



MEMORANDUM

To: Planning Board
From: Juliet T.H. Walker, Planning Director *JTW*
Jillian Harris, Planner 1
Subject: Staff Recommendations for the January 21, 2021 Planning Board Meeting
Date: 01/15/2021

III. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

- A.** The application of **Raleigh Way Holding, LLC, Owner**, for properties located at **0 Falkland Way** requesting Site Plan Review Approval.

Planning Department Recommendation

Vote to determine that the application is complete according to the Site Plan Review Regulations of the agenda and to accept the application for consideration.

SUBDIVISION REVIEW

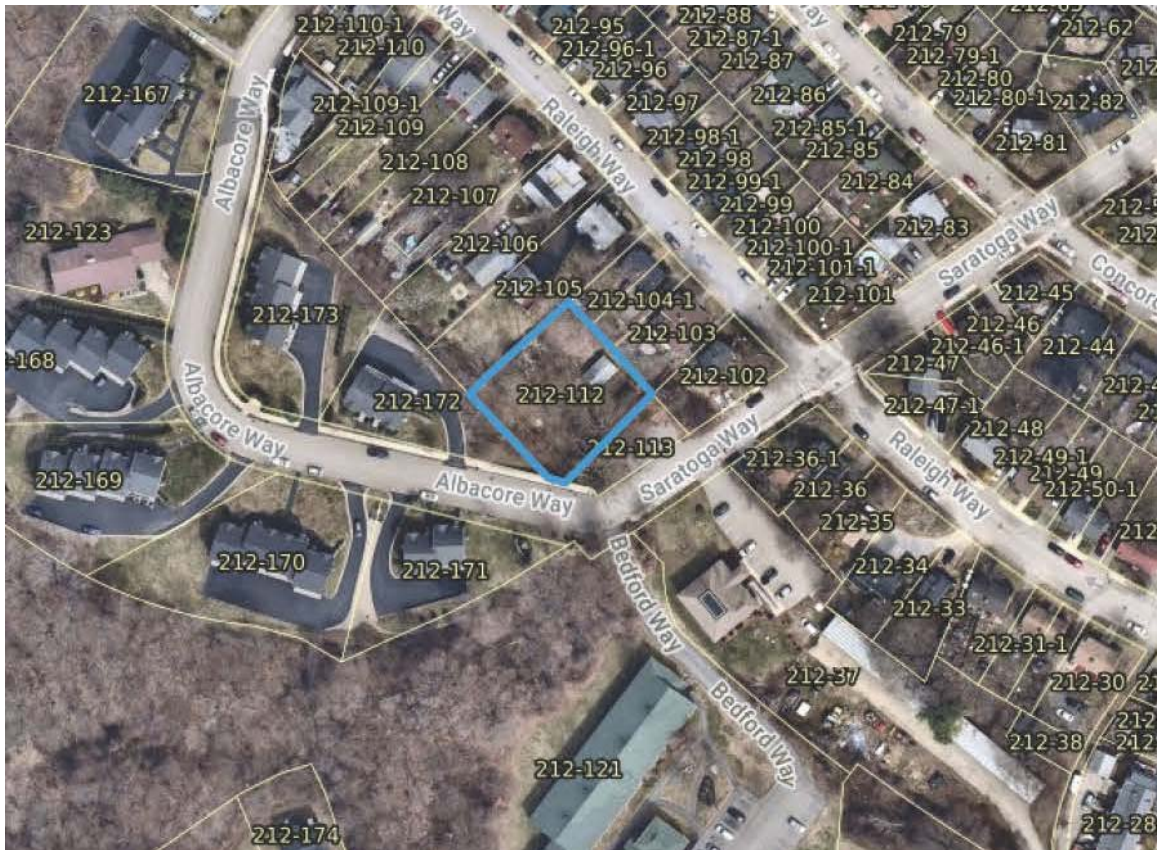
- A.** The request of **The Fritz Family Revocable Living Trust, Owner**, for property located at **0 Patricia Drive** requesting Preliminary and Final Subdivision Approval.
- B.** The application of **Donahue Realty Trust, Owner**, for property located at **272 Ocean Road** requesting Preliminary and Final Subdivision (Lot Line Revision) Approval.

Planning Department Recommendation

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

IV. PUBLIC HEARINGS – OLD BUSINESS

- A. The application of **Raleigh Way Holding, LLC, Owner**, for properties located at **0 Falkland Way** requesting Site Plan Review Approval for the demolition of an existing garage and shed and the construction of a new 4-unit residential building with associated parking, stormwater management, lighting, utilities and landscaping. Said properties are shown on Assessor Map 212 Lots 112 & 113 and lie within the General Residence B (GRB) District.



Description

This project proposes to demolish an existing garage, remove a large area of asphalt and construct a new 4-unit dwelling with attached decks and porches. Site improvements include a new driveway, a rain garden, stone detention pond, storm-tech stormwater chambers, and landscaping. The Zoning Board of Adjustment granted the following relief at their June 16, 2020 meeting:

- 1) A Variance from Section 10.521 to allow a lot area per dwelling unit of 3,736 square feet where 5,000 square feet is the minimum required; and
- 2) A Special Exception from Section 10.440 Use #1.51 to allow 4 dwelling units where the use is allowed by a special exception.

Technical Advisory Committee Review

The TAC reviewed this application at the October 6, 2020 meeting and voted to recommend approval with the following stipulations:

1. A Third Party Drainage review shall be completed by Altus Engineering;
2. Plans shall be revised to show the street curb continuing up to the driveway apron;
3. The plans shall be amended to provide a small high spot in the driveway apron to keep roadway stormwater in the road;
4. Review the location of the sewer service line to ensure there is sufficient cover. Applicant shall provide a cross-section for DPW review and approval;
5. Plans shall be updated to note that the sewer connection shall be witnessed and approved by Portsmouth Water Division and solid couplings will be used to cut in the service to the main;
6. Pole 197/6 seems to be on property of others. Applicant shall provide confirmation that this property has the right of access to this pole and a will-serve letter from Eversource.
7. An underdrain will be added where snow storage is proposed in the stormwater swale.
8. Applicant shall submit a drainage maintenance plan and requirements for long-term maintenance with reporting to DPW and Planning Departments annually.
9. The plantings and landscaping along the Saratoga Way frontage must not obstruct the sight line from the driveway to the corner of Albacore Way. The Limelight and the branches of the Oak tree might be in the line of sight. Landscaping plans shall be revised to provide clear line of sight.
10. Applicant should provide a turning-template to show that vehicles can enter the driveway and park in the garage for Unit 1 as it looks very tight to make the turning movements necessary to enter the garage.
11. Retention of the 30" Elm Tree is challenging as the proposed foundation is within 10 feet of the trunk and well within the dripline. Tree protection measures should be included on the plan that meet city standards.
12. Plans shall be revised to show that the Evergreen tree on property corner nearest Albacore Way shall be removed for line of sight at the crosswalk.

On October 28, 2020 the applicant submitted revised plans addressing stipulations 2-9 & 11-12 to the satisfaction of the Planning Department.

The January 14, 2021 Third Party Drainage review completed by Altus Engineering recommends that the current design and plan submittal is acceptable.

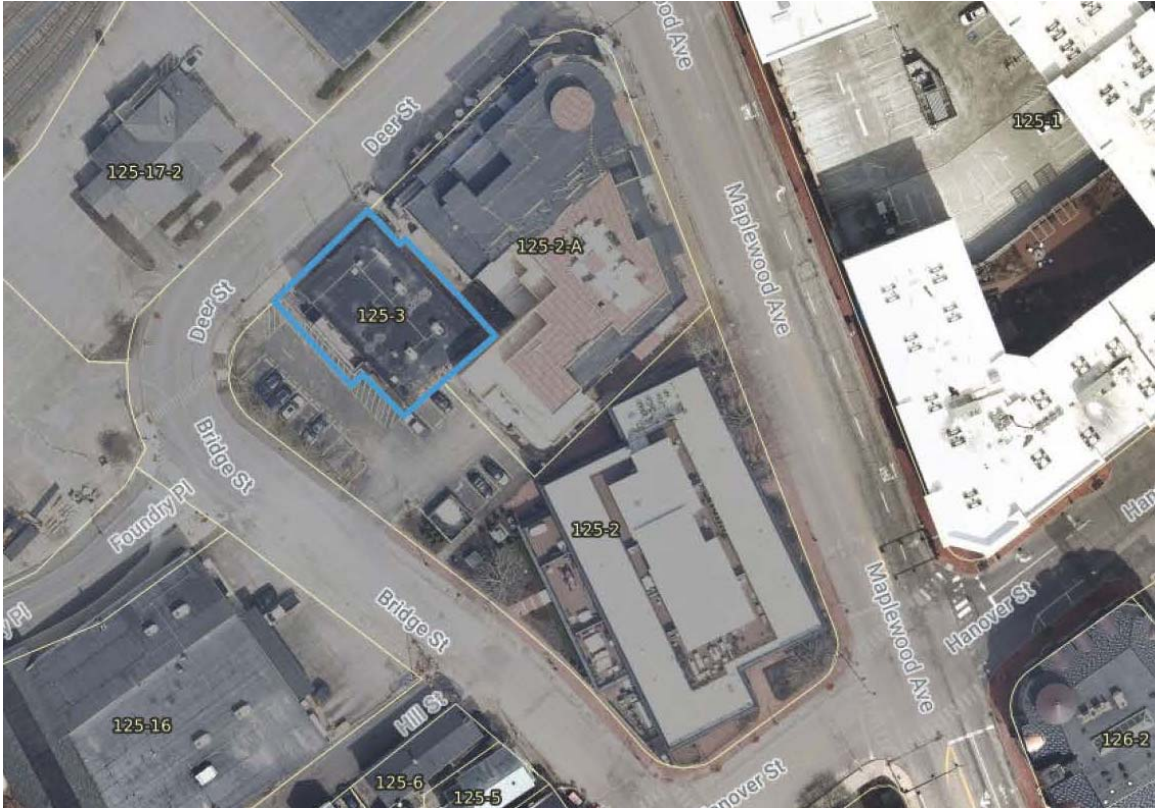
The Board may wish to review a turning template in response to Stipulation #10 with the applicant, as the turning movements necessary to enter the garage still appear problematic.

Planning Department Recommendation

Vote to grant Site Plan Review Approval as presented.

IV. PUBLIC HEARINGS – OLD BUSINESS (Cont.)

- B.** The request of **238 Deer Street, LLC, Owner**, for property located at **238 Deer Street** requesting a Conditional Use Permit in accordance with Section 10.1112.14 of the Zoning Ordinance for provision of no on-site parking spaces where 12 spaces are required. Said property is shown on Assessor Map 125 Lot 3 and lies within the Character District 4 (CD4) District.



Description

The project proposes a new 4-story mixed-use building on-site with commercial use on the first floor and 21 micro-apartments on the second through fourth floors. The proposed mixed-use building development does not have sufficient area on-site to accommodate off-street parking and therefore the applicant is requesting a conditional use permit in accordance with Section 10.1112.14 of the Ordinance to provide less than the required minimum parking.

Parking Conditional Use Permit

The off-street parking standards in the City's Zoning Ordinance for 21 residential units (of less than 500 s.f.) requires 0.5 spaces per unit for a total of 11 spaces and 5 visitor spaces. The Downtown Overlay District provides a credit of 4 spaces, which results in a total of 12 parking spaces required for this project. The applicant has indicated they cannot provide any parking spaces on the site due to the size of the lot, that the parking demand will be less than what is required, and that the parking demand will be met by existing public parking.

Per Section 10.1112.14 of the Zoning Ordinance, the Planning Board may grant a conditional use permit to allow a building or use to provide less than the minimum parking spaces required by the off-street parking standards. An application for a conditional use permit for off-street parking must include a parking demand analysis.

Per Section 10.1112.142, an application for a conditional use permit shall identify permanent measures to reduce parking demand including but not limited to proximity to public transit and shared parking on a separate lot. The applicant has listed the following factors for consideration:

- Pedestrian Accommodations: Proximity to downtown – the location of the site is ideal in that residents of the units can easily walk from the apartment to the downtown on the existing sidewalk network without needing a car. Sidewalks – A robust sidewalk network is provided in the area that allows for easy walking from the site to the downtown for the purpose of business or personal.
- Bicycle Accommodations: Per Section 10.1116.11 of the Zoning Ordinance (see attached ordinance section), 1 bicycle space for each 5 dwelling units or portion thereof is required for a multifamily dwelling. The developers will provide internal individual storage units that will be sized to accommodate bicycles. These units will be accessible from street level and will have easy access. A bicycle rack with space for a minimum of 5 bicycles will be provided outside.
- Transit: Within 650 feet of the site, there are three bus stops, providing direct access to Routes 40, 41, 42, & 43.
- Ride Share: A ride share waiting area will be provided that includes a bulletin board to share postings of those offering and needing a ride.
- Reduced parking demand for micro-apartments: The applicant indicates that the intended market for these units will be for tenants who do not necessarily have a car or who do not rely on frequent access to a car for transportation, which will result in overall reduced demand for off-street parking.

Planning Department Recommendation

1) Vote to find that the number of off-street parking spaces provided will be adequate and appropriate for the proposed use of the property.

2) Vote to grant the conditional use permit as presented.

V. PUBLIC HEARINGS – NEW BUSINESS

- A. The application of **The Fritz Family Revocable Living Trust, Owner**, for property located at **0 Patricia Drive** requesting Preliminary and Final Subdivision Approval to subdivide a lot with an area of 137,549 s.f. and 414 ft. of continuous street frontage on a private road into two (2) lots as follows: Proposed lot 1 with an area of 92,908 s.f. and 150 ft. of continuous street frontage on a private road; and Proposed Lot 2 with an area of 44,641 s.f. and 264 ft. of continuous street frontage on a private road. Said property is shown on Assessor Map 283 Lot 11 and lies within the Single Residence A (SRA) District.

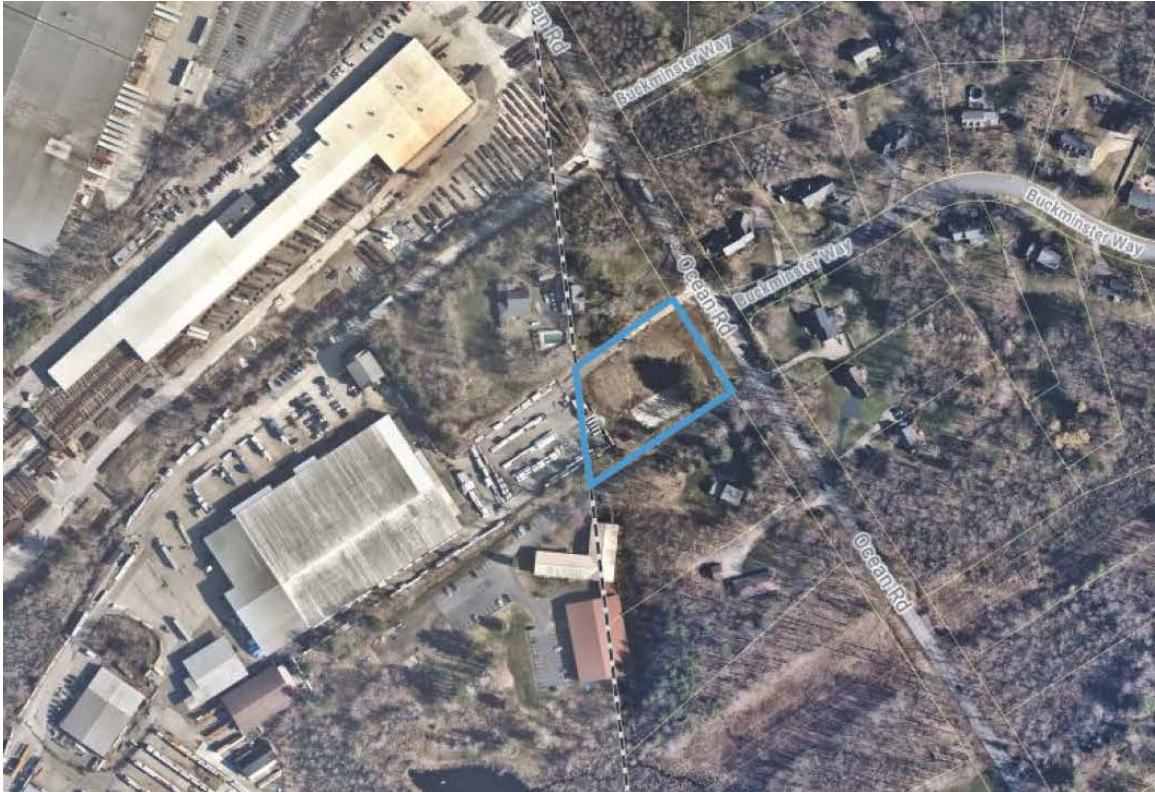
The applicant has not yet satisfied the conditions of approval recommended by TAC and staff has suggested they postpone the application to the February 18, 2021 Planning Board meeting.

Planning Department Recommendation

Vote to postpone the application to the February 18, 2021 Planning Board meeting.

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- B.** The application of **Donahue Realty Trust, Owner**, for property located at **272 Ocean Road** requesting Preliminary and Final Subdivision (Lot Line Revision) Approval for 2 lots as follows: Lot 3 on Assessor Map 282 decreasing in area from 89,709 s.f. to 47,874 s.f., with a 8,928 s.f. portion and the entirety of the remaining lot located in the Town of Greenland. The existing access will be maintained but will be replaced with an easement. Said property is shown on Assessor Map 282 Lot 3 and lies within the Single Residence A (SRA) District.



Description

The applicant is requesting a minor lot line revision to transfer 41,835 s.f. lot area between abutting parcels that lie partially within both Portsmouth and Greenland. Included in the subdivision plan is a proposed access easement located on the Portsmouth side of the parcel.

Technical Advisory Committee Review

The TAC reviewed the site plan review application at the January 5, 2021 meeting and voted to recommend approval with the following stipulations:

1. Water services should be rerouted to travel in front of the proposed septic and into the left side of the proposed house location into the basement. The water line needs to be 1" the whole way from the main to the house. City records indicate that the existing service stub from the main to the curb stop is 1" now but this needs to be

- verified on site. Water department personnel should be there to verify this on connection day.
2. Ocean Road is a state highway, so a driveway permit may be needed from the NHDOT. At a minimum, the applicant should discuss with the DOT to determine need for permit.
 3. Plans shall note that either fire suppression is required for future home or that the driveway shall be at least 20' wide.

On January 11, 2021 the applicant submitted revised plans addressing stipulations 1-3 to the satisfaction of the Planning Department.

Planning Department Recommendation

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

- 1) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
- 2) GIS data shall be provided to the Department of Public Works in the form as required by the City.*
- 3) The final plat(s) shall be recorded at the Registry of deeds by the City or as deemed appropriate by the Planning Department.*

VI. CITY COUNCIL REFERRAL - PUBLIC HEARING

- A. Request of **ASRT, LLC, Owner**, for the restoration of involuntarily merged lots at **138 Leavitt Avenue** to their pre-merger status pursuant to NH RSA 674:39-aa. RIML 20-3



Description

At its meeting on December 14, 2020, the City Council considered a request from Attorney Pelech on behalf of his client, requesting the restoration of involuntarily merged lots at 138 Leavitt Street to their pre-merger status pursuant to NH RSA 674:39-aa. The Council voted to refer this request to the Planning Board.

Statutory Requirements

RSA 674:39-aa requires the City Council to vote to restore “to their premerger status” any lots or parcels that were “involuntarily merged” by municipal action for zoning, assessing, or taxation purposes without the consent of the owner. Unlike all other lot divisions, there is no statutory role for the Planning Board in this process nor is there any requirement for the City to hold a public hearing. However, in Portsmouth the City Council has historically referred such requests to the Planning Board to conduct a public hearing.

The statute defines “voluntary merger” and “voluntarily merged” to include “any overt action or conduct that indicates an owner regarded said lots as merged such as, but not

limited to, abandoning a lot line” (RSA 674:39-aa, I). It is therefore the City Council’s responsibility to determine whether a merger was voluntary (i.e., requested by a lot owner) or involuntary (implemented by the City without the owner’s consent). If the merger was involuntary, the Council must vote to restore the lots to their premerger status. Following such a vote, the City GIS and Assessing staff will update zoning and tax maps accordingly. It will then be up to the owner to take any further action to confirm the restoration to premerger status, such as recording a plan at the Registry of Deeds.

It is important to note that the granting of a request to restore lots to their premerger status does not mean that the resulting lots will be buildable or, if already developed, will conform to zoning. The statute states that “*The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing land use ordinances*” (RSA 674:39-aa, V). For example, the restored lots may not comply with current zoning requirements for lot area, frontage and depth, and the re-establishment of a lot line between any two premerger lots may introduce a new nonconformity with respect to maximum allowed building coverage or a minimum required side yard where a building already exists on one of the premerger lots. In such cases, the owner(s) of the applicable lot(s) would have to apply to the Zoning Board of Adjustment for the necessary variances to restore zoning compliance or to allow future development.

Assessing Department Review

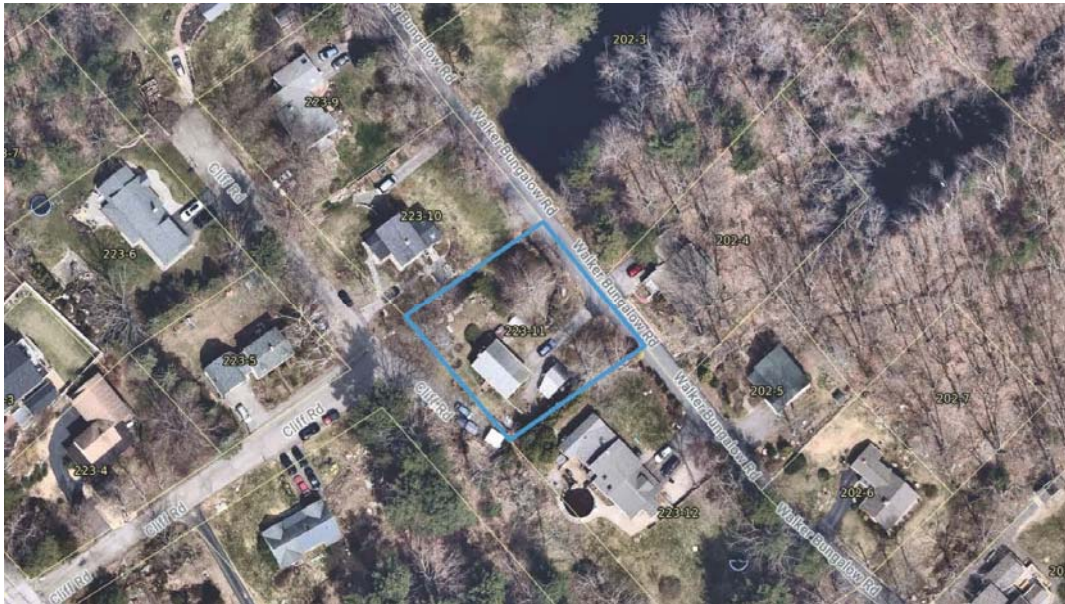
The Assessing Department has reviewed the request and a memo from the City Assessor is included in the packet.

Planning Department Recommendation

Vote to recommend that the Council deny the request for restoration of involuntarily merged lots as requested by the owner.

VII. CITY COUNCIL REFERRAL

A. Request for Release of Interest in Paper Street – 45 Cliff Road.

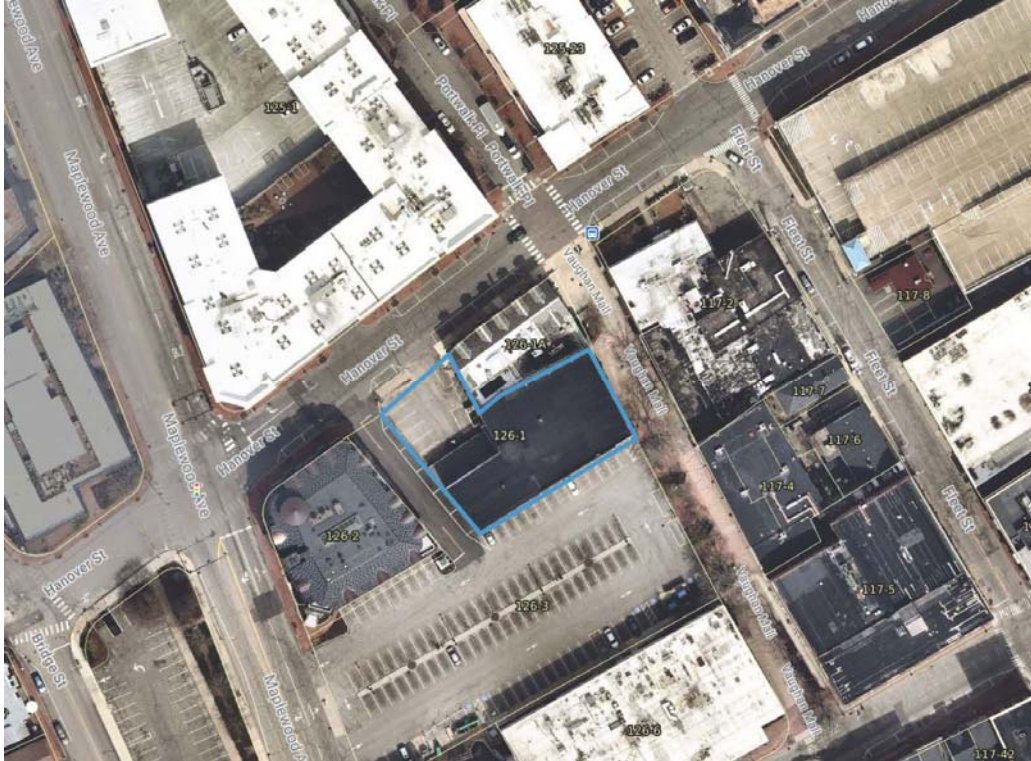


Description

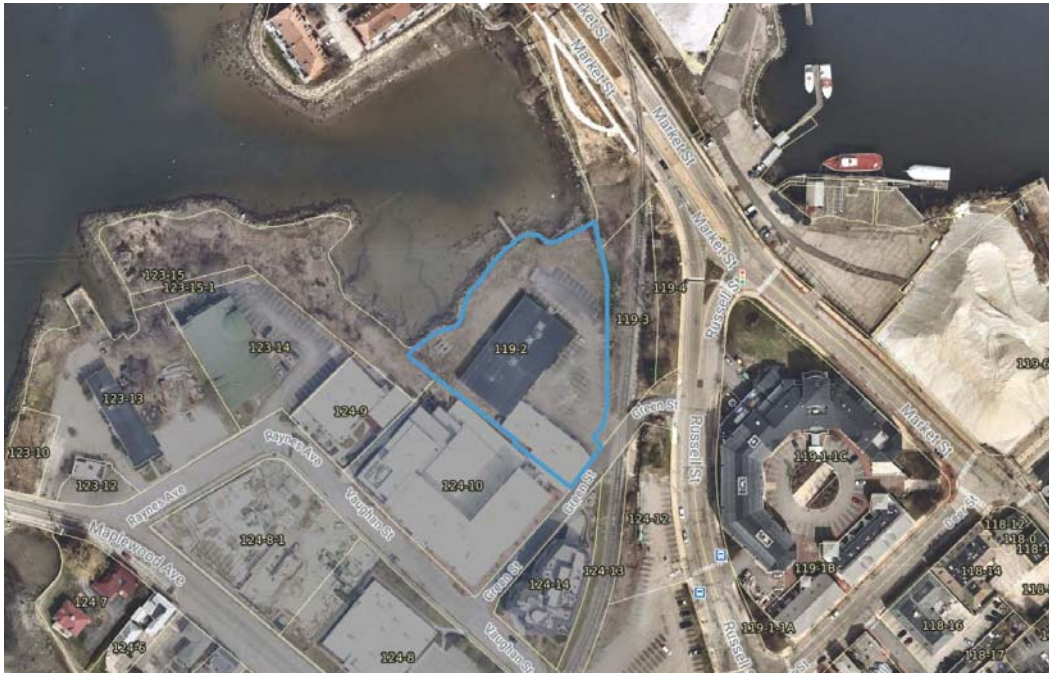
Staff will provide more information on this item prior to next week's Planning Board meeting.

VIII. PRELIMINARY CONCEPTUAL CONSULTATION

- A. The request of **64 Vaughan Mall, LLC, Owner**, for property located at 64 Vaughan Street requesting Site Plan review approval for the renovation and expansion of an existing building to accommodate a small addition, fourth floor and penthouse, underground parking garage, twelve residential units, ground floor retail and associated utilities and improvements to the adjacent Worth parking lot. Said property is shown on Assessor Map 126 Lot 1 and lies within the Character District 5 (CD5) District.



- B.** The request of **Stone Creek Realty, LLC, Owner**, for property located at **53 Green Street** requesting Preliminary Conceptual Consultation for a 5-story mixed-use building with below ground parking, first floor residential lobby, commercial space and parking, upper floor residential, and associated site improvements. Said property is shown on Assessor Map 119 Lot 02 and lies within the Character District 5 (CD5) District.



As authorized by NH RSA 676:4,II, the Site Plan Review Regulations 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 state 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. Preliminary conceptual consultation does not involve a public hearing, and no vote is taken by the Board on the proposal at this stage. Unlike Design Review, completion of Preliminary Conceptual Consultation does not vest the project to the current zoning.

IX. DESIGN REVIEW – PUBLIC HEARING

- A. The request of **North Mill Pond Holdings LLC (Applicant), and One Raynes Ave LLC, 31 Raynes Ave LLC, and 203 Maplewood Ave LLC (Owners)** for property located at **31 Raynes Avenue, 203 Maplewood Avenue, and 1 Raynes Avenue** requesting Design Review for a 5-story mixed-use building and a 5-story hotel building with associated site improvements. Said properties are shown on Assessor Map 123 Lot 14, Map 123 Lot 13, Map 123 Lot 12, Map 123 Lot 10 and lie within the Character District 4 (CD4) District. The applicant has requested to postpone the application to the February 18, 2021 Planning Board meeting.

Planning Department Recommendation

Vote to postpone the application to the February 18, 2021 Planning Board meeting.