



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: August 15, 2024

Re: Recommendations for the August 15, 2024 Planning Board Meeting

I. APPROVAL OF MINUTES

A. Approval of the July 18, 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 July 18, 2024 meeting and vote to approve meeting minutes with edits if needed.

II. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

A. The request of **Christ Church Parish (Owner)**, for property located at **1035 Lafayette Road** requesting Site Plan Review Approval for construction of a 4-story, 44-unit multi-family residential building and construction of a 7-unit transitional housing addition. The project will include associated site improvements such as parking, pedestrian connections, access to public transportation, utilities, stormwater management, lighting, and landscaping. Said property is located on Assessor Map 246 Lot 1 and lies within the Gateway Center (G2) District. (LU-24-92)

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 – 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.

- A. The request of **Perkins Kwoka Joint Revocable Trust (Owner)**, for property located at **224 Broad Street, Unit 3** is requesting a Wetland Conditional Use Permit from Section 10.1017.50 for the replacement and expansion of an existing 192 s.f. sunroom and the demolition of a 286 s.f. rear deck, with new construction proposed for an addition of 384 s.f. to the existing sunroom, a new 367.5 s.f. rear deck and regrading of a portion of the site for the installation of a retaining wall and underdrain for stormwater control. The applicant is proposing to remove 491 s.f. of existing pavers and asphalt to be replaced with 401 s.f. of new pavers. This proposal includes the removal of the existing lawn to be replaced with a micro-clover seed mix, a planting plan, and a stone drip edge. Said property is located on Assessor Map 131Lot 13-3 and lies within the General Residence A (GRA) District. (LU-23-179)

Background

This application is requesting a Wetland Conditional Use Permit for the replacement and expansion of an existing 192 s.f. sunroom and the demolition of a 286 s.f. rear deck, with new construction proposed for an addition of 384 s.f. to the existing sunroom, a new 367.5 s.f. rear deck and regrading of a portion of the site for the installation of a retaining wall and underdrain for stormwater control. Additionally, the applicant is proposing to remove 491 s.f. of existing pavers and asphalt to be replaced with 401 s.f. of new pavers. This proposal includes the removal of the existing lawn to be replaced with a micro-clover seed mix, an extensive planting plan, and a stone drip edge surrounding the new sunroom and deck.

flooding conditions for the home while directing the flow closer to the wetland with an option for infiltration into the soil.

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

The applicant is proposing to maintain all existing trees and vegetation. In addition, the applicant will be improving the vegetation on site by planting a native micro-clover lawn in addition to planting beds and multiple trees and shrubs.

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

While the applicant is proposing an expansion of the home within the buffer, the expansion is occurring in the direction opposite of the wetland and will be compensated with a reduction in existing impervious. There are plans for overall improvements to the buffer including landscaping and reseeding the lawn with a micro-clover seed mix.

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

The applicant is proposing to stay completely outside of the 25' vegetated buffer.

Project Review, Decisions, and Recommendations

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

Conservation Commission

The applicant was before the Conservation Commission at its regularly scheduled meeting of Wednesday, April 10, 2024 and the Commission voted unanimously to recommend approval as presented.

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 as presented.

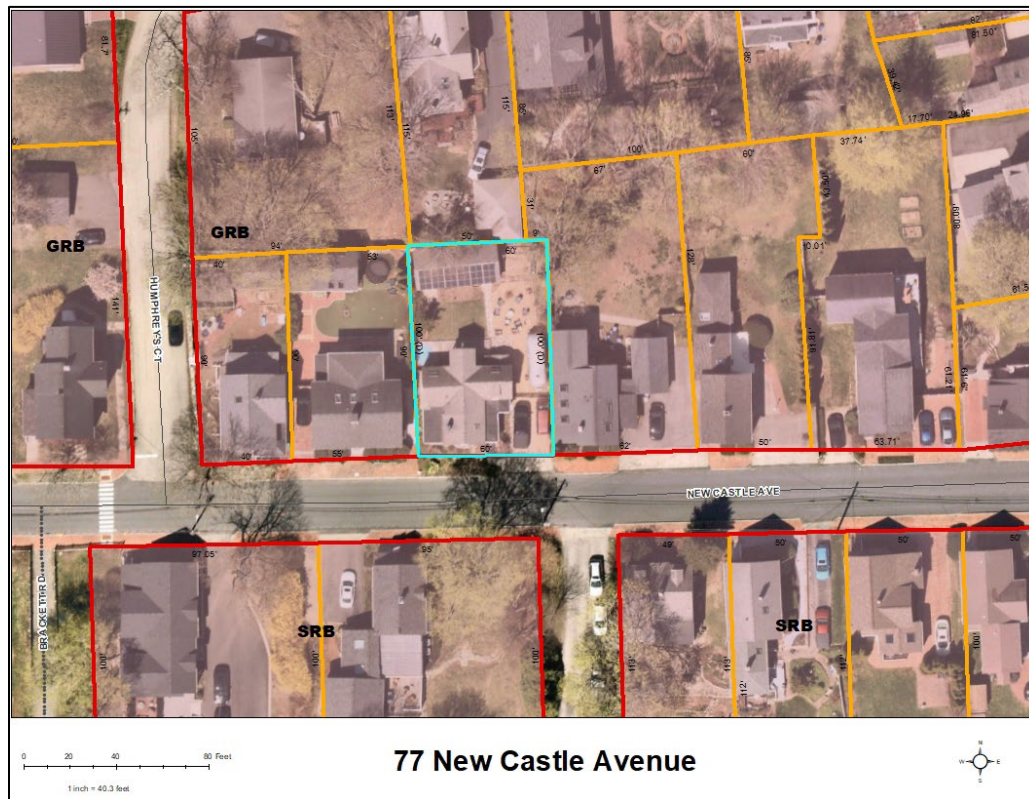
IV. PUBLIC HEARINGS – NEW BUSINESS

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.

- B.** The request of **Elisabeth Blaisdell, Sheppard Houston and Charles Stewart (Owners)**, for property located at **77 New Castle Avenue** requesting a Conditional Use Permit from Section 10.814 for the conversion of an existing accessory structure into a Detached Accessory Dwelling Unit (DADU) that does not conform with the dimensional requirements of the Ordinance. Said property is located on Assessor Map 101 Lot 50 and lies within the General Residence B (GRB) and Historic Districts. (LU-24-126)

Background

This application is proposing to convert an existing accessory structure into a Detached Accessory Dwelling Unit (DADU). There are no changes proposed to the structure, which is currently being used as a home office. The property has ample room for the additional parking space required for the DADU.



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.*

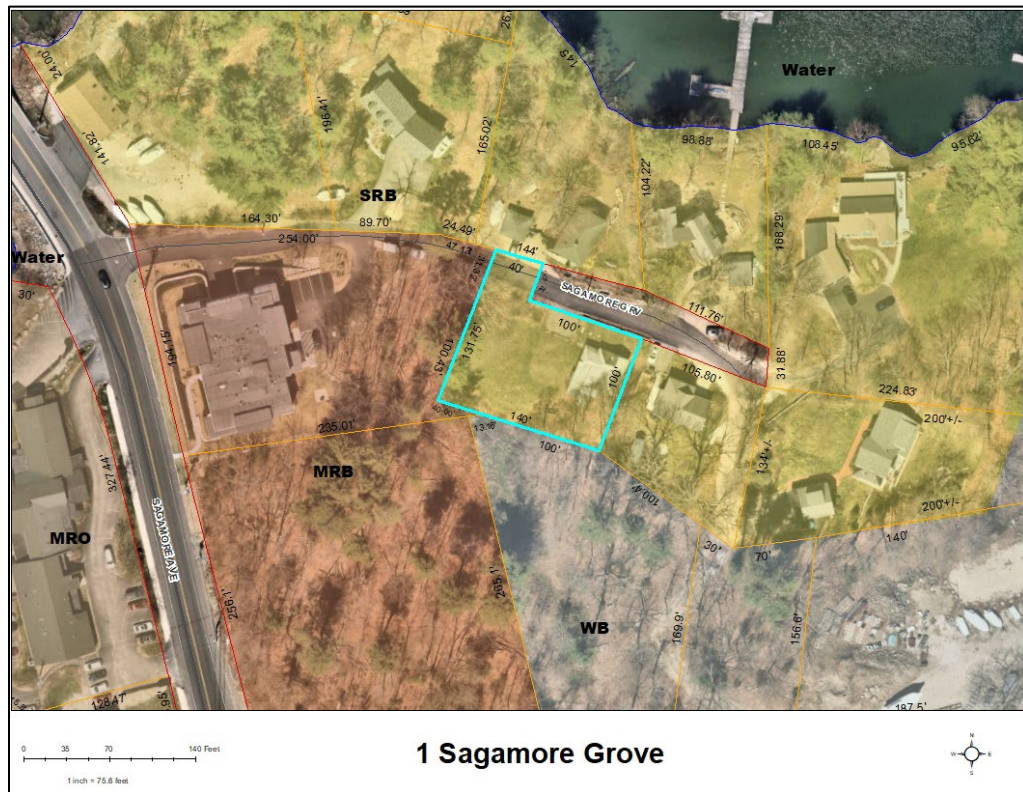
IV. PUBLIC HEARINGS – NEW BUSINESS

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 **Flipping Burger, LLC (Owner)**, for property located at **1 Sagamore Grove** requesting a Wetland Conditional Use Permit from Section 10.1017.50 for the demolition of the existing dwelling and construction of a new single-family dwelling with attached garage, walkway, patio, driveway and the removal of an existing septic tank. The proposed impervious surface within the wetland buffer will be 2,376 s.f. and will be 40' from the wetland edge. The applicant is proposing a permeable driveway, permeable walkway, permeable patio, a stone drip edge, a vegetated swale in the front lawn, the restoration of the 25' vegetated buffer on site and additional wetland buffer plantings. Said property is located on Assessor Map 201 Lot 8 and lies within the Single Residence B (SRB) District. (LU-24-100)

Project Background

This application is for the demolition of an existing 1,056 s.f. single-family home and the construction of a new home, attached garage, walkway, patio, driveway and the removal of an existing buried septic tank. The proposed building coverage is 1,758 s.f. of impact, which would be an increase within the 100' inland wetland buffer. The proposed impervious surface within the wetland buffer is 2,376 s.f. where the existing impervious impacts appear to be approximately 1,616 s.f. The proposed new construction would be approximately 40' from the wetland edge. To mitigate these impacts, the applicant is proposing a permeable driveway, permeable walkway, permeable patio, a stone drip edge along the home, a vegetated swale in the front lawn, the restoration of the 25' vegetated buffer on site and additional wetland buffer plantings.



Staff Analysis – Wetland CUP

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

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

This project proposes an expansion of a previously disturbed area within the wetland buffer with a larger home and attached garage. However, the applicant proposes a complete restoration of the 25’ buffer and controlled infiltration of stormwater where none exist today.

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

Due to the constraints associated with this lot, it is difficult to rebuild this home anywhere else on the property that is further from the inland wetland with less impact in the buffer except for in the front setback.

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

The amount of impervious area will increase within this buffer which will have an adverse impact on the human activity, footprint and stormwater runoff entering this sensitive area. The applicant is proposing mitigation through restoration of the 25’ no cut buffer, plantings, stormwater controls and permeable paths/patios/driveways. The applicant should commit to proper maintenance and long-term care for the 25’ buffer to ensure that future homeowners do not

disturb, cut or mow the area.

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

The applicant intends to increase the building footprint from what currently exists as well as the impervious surface impact within the buffer. The restoration of the 25' vegetated buffer is necessary to protect the freshwater wetland on site and additional plantings should be considered to help offset impacts from the proposed construction.

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

The proposal increases impervious impact to the wetland buffer. The applicant is attempting to offset some impacts with the restoration of the 25' buffer, additional plantings, stormwater controls and pervious materials.

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

The applicant has committed to return this area to a natural state. The applicant should ensure all future property owners are aware of the no-cut conditions to this area.

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, July 10, 2024 and the Commission voted unanimously to recommend approval with the following conditions:

1. The final letter of decision from the Planning Board shall be placed with the deed and recorded at the registry of deeds to ensure that all future property owners are aware of the stipulations associated with this Wetland Conditional Use Permit, if granted.

2. All fertilizers to be used on the property, if any, shall be slow-release fertilizers. This shall be noted on the final plan set.

3. A visual buffer is requested to be placed along the edge of the naturalized restoration area to deter disturbance within the buffer (i.e. boulders, shrubbery). This shall be done in addition to the permanent wetland boundary markers. This shall be shown on the final plan set.

4. The permanent wetland boundary placards located on the plans shall be

relocated to be placed alongside the updated naturalized restoration edge. This shall be shown on the final plan set.

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.

2.2) The final letter of decision from the Planning Board shall be placed with the deed and recorded at the registry of deeds to ensure that all future property owners are aware of the stipulations associated with this Wetland Conditional Use Permit.

2.3) All fertilizers to be used on the property, if any, shall be slow-release fertilizers.

2.4) A visual buffer shall be placed along the edge of the naturalized restoration area to deter disturbance within the buffer (i.e. boulders, shrubbery).

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 **Samuel Holman and Kristina Schneider Holman (Owners)**, for property located at **271 Lafayette Road** requesting a Conditional Use Permit from Section 10.814 for the construction of a new Detached Accessory Dwelling Unit (DADU). Said property is located on Assessor Map 230 Lot 18 and lies within the Single Residence B (SRB) District. (LU-24-138)

Project Background

The applicant is proposing to construct a new garage with a Detached Accessory Dwelling Unit (DADU) on the second floor. There is an existing nonconforming garage on the property that will be demolished and the new garage will conform to the dimensional requirements for a structure within the SRB district. The lot is 19,143 square feet, which exceeds the 15,000 square foot minimum and the lot is 265 feet deep which provides ample space to place the DADU and maintain a large amount of open space on the lot.



Project Review, Decisions, and Recommendations

The applicant is seeking three modifications with this application. Per Section 10.814.63 below, the Planning Board may modify certain standards in this section except for the size and height of the ADU.

10.814.63 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 is seeking a modification from Section 10.814.436 to allow a roof dormer to occupy more than 33% of the roof plane.

10.814.436 The **DADU** may include roof dormers provided they are located outside the required setbacks from all property lines and occupy no greater than 33% of any individual roof plane.

The architecture of the DADA consists of a shed dormer that will occupy 82% of the roof plane. The design of the DADU has a dormer on one side and a gable roof on the other which reduces the gross living area inside due to the ceiling height.

The second modification relates to Section 10.814.434, which limits the footprint of the building containing the DADU to 750 square feet.

10.814.434 The **building footprint** of the **building** containing the **DADU** shall be no greater than 750 sq. ft.

The proposed footprint is 1,106 square feet. The lot exceeds the lot area requirement for the district and the proposed DADU is set back from the principal dwelling 60 feet and approximately 120 feet from Lafayette Road. In addition, the adjacent lot to the north is vacant and the dwelling to the south is located closer to Lafayette Road, where the additional increase in size of the building should not have an impact on abutting properties.

The third modification is from Section 10.814.435 which states gross floor area of the building containing the DADU shall be no greater than 1,600 sq. ft. gross floor area or 75 percent of the gross floor area of the principal dwelling unit, whichever is less.

10.814.435 The **gross floor area** of the **building** containing the **DADU** shall be no greater than 1,600 sq. ft. **gross floor area** or 75 percent of the **gross floor area** of the **principal dwelling unit**, whichever is less.

The gross floor area of the principal dwelling is 2,104 square feet. Under this section, the DADU would be limited to a gross floor area of 1,578 square feet (75% of the principal) since that is less than the 1,600 square feet maximum allowed under this section. The proposed gross floor area is 1,785 or 13% larger than what is allowed. The size of the DADU cannot be modified, and it will remain under 750 square feet but due to the increased footprint requested in the second modification, the gross floor area of the garage exceeds the 1,578 square feet allowed per the Ordinance, thus the requested modification.

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 following modifications:*

2.1) Modification from Section 10.814.434 to allow a building footprint of 1,106 square feet.

2.2) Modification from Section 10.814.435 to allow 1,785 square feet gross floor area for the building containing the DADU.

2.3) Modification from Section 10.814.436 to allow a roof dormer to occupy 82% of the roof plane.

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

3.1) 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.

3.2) 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.

- 3.3) *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.*

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 Matt **Ball** and **Andrea Fershtam (Owners)**, for property located at **252 Wibird Street** requesting a Conditional Use Permit from Section 10.814 for the conversion of an existing accessory structure into a Detached Accessory Dwelling Unit (DADU) that does not conform with the dimensional requirements of the Ordinance. Said property is located on Assessor Map 149 Lot 12 and lies within the General Residence A (GRA) District. (LU-24-137)

Project Background

The applicant is proposing to convert an existing garage into a Detached Accessory Dwelling Unit (DADU). The current structure is nonconforming, as it is located in the side and rear setback. The proposal includes an upward expansion to create a 576 square foot DADU on the second floor. The Ordinance allows for an existing building that does not comply with dimensional requirements to be expanded up to 600 square feet through a Conditional Use Permit. The proposal includes increasing the second story to allow for living space within the existing footprint. Variances were granted for side and rear setbacks for the garage when it was constructed in 2001 to replace an existing non-conforming garage.



Project Review, Decisions, and Recommendations

The applicant is seeking two modifications for the DADU. Per Section 10.814.63 below, the Planning Board may modify certain standards in this section except for the size and height of the ADU.

10.814.63 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 is seeking a modification from Section 10.815.422 to allow a DADU that is located within the side or rear setback to have a window higher than 8' in height to face an adjacent property.

10.815.422 A **DADU** that is within a required **side yard** or **rear yard** setback for the zoning district shall not have any windows, balconies, or doors higher than eight feet above grade facing adjacent property.

There is an existing window facing the rear lot line and it is proposed to be relocated to the center of the wall. The window will be located in the stairwell for the DADU and will not be located within the living space.

Additionally, the applicant is seeking a modification from Section 10.814.436 to allow the roof dormer to occupy more than 33% of the roof plane.

10.814.436 The **DADU** may include roof dormers provided they are located outside the required setbacks from all property lines and occupy no greater than 33% of any individual roof plane.

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 following modifications:*

2.1) *Modification from Section 10.814.422 to allow a DADU that is within the rear yard setback to have a window higher than 8 feet in height above grade facing the adjacent property.*

2.2) *Modification from Section 10.814.436 to allow the roof dormers to occupy more than 33% of the roof plane.*

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

3.1) *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.*

3.2) *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.*

3.3) *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.*

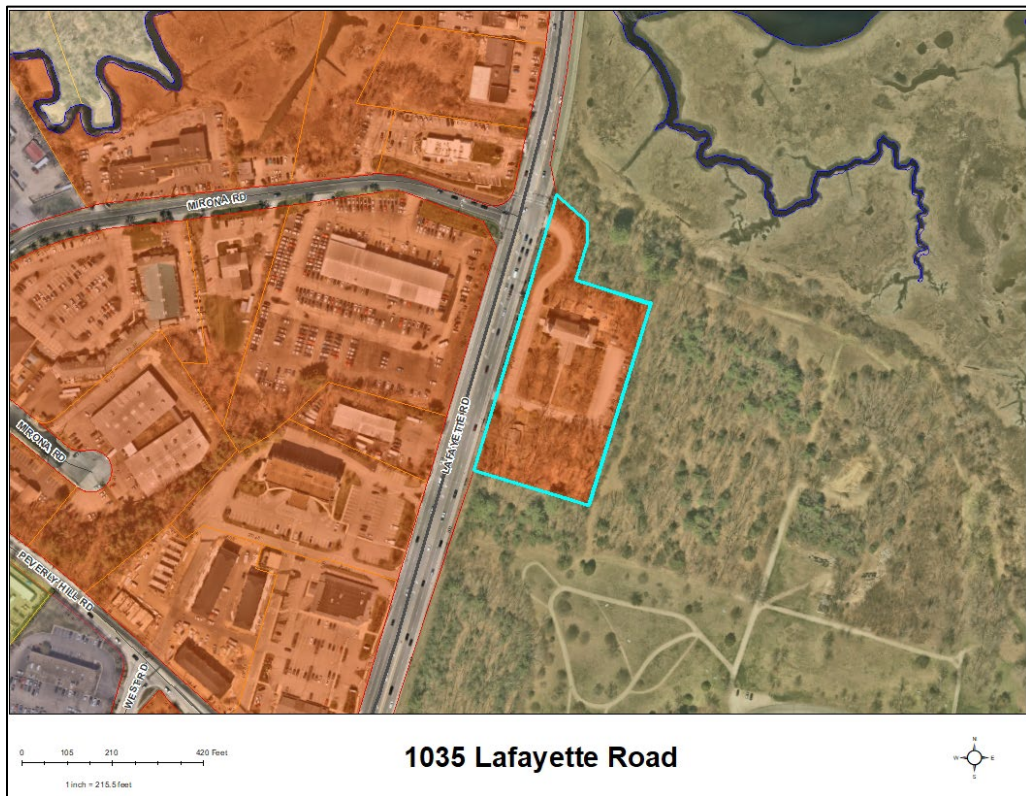
IV. PUBLIC HEARINGS – NEW BUSINESS

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 **Christ Church Parish (Owner)**, for property located at **1035 Lafayette Road** requesting Conditional Use permits from Section 10.5B41.10 for a Development Site, from Section 10.5B72 for density bonus incentive for increased dwelling units per building and a Conditional Use Permit from Section 10.1112.14 to provide less than the required parking and Site Plan Review Approval for construction of a 4-story, 44-unit multi-family residential building to the south of the existing church building, conversion of the first-floor of the existing church into office space and construction of a 7-unit transitional housing addition. The lower level of the existing church will be renovated for the daycare and the church will be relocated to the existing rectory building on the site. The project will include associated site improvements such as parking, pedestrian connections, access to public transportation, utilities, stormwater management, lighting, and landscaping. Said property is located on Assessor Map 246 Lot 1 and lies within the Gateway Center (G2) District. (LU-24-92)

Project Background

The subject property contains a church with detached rectory building and a daycare. The applicant is proposing a mixed-used development site to include a 44-unit residential building, a 7-unit transitional housing addition and offices for HAVEN in the existing church building, expansion of the existing daycare facility and relocation of the church to the rectory building onsite. This property was recently rezoned to Gateway Neighborhood Mixed Use Center (G2) and the proposed development falls under Section 10.5B40 for a development site because there are multiple buildings on the lot which requires a Conditional Use Permit (CUP). In addition, the applicant is seeking a parking CUP for less than the required parking and a CUP for density incentives for units per building.



Project Review, Decisions, and Recommendations

The project is seeking a density incentive to allow 44 units in one building which requires a conditional use permit and 20% of the units must be workforce housing. All of the 44 units will be workforce housing units.

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 a modification to provide 0% community space where 20% is required in the G2 district. The property is uniquely situated, as it is surrounded on three sides by the Urban Forestry Center.

The applicant is also seeking a parking CUP to provide less than the required parking. The development requires 103 off-street parking spaces and the proposal includes 83. The applicant is working with COAST to add a bus stop on-site, which would allow the parking requirement to be reduced by 20% and result in a requirement of 83 spaces per Section 10.5B82.

10.5B82 Number of Required Spaces

10.5B82.10 Uses in the Gateway Neighborhood Mixed Use Districts shall provide **off-street parking** in accordance with Section 10.1112, except as follows:

- a) For **developments** located on a public transit route with year-round, 5-days-per-week, fixed-route service and where at least 50% of the **building(s)** are within ¼ mile of a transit stop, the minimum **off-street parking** required for motor vehicles shall be reduced by 20% of the total required for all **uses**.

The site plan includes a location for a bus stop, but it has not been finalized with COAST yet, therefore the applicant is seeking a CUP to keep the project moving forward. If COAST can accommodate the additional stop at this location, the applicant will be able to take advantage of the 20% reduction and will be compliant with off-street parking.

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, July 2, 2024 and the Committee voted to recommend approval of this application with the following conditions to be completed prior to the submission to the Planning Board:

1. *Applicant shall provide information on the existing and proposed water usage on site.*
2. *Applicant shall update the truck turning template.*
3. *Applicant shall provide a traffic study to be reviewed by DPW.*
4. *Applicant shall adjust the sizes of the fire and domestic service lines.*
5. *Applicant shall identify the sewer connection location.*
6. *Applicant shall confirm stormwater outlet configuration to be reviewed by DPW.*

TAC conditions have been satisfied or included in recommended conditions.

The Planning Department recently became aware of a recorded agreement (Book 2183 Page 0052) that restricts the use of the property “solely for ecclesiastical purposes” and restricts the building of any additional structures on the property. The applicant should be prepared to discuss these encumbrances and how they plan to resolve them in order to proceed with their development.

Planning Department Recommendation

Parking Conditional Use Permit

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.

Density Incentive 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 10.5B41.81 to allow 0% community space where 20% is required.

3) Vote to grant the Conditional Use Permit.

Development Site Conditional Use Permit

1) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.5B43.10 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 10.5B43.10 and to adopt the findings of fact as amended and read into the record.

2) Vote to grant the conditional use permit for a Development Site subject to the requirements and conditions of site plan review 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 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) *Applicant will coordinate with DPW the final sewer connection location on Lafayette Road.*

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:

- 2.5) *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;*
- 2.6) *A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/ Public Works Department.*

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 **Lonza Biologics (Owner)**, for property located at **101 International Drive** requesting Site Plan Approval from the Pease Development Authority (PDA) for the addition of two (2) industrial equalization (EQ) tanks and one (1) pump house located between the EQ Tanks that will include portions of the existing detention basin to be regraded. Installation of a new outlet structure to support the resized detention basin and a stormwater filtration system are proposed with this project. Said property is located on Assessor Map 305 Lot 6 and lies within the Airport Business Commercial (ABC) District. (LU-24-112)

Background

This application is for the addition of industrial equalization tanks and a pump house for the existing Lonza facility. Minor alterations to the stormwater system are proposed due to the location of the tanks and pump house.



Project Review, Discussion, and Recommendations

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

Technical Advisory Committee

The applicant was before TAC for at their regularly scheduled meeting of Tuesday, June 4, 2024 meeting. TAC voted to recommend that the Planning Board recommend approval to the Pease Development Authority with the following conditions:

1. *Clean the drainage swale from Goose Bay to Corporate and on Corporate Drive.*
2. *Show connection of utilities from existing building to new building.*
3. *Applicant confirms that communication has started between the City Engineer and the Industrial Pre-Treatment Coordinator. Confirm that permits have been acquired as necessary.*

The TAC recommended conditions have either been addressed in the Planning Board application or added as recommended conditions below.

The 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.

Planning Department Recommendation

Site Plan Approval

- 1) *Vote to recommend Amended Site Plan Approval to the PDA Board with the following condition:*

- 1.1) *The applicant shall clean the drainage swale from Goose Bay to Corporate and on Corporate Drive.*

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.

- G. The request of **231 Corporate Drive LLC (Owner)**, for property located at **231 Corporate Drive** requesting Site Plan Review Approval from the Pease Development Authority (PDA) for the construction of a 2,340 SF addition for a linear accelerator vault to support the veterinary hospital. The project includes removal of a row of parking which will reduce overall impervious surface impacts within the wetland buffer by approximately 8,801 SF. The project consists of associated site improvements such as lighting, landscaping, and stormwater management that will include stormwater treatment via a Contech Jellyfish unit to treat the proposed pavement section and building addition. Said property is located on Assessor Map 314 Lot 2 and lies within the Airport Business Commercial (ABC) District. (LU-24-114)

Background

This application is proposing site plan changes that consist of a 2,340 square foot addition for a linear accelerator to treat patients. The project includes removing a row of parking that is currently in the buffer and adding enhanced stormwater treatment features.



Project Review, Discussion, and Recommendations

The project was before the Board of Adjustment (BOA) and Technical Advisory Committee (TAC). See below for details.

Board of Adjustment

The applicant was before the BOA at their regularly scheduled meeting of Tuesday, July 16, 2024. The applicant was seeking relief to add a fenced area between the building and the front lot line which required the following:

- 1) Variance from Section 305.02(a) of the Pease Development Ordinance for an accessory use located in the front yard and;*
- 2) from Section 304.04(c) of the Pease Development Ordinance for being located within 70 feet of the front lot line.*

The Board voted to recommend approval to the PDA Board as presented.

Technical Advisory Committee

The applicant was before TAC for at their regularly scheduled meeting of Tuesday, June 4, 2024. TAC voted to recommend that the Planning Board recommend approval to the Pease Development Authority with the following conditions to be completed prior to the submission to the Planning Board:

- 1. The door off of the new addition should be tied into the surrounding sidewalk.*
- 2. PSMH 01 should be cut in and not a doghouse manhole.*
- 3. Sewer service from new addition should be 6".*
- 4. State sizes of existing fire and domestic water services.*
- 5. All proposed lighting shall be Dark Sky compliant.*

All of the conditions above have been satisfied in the Planning Board submission.

The 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.

Planning Department Recommendation

Site Plan Approval

- 1) Vote to recommend Amended Site Plan Approval to the PDA Board.*

V. PRELIMINARY CONCEPTUAL CONSULTATION AND DESIGN REVIEW

- A. The request of **Wenberry Associates LLC (Owners), and One Market Square (Applicant)**, for property located at **21 Congress Street, 1 Congress Street, and 15 Congress Street**. The project is a combination of the previously approved project located at 1 Congress Street and property located at 15 Congress Street. The proposal includes a lot line adjustment with the City, merging the subject lots into one, and re-developing the combined lot as a Mixed Use Building. Said properties are located on Assessor Map 117 Lot 12, Map 117 Lot 14 and lies within the Character District 5 (CD-5) District. (LUPD-24-6)

The applicant has provided a set of preliminary plans for discussion with the Board. As authorized by NH [RSA 676:4,II](#), the Site Plan Regulations require preliminary conceptual consultation for certain proposals, including (1) the construction of 30,000 sq. ft. or more gross floor area, (2) the creation of 20 or more dwelling units, or (3) the construction of more than one principal structure on a lot. Preliminary conceptual consultation precedes review by the Technical Advisory Committee. Preliminary consultation is not required for this application, however the applicant wanted to get feedback from the Board prior to submitting a formal TAC application for site plan and subdivision approval.

Preliminary conceptual consultation is described in the state statute as follows: *[Preliminary conceptual consultation] ... shall be directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the board and statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken. The board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan.*

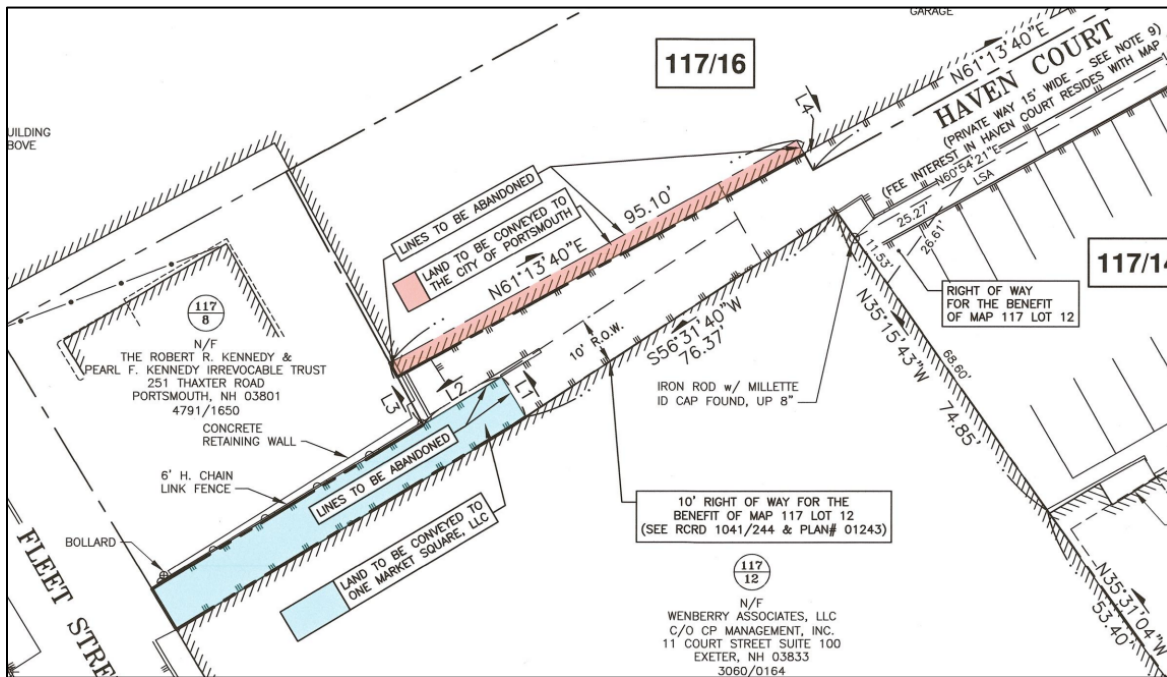
The preliminary conceptual consultation phase provides the Planning Board with an opportunity to review the outlines of a proposed project before it gets to detailed design (and before the applicant refines the plan as a result of review by the Technical Advisory Committee and public comment at TAC hearings). In order to maximize the value of this phase, Board members are encouraged to engage in dialogue with the proponent to offer suggestions and to raise any concerns so that they may be addressed in a formal application. Preliminary conceptual consultation does not involve a public hearing, and no vote is taken by the Board on the proposal at this stage. Unlike Design Review, completion of Preliminary Conceptual Consultation does not vest the project to the current zoning.

VI. CITY COUNCIL REFERRALS [NOTE: ANY REFERRALS REQUIRING PUBLIC HEARING SHOULD BE INCLUDED ABOVE]

A. Letter from Mark McNabb, One Market Square, LLC - Haven Court Changes
At their June 17, 2024 meeting, the City Council voted to send the requested land transfer to the Planning Board for a report back. As described in the letter from Mark McNabb, the proposal is to transfer land that the Hanover garage is encroaching on to the City, and for the City to transfer the end of Haven Court to One Market Square, LLC. The Council is looking for a recommendation back from the Planning Board on the proposed transfer. It is important to note that this land swap, in and of itself, is standalone and not required for any development.

Council Action June 17, 2024:

21. Letter from Mark McNabb, One Market Square, LLC regarding Haven Court Changes – Voted refer the letter from One Market Square, LLC dated June 11, 2024 and the proposed land transfers described in that letter to the Planning Board for a report back.



Planning Department Recommendation

- 1) Vote to recommend to City Council to move forward with the land transfer.


B. Letter from residents of Islington Creek regarding property at 361 Hanover Street

At their August 5, 2024 meeting, the City Council voted to refer the attached letter from the Islington Creek neighborhood regarding the zoning for 361 Hanover Street. See action below:

18. Letter from residents of Islington Creek regarding zoning of 361 Hanover Street – Voted to refer to the Planning Board for review and recommendation for the consideration of a zoning change.

Background

On January 23, 2020, the Planning Board held a public hearing on zoning amendments related to properties along Hanover, Foundry Place, and Bridge Street. Below is a memo from the former Planning Director for that meeting.



CITY OF PORTSMOUTH
PLANNING DEPARTMENT

MEMORANDUM

To: Planning Board
From: Juliet T.H. Walker, Planning Director *JTW*
Jillian Harris, Planner 1
Subject: Staff Recommendations for the January 23, 2020 Planning Board Meeting
Date: 01/17/20

I. PUBLIC HEARING – ZONING AMENDMENT

A. Proposed Zoning Ordinance Amendments to Article 4 and the Zoning Map for certain properties located along **Hanover Street and Foundry Place** to modify the location and boundaries of the North End Incentive Overlay District and the Downtown Overlay District, modify Building Height area requirements, and re-zone from Character District 5 to Character District 4 and Character District 4-L1. Properties directly impacted by these proposed amendments are 361 Hanover Street (Tax Map 138, Lot 63), 89-99 Foundry Place (Tax Map 138, Lot 62), 126 Bridge Street (Tax Map 125, Lot 16), 66 Rock Street (Tax Map 138, Lot 61) and Foundry Place property at Tax Map 125, Lot 17-1. Amendments are also proposed to Article 5A Incentive Overlay District requirements to require granting of a conditional use permit by the Planning Board.

Description
The owner of 361 Hanover Street (current Heinemann Property) previously submitted a request supporting zoning amendments related to the property. The request was to remove a portion of 361 Hanover Street from the Downtown Overlay District boundary to add a maximum building height of 4 stories (50') for properties located along Foundry Place.

The Planning Board held a public hearing on these proposed changes on August 22, 2019. At that time, the Board voted to refer the proposed zoning back to the Planning Department to review the potential impact on surrounding properties of the proposed increase in allowed building height and to also consider some of the feedback received from neighbors who spoke at the public hearing.

Following the public hearing, Planning staff have had follow-up conversations with some of the residents of the surrounding neighborhood who have prepared a list of additional amendments for consideration. A copy of their requests (dated 12/3/2019) is included in the Planning Board packet.

The proposed amendments advertised for this meeting include some additional revisions that address some (but not all) of the concerns raised by the neighborhood residents. Specifically, down-zoning the property fronting on Hanover Street from CD5 to CD4-L1 and down-zoning the properties on the southeast side of Foundry Place to CD4. In addition, the proposed height area for Foundry Place has been reduced to 3 stories (40')

Planning Dept. Staff Recommendations for the January 23, 2020 Planning Board Meeting

and the maximum height along Hill Street is proposed to be reduced from 4 stories (50') to 3 stories (40').

Another amendment proposed is to require that the additional height and building coverage allowed in the Incentive Overlay Districts be subject to a conditional use permit by the Planning Board. This would allow the Planning Board to evaluate each project on its merits to determine if the application of the additional incentives is appropriate for the location and whether the benefits to the community are adequate.

The Planning staff will make a presentation at the meeting to provide more detail on the proposed amendments.

At the conclusion of the public hearing, the Planning Board voted to schedule a public meeting and work session to discuss further revisions. That meeting was scheduled for March 26, 2020, however due to the pandemic, it was cancelled and never rescheduled.

Some changes have been adopted through other zoning amendments, including changing the height for properties along Foundry Place (October 2022) and requiring a Conditional Use Permit for all incentives in the overlay districts (August 2023).

Below are three options for the Planning Board to consider:

Planning Department Recommendation

- 1) *Vote to place the correspondence on file and recommend the Council do the same.*
- 2) *Vote to schedule a public hearing.*
- 3) *Vote to schedule a work session to discuss potential zoning amendments.*

VII. OTHER BUSINESS

A. 1 Raynes Avenue - requesting a 1-Year extension to the Site Plan Review, Parking and Wetland Conditional Use approvals set to expire on September 15, 2024.

Project Background

On December 16, 2021, the Planning Board granted Site Plan approval, a Parking Conditional Use Permit and a Wetland Conditional Use Permit for the project referenced above. The Planning Board decision was appealed to Superior Court. During an appeal of a land use board the original approval is stayed pending the result of the appeal. The final order was issued on September 15, 2023 at which time the approval clock begins for the project. The applicant has yet to obtain a building permit and has requested the one-year extension of the approvals.

Planning Department Recommendation

1) *Vote to grant a one-year extension of the Planning Board Approval of the Site Plan and Conditional Use Permits to September 15, 2025.*

B. 53 Green Street – requesting a 1-Year extension to the Site Plan and Wetland Conditional Use Permit approvals; and a second 6-month extension to the Subdivision approval set to expire on September 29, 2024.

Project Background

On July 15, 2021, the Planning Board granted Site Plan and Subdivision approval and a Wetland CUP for the project referenced above. The Planning Board decision was appealed to Superior Court. During an appeal of a land use board, the appeal period the original approval is stayed pending the result of the appeal. The final order was issued on September 29, 2023 at which time the one-year time period begins to obtain a building permit. The applicant is working on the post approval conditions but has yet to obtain a building permit and has requested the one-year extension of the approvals.

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.

Section 2.14 of the Site Plan regulations allows for an extension:

<p>Section 2.14 Approval Expiration and Extension</p> <ol style="list-style-type: none">1. Site plan approval by the Planning Board shall expire unless used (obtain a Building Permit) within a period of one (1) year from the date granted.2. The Planning Board may, for good cause shown, extend such period by as much as one (1) year if requested and acted upon prior to the expiration date.
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Section 10.246.10 of the Zoning Ordinance allows for a one-time one-year extension of the CUP:

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.

The Subdivision Ordinance allows for 2 six-month extensions of the subdivision approval. The Planning Director issued the first six-month extension and the applicant is requesting the second one from the Planning Board.

E. Approval Expiration and Extension

1. All stipulations of subdivision approval, including recording of the plat as required by the Planning Department, shall be completed within 6 months of the date of approval by the Planning Board.
2. The Planning Director may grant an extension of up to 6 months if he determines that the applicant has been unable to complete a stipulation due to circumstances beyond the applicant's control.
3. The applicant may apply to the Planning Board for an extension of the time for completion, which shall not exceed 18 months from the original date of Planning Board approval of the subdivision.

Planning Department Recommendation

- 2) *Vote to grant a one-year extension to the Planning Board Approval of the Site Plan and Conditional Use permit to September 29, 2025 and a second six-month extension for the Subdivision to March 29, 2025.*

2) Chairman's Updates and Discussion Items

3) Board Discussion of Regulatory Amendments and Other Matters

VIII. ADJOURNMENT