



CITY OF PORTSMOUTH
PLANNING DEPARTMENT

MEMORANDUM

To: Planning Board
From: Juliet T.H. Walker, Planning Director *JTW*
Jillian Harris, Planner 1
Subject: Staff Recommendations for the December 19, 2019 Planning Board Meeting
Date: 12/13/19

III. DETERMINATIONS OF COMPLETENESS

1. SUBDIVISION REVIEW

- A.** The application of Donald Lowell Stickney, III, and The Alice F. Wentworth Revocable Trust of 2002, Owners, for property located at 213 & 215 Jones Avenue requesting Preliminary and Final Subdivision approval.
- B.** The application of Borthwick Forest, LLC, Owner for property located on Islington Street requesting Amended Subdivision approval.

Planning Department Recommendation

Vote to determine that the applications are complete according to the Subdivision Rules and Regulations and to accept the applications for consideration.

IV. PUBLIC HEARINGS – OLD BUSINESS

- A. The application of the **Maud Hett Revocable Trust, Owner**, for property located on **Banfield Road**, requesting a Wetland Conditional Use Permit to impact 4,013 square feet of inland wetland and 21,089 square feet of wetland buffer to construct 22 single family homes. Impacts include installation of three forty-two foot wide culverts for a road crossing through a wetland and wetland buffer impacts for road construction and stormwater management. Said property is shown on Assessor Map 256 Lot 02 and lies within the Single Residence A (SRA) District.

Description

This is an application to construct 22 single family homes with an access road, driveways, septic systems, retaining walls, stormwater treatment and culverts in an undeveloped forested area located off of Banfield Road. The project proposes 2,693 square feet of permanent wetland impact, 1,135 square feet of temporary wetland impact, 6,155 square feet of permanent wetland buffer impact and 1,106 square feet of temporary wetland buffer impact.

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 proposed project is in a completely undeveloped area where the applicant proposes to access the site with a new access road from Banfield Road through a wetland area. The proposed design shows access from Banfield Road through a wetland that bisects a large intact wetland system. This impact does not appear reasonable as designed. The location has been relocated and reduced in width but still results in a large impact not only by directly filling the wetland but by bisecting a large wetland complex with significant wildlife movement. The land where the project is proposed is not suited to the use as it is currently proposed.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The applicant has stated that access to the site with a bridge in this location is not feasible. The applicant has not provided an alternative location where there is upland adjacent to the road for this development. The applicant has not successfully demonstrated that this is the most reasonable design for this site.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed project will have adverse impacts to the wetland in terms of loss of wetland area as well as significant wildlife impacts in a valuable landscape area. The applicant's wetland scientist describes adverse impacts to wildlife habitat in this area, also confirmed by the independent wetland scientist who states that the proposed access road will permanently impact wildlife movement on the site. It is important to note that wildlife habitat was listed as a principal function in Wetland A (both east and west) and in Wetland B or all of the wetlands described on the site. The project itself will create impacts to habitat the NH Wildlife Action plan classifies as important as Supporting Landscapes. In addition, the project will also fragment a large tract which includes the Great Bog and NH Fish and Game land of over 900 acres in total which includes habitat in all three of its categories of the Highest Ranked Habitat in New Hampshire, Highest Ranked Habitat in Biological Region and Supporting Landscapes. The proposed addition of impervious surface including the homes, driveways, the access road and 22 septic systems will likely introduce a large volume of stormwater to the adjacent wetland system which includes sensitive areas such as vernal pools. This stormwater volume has not been quantified by the applicant but is likely to have an adverse impact on the wetland areas surrounding the proposed upland development. The project as proposed has clear impacts to the wetland functional values on this site.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* The applicant is proposing to clear the majority of trees which make up a completely mature forest on this site. In addition, the applicant has quantified 4 trees to be cut in the 25' no cut buffer and 32 trees in the area from 25-100 feet from the edge of wetland. It should be noted that the applicant did reduce the amount of trees to be cut from 91 to 36 in these areas with a revised design. While there has been some reduction in the amount of trees cleared it has not been clearly demonstrated that the proposal is removing the minimum number of trees necessary.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The proposed application appears to have been designed to maximize the development for this zone. Given the sensitivity of the site, there are certainly challenges to accessing the upland areas on this site without impacting the wetlands. However, if the size and scale of the development were reduced there may be some associated reductions in impacts. The current proposal is not the least impacting alternative for this site.
6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant is proposing the development in an undisturbed forested and wetland area. There is a landscape plan provided for the developed site but there has been no proposal to mitigate for the impacts proposed by this development with a planting plan or new wetland buffer plantings to offset the impact on this site. The applicant has not proposed adequate mitigative measures to offset the impacts to this site.

The Conservation Commission reviewed this application at the December 11, 2019 meeting and voted 5-1-1 to recommend denial of this application as proposed as it does not meet any of the criteria for approval of a wetland conditional use permit as listed in Section 10.1017.50 of the Zoning Ordinance.

On December 12, the applicant submitted a request to postpone their Planning Board hearing on the application. They also waived the time requirements stated in Section 10.1017.34 of the Zoning Ordinance to allow the Planning Board public hearing on the Wetland Conditional Use Permit to occur more than 90-days after the date of the initial submission. The applicant has requested to postpone the application indefinitely. They are currently proceeding with review by TAC of the Site Plan and Subdivision applications for this project and will likely request to bring all back to the Planning Board at the same time. The staff recommends that if the postponement of the Wetland Conditional Use Permit extends beyond the January meeting, then it should be re-advertised.

Planning Department Recommendation

Vote to postpone this application indefinitely.

V. PUBLIC HEARINGS – NEW BUSINESS

- A. The application of **James and Mallory Parkington, Owners**, for property located at **592 Dennett Street** requesting a Conditional Use Permit according to Section 10.814 of the Zoning Ordinance to construct an attached Accessory Dwelling Unit with 672 sq.ft. +/- of gross floor area in the second story of a newly constructed attached garage. Said property is shown on Assessor Map 161, Lot 18 and lies within the General Residence A (GRA) District.

Description

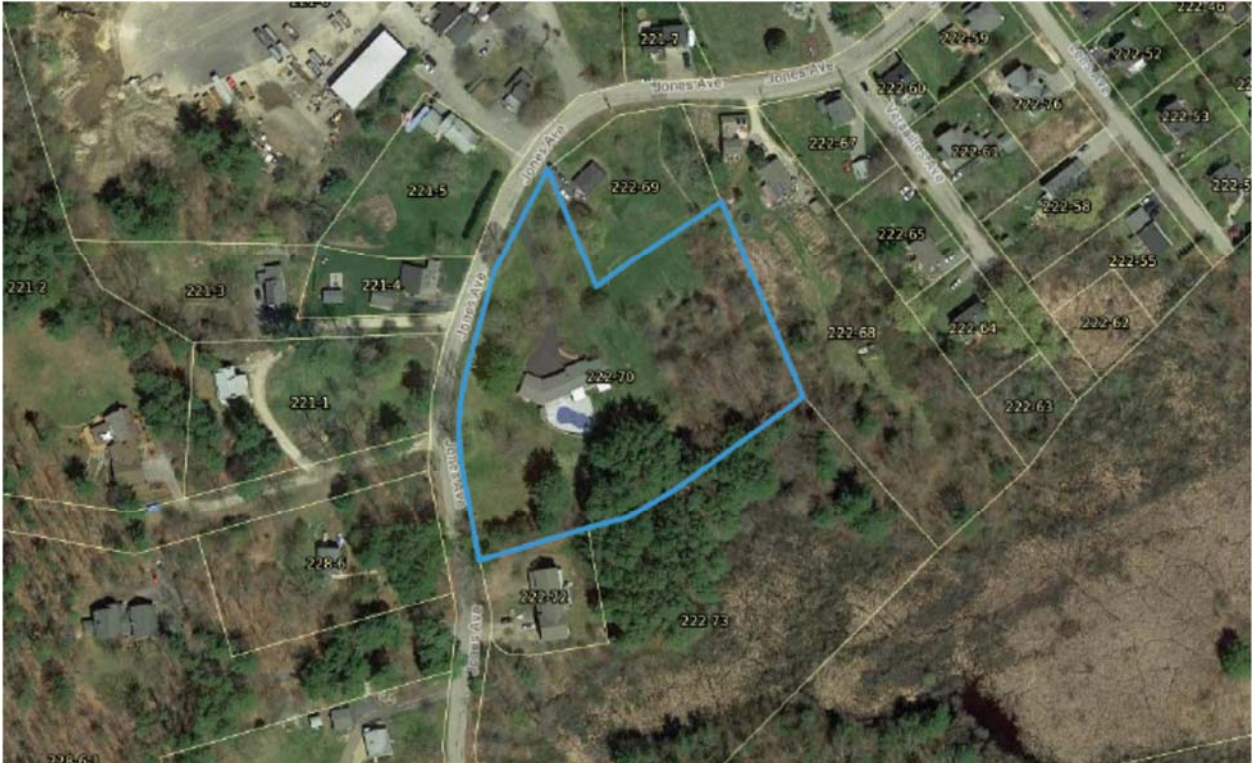
The applicants have requested a postponement of the Planning Board's consideration of this application as they are considering modifications to the proposed addition that would require the granting of zoning relief.

Planning Department Recommendation

Vote to postpone the application to the January 16, 2020 Planning Board meeting.

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

B. The application of **Donald Lowell Stickney, III, and The Alice F. Wentworth Revocable Trust of 2002, Owners**, for property located at **213 & 215 Jones Avenue** requesting Preliminary and Final Subdivision approval (Lot Line Revision) between two lots as follows: Lot 70 on Assessor Map 222 decreasing in area from 131,506 s.f. to 98,858 s.f. with 480 ft. +/- of continuous street frontage on Jones Avenue; and Lot 69 on Assessor Map 222 increasing in area from 29,880 s.f. to 62,528 s.f. with 238 ft. +/- of continuous street frontage on Jones Avenue. Said properties are shown on Assessor Map 222, Lots 69 & 70 and lie within the Single Residence B (SRB) District.



Description

The applicant proposes a lot line revision between the two lots as follows:

- Lot 70 on Assessor Map 222 decreasing in area from 131,506 s.f. to 98,858 s.f. with 480 ft. +/- of continuous street frontage on Jones Ave.; and
- Lot 69 on Assessor Map 222 increasing in area from 29,880 s.f. to 62,528 s.f. with 238 ft. +/- of continuous street frontage on Jones Ave.

The lots lie within the Single Residence B (SRB) District where the minimum lot area is 15,000 s.f. and minimum street frontage is 100 ft.

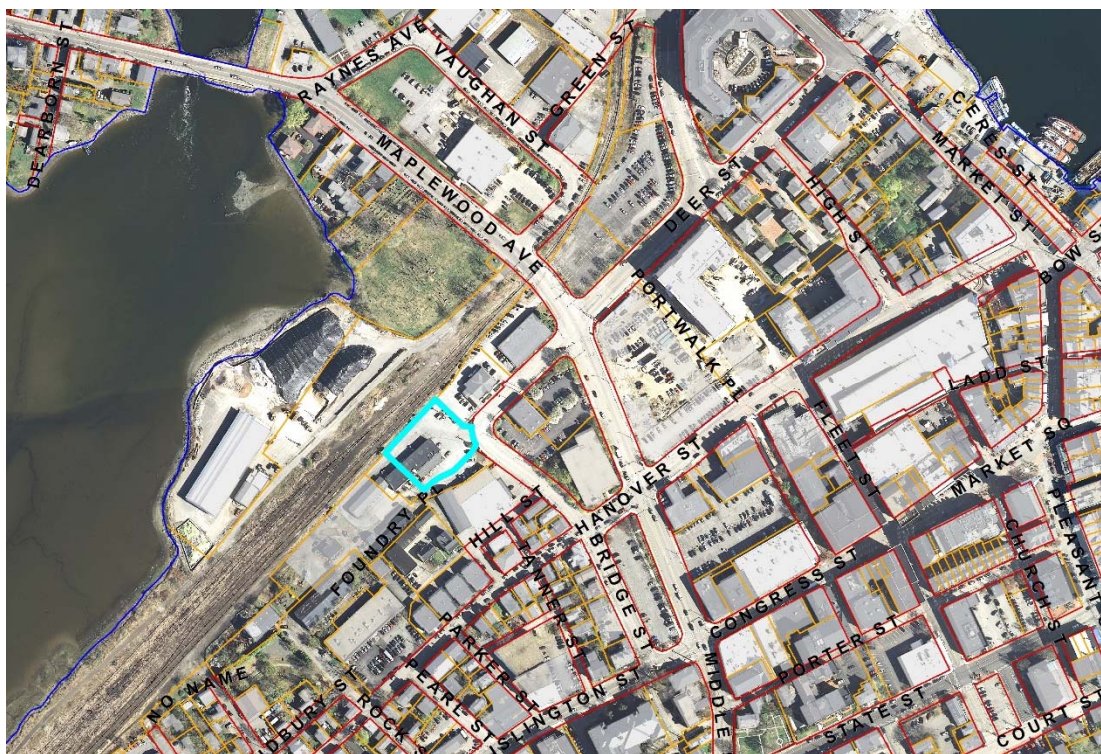
Planning Department Recommendation

Vote to grant Preliminary and Final Subdivision Approval (Lot Line Revision) with the following stipulations:

- 1.1) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
- 1.2) GIS data shall be provided to the Department of Public Works in the form as required by the City.*
- 1.3) The final plat shall be reviewed for pre-approval by the Rockingham County Registry of Deeds and subsequently recorded by the City or as deemed appropriate by the Planning Department.*

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- C. The application of **Foundry Place, LLC, Owner**, for property located at **165 Deer Street (“Lot 3”)**, requesting a second 1-year extension of the Site Plan Review approval for a 5-story mixed use building including a hotel, restaurant, and parking garage that was originally granted on February 15, 2018, granted a 1-year extension on November 15, 2018, and which will expire on February 15, 2020. Said property is shown on Assessor Map 125, Lot 17 and lies within the Character District 5 (CD5) District.



Description

The project received site plan approval from the Planning Board on February 15, 2018 for the construction of a 5-story mixed use building including a hotel, restaurant, and parking garage. On November 15, 2018 the Board granted a 1-year extension of approval to February 15, 2020.

Technical Advisory Committee Review

The TAC reviewed this application at the December 3, 2019 meeting and voted to recommend approval as presented.

Planning Department Comments

The Planning Board may, for good cause shown, extend an approval by one (1) year. Site Plan Review Regulations require additional one (1) year extensions be reviewed by TAC and the Planning Board and that the owner shall submit the previously approved plans and supporting data. A time extension may be granted if the Board determines that the applicant has shown good cause for the extension and that no change has taken place that would materially affect the currently approved site plan in regard to:

- Traffic flow, volume, or congestion;
- Pedestrian safety;
- Drainage;
- Water availability;
- Sewer capacity;
- Design standards;
- Landscape elements; and
- Zoning compliance.

The Planning Board also has the authority to amend or deny a previously approved application

Planning Department Recommendation

If the Planning Board determines that the applicant has shown good cause and that no changes have occurred since the approval was granted that would materially affect the items listed above, *vote to approve a 1-year extension of the Site Plan Review Approval to expire on February 15, 2021.*

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- D. The application of **Borthwick Forest, LLC, Owner** for property located on **Islington Street** requesting Amended Subdivision approval to subdivide the previously approved lot with an area of 41.56 acres to two lots; proposed lot 1 with an area of 5.32 acres and the remainder of Tax Map 241, Lot 25 with an area of 38.24 acres. The previously approved road lot consists of 0.727 acres and is proposed to be private. Said property is shown on Assessor Map 241, Lot 25 and lies within the Office Research (OR) District.



Description

The previously approved lot consolidation and subdivision has been amended to subdivide off a separate 5.2 acre parcel of land, proposed lot 1, from the previously approved 41.56 acre parcel of land referred to as Tax Map 241, Lot 25. Proposed Lot #1 consists of the previously approved Medical Office Building and its associated site improvements. The further subdivision of land will result in Proposed Tax Map 241 Lot 25 being reduced to 38.24 acres.

The proposed plans also reflect that the 0.73 acre proposed road will be a private road with easements associated on the plan set.

Technical Advisory Committee Review

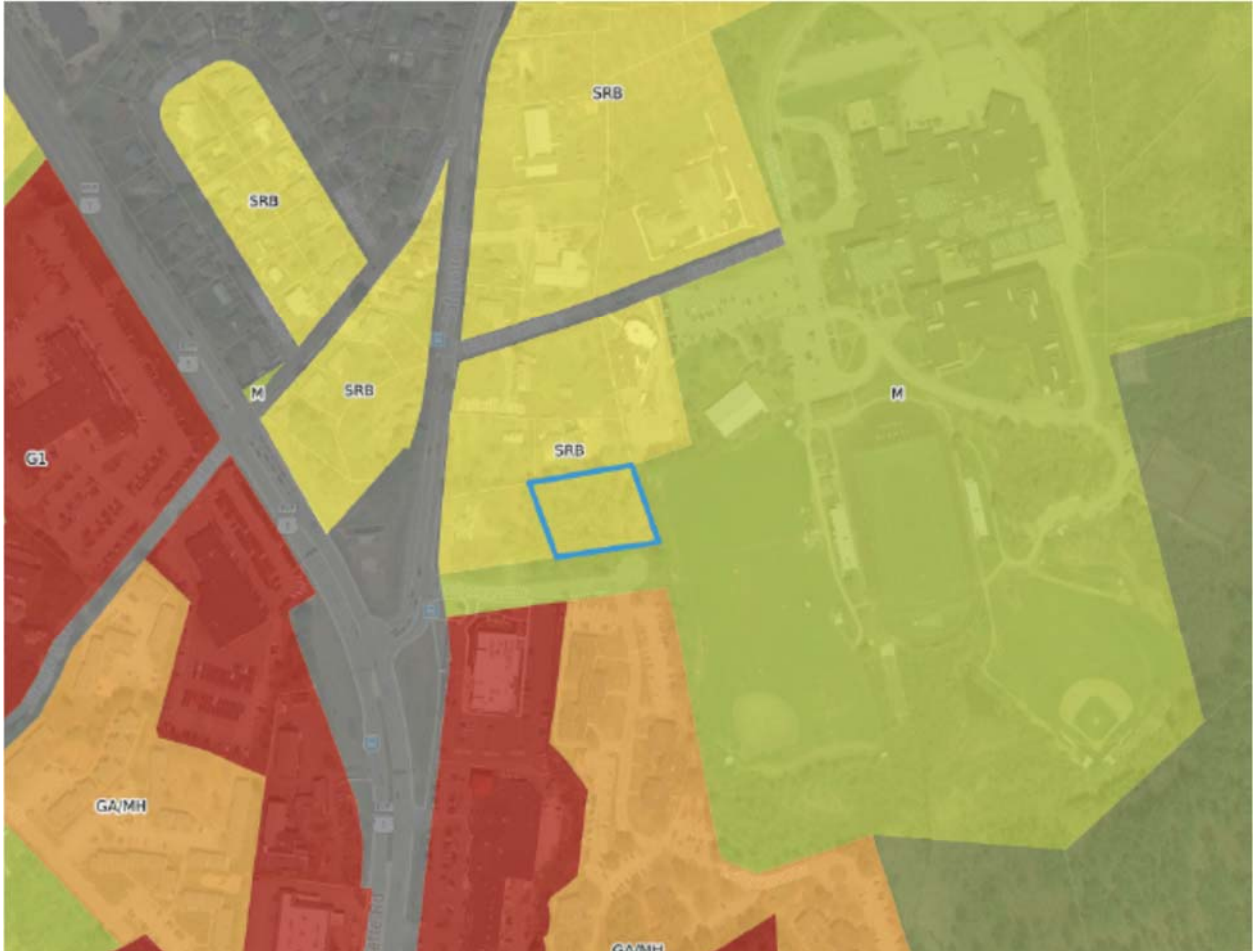
The TAC reviewed this application at the December 3, 2019 meeting and voted to recommend approval as presented.

Planning Department Recommendation

1. *Vote to grant Preliminary and Final Subdivision Approval with the following stipulations:*
 - 1.1) *Lot numbers as determined by the Assessor shall be added to the final plat.*
 - 1.2) *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
 - 1.3) *GIS data shall be provided to the Department of Public Works in the form as required by the City.*
 - 1.4) *The final plat shall be reviewed for pre-approval by the Rockingham County Registry of Deeds and subsequently recorded by the City or as deemed appropriate by the Planning Department.*

VI. PUBLIC HEARINGS -- ZONING

- A. Request from James G. Noucas, Jr on behalf of St. Nicholas Greek Orthodox Church that the church's property located on Ledgewood Drive be re-zoned from Single Residence B (SRB) to Gateway Neighborhood Mixed Use Corridor (G1). Said property is shown on Assessor Map 229, Lot 6A.



Description

At the November 12, 2019 City Council meeting, the Council voted to refer this request to the Planning Board for a recommendation.

One of the principle legislative functions of the Planning Board is to make recommendations on the adoption of amendments to the zoning ordinance. This role plays out in two ways. Many zoning amendments are generated by the Board itself which, in Portsmouth, also involves a public hearing process. If the proposed amendment comes either from a citizen petition or a referral by the City Council, then the Board has the responsibility to review and make a recommendation and to take the proposal through a public hearing process. All zoning amendments also require three readings in front of City Council, which includes a public hearing. These would occur after the Planning Board has completed its process and made a recommendation to the City Council.

This property currently abuts properties that are zoned SRB on the north and the west and city-owned property (the high school) on the east. The properties immediately across Ledgewood Drive (occupied by the Tuscan Grille and Market and Ledgewood Apartments) are zoned G1 and Gateway Apartment/Mobile Home Park (GA/MH). The abutting property at the corner of Ledgewood Drive and Lafayette Road is currently used as a commercial office.

A comparison of the primary dimensional standards for the two zoning districts is provided below:

	SRB (existing)	G1 (proposed)*
Lot Area (min.)	15,000 sq. ft.	NR
Dwelling unit density	15,000 sq. ft. of lot area per dwelling unit (approx. 3 units per acre) (max.)	16 to 24 dwelling units per acre (max.)
Continuous street frontage (min.)	100 ft.	30-50 ft.
Lot Depth (min.)	100 ft.	NR
Front Yard / Setback	30 ft. (min.)	5 ft. to 50 ft. (max.)
Side Yard / Setback	10 ft. (min.)	5 ft. to 20 ft. (max.)
Rear Yard / Setback	30 ft. (min.)	10 ft. to 20 ft. (max.)
Building Height (max.)	35 ft.	2.5 stories (35 ft.) to 4 stories (50 ft.)
Building Coverage (max.)	20%	50% to 70%
Open Space Coverage (min.)	40%	10% to 20%

**Zoning in this District provides range of maximum/minimum dimensional standards depending on the type of use and building.*

A list of the land uses that are not allowed in the current zoning district, but would be allowed in the proposed zoning district is provided below.

	G1 (proposed)
Two family residential	P
Townhouse	P
3-4 Family Dwelling	P
5-8 Family Dwelling	P
Live/Work Unit	P
Assisted Living Center	S
Residential Care Facility for 5+ residents	S
Place of Assembly (other than religious)	S
School	S
Museum	S
Performance Facility up to 500 person occupancy	S
Club, fraternal, or service organization	S
Cinema or similar indoor amusement	S
Indoor recreation use	S
Health club or similar use	P/S
Outdoor recreation use	P
Professional Office	P
Business Office	P
Financial Institution	P
Media Studio	S
Publishing facility	P
Medical Offices / Clinics	P
Clinics with inpatient care	S
Ambulatory surgical center	S
Personal Services	P
Consumer Services	P
Trade, craft, general services	P
Veterinary Care	S
Laundry / dry cleaning self service drop-off/pick up with no dry cleaning or laundering services on site	P
Undertaking establishment	S
Convenience goods	P
Retail Sales (under 50,000 sq. ft. GFA)	P
Shopping Center	P
Fish Market	P
Manufacture of goods sold on premises	P
Nightclub or bar with less than 500 occupancy	P/S
Restaurant with occupancy of less than 500	P/S
Boarding House	S

	G1 (proposed)
Bed and Breakfast	S
Inn	P
Hotel / motel	S
Conference center	S
Automotive sales and service stations	S
Light industry	S
Research and development	S
Food processing	S
Electronics manufacturing	S
General manufacturing	S

**P = Permitted, S = requires Special Exception*

The zoning change as currently proposed would create an isolated G1 parcel on Ledgewood Drive that does not directly abut the G1 Zoning District. If the Planning Board agrees with re-zoning this property, in order to create a contiguous extension of the district the Planning Department recommends that the abutting property on Ledgewood Drive (with an address of 545 Lafayette Road) also be considered in this re-zoning request.

Planning Department Recommendation

Vote to amend the zoning request to include the abutting property at 545 Lafayette Road (Map 229 Lot 6) in the proposed G1 zoning and re-advertise the public hearing.

VII. DESIGN REVIEW

- A. The request of **Dagny Taggart, LLC**, Owner, for property located on **Daniel Street** (aka 60 Penhallow Street) for the construction of a 4-story commercial building with community space and associated site improvements. Said property is shown on Assessor Map 107, Lot 27 and lies within the Character District 4 (CD4) District.



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.

Design review discussions must take place in a public hearing. At the conclusion of the public hearing process, the Board makes a determination that the design review process for the application has ended.

Planning Department Recommendation

Vote to accept the request and schedule a public hearing for the January 16, 2020 Planning Board meeting.