



City of Portsmouth
Planning Department
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Portsmouth, NH
(603)610-7216

Memorandum -**REVISED 5/13/24**

To: Planning Board

From: Peter Stith, AICP
Planning Manager

Date: May 16, 2024

Re: Recommendations for the May 16, 2024 Planning Board Meeting

I. APPROVAL OF MINUTES

- A. Approval of the April 18, 2024 meeting minutes.
- B. Approval of the April 25, 2024 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 April 18 and April 25, 2024 meetings and vote to approve meeting minutes with edits if needed.

II. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

- A. The request of **Atlas Commons LLC (Owner)**, for property located on **581 Lafayette Road** requesting Site Plan review approval for two 4-story additions to the existing building that will total 72 residential units with associated site improvements including lighting, utilities, landscaping, and stormwater treatment/management and a Conditional Use Permit from Section 10.5B72 for increased density, building height and footprint. Said property is located on Assessor Map 229 Lot 8B and lies within the Gateway Corridor (G1) District. (LU-23-189)
- B. The request of **15 Middle Street Real Estate Holding CO, LLC (Owner)**, for property located at **15 Middle Street** requesting Site Plan approval for the

addition of 3 residential units in an existing commercial building. Said property is located on Assessor Map 126 Lot 12 and lies within the Character District 4 (CD4), Downtown Overlay and Historic Districts.

- C. The request of **RIGZ Enterprises LLC (Owner)**, for property located at **822 Rt 1 Bypass** requesting Site Plan review approval to demolish the existing building and construct a new commercial building as well as associated paving, stormwater management, lighting, utilities and landscaping. Said property is located on Assessor Map 160 Lot 29 and lies within the Business (B) District.

Planning Department Recommendation

- 1) *Vote to determine that Items A, B and C are complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Section IV of the agenda) and to accept the applications for consideration.*

III. PUBLIC HEARINGS – UNFINISHED BUSINESS

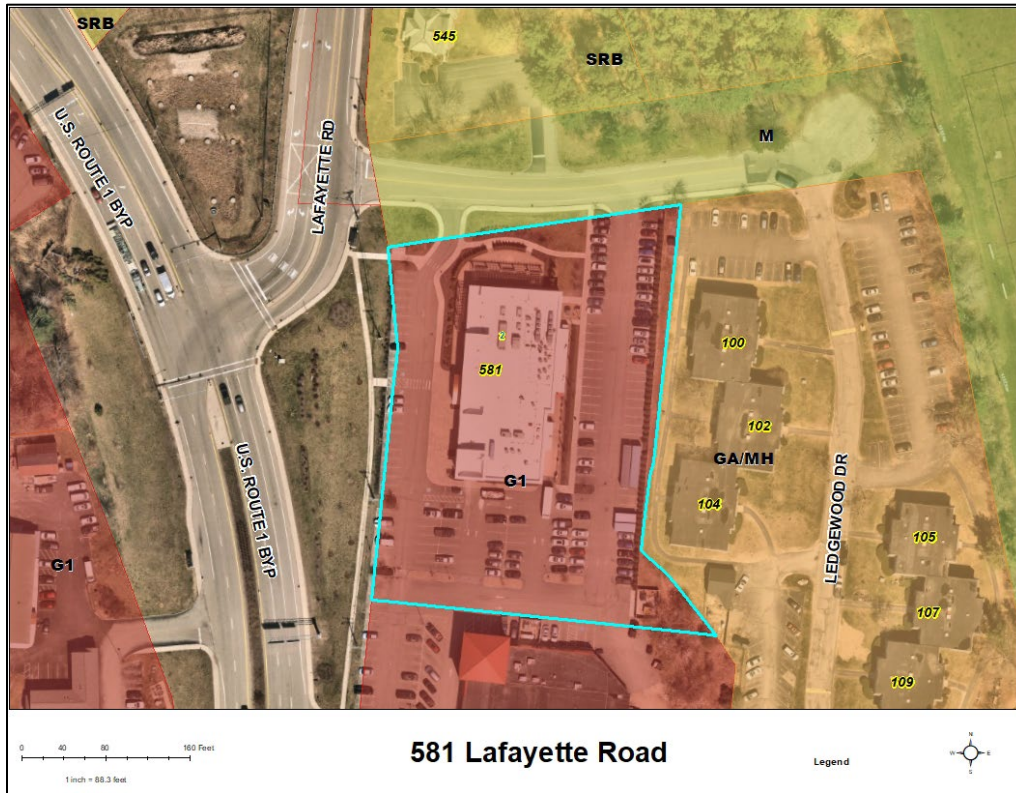
The Board’s action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- D. The request of **Atlas Commons LLC (Owner)**, for property located on **581 Lafayette Road** requesting Site Plan review approval for two 4-story additions to the existing building that will total 72 residential units with associated site improvements including lighting, utilities, landscaping, and stormwater treatment/management and a Conditional Use Permit from Section 10.5B72 for increased density, building height and footprint. Said property is located on Assessor Map 229 Lot 8B and lies within the Gateway Corridor (G1) District. (LU-23-189)

Background

The existing building contains two restaurants and is located in the Gateway Neighborhood Mixed-Use, G-1 District. The applicant is proposing two additions totaling 72 residential apartments, creating a mixed-use building on the lot. The proposal is seeking density incentives for building height and footprint as well as dwelling units per building. A conditional use permit is required for the incentives and the applicant must provide workforce housing and public realm improvements in order to receive multiple incentives. Such conditional use permit shall be contingent upon satisfying the requirements of Section 10.5B73.

The project will provide 20% of the units as workforce housing for rent and will comply with the requirements under Section 10.5B73.10.



The project is seeking multiple incentives and thus must provide public realm improvements in addition to the workforce housing requirement. The proposed public realm improvement is a multi-use path on the adjacent High School property that would promote pedestrian and bicycle access to the facility and would create a connection to Andrew Jarvis Drive and residents of this project and the surrounding area.

Gateway zoning was designed to create opportunities for workforce housing and public realm improvements through incentives via a conditional use permit process. Through the CUP incentive process, zoning allows for modifications of the regulations in Article 5B and the applicant is seeking several modifications including community space, 7.6% where 10% is required. The proposal includes improving City property adjacent to the proposed community space; however, it cannot be counted towards the 10% requirement. The other modifications include maximum dwellings per building, building footprint, and setback from Lafayette Road as outlined in the submission.

There has been a decades long encroachment of the parking on NHDOT property and the updated application removes this encroachment, while maintaining compliance with the parking requirements for the development.

Project Review, Decisions, and Recommendations

The applicant was before the Technical Advisory Committee. See below for details.

Technical Advisory Committee

The applicant was before the Technical Advisory Committee at its regularly scheduled meeting of Tuesday, March 5, 2024 and the Committee voted to recommend approval with the following conditions:

- 1. The public realm improvements must be reviewed and approved by all relevant parties.*
- 2. All updates as discussed during the 3/5/2024 TAC meeting will be made to final set of plans, including:
 - a. A complete list of previous staff comments and responses.*
 - b. Please provide a complete list of changes that were made to the plan set between the dates of 2/6/2024 and 3/5/2024.*
 - c. Place labels on the shelf pipe profile and on Sheet C5 that indicate the size of the pipe (8").*
 - d. Final sewer pipe design to be reviewed and approved by DPW.*
 - e. The 4" PVC pipe coming from the manhole for the vent should be changed to a gasketed pipe as it will be underground, this should be changed from the Scheduled 40 to an SDR 35.*
 - f. A sidewalk detail will be included for Ledgewood Drive.*
 - g. Fire hydrant to be added to the final set of plans with proposed location reviewed and approved by Fire Dept.*
 - h. Sliders for bicycle parking must have fire rating confirmed in the final building design.**

To be satisfied subsequent to Planning Board approval:

- 1. Landscape license with adequate insurance for maintenance on City property.*

The TAC conditions have been satisfied or carried over into the Staff recommendation as conditions of approval.

Planning Department Recommendation

Conditional Use Permit

1) *Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.5B11 and 10.5B73 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 10.5B11 and 10.5B73 and to adopt the findings of fact as amended and read into the record.

2) *Vote to grant modifications of standards from Section 10.5B22.40 Special Setback Requirements on Lafayette Road, Section 10.5B73.20 to allow the public realm improvements to be located in a different zoning district, Section 10.5B34.80 to allow a building with 72 units, Section 10.5B41.80 to allow 7.6% community space where 10% is required, and to allow a building footprint of 42,434 square feet where 24,000 is allowed.*

3) *Vote to grant the Conditional Use Permit with the following condition:*

3.1) *Prior to issuance of a Certificate of Occupancy, the applicant will revise the design of the of the public realm improvements to a form satisfactory to the Superintendent and City Manager.*

Planning Department Recommendation

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) *A recordable landscape license revocable by the City. The Applicant with provide and maintain adequate evidence of insurance for the maintenance of City property, including the City as additional insured. The amount and form of such insurance shall be set by the Public Works Director and the City Attorney.*
 - 2.5) *Final site plan set shall be updated to show revised parking layout.*

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a certificate of occupancy and release of the surety:

- 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;*
 - 2.7) *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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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 Planning Board will hold a public hearing on the following amendments to Chapter 10, ZONING ORDINANCE, CITY OF PORTSMOUTH, of the Ordinances of the City of Portsmouth, be amended to language related to solar energy in Article 6 Overlay Districts and Article 15 Definitions, pursuant to Section 10.150.

Background

At the April 25, 2024 Planning Board meeting, the Board voted to schedule a public hearing on the solar zoning amendments and to have Councilor Moreau include the draft amendments under her name at the May 6, 2024 Council meeting. Below is the action that took place related to the solar amendments at the Council meeting.

Aside from the solar amendments the Board is considering, there is a separate amendment proposed by Councilor Denton that is provided in the first section below that would exempt flush mounted solar energy panels that do not require other alterations to existing structures, including the accessory equipment.

8. First Reading of Ordinance amending Chapter 10, Article 6, Section 10.633.20 by adding a new numbered paragraph 28 "Solar Energy Panels flush mounted to rooftops of existing structures which do not require other alterations to existing structures" and by adding a new numbered paragraph 29 "Accessory Elements to Solar Energy Panels which do not require other alterations to existing structures" – Moved to pass first reading and schedule a public hearing and second reading regarding Solar Energy Panel amendments to Chapter 10, Article 6, Section 10.633.20, as presented, on June 3, 2024.

Moved to amend paragraph 28 to add the phrase "made of materials other than slate or wood" after the word "rooftop", so the paragraph would now read:

28) *Solar Energy Panels flush mounted to rooftops made of materials other than slate or wood of existing structures which do not require other alterations to existing structures.*

Voted to suspend the rules to bring forward Item XV. D.1. – Update from Planning Board regarding Revised Solar Amendments.

HDC Chair Ruedig and Planning Board Chair Chellman provided a report on the regulations and requirements for solar panels. They announced that there will be a public hearing by the Planning Board on this matter at their May 16th meeting and would like the opportunity to report back to the Council with their findings before the Council holds their public hearing and second reading of the ordinance.

On a roll call 5-4, voted to pass to amend paragraph 28 to add the phrase "made of materials other than slate or wood" after the word "rooftop", so the paragraph would now read:
28) *Solar Energy Panels flush mounted to rooftops made of materials other than slate or wood of existing structures which do not require other alterations to existing structures.* Councilors Tabor, Denton, Blalock, Bagley and Mayor McEachern voted in favor. Assistant Mayor Kelley, Councilors Cook, Moreau and Lombardi voted opposed.

Voted to postpone first reading of the ordinance as amended until the June 3, 2024 City Council meeting.

Below is the section in the Ordinance that relates to solar panels.

10.517.30 All **roof appurtenances** and other features that exceed the allowed **structure** 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, shall be set back at least 10 feet from any edge of the roof.

10.517.31 Solar energy panels shall not be subject to the 33 percent limitation provided that they are not visible from a point 20 feet above the edge of the **street** right-of-way on the opposite side of the **street**.

The amendments discussed at the April 25th Planning Board meeting are included in the packet. As part of the motion, the Board may want to weigh in on the other amendments before the Council. There may be additional edits that will be sent out next week, pending review by the legal department.

Planning Department Recommendation

1) *Vote to recommend to City Council to hold first reading on the zoning amendments for solar panels.*

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 **City of Portsmouth (Owner)**, for property located at **0 Maplewood Avenue**. The City is requesting a Wetland Conditional Use Permit to complete upgrades to the existing drainage outfall behind the cemetery (adjacent to Deer Street) by adding an additional 48" pipe in parallel to the existing 48" pipe. This work is being proposed in preparation for increased capacity needs to accommodate sewer separation on Fleet Street and surrounding areas. Compensatory mitigation is proposed to offset proposed wetlands impacts. The proposed mitigation will also serve as embankment revetement to aid in stabilizing the slope behind the cemetery that is currently being undermined. Area of disturbance includes approximately 590 SF impacts from outfall improvements, 3,870 SF proposed for mitigation/Marsh restoration. A portion of the outfall work is located on the abutting property of #90 Maplewood Avenue. City DPW has been corresponding with the owner of this property and draft easement documents have been provided to the property owner. Said property is located on Assessor Map 124 Lot 2, Map 125

Lot 19, and Map 164 Lot 4 and lies within the Office Research (OR) Municipal and Historic Districts. (LU-24-43)



Staff Analysis – Wetland CUP

According to Article 10 Section 10.1017.650 the applicant must satisfy the following conditions for approval of this utility project.

1. The proposed project is in the public interest.

This is part of an overall project to separate the existing combined sewer overflow systems in downtown Portsmouth and provide additional capacity for stormwater in the downtown. This separation is in the public interest as it will be separating stormwater principally originating from the Fleet, Congress and Vaughn Areas from entering the sewer lines, which will reduce the likelihood of sewer overflow into tidal waters during heavy precipitation and storm events. The term combined sewer system overflow means that when there is a large enough storm, the stormwater flow is too much for the combined system and the system overflows combined sewer and stormwater flow into the river and into the South Mill Pond. With separated systems, the likelihood of this combined overflow flowing into the tidal waters would now be much lower during heavy storm events. In addition, the additional capacity will provide protection from future heavy rainfall flooding events.

2. Design, construction, and maintenance methods will utilize best management practices to minimize any detrimental impact of such use upon the wetland and will include restoration of the site as nearly as possible to its original grade condition and vegetated state.

The use of erosion control measures where excavation is proposed along with the use of silt booms within the pond will help to mitigate any sediment and debris entering the pond. The restoration of the bank through a living shoreline project including expanded saltmarsh areas will help restore the nearby marsh population while working to protect that shoreline. The long-term success of this restoration area is crucial to the safety of that bank and the historic graveyard just beyond it.

3. No alternative feasible routes exist which does not cross or alter a wetland or have a less detrimental impact on a wetland.

This overflow system has been in place since the 1970's and is directly connected to an existing system of properties and drain manholes that exist all over the downtown. The best placement for the addition 2 of an upgraded line is parallel to the existing line. The applicants are proposing to offset the permanent impacts to the wetland (outfall headwall and stone riprap) with the planting of salt marsh species to strengthen the bank.

4. Alterations of natural vegetation or managed woodland will occur only to the extent necessary to achieve construction goals.

To construct the new line, existing pavement, lawn, dirt and marsh areas will be disturbed to dig the trench and construct the infrastructure. Maintenance and replacement of the line in the future will likely require that no trees or large vegetation be planted directly over the piping. If possible, all areas disturbed within the buffer that is not marsh should be replanted with a wetland buffer seed mix.

Project Review, Decisions, and Recommendations

The applicant was before the Conservation Commission. See below for details.

Conservation Commission

The applicant was before the Commission at its regularly scheduled meeting of Wednesday, April 10, 2024 and the Commission voted unanimously to recommend approval with the following conditions:

1. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers. These markers shall be placed along the 25' vegetative buffer at intervals of every 50' along the City-owned

property. These must be installed prior to the start of any construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department. In addition to the wetland boundary markers, an educational sign describing the project shall be installed near the restoration area and fencing should be utilized to keep disturbances such as dogs and geese from the area.

2. A long-term maintenance schedule and plan be included in the permit application and submitted to the Planning & Sustainability Department that commits to long-term maintenance of the marsh restoration area and a commitment to ensuring a marsh migration pathway for marsh adaptation impacts from climate change on City-owned land.

3. A note will be added to the plans stating that all soil and plant material excavated on site shall be removed and disposed of off-site, as recommended by the TES Environmental Consultants LLC report.

4. All necessary approvals from involved property owners will be acquired prior to the issuance of a City building permit and prior to any associated approvals from the New Hampshire Department of Environmental Services.

5. A conservation seed mix or other appropriate native species seed mix and/or plantings shall be used for surface areas disturbed by the pipe installation within the wetland buffer.

The Conservation Commission recommended conditions have been satisfied or added to the staff recommendation.

Planning Department Recommendation
Wetland Conditional Use Permit

1) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.650 of the Ordinance and adopt the findings of fact as presented.

(Alt.) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.650 of the Ordinance and adopt the findings of fact as amended.

2.) Vote to grant the Conditional Use Permit with the following conditions:

2.1) All necessary approvals from involved property owners will be acquired prior to the issuance of a City building permit and prior to any associated approvals from the New Hampshire Department of Environmental Services.

2.2) The applicant shall remove all debris/trash from the wetland and 25'

vegetative buffer, including the wood decking/pallet structure.

2.3) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers where applicable. In addition to the wetland boundary markers, an educational sign describing the project shall be installed near the restoration area and fencing should be utilized to keep disturbances such as dogs and geese from the area.

IV. PUBLIC HEARINGS – NEW BUSINESS

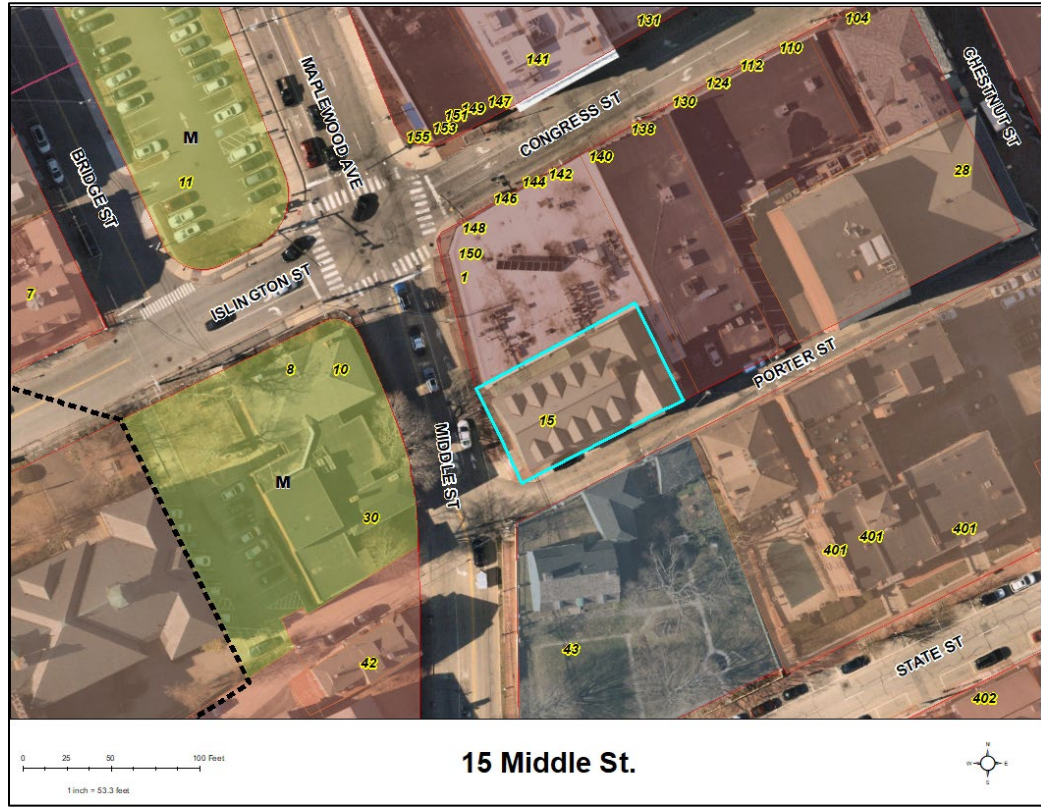
The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- C.** The request of **15 Middle Street Real Estate Holding CO, LLC (Owner)**, for property located at **15 Middle Street** requesting Site Plan approval for the addition of 3 residential units in an existing commercial building. Said property is located on Assessor Map 126 Lot 12 and lies within the Character District 4 (CD4), Downtown Overlay and Historic Districts.

Project Background

The subject property was the former location of the Salvation Army and in 2020 the current owner purchased the property and received approvals for conversion of the interior into a 15-room inn with restaurant. The work completed in 2020 included the Inn and restaurant and the addition of roof dormers with unfinished attic space, which did not trigger site plan review. An agreement was signed by the City and owner that acknowledged the work in 2020 did not need site review at the time but site plan approval would be required if the attic space was converted into dwellings.

The conversion of the unfinished attic space into three dwelling units triggers site plan review, thus the request before the Board. No site work outside of the fit up of the interior of the building is proposed and the applicant is requesting several waivers from the site plan review regulations. The property is located in the Downtown Overlay District (DOD), where parking is not required for the Inn or the restaurant. The three units require 4 parking spaces and the DOD provides for a credit of 4 parking spaces, therefore no parking is required for this site.



Project Review, Decisions, and Recommendations

The applicant was before the Technical Advisory Committee. See below for details.

Technical Advisory Committee

The applicant was before the Technical Advisory Committee at its regularly scheduled meeting of Tuesday, April 2, 2024 and the Committee voted to recommend approval with the following conditions:

- 1. Information on sustainable/green practices used for interior construction will be provided.*
- 2. The development agreement from Juliet Walker will be provided.*

3. *Waiver requests for site review agreement and associated surety will be provided.*
The TAC recommended conditions have been addressed with the Planning Board submission.

Planning Department Recommendation

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 find that the requested waivers will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to waive the regulations as requested.*

[Note: An affirmative vote of six members of the Planning Board is required to grant a waiver.]

3) *Vote to grant Site Plan approval with the following condition:*

3.1) 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.

IV. PUBLIC HEARINGS – NEW BUSINESS

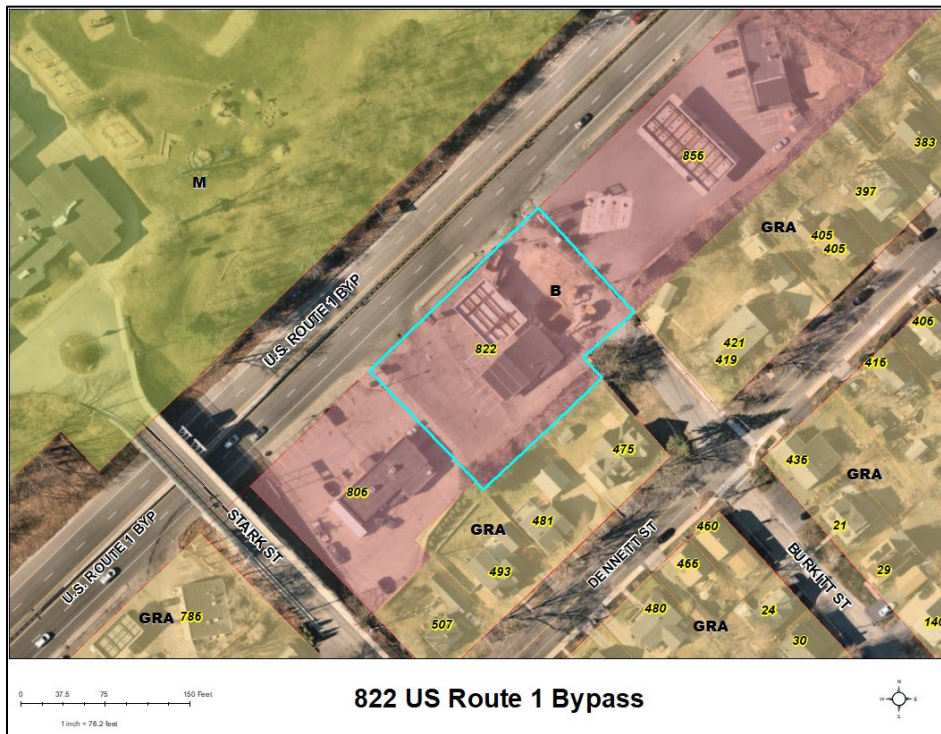
The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

C. The request of **RIGZ Enterprises LLC (Owner)**, for property located at **822 Rt 1 Bypass** requesting Site Plan review approval to demolish the existing building and construct a new commercial building as well as associated paving, stormwater management, lighting, utilities and landscaping. Said property is located on Assessor Map 160 Lot 29 and lies within the Business (B) District.

Project Background

The subject property was a former service station and the applicant is proposing to demolish the existing structure and build a new commercial building. The applicant owns the adjacent property at 806 Route 1 Bypass where The City Beverage and Tobacco is located. The plan is to relocate this business to the subject parcel in the proposed building. The applicant is requesting waivers from the following site plan regulations: Section 3.2.1 & 2 for a traffic impact analysis, Section 7.4 for Stormwater Management and Erosion Control Plan, and from Section 2.5.3.2B for providing other reports or studies.

The improvements related to this project will require amendments to the site plan on the adjacent parcel at 806 Route 1 Bypass. The applicant intends to be back before TAC and Planning Board for an additional extension and amended plan in June for the 806 Route 1 Bypass site plan.



Project Review, Decisions, and Recommendations

The applicant was before the Zoning Board of Adjustment and Technical Advisory Committee. See below for details.

Board of Adjustment

The applicant was before the Board of Adjustment at its regularly scheduled meeting of Tuesday, January 23, 2024 and the Board voted to grant variances to allow parking spaces to be located between the principal building and a street and to allow a zero (0) foot setback from the front lot line where 20 feet is required for parking.

Technical Advisory Committee

The applicant was before the Technical Advisory Committee at its regularly scheduled meeting of Tuesday, April 2, 2024 and the Committee voted to recommend approval with the following conditions:

To be satisfied prior to submission to the Planning Board submission:

- 1. All permanent drainage to be installed will need drainage easements from the lots connected.*
- 2. Meet with DPW to determine hookup fees.*
- 3. Provide an easement plan.*
- 4. Proposed utilities must be installed in Burkitt Street, not in grass strip.*
- 5. Change 6" fire service into a 6" main with flushing hydrant at the end. Connect fire services and domestic services to the new 6" main. Connect 2" service for adjacent property to the 6" main, cut and cap all old services for both properties*

as necessary at water main on Dennett.

6. Need for third party oversight of work in City right of way to be determined by Department of Public Works.

7. Burkitt Street shall be milled & overlaid after the conclusion of utility work.

8. Dumpsters must be moved 10' further toward the back of building for sight distance. No manholes shall be covered by the dumpsters.

9. Outline of the roof overhanging the front sidewalk must be shown on plans.

10. The light pole, LP1, shall be moved closer to the building, away from the stormwater main, and out of DOT right of way.

11. The light pole 2 must be moved closer to the parking lot entrance and the Route 1 Bypass.

12. A light pole shall be added to the west entrance of the parking lot out of the NHDOT right of way.

13. All drain manholes must have inverts.

14. The Stormwater Management Operations and Maintenance Manual shall include language detailing that an annual report on maintenance operations shall be submitted to the City of Portsmouth Department of Public Works.

15. Please provide documentation from NHDOT for work to be completed in the NHDOT right of way.

16. Site plan amendment needed for 806 Rt 1 bypass property to show new drain line.

17. Utility plans need to be updated to show utilities in pavement area of Burkitt St.

The TAC conditions have been satisfied or carried over into the Staff recommendation as conditions of approval.

Planning Department Recommendation

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 find that the requested waivers will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to waive the regulations as requested.*

[Note: An affirmative vote of six members of the Planning Board is required to grant a waiver.]

3) *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:

- 3.1) *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.*
- 3.2) *The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments.*
- 3.3) *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.*
- 3.4) *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. For more information visit <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>*

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a certificate of occupancy and release of the surety:

- 3.5) *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;*
- 3.6) *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.*

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. **361 Hanover Steam Factory, LLC (Owner)**, for property located at **361 Hanover Street**, requesting Design Review for the construction of a new building along Hanover Street with a 20-foot tunnel entrance from Hanover Street to a central courtyard between the new building and the existing 361 Hanover Street (Portsmouth Steam Factory) building. The courtyard will provide access to the indoor parking areas at both the existing and the new building. The upper floors of the new Hanover Street building will contain 12 residential dwelling units and the Portsmouth Steam Factory Building would contain 24 dwelling units; for a total of 36 dwelling units. There would be 72 off-street parking spaces in the aggregate. (LUPD-24-3)

Description

This item is a request for Design Review under the Site Plan Review Regulations. Under the State statute (RSA 676:4,II), the Design Review phase is an opportunity for the Planning Board to discuss the approach to a project before it is fully designed and before a formal application for Site Plan Review is submitted. The Design Review phase is not mandatory and is nonbinding on both the applicant and the Planning Board.

Although the State statute calls this pre-application phase “design review,” it does not encompass review of architectural design elements such as façade treatments, rooflines and window proportions. Rather, it refers to site planning and design issues such as the size and location of buildings, parking areas and open spaces on the lot; the interrelationships and functionality of these components, and the impact of the development on adjoining streets and surrounding properties.

The process as outlined in Section 2.4.3 of the Site Review regulations is that the Board first has to determine that the request for design review includes sufficient information to allow the Board to understand the project and identify potential issues and concerns, and, if so, vote to accept the request and schedule a public hearing. *Completion of the design review process also has the effect of vesting the project to the current zoning.*

Design review discussions must take place in a public hearing. At the conclusion of the public hearing process, the Board makes a determination that the design review process for the application has ended.

Planning Department Recommendation

1) Vote to find the design review process is complete.

V. OTHER BUSINESS

A. Chairman's Updates and Discussion Items

B. Board Discussion of Regulatory Amendments and Other Matters

VI. ADJOURNMENT