



City of Portsmouth
Planning Department
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Memorandum

To: Planning Board
From: Peter Britz, Acting Planning Director
Stefanie L. Casella, Planner
Date: October 10, 2021
Re: Recommendations for the November 18, 2021 Planning Board Meeting

I. PRESENTATIONS

A. FY 2023-2028 Capital Improvement Plan Update

I. PRESENTATIONS

B. Recommendation to the City Council regarding the proposed acquisition of the Community Campus

Introduction

The Planning Board is asked to determine whether the proposed acquisition of the Community Campus property from the Foundation for Seacoast Health is appropriate considered in the context of the City's comprehensive planning.

Should the Board find that this proposed acquisition is in line with the City's comprehensive planning the board must make this recommendation to the City Council. A vote for this recommendation is required.

City Ordinance

- Article VI Section 11. 601: INTENT
 - o *The intent of this Article is to ensure that proposed municipal actions relating to land acquisition, disposition or use, and to the laying out, construction or discontinuance of public streets, are considered in the context of the City's comprehensive planning.*
- Article VI Section 11.602: REFERRAL AND REPORT
 - A. *The following matters shall be referred to the Planning Board in writing at least thirty (30) days before final action is taken:*
 - (1) *Any acquisition or disposition of municipal real property, including fee transfers, easements and licenses;*
 - (2) *Any plan for the construction, alteration, relocation, acceptance or discontinuance of a public way.*
 - B. *No final action on a matter listed herein shall be taken until either the Planning Board has reported to the City Council thereon in writing or sixty (60) days have elapsed since the referral without such report.*
 - C. *The failure to refer a matter listed herein to the Planning Board shall not affect the legal validity or force of any action related thereto if the Planning Board waives such referral.*

Relevant References in the City of Portsmouth Master Plan

Goal 1.1 : "Support the continued vitality of the Urban Core through public investment and land use regulations."

- o Actions listed under this goal include:
 - Support reinvestment in under-utilized buildings and land.
 - Enhance the quality and connectivity of pedestrian facilities.

- Promote the creation of open spaces, seating areas and other outdoor amenities.

Goal 1.4: “Improve access to indoor and outdoor recreation facilities throughout the City.”

- Actions listed under this goal include:
 - Enhance neighborhood parks, recreation facilities and playgrounds, and add new ones where appropriate.
 - Create additional outdoor recreational fields where possible.
 - Develop a consolidated recreation facility for residents of all ages and income levels.
 - Create new public spaces that can be used for both recreation and floodplain storage.

Goal 5.2: “Manage public open spaces for passive recreation and environmental preservation.”

- Identify and prioritize undeveloped land for acquisition and preservation.
- Pursue open space acquisitions that create wildlife corridors and ecological connections.

Relevant information from the City of Portsmouth Open Space Plan

The Open Space Plan specifically identifies the Community Campus parcel as an open space opportunity area. This parcel contains wetlands as part of the Pickering Brook and is considered a Tier 3 (supporting) habitat.

Staff Recommendation:

Vote to recommend the acquisition of the Community Campus to the City Council.

III. DETERMINATIONS OF COMPLETENESS

SUBDIVISION REVIEW

- A. The request of **Gregory J. Morneault and Amanda B. Morneault, (Owners)** and **Darrell Moreau, (Applicant)** for property located at **137 Northwest Street** requesting Preliminary and Final Subdivision Approval.

Planning Department Recommendation

Vote to determine that the application is complete according to the Subdivision Rules and Regulations (contingent on the granting of any required waivers under Sections IV and VI of the agenda) and to accept the application for consideration.

IV. PUBLIC HEARINGS -- OLD BUSINESS

*The Board's action in these matters has been deemed to be quasi-judicial in nature.
If any person believes any member of the Board has a conflict of interest,
that issue should be raised at this point or it will be deemed waived.*

- A. REQUEST TO POSTPONE** The request of **Banfield Realty, LLC, (Owner)** for property located at **375 Banfield Road** requesting a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for work related to the construction of an industrial building that will require the removal of pavement in the 100' wetland buffer to create a vegetated area which will receive some of the stormwater runoff from the property. Said property is shown on Assessor Map 266, Lot 7 and lies within the Industrial (I) District. **REQUEST TO POSTPONE (LU-20-259)**
- B. REQUEST TO POSTPONE** The request of **Banfield Realty, LLC, (Owner)** for property located at **375 Banfield Road** requesting Site Plan review approval to demolish two existing commercial buildings and an existing shed and construct a 75,000 s.f. industrial warehouse building with 75 parking spaces as well as associated paving, stormwater management, lighting, utilities and landscaping. Said property is shown on Assessor Map 266 Lot 7 and lies within the Industrial (I) District. **REQUEST TO POSTPONE (LU-20-259)**

Planning Department Recommendation

Vote to postpone the public hearing on this request indefinitely until the applicant is ready to proceed. The project should be re-advertised and abutters re-noticed when the public hearing is scheduled.

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C. REQUEST TO POSTPONE Request of **Ricci Construction Company Inc., (Owner)** and **Green & Company Building & Development Corp., (Applicant)** for property located at **3400 Lafayette Rd** requesting a wetland Conditional Use Permit under section 10.1017 to construct 50 town homes on an undeveloped lot. The (Applicant) is proposing five areas of wetland impact for a total of 21,350 square feet of permanent impact and three areas of temporary impact for a total of 2,350 square feet. Said property is shown on Assessor Map 297 Lot 11 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District and the Natural Resource Protection (NRP) District. (LU-21-98) **REQUEST TO POSTPONE**

D. REQUEST TO POSTPONE Request of **Ricci Construction Company Inc., (Owner)** and **Green & Company Building & Development Corp., (Applicant)** for property located at **3400 Lafayette Rd** requesting Conditional Use Permit for a Development Site in accordance with Section 10.5B40 of the Zoning Ordinance and Site Plan Review approval for construction of a 50-unit multi-family residential development that includes community space and related landscaping, drainage, paving, utilities and other site improvements. Said property is shown on Assessor Map 297 Lot 11 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District and the Natural Resource Protection (NRP) District. (LU-21-98) **REQUEST TO POSTPONE**

Planning Department Recommendation

Vote to Postpone to the December 16, 2021 Planning Board Meeting.

IV. PUBLIC HEARINGS -- OLD BUSINESS

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that issue should be raised at this point or it will be deemed waived.*

- E. REQUEST TO POSTPONE** Request of **Elizabeth B Larsen Trust, (Owner)** for property located at **668 Middle Street** requesting Preliminary and Final Subdivision approval to subdivide 1 existing lot with 81,046 square feet of lot area, and 69.83 feet of street frontage into 3 lots as follows: Proposed Lot 1 with 18,646 square feet of lot area and no street frontage; Proposed Lot 2 with 18,756 square feet of lot area and no street frontage; Proposed Lot 3 with 43,644 square feet of lot area and 69.83 feet of street frontage. The existing buildings will remain and be on Proposed Lot 3. Said property is shown on Assessor Map 147 Lot 18 and lies within the General Residence A (GRA) and Historic Districts. (LU-21-23) **REQUEST TO POSTPONE**

Planning Department Recommendation

Vote to postpone the public hearing on this request indefinitely until the applicant is ready to proceed. The project should be re-advertised and abutters re-noticed when the public hearing is scheduled.

IV. PUBLIC HEARINGS -- OLD BUSINESS

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that issue should be raised at this point or it will be deemed waived.*

- F. Request of Green & Company, (Applicant) and Philip J. Stokel and Stella B. Stokel, (Owners)** for property located at **83 Peverly Hill Road** to name the new 2,950-foot public road to serve the approved 56 single-family homes, public space, and associated utilities approved at the October 21, 2021 Planning Board meeting. Said property is shown on Assessor Map 242 Lot 4 and lie within the Single Residence A (SRA) and Single Residence B (SRB) Districts. Please note: this discussion item was postponed from the October Planning Board meeting. (LU-21-74)

Project Description

The application of Green & Company, (Applicant) and Philip J. Stokel and Stella B. Stokel, (Owners) for the development of 56 single-family homes located at 83 Peverly Hill Road was approved at the October 21, 2021 Planning Board Meeting. Included in this approval was the construction of a new public road to service the approved homes. The proposed street has been accepted (see chapter 11 Article 3: Layout and Construction of Streets) and must now be named. City Ordinance Chapter 11, Article 5: Street Names and Numbers is provided below.

City Ordinance, Chapter 11

ARTICLE V: STREET NAMES AND NUMBERS

Section 11.501: STREET NAMES

- A. The naming of all public streets and rights of way which are to receive or have received legal status by acceptance shall be subject to approval by the Planning Board and all existing public street and right of way now of legal status and as such are shown upon the tax maps, may be renamed by the Planning Board as it determines necessary for the welfare or convenience of the public. Such renaming may be considered upon the motion of the Planning Board or upon petition by the owners or occupants of such land as may be located upon said public streets and rights of way and such determination shall be made by the Planning Board after due public hearing of the matter.
- B. No existing or proposed street name shall duplicate the name or names of other proposed or existing streets irrespective of the use of the suffix, "Street", "Avenue", "Boulevard", "Drive", "Place", "Way", "Court", or the like. The extension of an existing street shall have the same name as the existing street.

At the applicants request, Sage Lane has been proposed as the first choice for this street name and Bramble Lane as the second. Please note the applicant's original application materials indicated the proposed name for this street was Bayberry Path. After considering that Portsmouth has a similar Barberry Lane, the applicant withdrew that request.

Both Sage Lane and Bramble Lane have been reviewed by GIS Manager James McCarty and there are no existing naming conflicts. Staff have reached out to Newington, NH Town Administrator Martha Roy to inquire with any potential conflicts within the Town of Newington and the Town of Newington has found no conflicts with the proposed street names.

Upon approval, Staff will forward recommendation to the Portsmouth City Council for formal name acceptance.

Staff Recommendation:

Vote to recommend to name the new public street, located at 83 Peverly Hill Road as approved in Land Use Application LU-21-74 on October 21, 2021, Sage Lane.

V. PUBLIC HEARINGS – NEW BUSINESS

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If any person believes any member of the Board has a conflict of interest,
that issue should be raised at this point or it will be deemed waived.*

It is recommended that Item VA and VB be discussed together and voted on separately.

A motion is required to consider these items together.

- A.** The request of **Gregory J. Morneault and Amanda B. Morneault, (Owners)** and **Darrell Moreau, (Applicant)** for property located at **137 Northwest Street** requesting Preliminary and Final Subdivision Approval to subdivide 1 existing lot with 18,134 square feet of lot area, 19 feet of lot depth, and 537 feet of street frontage into 2 lots as follows: Proposed Lot 1 with 7,500 square feet of lot area, 44 feet of lot depth, and 179 feet of street frontage; Proposed Lot 2 with 10,634 square feet of lot area, 25 feet of lot depth, and 357 feet of street frontage. The existing residence will remain and be on Proposed Lot 1 and a new home will be constructed on Proposed Lot 2. Said property is shown on Assessor Map 122 Lot 2 and lies within the General Residence A (GRA) District and Historic District. (LU-20-222)
- B.** The request of **Gregory J. Morneault and Amanda B. Morneault (Owners)** and **Darrell Moreau, (Applicant)** for property located at **137 Northwest Street** requesting a Wetland Conditional Use Permit under Section 10. 1017 of the Zoning Ordinance to impact 5,062 square feet of wetland buffer and 45 square feet of tidal wetland. The proposed new home and existing turnaround is partially within the 100' tidal buffer zone of the North Mill Pond. In addition to the new home the applicant is proposing to remove an existing gravel turnaround and install a new paved parking apron for City vehicles to turn around. This new turnaround and the City pump station are all within a new easement. In addition, there is a plan to upgrade the stormwater outfall to protect against erosion. Said property is shown on Assessor Map 122 Lot 2 and lies within the General Residence A (GRA) District and Historic District. (LU-20-222)

Description

This application has been before the Zoning Board of Adjustment and the Technical Advisory Committee. The findings are below.

Zoning Board of Adjustment

At the Zoning Board of Adjustment meeting on **Tuesday, February 16, 2021**, the following variance was granted by the Zoning Board of Adjustment as presented:

- 1) Variances from Section 10.521 to allow:
 - a) a lot depth of 44.7 feet for Lot 1 and 25.4 feet for Lot 2 where 70 feet is required for each;
 - b) a 3 foot front yard where 15 feet is required; and
 - c) a 6.5 foot rear yard where 20 feet is required.

Technical Advisory Committee Meeting

As a result of said consideration at the meeting on **Tuesday, September 7, 2021**, the Committee voted to recommend approval to the Planning Board with the following stipulations:

- 1) Additional room is added in the turnaround area to prevent backing into the street
- 2) A stonewall (or an appropriate substitute approved by the HDC) be added to the left of the proposed driveway area to screen the garage doors from Northwest Street.

Conservation Commission

This item was heard at the Conservation Commission meeting on **Wednesday November 10, 2021**. 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 project to remove a large gravel area from the buffer and create a paved turnaround will result in a net reduction in impervious surface and a more efficient use of tidal buffer space to service a municipal pump station. The repair of the outfall pipe is similarly appropriate work within the buffer as it is necessary to prevent impacts to the North Mill Pond. The creation of a single family home lot was done with a portion of the house in the wetland buffer. The applicant has reduced the size of the home to create a smaller impact in the buffer. It should be noted that a significant amount of the impervious surface in the buffer is from the proposed turn around for City vehicles to access the pump station and for other vehicles to turn around on this street.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The proposal is to construct a new single family home. The applicant has stated that they cannot build a house of a realistic size outside of the buffer.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The pump station and gravel turnaround area are existing impacts in the tidal buffer zone. The removal of the gravel turnaround will be a net improvement to this site. If the proposed turnaround is designed in such a way as to infiltrate stormwater with porous pavers or other technique this will reduce any new impervious surface running directly into a catch basin at the new turn around. Additionally, the house or more of the house could be moved outside of the buffer zone to reduce impervious surface in the buffer. The applicant has

changed the landscape plan where 2,310 square feet of proposed lawn has been converted to wetland buffer vegetation.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There is vegetation in the area proposed for the new home which will be removed according to the plan and the applicant has proposed new buffer plantings.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The applicant has made efforts to reduce the impact by reducing the size of the house and installing buffer plantings.
6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The plan shows a new area of wetland buffer plantings of 2,310 square feet which will provide enhancement to the buffer over the existing gravel turn around and previously proposed lawn area.

A motion was made to approve the request for conditional use with the following stipulations:

- 1) City to use porous pavement or pavers in City Turnaround area
- 2) Shrubs to be kept sufficiently clear of turn around to allow so they are not impacted by snow.

The Commission's vote to approve failed 1-5. Therefore, the Conservation Commission does not recommend approval of this application. The Conservation Commission expressed support for the work that was done by the applicant to reduce the building footprint in the buffer and for installing an enhanced landscape buffer. In addition they supported using pervious pavement or pavers for the proposed turn around. While the applicant reduced the footprint of the home in the buffer from an earlier review by the Commission, they were not satisfied that the footprint was reduced sufficiently to support approval of a wetland Conditional Use Permit.

<u>Staff Recommendation:</u>

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| 1) Vote to grant Preliminary and Final Subdivision Approval with the following stipulations: |
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| <ol style="list-style-type: none">a. Additional room is added in the turnaround area to prevent backing into the streetb. A stonewall (or an appropriate substitute approved by the HDC) be added to the left of the proposed driveway area to screen the garage doors from Northwest Street |
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| 2) Staff believe the applicant has provided significant reductions in the buffer but recommends that the applicant work to provide additional modifications to the plan to further reduce impacts in the buffer. |
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V. PUBLIC HEARINGS – NEW BUSINESS

*The Board's action in these matters has been deemed to be quasi-judicial in nature.
If any person believes any member of the Board has a conflict of interest,
that issue should be raised at this point or it will be deemed waived.*

- C. The request of **Omar R. Gordon Revocable Trust and Carrol L. Gordon Revocable Trust, (Owners) Michah Denner, (Applicant)** for property located at **797 Elwyn Road** requesting wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for an in-kind septic replacement and a new addition at the rear of the house with 240 square feet of disturbance within 100' of jurisdictional wetland. Said property is shown on Assessor Map 225 Lot 2 and lies within the Single Residence A (SRA) District. (LU-21-93)

Project Description

The applicant is requesting a conditional use permit for an in-kind septic replacement with a new addition to the rear of the existing house within 100' of a wetland drainage swale.

Conservations Commission

The Conservation Commission considered this application at the Wednesday September 8, 2021 meeting. According to Article 10 Section 10.1017.50 the applicant must satisfy the following conditions for approval of this project:

1. The land is reasonably suited to the use activity or alteration. *The replacement septic system is an in-kind replacement in the same location as the existing septic system. This is the location of the existing septic system which has become out of date and needs replacement.*
2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration. *The applicant explored options to locate the septic system outside of the 100' wetland buffer but the possible locations were constrained by ledge outcrops and stormwater impacts. Therefore this is the only reasonable location for the septic system replacement.*
3. There will be no adverse impact on the wetland functional values of the site or surrounding properties. *Given that the location proposed for the septic system is where the current system exists today and they are able to replace this system with a similar size system there should not be impacts to the wetlands. The small addition at the rear of the house will create a new area of impervious surface in the buffer but there is a good deal of separation to the wetland system in the rear. It is not clear if the runoff from the roof is being captured but an infiltration trench or dry well to infiltrate the stormwater would reduce any possible impacts.*

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. *The project is proposed where there is currently lawn. There is no change proposed to any area that is not existing lawn. This project could benefit from buffer plantings to replace lawn adjacent to the wetland.*
5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section. *The applicant has proposed an in-kind septic replacement in the most appropriate location. The alternative of leaving the existing, out of date, septic system could cause greater impacts than the proposed system. The impact of the addition can be reduced with infiltration of stormwater from the proposed addition and from new buffer plantings.*
6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible. *The plan does not propose any new vegetation in the buffer. While the new addition is being proposed in an area of lawn and the proposed septic also is in an existing lawn area. Given that the rear yard appears to be lawn all the way to the edge of wetlands it would be a benefit to the wetland functions and values to include more plantings in the wetland buffer such as shrubs and/or trees or even some low growing vegetation that is not regularly mowed.*

As a result of said consideration the Commission voted unanimously to recommend approval of the Wetland Conditional Use Permit to the Planning Board with the following stipulations.

1. Erosion control measures be put in place during installation of the septic and construction of the addition.
2. A drip edge along the foundation or other infiltration practice for stormwater be included in the plan to capture the roof runoff from the new addition.
3. That the applicant install a planting bed of native plants at least 300 square feet in size in the wetland buffer adjacent to the wetland edge.
4. While it is outside of the 100' buffer the Commission requests that the area under the deck be a porous material such as crushed stone or other material to infiltrate stormwater.
5. That the applicant consider following NOFA standards for yard maintenance.

Staff Recommendation:

Vote to approve Wetland Conditional Use permit with the following stipulations:

1. Erosion control measures be put in place during installation of the septic and construction of the addition.
2. A drip edge along the foundation or other infiltration practice for stormwater be included in the plan to capture the roof runoff from the new addition.
3. That the applicant install a planting bed of native plants at least 300 square feet in size in the wetland buffer adjacent to the wetland edge.
4. While it is outside of the 100' buffer the Commission requests that the area under the deck be a porous material such as crushed stone or other material to infiltrate stormwater.
5. That the applicant consider following NOFA standards for yard maintenance.

VI. DESIGN REVIEW – PUBLIC HEARING

- A. The proposed project is the application of **Hill Hanover Group, LLC (Owner)** and **JPK Properties, LLC, (Owner and Applicant)** for the property located at **181 Hill Street**, for the demolition of three existing buildings and the construction of one three story building containing 12 units with basement level parking accessed from Autumn Street. Said property is shown on Assessor Map 125 Lot 14 and lies within the Character District 4-L1 (CD4-L1) (LUPD-21-9).

Description

This application was accepted at the October 21, 2021 Planning Board meeting. The purpose of this Design review process is outlined below in Article 2, Section 2.4.3 of the Site Plan Review Regulations. When the board has completed the Design Review process, an action must be taken to close the Design Review. Please note that should this project be approved by the Planning Board, 181 Hill Street will most likely not be the assigned address. The City will likely choose an address based on the existing 317-339 Hanover Street numbers or select an even number for a Hill Street address.

Site Plan Review Regulations

Article 2, Section 2.4.3: Design Review Phase

- 1. The applicant may request to meet with the Board for nonbinding discussions of a potential application that involve more specific design and engineering details than in the preliminary conceptual consultation phase.*
- 2. A request for design review accompanied by all plans and exhibits shall be submitted to the Planning Department at least 14 days prior to the date of a scheduled meeting of the Board via the City's online permitting system as well as in hard copy. The total number of hard copies required shall be determined by the Planning Director.*
- 3. The request for design review shall include enough of the information listed in Section 2.5.3(1) and plans displaying enough of the information listed in Section 2.5.4(3) so that the Board is able to review the project. Detailed engineering of infrastructure and utilities are not required at the design review phase, but the information listed in Section 2.5.4(3) should be displayed in sufficient detail to enable the Board to understand the proposed project and identify potential issues and concerns.*
- 4. At a regular meeting of the Planning Board, the Board shall determine if the request for design review includes sufficient information to allow the Board Site Plan Review Regulations 6 November 2020 to understand the project and identify*

potential issues and concerns, and shall vote on whether to accept the request for design review and to schedule a public hearing. If the Board determines that the request does not describe the proposed project in sufficient detail, it shall notify the applicant of the specific deficiencies that need to be addressed.

5. Design review discussions shall take place in a public hearing at a regularly scheduled meeting of the Planning Board, after notice to abutters, holders of conservation, preservation, or agricultural preservation restrictions, and the general public as required by State statute.

6. At any public meeting of the Planning Board, the Board may determine that the design review process of an application has ended and shall inform the applicant in writing within 10 days of such determination.

Staff Recommendation:

Vote to find that the Design Review process is complete.

VIII. OTHER BUSINESS

IX. ADJOURNMENT