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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 October 18, 2018 Planning Board Meeting  
**Date:** 10/15/18 (revised 10/18/18)

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**II. DETERMINATIONS OF COMPLETENESS**

A. Site Plan Review

1. The application of **Coleman Garland, Owner**, for property located at **185 Cottage Street**, requesting Site Plan approval.
2. The application of **206 Court Street, LLC, Owner**, for property located at **206 Court Street**, requesting Site Plan approval.
3. The application of **Happy Mountain Holdings, LLC, Owner**, for properties located at **64 & 74 Emery Street**, requesting Site Plan approval.

Planning Department Recommendation

*Vote to determine that the applications are complete according to the Site Plan Review Regulations (contingent on the granting of any required waivers under Section V of the agenda) and to accept the applications for consideration.*



**III. OLD BUSINESS – ZONING AMENDMENTS – PUBLIC HEARINGS**

- A.** Amendments to the Ordinances of the City of Portsmouth, Chapter 10 Zoning Ordinance regulating Accessory Dwelling Units and Garden Cottages including revisions to Article 8 Supplemental Use Standards Sections 10.814 Accessory Dwelling Units and 10.815 Garden Cottages and revisions to Article 15 Definitions Section 10.1530 Terms of General Applicability.

Description

A presentation will be made at the meeting.

Planning Department Recommendation

*Vote to recommend approval of the proposed amendments to City Council.*

- B.** Amendment to the Ordinances of the City of Portsmouth, Chapter 10 Zoning Ordinance, Article 2 Administration and Enforcement by inserting a new Section 10.240 regulating requirements and criteria for granting of a Conditional Use Permit.

Description

A presentation will be made at the meeting.

Planning Department Recommendation

*Vote to recommend approval of the proposed amendments to City Council.*

- C.** Amendments to the Ordinances of the City of Portsmouth, Chapter 10 Zoning Ordinance, Article 11 Site Development Standards Section 10.1110 Off-Street Parking including revisions deleting Section 10.1112.52 of Article 11 Site Development Standards and inserting a new Section 10.1112.14 regarding regulation of Conditional Use Permits for Off-Street Parking and minor amendments to Section 10.1112.21, 10.1112.323, 10.1114.33, and 10.1115.20 regarding applicability of parking space requirements for different types of land uses.

Description

A presentation will be made at the meeting.

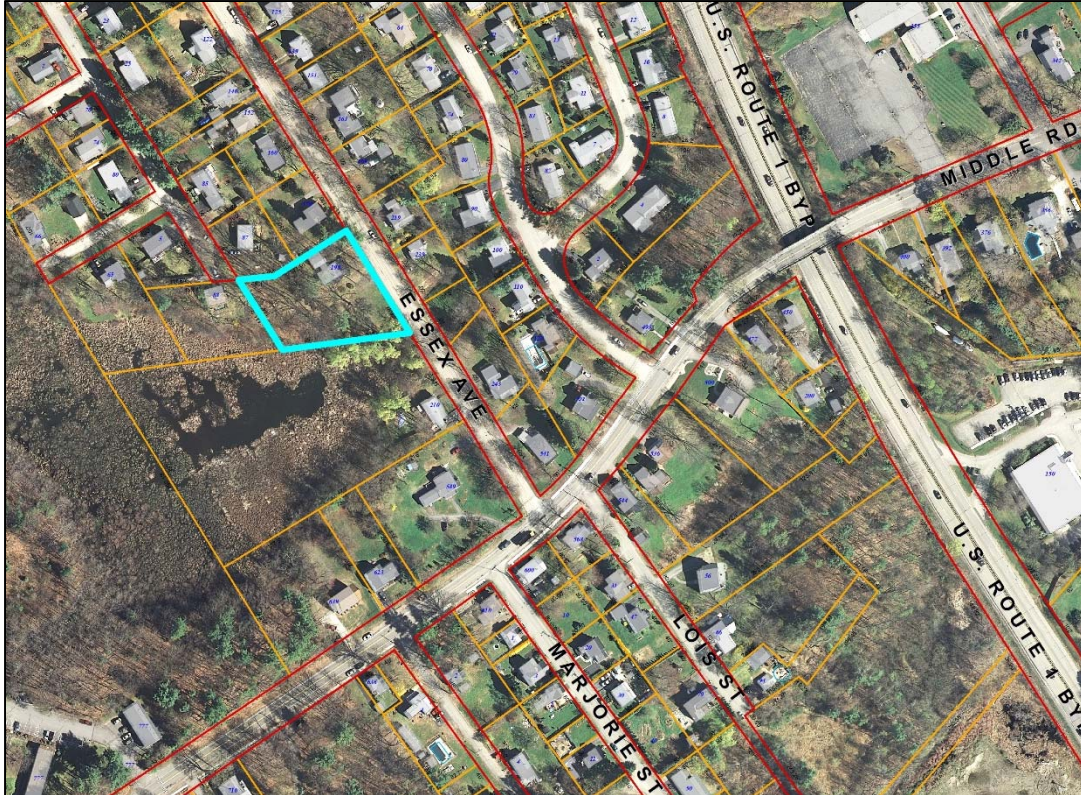
Planning Department Recommendation

*Vote to recommend approval of the proposed amendments to City Council.*



#### IV. PUBLIC HEARINGS – OLD BUSINESS

- A. 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 ± 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. (This application was postponed at the September 20, 2018 Planning Board Meeting.)



##### Description

This application is to install a garden shed on the property located completely within 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 shed is proposed to be located in an area that is partially lawn and given its small size of 216 square feet with no foundation the area is reasonably suited to the proposal.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The location of the shed is within a lawn and brush area and is reasonable given nearly the entire property is located within the wetland buffer.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed shed should not create any adverse impacts to adjacent properties.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There will need to be lawn and some brush cleared to install the shed.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The proposed shed if constructed on blocks and constructed where lawn and brush exist can be constructed to not have any greater impacts than the existing lawn.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant has stated they were interested in removing invasive species and planting native vegetation However, no specific locations have been shown on the plan.

The Conservation Commission reviewed this application at the September 12, 2018 meeting and voted to recommend approval as presented with one member recusing.

Planning Department Recommendation

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

#### IV. PUBLIC HEARINGS – OLD BUSINESS (Cont.)

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- B. The application of **Pease Development Authority, Owner, and Lonza Biologics, Inc., Applicant**, for property located at **70 and 80 Corporate Drive**, requesting Subdivision approval, under Chapter 500 of the Pease Land Use Controls, Subdivision Regulations, to merge Map 305, Lots 5 & 6 (17.10 acres), Map 305, Lot 1 (13.87 acres), Map 305, Lot 2 (10.18 acres) and a discontinued portion of Goosebay Drive to create Map 305, Lot 6 (43.37 acres). Said properties are shown on Assessor Map 305 as Lots 1 & 2 and lie within the Pease Airport Business Commercial (ABC) district. (This application was postponed at the September 20, 2018 Planning Board Meeting.)

Description

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

Planning Department Recommendation

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

- 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 $\pm$  s.f. footprint; Proposed Building #2: 150,000  $\pm$  s.f. footprint; Proposed Building #3 with a 62,000 $\pm$  s.f. footprint; and two 4-story parking garages, with 55,555  $\pm$  s.f. of impact to the wetland, 66,852  $\pm$  s.f. of impact to the wetland buffer and a 1,000 $\pm$  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 September 20, 2018 Planning Board Meeting.)

Description

The Planning Board previously voted to postpone this application so that it could be considered at the same time as the subdivision and site plan applications. The applicant has requested to postpone the subdivision and site plan review applications to the November 15, 2018 Planning Board meeting.

Planning Department Recommendation:

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

- D.** The application of **Pease Development Authority, Owner, and Lonza Biologics, Inc., Applicant**, for property located at **70 and 80 Corporate Drive**, requesting Site Plan Review Approval, under Chapter 400 of the Pease Land Use Controls, Site Review Regulations, for the construction of three proposed industrial buildings with heights of 105 feet: Proposed Building #1: 132,000 s.f. footprint and 430,720 s.f. Gross Floor Area; Proposed Building #2: 142,000 s.f. footprint and 426,720 s.f. Gross Floor Area; Proposed Building #3: 62,000 s.f. footprint and 186,000 s.f. Gross Floor Area; and two 4-story parking garages, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor Map 305 as Lots 1 & 2 and lie within the Pease Airport Business Commercial (ABC) district. (This application was postponed at the September 20, 2018 Planning Board Meeting.)

Description

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

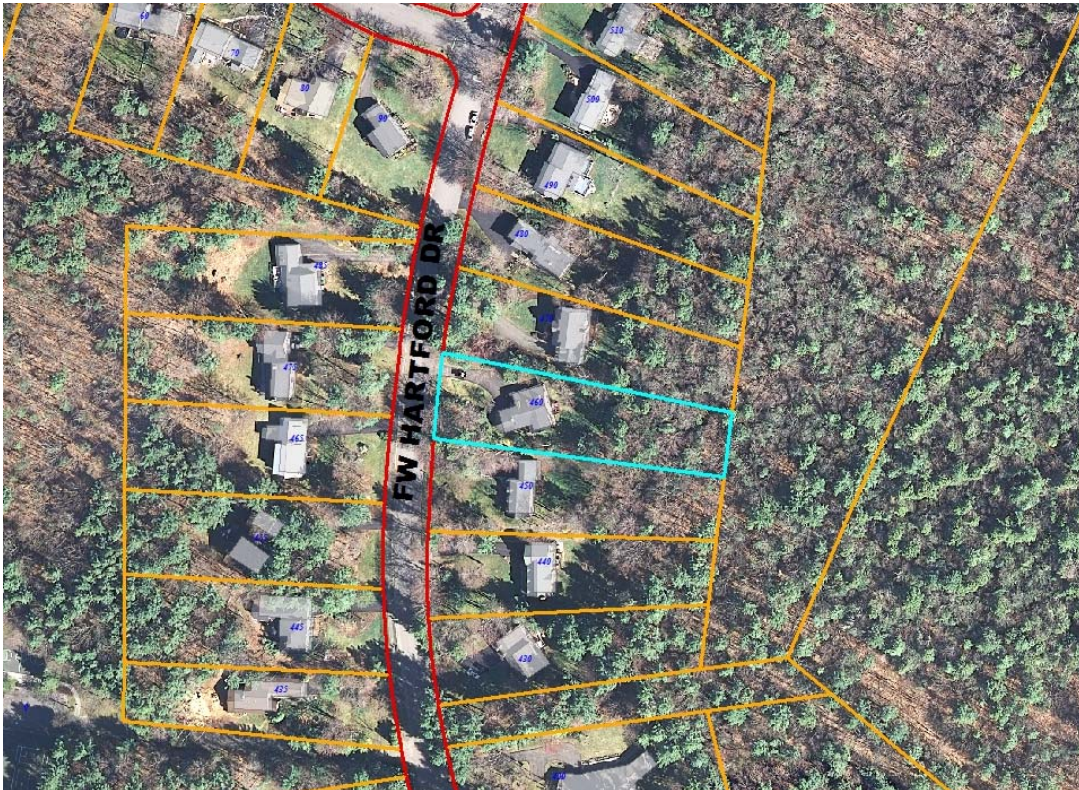
Planning Department Recommendation

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



## V. PUBLIC HEARINGS – NEW BUSINESS

- A. The application of **John and Joan Rice, Owners**, for property located at **460 F.W. Hartford Drive**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to demolish an existing 120 s.f. (10' x 12') wooden deck and construct a 189 s.f. (13' x 14'6") Azek and wood deck on the same site, with 189 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 249 as Lot 17 and lies within the Single Residence B (SRB) District.



### Description

This application is to expand a deck from 120 square feet to 189 square feet approximately 80 feet from 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 expanded deck is attached to the house and the small expansion is reasonable given there is an existing deck on site.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The location of the existing deck

is dependent on the back door of the house. This is the most feasible and reasonable location for the proposed activity.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* Given the small size of the deck currently attached to the rear of the house this deck will not create new impacts to the wetland functional values of the site.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* The expanded deck is within an existing lawn area. Some lawn area will be removed to construct the deck.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The proposed deck expansion is minor in size and no substantive changes other than the expansion are proposed. This is the least impacting expansion alternative.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant has stated they have planted trees and shrubs in the wetland buffer but not specific to this project.

The Conservation Commission reviewed this application at the October 10, 2018 meeting and voted unanimously to recommend approval with the stipulation that is included in the Planning Department recommendation below.

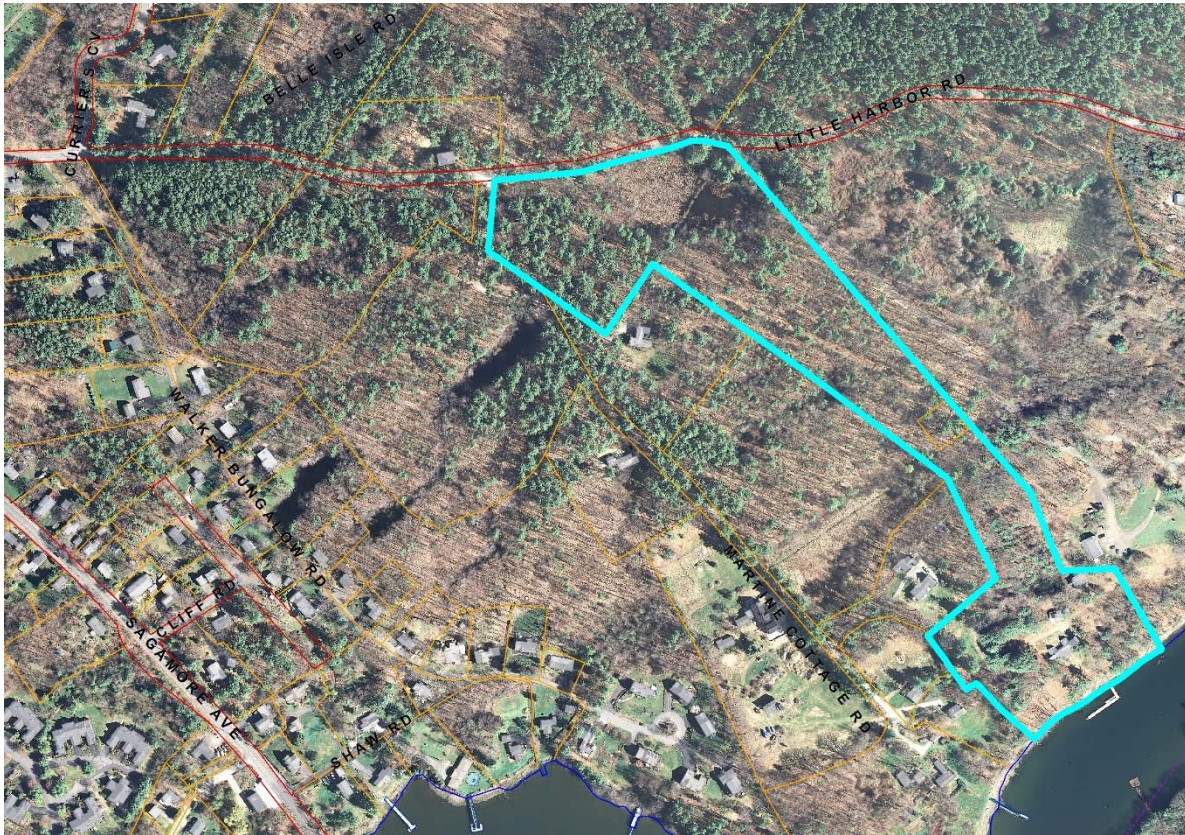
Planning Department Recommendation

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

1. *Plantings shall be installed around the deck.*

**V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)**

**B.** 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 to install a 12' wide security gate on the western side of the lot (used for access from Martine Cottage Road), installation of 255 linear feet of buried electrical conduit from the residence to the proposed gate, and 740 linear feet of buried irrigation line to provide water to proposed landscaped areas, with 1,067  $\pm$  s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 202 as Lot 16 and lies within the Rural District. (Conditional Use Permit approval was granted by the Planning Board on August 23, 2018).



Description

This application is to install a new gate on the Western entrance to the property along with new waterlines for irrigation and approval for an after the fact electrical conduit.

Applicant has requested to postpone to the November meeting.

Planning Department Recommendation

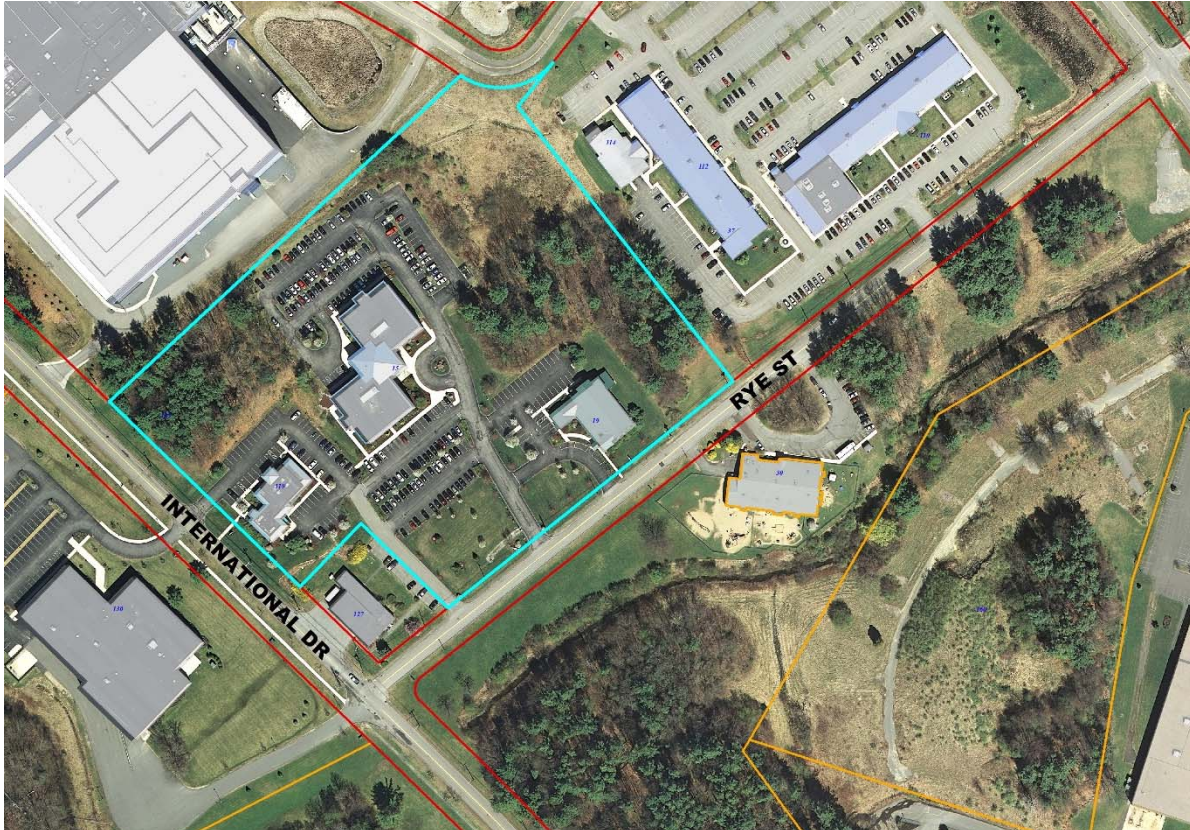
*Vote to postpone application to the November 15, 2018 Planning Board meeting.*



**V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)**

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- C. The application of **Pease Development Authority, Owner, and Two International Group, Applicant**, for property located at **19 Rye Street #3**, 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 mitigation and buffer enhancements 1,565 s.f. of brush was inadvertently cleared. Said property is shown on Assessor Map 305, as Lot 4-3 and lies within the Airport Business Commercial (ABC) District.



Description

This application is to conduct a restoration in a Pease Development Authority (PDA) wetland buffer area to restore an area cleared as part of site development on 19 Rye Street. This is a Conditional Use Permit application specific to the Pease Development Authority regulations. As such the Wetland Regulations from the Pease Zoning Ordinance must be complied with.

Conservation Commission Review

According to the Pease Development Authority Zoning Ordinance Part 304-A Pease Wetland Protection section 304-A.08 Conditional Use Permitting (f) Criteria for Approval the applicant must satisfy the following conditions for approval of this project.

1. *The land is reasonably suited to the use.* The impact to the wetland buffer was created by the contractor therefore this restoration is the approach that is being taken at the request of the PDA to restore the site.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use.* Given this is a restoration project for work done within the 25 foot wetland buffer assigned to this wetland by PDA there is no alternative location for the proposed work.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The clearing of vegetation likely created a temporary impact to the adjacent wetland which this restoration should reduce.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* All of the natural vegetation where the impact took place was cleared. This restoration plan is an effort to restore that area.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* Over the longterm the restoration should restore the impact created by this project. Care should be taken to insure that invasive species do not establish themselves on this site reducing the longterm effectiveness of the proposed restoration.

The Conservation Commission reviewed this application at the October 10, 2018 meeting and voted unanimously to recommend approval with stipulations that are included in the Planning Department recommendation below.

Planning Department Recommendation

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

1. *The applicant shall monitor the site and submit a monitoring plan to the Planning Department one-year after planting occurs. Information in the plan shall describe the success of the plantings. If less than 80% of the plantings survive after one-year, a follow-up planting shall be conducted with another one-year monitoring report due until such a time as the site is established with at least 80% planting success. In addition, the monitoring plan shall document any invasive species in the restoration area and, if found, submit a plan to address the invasive species.*

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

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- D. The application of **Coleman Garland, Owner**, for property located at **185 Cottage Street**, requesting Site Plan approval to demolish two existing residential buildings and to construct a 2-story medical office building, with a footprint of 7,000 s.f. and Gross Floor Area of 14,000 s.f., with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 174 as Lot 14 and lies within the General Residence A (GRA) District.



### Description

This application proposes to demolish two existing residential buildings and to construct a 2-story medical office building, with a footprint of 7,000 s.f. and Gross Floor Area of 14,000 s.f. with associated site improvements. On June 26, 2018 the Zoning Board of Adjustment granted a use variance for the site to allow medical (dental) offices where medical office use is not permitted in the General Residence A (GRA) Zoning District.

### Waiver Request

The applicant requests a waiver from Section 8.1.2 of the Site Plan Review Regulations requiring all new and relocated wire conduits and cables to be located underground.

### Technical Advisory Committee

The TAC reviewed this application on October 2, 2018 and voted to recommend approval with the following stipulations:

1. The 8 foot wide handicap access aisle shall have a NO PARKING sign to reinforce its intended use.
2. All proposed mechanical units shall be shown on the utility plan.
3. Consideration shall be given to adding additional street trees along Route 1 in the vicinity of the rain garden as long as adequate separation can be provided to the existing sewer line.
4. The Site Plan to be recorded shall include a reference to the required raingarden and infiltration basin maintenance requirements.
5. Applicant shall look to relocate the existing arborvitae along the Cottage street frontage to another location such as behind the dumpster pad on site.
6. Applicant shall provide a copy of the access easement to the abutting Doble Center property for review by the Planning Department.

Subsequent to Planning Board approval

7. Stormwater system maintenance and enforcement oversight by City of Portsmouth shall be documented in a deed restriction.
8. Existing buildings shall be placarded for demolition as required by the demolition ordinance.

On October 9, 2018 the applicant submitted revised plans addressing items 1-6 above to the satisfaction of the Planning Department.

**Planning Department Recommendation**

1. *Vote to find that a waiver 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:*

*1.1) Section 8.1.2 – All new and relocated wires, conduits, and cables shall be located underground.*

**[Note: An affirmative vote of six members of the Planning Board is required to grant a waiver.]**

2. *Vote to grant Site Plan Approval with the following stipulations:*

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

- 2.1) *The Site Plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 2.3) *Stormwater system maintenance and enforcement oversight by City of Portsmouth shall be documented in a deed restriction.*
- 2.4) *Existing buildings shall be placarded for demolition as required by the demolition ordinance.*

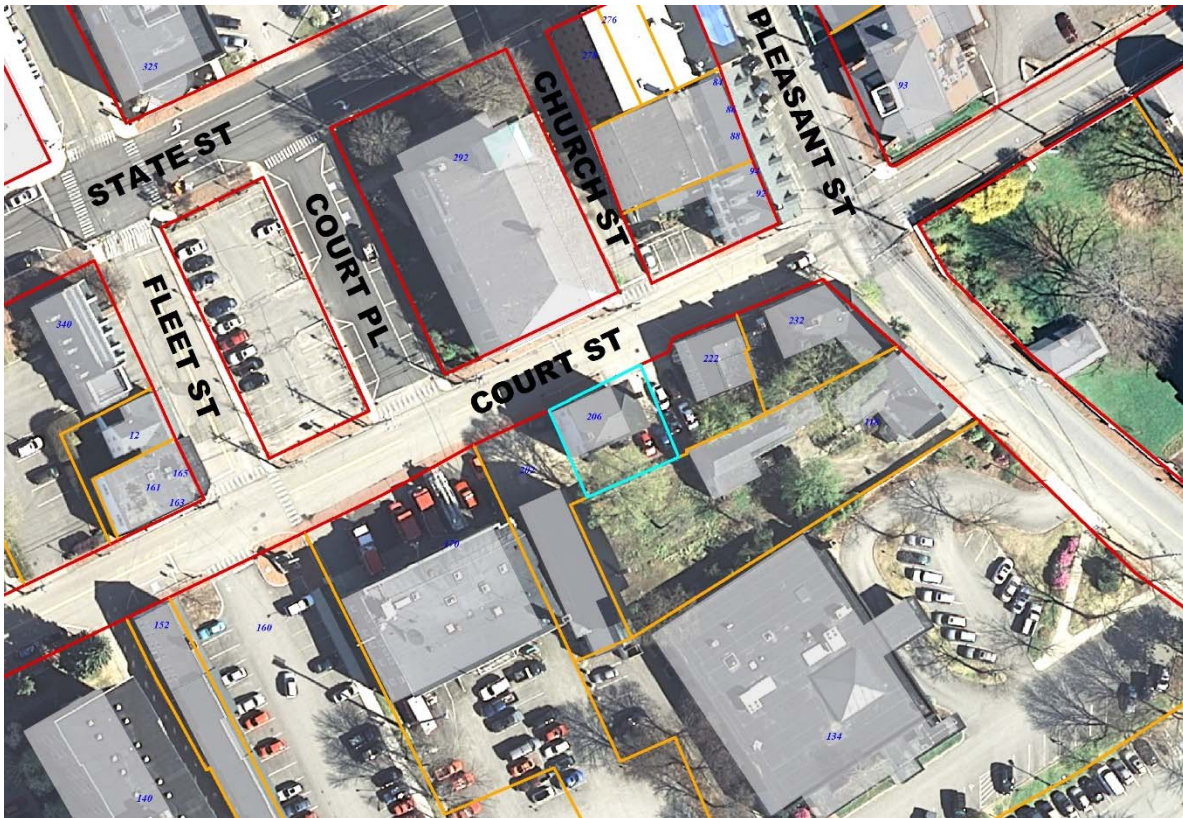


**V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)**

*It is recommended that Item V.E and V.F be discussed together and voted on separately.*

*A motion is required to consider these two items together.*

- E. The application of **206 Court Street, LLC, Owner**, for property located at **206 Court Street**, requesting Site Plan approval to construct a 3-story irregular shaped rear addition with a footprint of 767 s.f. and Gross Floor Area of 1,914 s.f. and to convert the use to three dwelling units, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 116 as Lot 34 and lies within the CD 4-L1 District and the Historic District.
- F. The application of **206 Court Street, LLC, Owner**, for property located at **206 Court Street**, requesting Conditional Use Permit approval pursuant to Section 10.1112.52 of the Zoning Ordinance to allow 3 residential units with 2 parking spaces 4 parking spaces are required. Said property is shown on Assessor Map 116 as Lot 34 and lies within the CD 4-L1 District and the Historic District.



Description

This application proposes to construct a 3-story irregular shaped rear addition with a footprint of 767 s.f. and Gross Floor Area of 1,914 s.f. and to convert the use to three dwelling units, with associated site improvements.

Conditional Use Permit

The applicant requests a Conditional Use Permit pursuant to Section 10.1112.52 of the Zoning Ordinance to provide less than the minimum off-street parking spaces required by Section 10.1112.30. The minimum off-street parking requirement for 3 Dwelling Units over 750 s.f. is 1.3 spaces per unit or 4 spaces required. The applicant is proposing to provide 3 spaces, one of which will be a tandem space which does not comply with the zoning requirements for tandem parking spaces (Section 10.1114.33). Previously, the applicant received relief from the Zoning Board of Adjustment to provide two non-tandem parking spaces that were 8' wide where 8.5' is the minimum required and to allow vehicles to enter and leave the parking area by backing into or from a public street.

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. On October 16, the applicant's attorney submitted a parking demand analysis for the Planning Board's consideration. While the application indicates there are 3 parking spaces, the tandem space does not comply with the requirements of Section 10.1114.33 – that the tandem spaces have to be assigned to the same dwelling unit, cannot be used for guest parking, and that the two spaces shall have a combined minimum dimension of 9 feet in width by 38 feet in length. Therefore, the applicant is technically only providing two compliant spaces where four are required.

Technical Advisory Committee

The TAC reviewed this application on October 2, 2018 and voted to recommend approval with the following stipulations:

1. Applicant shall updated plans to show the size of existing service leaving the building, and note that anything smaller than 6" will need replacement.
2. The landscaping shall be shown separately from the site plan and details should be provided for the patio.
3. Applicant shall apply for a Conditional Use Permit from the Planning Board for providing less than the required number of parking spaces.
4. Typos noted on the plans shall be corrected.
5. Applicant shall provide final details of the east wall of the building to the Building Inspector for review and approval of compliance with life safety code requirements for fire separation.
6. A recordable Operation & Maintenance plan for the pavement shall be submitted.

Subsequent to Planning Board approval

7. Applicant shall provide documentation of an easement or agreement with abutter for work on their lot.

On October 9, 2018 the applicant submitted revised plans addressing 1 through 6 above to the satisfaction of the Planning Department.

Planning Department Recommendation

**Site Plan Review**

1. *Vote to grant Site Plan Approval with the following stipulations:*

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

1.1) *The Site Plan shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

1.2) *Applicant shall provide documentation of an easement or agreement with abutter for work on their lot.*

**Conditional Use Permit**

1. *Vote to grant a Conditional Use Permit to provide 2 parking spaces where 4 is the minimum required.*



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

- G.** The application of **Happy Mountain Holdings, LLC, Owner**, for properties located at **64 & 74 Emery Street**, requesting a Conditional Use Permit approval to construct one two-unit residential building on each lot within the Highway Noise Overlay District. Said property is shown on Assessor Map 174 as Lot 14 and lies within the Single Residence B (SRB) District and the Highway Noise Overlay District.



### Description

The application proposes to construct one two-unit residential building on each lot, each building to be 2-stories with a 2,080 s.f. footprint and a 3,000 s.f. Gross Floor Area with a shared driveway and associated site improvements.

### Site Plan Review Approval

As part of the Site Plan Review approval, the applicant is requesting waivers from the following Site Plan Review Regulations:

- 1) Section 2.5.4 2(E) A Note shall be provided on the plan stating “All conditions on this plan shall remain in effect in perpetuity pursuant to the requirements of the site plan regulations”;
- 2) Section 2.5.4 3(C) – Access and circulation;
- 3) Section 2.5.4 3(D) – Parking and loading;
- 4) Section 2.5.4 3 (J) – Outdoor lighting;

- 5) Section 2.5.4 3(K) – Landscaping;
- 6) Section 3.4 - Curbing (A) where access ways and driveways meet public streets;
- 7) Section 5.2 - Sidewalk and Pedestrian Pathways;
- 8) Section 5.3 - Bicycle Facilities;
- 9) Section 6.1 – Landscaping and Screening Standards;
- 10) Section 2.13.3 – Recording Notes;
- 11) Section 2.13.4 – Landscaping requirements.

*Technical Advisory Committee Review*

The TAC reviewed this application on October 2, 2018 and voted to recommend approval with the following stipulations:

Prior to Planning Board review:

1. Applicant shall show outline of proposed stormwater areas on the site plan so that it is clear to future homeowners and note that stormwater features must be maintained by the owners in perpetuity.
2. A Conditional Use Permit shall be required from the Planning Board to comply with the new Highway Noise Overlay District.
3. The applicant may reduce the overall driveway width to 14' driveway as previously proposed.
4. Applicant shall provide a landscaping plan that includes limits of clearing, loaming and seeding.
5. Drainage and grading shall be updated and clarified to address TAC comments and approved by Planning and DPW staff prior to Planning Board review.

Subsequent to Planning Board approval:

6. Stormwater features must be maintained by the owners in perpetuity. Stormwater system maintenance and enforcement oversight by City of Portsmouth shall be documented in a deed restriction. The deed restriction for stormwater maintenance shall be recorded and include language that notes any changes shall require review and approval by the Planning Director.
7. An easement shall be required between the two properties to allow stormwater to drain across lot lines.
8. Applicant shall provide documentation of utility and driveway access easements prior to the issuance of a Certificate of Occupancy for either property.
9. Temporary check dams shall be placed during construction to address any impact to abutting property.

On October 9, 2018 the applicant submitted revised plans addressing items 1-4 above to the satisfaction of the Planning Department. For item 5, DPW and Planning staff have reviewed the revised drainage plans and have determined that they are not acceptable as designed. Specifically, post-development runoff exceeds pre-development runoff at point of analysis #2 for the 2, 10, 25 & 50 year storms (doubling and tripling runoff in 25 & 50 year storms). After discussion with the applicant's engineer, staff is prepared to recommend that the Planning Board approve this plan with a stipulation that the drainage will be updated to comply with the City's Site Review Regulations (Section 7.4.2 8) subject to final review and approval by DPW and Planning Department staff.

Planning Department Recommendation

1. *Vote to find that a waiver 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:*

- 1) *Section 2.5.4 2(E) A Note shall be provided on the plan stating "All conditions on this plan shall remain in effect in perpetuity pursuant to the requirements of the site plan regulations";*
- 2) *Section 2.5.4 3(C) – Access and circulation;*
- 3) *Section 2.5.4 3(D) – Parking and loading;*
- 4) *Section 2.5.4 3 (J) – Outdoor lighting;*
- 5) *Section 2.5.4 3(K) – Landscaping;*
- 6) *Section 3.4 - Curbing (A) where access ways and driveways meet public streets;*
- 7) *Section 5.2 - Sidewalk and Pedestrian Pathways;*
- 8) *Section 5.3 - Bicycle Facilities;*
- 9) *Section 6.1 – Landscaping and Screening Standards;*
- 10) *Section 2.13.3 – Recording Notes;*
- 11) *Section 2.13.4 – Landscaping requirements.*

**[Note: An affirmative vote of six members of the Planning Board is required to grant a waiver.]**

2. *Vote to grant Site Plan Approval with the following stipulation:*

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

*2.1 Applicant shall submit a supplemental stormwater management design and drainage report that indicates post-development rate of runoff does not exceed pre-development rate of runoff at point of analysis (POA) 1 and POA 2 for the 2 yr, 10 yr, 25 yr and 50 yr design storms. Applicant shall perform and submit results of test pits and other site investigations necessary to confirm basis of calculations, including soil infiltration, depth to groundwater, and depth to ledge at the proposed stormwater pond and infiltration locations. As a result of the revised report, the applicant shall indicate the need for any supplemental stormwater control measures. The revised drainage report and any plan revisions shall be reviewed and approved by the DPW and Planning Departments.*





## VI. OTHER BUSINESS

- A. Petition to Revoke Site Plan approval for property located at 996 Maplewood Avenue, submitted by James Fernald.

Description

Revoking of a site plan approval by citizen petition is not a process authorized by any local ordinance or state statute. This project is still under development and (as with all site plan approvals) a performance security has been provided as a condition of the Site Review Agreement. Once the project is complete, the Planning Department will conduct a final inspection to determine that all conditions of approval have been satisfied. Only at that time will the Planning and Legal Department authorize the return of the performance security. Many of the concerns raised by the applicant have also been raised in his appeal to the NH Superior Court related to the issuance of a building permit for one of the houses in this development.

Planning Department Recommendation

*Vote to receive and place on file.*

- B. Request for Design Review for property located at 125 Austin Street, submitted by Peter J. Loughlin, Attorney. On behalf of the Roman Catholic Bishop of Manchester, Owner.

Description

This item is a request for Design Review under the Site Plan Review Regulations. Under the State statute (RSA 676:4,II), the Design Review phase is an opportunity for the Planning Board to discuss the approach to a project before it is fully designed and before a formal application for Site Plan Review is submitted. The Design Review phase is not mandatory and is nonbinding on both the applicant and the Planning Board.

Although the State statute calls this pre-application phase “design review,” it does not encompass review of architectural design elements such as façade treatments, rooflines and window proportions. Rather, it refers to site planning and design issues such as the size and location of buildings, parking areas and open spaces on the lot; the interrelationships and functionality of these components, and the impact of the development on adjoining streets and surrounding properties.

The process as outline in Section 2.4.3 of the Site Review regulations is that the Board first has to determine that the request for design review includes sufficient information to allow the Board to understand the project and identify potential issues and concerns, and, if so, vote to accept the request and schedule a public hearing. Completion of the design review process also has the effect of vesting the project to the current zoning.

Planning Department Recommendation

*Vote to accept the request for Design Review and schedule a public hearing for the November 15, 2018 meeting.*

- C. Request for Regional Impact Designation for 70 & 80 Corporate Drive (Lonza) received from the Town of Greenland.

Description

The Town of Greenland submitted letters to the Planning Department in May and June of this year requesting that the Planning Board determine that the Lonza project was a "Development of Regional Impact" (DRI). At that time the Planning Department, after consultation with the Legal Department, responded that it was not within the purview of the Planning Board to make such a determination. In September, the Planning Department was copied on a letter to the Town of Greenland from the Pease Development Authority (PDA) indicating that, in PDA's opinion, the Portsmouth Planning Board had authority to make this determination and that PDA had no objection to the project being declared a project of regional impact.

DRIs are defined in NHRSA 36:55 as any proposal before a local land use board which could reasonably be expected to impact a neighboring municipality, because of factors such as, but not limited to, the following:

- Relative size or number of dwelling units as compared with existing stock.
- Proximity to the borders of a neighboring community.
- Transportation networks.
- Anticipated emissions such as light, noise, smoke, odors, or particles.
- Proximity to aquifers or surface waters which transcend municipal boundaries.
- Shared facilities such as schools and solid waste disposal facilities.

Once a local land use board determines that a project is a DRI, the affected communities and the appropriate regional planning commission are notified by certified mail along with a copy of the minutes of the meeting at which the determination was made as well as one copy of the initial development plan set. All affected municipalities and the appropriate regional planning commission shall also be notified by certified mail at least 14 days prior to the public hearing for which public comment will be taken that they are afforded the right to testify as an abutter to the subject development proposal. In determining the DRI, the Planning Board should also identify the affected communities that should be noticed.

As noted in the letter from the PDA, although the effect of the DRI is to convey abutter status to the "affected communities", the communities of Newington and Greenland are already afforded that status by the PDA's Land Use Controls and therefore have already received abutter notices for this project and been afforded an opportunity to comment at TAC and Conservation Commission public hearings. No representatives from Greenland have attended the public hearings on this project to date.

Note that the statute directs that if the land use board has doubt about whether or not the development has regional impact the determination should be made that it does.

Planning Department Recommendation

*Vote to determine this project has potential for regional impact to the communities of Newington and Greenland.*



## VII. CITY COUNCIL REFERRALS

- A. Quitclaim deed for property located at Tax Map 296, Lot 2, land-locked property located off of Lafayette Road on the border of Greenland and Rye.

Description

In order to clear up title to a 6.5 acre mostly wet, land-locked parcel on the border of Greenland and Rye, the Legal Department recommends that the City accept a quitclaim deed for that parcel from Mary Beth Hebert who resides at 112 Gates Street, Portsmouth. Attached is a map showing the parcel known as Tax Map 296, Lot 2. Ms. Herbert does not wish to retain any interest in Lot 2 and the Legal Department has prepared a quitclaim deed to accomplish this clearing up of title. Ms. Herbert continues to own Lot 5.

Planning Department Recommendation

*Vote to recommend that the City Council accept a quitclaim deed from Ms. Herbert for property located at Tax Map 296, Lot 2, land-locked property located off of Lafayette Road on the border of Greenland and Rye.*