
MEMORANDUM

TO: Planning Board
FROM: Rick Taintor, Planning Director *RT.*
DATE: September 14, 2016
RE: Staff recommendations for September 15, 2016, Planning Board meeting

II. FY 2018-2023 CAPITAL IMPROVEMENT PLAN

A. Informational Presentation on CIP Process and Schedule

Juliet Walker, Assistant Planning Director, will provide an informational presentation on the process and schedule for developing the FY 2018-2023 Capital Improvement Plan. Key dates in the process will be as follows:

October 14	Deadline for citizen project suggestions to be submitted
October 20*	Appointment of Planning Board CIP Subcommittee
November 4	Deadline for City departments to submit new projects and update existing project descriptions
November 17*	Planning Board CIP Public Information Meeting (6:30pm)
December 7	Planning Board CIP Subcommittee meeting to review and prioritize capital requests
January 19*	Planning Board adopts CIP and votes to submit the CIP to City Council

*Regular Planning Board meeting

III. DETERMINATIONS OF COMPLETENESS

The Subdivision Rules and Regulations and the Site Plan Review Regulations require the Planning Board to determine that an application is complete according to the Regulations and to vote to accept it for consideration. These actions do not require a public hearing.

A. Subdivision

1. The application of Public Service Company of New Hampshire, Owner, for properties located at 280 & 300 Gosling Road, requesting Preliminary and Final Subdivision Approval (Lot Line Revision).
2. The application of Branford Holdings, LLC, Owner, for properties located off Anne Avenue, requesting Preliminary and Final Subdivision Approval (Lot Line Revision).

Planning Department Recommendation

Vote to determine that these applications for subdivision approval are complete (contingent on the granting of any required waivers under Section V of the agenda) according to the Subdivision Rules and Regulations and to accept them for consideration.

IV. PUBLIC HEARINGS – OLD BUSINESS

A. The application of **Robert J. and Susan L. Nalewajk, Owners**, for property located at **350 Little Harbour Road (previously 50 Martine Cottage Road)**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within an inland wetland and inland wetland buffer for the demolition of a residential structure, detached garage and barn, and the construction of a proposed 4,600 ± s.f. (footprint) residential structure with 3,682 ± s.f. of deck and porches, a 416 ± s.f. portico, a 1,117 ± s.f. detached 2-bay garage, and a new septic system and stormwater structures, with 28 ± s.f. of impact to the inland wetland and 19,927 ± s.f. of impact to the wetland buffer (7,800 ± temporary disturbance and 12,127 ± permanent disturbance). Said property is shown on Assessor Map 202 as Lot 16 and lies within the Rural (R) District. (This application was acted on at the August 18, 2016 Planning Board meeting and is being reheard to comply with public notice requirements.)

NOTE: At the August meeting the Planning Board considered this application and voted to approve it. It was subsequently discovered that due to an error by the Planning Department, not all abutters had been notified of the public hearing. In order to remedy the defect in notice, it has been necessary to re-advertise the project and hold a new public hearing so that all affected parties may have an opportunity to comment on the proposed project. The following project description and staff recommendation are unchanged from the August staff memo.

Description

This application is to demolish an existing single-family dwelling, a free-standing garage and a barn in order to construct a new single family residence with attached garage and portico. The total building coverage within the wetland buffer will be reduced from 2,135 sq. ft. to 1,651 sq. ft., for a net reduction of 585 sq. ft. The barn's fieldstone and mortar foundation will remain in place, but is porous enough to allow water to flow through it.

The proposed project also includes grading work and a retaining wall within the buffer area. The grading will change the direction of flow but the applicant has proposed a rain garden to treat stormwater. The remaining buffer area will be allowed to revert to natural vegetation or in some cases will be planted with native vegetation. The applicant stated that the impact from the wall and fill would be offset by the removal of the existing barn, which is only 6 feet from the edge of wetland.

The applicant provided a functions and values assessment to the Commission, and made a convincing case that the addition of porous pavement and a rain garden, and removal of existing buildings and portions of developed areas, will result in a net improvement of the property.

In order to be granted a Conditional Use Permit for work within the wetland buffer, the applicant must satisfy the criteria for approval set forth in Section 10.1017.50 of the Zoning Ordinance, as follows:

1. The land is reasonably suited to the use, activity or alteration.
2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.
3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.
4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.
5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of [the wetlands protection provisions of the Ordinance.

Conservation Commission Review and Recommendation

The Conservation Commission attended a site walk on August 8 and reviewed the application at its meeting on August 10, 2016. The Commission was pleased that the project would preserve a number of trees, would use porous materials for the driveway, and would improve stormwater management on the site. At the August 10 meeting, the Commission voted 3-2 to recommend approval with the following stipulations:

1. The stone and brick rubble pile shall be removed.
2. The construction access to the site shall be entirely on the southerly access way.

The Commission's split vote resulted from concerns about the proposed northern leg of the driveway, which requires construction of the retaining wall and fill close to the wetland edge. Two of the five voting members voted against the recommendation to approve because they believed this was not the alternative with the least adverse impact to the wetland. However, three members voted to recommend approval because they believed that the overall improvements on the site, removal of the barn and existing garage, natural landscaping, and use of porous materials all worked to offset the proposed impact of the retaining wall.

Planning Department Recommendation

Vote to grant the conditional use permit with the following stipulations:

1. *The stone and brick rubble pile shall be removed.*
 2. *The construction access to the site shall be entirely on the southerly access way.*
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B. The application of **599 Lafayette, LLC, Owner**, for property located at **599 Lafayette Road**, requesting Site Plan Approval for the construction of a 772 s.f. 1-story drive-thru Aroma Joe's coffee shop, revision of the existing parking and circulation layout, and relocation of dumpsters, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 229 as Lot 8 and lies within the Gateway (G) District. (This application was continued from the June 16, 2016 Planning Board Meeting.)

Description

This application is for several changes to the site plan for the Bowl-o-Rama property at 599 Lafayette Road. The immediate impetus for the application is a proposal to construct a free-standing drive-through coffee shop at the southerly edge of the property, behind the existing Lens Doctors lot and adjacent to Margarita's restaurant. In addition, the applicant is requesting changes to the parking field in front of the existing building to accommodate an ongoing expansion of the building that was allowed administratively, and revisions to dumpsters and the pedestrian route at the rear of the building to bring the site into compliance with zoning, life safety and health codes.

At the July and August meetings the Board postponed consideration of this application at the applicant's request so that the applicant could continue to work with abutters toward a resolution of differences regarding modifications to the access and parking easement. On September 6, 2016, the applicant submitted a request for further postponement to the Board's October meeting.

Planning Department Recommendation

Vote to postpone consideration of this application to the Planning Board meeting on October 20, 2016.

V. PUBLIC HEARINGS – NEW BUSINESS

A. The application of **Seacoast Trust, LLP, Owner**, and **Stonegate NH Construction, LLC, Applicant**, for property located at **150 Route 1 Bypass**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for the demolition of the existing building and the construction of a proposed 246' x 85' 3-story multi-family building with a footprint of 17,667 ± s.f. and gross floor area of 53,000 ± s.f., with 24,950 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 231 as Lot 58 and lies within the Single Residence B (SRB) District.

Description

This application is to demolish the existing medical office building at 150 Route 1 Bypass and construct a 30-unit multifamily building with associated parking and circulation areas and landscaping. The area behind the existing building, containing a major portion of the existing parking area, is largely within the 100-foot buffer from a wetland that immediately abuts the site. The proposed development will remove a significant amount of pavement, recreate a vegetated buffer, and provide stormwater treatment. This proposed work will result in disturbance to nearly 25,000 sq. ft. of wetland buffer area, but will reduce the

amount of impervious surface in the buffer by more than half, from 20,860 sq. ft. to 10,335 sq. ft.

This application has not yet been reviewed by the Conservation Commission. The applicant has requested that the Commission postpone consideration to its October 12 meeting in order to allow the applicant to meet with the Technical Advisory Committee on October 4. Accordingly, the applicant has also requested that the Planning Board postpone consideration to its October 20 meeting so that the site plan and conditional use permit applications may be considered together.

Planning Department Recommendation

Vote to postpone consideration of this application to the Planning Board meeting on October 20, 2016.

B. The application of **Public Service Company of New Hampshire, Owner**, for properties located at **280 & 300 Gosling Road**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested between two lots as follows:

- a. Map 214, Lot 2 decreasing in area from 79,367 \pm acres to 40,494 \pm acres with 135' of continuous street frontage along Gosling Road.
- b. Map 214, Lot 3 increasing in area from 0.232 \pm acres to 39,105 \pm acres with 1,568' of continuous street frontage along Gosling Road.

Said lots lie within the Waterfront Industrial (WI) District which requires a minimum lot size of 2 acres and 200' of continuous street frontage and Office Research (OR) District which requires a minimum lot size of 3 acres and 300' of continuous street frontage.

Description

This application proposes an unusual lot line revision in order to separate uses associated with electric generation facilities from those primarily related to distribution facilities. In the existing configuration a very small parcel at 300 Gosling Road (approximately 66' x 158', containing 10,119 sq. ft.) is surrounded on three sides by a much larger parcel containing 79.4 acres. The proposed lot line revision would attach nearly half of the larger lot (38.9 acres) to the small lot.

Because of the nature of the existing site development, the proposed lot boundary is very irregular. In addition, the proposed boundary crosses two existing driveways shown on the plan. These driveways provide access from Gosling Road across proposed lot 214/3 to various facilities on proposed lot 214/2; however, the applicant has stated that these driveways are not required for access to those facilities because the lot contains a third driveway on Gosling Road adjacent to the railroad tracks which can be used to access these facilities.

Atlantic Heights Emergency Access Route

This proposed lot line revision impacts an existing agreement between Eversource and the City of Portsmouth, which ensures emergency access from the Atlantic Heights neighborhood through the Eversource property to Gosling Road. This emergency access is needed as an alternative means of egress for the residents of the neighborhood in the event of a failure of the primary access on Kearsarge Way. The emergency access route currently follows existing internal roadways to one of the existing Gosling Road driveways referred to

in the preceding paragraph, and the continued availability of this access is uncertain as a result of the applicant's plans to convey out one of the two parcels.

In conversations between City staff and Eversource, and subsequently in the Technical Advisory Committee work session, the importance of maintaining an emergency access route was identified as a priority and an agreed upon path forward was identified. In lieu of the existing access route alignment, Eversource has agreed to grant the City the necessary easement(s) for an alternative emergency access route to Portsmouth Boulevard, with permitting and construction to be completed by the City. This alternative route crosses two parcels owned by PSNH but not part of the current subdivision proposal. The general location of this alternative route is shown on Sheet 3 of the subdivision plan.

This approach has been reviewed and approved by the Community Development, Public Works, Planning and Fire Departments. Staff therefore recommends that the Planning Board stipulate that 50-foot easements for the emergency access way as generally shown on sheet 3 of the plan dated August 15, 2016 by Meridian Land Services, Inc., be recorded prior to the filing of the lot line revision plan.

Planning Department Recommendations

(A) Vote to find that strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations and, therefore, to waive compliance with the Subdivision Rules and Regulations as necessary to accept the plan for consideration.

[NOTE: Granting a waiver requires a positive vote by 6 members of the Board.]

(B) Vote to grant Preliminary and Final Subdivision 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 applicant shall grant the City 50-foot easements for an emergency access way for the Atlantic Heights neighborhood over adjacent property under the same ownership (Assessors Map 213 Lot 12 and Map 214 Lot 1), generally along the alignment shown on Sheet 3 of the subdivision plan*
 - 4. The final plat, deed and easement shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
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- C. The application of **Branford Holdings, LLC, Owner**, for properties located off **Anne Avenue**, wherein Preliminary and Final Subdivision (Lot Line Revision) is requested between two lots as follows:
- c. Map 286, Lot 13 increasing in area from 1.116 acres to 1.390 acres with street frontage along Joan Avenue, Ann Avenue and Robert Avenue.
 - d. Map 286, Lot 1A decreasing in area from 25.354 acres to 25.080 acres with no street frontage.

Said lots lie within the Garden Apartment/Mobile Home (GA/MH) District which requires a minimum lot size of 5 acres and no continuous street frontage.

Description

This application is to revise the property boundary between two related multifamily housing developments: Colonial Pines and Arbor Place (formerly known as Beechstone). The purpose of this revision is to allow for relocation of a dog park and construction of a new outdoor swimming pool and related amenities for Colonial Pines. The lot line revision will also clean up an existing issue where the parking area for Colonial Pines appears to cross onto the Arbor Place lot.

Planning Department Recommendation

Vote to grant Preliminary and Final Subdivision 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 and deed shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

VI. PUBLIC HEARING – ZONING AMENDMENTS

A. Proposed amendments to the Zoning Ordinance, Articles 2, 3, 4, 5, 6, 8, 10, 11, 12 and 15, relating to variances, nonconforming buildings and structures, accessory dwelling units, building coverage and yards, residential bulk control and building heights, Historic District exemptions and design guidelines, wetlands protection, off-street parking setbacks, digital signs, and definitions. The proposed amendments are available for review in the Planning Department during normal City Hall business hours, and are also posted on the Planning Department website, planportsmouth.com.

Description

At the July work session and meeting the Board discussed the following proposed zoning amendments:

1. Housekeeping amendments:
 - Article 2 – Administration and Enforcement: Extend the life of variances and special exceptions from 1 year to 2 years, to conform to a change in state law.

- Article 3 – Nonconforming Lots, Buildings, Structures and Uses: Revise one provision relating to changes to nonconforming buildings and structures, and delete three other provisions, in order to eliminate inconsistencies and clarify the intent.
 - Article 11 – Site Development Standards: Off-Street Parking: Add the Gateway district to two tables of setback requirements for off-street parking areas. (These tables were not updated when the Gateway district was established.)
 - Article 15 – Definitions: Amend the definition of “structure” to exclude fences up to 4 feet in height.
2. Yards (Setbacks):
- Article 5 – Dimensional and Intensity Standards: Revise and clarify several provisions relating to yards, exceptions to yard requirements, and projections into required yards.
 - Article 15 – Definitions: Amend the definition of “building coverage” to clarify items that are exempted from the definition.
3. Article 5 – Bulk Control Plane and Building Height:
- Establish a new “bulk control plane” provision and reduce maximum allowed building heights in residential and mixed residential zoning districts, in order to address increasing concerns regarding infill development that is out of scale and character with the surrounding neighborhood.
4. Accessory Dwelling Units:
- Additions to Articles 4 (Table of Uses), 8 (Supplemental Use Standards) and 15 (Definitions) to begin implementation of the new state law (SB 146), which will take effect on June 1, 2017.
5. Article 6 – Historic District Design Guidelines and Exemptions from Review:
- Insert two provisions referencing the Design Guidelines recently developed by the Historic District Commission (and in Article 5A – Character Districts, delete Section 10.5A45 – Interim Architectural Design Guidelines).
 - Revise 15 provisions regarding exemptions from HDC review, and add 3 additional exemptions, to reduce burdens on property owners proposing minor changes.
 - Clarify that exempted activities, while not requiring a public hearing, are subject to administrative review and approval.
6. Article 10 – Environmental Protection Standards:
- Expand the jurisdictional areas to include a portion of the Piscataqua River shorefront north of the I-95 bridge.
 - Clarify the existing allowance for a 25 percent expansion of a single- or two-family dwelling.
 - Add a sixth criterion for approval of a conditional use permit, requiring restoration of the vegetated buffer strip to a natural state to the extent feasible.

7. Article 12 – Signs:

- Add a provision strictly limiting the type and manner of illumination of signs using “direct illumination”, such as LED or plasma signs.

At the August meeting the Board reviewed a revised draft of the ordinance regarding accessory dwelling units, and since then staff have produced another draft incorporating comments from the Board members and the public hearing, as well as communication with attorneys from the New Hampshire Municipal Association. This draft was provided to the Board in a separate memo on September 13, 2016.

No further changes have been made to the other proposed ordinances, although most seem to need little additional work before being forwarded to the City Council. It is recommended that one additional round of review be given to the accessory dwelling unit ordinance, and that an effort be made to move the complete package forward (with any appropriate revisions) at the October meeting.

Planning Department Recommendation

Vote to continue the public hearing to the Planning Board meeting on October 20, 2016.

B. Proposed amendments to the Subdivision Rules and Regulations and the Site Plan Review Regulations (1) to require preapplication review for certain major developments; (2) to require that all mylars be pre-approved by the Registry of Deeds before being delivered to the Planning Department for recording; (3) to revise the membership of the Technical Advisory Committee; and (4) to provide for administrative approval of minor amendments to approved subdivision plans.

Description

The Planning Department has proposed amendments to the Site Plan Review Regulations and the Subdivision Rules and Regulations as follows:

Site Plan Review Regulations

- A. Revise the membership of the Technical Advisory Committee by deleting the Police Department representative, as requested by the Police Chief.
- B. Mandate “preliminary conceptual consultation” review of major site plans.
- C. Require pre-approval of site plans by the Registry of Deeds prior to submitting to the Planning Department for recording.

Subdivision Rules and Regulations

- A. Update the references to authority under State statute and City ordinance.
- B. Update the submission date requirement to conform to a recently amended State statute.
- C. Require pre-approval of subdivision plans by the Registry of Deeds prior to submitting to the Planning Department for recording.

- D. Provide for pre-application review as authorized by State law, and mandate “preliminary conceptual consultation” review of major subdivisions.
- E. Provide for administrative approval of minor plan amendments by the Planning Director, and recodify an existing provision regarding DPW approval of changes to the design of improvements.
- F. Update the existing waiver and amendment provisions to conform to state law.

Planning Department Recommendation

- A. *Vote to amend the Site Plan Review Regulations as presented.*
- B. *Vote to amend the Subdivision Rules and Regulations as presented.*

VII. CITY COUNCIL REFERRALS/REQUESTS

- A. Consideration of rezoning options for 678 Maplewood Avenue and the adjacent vacant parcel to allow for the development of affordable housing. (This was postponed from the June 16, 2016 Planning Board Meeting.)

Description

At its meeting on May 2, 2016, the City Council voted to accept the Planning Board’s recommendation not to rezone two parcels on Maplewood Avenue from Single Residence B (SRB) to Business, and to refer the issue back to the Planning Board to examine other options for rezoning.

At its meeting on June 16, 2016, the Planning Board voted to postpone the matter to the September meeting in order to allow for (a) submission of the Housing Committee’s report to the City Council and (2) a neighborhood meeting to be held to discuss land use and zoning issues for this property and the surrounding area. At that time it was believed that the Housing Committee would complete its work in September; however, the Committee’s schedule has been extended and it is now anticipated that its report will be submitted in November. Therefore, it is recommended that the matter be postponed again to the Board’s November meeting.

Planning Department Recommendation

Vote to postpone consideration of this matter to the Planning Board meeting on November 17, 2016.

VIII. OTHER BUSINESS

A. Request of 406 Highway 1 Bypass, LLC, Owner, for property located at 406 Route 1 Bypass, requesting a one-year extension of Site Plan Approval which was granted by the Planning Board on October 20, 2015.

Description

The applicant is requesting a one-year extension of Site Plan Approval. The Planning Board's action on this request does not require a public hearing.

Planning Department Recommendations

Vote to grant a one-year extension of Site Plan Approval for property located at 406 Route 1 Bypass, to expire on October 20, 2017.
