



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

Memorandum

To: Planning Board

From: Peter Stith, AICP
Planning Manager

Date: June 20, 2024

Re: Recommendations for the June 20, 2024 Planning Board Meeting

I. APPROVAL OF MINUTES

A. Approval of the May 16, 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 May 16, 2024 meeting and vote to approve meeting minutes with edits if needed.

II. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

A. The request of **Friends of Lafayette House in care of Melanie Merz (Owner)**, for property located at **413 Lafayette Road** requesting Site Plan Review Approval to construct an attached caretaker's unit to the existing residential care facility with associated site improvements. Said property is located on Assessor Map 230 Lot 23A and lies within the Single Residence B (SRB) District.

Planning Department Recommendation

1) Vote to determine that Item A is 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 application for consideration.

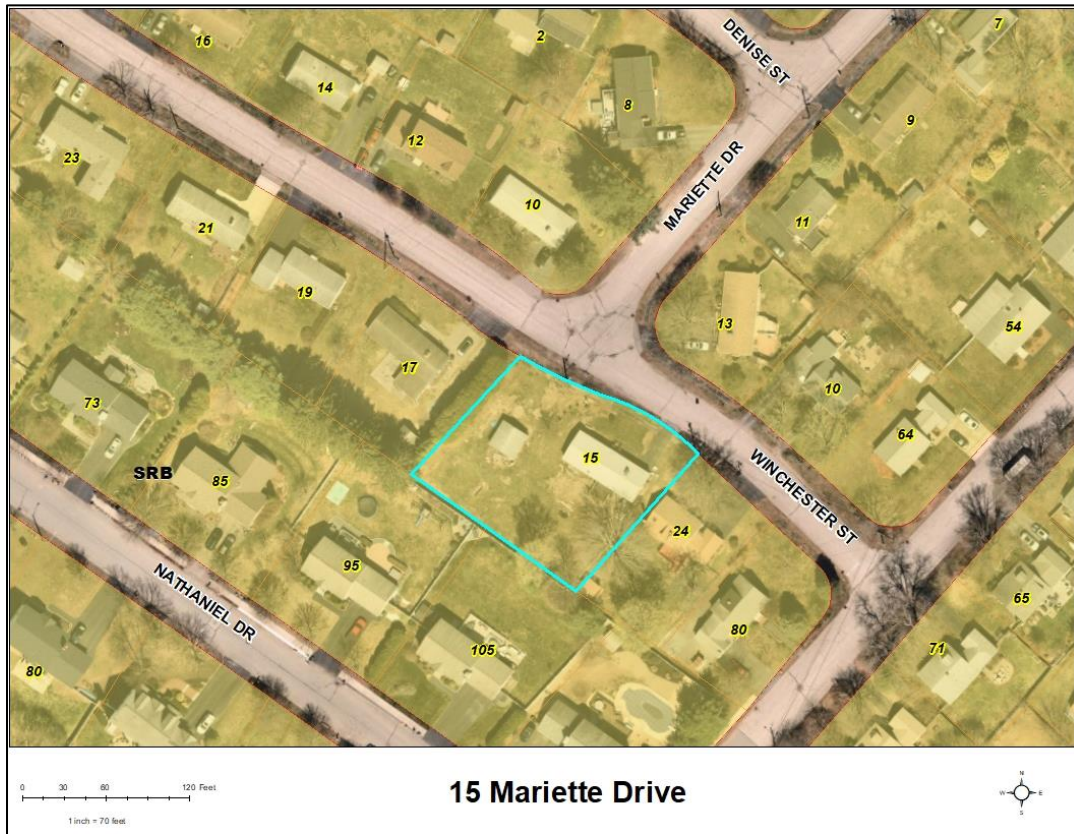
III. PUBLIC HEARINGS – NEW BUSINESS

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 **Edmund R. St. Pierre (Owner)**, for property located at **15 Mariette Drive** requesting a Conditional Use Permit from Section 10.814 for a Detached Accessory Dwelling Unit. Said property is located on Assessor Map 292 Lot 167 and lies within the Single Residence B (SRB) District. (LU-24-55)

Background

This applicant is proposing to expand the existing garage and convert it into a Detached Accessory Dwelling Unit (DADU). The proposal includes an upward expansion of the garage to create a second floor to allow for more living space for the DADU. A portion of the ground floor will be designated as a garage space and a portion will be the kitchen for the DADU. No modifications have been requested with this proposal.



Project Review, Decisions, and Recommendations

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

Board of Adjustment

The applicant was before the Board of Adjustment at its regularly scheduled meeting of Tuesday, May 21, 2024 and the Board voted unanimously to recommend approval of the request for a second driveway on one lot.

Planning Department Recommendation

Detached Accessory Dwelling Unit Conditional Use Permit

1) *Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.814.62 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 10.814.62 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) *Documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds, together with an affidavit that either the principal dwelling unit or the accessory dwelling unit will be occupied by the owner of the dwelling as the owner's principal place of residence, as required by Section 10.814.22.*

2.2) *A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner occupancy and principal residency requirements. Said certificate shall be issued by the Planning Department upon issuance of a certificate of occupancy by the Inspection Department. A certificate of use shall not be issued prior to recording of documentation as required by this Ordinance.*

2.3) *The certificate of use shall be renewed annually upon submission of such documentation as the Planning Department may require to verify continued compliance with the standards of this Section. Failure to comply with this requirement shall be deemed a violation of the ordinance and may be enforced as provided in Article 2.*

III. 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 **Richard M. and Francoise S. Kinney (Owner)**, for property located at **89 Cliff Road** requesting an after the fact Wetland Conditional Use Permit for violations within the City's 100' wetland buffer. The applicant had constructed a three-season porch, an outdoor deck and a concrete landing pad without permitting, of which 225 s.f. was built within the buffer. After the applicant was informed of the violation, they proceeded to develop a wetland conditional use application which proposes mitigating their permanent buffer impacts with the installation of stormwater infiltration measures, the planting of native shrubs and bushes, the installation of a recessed planting area, and the introduction of a micro clover lawn in replacement of grass. Said property is located on Assessor Map 223 Lot 9 and lies within the Single Residence B (SRB) District. (LU-24-54)

Background

This application is an after the fact wetland conditional use permit for violations within the City's 100' wetland buffer. The applicant had constructed a three-season porch, an outdoor deck and a concrete landing pad without permitting, of which 225 s.f. was built within the buffer. There is 4,875 s.f. of buffer on this property from the wetland that sits across the street. After the applicant was informed of the violation, they proceeded to develop a wetland conditional use application which proposes mitigating their permanent buffer impacts with the installation of a french drain, the planting of native shrubs and bushes, the installation of a rain garden, and the introduction of a micro clover lawn in replacement of grass. The construction of the deck and three-season room also included the addition of crushed stone underneath the deck to improve stormwater flow along with the removal of the septic system to enhance ground water quality on the property. The applicant has applied for an after-the-fact building permit which is pending review and approval while they seek approval for the CUP.



Staff Analysis – Wetland CUP

According to Article 10 Section 10.1017.50 the applicant must satisfy the following conditions for approval of this utility project.

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

The work has been completed without permits. The majority of the work is outside of the wetland buffer, with just 225 s.f. of permanent impact in the buffer, with plans to control stormwater on site more proactively with adjustments to plantings and drainage in the buffer.

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

While the structure has already been built, the majority of the new impervious is located outside of the buffer.

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

The existing conditions appear to infiltrate on site stormwater. Stormwater that does not infiltrate likely pools in the low spot of the yard without impacting abutting properties. The new additions will likely increase roof runoff

but the installation of crushed stone and the proposal for a french drain and plantings should help to increase on site infiltration.

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

While the 225 s.f. of buffer has already been altered, the applicant proposes transforming the existing lawn into micro clover or a similar groundcover, introducing new plantings along the addition, and installing a rain garden within the buffer which will increase vegetation and improve stormwater quality.

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 to reduce the 225 s.f. of buffer impacts by installing 69 s.f. of shrubs alongside the addition, installing a 134 s.f. rain garden, and converting the entire back lawn to a non-grass groundcover.

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

In this case, the vegetated buffer has not been disturbed, only the area within 75-100' from the wetland.

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, May 8, 2024 and the Commission voted unanimously to recommend approval with the following conditions:

- 1. Applicant shall change language on site plans for rain garden to recessed planting area and provide an update for the total area for planting and the number of plants proposed.*
- 2. Applicant shall work with City staff to incorporate changes suggested by the referenced Erosion Control Certified and landscaping experts, into final plan set prior to submission to the Planning Board.*
- 3. Applicant shall install permanent wetland boundary markers 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 10.1017.50 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 10.1017.50 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) 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.

III. 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 **Wentworth Senior Living (Applicant)**, and **MH Wentworth HM for CHRNC INV (Owner)**, for property located at **346 Pleasant Street** requesting a Wetland Conditional Use permit for the replacement of an existing wooden fence, in kind, along the back of the property which bumps up against the South Mill Pond. The existing fence is almost completely within the 100' tidal buffer and portions are within the 25' vegetated buffer. The existing wooden fence will be removed, and the new vinyl fence will be installed with sleeves over steel posts. The post holes will be hand dug and backfilled by hand to eliminate the need for heavy equipment within the buffer. This replacement project will have approximately 200 s.f. of impact within the buffer, with 10 s.f. of permanent impact below ground with the posts and 500 linear feet of permanent impact from the fence. Said property is located on Assessor Map 109 Lot 10 and lies within the General Residence B (GRB) District. (LU-24-63)

Project Background

The applicant is proposing to replace an existing wooden fence along the back of the property which abuts the South Mill Pond. The existing fence is almost completely within the 100' tidal buffer and portions are within the 25' vegetated buffer. The existing wooden fence will be removed, and a new vinyl fence will be installed with sleeves over steel posts. The post holes will be hand dug and backfilled by hand to eliminate the need for heavy equipment within the buffer. This replacement project will have approximately 200 s.f. of impact within the buffer, with 10 s.f. of permanent impact below ground with the posts and 500 linear feet of permanent impact from the fence.



Staff Analysis – Wetland CUP

According to Article 10 Section 10.1017.50 the applicant must satisfy the following conditions for approval of this utility project.

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

The fence already exists and the replacement would be in the same location. The existing fence is in various stages of disrepair and needs replacement for safety and aesthetic reasons.

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

As residents use this backyard for recreation and other benefits, the area must continue to be fenced in. There is no other feasible area on the property that can accommodate an outdoor space for the residents.

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

The application proposes a complete replacement of the fence by hand, which

will reduce impact on soil and buffer disturbance.

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

No vegetation is proposed to be removed with this construction, only minor pruning if necessary to disentangle vegetation from the existing fence.

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

The applicant could either leave the fence to rot further, but that would only increase the safety hazard. The applicant could also use machinery and/or concrete to install the fence posts which could have a much greater impact to the buffer and pond. The proposal to do this work by hand is the alternative with the least adverse impact to replace the existing fence.

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

While a portion of the fence will be replaced within the 25' vegetated buffer, the applicant has stated that no vegetation shall be removed as part of this project, only pruned if necessary.

Project Review, Decisions, and Recommendations

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

Conservation Commission

The applicant was before the Commission at its regularly scheduled meeting of Wednesday, May 8, 2024 and the Commission voted 6-1 to recommend approval with the following conditions:

- 1. Applicant shall reconsider the use of vinyl material for the fencing.*
- 2. Permanent wetland boundary markers shall be installed at the corners of the southern end of the fencing along with markers on both sides of the back fence portion to face the yard and the shore area. These markers shall be installed prior to the start of construction activities.*
- 3. The applicant shall provide a maintenance plan for the new fencing that includes power washing with water only.*
- 4. If the installment method changes, the applicant will have to apply for a new wetland conditional use permit prior to the start of any work.*

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

Historic District Commission

The applicant was before the Historic District Commission at its regularly scheduled meeting of Wednesday, June 5, 2024 as an Administrative Approval request and Commission voted unanimously to approve the application.

Planning Department Recommendation
Wetland Conditional Use Permit

1) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.50 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 10.1017.50 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) 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.

2.2) Maintenance for the new fencing shall include power washing with water only.

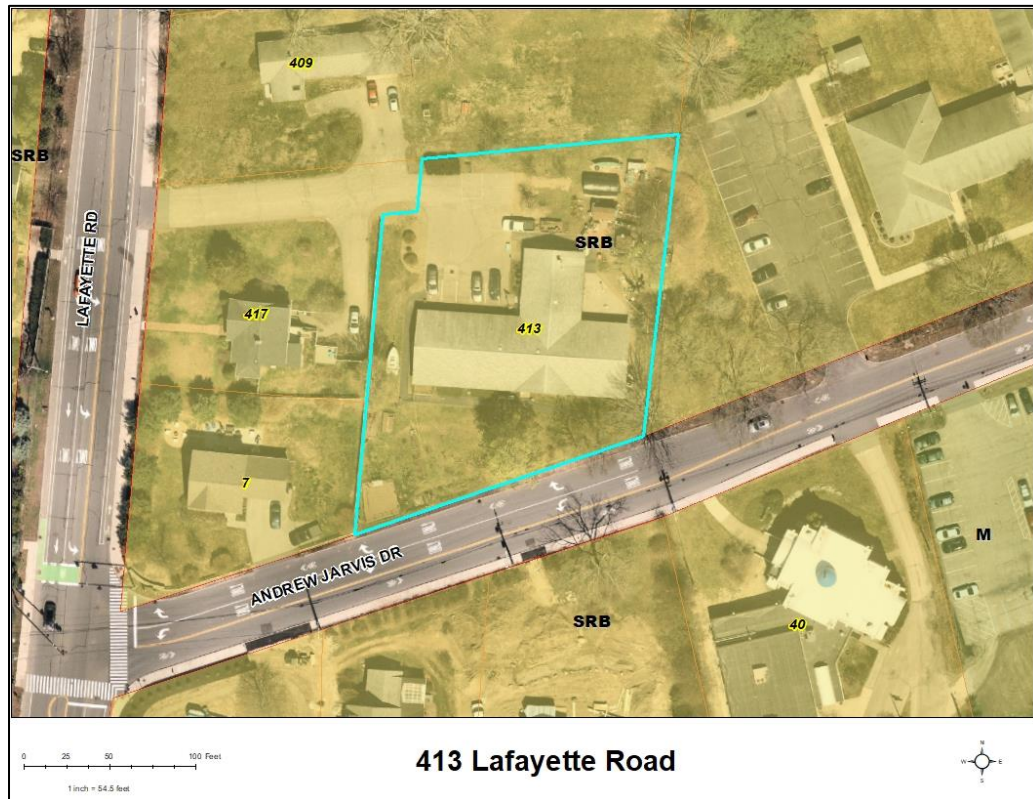
III. PUBLIC HEARINGS – NEW BUSINESS

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 **Friends of Lafayette House in care of Melanie Merz (Owner)**, for property located at **413 Lafayette Road** requesting Site Plan Review Approval to construct an attached caretaker's unit to the existing residential care facility with associated site improvements. Said property is located on Assessor Map 230 Lot 23A and lies within the Single Residence B (SRB) District. (LU-23-208)

Project Background

The subject property contains the existing residential care facility and the proposal includes an approximately 645 square foot addition for a caretaker's unit. If a prior site plan approval existed for this property, this project would be considered as a minor amendment and approved administratively. However, no prior site plan exists, therefore the applicant must go through the site plan review approval process. The applicant is requesting several waivers from the site plan regulations due to the limited scope of the project.



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, March 19, 2024 and the Board voted to grant the following variances with conditions:

- 1) Variance from Section 10.520 to allow a building coverage of 20.5% where 20% is allowed; and
- 2) Variance from Section 10.331 to extend, enlarge, or change the lawful nonconforming use without conforming to the Ordinance; and
- 3) Variance from 10.334 to extend the nonconforming use to a remaining portion of the land.

Conditions:

- 1) *The facility shall be limited to 12 care residents or residents under care; and*
- 2) *The applicant shall provide updated plans to the Planning Department reflecting appropriate setback requirements for the project.*

Technical Advisory Committee

The applicant was before the Technical Advisory Committee at its regularly scheduled meeting of Tuesday, May 7, 2024 and the Committee voted to recommend approval with the following conditions:

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

1. *Applicant shall include a Green Building Statement.*
2. *Applicant shall request a waiver for a bond.*
3. *Applicant shall request a waiver for Site Plan Review agreement.*

The TAC conditions have been satisfied in the Planning Board submittal.

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.*

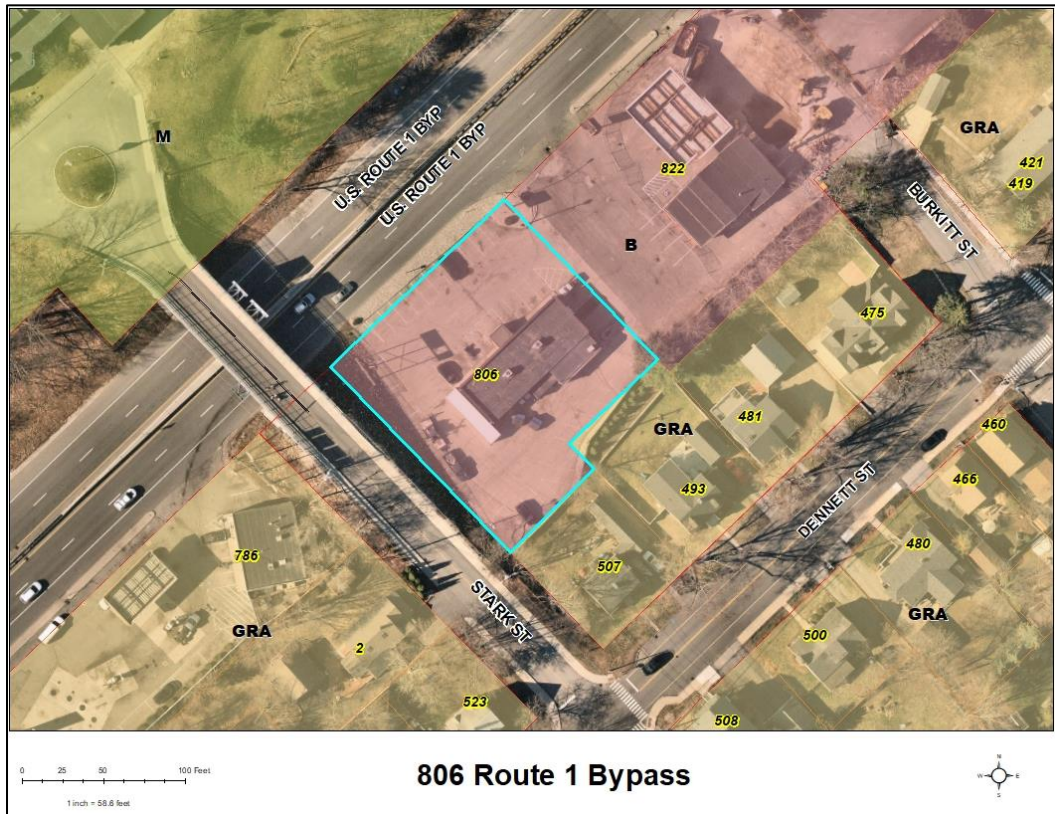
III. PUBLIC HEARINGS – NEW BUSINESS

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 **RIGZ Enterprises LLC**, for property located at **806 US Route 1 Bypass** requesting a second 1-Year Extension of the Site Plan Approval granted on June 23, 2022 and amended site plan approval. (LU-22-81)

Project Background

On June 23, 2022, the Planning Board granted Site Plan approval for the project referenced above. The applicant has yet to obtain a building permit and has requested the one-year extension per Section 2.14 of the Site Plan Regulations below. A one-year extension was granted on June 15, 2023. A second extension requires the applicant to go before the Technical Advisory Committee and Planning Board. At the May Planning Board meeting, Site Plan Approval was granted for the adjacent site at 822 Route 1 Bypass. The drainage design for that project resulted in changes for this property, thus the request for amended site plan approval based on the revised drainage design.



The process for considering a second one-year extension is below from Section 2.14 of the Site Plan Review Regulations. Since this request also includes an amended site plan application, the application was advertised and abutter notifications were sent out for a public hearing.

3. If additional one (1) year extensions are requested, the owner will be required to have the previously approved plans reviewed by the TAC and the Planning Board. For this review the owner shall provide to the Planning Department the previously approved plans and supporting data.
4. Upon review of a request for an extension, the Planning Board shall have the authority to amend or deny a previously approved application. This review shall not require an application fee; however, the Planning Board and/or TAC may, if deemed necessary by either chair, conduct a public hearing at the owner's expense.
5. A time extension shall be granted if determined that no change has taken place that would materially affect the currently approved site plan in regard to:
 - (a) Traffic flow, volume, or congestion;
 - (b) Pedestrian safety;
 - (c) Drainage;
 - (d) Water availability;
 - (e) Sewer capacity;
 - (f) Design standards;
 - (g) Landscape elements; and
 - (h) Zoning compliance.
6. The Planning Board shall not deny a request for an extension without first having held a public hearing.

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, June 4, 2024 and the Committee voted to recommend approval with the following conditions:

1. *Show how you intend to resolve the doctrine of merger issues for drainage and access.*
2. *Drainage easement may need to include a maintenance provision for the Jellyfish.*
3. *Drainage easement to City required for drainpipe crossing the property.*

4. *All sewer connection fees must be paid for sewer connection to Stark Street. This includes the previous cost of installing the connection from the main to the property.*
5. *Existing sewer service to Dennett Street must be disconnected and capped. This may be done behind the curb to not disturb the pavement on Dennett Street.*

The TAC conditions have been satisfied in the Planning Board submittal.

Planning Department Recommendation

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 amended site plan approval and a second one-year extension with the original conditions as approved on June 23, 2022 and the following conditions.*

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:

2.1) *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;*

2.2) *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.*

III. 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 Planning Board will hold a public hearing on the following amendments to Chapter 10, Article 5A - Character-Based Zoning, Section 10.5A43.33 regarding Building and Story Heights of the ZONING ORDINANCE of the City of Portsmouth, pursuant to Section 10.150 of the Zoning Ordinance.

Project Background

See memo from Director Britz and Deputy City Attorney McCourt on the background of this amendment.



CITY OF PORTSMOUTH

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Trevor P. McCourt
Deputy City Attorney

Date: May 30, 2024
To: Karen S. Conard, City Manager
From: Peter Britz, Director of Planning and Sustainability
Trevor P. McCourt, Deputy City Attorney
Re: Agenda Item – Character-Based Zoning Ordinance Clarification

At its August 7, 2023 meeting, the City Council passed several amendments to Chapter 10 – Article 5A – Character-Based Zoning. These amendments were relative to properties at least one acre in size located within CD4, CD4W, and CD5 Character District and not located within an incentive overlay district (“Qualifying Properties”).

In general terms, these amendments provide the Planning Board with the ability to grant a Conditional Use Permit to allow an additional story (up to 15 feet in height), a house or duplex building type, and/or a mixed-use building. A property owner could qualify for this additional story, often called an incentive bonus, if certain criteria are met.

Recently, staff received an inquiry as to whether Qualifying Properties could receive the incentive outlined in this section without providing any housing, workforce or otherwise. In other words, if a property owner submitted an application to develop a Qualifying Property with a mixed-use development without any residential use, could the property owner provide the community space as provided, develop no housing, and receive an additional story through a Conditional Use Permit.

Based upon a strict reading of the ordinance, it appears that a property owner could submit an application providing community space only, and qualify for an additional story as an incentive bonus. This is because the amended ordinance includes the following conditional language: “If multi-family dwelling units are proposed, the development shall have ... workforce housing”. Further, the definition of mixed-use contemplates either “residential and non-residential uses” or “office and retail/service uses.”

Through subsequent discussions, staff questions whether this was the intent of the City Council when it amended the Zoning Ordinance last August. If the City Council intended to permit an additional story in exchange for community space without workforce housing if the development does not have multi-family dwelling units, then it would be appropriate to leave the ordinance as it exists now. However, if the City Council intended to require owners of Qualifying Properties to provide both workforce housing and community space in order to qualify for an additional story, then a Zoning Ordinance amendment would be appropriate.

Attached to this memorandum is a sample amended Zoning Ordinance which would amend the Zoning Ordinance to require owners of Qualifying Properties to provide both community space and workforce housing in order to receive a Conditional Use Permit for an

additional story. If the City Council wishes to pursue this ordinance amendment, the next appropriate step would be a referral to the Planning Board.

Proposed Motion:

A) Take no action;

or

B) Move to refer the attached Zoning Ordinance amendment to the Planning Board for a recommendation at it June 20, 2024 meeting, for a report back at the City Council meeting on July 15, 2024.

Attachments

cc: Valerie French, Deputy City Clerk
Suzanne M. Woodland, Deputy City Manager/Regulatory Counsel/Acting Finance Director
Jessica S. Griffin, Assistant to the City Manager

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 10, Article 5A - Character-Based Zoning, Section 10.5A43.33 regarding Building and Story Heights of the ZONING ORDINANCE of the City of Portsmouth, be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

Section 10.5A43.30: Building and Story Heights

10.5A43.33 For a **development** located within a CD4, CD4W, or CD5 **Character District** that is not located in an incentive overlay district and that contains at least one acre of **lot area**, the Planning Board may grant a conditional use permit to allow an additional **story** in height (up to **15 feet**); ~~for a house or duplex building type; and/or a mixed-use building with a mix of residential and nonresidential uses only,~~ if all of the following requirements are met:

- a) **Community Space** – The **development** shall have at least 50% of the property assigned and improved as a **community space**. Given the large scale of the **development**, the **community space** shall include a Plaza or Square of at least 5,000 sq. ft. per acre, a Pedestrian Passageway, Wide Pedestrian Sidewalk, and or a Pedestrian Arcade, and a Pocket Park, Playground, or Public Observation Deck. Such **community space** shall count toward the required **open space** listed in Figures 10.5A41.10A-D (Development Standards). The size, shape, location and type of the **community space** shall be determined by the Planning Board and be based on the proposed land use and the size and location of the buildings within the development, and the **adjacent uses** and public amenities.
- b) **Workforce Housing** – ~~If multi-family dwelling units are proposed, the~~ **development** shall have either: 1) 10% of any proposed for sale **dwelling units** within a **development** shall be **workforce housing units** (**affordable** to a household with an income of no more than 100 percent of the **area median income** for a **4-person** household); or 2) 5% of any proposed for rent **dwelling units** within a **development** shall be **workforce housing units** (**affordable** to a household with an income of no more than 60 percent of the **area median income** for a **3-person** household). Any **workforce housing units** shall be at least 600 sq. ft. in **gross floor areas** and be distributed throughout the **building** wherever

dwelling units are located.

- c) Calculations for **workforce housing unit** requirements shall be rounded to the nearest whole number, with 0.5 and below being rounded down.
- d) The proposal is consistent with the findings, goals, and objectives of the Portsmouth Master Plan.

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

Below is the Council action from their June 3, 2024 meeting:

14. Character-Based Zoning Ordinance Clarification – **Moved** to refer the attached zoning ordinance amendment to the Planning Board for a recommendation at its June 20, 2024 meeting, and provide a report back at the City Council meeting on July 15, 2024. **Voted** to amend motion to bring back for first reading at July 15, 2024 Council meeting. **Voted** to refer the attached zoning ordinance amendment to the Planning Board for a recommendation at its June 20, 2024 meeting, provide a report back and hold first reading at the July 15, 2024 City Council meeting.

Planning Department Recommendation

1) *Vote to recommend to City Council to approve the zoning amendments as presented and to hold first reading.*

Alternative Motion if amendments are made at the Planning Board meeting:

2) *Vote to recommend to City Council to approve the zoning amendments as amended and to hold first reading.*

V. OTHER BUSINESS

- A.** The request of **ADT 325 Little Harbor Road Trust (Owner)**, for property located at **325 Little Harbor Road** requesting a 1-Year Extension of the Wetland Conditional Use Permit granted on **July 20, 2023**.

Project Background

On July 20, 2023, the Planning Board granted a Wetland CUP and for the replacement of the existing bridge with a timber pile bridge and removal of the existing causeway. The applicant is still working through permitting process with the state and anticipates submitting an amended CUP application as stated in their request.

Section 10.246.10 below allows the applicant to request a one-year extension prior to the expiration of the original approval for the Wetland Conditional Use permit.

10.246 Expiration and Abandonment of Approvals

10.246.10 A conditional use permit shall expire unless a **building permit** is obtained within a period of one year from the date granted, unless otherwise stated in the conditions of approval. The **Board** may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested.

Planning Department Recommendation

- 3)** *Vote to grant a one-year extension to the Planning Board Approval of the Conditional Use Permit to July 20, 2025.*
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- A.** Chairman’s Updates and Discussion Items
- B.** Board Discussion of Regulatory Amendments and Other Matters

VI. ADJOURNMENT