



MEMORANDUM

To: Planning Board
From: Juliet T.H. Walker, Planning Director *JTW*
Jillian Harris, Planner 1
Subject: Staff Recommendations for the November 15, 2018 Planning Board Meeting
Date: 11/12/18

II. DETERMINATIONS OF COMPLETENESS

A. SUBDIVISION REVIEW

1. The application of **Brian and Susan Regan, Owners**, for property located at **28-30 Dearborn Street**, and **Regan Electric Company, Inc, Owner**, for property located at **6 Dearborn Street**, wherein Final Subdivision Approval (Lot Line Revision) is requested.
2. The application of **Brian and Susan Regan, Owners**, for property located at **28-30 Dearborn Street**, wherein Final Subdivision Approval is requested to subdivide one lot into two.
3. The application of **Clipper Traders, LLC, Owner**, for property located at **105 Bartlett Street**, **Portsmouth Lumber and Hardware, LLC, Owner**, for property located at **105 Bartlett Street**, and **Boston and Maine Corporation, Owner**, for railroad property located between **Bartlett Street and Maplewood Avenue**, requesting Preliminary and Final Subdivision Approval to consolidate and subdivide five lots and a portion of another into 5 lots.

B. SITE PLAN REVIEW

1. The application of **Two-Way Realty, LLC, Owner**, for property located at **120 Spaulding Turnpike**, 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 IV and V of the agenda) and to accept the applications for consideration.

III. 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

The proposed amendments were presented at the October Planning Board meeting and a public hearing was held. Based on discussion and comments from Planning Board members, feedback from the public, and additional review by the City's Legal Department, the Planning Department staff have made a few additional revisions, which will be presented at the meeting. A document showing the red-lined changes has been included in the Planning Board's meeting packet and posted on-line as well. Additional comments received in writing since the last meeting have also been including in the meeting packet.

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

The proposed new section of the City's Zoning Ordinance was presented at the October Planning Board meeting and a public hearing was held. Based on discussion and comments from Planning Board members and additional review with the City's Legal Department, the Planning Department staff have made a few additional revisions, which will be presented at the meeting. A document showing the red-lined changes has been included in the Planning Board's meeting packet and posted on-line as well.

Planning Department Recommendation

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

IV. PUBLIC HEARINGS – OLD BUSINESS

It is recommended that Items IV.A, IV.B and IV.C be discussed together and voted on separately.

A motion is required to consider these two items together.

- A.** 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 October 18, 2018 Planning Board Meeting.)
- B.** 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 October 18, 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 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 October 18, 2018 Planning Board Meeting.)



Description

The existing facilities for Lonza Biologics are located at 101 International Drive. The proposal to expand operations to an adjacent site requires site plan review approval and subdivision approval to merge the current property with 70 and 80 Corporate Drive and a portion of Goose Bay Drive. The applicant proposes to phase the project over several years and is currently seeking approval for Phase 1A that will include construction of stormwater management improvements and road and sidewalk improvements and Phase 1B for construction of the shell of building #1 and related site improvements. It is important to note that no new land uses are proposed as part of these phases. Once Lonza has constructed the shell of building 1, they will work on fitting out the building to house future tenants. Future phases of the project, including any tenant fit-out, will require amended Site Plan Review approval, which will include review by the Technical Advisory Committee and a public hearing with the Planning Board.

Waiver Request

The applicant requests a waiver from Part 506.01(c) – Minimum cul-de-sac radius - of the Subdivision Regulations. A minimum cul-de-sac radius of 80 feet is required where 45 feet is provided and maximum cul-de-sac street length of 500 feet is required where approximately 800 feet is provided.

Conservation Commission Review

The project will result in 55,555 s.f. of wetland impact and 66,852 sq.ft. of impacts in Pease Development Authority's 25 ft. wetland buffer. To mitigate impacts, the project will include a stream restoration project for Hodgson Brook. The stream restoration will result in approximately 47,000 sq.ft. of restored wetland area.

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.

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.* This is a very large development proposed on an area that formerly housing for the Pease Airforce Base. Since the removal of the base housing several wetland areas have formed in the disturbed area on this site. The proposal is to fill some of these wetland areas for construction of the expanded facility to daylight Hodgson Brook which currently is in a pipe under the property.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use.* This site is adjacent to the existing Lonza facility and is the most feasible location for the size of expansion that is being proposed.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* While direct wetland impacts are proposed for this project the overall benefit from creation of a stream channel will result in a better functioning wetland system than what exists today.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There is mostly scrub shrub habitat on the site. This will be removed and a new stream channel will be constructed with this proposal. Much of the open space will be replaced with the proposed development.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The applicant has presented this project as a development proposal which includes a loss of existing wetlands and creation of new stream channel. If the project is successful the overall impact of the project should result in an enhancement to wetlands and habitat on the site and overall for the Hodgson Brook system.

The Conservation Commission reviewed this application at the June 13, 2018 meeting and voted to recommend approval as presented.

Technical Advisory Committee

The TAC reviewed the applications for subdivision and site plan review approval on at multiple meetings. A third party review of the stormwater management and drainage plan was also provided by Altus Engineering at the request of TAC. On September 4, 2018, TAC voted to recommend approval with the following stipulations:

1. Applicant shall update the plans to show a turnaround after the gate on Goose Bay Drive to enable vehicles to turn around if no pass card is provided.
2. Applicant shall update the plans to extend the sidewalk along the driveway along the southwest portion of the site to Corporate Drive. Plans shall be updated to clearly distinguish existing and proposed sidewalks.
3. Applicant shall update the plans to relocate the bike racks outside of the parking garages closer to the entrance of Building 3 or Buildings 1 and 2.
4. Applicant shall update the Traffic Analysis to include the Gosling Road interchange with Spaulding Turnpike. Timing of the update shall be included in the Phasing Plan (see item 9).
5. Applicant shall update the plans to show that all manholes located on the flatiron side of Corporate Drive are to be raised to grade as part of the sidewalk construction.
6. Plans shall show a 3' shoulder alongside the sidewalk before grading down to the stream.
7. Applicant shall update the plan to include the revised standard note on radio strength testing.
8. The applicant shall consider ways to modify the pavement treatment for the 20' emergency access drives and cul-de-sac to improve the overall aesthetic and break up the amount of uninterrupted asphalt. Consideration shall be given to suitability of the design for the multi-modal use of these areas. Final design shall be reviewed and approved by the Fire Department.
9. Applicant shall work with the City's Planning and Legal Departments to develop a recommended phasing plan for all site improvements, including interim grading plans, to present to the Planning Board. Subsequent phases shall require a noticed public hearing with TAC and Planning Board for amended site plan approval.
10. Prior to the issuance of a building permit for the project, the applicant shall reach an agreement with the City regarding phasing of the water and wastewater services. This shall be in addition to the required industrial discharge permit, which is issued by the City.
11. The City has reviewed the stormwater management and drainage and makes the following recommendations with the understanding that the project will be subject to additional review by the Pease Development Authority (PDA) to ensure compliance with the requirements of the Pease stormwater discharge permit as well as NHDES as part of the AOT permit process:
 - a. PDA staff and Board should review and address any outstanding issues raised by the third party peer review and have the third party peer reviewer do a final review of the plans prior to construction.
 - b. Updated plans and drainage report should be provided to the City's Planning Department reflecting any future revisions to the drainage based on PDA's final review and approval.
12. Plans should include water and sewer easements to the benefit the City for any private portions of Goose Bay Drive.

On November 6, 2018 the applicant submitted revised plans addressing items 1-3, 5-9, 11 & 12 above to the satisfaction of the Planning Department.

<p><u>Planning Department Recommendation</u></p>
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<p>[To be provided at the meeting.]</p>

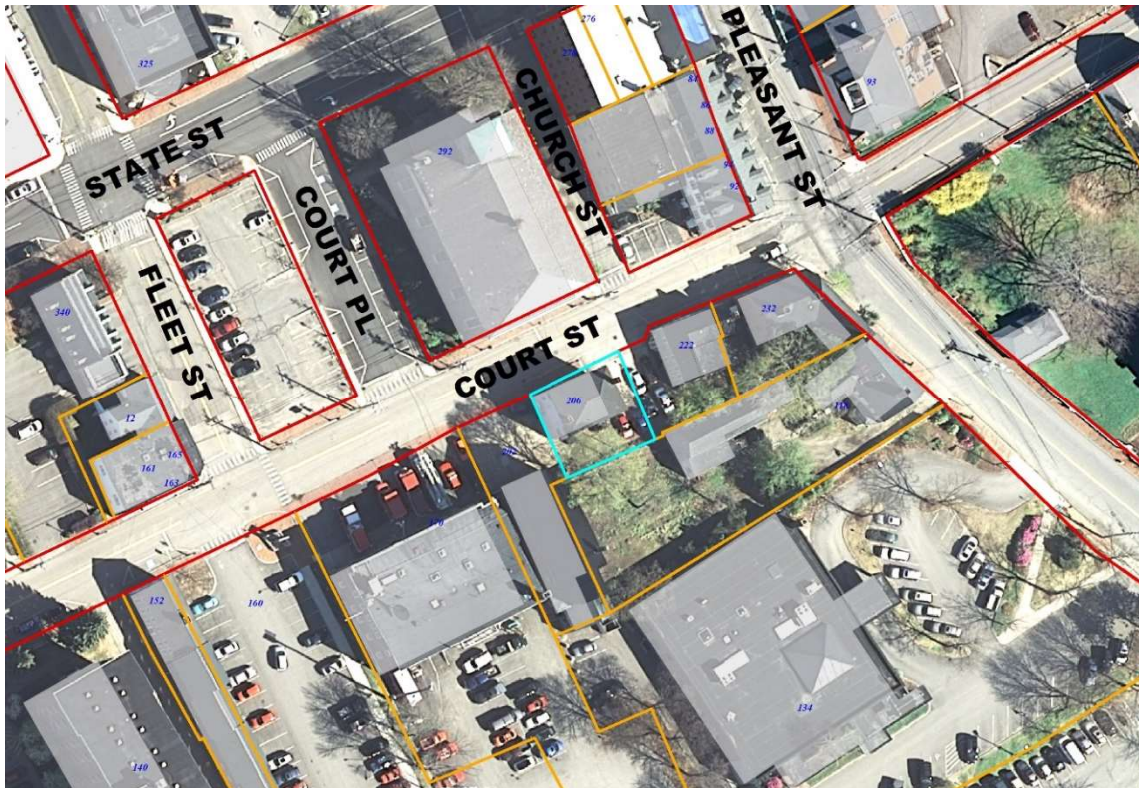
IV. PUBLIC HEARINGS – OLD BUSINESS (Cont.)

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

A motion is required to consider these two items together.

- D. 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 where 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. (This application was postponed at the October 18, 2018 Planning Board Meeting.)

- 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. (This application was postponed at the October 18, 2018 Planning Board Meeting.)



Description

Previously this building was used as a classroom and office space for the South Church. This application proposes to construct a 3-story rear addition and to convert the use to three dwelling units.

Zoning Board of Adjustment Review

The following variance were granted by the Board of Adjustment for this project on July 24, 2018:

- a) from Section 10.5A41.10A to allow a lot area per dwelling unit of 979± s.f. where 3,000 s.f. is required;
- b) from Section 10.5A41.10A to allow façade glazing of 16%± where 20% is the minimum required;
- c) from Section 10.5A41.10A to allow a 9'± ground floor height where a minimum of 11' is required;
- d) from Section 10.1114.21 to allow two parking spaces with a width of 8'± where 8.5' is required;
- e) from Section 10.1114.32(b) to allow vehicles to enter and leave the parking area by backing into or from a public street or way; and
- f) from Section 10.321 to allow a nonconforming building or structure to be extended, reconstructed or enlarged without conforming to the requirements of the Ordinance.

Historic District Commission Review

At the July 11, 2018 meeting, the Historic District Commission approved the project with the following stipulation:

1. The front door and parapet facing Court Street shall be modified to reflect a residential use and be submitted to the Commission prior to construction for Administrative Approval.

Conditional Use Permit for Off-Street Parking

At the end of 2017, the City amended the off-street parking requirements in the Zoning Ordinance. One of the revisions was to require projects that did not provide the required minimum number of parking spaces to come before the Planning Board for a conditional use permit (Section 10.1112.52). Before the amendments were passed, projects that did not provide the minimum number of required parking spaces would have been required to secure a variance from the Zoning Board of Adjustment. This property was previously granted a variance to allow no off-street parking spaces to be provided where 53 parking spaces were required for use of the existing building as a classroom and office space.

The minimum off-street parking requirement for the proposed use (3 dwelling units over 750 s.f. in size) is 1.3 spaces per unit or 4 total spaces. The applicant is proposing to provide 3 spaces, one of which will be a tandem space which does not comply with the dimensional requirements for tandem parking spaces (Section 10.1114.33).

The application for a conditional use permit for off-street parking must include a parking demand analysis. In addition, applications 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 memo for the Planning Board's consideration regarding parking demand. The permanent measures listed to reduce parking demand included proximity to the COAST bus route and a dedicated space for bicycle storage in the basement of the building.

After the October 18, 2018 Public Hearing the Planning Board voted to postpone this application to allow the applicant to provide more information related to their request for a conditional use permit for off-street parking.

On November 6, 2018 the applicant submitted a parking assessment memo prepared by Ambit Engineering and documentation of a parking space lease agreement for the Foundry Place Garage.

Technical Advisory Committee

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

Prior to Planning Board Submission

1. Applicant shall update 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. A draft agreement addressing item 7 was also provided. A copy of the executed agreement is included as a recommended stipulation of approval.

Planning Department Comments

The applicant is proposing 2 on-site parking spaces, 1 off-site leased space and 1 tandem space. The proximity to public transit and the project's location in a dense neighborhood that is within walking and biking distance of daily needs and services make it reasonable to argue that parking demand for this use will be lower than the 4 spaces required by the Zoning Ordinance. Furthermore, the project is proposing rental units which, comparatively, often have lower demand for parking than ownership units. However, given the proposed units are all 2-bedroom units, it is reasonable to expect that there will be a demand for at least one parking space per unit. Although 3 on-site spaces are proposed, the third space is located at the back of the parking area and will require moving another vehicle to access. Therefore, it would not be reasonable to expect that the space will be used unless it is assigned to the same unit.

The applicant accurately points out that if the project was located across the street in the Downtown Overlay District this property would benefit from a 4-space parking credit. However, the Overlay District also requires that the first floor be a non-residential use, which would likely reduce the overall number of residential units or require them to be smaller in size resulting in a lower minimum off-street parking requirement.

It is the Planning Department staff's opinion that the minimum demand for parking under the current proposal will be at least 1 space per unit. As currently proposed, the project can only provide parking spaces for 2 units because, in order to be functional, the third space will need to be assigned to the same unit as the parking space immediately adjacent to it. Therefore, in the absence of on-site parking, there will likely be demand for at least 1 additional off-site space. To address this, the applicant has proposed leasing a space at the Foundry Place Garage, which is about a 10 to 15 minute walk from the project location. Given the distance to the Foundry Place Garage, it is likely that, even with an assigned parking space, the residents of the property or their guests will still make use of short-term on-street parking or parking at the public lots in the immediate vicinity. The applicant accurately points out the constraints of the site to provide additional on-site parking. However, there appear to be properties in the immediate vicinity with available surface parking. Negotiating a shared parking arrangement with a nearby private property owner would be another option potentially available to the applicant for meeting the parking demand.

As parking requirements for residential units are based on gross floor area, the applicant also has the option to reduce the overall parking requirement by reducing the size of the units or reducing the total number of units. Units that are less than 500 sq. ft. in size are only required to provide 0.5 spaces. Therefore, if all three units were less than 500 sq. ft. in size, the parking provided on-site would be adequate as proposed.

Planning Department Recommendation

Conditional Use Permit for Off-Street Parking

[Should the Planning Board determine that the applicant has demonstrated that the off-street parking provided is adequate for the proposed use.]

1. Vote to grant a Conditional Use Permit to provide 2 on-site parking spaces, 1 on-site tandem parking space, and 1 off-site leased space where 4 spaces is the minimum required, with the following stipulations:

- 1.1) The leased parking space shall be renewed annually and dedicated or assigned to one of the units via the rental agreement and/or condominium documents.*
- 1.2) The tandem space shall be assigned to the same dwelling unit as the adjacent space located on the street side of the parking area.*

Site Plan Review

[If the Conditional Use Permit does not pass, the application will not be in compliance with Zoning requirements, therefore the Planning Board should only grant site plan review approval if the conditional use permit is approved or if the applicant agrees to modify the proposed number of units or size of the units to bring the property into compliance for parking.]

2. Vote to grant Site Plan Approval with the following stipulations 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.*
- 2.2) Applicant shall provide documentation of an executed easement or agreement with abutter for work on their lot.*

IV. PUBLIC HEARINGS – OLD BUSINESS (Cont.)

- F. The application of **Happy Mountain Holdings, LLC, Owner**, for properties located at **64 & 74 Emery Street**, requesting Site Plan approval 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 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 Single Residence B (SRB) District. (This application was postponed at the October 18, 2018 Planning Board Meeting.)



Description

The application proposes to construct one two-unit residential building on each lot. The access to the lots will be via a shared driveway, which was allowed by the original subdivision approval granted in in 2013.

Zoning Board of Adjustment Review

The project was granted the following zoning relief from the Board of Adjustment in June 2018:

- 1) A variance from Section 10.440 Use #1.30 to allow a two-family dwelling unit on each of the lots in a district where two-family dwellings are not allowed;
- 2) A variance from Section 10.521 to allow a lot area per dwelling unit for one of the lots (64 Emery) of 10,616 sq. ft. where 15,000 sq. ft. is required.

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 and 9 above to the satisfaction of the Planning Department. Item 5 required additional review by DPW and Planning staff. At the October 18, 2018 Planning Board meeting the Board determined they were not comfortable granting the waivers as requested. There was also concern about the post-development runoff exceeding the pre-development runoff, therefore the Board decided to postpone the application.

The application has since been revised to show that the post versus pre-development runoff is not increasing and further information has been provided on the plans to reduce the waivers requested.

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 3(C) – Access and circulation;*
- 2) *Section 2.5.4 3(D) – Parking and loading;*
- 3) *Section 2.5.4 3 (J) – Outdoor lighting;*
- 4) *Section 3.4 - Curbing (A) where access ways and driveways meet public streets;*
- 5) *Section 5.2 - Sidewalk and Pedestrian Pathways;*
- 6) *Section 5.3 - Bicycle Facilities;*

[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 (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.

2.2) Prior to recording, Sheet C-1, Note 9 shall be updated for consistency with minimum driveway width of 14 ft.

Conditions Subsequent (prior to the issuance of a certificate of occupancy for either property)

2.3) Stormwater system maintenance 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.

2.4) Applicant shall provide documentation of utility, driveway access and stormwater flowage easements.

V. PUBLIC HEARINGS – NEW BUSINESS

*It is recommended that Item V.A and V.B be discussed together and voted on separately.
A motion is required to consider these two items together*

- A. The application of **Brian and Susan Regan, Owners**, for property located at **28-30 Dearborn Street**, and **Regan Electric Company, Inc, Owner**, for property located at **6 Dearborn Street**, wherein Final Subdivision Approval (Lot Line Revision) is requested between two lots as follows: Lot 1 as shown on Assessor Map 140 decreasing in area from 14,311 s.f. to 13,182 s.f. with 145’ of continuous street frontage on Dearborn Street; and Lot 4 as shown on Assessor Map 123 increasing in area from 13,129 s.f. to 14,258 s.f. with 91’ of continuous street frontage on Dearborn Street and 27’ of street frontage on Maplewood Avenue. Said properties are located in the General Residence A (GRA) District where the minimum lot size is 7,500 s.f. and minimum street frontage requirement is 100’ and Character District 4-L1 (CD4-L1) (Map 123, Lot 4).

- B. The application of **Brian and Susan Regan, Owners**, for property located at **28-30 Dearborn Street**, wherein Final Subdivision Approval is requested to subdivide one lot into two lots as follows: Proposed Lot 1 having 6,750 s.f. and 55’ of continuous street frontage on Dearborn Street and proposed lot 2 having 6,432 s.f. and 90’ of continuous street frontage off Dearborn Street. Said property is located in the General Residence A (GRA) District where the minimum lot size is 7,500 s.f. and minimum street frontage requirement is 100’.



Description

The subject properties received variances for reducing the lot area, frontage and setbacks on the lots in order to present a subdivision plan for a lot line revision, transferring 1,129 s.f. from Lot 1, Map 140 (28-30 Dearborn St.) to Lot 4, Map 123 (6 Dearborn St.) and subsequent subdivision of Map 140, Lot 1 into 2 lots. In addition a variance was granted to allow a nonconforming use to be extended and to allow the creation of two lots each containing two-family dwellings.

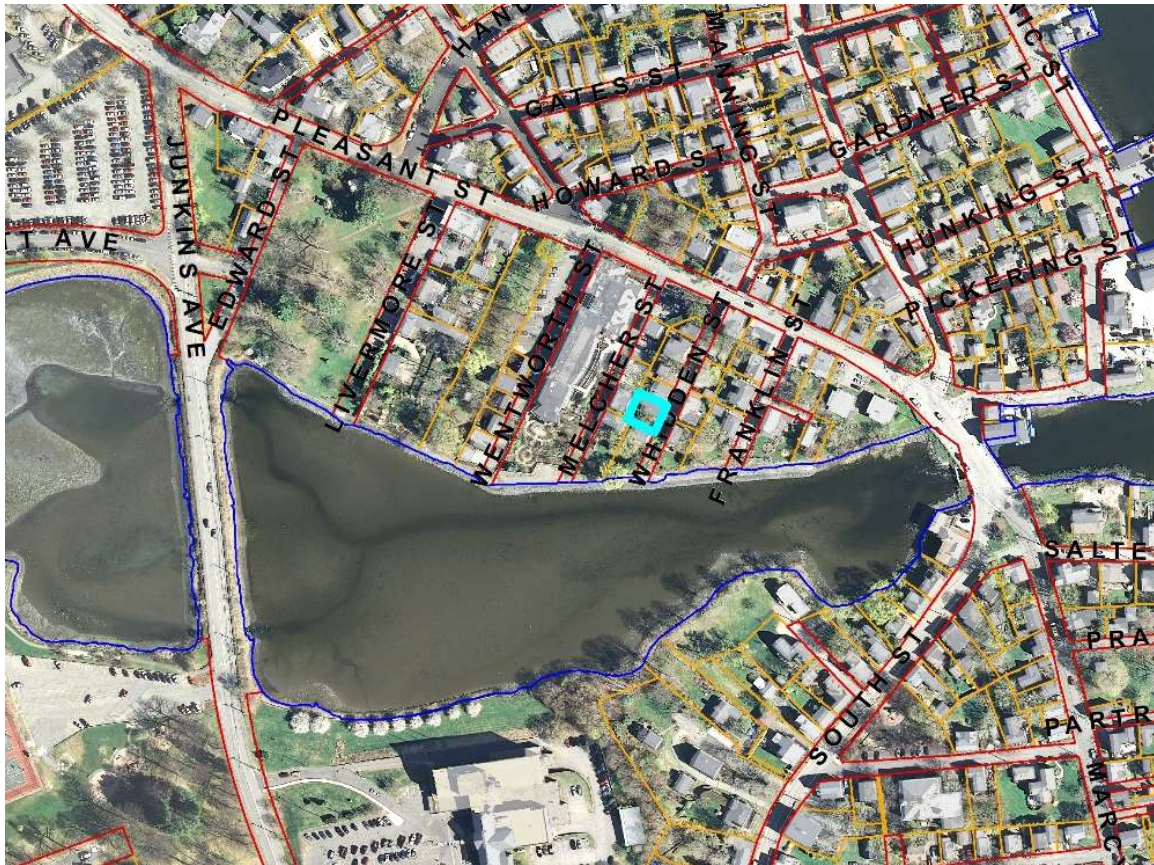
The property has already received preliminary lot line and subdivision approval and since that time the applicant has been working on the conditions of the variances and preliminary subdivision approval.

Planning Department Recommendation

1. *Vote to grant Final Subdivision Approval (Lot Line Revision).*
2. *Vote to grant Final Subdivision Approval with the following stipulations:*
 - 2.1) *Lot numbers as determined by the Assessor shall be added to the final plat.*
 - 2.2) *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
 - 2.3) *GIS data shall be provided to the Department of Public Works in the form as required by the City.*
 - 2.4) *The final plat shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
 - 2.5) *Sheet 1 of 2, Note 7 shall be updated to list specific variances granted by the Zoning Board of Adjustment and dates granted.*

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- C. The application of **Thomas and Ann Taylor, Owners**, for property located at **43 Whidden Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to install permeable pavers for two parking spaces and plantings, with 400 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 109, as Lot 2 and lies within the General Residence B (GRB) and Historic District.



Description

The applicant has requested to postpone to the December 20, 2018 Planning Board meeting.

Planning Department Recommendation

Vote to postpone this application to the December 20, 2018 Planning Board meeting.

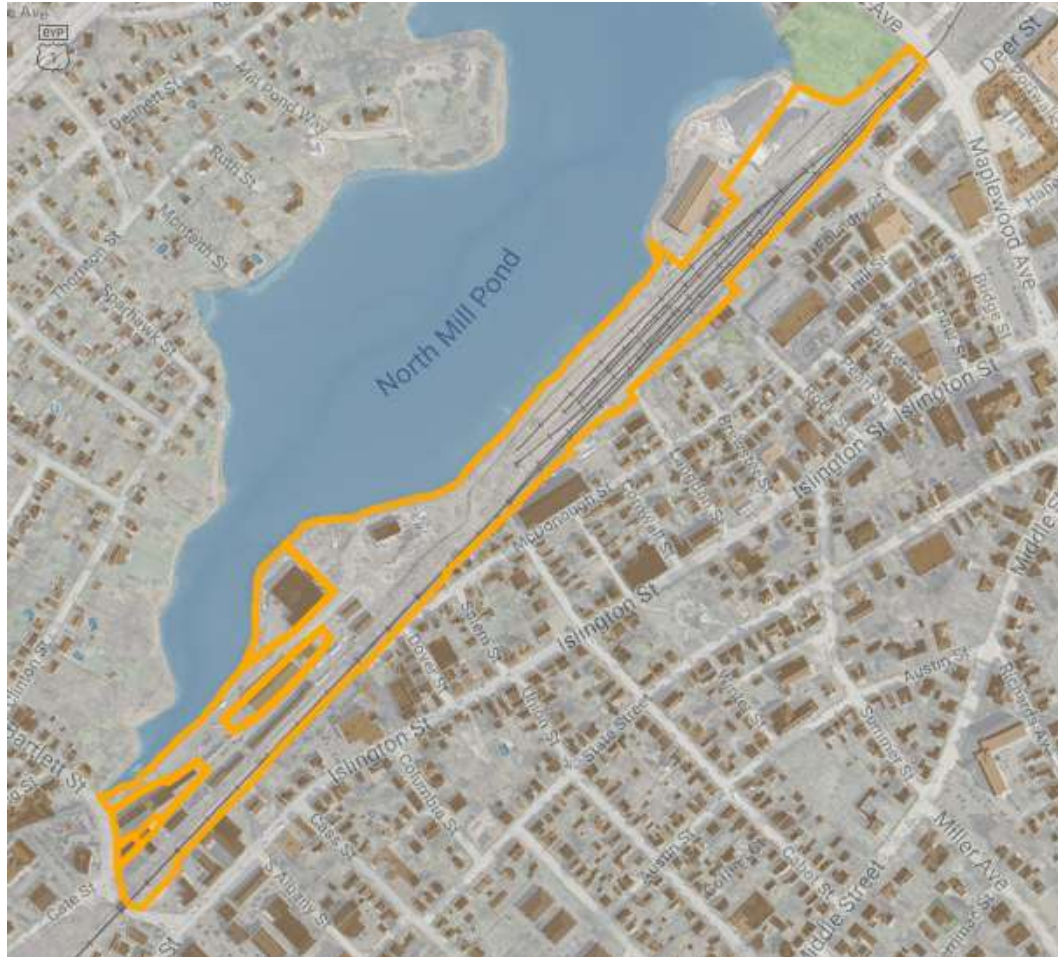
V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

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

A motion is required to consider these two items together.

- D. The application of **Clipper Traders, LLC, Owner**, for property located at **105 Bartlett Street**, **Portsmouth Lumber and Hardware, LLC, Owner**, for property located at **105 Bartlett Street**, and **Boston and Maine Corporation, Owner**, for railroad property located between **Bartlett Street and Maplewood Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer for proposed roadway improvements to include-configuration of parking, construction of parking islands, re-grading and installation of curbing to direct stormwater; utility improvements; drainage improvement and treatment including separation of stormwater from sewer, parking improvements and removal of two dilapidated structures, with 37,733 ± s.f. of impact to the tidal wetland buffer. Said properties are shown on Assessors Map 157 as Lots 1 & 2 and Assessors Map 164 as Lots 1, 2, 3, and 4 and are located within the Character District 4-W (CD4-W) and Character District 4-L1 (CD4-L1) Zoning Districts.
- E. The application of **Clipper Traders, LLC, Owner**, for property located at **105 Bartlett Street**, **Portsmouth Lumber and Hardware, LLC, Owner**, for property located at **105 Bartlett Street**, and **Boston and Maine Corporation, Owner**, for railroad property located between **Bartlett Street and Maplewood Avenue**, requesting Preliminary and Final Subdivision Approval to consolidate and subdivide five lots and a portion of another into 5 lots, a right-of-way, and a remainder of one lot as follows:
- 1) Proposed Lot #1 having an area of 20,667 ± s.f. (0.4747 ± acres) and 143.44' of continuous street frontage on Bartlett Street.
 - 2) Proposed Lot #2 having an area of 51,952 ± s.f. (1.1927 ± acres) and 80.91' of continuous street frontage on Bartlett Street and 386.88' of continuous street frontage on a proposed right-of-way.
 - 3) Proposed Lot #3 having an area of 102,003± s.f. (2.3417 ± acres) and 809.23' of continuous street frontage on a proposed right-of-way.
 - 4) Proposed Lot #4 having an area of 61,781 ± s.f. (1.4183 ± acres) and 481'± of continuous street frontage on a proposed right-of-way.
 - 5) Proposed Lot #5 having an area of 177,435 ± s.f. (4.0733 ± acres) and 297.42' of continuous street frontage on a proposed right-of-way.
 - 6) Proposed Right-of-Way having an area of 69,621 ± s.f. (1.5983 ± acres).
 - 7) Map 164 Lot 4 reducing in area from 13 ± acres to 4.7 ± acres and having 75'± of continuous street frontage on Maplewood Avenue, and decreasing intermittent street frontage of 234'± on Bartlett Street to 105'± of continuous street frontage on Bartlett Street.

Said properties are shown on Assessors Map 157 as Lots 1 & 2 and Assessors Map 164 as Lots 1, 2, 3, and 4 and are located within the Character District 4-W (CD4-W) and Character District 4-L1 (CD4-L1) Zoning Districts.



Description

The Planning Board previously reviewed the subdivision application at a Preliminary Conceptual Consultation Review at the March 15, 2018 Planning Board Meeting. Since that time the portion of the property proposed to be subdivided has been re-zoned from Office Research to CD4-W and CD4-L1. The applicant is seeking subdivision approval in order to buy the land from the Boston and Maine Corporation (PanAm). The subdivision also proposes to modify lot lines of existing lots to create lots that front on the proposed new subdivision road. No building construction or change of land use is proposed as part of the subdivision. The construction of the road and related stormwater drainage improvements requires a wetland conditional use permit as well as state permits. The applicant is proposing to construct the subdivision road over the existing driveway and therefore is requesting waivers from the subdivision regulations for the required roadway width.

Wetland Conditional Use Permit

Conservation Commission Review

The Conservation Commission will be reviewing this application at the November 14, 2018 meeting. The new roadway and related improvements will create an impact of 37,733 square feet in the 100' tidal buffer zone.

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 new roadway is proposed in an area of existing pavement. The applicant proposes the addition of new drainage on the site, landscaping along much of the roadway and reconfigured parking and driveway entrances off of the proposed roadway. In concept the application propose beneficial improvements to the site, however the details of those improvements are not provided to conduct a complete review of the application.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* Given that this is an existing driveway to access existing businesses and the proposed lots the location is reasonable. Also given the site does not have adequate drainage sidewalks and very little landscaping this alternative seems feasible. The lack of detailed information about the stormwater outfalls and their impact on the saltmarsh, the lack of sidewalk detail, and the lack of information about the proposed demolition make it difficult to complete review on this project.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed access road new landscaping and new drainage features have the potential to reduce impacts to the tidal buffer. However, the proposed design does not clearly describe how the drainage outfall will impact saltmarsh areas, there is no driveway shown on the plan, and there is not sufficient detail on the demolition of the turntable and building to evaluate the impact to the buffer.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There is some bank and shoreline work needed to install the proposed drainage, there will be work in the buffer where the buildings are demolished which could impact existing vegetation. It is not clear what natural vegetation will be impacted with the stormwater outfall or if the demolition work will impact the vegetation in the buffer.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* Overall this project could provide a benefit on stormwater treatment and future access to the North Mill Pond. However given the information provided more details are needed to evaluate this proposal.
6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant is removing a section of pavement adjacent to the North Mill pond where a driveway entrance is being reconfigured near the large building along the pond. While there is some landscaping shown along the road there is no plantings along the bank shown in this area.

Planning Department Staff Review

Staff is recommending to the Conservation Commission that the application be postponed so that more information can be provided about the drainage outfall impacts, the proposed demolition of an existing building and so that landscaping improvements can be clearly described along the bank of the North Mill Pond. It is also important that the conditional use permit application be consistent with any approved subdivision plan.

Subdivision Approval

Technical Advisory Committee Review

The TAC reviewed this application at multiple meetings and, on October 30, 2018, voted to recommend approval with the following stipulations to be completed prior to Planning Board review:

1. Lot 5 shall have an accessible ADA parking space identified.
2. The proposed access easements to benefit Lot 3 across Lots 1 and 2 shall be eliminated. Access to Lot 3 shall be via the proposed subdivision road only.
3. The street name sign detail on Sheet D2 shall be updated to current MUTCD standards, with only the first letter capitalized.
4. Applicant shall provide a letter from Eversource confirming how electricity service will be provided and the potential extent of impacts to the surrounding neighborhood in order to extend service. These impacts shall be known prior to subdivision approval.
5. The plans shall be updated to show existing and proposed utilities servicing each lot. The plans should also identify where cross easements may be required to provide service connections that run across multiple lots. Services shown shall include sewer, gas, water, storm drainage, power, communications and access. A new water main shall be provided under the proposed road and a note shall be added to the plans that service lines for Lots 4 and 5 shall be relocated to the new line once operational. A note shall be added to the plan that water line sizing shall be based on the outcome of the Water Capacity Analysis.
6. The sewer easement shall be revised to continue across the proposed cul-de-sac area continuously. The sewer easement shall be shown independent of the roadway and shall follow the sewer line for its entirety.
7. The applicant shall verify that the location of the proposed sidewalk along the subdivision road is buildable as shown. Any required relocating of utilities shall be noted and provided for.
8. Where parking spaces are located along existing buildings on Lot 2, the plans shall be revised to add breaks in the landscaping or other mechanisms to improve pedestrian connections to existing building entrances.
9. The subdivision plan for Lot 4 shall include a note verifying that landscaping shall be maintained to provide adequate line of sight from the driveway.
10. Working with the Planning Department, the applicant shall agree to specified time frames for the transfer of ownership and completion of proposed improvements to be incorporated into conditions subsequent as described below.
11. Easements that are to be relocated or to remain shall be documented on the proposed easement plan
12. Easement plans shall be updated to include provision of a water access easement and road access easement to benefit City. Draft deeds shall be submitted for Planning Board review.

On November 6, 2018 the applicant submitted revised plans addressing items 1-3, 6, 8, & 11-12 above to the satisfaction of the Planning Department and the Department of Public Works. The remaining items as well as additional items identified through final review by staff are included in the recommended stipulations of approval below.

TAC also recommended a number of stipulations to be completed prior to the recording of the subdivision as well as after the subdivision has been recording. These items have been included in the Planning Board recommendation below.

Planning Department Recommendation

Wetland Conditional Use Permit

[Updated recommendation to be provided at the meeting based on Conservation Commission review.]

Subdivision Approval

Conditions Precedent (to be completed prior to the recording of the subdivision)

- 2.1) *Applicant shall provide a letter from Eversource confirming how electricity service will be provided and the potential extent of impacts to the surrounding neighborhood in order to extend service.*
- 2.2) *The plans shall be updated to show existing and proposed utility lines servicing each building and lot. The plans should also identify where cross easements may be required to provide service connections that run across multiple lots. Services shown shall include sewer, gas, water, storm drainage, power, communications and access. A new water main shall be provided under the proposed road and a note shall be added to the plans that service lines for Lots 4 and 5 shall be relocated to the new line once operational. A note shall be added to the plan that water line sizing shall be based on the outcome of the Water Capacity Analysis.*
- 2.3) *Proposed Utility Easement Plan, Sheet 2 of 3, Note 5 shall be updated to clarify that the easement shall be the area of the proposed "right-of-way".*
- 2.4) *Any references to the sizing of the proposed water main shall be removed from the plans until such time as the Water Capacity Analysis has been completed.*
- 2.5) *The proposed sidewalk along the north side of the proposed road and any related drainage improvements shall be shown on all applicable plan sheets and incorporated into the drainage plan. The sidewalk shall be constructed as part of the subdivision road construction unless amended by the Planning Board in the future. Any notes indicating that the sidewalk will not be constructed as part of this project shall be removed from the plans.*
- 2.6) *Stormwater runoff from the roofs of existing buildings on Lot 3 shall be revised to redirect and capture runoff from flowing onto the proposed sidewalk.*
- 2.7) *Sheet P1, Note 4 shall be removed as road reconstruction shall include the entire length of the proposed road.*
- 2.8) *Sheet C7, note referencing vegetation and sight distance shall be updated to include reference to the need for maintenance.*

Conditions Precedent (to be completed prior to the recording of the subdivision)

- 2.9) *As the applicant does not anticipate recording the final plat prior to construction of the road and utilities, the final subdivision approval shall require a subdivision bond adequate for the completion of these improvements. All improvements shall be completed within 2 years unless otherwise amended by the Planning Board.*

- 2.10) *The subdivision shall not be recorded until the closing has been finalized for the transfer of ownership from the Boston & Maine Corporate to the applicant.*

Conditions Subsequent (to be completed prior to construction of the roadway)

- 2.11) *The applicant shall coordinate with the City's consultant to complete a Water Capacity Analysis using the City's capacity modeling and shall modify the water service design as required. The private water line that currently feeds lots 4 and 5 shall be either replaced or abandoned depending on the outcome of the Study. All modifications shall be reviewed and approved by the DPW and the Fire Department.*
- 2.12) *Final design and construction of the road and utility improvements shall be subject to wetland conditional use permit approval and all applicable state and federal permits.*
- 2.13) *Proposed easements to the City shall be reviewed and approved by the Planning and Legal Departments prior to final acceptance by the City Council.*
- 2.14) *Final roadway and sidewalk design and materials shall be reviewed and approved by the DPW prior to construction. Any modifications to the design that result in a revised layout and/or impact the overall drainage plan from that approved by Planning Board shall require amended subdivision approval.*
- 2.15) *Applicant shall provide documentation of ownership rights and responsibilities for the private road to be constructed.*
- 2.16) *Any future development of Lot 5 may require modifications and relocation of the gas line. Any modifications shall be reviewed and approved by the City through the Site Plan Review process.*
- 2.17) *If future development is proposed on the lots on the roadway, the placement and orientation of the angled parking spaces along the roadway may need to be adjusted. This will be reviewed during the Site Plan Review approval process.*

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

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

A motion is required to consider these two items together.

- F. The application of **Two Way Realty, LLC, Owner**, for property located at **120 Spaulding Turnpike**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct a 6,200 s.f. vehicle storage parking lot using porous pavement, reduce impervious surface in the buffer and grading in the buffer, with 8,135 \pm s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 236 as Lot 33 and lies within the General Business (GB) District and the Single Residence B (SRB) District.
- G. The application of **Two-Way Realty, LLC, Owner**, for property located at **120 Spaulding Turnpike**, requesting Site Plan approval to construct a 6,200 s.f. vehicle storage/parking lot expansion and a 20' x 60' one-story drive up service bay addition to an existing building, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 236 as Lot 33 and lies within the General Business (GB) District and the Single Residence B (SRB) District.



Description

The applicant proposes to include the addition of a 1,200 s.f. drive-up service bay and 6,200 s.f. vehicle storage area to the Port City Nissan property. The following variances were granted by the Zoning Board of Adjustment on July 24, 2018:

- a) from Section 10.591 to allow vehicle storage within a residential zone where 100 feet is required;
- b) from Section 10.592.20 to allow a motor vehicle dealership to be less than 200 feet from a residential district; and
- c) from Section 10.440, Use #10.60 to allow outdoor motor vehicle storage in a residential district.

Conservation Commission Review

This application is to expand an existing building over a paved area, create new landscape islands and conduct grading of slopes in the wetland buffer.

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 proposed building addition is in a paved area of the site. The removal of some paved parking area and new landscape islands is an improvement to the buffer. The proposed porous paved parking area is outside of the buffer but will require grading around the perimeter to construct the lot. This area is within a powerline corridor and the disturbance should create only temporary impacts 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.* The area for the proposed development has been limited by site constraints and board of adjustment approvals.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed project has fairly limited impacts in the wetland buffer. Given the nature of the buffer in this area is powerline corridors the only impact outside of the developed site has been limited to the fill slopes required for the porous pavement parking areas. This graded area will return to natural vegetation once the project is complete. The removal of pavement in the buffer where there is currently parking should provide additional and more functional buffer area to the adjacent wetland.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* The proposed construction of the fill slopes for the parking area will be disturbed. The plan calls for a conservation seed mix in this graded area which should restore to natural vegetation over time.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* Overall this project should have a minimal impact given the disturbed nature of the powerline corridor. There may be short term impacts but after construction is complete the buffer should restore to its current state with some change in grade.
6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant is removing some pavement in the buffer. This area should be planted with a conservation seed mix to stabilize the soil until natural vegetation can establish itself.

Staff is recommending approval to the Conservation Commission of this application as presented. The Conservation Commission will review this application at the November 14, 2018 meeting.

Technical Advisory Committee

The TAC reviewed this application on October 30, 2018 and voted to recommend approval with the following stipulations:

1. Sheets A1 – A2 shall be provided in the submitted materials for the Planning Board.
2. Building code compliance information on travel distance to building egress shall be reviewed and approved by the Inspections Department prior to Planning Board approval.
3. Application checklist shall be updated for consistency with submitted plans for Planning Board.
4. The detail for the oil-water separator connection and reconnection shall be reviewed and approved by DPW prior to building permit approval.
5. The applicant shall update the plans to show 5 bike parking spaces as required.

On November 6, 2018 the applicant submitted revised plans addressing items 1 & 5 above to the satisfaction of the Planning Department.

Planning Department Recommendation

Conditional Use Permit

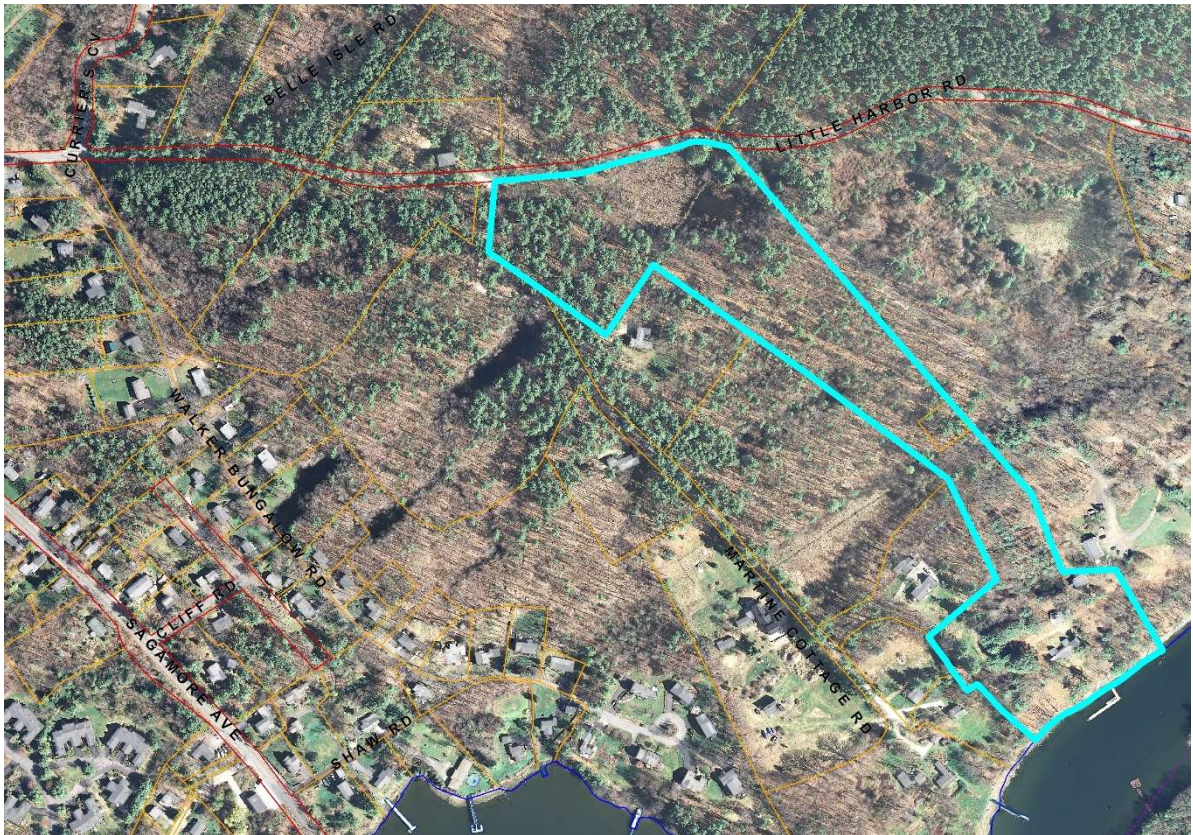
[Recommendation to be provided at the meeting pending outcome of the Conservation Commission meeting.]

Site Plan Review

- 2.1) *Building code compliance information on travel distance to building egress shall be reviewed and approved by the Inspections Department prior to Planning Board approval.*
- 2.2) *Application checklist shall be updated for consistency with submitted plans for Planning Board.*
- 2.3) *The detail for the oil-water separator connection and reconnection shall be reviewed and approved by DPW prior to building permit approval.*
- 2.4) *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 (Cont.)

H. 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 (to restrict public access from Martine Cottage Road), installation of 255 linear feet of buried electrical conduit from the residence to the proposed gate, 740 linear feet of buried irrigation line to provide water to proposed landscaped areas and dock, 3,770 s.f. of after the fact disturbance within the wetland buffer for the placement of crushed stone and wood chips, with 4,875 \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.



Description

This application has been amended since it was reviewed at the October 9th meeting of the Conservation Commission and postponed at the October 18th Planning Board meeting. Prior to the October Planning Board meeting, city staff determined that the applicant's contractor had placed 3,770 square feet of fill material, including stone and wood chips, into the wetland buffer to improve a temporary construction access road. This activity was a violation of the City's 100' wetland buffer regulations. The applicant was informed to cease all exterior site work other than any work required to stabilize the site to prevent erosion and to submit an application to the City with a proposal to correct the violation. The current application includes a restoration plan to remove the fill and to restore the temporary construction access road to a mown grass path as shown on the plans previously provided.

The items carried forward from the previous version of this application include the 12' wide security gate on the western side of the lot, installation of 255 feet of buried electrical conduit and 740 feet of buried irrigation line to provide water to proposed landscape areas and dock.

Conservation Commission Review

This application was previously reviewed at the October 9th Conservation Commission Meeting where a motion to approve failed to pass by a 3-3 vote. The application has since been amended and the following comments are provided regarding the proposed restoration plan for the subsequent addition of fill within the wetland buffer.

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 area where the fill was placed is along the temporary construction entrance. Removing the fill and replacing the stone and wood chips with the organic soil that was pushed aside at the time the new stone and woodchips were installed along with planting of new grass along this area should, after time, allow the area to restore to the prior grass path state. As long as erosion control measures are properly installed this should not have a long-term impact.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* This is an after the fact approval so no alternative location is possible.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The restoration if done effectively as described above should not have any long term adverse impacts.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* Other than grass there was no clearing of managed woodland or other natural vegetation to install/remove the stone/woodchip access road.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* This is a project to restore an impact in the buffer so no alternatives are available.
6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant is proposing the restore the buffer to the grass path which existed prior to the installation of the access road.

Staff Recommendation

Staff has recommended approval to the Conservation Commission of the restoration of the temporary construction entrance as proposed by the applicant.

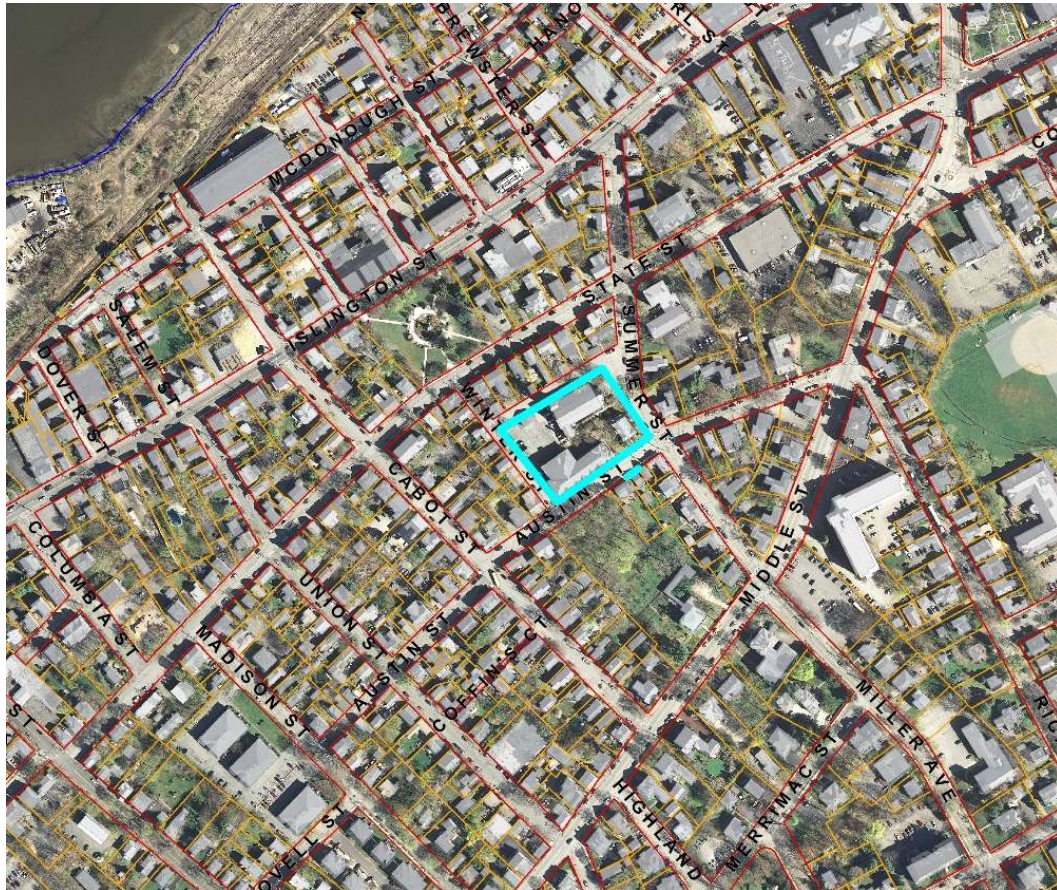
The Conservation Commission will review this application at the November 14, 2018 meeting.

Planning Department Recommendation

[To be provided at the meeting pending outcome of the Conservation Commission meeting.]

VI. PUBLIC HEARING – DESIGN REVIEW

- A. Request for Design Review of the **Roman Catholic Bishop of Manchester, Owner**, for property located at **98 Summer Street (St. Patrick’s School)**, for demolition of the 2 ½ story building with the address of 125 Austin Street with a 9,218 s.f. footprint and 37,272 s.f. gross floor area, and the construction of a 35 space parking lot, with landscaping, lighting and water management. Said property is shown on Assessor Map 137 as Lot 1 and is located in the General Residence C (GRC) District.



Description

This item is a request for Design Review under the Site Plan Review Regulations for the demolition of the 2.5 story building that was previously a school building. 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 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.

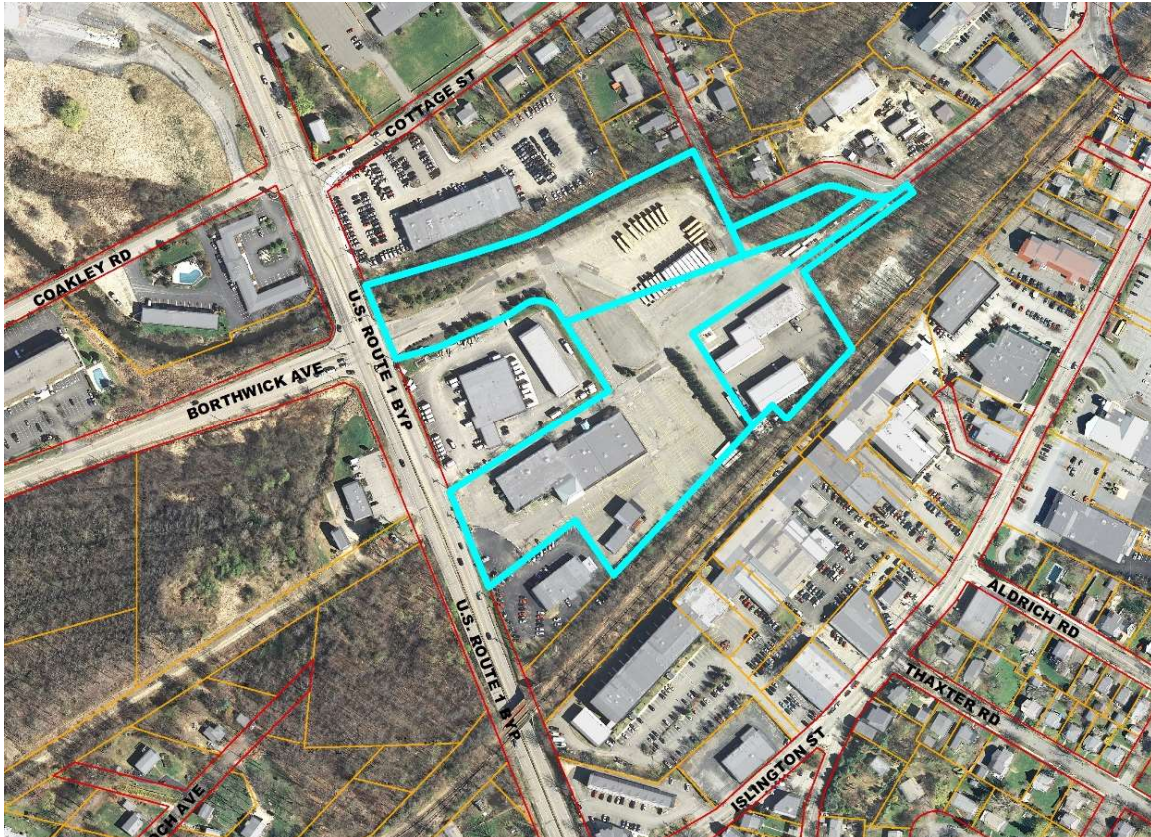
There is no application before the Board at this point, and therefore no substantive action is called for. Instead, after the public hearing and after providing comments to the developer, the Board's action is to "determine that the design review process of [the] application has ended."

Planning Department Recommendation

Once the Board is satisfied with the information provided and has given the developer its input, vote to determine that the design review process of the application has ended.

VII. PRELIMINARY CONCEPTUAL CONSULTATION

- A. The application of **Torrington Properties, Inc. and Waterstone Properties Group, Inc., Applicants**, for property located at **428 Route 1 By-Pass**, requesting a second Preliminary Conceptual Consultation review for a mixed use development.



Description

The Subdivision Rules and Regulations and Site Plan Review Regulations provide two options for “pre-application review” as authorized by RSA 676:4,II: “preliminary conceptual consultation” and “design review”. For many projects, preliminary conceptual consultation is at the option of the applicant. However, in September 2016 the Subdivision Regulations were amended to require preliminary conceptual consultation for any application that includes the subdivision of more than 5 acres of land or the creation of more than 5 lots. The Site Plan Review Regulations were similarly amended to require preliminary conceptual consultation for certain proposals, including (1) the construction of 30,000 sq. ft. or more gross floor area, (2) the creation of 20 or more dwelling units, or (3) the construction of more than one principal structure on a lot. Preliminary conceptual consultation precedes review by the Technical Advisory Committee.

Preliminary conceptual consultation is described in the statute as follows:

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

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

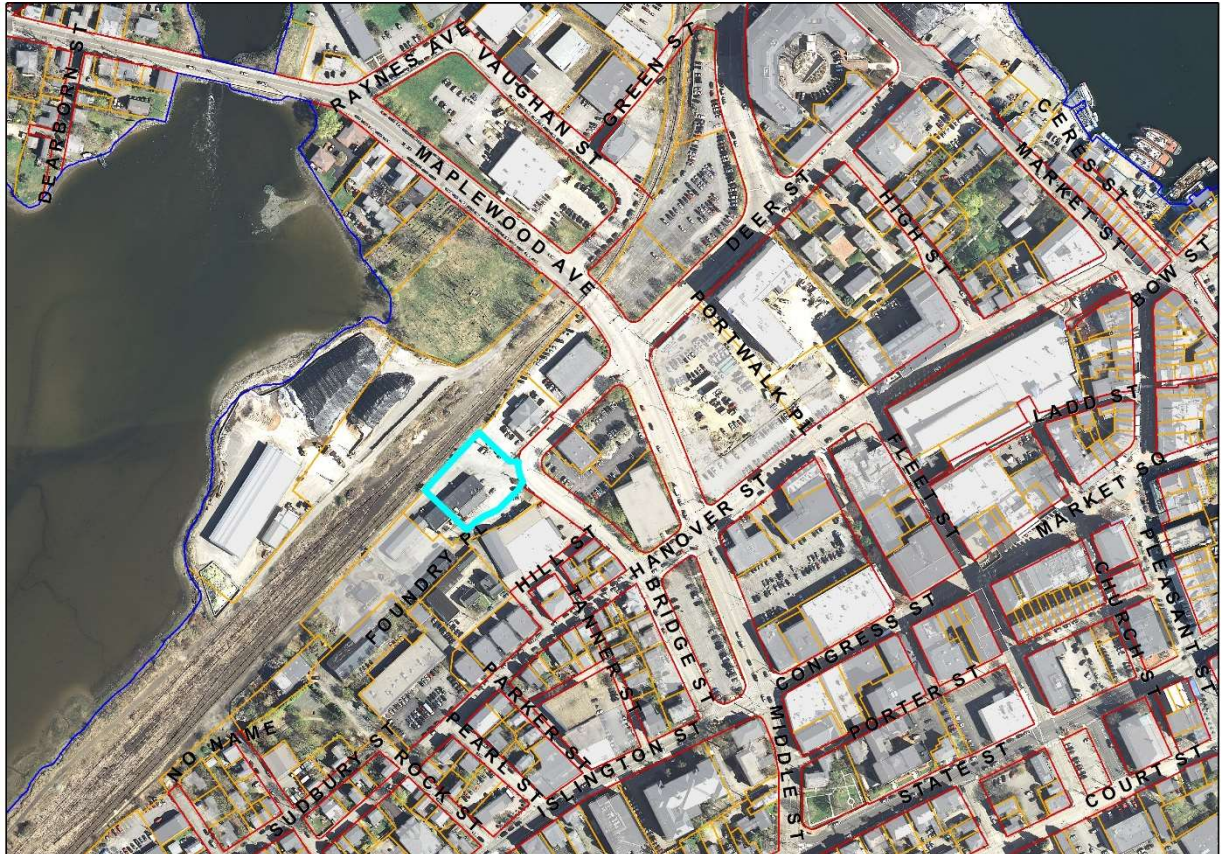
In *The Planning Board in New Hampshire: A Handbook for Local Officials*, the NH Office of Energy and Planning stresses the importance of limiting the discussion to concepts: New Hampshire statutes place great emphasis on the obligation of the planning board to provide notice to the abutters and the public of any substantive discussions on specific development proposals. Neither the applicant nor the planning board may go beyond the general and conceptual limits and begin discussing the design or engineering details of a proposal until the abutters and general public have been notified. This must occur either prior to the design review phase of the pre-application review or when a completed application has been filed.

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

This application came before the Board for preliminary conceptual consultation in May of 2018. Since that time, the applicant has acquired the property and had additional discussions with the City about the construction of the new road between the Route 1 Bypass and Bartlett Street. In addition, the applicant has completed additional market research regarding the provision of workforce housing for the project. Because of the project's size and complexity, the applicant requested a second consultation with the Planning Board in order to receive additional guidance before proceeding to the detailed design phase of the project.

VIII. OTHER BUSINESS

- A. Request for property located at 165 Deer Street (“Lot 3”) for a one year extension of Site Plan approval which was granted on February 15, 2018.**



Description

The project received site plan review approval from the Planning Board on February 15, 2018 for the construction of a 5-story mixed-use building (including hotel, restaurant, and 1st floor parking garage) with a footprint of 22,073 s.f. and gross floor area of 104,020 s.f. with related paving, lighting, utilities, landscaping, drainage and associated site improvements to Lots 2,3,4 and 5.

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 February 15, 2020.