



City of Portsmouth  
Planning Department  
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## Memorandum

To: Planning Board  
From: Beverly Mesa-Zendt, Planning Director  
Stefanie L. Casella, Planner  
Date: August 12, 2022  
Re: Recommendations for the August 18, 2022 Planning Board Meeting

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### I. BOARD DISCUSSION OF REGULATORY AMENDMENTS AND MASTER PLAN UPDATE

### II. CITY COUNCIL REFERRALS

- A. Hold a Public Hearing and consider a recommendation to the City Council for Zoning Ordinance Amendments to Building Height standards.

#### Background

On February 7, 2022, the City Council established the Land Use Committee to look at diversifying land use regulations within the City. As part of the first package of amendments, the Land Use Committee has focused on advancing the citywide housing goals identified by City Council in their 2022-2023 Goals. These objectives were refined on February 27, 2022 and include:

1. Increase diversity of housing types and price points;
2. Remove regulatory barriers for housing diversification in neighborhoods (ADUS) – context sensitive design and consideration to impacts to traffic, on street parking and other infrastructure impacts;
3. Restructure incentives to deliver greater public benefit in workforce housing construction; and
4. Identify and maximize partnerships, coalitions, and funding opportunities to deliver affordable housing.

#### Regulatory Amendment Work Plan

On April 9, 2022, the Land Use Committee approved transmittal of the draft 2021 Regulatory Amendment Work Plan to City Council. The work plan consists of three phases:

- 1. Phase 1: Code Clean-Up – Building Height Standards.**

*Purpose: Improve regulatory implementation and align with legislative intent. Eliminate ambiguous sections that result in unintended consequences.*

**2. Phase 2: Accessory Dwelling Unit Amendments**

*Purpose: Remove barriers and expand the number of eligible properties for ADUs and Senior Housing Facilities.*

**3. Phase 3: Incentive Amendments**

*Purpose: Adjust incentives to place a higher emphasis on Workforce Housing.*

**Phase 1 Amendments Timeline**

- **April 18, 2022.** The City Council approved the work plan and transmitted proposed Phase 1 amendments to the Planning Board for review and a recommendation.
- **May 05, 2022.** The Planning Board held a work session to review proposed Phase 1 amendments. At that time, staff presented a revised document that was developed in consultation with the City Attorney's office. Public input was provided and revisions were requested by the public and the Planning Board.
- **May 19, 2022.** The Planning Board held a public hearing. Revised documents were presented, additional comments were provided, and additional clarification was requested by the Planning Board.
- **June 23, 2022.** The public hearing was continued to the August meeting with a request that staff schedule an additional work session to review the proposed amendments.
- **August 8, 2022.** Planning Board Work session to review updated draft amendments.
- **August 18, 2022.** Continue the public hearing and consider Phase 1 amendments to the Zoning Ordinance.
- **September 2022-** Transmittal to City Council to begin adoption process.

**Additional Phase 1 Amendments for Consideration**

The following changes are proposed as a response to input provided at the August 8, 2022 Work session.

1. **Cemeteries** – To better align with the existing use of the properties, amend the building height standards map to lower the building height standards along the cemeteries to 1 story or 20'; the lowest building height standard.
2. **Decorative Railings** - To allow for decorative railings up to 4 feet in height to be located along the roof edge, amend Section 10.10.5A43.32 (b) as follows:

*(a) All **roof appurtenances** and other features that exceed the allowed **building height** for the zoning district shall not exceed 33 percent of the total roof area of the **structure** and, except for elevators, **and** stair towers, **and decorative railings no taller than four feet in height**, shall be set back at least 10 feet from any edge of the roof.*

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**III. APPROVAL OF MINUTES**

**A. Approval of the July 21, 2022 Meeting Minutes**

**Planning Department Recommendation**

*1) Board members should determine if the draft minutes include all relevant details for the decision making process that occurred at the July 21, 2022 meeting and vote to approve meeting minutes with edits if needed.*

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#### IV. DETERMINATION OF COMPLETENESS

##### SUBDIVISION REVIEW

- A. The request of **Christopher H. Garrett Revocable Trust of 2007 (Owner and Applicant)**, for property located at **1299 Islington Street** requesting Preliminary and Final Subdivision approval to subdivide one (1) existing lot into two (2) lots.

##### *Planning Department Recommendations*

*1) Vote to determine that this application is complete according to the Subdivision Regulations, (contingent on the granting of any required waivers) and to accept the applications for consideration.*

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##### SITE PLAN REVIEW

- A. The request of **HCA Realty Inc. (Owner)**, and **Portsmouth Regional Hospital (Applicant)**, for property located at **444 Borthwick Avenue (Formerly 0 Borthwick Avenue)** requesting Site Plan Review Approval for the construction of a satellite parking lot.
- B. The request of **The Sagamore Group, LLC, (Owner)** for properties located at **1169 Sagamore Avenue and 1171 Sagamore Avenue** requesting Site Plan Review approval to demolish existing buildings and construct 10 living units.
- C. The request of **Road to the West, LLC (Owner and Applicant)** for property located at **140 West Road** requesting Amended Site Plan Approval to improve and install stormwater infrastructure, relocated dumpsters, install landscaping, and increase parking.
- D. The request of **Lonza Biologics (Applicant)** for property located at **101 International Drive** within the Pease Development Authority requesting a Site Plan Review Approval, under Chapter 400 of the Pease Land Use Controls, for café expansion.

##### *Planning Department Recommendations*

*1) Vote to determine that these applications are complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Sections III and IV of the agenda) and to accept the application for consideration.*

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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.*

- A.** The request of **HCA Realty Inc. (Owner)**, and **Portsmouth Regional Hospital (Applicant)**, for property located at **444 Borthwick Avenue (Formerly 0 Borthwick Avenue)** requesting Site Plan Review Approval for the construction of a satellite parking lot consisting of 501 spaces and associated on-site improvements to support the existing hospital facilities currently serviced by 783 parking spaces. Said property is shown on Assessor Map 234 Lot7-4A and is located in the Office Research (OR) District. (LU-22-47)

**Background**

The project is located at the east corner of Borthwick Avenue and Eileen Dondero Foley Avenue. The proposed project is necessary to expand Portsmouth Regional Hospital's parking in order to support the existing hospital and its services provided to the New Hampshire Seacoast region.

The existing hospital building is operating with 783 parking spaces, which is 32% less than the minimum required by the City's Zoning Ordinance. The proposed project includes the construction of a new 501 space satellite parking lot located across the street from the existing hospital. The proposed parking lot would be accessed via two new entrances, one on Borthwick Avenue and the other along Eileen Dondero Foley Avenue.

The project will consist of associated on-site improvements such as pedestrian connections, dark-sky lighting, security cameras, electric vehicle charging stations, landscaping, and stormwater management. The project will be contributing a 1,300 LF public multi-use path along Borthwick Avenue that, in the future will be part of a larger bicycle/pedestrian network connecting downtown with the NH Seacoast Greenway.

**Conservation Commission Review**

Different from procedural requirements for Wetland CUPs, the Conservation Commission reviews State Wetland Permits and provides comments and an overall recommendation to the State on wetland permits that fall under the state's jurisdiction. In some cases, there is an associated City Wetland Conditional Use Permit, while in others there is not. For 444 Borthwick, the applicant is only required to get a State Wetland Permit because the impacts proposed affect wetlands that are below the City's jurisdictional threshold of 10,000 square feet.

Upon review of the State Wetland Permit for this project, the Conservation Commission recommended denial of the State Wetland Permit application. This recommendation will be forwarded to NHDES to assist them in their review of the permit application. In their deliberations, the Conservation Commission raised a question about whether there was an independent review of the wetland delineation to confirm that the jurisdictional size of the wetland is below 10,000 square feet. The Conservation Commission expressed an interest in seeing this added as a stipulation to the Land Use Approval. Since this application was only reviewed as advisory by the Conservation Commission, it is staff's recommendation that the request for an independent review of the delineation be added as a stipulation. While we do not always ask for independent wetland scientists review in the planning process, this project proposes to fill a portion of one wetland listed as 4,460 square feet and the entirety of another wetland listed as 9,200 square feet. Given that the larger wetland is within 8% of the threshold, staff concurs that an independent wetland delineation would be useful to confirm the size.

#### **Project Review, Decisions, and Recommendations**

This application has been before the Technical Advisory Committee.

#### **Technical Advisory Committee (TAC) Review**

At the June, 7, 2022 TAC meeting, the Committee recommended approval to the Planning Board with the following stipulations:

##### **Items to be addressed prior to Planning Board approval:**

- 1) A preliminary street address and Map/Lot number are to be obtained for the property.
- 2) The plan set will be updated to include more details on the multiuse path including extended topography and proposed grading as well as the necessary changes to needed to complete design. Updated plans will be provided to DPW for review and approval.
- 3) Applicant will work with DPW to address all comments from the peer review conducted by Altus.
- 4) House side shields will be added to parking lot lights as necessary to prevent light pollution into Coakley Rd homes. Details are to be added to the plan.

Items 1, 2, and 3 have been resolved in the latest submission as provided to the Planning Board. Additional comments were provided by Altus Engineering Inc. (third-party reviewer) in their letter dated, August 8, 2022. Outstanding DPW comments are more fully provided in the conditions of approval below.

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#### **Planning Department Recommendation**

1) *Vote to grant Site Plan Approval with the following stipulations:*

*Conditions to be satisfied prior to commencement of any site work or construction activity:*

*1.1) House side shields will be added to parking lot lights as necessary to prevent light pollution into Coakley Rd homes. Details are to be added to the plan.*

*1.2) Remaining minor revisions to the drainage study requested by Altus Engineering Inc., in their letter dated August 8, 2022, will be reviewed by Altus Engineering Inc. to verify compliance.*

*1.3) Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments and accepted by City Council.*

*1.4) The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

*1.5) Associated recording fees shall be paid to the City prior to recordation. Any changes to the plan subsequent to approval must be identified in a letter and submitted to the city with the recordable plans.*

*1.6) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. The Applicant or its engineer shall submit a copy of a completed Land Use Development Tracking Form using the Pollutant Tracking and Accounting Program (PTAP) online portal currently managed by the UNH Stormwater Center or similar form approved by the City. For more information visit <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>*

*1.7) A wetland delineation will be undertaken by an independent wetland professional to confirm that the wetland listed as approximately 9,200 square feet is less than 10,000 square feet in area.*

*Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy:*

*1.8) Borthwick will be resurfaced to City standards along the stretch that is being disturbed from Eileen Foley to the end of the multi-use path.*

*1.9) The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance;*



*1.10) A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/ Public Works Department.*

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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.*

***It is recommended that Item V.B and V.C be discussed together and voted on separately.***

***A motion is required to consider these items together.***

- B.** The request of **The Sagamore Group, LLC, (Owner)** for properties located at **1169 Sagamore Avenue and 1171 Sagamore Avenue** requesting Site Plan Review approval for the demolition of 3 existing principal structures (3 single living units) and 3 existing accessory structures to be replaced with 6 single-living unit structures and 2 two-living unit structures to total 10 living units and 22 parking spaces where 15 is required. Said properties are shown on Assessor Map 224 Lot 14 and Assessor Map 224 Lot 15 and lie within the Mixed Residential Office (MRO) District. (LU-21-167)
- C.** The request of **The Sagamore Group, LLC, (Owner)** for properties located at **1169 Sagamore Avenue and 1171 Sagamore Avenue** requesting Wetland Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for 570 square feet of temporary buffer impacts the headwall and riprap portion of which are permanent impacts to the wetland buffer for the installation of a treated stormwater drainage outfall. Said properties are shown on Assessor Map 224 Lot 14 and Assessor Map 224 Lot 15 and lie within the Mixed Residential Office (MRO) District. (LU-21-167)

**Background**

This project includes removal of existing structures and the construction of a 10 unit condominium complex including two duplex style homes and six single family homes. All units have two-car garages. The development will include a private driveway with one-way traffic. The site will be served with underground elective, municipal water, and sewer.

**Project Review, Decisions, and Recommendations**

This application has been before the Technical Advisory Committee and the Conservation Commission. Please see below for more information.

**Technical Advisory Committee**

On Tuesday, June 7, 2022 the Technical Advisory Committee recommended approval to the Planning Board with the following stipulations:

**Items to be addressed prior to Planning Board approval:**

1) Catch basin 3 is to be relocated upgrade to the northern side of the driveway servicing 1167 Sagamore Ave.

2) Applicant will provide confirmation from the Jelly Fish system manufacturer that the proposed location is adequate for the system to properly perform its functions.

Condition Precedent:

3) The proposed culvert across Sagamore Ave will need a Wetland Conditional Use Permit and City Council approval for work on City property.

Condition Subsequent:

4) Third party inspection of stormwater, sewer, water, and sidewalk installation is required.

Items 1 and 2 have been satisfied in the updated submission as provided to the Planning Board. Item 3 has been satisfied by through the Wetland Conditional Use Permit application (see Conservation Commission Review section below). Item 4 has been carried forward as recommended condition of approval.

Conservation Commission

The Conservation Commission reviewed the application at the July 13, 2022 meeting. See below for the Staff analysis of criteria as stated in Section 10.1017.50 of the Zoning Ordinance.

**1.** The land is reasonably suited to the use activity or alteration.

*Proposed wetland buffer impact will be from the construction of the culvert and riprap outlet area. Given the need for the sidewalk along Sagamore Avenue the culvert is a reasonable alteration to the wetland buffer. This wetland conditional use permit is located on City property to allow overflow of on-site stormwater and public sidewalk and city street overflow into a filtration device to treat all stormwater before entering a city culvert.*

**2.** There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.

*In order to create the outlet for the culvert given the grade of the site the location of the small on-site wetland and the proposed sidewalk the culvert is necessary in the buffer.*

**3.** There will be no adverse impact on the wetland functional values of the site or surrounding properties.

*Along with treating the stormwater, applicant is also proposing to remove a section of invasive species within the buffer on the other side of Sagamore Avenue where the culvert outlets. Wetland health should see no adverse impacts from this proposal.*

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.

*Construction impacts will be minimal within the buffer, with permanent impacts being only the outlet pipe (which will allow for grass regrowth on top) and riprap which will be a small footprint.*

5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.

*Given the need for the stormwater overflow from the development site and an outlet for stormwater from the new sidewalk the proposed jellyfish filter and culvert outlet should result in minimal adverse impacts.*

6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.

*Staff recommends in addition to the New England conservation/wildlife seed mix called for in the area designated for invasive species removal the applicant replant the disturbed area around the proposed culvert also with a New England conservation/wildlife seed mix.*

The Conservation Commission voted unanimously to approve this project with two stipulations:

- 1) For one year the applicant will monitor the site where invasive species are to be removed in order to determine the success of the removal and the health of the new wetland plantings. The new plantings shall have a greater than 80% success rate after one year. If not applicant shall replant.
- 2) The applicant will follow NOFA standards for land care and only use organic land management techniques within the wetland and wetland buffer areas.

Subsequent to TAC and Conservation commission review, the jellyfish filter was relocated in response to comments from the third party drainage review. City staff have confirmed that the new location of the filter will not affect the Conservation Commission recommendation or the function of the proposed drainage system.

The above stipulations have been carried forward as recommended conditions of approval.

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#### **Planning Department Recommendation**

1) *Vote to find that the application meets the criteria set forth in 10.1017.50 and to grant the Wetland Conditional Use Permit with the following conditions:*

*1.1) For one year the applicant will monitor the site where invasive species are to be removed in order to determine the success of the removal and the health of the new wetland plantings. The new plantings shall have a greater than 80%*

*success rate after one year. If not applicant shall replant.*

*1.2) The applicant will follow NOFA standards for land care and only use organic land management techniques within the wetland and wetland buffer areas.*

*2) Vote to grant Site Plan approval with the following conditions:*

*Conditions to be satisfied subsequent to final approval of site plan but prior to commencement of any site work or construction activity:*

*2.1) Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments and accepted by City Council.*

*2.2) The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

*2.3) Associated recording fees shall be paid to the City prior to recordation. Any changes to the plan subsequent to approval must be identified in a letter and submitted to the city with the recordable plans.*

*2.4) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. The Applicant or its engineer shall submit a copy of a completed Land Use Development Tracking Form using the Pollutant Tracking and Accounting Program (PTAP) online portal currently managed by the UNH Stormwater Center or similar form approved by the City. For more information visit <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>.*

*Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy:*

*2.5) Third party inspection of stormwater, sewer, water, and sidewalk installation is required.*

*2.6) A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/ Public Works Department.*

**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.*

- D.** The request of **Katara, LLC**, (Owner) for property located at **70 Pleasant Point Drive** requesting Wetland Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for 11,472 square feet of disturbance within the wetland buffer for grading, landscaping and to demolish the existing structure and reconstruct a new structure within the 100 foot wetland buffer area. Said property is located on Assessor Map 207 Lot 15 and lies within the Single Residence B (SRB) District. (LU-22-112)

**Background**

The project includes the demolition and removal of the existing home and construction of a new two-story, 2,306 SF, single family dwelling at 70 Pleasant Point Drive. The existing lot (Tax Map 207 Lot 15) is approximately .642 acres and currently contains a single-story residence with a shed and water access. The site is adjacent to the Piscataqua River.

**Project Review, Decisions, and Recommendations**

This application has been before the Conservation Commission. Please see below for more information.

**Conservation Commission**

The Conservation Commission reviewed the application at the July 13, 2022 meeting. See below for the staff analysis of criteria as stated in Section 10.1017.50 Of the Zoning Ordinance.

- 1.** The land is reasonably suited to the use activity or alteration.  
*Applicant is proposing to rebuild in area that was previously developed and is proposing to build farther from shoreline.*
  
- 2.** There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.  
*The wetland buffer takes up a large amount of the already developed property, and the buildable property. The proposed project is making efforts to reduce previous stormwater impacts to the buffer and build in a reasonable manner for the site.*
  
- 3.** There will be no adverse impact on the wetland functional values of the site or surrounding properties.  
*The proposal will be removing all invasive species from buffer area and replanting with native wetland and conservation seed mix and plantings.*

*Previously untreated stormwater entering the river will now be treated. The project should result in an overall increase in buffer and shoreline health.*

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.

*The applicant has extensive landscape upgrades proposed to the vegetation in the buffer which includes removing invasive species and replanting native species where appropriate.*

5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.

*Applicant's plans show they are working to move development farther from water's edge and away from the 25' vegetated buffer. The applicant is taking steps to minimize bank disturbance by removing invasive species and replanting the bank and adjacent shoreline areas. While the applicant is enhancing native vegetation and removing invasive species additional vegetation along the edge of the patio or reduction of patio width could enhance this site.*

6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.

*Applicant proposes removing invasive plants from the vegetated buffer strip and will help aid in the stabilization of the bank through the use of the Greenloxx vegetated wall & slope system.*

The Conservation Commission voted unanimously to approve the project with two stipulations:

- 1) The applicant will plan for two years of planting monitoring to ensure the health and success of the buffer plantings. If after one year the plantings do not have at least an 80% success rate, replanting will be required.
- 2) Silt sock devices being used to protect the buffer area shall be made of organic materials, including the outer lining/mesh that holds the sock together in order to prevent plastic waste.

The above stipulations have been carried forward as recommended conditions of approval.

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#### **Planning Department Recommendation**

- 1) *Vote to find that the application meets the criteria set forth in 10.1017.50 and to grant the Wetland Conditional Use Permit with the following conditions:*

*Conditions to be satisfied subsequent to final approval of site plan but prior to commencement of any site work or construction activity:*

*1.1) The applicant will plan for two years of planting monitoring to ensure the health and success of the buffer plantings. If after one year the plantings do not have at least an 80% success rate, replanting will be required.*

*1.2) Silt sock devices being used to protect the buffer area shall be made of organic materials, including the outer lining/mesh that holds the sock together in order to prevent plastic waste.*

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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.*

- E. The request of **Lonza Biologics (Applicant)** for property located at **101 International Drive** within the Pease Development Authority requesting a Site Plan Review Approval, under Chapter 400 of the Pease Land Use Controls, for a 4,200 square foot café expansion with associated landscaping, stormwater, and infrastructure improvements. Said property is located on Assessor Map 305 Lot 6 and lie within the Airport Business Commercial (ABC) District. (LU-22-131)

**Project Background**

**State and Local Regulatory Context**

Title 1 Section 12-G:13 of New Hampshire Statutes provides the following

*I. Notwithstanding any other provision of law, any and all land use controls of the town of Newington and the city of Portsmouth shall not apply to any of the property at Pease Air Force Base transferred, conveyed, or otherwise granted to the authority by the federal government or any agency thereof.*

...

*III. In adopting land use controls, the authority may adopt, in whole or in part, the land use controls of the town of Newington and/or the city of Portsmouth. If the authority opts not to adopt the land use controls of Newington and/or Portsmouth, in whole or in part, the authority shall adopt its own land use controls which are consistent with the comprehensive conversion and redevelopment plan prepared by the commission and consistent with the master plans of the town of Newington and the city of Portsmouth. This paragraph shall not apply to any division property or projects listed on the inventory required under RSA 12-G:43, I(e).*

...

*V (a) The authority shall delegate enforcement of the land use controls to the appropriate land use boards of the town of Newington and the city of Portsmouth for airport property within each municipality, respectively.*

<https://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-I-12-G.htm>

The Pease Redevelopment Authority adopted a Zoning ordinance in 1991, most recently amended in 2020. Within that ordinance the following procedural standards are established in accordance with state law.

**404.02 Applications Referred to Local Municipalities for Administration**

*(a) For parcels located within the Industrial Zone, Business and Commercial Zone, Natural Resource Protection Zone and those portions of the Airport Industrial Zone not acquired by the Pease Development Authority pursuant to Section 13(g) of the Surplus Property Act, completed applications for site review and approval shall be referred by*

*the Authority to the planning board of the municipality in which the parcel is located for review and recommendation in accordance with the provisions of this Part.*

...

*(g) The recommendation of the planning board shall be forwarded to the Board along with a written report detailing the reasons for any recommendation for denial or for the imposition of conditions. Recommendations may consist of:*

- (1) Approval recommended.*
- (2) Approval recommended with conditions (specified).*
- (3) Denial recommended.*

*(h) A recommendation of the applicable planning board shall be deemed a final decision of the Board upon the expiration of the fourteen (14) days from the date of notice, unless the applicant/developer or a member of the Board requests a hearing by the Board.*

*(i) Where a hearing has been requested, the Board shall conduct a hearing and render a final decision on the site plan within thirty (30) days.*

*(j) At the discretion of the Board, the time period for rendering a final decision may be extended an additional thirty (30) days or such additional time as may be consented to by the applicant.*

*(k) The Board may approve, conditionally approve or deny the application notwithstanding the recommendation of the applicable municipal planning board. In the case of denial of any application by the Board or where the Board elects not to follow the recommendation of the applicable municipal planning board, the ground(s) for such action shall be stated in writing.*

### **Proposed Project**

The proposed project is located at 101 International Drive which is identified as Map 305 Lot 6 on the City of Portsmouth Tax Maps. The proposed project is to expand Lonza Biologics café to support its existing workforce in the pharmaceutical and biologic industries. The proposed project includes the construction of an approximately 4,200 SF expansion to Lonza's existing café. This café expansion is necessary to support Lonza's existing workforce. The proposed expansion is directly adjacent to the existing café internal to the main building.

### **Project Review, Decisions, and Recommendations**

This application has been before the Technical Advisory Committee. Please see below for more information.

### **Technical Advisory Committee Review**

On Tuesday, July 5, 2022 the Technical Advisory Committee recommended

approval to the Planning Board with the following stipulations:

- 1) Solid material couplings must be used in connection to sewer and approved by Sewer Department prior to installation.
- 2.) A note is to be added to plan instructing the contractor to appropriately dispose of asbestos cement pipes should any be found during construction.

All stipulations listed above have been resolved in the updated submission as provided to the Planning Board.

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**Planning Department Recommendation**

- 1) *Vote to recommend Site Plan Review approval to the Pease Development Authority as presented.*
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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.*

- F. The request of **Road to the West, LLC (Owner and Applicant)** for property located at **140 West Road** requesting Amended Site Plan Approval to improve and install stormwater infrastructure, relocated dumpsters, install landscaping, and increase parking spaces from 102 spaces to 122 spaces where 119 are required. Said property is located on Assessor Map 252 Lot 2-13 and lies within the Industrial (I) District (LU-22-99)

**Project Background**

The applicant, Road to the West, LLC, owns the property located at 140 West Road, former home to the Blitz trampoline park. The applicant proposes to adapt the existing structure on the site in its present configuration and convert it into a private, membership-only, indoor recreation facility featuring, among other things, golf and sport simulators, racing simulators, axe throwing, billiards, arcade games, a gym area and a lounge area. In addition, the applicant is proposing to create 3,071 square feet of office space. The applicant proposes operating the facility on a reservation system for members which will enable it to manage and coordinate crowds.

**Project Review, Decisions, and Recommendations**

This application has been before the Technical Advisory Committee and the Zoning Board of Adjustment. Please see below for more information.

**Zoning Board of Adjustment**

Conversion of the existing structure into a private indoor recreation facility requires the following: 1) A Variance from Section 10.440 Use #4.30 to allow and indoor recreation use where the use is not permitted. 2) A Variance from Section 10.1113.41 to allow parking to be located 2 feet from the front lot line where 50 feet is required.

On May 24, 2022 the Board of Adjustment granted the request as presented.

**Technical Advisory Committee Review**

On Tuesday, August 2, 2022 the Technical Advisory Committee recommended approval to the Planning Board with the following stipulations:

- 1) Plans will be updated to include treatment swale details and calculations. DPW to review and approve prior to Planning Board

consideration.

- 2) Catch Basin A will be changed to a manhole.
- 3) Sewer manhole detail, in accordance with State standard, will be added to the plans.
- 4) Landscape plans will be updated to include additional plantings and loam planting beds within the three landscape islands.
- 5) Cistern operation and maintenance details will be added to the plans. DPW to review and approve prior to Planning Board consideration.
- 6) All State and Federal permits as required for this project will be listed on the plans.
- 7) Plans will be updated to show granite curbing around entire parking lot in the vicinity of Catch Basin B for drainage.
- 8) Grading Plan will be adjusted to correct reduction in grade behind building. DPW to review and approve prior to Planning Board consideration.
- 9) Light poles will be shown on plans at least 10 feet from the overhead power lines with details that will show light temperature, cutoff shields, and mounting height. DPW to review and approve prior to Planning Board consideration.
- 10) Outfall structure will be added to the plans.
- 11) Catch Basin B will be moved to the curb and a note will be added regarding jellyfish filter.
- 12) A letter will be provided to the Planning Department with the updated submission stating where resolved conditions can be found on within the submission and how outstanding conditions will be resolved subsequent to Planning Board approval.

Conditions precedent to Building Permit:

- 13) Drainage easements will be dedicated and accepted by the City.
- 14) Plantings in the public Right of Way receive approval from the Trees and Greenery Committee.
- 15) A full set of documents including all plans, studies, and the aforementioned letter will be submitted for staff review and Planning Board consideration.

The applicant made changes and updates addressing TAC comments 1 through 12. Stipulations 13 and 14 will be carried forward as recommended conditions of approval. Subsequent to the resubmittal, DPW reviewed the materials and

requested the following conditions of approval be recommended to the Planning Board:

- 1) Plans should be updated to eliminate the bend in the drain pipe leaving the Jellyfish curb inlet drain manhole D. DPW will review and approve.
- 2) Plans should be updated to relocate the landscape island near the rear of the jellyfish filter past the inlet to eliminate potential issues associated with improper grading around the island. DPW will review and approve.
- 3) Plans need to be updated to correct note on underdrain for the porous pavement –invert 94.00 but does not extend to the 94 contour line. DPW will review and approve.
- 4) Note 5 on sheet 2 should be updated to say "...for acceptance by the City and will be recorded at the registry"
- 5) Use of the Jellyfish filters will require a yearly maintenance plan. Applicant will provide DPW with the manufacturer specified maintenance requirements and a statement as to how the yearly maintenance will be completed. Subsequent to DPW approval, these items are to be uploaded to the application View Point portal and delivered to the Planning Department to be included in the application file.
- 6) The SMH detail will be updated to be consistent with the State Standard detail sheet and should show a brick invert and the notes regarding leak testing. DPW will review and approve.
- 7) Plans will be updated to reflect that lighting should be designed with 3000K temp bulbs instead of 4000k temp bulbs.

All of the above stipulations have been included below as recommended conditions of approval.

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**Planning Department Recommendation**

1) *Vote to grant Site Plan review approval with the following stipulations:*

*Conditions to be satisfied subsequent to final approval of site plan but prior to commencement of any site work or construction activity:*

- 1.1) *Plans should be updated to eliminate the bend in the drain pipe leaving the Jellyfish curb inlet drain manhole D. DPW will review and approve.*
- 1.2) *Plans should be updated to relocate the landscape island near the rear of the jellyfish filter past the inlet to eliminate potential issues associated with improper grading around the island. DPW will review and approve.*
- 1.3) *Plans need to be updated to correct note on underdrain for the porous pavement –invert 94.00 but does not extend to the 94 contour line. DPW will*

*review and approve.*

*1.4) Note 5 on sheet 2 should be updated to say "...for acceptance by the City and will be recorded at the registry"*

*1.5) Use of the Jellyfish filters will require a yearly maintenance plan. Applicant will provide DPW with the manufacturer specified maintenance requirements and a statement as to how the yearly maintenance will be completed. Subsequent to DPW approval, these items are to be uploaded to the application View Point portal and delivered to the Planning Department to be included in the application file.*

*1.6) The SMH detail will be updated to be consistent with the State Standard detail sheet and should show a brick invert and the notes regarding leak testing. DPW will review and approve.*

*1.7) Plans will be updated to reflect that lighting should be designed with 3000K temp bulbs instead of 4000k temp bulbs.*

*1.8) Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments and accepted by City Council.*

*1.9) The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

*1.10) Associated recording fees shall be paid to the City prior to recordation. Any changes to the plan subsequent to approval must be identified in a letter and submitted to the city with the recordable plans.*

*1.11) Plantings in the public Right of Way receive approval from the Trees and Greenery Committee.*

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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.*

- G.** The request of **Christopher H. Garrett Revocable Trust of 2007 (Owner and Applicant)**, for property located at **1299 Islington Street** requesting Preliminary and Final Subdivision approval to subdivide one (1) existing lot with 27,366 square feet (.628 acres) of area and 199.33 feet of street frontage into two (2) lots as follows: Proposed Lot 1 with 15,000 square feet (0.344 acres) of lot area and 100 feet of street frontage, and Proposed Lot 2 with 12,366 square feet (0.284 acres) of lot area and 99.33 feet of street frontage. Said property is located on Assessor Map 233 Lot 119 and lies within the Single Residence B (SRB) district. (LU-22-33)

**Background**

The applicant is proposing the subdivision of the existing parcel into two lots required the following: 1) Variances from Section 10.521 to allow a) a lot area and lot area per dwelling unit of 12,366 square feet where 15,000 is required for each; and b) 99' of continuous street frontage where 100' is required.

**Project Review, Decisions, and Recommendations**

This project has been before the Zoning Board of Adjustment and the Technical Advisory Committee, see below for more details on the review.

**Zoning Board of Adjustment**

On Tuesday March, 15, 2022 the Board of Adjustment voted to grant the following:

Variances from Section 10.521 to allow:

- A) a lot area and lot area per dwelling unit of 12,366 square feet where 15,000 is required for each; and
- B) 99' of continuous street frontage where 100' is required.

**Technical Advisory Committee Review**

On Tuesday, August 2, 2022 the Technical Advisory Committee recommended approval to the Planning Board with the following stipulations:

**Prior to Planning Board approval:**

- 1) Plans will be updated to include infiltration trench downslope from leach field and appropriate foundation drains to address runoff in accordance with NHDES Subsurface rules. DPW to review and approve prior to Planning Board consideration.



- 2) The existing sewer line will be scoped to confirm location on plan set. DPW to review, evaluate if easement is needed, and approve prior to Planning Board consideration.
- 3) Note 3 on the Subdivision plan will be updated to change "Lot 2" reference to the appropriate Map and Lot number.
- 4) Any proposed tree removal in the public right of way should be added to the plans.
- 5) A letter will be provided to the Planning Department with the updated submission stating where resolved conditions can be found on within the submission and how outstanding conditions will be resolved subsequent to Planning Board approval.
- 6) A full set of documents including all plans, studies, and the aforementioned letter – will be submitted for staff review and Planning Board consideration.

Conditions precedent to Building Permit:

- 7) Any proposed tree removal in the public Right of Way will receive approval from the Trees and Greenery Committee.
- 8) Any use of blasting or hoe ramming needed for rock removal will require vibration monitoring to ensure there is no damage to the surrounding properties.
- 9) Applicant will receive approval and waiver from NHDES for septic system or extend city sewer service to newly created lot. If city sewer is needed to serve lot, applicant will coordinate with DPW.

The applicant made changes and updates addressing stipulations 1 and 3 through 6. The remaining comments (2, 7, 8, and 9) have been carried forward as stipulations of approval. Subsequent to the resubmittal, DPW reviewed the materials and requested the following conditions of approval be recommended to the Planning Board:

- 1) The existing sewer lateral providing service to the existing structure will need to be scoped to confirm location and updated on plan as necessary. The Department of Public Works shall review location and determine if an easement is needed. Any easement will need to be reflected on final recorded plans.
- 2) If the tree in the ROW impedes sight distance – the applicant must receive approval from Trees & Public Greenery Committee prior to removal of tree or move the driveway to a location where there is appropriate site distance.
- 3) Applicant will obtain an approval from NHDES for septic system design

and installation or will need to coordinate sewer extension with the Department of Public Works.

4) Infiltration detail on sheet 3 shall be updated to remain uncovered with no loam above to allow rear roof water to infiltrate.

All of the above stipulations, as provided by DPW, and TAC stipulations 7 through 9 have been included below as recommended conditions of approval.

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**Planning Department Recommendation**

1) *Vote to grant Preliminary and Final Subdivision with the following conditions:*

**Conditions to be satisfied subsequent to final approval of subdivision plan but prior to commencement of any site work or construction activity:**

1.1) *The existing sewer lateral providing service to the existing structure will need to be scoped to confirm location and updated on plan as necessary. The Department of Public Works shall review location and determine if an easement is needed. Any easement will need to be reflected on final recorded plans.*

1.2) *If the tree in the ROW impedes sight distance – the applicant must receive approval from Trees & Public Greenery Committee prior to removal of tree or move the driveway to a location where there is appropriate site distance.*

1.3) *Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments and accepted by City Council.*

1.4) *The final plat and all easement plans and deeds, including the aforementioned private easement shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

1.5) *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*

1.6) *GIS data shall be provided to the Department of Public Works in the form as required by the City.*

1.7) *Applicant will obtain an approval from NHDES for septic system design and installation or will need to coordinate sewer extension with the Department of Public Works.*

1.8) *Infiltration detail on sheet 3 shall be updated to remain uncovered with no loam above to allow rear roof water to infiltrate.*

1.9) *Associated recording fees shall be paid to the City prior to recordation. Any changes to the plan subsequent to approval must be identified in a letter and submitted to the city with the recordable plans.*

**Conditions to be satisfied subsequent to commencement of site work and construction**

*activity but prior to release of surety bond or certificate of occupancy:*

*1.10) Any use of blasting or hoe ramming needed for rock removal will require vibration monitoring to ensure there is no damage to the surrounding properties.*

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## VI. CAPITAL IMPROVEMENT PLAN PRESENTATION

- A. Receive a presentation on the Capital Improvement Plan Process and appoint a CIP Advisory Committee.

### Background

The Capital Improvement Plan (CIP) is both a financial and infrastructure planning tool that sets forth a multi-year schedule and financing strategies for accomplishing public capital projects that both maintain safe quality city infrastructure and assist in the achievement of Citywide Goals. Careful development of and adherence to the CIP ensures that needed capital projects are accomplished within the City's financial capability. In combination with the annual City budget, the Capital Improvement Plan has a significant impact on the planned allocation of fiscal resources, and is thus one of the most important documents considered by the City Council.

### State/Local Regulatory Context

#### RSA 674.5: Capital Improvement Program

*"674:5 Authorization. – In a municipality where the planning board has adopted a master plan, the local legislative body may authorize the planning board to prepare and amend a recommended program of municipal capital improvement projects projected over a period of at least 6 years.*

...

*The capital improvements program may encompass major projects being currently undertaken or future projects to be undertaken with federal, state, county and other public funds. The sole purpose and effect of the capital improvements program shall be to aid the mayor or selectmen and the budget committee in their consideration of the annual budget."*

#### City Charter

*City Charter Section 7.6 - Capital Program:*

*The Manager shall prepare and submit to the Council a six (6) year capital program at least three (3) months prior to the final date for submission of the budget. The program shall include:*

- *A general summary of its content;*
- *A list of all capital improvements proposed during the next six (6) fiscal years;*
- *Cost estimates, methods of financing, recommended time schedules for each improvement; and*
- *Estimating annual operating and maintenance costs.*

### The purposes of the CIP is to:

1. Implement needed improvements on a scheduled basis
  - Provides a complete picture of the City's major development needs

- Coordinates activities of various City departments and agencies
  - Assists in implementing recommendations of the City's Master Plan
2. Forecast future allocation of fiscal resources
    - Establishes fiscal priorities for projects
    - Aids in the proper utilization of funding sources
  3. Help plan for future City expenditures
    - Discourages piecemeal improvements and duplication of expenditures
  4. Ensure capital project needs are provided within the City's financial capability
    - Informs the taxpayers of anticipated future improvements
    - Helps to schedule major projects to avoid large fluctuations in the tax rate

**As used in the CIP, a capital improvement project is defined as a major fiscal expenditure that falls into one or more of the following categories:**

- ✓ Land acquisition;
- ✓ Construction or expansion of a public facility, street, utility or public infrastructure;
- ✓ Rehabilitation of a public facility or public infrastructure provided the cost is \$50,000 or more;
- ✓ Design work or planning study related to a capital project or implementation of the Master Plan;
- ✓ Any item or piece of equipment, non-vehicular in nature, that costs more than \$50,000 and has a life expectancy of 5 or more years; or
- ✓ Replacement and purchase of vehicles which have a life expectancy of more than 5 years or cost more than \$50,000.

#### **Plan Development Process**

The capital planning process is coordinated by the Finance and Planning Departments under the direction of the City Manager. Capital project requests are initially formulated by City department heads and submitted to the Finance Department. Members of the public may also submit project requests, which are reviewed by City departments and incorporated into the departmental project submissions as appropriate.

CIP projects originate from three sources.

- ✓ Capital Improvement Plan from the Prior Fiscal Year
- ✓ City Staff
- ✓ Residents

Staff works to update the prior year's CIP projects to reflect the current status, project needs and costing.. After city departments and residents submit their new requests for capital project, staff works with the City Manager to prioritize them by utilizing the following:

- **Project requirements** – Is the project required to meet legal, compliance, or regulatory requirements?
- **Timing** – How soon does the project need to be implemented to address the needs identified?
- **Strategic alignment** – To what extent is the project aligned with other city projects, policies, processes?
- **Public value** – How much value does the outcome of this project provide to the general public? How much public support is there for implementing this project?
- **Finance planning** – Is the project fundable in the time frame identified, are there available funding sources for this project?

Although the factors above are consistently utilized in the prioritization process, other factors, such as urgent community needs or public health and safety, may also contribute to the final project placement, allowing the process to be nimble and responsive to emerging community needs.

#### **Planning Board Advisory Committee and City Council Adoption**

The Planning Board appoints a three member Advisory Committee to review the projects in the initial draft CIP. The Finance Department incorporates the Advisory Committee's recommendations into a revised form of the CIP which is then reviewed by the Planning Board. The Planning Board holds a public hearing and votes to recommend the adoption of the document to the City Council. The City Council holds a public hearing and adopts the CIP in accordance with City Charter requirements. Once adopted, the CIP is utilized in the development of the annual budget in accordance with RSA 674.5.

#### **Financing**

Capital improvement projects are funded from a variety of sources. These funding sources include: General Fund (GF) Capital Outlay; Federal/State Grants; Bond or Lease; Revenues (Parking, Water and Sewer); State Revolving Loan Fund (SRF) and Public Private Partnerships (PPP).

**General Fund – Capital Outlay** – The most commonly used method of financing capital projects is through the use of the General Fund – Capital Outlay. The General Fund includes the money raised by the local property tax for a given year. When a project is funded with General Fund revenues, its

entire cost is paid off within the year. The intent is to budget annually a certain amount from the General Fund (approximately 2% of previous Fiscal Year General Fund total Budget) to address City priorities.

**Grants** – One source of grants is from other levels of government, for example, the Environmental Protection Agency, the NH Department of Health and Human Services, U.S. Housing and Urban Development, NH Department of Environmental Services, and the NH Department of Transportation. Generally, these Federal and State sources provide an outright grant or matching funds to go with locally raised funds. The City also pursues non-governmental private grants when applicable.

**General Obligation Bonds** – Bonds are used to finance major municipal capital projects. These are issued for a period of time generally extending from ten to thirty years during which time principal and interest payments are made. They are secured by the raising of property taxes. This type of payment has the advantage of allowing the costs to be amortized over the life of the project and of allowing taxpayers to pay a smaller amount of the project's cost at a time. However, they do commit the City's resources over a long period of time and decrease the flexibility of how yearly revenues can be utilized. The City's bonding capacity is a limited resource. All projects that are to be bonded should meet minimum eligibility criteria and must have a life span at least equal to the bond life. **Projects that are funded through bonds must go through a separate process provided under local and state regulations.**

**Revenues** – The City has two established Enterprise Funds (Water and Sewer). The needs for these two divisions are met through the revenues raised from providing that particular service. Therefore, there is no impact on the City's tax rate. Additionally, the City has established a Parking and Transportation Fund (Special Revenue Fund). Revenues derived from the City's parking functions are transferred to this fund in order to operate the City's parking and traffic related activities.

**State Revolving Loan Fund** – This is a program offered through the NH Department of Environmental Services for the purpose of providing low interest rate funding for approved water pollution control projects. State approval of applications does not bind the City to any of the individual projects but does lock into a low interest rate loan. Upon completion of projects, the loan becomes a serial bond payable by the City of Portsmouth Sewer or Water Fund to the State of NH. In addition, the City applies for State Aid Grant funding to assist in repaying SRF loans up to 30% of the total project cost.

**Public Private Partnership** – This method of financing involves joint funding of a particular project between the City and one or more private sector or non-governmental partners. This method is used for projects that will benefit the partners and help to minimize costs to local taxpayers.

Deciding on which method of financing should be selected for a given project is dependent on a number of factors. These include the cost of the project, its useful life, the eligibility of the project to receive funds from other than local taxes, long-term and short-term financial obligations of the City and a project's relative priority in terms of implementation. The Capital Improvement Plan seeks to maximize the potential benefits from all revenue sources.

### **Timeline**

- August 18, Process Kick Off – Planning Board Presentation
  - October - Citizen requests and City department project request reviewed/ financials prepared
  - October/November- Planning Board Advisory Committee meets to review draft CIP
  - November/December – Planning Board holds a public hearing and recommends the adoption of the CIP by the City Council
  - January/February/March – City Council holds a public hearing and adopts CIP.
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**VII. OTHER BUSINESS**

**A. Chairman's Updates and Discussion Items**

**VIII. ADJOURNMENT**

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