use boards for review consistent with other non-municipal projects.

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 replacement of the play area is occurring where there are currently play structures and lawn. This is the best location for the project as it is being designed to meet the needs of the students at the school.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The proposed work is replacing play areas that are currently existing and the fire lane is for emergency access.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed project will not create additional impacts on the wetland functional values of the site or surrounding properties. The new pavement runoff will not be utilized for parking and drainage swales have been included on the plan to treat any surface runoff from this new area. This treatment should offset any impact the project might have on the wetland.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There is no change proposed to the natural vegetation on the site.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The applicant has provided a plan which replaces the functional play area with new structures and earthen mounds which should not create any new impacts. While there is new pavement proposed on the site the drainage swales should do an adequate job of treating the stormwater before it runs off the site.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The proposal includes a number of new planting areas in the buffer. The plans for these areas have not been specified on the plan.

The Conservation Commission reviewed this application at the August 8, 2018 meeting and voted unanimously to recommend approval as presented.

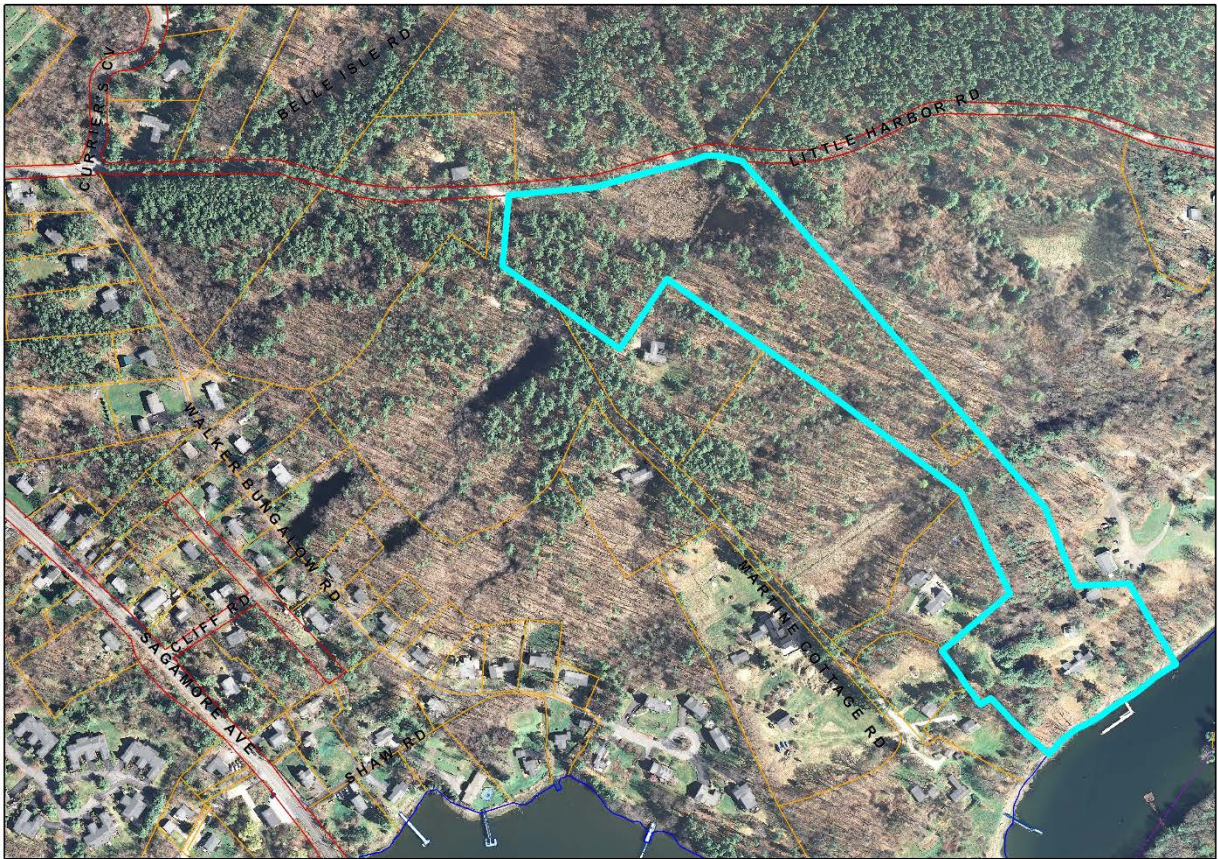
Planning Department Recommendation

*Vote to grant the wetland conditional use permit as presented.*

## II. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

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- F. The application of **Robert J. and Susan L. Nalewajk, Owners**, for property located at **350 Little Harbor Road**, requesting Amended Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for replacement of the entrance gate, expansion of the driveway width and turning radii using permeable pavers, the installation of four AC units on the eastern side of the garage, reconfiguration of retaining walls and walkways, and the addition of a security gate at the western entrance, with 1,471 + s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 202 as Lot 16 and lies within the Single Residence A (SRA) District.



### Description

This application is an amendment to an approved Conditional Use Permit application approved on September 15, 2016 for this property. The proposed amendment seeks to change the location of driveway entrance gates, area of the driveways, parking area, location of air conditioning units, and walkway changes.

### 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 has proposed some changes identified on the landscape plan. Given the site is being developed now the changes are reasonable to provide the optimal usage of the site for the owners.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The proposed work is within the same area of the buffer where the Conditional Use Permit was originally granted. The changes are to provide better access to the site for trucks and to include uses which were not originally considered.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed amendments should not create additional impacts on the wetland functional values of the site or surrounding properties. The most significant change is the grass pave area adjacent to the retaining wall. Given a porous area is proposed in this location it should not impact the wetland. However, it is important that care be taken during snow clearing operations not to disturb the grass pave areas.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There is no change proposed to the natural vegetation on the site.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The applicant is providing changes to landscape features which should not create adverse impacts.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* This is an amended application where the original had a great deal of landscaping elements to enhance the buffer.

The Conservation Commission reviewed this application at the August 8, 2018 meeting and voted (1-1-4) to recommend denial of the application for the following reasons:

1. Concerns were raised about the size of the gate, the introduction of plastics in the buffer with the grass pavers system and the expansion of the porous pavers at the entrance area.

#### Planning Staff Review

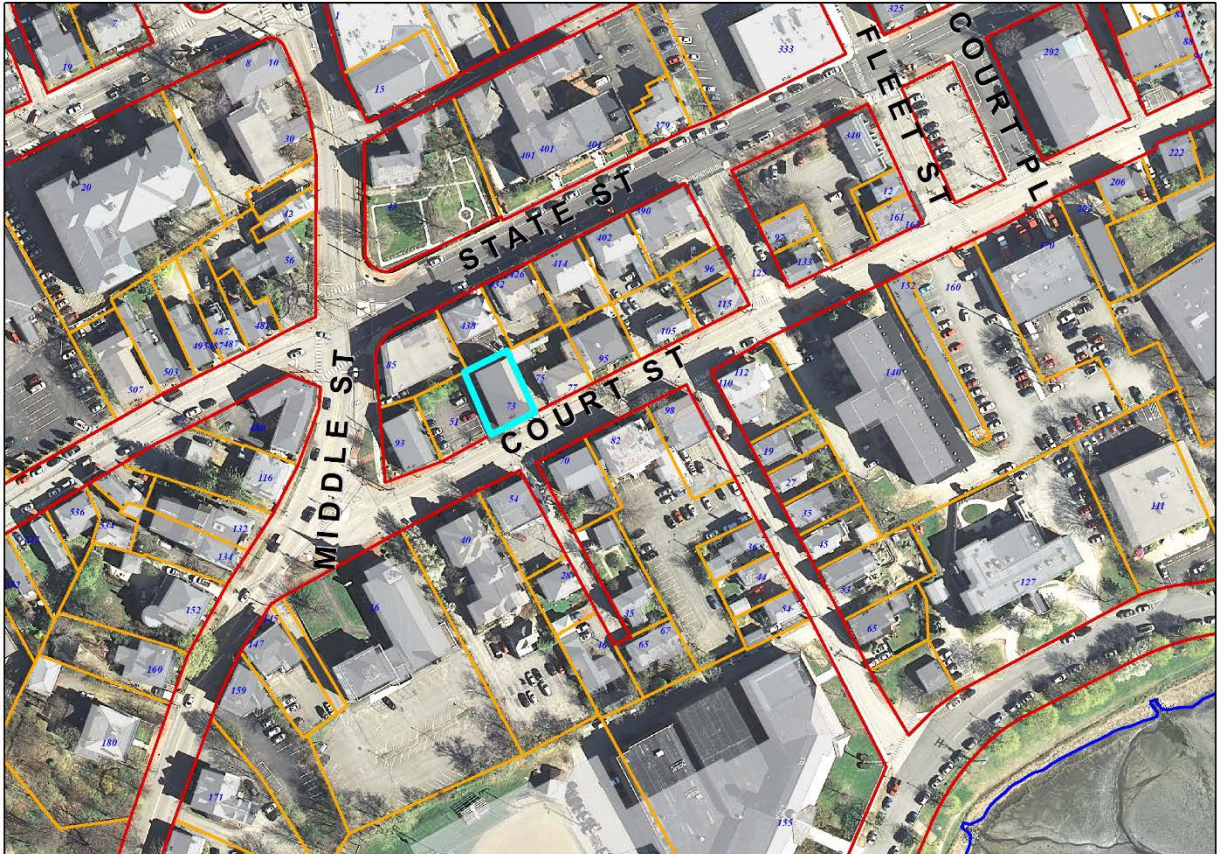
Subsequent to the August 8<sup>th</sup> Conservation Commission meeting the applicant submitted a revised plan, dated 8/9/18, addressing two of the three concerns raised. Specifically, the western gate and the grass pave driveway expansion were removed. With these changes staff recommends approval of the revised plan.

#### Planning Department Recommendation

Vote to grant the wetland conditional use permit as presented.

### III. OTHER BUSINESS

- A. Request of the **Unitarian-Universalist Church of Portsmouth, Owner**, for property located at **73 Court Street**, for a one year extension of Site Plan Review approval granted by the Planning Board on September 21, 2017.



#### Description

The project received site plan review approval from the Planning Board on September 21, 2017 to construct a 286 ± s.f. (footprint) addition, to provide a ramp and egress to and from the existing building, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Site Plan approval expires within 1 year, unless a building permit is obtained. The Planning Board may, for good cause, extend such period by as much as 1 year if requested and acted upon prior to the expiration date. Upon review of a request for an extension, the Planning Board may approve, amend or deny a previously approved application. However, the Planning Board may not deny a request for extension without a public hearing. This is not required to be a public hearing nor has it been advertised and noticed as such, however the Planning Board may, at the owner's expense, advertise and conduct a public hearing at a future meeting date. The Planning Board may also refer this extension request to the Technical Advisory Committee for a recommendation.

Per the Site Plan Review regulations Section 2.14 (5), a time extension shall be granted if determined that no change has taken place that would materially affect the currently approved site plan in regard to:

- (a) Traffic flow, volume, or congestion;
- (b) Pedestrian safety;
- (c) Drainage;
- (d) Water availability;
- (e) Sewer capacity;
- (f) Design standards;
- (g) Landscape elements; and
- (h) Zoning compliance.

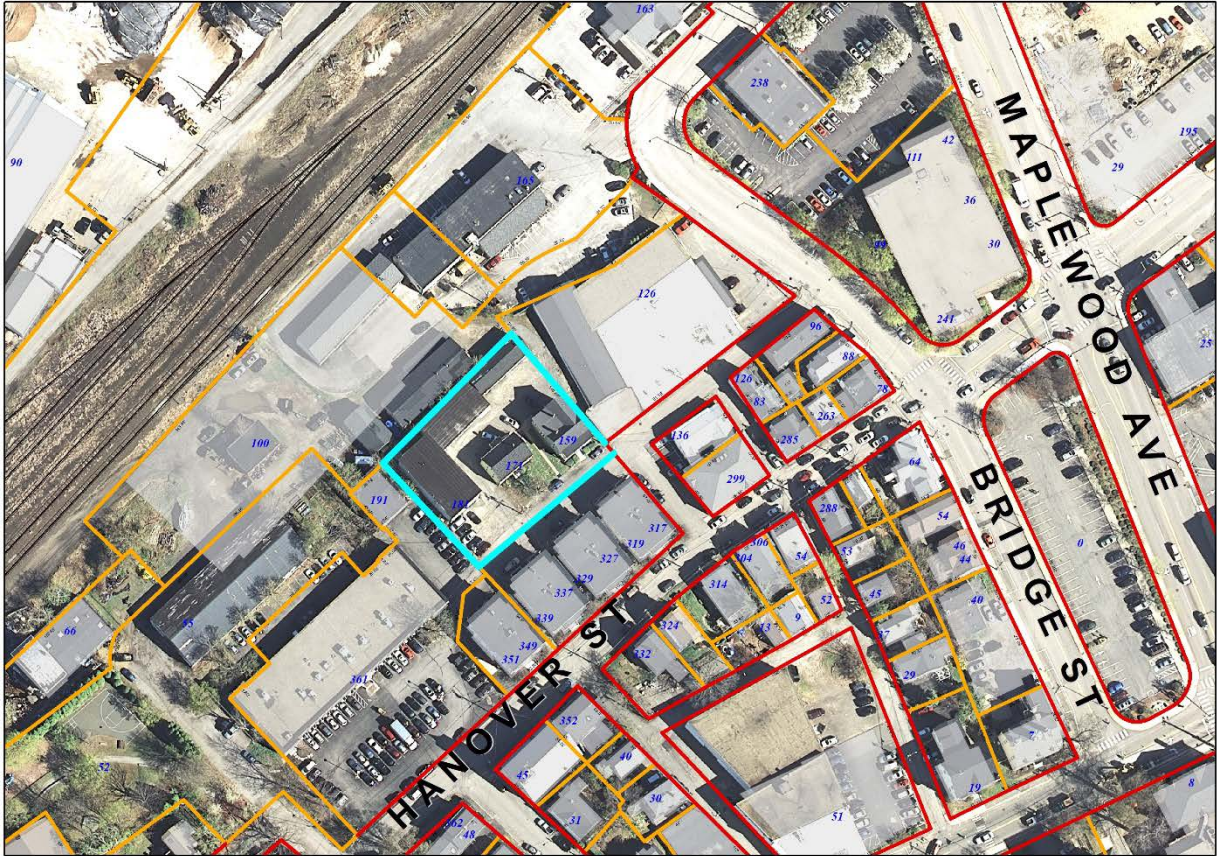
The approved plans and the letter of decision will be uploaded to the Planning Department web page.

Planning Department Recommendation

*Vote to determine that no change has taken place that would materially affect the current site plan approval and approve a 1-year extension of the Site Plan Approval to expire on September 21, 2019.*

### III. OTHER BUSINESS (Cont.)

- B. Request of **Foundry Place, LLC, Owner**, for property located at **181 Hill Street ("Lot 6")**, for a one year extension of Site Plan Review approval granted by the Planning Board on November 16, 2017.



#### Description

The project received site plan review approval from the Planning Board on November 16, 2017 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.

#### Planning Department Recommendation

*Vote to determine that no change has taken place that would materially affect the current site plan approval and approve a 1-year extension of the Site Plan Approval to expire on November 16, 2019.*