



City of Portsmouth
Planning Department
1 Junkins Ave, 3rd Floor
Portsmouth, NH
(603)610-7216

Memorandum

To: Planning Board
From: Peter Stith, Planning Manager
Date: October 19, 2023
Re: Recommendations for the October 19, 2023 Planning Board Meeting

I. APPROVAL OF MINUTES

A. Approval of the September 21, 2023 and September 28, 2023 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 September 21, 2023 regular meeting and September 28, 2023 work session and vote to approve meeting minutes with edits if needed.

II. DETERMINATION OF COMPLETENESS

SUBDIVISION REVIEW

- A. The request of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting to Subdivide one lot into two lots to create the following: Proposed Lot 1 with 6.65 acres of lot area and 354 feet of street frontage and Proposed Lot 2 with 7.96 acres of lot area and 200 feet of street frontage. Said property is shown on Assessor Map 266 Lot 7 and lies within the Industrial (I) District.
- B. The request of **Caleb E. and Samantha L. Ginsberg (Owners)**, and **Peter and Donna Splaine (Owners)**, for property located at **303 Bartlett Road** and **295/299 Bartlett Street** requesting Preliminary and Final Subdivision approval for a lot line relocation between Tax Map 162 Lot 13 and Lot 14 where a separate parcel was discovered between the two lots and is proposed to be divided between Lot 13 and 14 as follows: Lot 13 increasing in size from 4,906 square feet and 36 feet of frontage to 6,665 square feet and 37 feet of frontage. Lot 14 increasing in size from 4,802 square feet and 192 feet of frontage to 8,640 square feet and 217 feet of frontage. Said property is located on Assessor Map 162 Lot 13 & 14 and lies within the General Residence A (GRA) District.
- C. The request of **Richard and Jessica Hayes (Owners)**, and **William and Katja Becker (Owners)**, for property located at **40 Walker Bungalow Road** and **26 Walker Bungalow Road** requesting Preliminary and Final Subdivision approval for a lot line relocation to remove the encroachment of a driveway and retaining wall as follows: Tax Map 222 Lot 5-1 consisting of 53,970 square feet of lot area, increasing in frontage from 140. feet to 160.17 feet with no change in lot area. Tax Map 222 Lot 5-2, consisting of 37,637 square feet, decreasing in frontage from 120.17 feet to 100 feet, with no change in lot area. Said property is located on Assessor Map 222 Lot 5-1 and Map 222 Lot 5-2 and lies within the Single Residence B (SRB) District.
- D. The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Preliminary and Final Subdivision approval for the subdivision of the 2.23-acre lot into nine (9) conforming Single-Family lots. Said property is located on Assessor Map 217 Lot 2-1844 and lies within the General residence B (GRB) District.

Planning Department Recommendations

- 1) *Vote to determine that the above applications are complete according to the Subdivision Review Regulations, (contingent on the granting of any required waivers under Sections III and/or IV of the agenda) and to accept the application for consideration.*
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SITE PLAN REVIEW

- A. The application 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.
- B. The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Site Plan Review approval for the construction of nine (9) single-family dwellings with associated paving, stormwater management, lighting, utilities and landscaping. Said property is located on Assessor Map 217 Lot 2-1844 and lies within the (GRB) District.

Planning Department Recommendations

- 2) *Vote to determine that Item A is complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Sections III and/or IV of the agenda) and to accept the applications for consideration.*
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III. PUBLIC HEARINGS – OLD BUSINESS

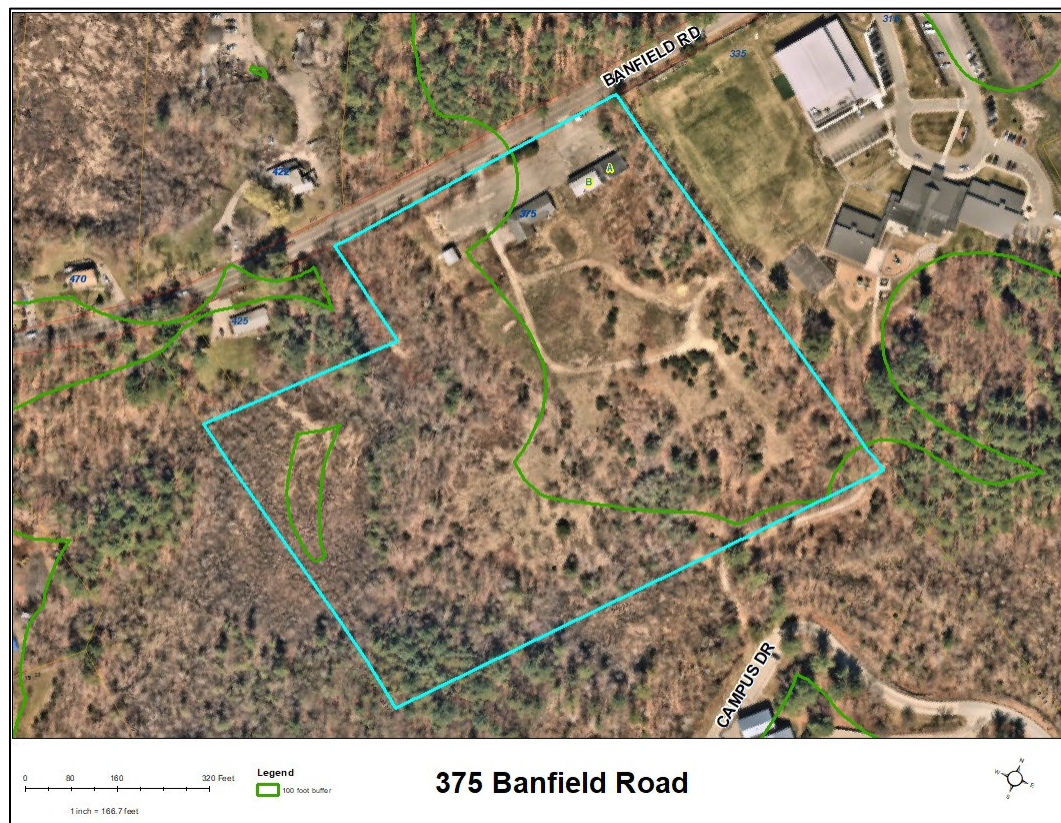
*The Board's action in these matters has been deemed to be quasi-judicial in nature.
If any person believes any member of the Board has a conflict of interest,
that issue should be raised at this point or it will be deemed waived.*

It is recommended that Old Business Items IIIA, B & C be discussed together and voted on separately. A motion is required to consider these items together.

- A.** The application 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. (LU-20-259)

Project Background

This application proposes removing the existing buildings and constructing a new, 75,000 square foot industrial building. The property contains two commercial buildings and was most recently an auto salvage yard. The majority of the lot contains wetlands or wetland buffer area, with approximately 6.5 acres of the 17-acre site consisting of uplands and the remaining 10.5 acres consisting of wetlands and buffer area. As part of this proposal, the applicant is proposing to subdivide the lot into two lots to separate the development from the lowland portion of the site that consists of wetlands. A portion of the stormwater infrastructure is in the buffer as well as an area near the entrance of the site where asphalt will be removed and replaced with a vegetative strip. This work triggers the requirement for a Wetland CUP. The applicant has revised the plans to remove the previously proposed grading of the easement area and install a retaining wall. In addition, a new easement for sewer connection to the City's for existing sewer on the Community Campus property. A gravel trail will be added in the easement area after the sewer is installed.



Project Review, Discussion, and Recommendations

The applicant was before the Conservation Commission in 2021 and has been working through the Technical Advisory Committee since February of 2021 and received a recommendation on June 6, 2023. See below for details.

Conservation Commission

The Conservation Commission, at its regularly scheduled meeting of Wednesday, June 9, 2021, considered the application and voted (5-0) to recommend approval of the Wetland Conditional Use Permit to the Planning Board with the following conditions:

- 1. Any areas left to naturally revegetate shall be loamed and seeded with a wildflower mix and monitored for invasive species, and their removal shall be done according to Article 10 Section 10.1018.23 of the zoning ordinance.*

Technical Advisory Committee – Site Plan

The project first went to TAC in early 2021 and was postponed for a considerable amount of time while the applicant was working with DES and the EPA on pollutant investigation and preparing remediation plans for the upland portion of the property. At the regularly scheduled Technical Advisory Committee meeting on June 6, 2023, the Committee recommended approval to the Planning Board with the following conditions:

- 1) Subject to written assurance and any required surety for performance provided to*

the Planning Board, the applicant shall conduct work in accordance with all requirements of the NHDES letter dated April 26, 2023, which includes investigation work in the proposed upland development areas, approval of an Activities and Use limitation and the completion of a remedial action implementation plan for the upland development area. In addition, as presented by the applicant, they shall continue their investigation of the lowland area, including full characterization of any reportable site contaminants in compliance with any and all remedial action plans or other permits from NHDES or the EPA.

2) Fire service shall be at least 8" in diameter to where it meets the two 6" lines.

Technical Advisory Committee – Subdivision

The Technical Advisory Committee, at its regularly scheduled meeting on Tuesday, August 1, 2023 recommended approval of the subdivision to the Planning Board with the following conditions:

- 1) The necessary waivers are requested prior to Planning Board approval.*
- 2) Proof of clean up responsibility required prior to Planning Board approval.*

The applicant has satisfied both comments above in their Planning Board submission.

Staff Analysis – Wetland CUP

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

The amended proposal is for 4000 square feet of new stormwater treatment swale to be constructed in the wetland buffer almost to the edge of the existing wetland area. It was stated by the applicant that this swale needed to be constructed here to stay away from waste. The applicant has provided reasoning for the location of the buffer encroachment.

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

The proposed pavement to be removed from the buffer is the appropriate location for this work. Per the approved DES plan, the building will act as a cap for the contaminated soil and the stormwater will be directed to the wetlands to reduce the infiltration of water into the contaminated soil.

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

This pavement removal will result in a reduction of impervious surface in the wetland buffer but the stormwater treatment swale and stone check dam are all new impacts to the buffer.

4. Alteration of the natural vegetative state or managed woodland will occur only to the

extent necessary to achieve construction goals.

The removal of pavement from the buffer will result in an expansion of the natural vegetative state of the buffer. The addition of the new vegetated area will provide some buffer function as the natural vegetation in this location where there is pavement today.

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

The proposed pavement removal will reduce the amount of impervious surface in the wetland buffer. The new swale at the rear of the site initially did not appear to be the least impacting alternative, the design and location will allow stormwater to drain into the wetland and reduce the amount of infiltration on site.

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

The plan provides for removal of pavement in the buffer to provide a planted area and the proposed swale will be vegetated so it will be vegetated over much of its area but the maintenance will now allow for as robust a planting as would be if this were undisturbed buffer.

Planning Department Recommendation

Subdivision Waiver

1. *Vote to grant the requested waivers to the Subdivision Standards from Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds. [NOTE: Motion maker must select one of the following options]:*

a) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.

[OR]

b) Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Planning Department Recommendation

Subdivision

- 1) *Vote to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented.*

(Alt.) Vote to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as amended and read into the record.

2) Vote to grant Preliminary and Final Subdivision Approval with the following stipulations:

- 1.1) The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 1.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat;*
- 1.3) GIS data shall be provided to the Department of Public Works in the form as required by the City;*

Site Plan Approval

1) Vote to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented.

(Alt.) Vote to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as amended.

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 the issuance of a building permit or the commencement of any site work or construction activity:

- 1.1) 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.*
- 1.2) The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.*
- 1.3) 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. For more information visit <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>*
- 1.4) DPW will review and approve the locations of domestic and fire service lines entering all buildings.*

Prior to the issuance of a Certificate of Occupancy or release of the bond:

- 1.5) 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.*
- 1.6) Subject to written assurance and any required surety for performance provided*

to the Planning Board, the applicant shall conduct work in accordance with all requirements of the NHDES letter dated April 26, 2023, which includes investigation work in the proposed upland development areas, approval of an Activities and Use limitation and the completion of a remedial action implementation plan for the upland development area. In addition, as presented by the applicant, they shall continue their investigation of the lowland area, including full characterization of any reportable site contaminants in compliance with any and all remedial action plans or other permits from NHDES or the EPA.

Planning Department Recommendation

Wetland Conditional Use Permit

1) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017 and to adopt the findings of fact as presented.

(Alt.) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017 and to adopt the findings of fact as amended and read into the record.

2) Vote to grant the Wetland Conditional Use permit with the following condition:

- 1.1) Any areas left to naturally revegetate shall be loamed and seeded with a wildflower mix and monitored for invasive species, and their removal shall be done according to Article 10 Section 10.1018.23 of the zoning ordinance.*
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III. 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.*

It is recommended that Item IIIA, B & C under Old Business be discussed together and voted on separately.

A motion is required to consider these items together.

- B.** The request of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting to Subdivide one lot into two lots to create the following: Proposed Lot 1 with 6.65 acres of lot area and 354 feet of street frontage and Proposed Lot 2 with 7.96 acres of lot area and 200 feet of street frontage. Said property is shown on Assessor Map 266 Lot 7 and 7-1 and lies within the Industrial (I) District. (LU-23-107)

See Item IIIA under Old Business

- C.** The application 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 7,910 square feet of impact within the 100' wetland buffer for stormwater management in association with the proposed development. Said property is shown on Assessor Map 266 Lot 7 and lies within the Industrial (I) District. (LU-20-259)

See Item IIIA under Old Business

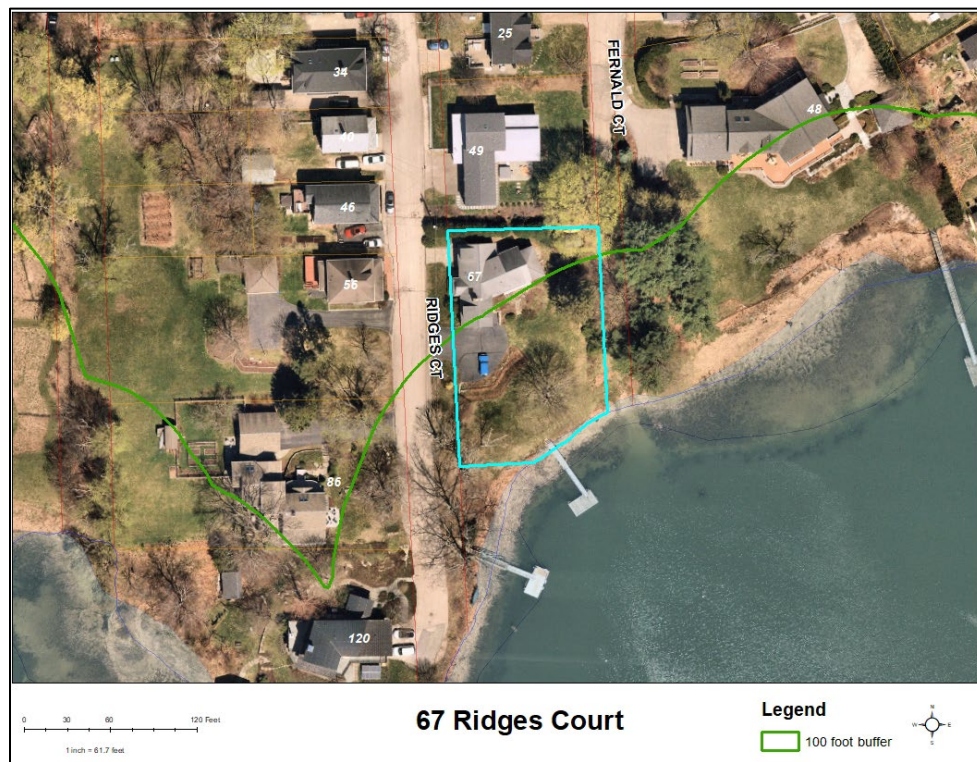
IV. PUBLIC HEARINGS – NEW BUSINESS

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 **Jeffrey M. and Melissa Foy (Owners)**, for property located at **67 Ridges Court** requesting a Wetland Conditional Use Permit from Section 10.1017 of the Zoning Ordinance for the construction of a new addition, a re-configuration of the existing driveway utilizing pervious pavers, installation of three rain gardens, and construction of stone steps and a stone patio. The project proposes a decrease of 479 sf of impervious surface and is proposing 2,010 sf of permanent impacts and 1,056 sf of temporary impacts. The impacts would be offset by the various buffer plantings to be planted within the 25' vegetated buffer as well as the installation of the rain gardens to help control and filter storm-water runoff from the property as well as other areas upslope from the street. Said property is located on Assessor Map 207 Lot 59 and lies within the Single Residence B (SRB) District. (LU-22-199)

Project Background

The applicant is proposing to construct a new garage addition with living space above, a bump out of the existing rear deck and roof, a re-configuration of the existing driveway utilizing pervious pavers, installation of three rain gardens, and construction of stone steps and a stone patio. The existing retaining walls are to remain. Approximately 68% of the lot is within the City's 100 ft wetland buffer and the project proposes a decrease of 479 sf of impervious surface across the lot. Within the buffer, the applicant is proposing 2,010 sf of permanent impacts and 1,056 sf of temporary impacts. The impacts would be offset by the various buffer plantings to be planted within the 25' vegetated buffer as well as the installation of the rain gardens to help control and filter stormwater runoff from the property as well as other areas upslope from the street.



Project Review, Discussion, and Recommendations

The applicant has been before the Board of Adjustment and the Conservation Commission prior to coming before the Planning Board. See below for details.

Board of Adjustment

The applicant was first before the Board of Adjustment at its regularly scheduled meeting of Tuesday, August 16, 2022 for a larger addition which was denied by the Board. The applicant reduced the size of the addition and submitted a new application for consideration. The Board of Adjustment, at its regularly scheduled meeting of Tuesday, April 18, 2023, considered the application for variance and voted to:

- 1. approve the request to rehear based on Fisher v. Dover; and 2) grant the variances for the application as presented and advertised.*

Conservation Commission

The Conservation Commission, at its regularly scheduled meeting of Wednesday, August 9, 2023, considered the application and voted to recommend approval of the Wetland Conditional Use Permit to the Planning Board with the following conditions:

- 1. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install at least 3 permanent wetland boundary markers during project construction in*

the locations discussed with the Conservation Commission. These can be purchased through the City of Portsmouth Planning and Sustainability Department.

2. Applicant shall provide a report on the success of the rain garden plantings one year after planting has occurred to the City of Portsmouth Planning & Sustainability Department. If they have not achieved at least an 80% success rate then the applicant will replant.

3. Applicant and property owners shall follow NOFA standards for organic land care for lawn maintenance. Please visit <https://nofa.organiclandcare.net/homeowner-resources/> for details.

Staff Analysis

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

Currently the area that will receive the addition is impervious asphalt. The new addition will not impact the amount of impervious on the site and will increase the infiltration of stormwater with the conversion of the driveway from impervious to a new porous driveway and the adjacent rain garden system which will also help mitigate roof runoff.

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

Given that a majority of the property is within the buffer, there is no other reasonable location for the garage addition. It will be placed in an area that is already impervious surface within the buffer and will be removing a large portion of the current impervious asphalt in favor of a porous driveway.

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

This project is within the 100' buffer of a tidal wetland. The wetland edge currently includes salt marsh species which are to be further buffered with the applicant's landscaping plan which includes additional salt marsh grasses along with both native and non-native plants to further protect the resource. The applicant is also proposing to remove invasive burning bush species.

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

This project is not proposing any construction within the 25' vegetative buffer but will be enhancing the buffer with various plantings which will add an additional 5 feet of buffering to the wetland edge.

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

This application proposes a new attached garage with a new porous driveway, the expansion of the rear deck and roof, the installation of new stone steps, a stone patio, and three rain gardens. According to the applicant, this project will result in a net loss of approximately 479 sf of impervious surface across the property, which should create a positive impact on the wetland resource. The applicant has shown a mitigation plan that will work to offset the impacts of the new addition by capturing and filtering stormwater before it reaches the salt marsh species and wetland resource.

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

As stated above, new buffer plantings are to be added to the vegetative buffer strip which should help the buffer continue to protect the tidal wetland resource.

Planning Department Recommendation

Wetland Conditional Use Permit

1) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.60 and to adopt the findings of fact as presented.

(Alt.) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.60 and to adopt the findings of fact as amended and read into the record.

2) Vote to grant the Wetland Conditional Use permit with the following conditions:

- 2.1) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install at least 3 permanent wetland boundary markers during project construction in the locations discussed with the Conservation Commission. These can be purchased through the City of Portsmouth Planning and Sustainability Department.*
 - 2.2) Applicant shall provide a report on the success of the rain garden plantings one year after planting has occurred to the City of Portsmouth Planning & Sustainability Department. If they have not achieved at least an 80% success rate then the applicant will replant.*
 - 2.3) The applicant and property owners shall follow NOFA standards for organic land care for lawn maintenance. Please visit <https://nofa.organiclandcare.net/homeowner-resources/> for details.*
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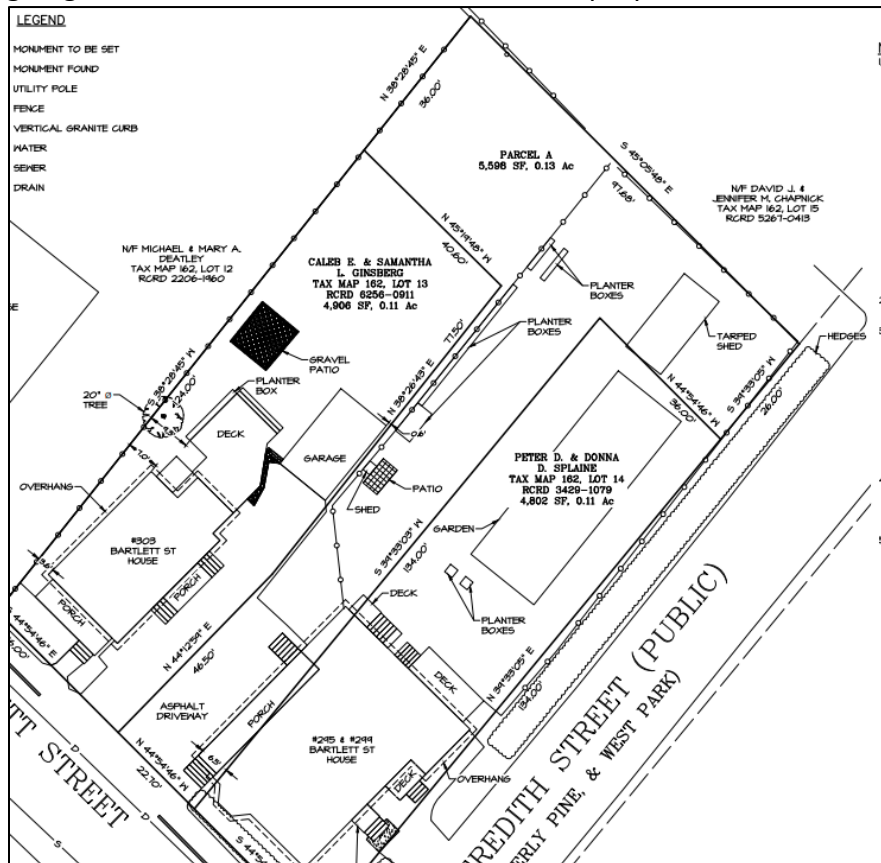
IV. PUBLIC HEARINGS – NEW BUSINESS

*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.*

- B. The request of **Caleb E. and Samantha L. Ginsberg (Owners)**, and **Peter and Donna Splaine (Owners)**, for property located at **303 Bartlett Street** and **295/299 Bartlett Street** requesting Preliminary and Final Subdivision approval for a lot line relocation between Tax Map 162 Lot 13 and Lot 14 where a separate parcel was discovered between the two lots and is proposed to be divided between Lot 13 and 14 as follows: Lot 13 increasing in size from 4,906 square feet and 36 feet of frontage to 6,665 square feet and 37 feet of frontage. Lot 14 increasing in size from 4,802 square feet and 192 feet of frontage to 8,640 square feet and 217 feet of frontage. Said property is located on Assessor Map 162 Lot 13 & 14 and lies within the General Residence A (GRA) District. (LU-23-120)

Background

A recent survey revealed a separate parcel separating 303 Bartlett and 295/299 Bartlett as shown in the application materials and in the image below. The owners have acquired the T-shaped parcel and have submitted a lot line relocation plan to split the parcel between the two lots. Although not relevant to the application before the Board, a variance was granted in September by the Board of Adjustment for a garage addition at 303 Bartlett based on the proposed lot line configuration.





Project Review, Discussion, and Recommendations

Subdivisions are required to be reviewed by TAC if they contain any of the following:

- a. Creation of a new lot;
- b. Construction of a new public or private street;
- c. Widening or realignment of an existing public or private street;
- d. Construction of public or private water, sewer or stormwater facilities serving more than one lot;
- e. Establishment of an easement over one lot for water, sewer or stormwater facilities to serve a different lot; or
- f. Provision of a common driveway or access easement;

The proposed lot line relocation does not include any of the above, therefore the need to go before TAC is not required, however if the Planning Board feels the need for TAC review, it may refer it to TAC.

Planning Department Recommendation

Subdivision Waiver

- 1) *Vote to grant the requested waivers to the Subdivision Standards from Section VI.5 Driveways, VI.6 Drainage Improvements, Section VI.7 Municipal water service, Section VI.8 Municipal sewer service, Section VI.9 Installation of utilities, Section VI.14 Erosion*

and Sedimentation Control, Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds. [NOTE: Motion maker must select one of the following options]:

a) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.

[OR]

b) Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Planning Department Recommendation

Subdivision

- 1) Vote to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented.

(Alt.) Vote to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as amended and read into the record.

- 2) Vote to grant Preliminary and Final Subdivision Approval with the following stipulations:
 - 2.1) *The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
 - 2.2) *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat;*
 - 2.3) *GIS data shall be provided to the Department of Public Works in the form as required by the City;*
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IV. PUBLIC HEARINGS – NEW BUSINESS

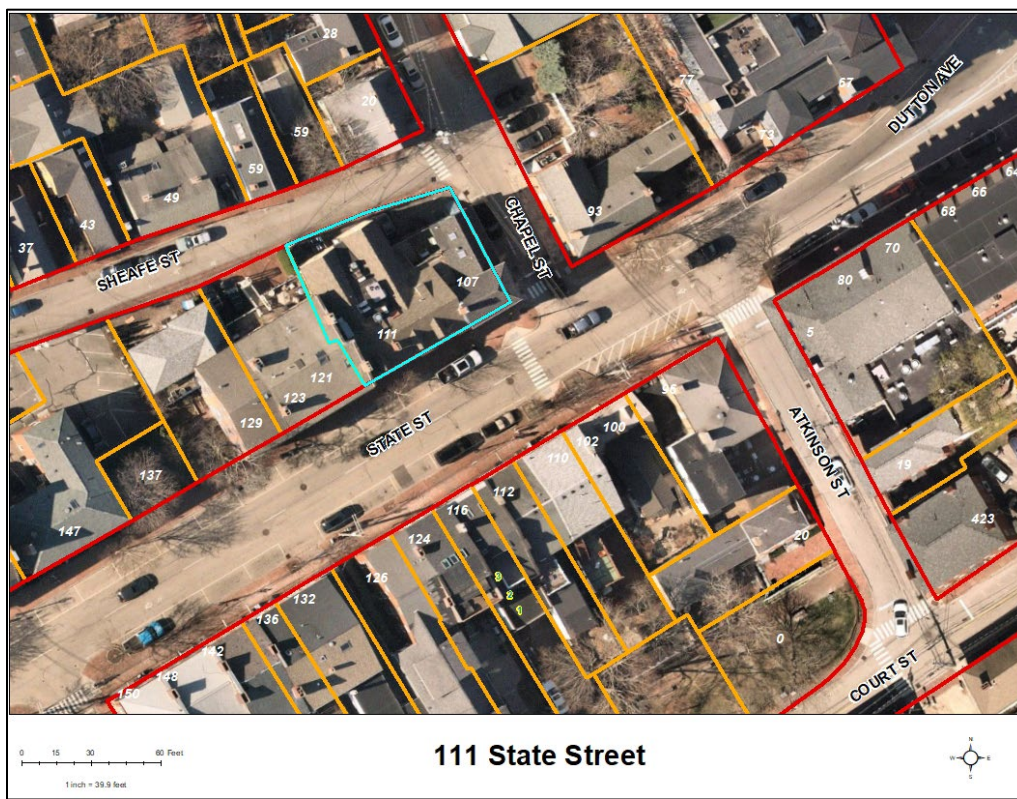
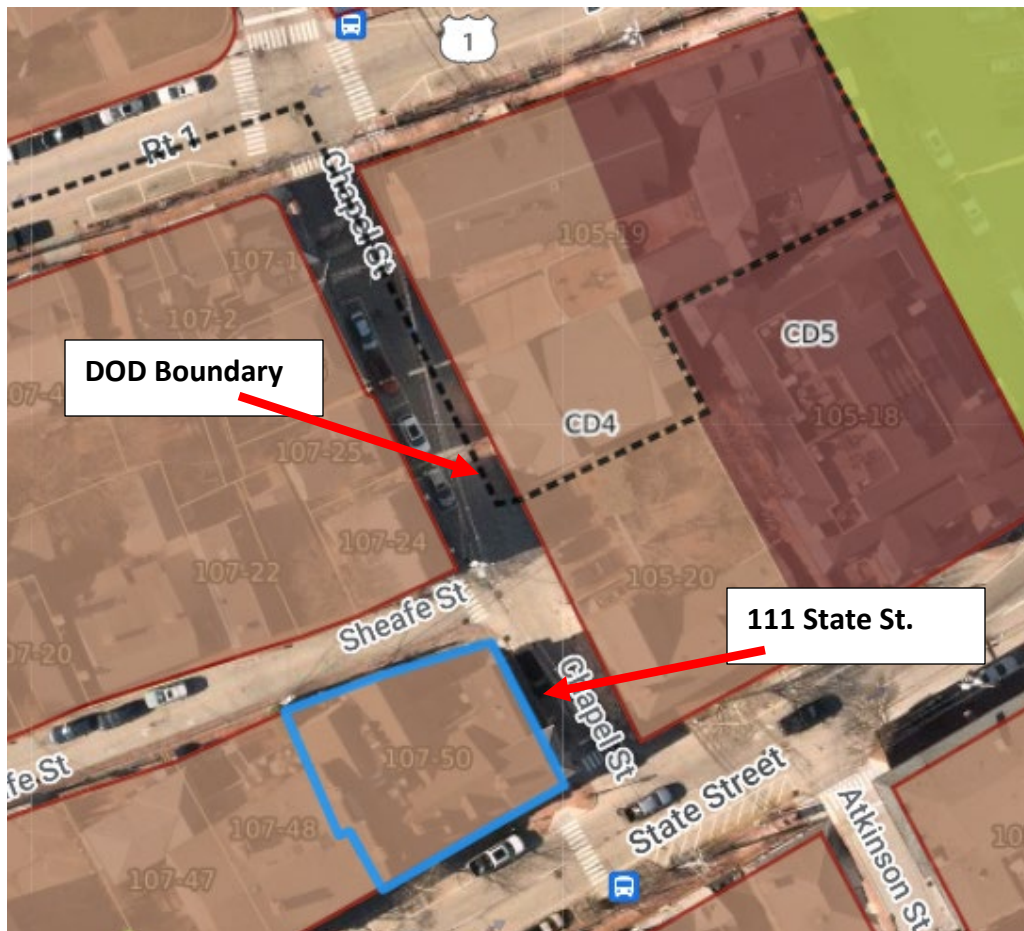
The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- C. The request of **Coventry Realty LLC (Owner)**, for property located at **111 State Street** requesting a parking Conditional Use Permit under Section 10.1112.14 to allow zero (0) parking spaces where 48 are required. Said property is located on Assessor Map 107 Lot 50 and lies within the Character District 4 (CD4) and Historic Districts. (LU-22-125)

Project Background

The applicant was before the Planning Board at their October 20, 2022 meeting requesting a parking CUP to allow 0 spaces where 35 were required and the Board granted the request. The proposal last fall included the addition of 4 new apartments that were converted from existing office and restaurant space. The request at the time, was for the space that was changing use and did not include all of the uses in the building. The current proposal removes the restaurant space from the second floor and adds two more apartments, which results in a decrease in parking for the property. In addition, the current request seeks approval for the total parking for the property, thus the increase from 35 to 48 spaces. The applicant is adding 6 bike racks, which allows for the reduction of 1 parking space per Section 10.1116.13.

It is important to note that this property is just outside of the Downtown Overlay District (DOD), where parking is not required for nonresidential uses and a credit of 4 spaces is allocated to each lot when parking is required for residential or lodging uses. With the current proposal, only 5 (including the reduction of 1 space for 6 bike racks) parking spaces would be required for the property if it were located in the DOD.



Project Background

Project Review Discussion and Recommendations

The project has been before the Technical Advisory Committee for review of the updated parking demand analysis. See below for details.

Technical Advisory Committee Review

The Technical Advisory Committee reviewed the parking demand analysis at their regularly scheduled meeting of Tuesday, October 3, 2023 and recommended approval to the Planning Board with the following condition:

- 1. The parking calculation be updated.*

The parking calculation was updated with the Planning Board submission.

Planning Department Recommendation

1) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as presented.

(Alt.) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as amended and read into the record.

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

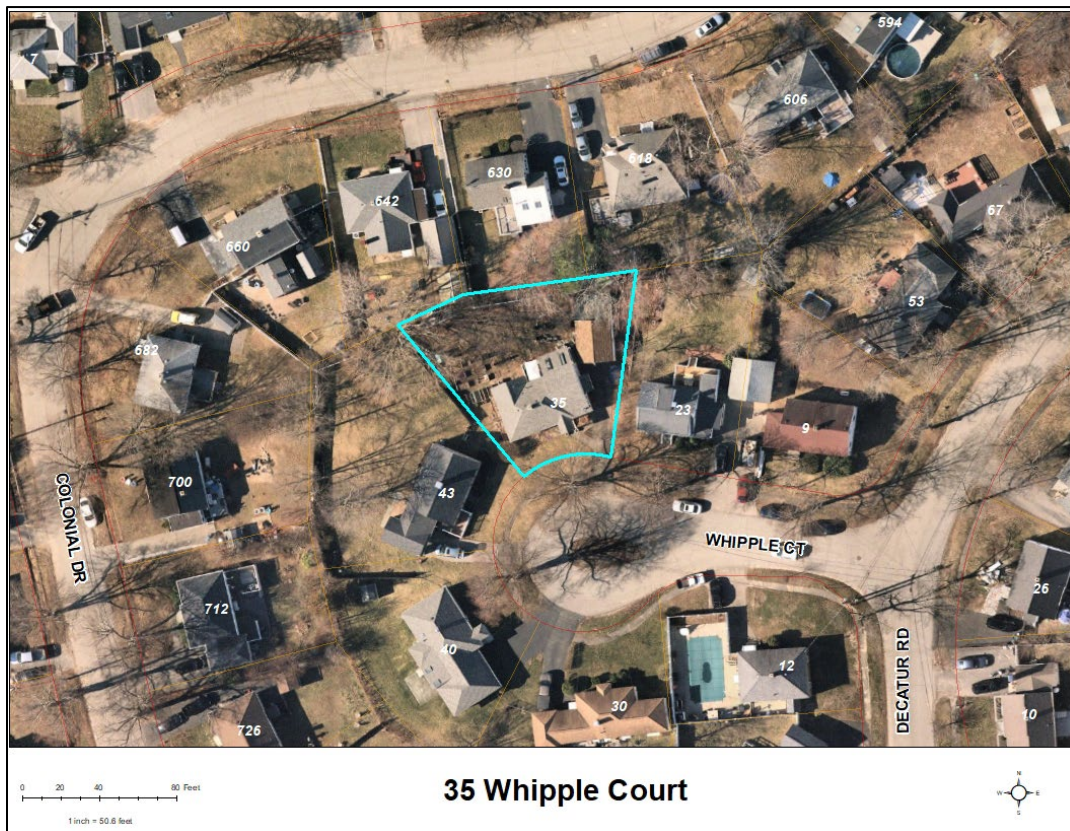
IV. PUBLIC HEARINGS – NEW BUSINESS

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 **Marcella F. Hoekstra (Owner)**, for property located at **35 Whipple Court** requesting a Conditional Use Permit Approval as permitted under Section 10.814 to allow a Detached Accessory Dwelling Unit. Said property is located on Assessor Map 260 Lot 98 and lies within the Single Residence B (SRB) District. (LU-23-147)

Project Background

The applicant is proposing to convert a portion of the existing one car garage into a 353 square foot Detached Accessory Dwelling Unit (DADU). The use falls under Section 10.440 Use# 1.223 for up to 600 square feet of Gross Living Area in an existing accessory building that does not conform with the dimensional requirements of the Ordinance. A variance was granted in 1968 for the structure, however it was recently discovered the location was closer to the side and rear lot lines. An Equitable Waiver was granted by the Board of Adjustment in September for the additional encroachment. The interior of the existing structure will be renovated to provide for a small ADU, with no exterior expansion proposed, other than new entry door and windows.



Project Review Discussion and Recommendations

The applicant was before the Board of Adjustment in September. See below for details.

Board of Adjustment

The Board of Adjustment, at its regularly scheduled meeting of Tuesday, September 26, 2023, voted to grant an equitable waiver for an accessory structure with an 8.5-foot right yard where 10 feet was permitted and an 8-foot rear yard where 17 feet was permitted.

In granting a conditional use permit for an accessory dwelling unit, the Planning Board may modify a specific standard set forth in Sections 10.814.26 and 10.814.30 through 10.814.50 (except the size and height of any ADU) including requiring additional or reconfigured off-street parking spaces, provided that the Board finds such modification will be consistent with the required findings in Section 10.814.62.

The applicant has requested a modification from Section 10.814.26 which requires 1 off-street parking space in addition to the required parking for the single-family dwelling. The applicant has indicated they cannot provide a third conforming space and are requesting a modification to not require the additional space for the DADU.

Planning Department Recommendation

1) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.814.62 and to adopt the findings of fact as presented.

(Alt.) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.814.60 and to adopt the findings of fact as amended and read into the record.

2) Vote to grant the Conditional Use Permit with a modification to the requirement set forth in Section 10.814.26 to not require an additional parking space for the DADU and to approve the Conditional Use Permit with the following condition:

2.1) In accordance with [Sec. 10.814.70] of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of [Sec. 10.814], including the owner-occupancy requirement, and shall renew the certificate of use annually.

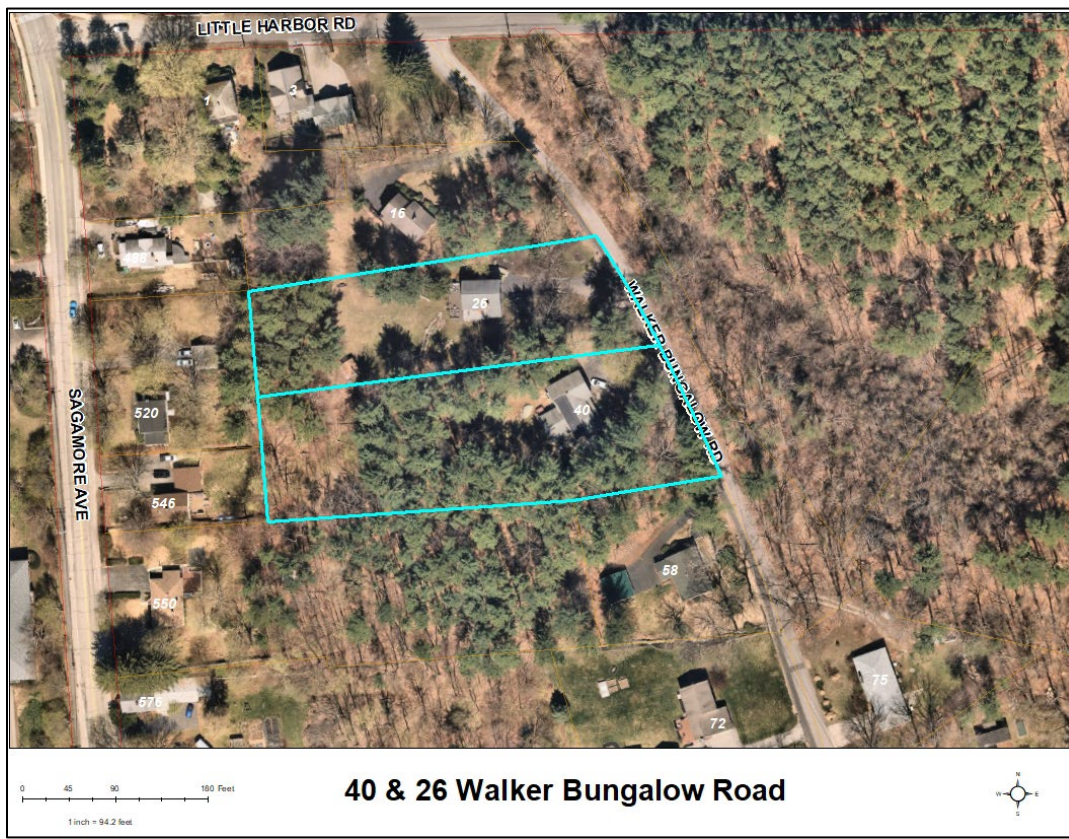
IV. PUBLIC HEARINGS – NEW BUSINESS

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 **Richard and Jessica Hayes (Owners)**, and **William and Katja Becker (Owners)**, for property located at **40 Walker Bungalow Road** and **26 Walker Bungalow Road** requesting Preliminary and Final Subdivision approval for a lot line relocation to remove the encroachment of a driveway and retaining wall as follows: Tax Map 222 Lot 5-1 consisting of 53,970 square feet of lot area, increasing in frontage from 140 feet to 160.17 feet with no change in lot area. Tax Map 222 Lot 5-2, consisting of 37,637 square feet, decreasing in frontage from 120.17 feet to 100 feet, with no change in lot area. Said property is located on Assessor Map 222 Lot 5-1 and Map 222 Lot 5-2 and lies within the Single Residence B (SRB) District. (LU-23-137)

Project Background

The applicants are proposing a lot line relocation to adjust the side lot line between the two properties in order to have the driveway and retaining wall entirely on 40 Walker Bungalow. Both lots will retain the same lot area, however the frontage will increase for lot 5-1 and decrease for lot 5-2.



Project Review, Discussion, and Recommendations

Subdivisions are required to be reviewed by TAC if they contain any of the following:

- a. *Creation of a new lot;*
- b. *Construction of a new public or private street;*
- c. *Widening or realignment of an existing public or private street;*
- d. *Construction of public or private water, sewer or stormwater facilities serving more than one lot;*
- e. *Establishment of an easement over one lot for water, sewer or stormwater facilities to serve a different lot; or*
- f. *Provision of a common driveway or access easement;*

The proposed lot line relocation does not include any of the above, therefore the need to go before TAC is not required, however if the Planning Board feels the need for TAC review, it may refer it to TAC.

Planning Department Recommendation

Subdivision Waiver

- 1) *Vote to grant the requested waivers to the Subdivision Standards from Section VI.3 Streets, Section VI.4 Curbing, VI.5 Driveways, VI.6 Drainage Improvements, Section VI.7 Municipal water service, Section VI.8 Municipal sewer service, Section VI.9 Installation of utilities, Section VI.14 Erosion and Sedimentation Control, Section IX.1 Improvements and Installation Bonds, and Section IX.2 Maintenance Bonds. [NOTE: Motion maker must select one of the following options]:*

a) *Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.*

[OR]

b) *Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.*

Planning Department Recommendation

Subdivision

- 1) *Vote to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented.*

(Alt.) Vote to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as amended and read into the record.

- 2) Vote to grant Preliminary and Final Subdivision Approval with the following stipulations:
 - 2.1) *The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
 - 2.2) *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat;*
 - 2.3) *GIS data shall be provided to the Department of Public Works in the form as required by the City;*

IV. 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 **Eric and Amanda Beidleman, (Owners)**, for property located at **810 McGee Drive** requesting a Wetland Conditional Use Permit from Section 10.1017 for the removal of an existing 508 s.f. rear deck within the 100-ft wetland buffer and the associated framing and stairs. The applicant is proposing to replace the rear deck with a smaller deck of approx. 319 s.f. with a 60 s.f. landing. Said property is located on Assessor Map 219 Lot 45-5 and lies within the Single Residence B (SRB) District. (LU-23-143)

Project Background

This application is for the removal of an existing wraparound 508 s.f. rear deck within the 100-ft wetland buffer and the associated framing and stairs. The applicant is proposing to replace the rear deck with an approximately 319 s.f. deck with a 60 s.f. landing.



Project Review, Discussion, and Recommendations

The project was before the Conservation Commission in September. See below for details.

Conservation Commission

The applicant was before the Conservation Commission at their regularly scheduled meeting of Wednesday, September 13, 2023 meeting and voted unanimously to recommended approval with the following conditions:

- 1. Crushed stone be placed underneath the deck area to provide storm-water infiltration.*
- 2. Wetland boundary markers shall be placed along the fence towards the back of the property to designate sensitive wetland area.*

Staff Analysis

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

The applicant is proposing removal of existing impervious surface within the wetland buffer and will be replacing with a smaller amount of impervious surface in the same spot. While the same use is being placed in this spot, it is recommended that buffer enhancements such as stormwater infiltration and native plantings be installed to offset impacts of the new deck development.

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

The existing deck is completely within the wetland buffer and while the proposed deck will be in the same location, it will be smaller. There is no other feasible location for the rear deck that would place it further from the wetland resource.

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

The removal of the deck and replacement with a smaller deck should help to minimize some of the impacts to the wetland but additional measures should be taken to enhance the quality of the buffer on the property and to offset the impacts from the deck.

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

No removal of vegetation is proposed.

5. The proposal is the alternative with the least adverse impact to areas and

environments under the jurisdiction of this section.

The existing deck is completely within the wetland buffer and while the proposed deck will be in the same location, it will be smaller which should reduce impervious impacts to the buffer and wetland.

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

Applicant is not proposing any change to the vegetated buffer strip. It is recommended, however, that the applicant consider native plantings within the buffer and stormwater infiltration measures to help offset impacts from the new deck.

Wetland Conditional Use Permit

1) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.60 and to adopt the findings of fact as presented.

(Alt.) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.60 and to adopt the findings of fact as amended and read into the record.

2) Vote to grant the Wetland Conditional Use permit with the following conditions:

- 2.1) Crushed stone be placed underneath the deck area to provide storm-water infiltration.*
 - 2.2) Wetland boundary markers shall be placed along the fence towards the back of the property to designate sensitive wetland area.*
-

IV. PUBLIC HEARINGS – NEW BUSINESS

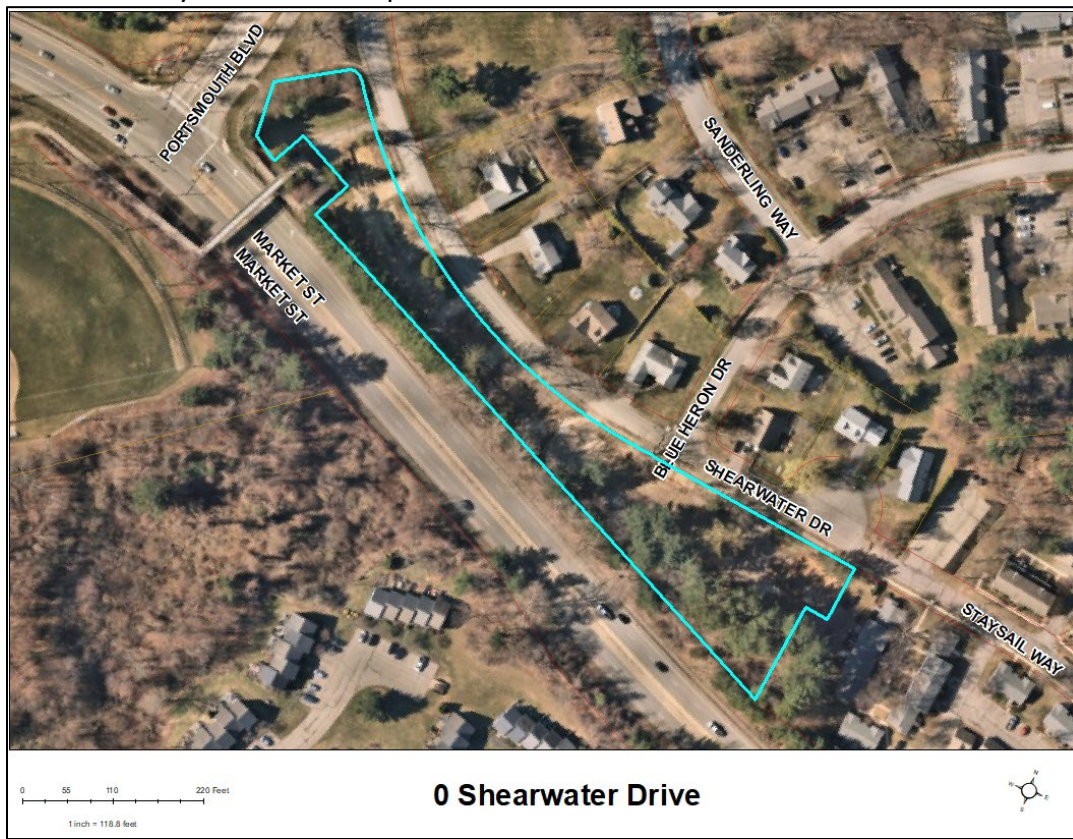
The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

It is recommended that New Business Items G & H be discussed together and voted on separately. A motion is required to consider these items together.

- G.** The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Site Plan Review approval for the construction of nine (9) single-family dwellings with associated paving, stormwater management, lighting, utilities and landscaping. Said property is located on Assessor Map 217 Lot 2-1844 and lies within the General Residence B (GRB) District. (LU-23-138)

Project Background

The existing lot contained seven buildings, consisting of 20 apartments located in 7 buildings that were all demolished this year. The proposal is to subdivide the 2.23-acre lot into 9 conforming lots. The property is located in the General Residence B (GRB) district, which requires 5,000 square feet of lot area and 80 feet of street frontage. The nine proposed lots meet or exceed these requirements. The proposal includes construction of a single-family dwelling on each of the nine lots that will conform to the dimensional requirements of the district, therefore no zoning relief is necessary for this development.



Project Review, Discussion, and Recommendations

The project was before the Technical Advisory Committee in September. See below for details.

Technical Advisory Committee

The applicant was before TAC for at their regularly scheduled meeting of Tuesday, September 5, 2023 and recommended approval with the following conditions:

- 2.1) *Sidewalk along frontage must be concrete, 5.5' wide with grass strip between curb and sidewalk.*
- 2.2) *Old water service taps shall have corp closed and capped at main.*
- 2.3) *Applicant will coordinate with DPW to abandon or replace all existing cross country drains with HDPE to Market Street.*
- 2.4) *Applicant will replace CMP drain in Shearwater near Blue Heron Drive with HDPE.*
- 2.5) *City standards will be used for planting and loam and seed details.*
- 2.6) *Drainage easements will extend over cross country pipes to Market Street right of way.*
- 2.7) *Drain detail will be corrected to show mortar in annular space around boot connection.*
- 2.8) *Applicant will work with City staff to coordinate offsite improvements including sidewalk to Granite Street crossing Market Street and installing pedestrian signals as part of crosswalk.*
- 2.9) *Hydrant will be relocated to be 10' from driveways.*
- 2.10) *Brick under curb stop will be shown in water service detail.*
- 2.11) *Details will be updated to show thrust blocks for hydrant will be 2'x2'x2'x precast.*
- 2.12) *Applicant will work with the legal department to overcome the doctrine of merger.*
- 2.13) *Waiver will be requested for a maintenance bond if needed.*

All the TAC comments have been addressed in the Planning Board submission. The applicant met with City staff to discuss condition 2.8 and determined a \$25,000 contribution was appropriate.

Planning Department Recommendation

Subdivision Waiver

- 1) *Vote to grant the requested waivers to the Subdivision Standards from Section IX.2, Maintenance Bonds. **[NOTE: Motion maker must select one of the following options]:***

a) Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.

[OR]

b) Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and

intent of the regulations.

Planning Department Recommendation

Subdivision

- 1) *Vote to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented.*

(Alt.) Vote to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as amended and read into the record.

- 2) *Vote to grant Preliminary and Final Subdivision Approval with the following stipulations:*
 - 2.1) *The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
 - 2.2) *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat;*
 - 2.3) *GIS data shall be provided to the Department of Public Works in the form as required by the City;*

Site Plan Approval

- 1) *Vote to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented.*

(Alt.) Vote to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as amended.

- 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 the issuance of a building permit or the commencement of any site work or construction activity:

- 2.1) *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.*
- 2.2) *The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.*
- 2.3) *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. For more information visit

<https://www.cityofportsmouth.com/publicworks/stormwater/ptap>

2.4) *DPW will review and approve the locations of domestic and fire service lines entering all buildings.*

2.5) *Applicant will contribute a fair share payment of \$25,000 for offsite improvements including a sidewalk to Granite Street crossing Market Street and installing pedestrian signals as part of crosswalk.*

Prior to the issuance of a Certificate of Occupancy or release of the bond:

2.6) *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.*

IV. 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.

- H.** The request of **Bantry Bay Associates LLC (Owner)**, for property located at **0 Shearwater Drive** requesting Preliminary and Final Subdivision approval for the subdivision of the 2.23-acre lot into nine (9) conforming Single-Family lots. Said property is located on Assessor Map 217 Lot 2-1844 and lies within the General residence B (GRB) District. (LU-23-138)

See Item G above.

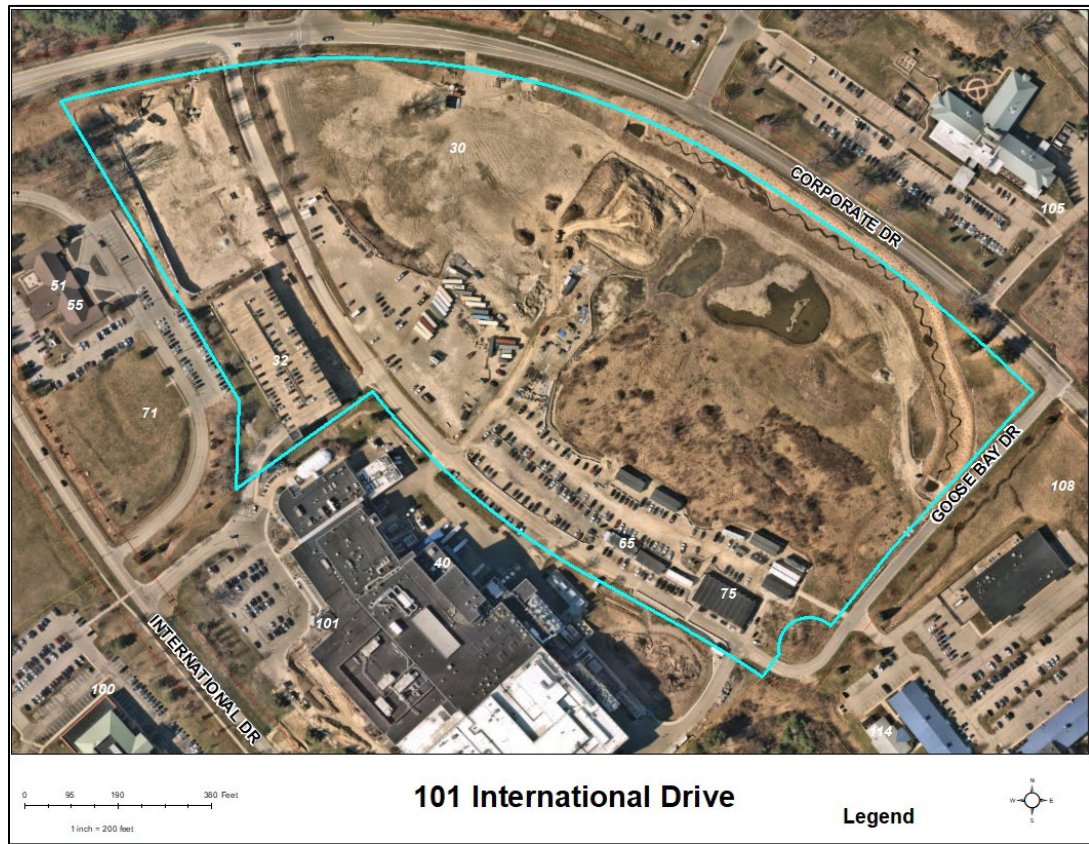
IV. PUBLIC HEARINGS – NEW BUSINESS

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.

- I. The request of **Lonza Biologics (Owner)**, for property located at **101 International Drive** requesting Amended Site Plan approval for Phase 2 which includes fit-up of Building #1 and the utility building, construction of a temporary surface parking lot and gravel area for construction trailers, parking and laydown area in the location of Proposed Building #2. Said property is located on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District. (LU-23-108)

Project Background

The project received Site Plan approval in 2019 and received 2 administrative approvals from the PDA since the original approval. This project was planned in phases and the original approval was for Phase 1A and Phase 1B which included the daylighting of Hodgson Brook. Phase 1A has been completed and Phase 1B has started. The current application includes the fit-up of Building #1, final fit up of the utility building, construction of the temporary surface lot and temporary gravel area for construction trailers, parking, and laydown area.



Project Review, Discussion, and Recommendations

The project was before the Technical Advisory Committee in August. See below for details.

Technical Advisory Committee

The applicant was before TAC for at their regularly scheduled meeting of Tuesday, August 1, 2023 meeting and recommended approval.

As part of the discussion at TAC, the applicant was asked to complete new third-party reviews for stormwater and traffic. Altus Engineering provided the third-party stormwater review and TEC provided the third-party traffic review. The applicant provided responses to the stormwater review in the packet, however at the writing of this report, no response to the TEC memo have been provided.

The recent amendments to RSA 676:3 with regards to adopting findings of fact for a project apply to local planning boards making decisions based on the municipality's regulations. Pease falls exclusively under RSA 12-G and the Pease Land Use Controls, therefore the requirement to vote on and adopt findings of fact do not apply for this application.

Site Plan Approval

- 1) *Vote to recommend Amended Site Plan Approval to the PDA Board with the following conditions:*
 - 2.1) *The Applicant shall maintain shift times that do not overlap with the documented morning and evening peak hours for Corporate Drive and International Drive.*
 - 2.2) *The applicant shall provide daily traffic counts for the proposed site access points to better understand the hourly distribution of traffic over the course of several weekdays.
The applicant shall perform a supplemental sensitivity analysis using U.S. Census data and limited travel time runs to confirm the percentage of traffic that is expected to use each gateway to the Tradeport.*
 - 2.3) *The applicant should consider separate left- and right-turn lanes at the driveway intersection with Corporate Drive to alleviate delays created with a single departure lane.*
 - 2.4) *The Applicant shall coordinate with PDA to perform supplemental all-way stop control (AWSC) and traffic signal warrant analysis for the following intersections: Corporate Drive at Grafton; International Drive at New Hampshire Avenue/Durham Street; and International Drive/Corporate Drive.*
 - 2.6) *The applicant should coordinate with the PDA to consider measures for the temporary signalization of the intersection of International Drive and Corporate Drive. The applicant shall provide updated traffic data following the occupancy*

- of Building 1 (and other subsequent buildings) and assess the actual delays and queuing for this intersection.*
- 2.7) The applicant should coordinate with the PDA and other applicants within the Pease Tradeport to develop a fair share cost assessment for mitigation measures based on the number of new trips.*
 - 2.8) The Applicant shall review the potential for lane use changes within Corporate Drive that may consider an exclusive left-turn lane for Lonza's entering traffic. Any planned improvements should consider an enhanced pedestrian crossing between the Lonza site and the existing COAST bus stop on the opposite side of Corporate Drive in the vicinity of Redhook Way, including a new bus shelter to provide additional accommodations for existing and future transit riders.*
 - 2.9) The Applicant shall coordinate with the City, PDA and COAST to review the current ridership along Bus Route 42 related to Lonza and identify opportunities for coordinated service schedules and potential bus route changes for Route 13 (Dover) and Route 14 (Rochester) to further reduce single-occupancy vehicle trips for several PDA employers.*
 - 2.10) The stone, sand, fabric, pipe and sediment from the temporary sediment basin #1 shall be removed at the end of Phase 1B and the basin shall be restored as a depressed ponding area and re-seeded once the upstream watershed has been stabilized.*

IV. 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.

- J. The request of **Richard P. Fusegni (Owner)**, for property located at **201 Kearsarge Way** requesting Amended Subdivision approval for revisions to the grading and drainage design. Said property is located on Assessor Map 218 Lot 5 and lies within the Single Residence B (SRB) District. (LU-23-161)

Project Background

The subdivision was approved by the Planning Board on October 27, 2022. Two extensions have been granted, one by the Planning Director on April 18, 2023 and the Planning Board granted a second 6-month extension at the September 21, 2023 regular meeting. The property is currently under agreement and the new buyers are proposing changes to the drainage design. The original approval contained a more complex drainage design including Stormtech chambered infrastructure and a retaining wall. The owner imposed a conservation restriction on the rear portion of each of the parcels to preserve to natural habitat. It is likely the Stormtech drainage was used to minimize impacts in the conservation area. The new proposal is a more natural rain garden feature that does encroach further into the conservation area, however the covenant as drafted, does allow for stormwater and drainage as stated below in the draft covenant under Section 2.C.i and in Section 3.A.

2. **USE LIMITATIONS**

- A. The Conservation Land shall be maintained in perpetuity as open space free from industrial or commercial activities, except for those activities and structures reserved by Declarant in Section 3 hereof.
- B. The Conservation Land shall not be subdivided or otherwise divided into parcels of separate ownership, other than as shown on the herein referenced Subdivision Plan and may only be sold, conveyed, transferred, or devised as is shown on said Subdivision Plan as the rear portion of each of the 3 Lots shown on said Subdivision Plan..
- C. Other than in connection with development and operation of the Subdivision Plan, no structure or improvement of any kind, except for ancillary structures shall be constructed, placed or introduced onto the Conservation Land.
 - i. Ancillary structures and improvements such as drainage structures,, or culverts, may be constructed, placed or introduced onto the Conservation Land as necessary in the accomplishment of the agricultural, forestry or noncommercial outdoor recreational uses of the Conservation Land so long as they are not detrimental to the purposes of this Declaration.

3. **DECLARANT'S RESERVED RIGHTS**

- A. Declarant reserves the right to install, maintain, repair, or replace in kind vegetation and stormwater treatment swales and drainage structures
- B. Declarant reserves the right to repair any damage caused to the Conservation Land by natural or other causes provided said repairs are in conformance with the conservation values/purposes stated herein.

Project Review, Discussion, and Recommendations

The amendment originally came in as an Administrative Approval request, however upon review with the Planning Director, it was determined that this request should go back before the Planning Board for consideration. With the change in design to the stormwater system, certain conditions no longer apply. In addition to the amended approval request, the applicant has requested the removal of the following conditions from the prior letters of decision dated October 27, 2022 and March 2, 2020:

October 27, 2022 conditions:

- 2.5.1) The drainage for lots 2 and 3 shall be incorporated into the back yard areas where they can be maintained without impacting the portion of the property designated to be a conservation area along with the following **conditions**:*
- 2.5.1-a) Maintenance responsibilities for the storm-tech systems by the homeowners shall be addressed through a maintenance document that outlines*

the requirements to keep the system functional at all times. That document shall be recorded as part of the conservation easement deed;

2.5.1-b) Plans shall be updated to note stabilized construction entrances shall be installed for all 3 lots; and

2.5.1-c) System installation shall be witnessed by the City DPW during installation. The City will review the subsoils under the system to guarantee any ledge is removed to a point 24" under the system and will review all the functional parts of the system as a whole to verify the systems will work as designed.

March 2, 2020 conditions:

1) The drainage for the houses shall be incorporated into the back yard areas where they can be maintained without impacting the portion of the property designated to be a conservation area along with the following conditions:

1-1) Drainage easements shall be provided across lot 3 for lot 2 and 1 drainage and across lot 2 for lot 1 drainage. Maintenance responsibilities for the storm-tech systems shall be included in the easement language or otherwise addressed through a maintenance agreement;

Planning Department Recommendation
Subdivision

1) Vote to grant Amended Subdivision Approval with the following conditions:

2.1) *Removal of prior conditions 2.5.1, 2.5.1-a, 2.5.1-b and 2.5.1-c from the October 27, 2022 letter of decision and removal of prior condition 1 and 1-1 from the March 2, 2020 letter of decision. All other prior conditions of approval are still required.*

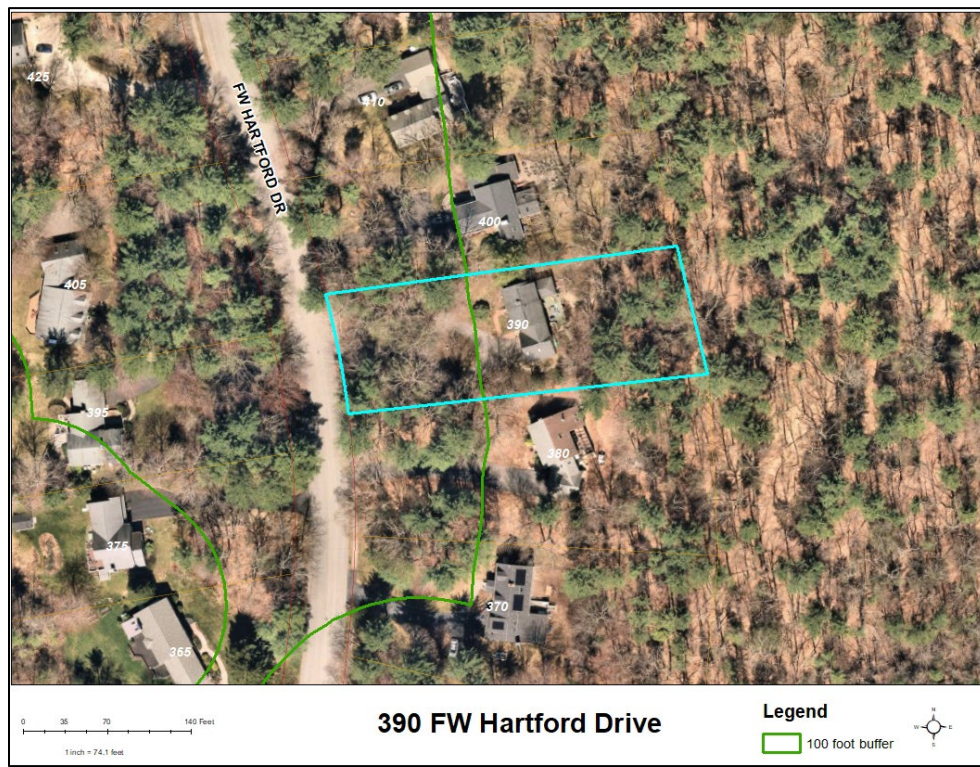
IV. PUBLIC HEARINGS – NEW BUSINESS

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.

- K. The request of **Daniel Sigalovsky** and **Sarah Cook (Owners)**, for property located at **390 F.W. Hartford Drive** requesting a Wetland Conditional Use Permit from Section 10.1017 for the removal of an existing 16' x 24' rear deck within the 100-ft wetland buffer and the replacement of the deck with a 14' x 16' permeable paver patio. The project will include enhanced stormwater management including a gravel infiltration area, installation of a rain garden, native plantings, and the installation of a permeable patio in place of the existing deck. Said property is located on Assessor Map 249 Lot 25 and lies within the Single Residence B (SRB) District. (LU-23-140)

Project Background

This application is for the removal of an existing 16 x 24' rear deck within the 100-ft wetland buffer and the replacement of the deck with a 14' x 16' permeable paver patio. The applicant has cited significant water problems on the property which has led to the rotting of the existing deck. The applicant is proposing to address this problem with greater stormwater management such as a gravel infiltration area, the installation of a rain garden, the increase of native plantings such as ferns and flowers as well as the installation of a permeable patio in place of the existing deck.



Project Review, Discussion, and Recommendations

The project was before the Conservation Commission in September. See below for details.

Conservation Commission

The Conservation Commission, at its regularly scheduled meeting of Wednesday, June 13, 2023, considered the application and voted unanimously to recommend approval of the Wetland Conditional Use Permit to the Planning Board with the following conditions:

- 2.1) *A cross-section showing the details of the permeable paver installation be submitted prior to submittal to the Planning Board.*
- 2.2) *A maintenance plan be submitted for both the proposed rain garden and proposed permeable pavers prior to submittal to the Planning Board.*
- 2.3) *In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers during project construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.*

****Condition 2.1 and 2.2 above have been satisfied and are contained in the Planning Board packet.***

Staff Analysis

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

The applicant is proposing removal of existing impervious surface within the wetland buffer and will be replacing with permeable pavers and greater stormwater control measures. This will likely provide a positive impact to the wetland buffer and wetland resource.

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

The existing deck is completely within the wetland buffer and due to the rotting, it must be removed. The applicant will alter the existing area with impacts that are likely to increase buffer health and help with stormwater and runoff issues both into the wetland and surrounding the home.

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

The removal of the deck and replacement with greater stormwater infiltration measures will likely have a positive impact on the functional values of the wetland

and site due to better infiltration of runoff.

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

No removal of vegetation is proposed. Applicant is proposing to increase native vegetation within the buffer along with a new rain garden within the buffer.

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

The applicant is proposing an increase to the existing vegetation within the buffer and the removal of existing impervious surface which creates little to no adverse impacts within the site.

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

Applicant is proposing to increase vegetation within the overall buffer and the vegetated buffer strip.

Planning Department Recommendation

Wetland Conditional Use Permit

1) *Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.60 and to adopt the findings of fact as presented.*

(Alt.) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.60 and to adopt the findings of fact as amended and read into the record.

2) *Vote to grant the Wetland Conditional Use permit with the following conditions:*

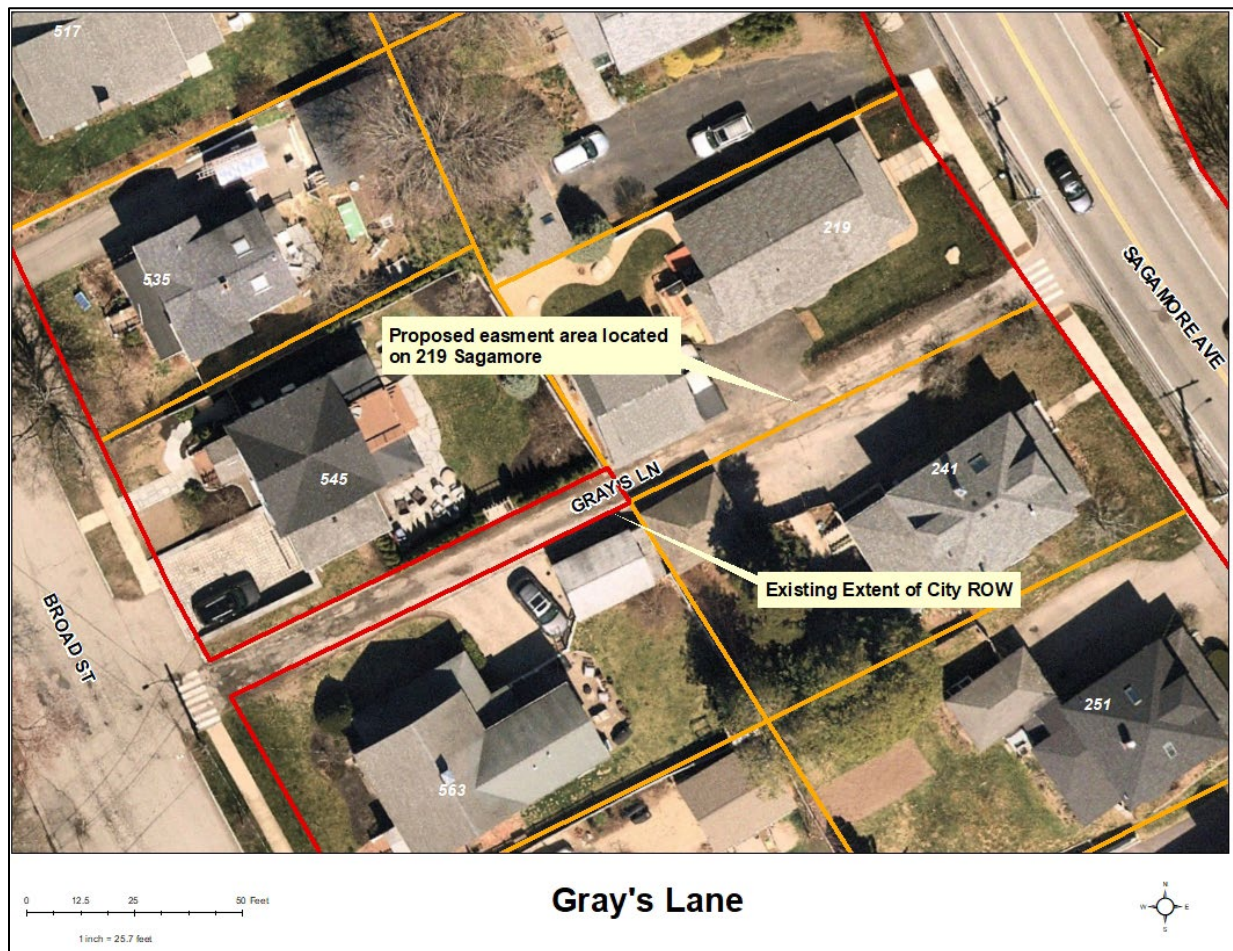
- 2.1) *In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers during project construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.*
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V. CITY COUNCIL REFERRALS

A. Right of Way Easement on Gray's Lane

Background

As described in the attached memo from Deputy City Attorney McCourt, the City owns a right of way over half of Gray's Lane. The owners of Tax Map 221 Lot 19 (219 Sagamore Avenue) have offered to convey the other half to the City. This would allow the City to make the necessary drainage and roadway improvements to Gray's Lane. The image below shows the City's current ROW in red and the new easement would extend the rest of the way to Sagamore Avenue.



Planning Department Recommendation

Vote to recommend that the City Council authorize the City Manager to accept a right of way easement over land at 219 Sagamore Avenue from Thomas and Deidre Hammar (Tax Map 221 Lot 19).

VI. OTHER BUSINESS

- A.** Chairman's Updates and Discussion Items
- B.** Planning Board Rules and Procedures
- C.** Board discussion of Regulatory Amendments, Master Plan Scope & other matters

VII. ADJOURNMENT