

## PLANNING DEPARTMENT MEMORANDUM

**TO: PLANNING BOARD**

**FROM: RICK TAINTOR, PLANNING DIRECTOR  
JESSA BERNA, ASSOCIATE PLANNER**

**DATE: JUNE 17, 2015**

**SUBJECT: JUNE 18, 2015 PLANNING BOARD MEETING**

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### II. 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 application of **North End Properties, LLC, Owner, and Deer Street Development Company, Inc., doing business in NH as Harborcorp of Portsmouth, Applicant**, for property located on **Russell Street, Deer Street and Maplewood Avenue**, requesting Site Plan Approval for a proposed 5-story mixed use development with a footprint of 72,600 ± s.f. and gross floor area of 352,736 ± s.f., including a hotel/event center with 24,000 s.f. of event center space and 97 hotel rooms, 23 residential condominiums, a 44,169 s.f. of retail, and 523 parking spaces (382 spaces in a garage structure and 141 below-grade spaces serving the retail use); with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 125 as Lot 21, Assessor Map 118 as Lot 28 and Assessor Map 124 as Lot 12, Assessor Map 119 as Lot 1-1A, Assessor Map 119 as Lot 1-1C and Assessor Map 119 as Lot 4 and lies within the Central Business B (CBB) District, the Downtown Overlay District (DOD) and the Historic District. (This application was postponed at the April 16, 2015 Planning Board Meeting.)

**Staff Report:** This application is for redevelopment of the existing Sheraton Hotel parking lot into a mixed-use development including a hotel, conference center, condominiums, retail spaces, and a parking garage. The tract to be developed consists of three parcels totaling 85,650 sq. ft. (1.97 acres), and is bounded by Green Street, Russell Street, Deer Street, Maplewood Avenue, and the railroad right-of-way. The applicant also owns a parcel on the opposite side of Green Street, along Russell and Market Streets, containing 9,765 sq. ft. (0.22 acres), which will be landscaped as part of this development project.

The proposed development will have three site entrances providing access to two separate parking areas. A 141-space underground parking garage will be accessed from Russell Street, Deer Street and Maplewood Avenue and will primarily serve a grocery store (Whole Foods Market). An additional 382 spaces in the above-grade parking structure will be accessed only from the Russell Street entrance and will serve the hotel, conference center and condominiums as well as replacing existing spaces for the Sheraton Harborside Hotel and the Market Landing condominiums on Deer Street. Vehicles will also be able to access the upper garage from the lower garage by means of the Russell Street entrance, which allows for overflow if the underground garage is filled. Both garages will also be available for public parking.

#### Required Actions by the Historic District Commission

The proposed development project requires two separate approvals from the Historic District Commission: a Certificate of Approval for development within the Historic District, and a conditional use permit for building height in the Central Business B district. At its meeting on June 10, 2015, the Historic District Commission voted to grant both approvals. The conditional use permit was granted subject to a number of stipulations, including the following:<sup>1</sup>

##### North End Plaza

- This plaza shall be owned and maintained by the City, except that Applicant shall, at the request of the City, maintain all landscaping it installs.
- The plaza is subject to the City Council granting any necessary approvals and/or easements for this plaza.
- Applicant may apply to the City Council for the necessary licenses, easements and approvals to operate a café/restaurant which shall be open to the public and located adjacent to its building on this plaza.
- The Applicant will provide \$50,000 toward installation of a public artwork, preferably 3-dimensional.
- The Applicant shall donate land from the Sheraton Hotel property in order to relocate and realign the Russell Street intersection.

##### Rooftop Garden and Park

- At least 50% of this approximately 8,000 sq. ft. rooftop garden shall be open to the public from at least 9 a.m. to 9 p.m. daily. This area will be the area closest to the public entrance to the Rooftop Garden and Park off Deer Street.
- This garden and park shall be constructed by Applicant at its expense and owned and maintained by the Applicant.

##### Fuel Efficiency

- Charging stations will be included in the garage as well as parking for carpooling, vanpooling and fuel-efficient vehicles as determined by the Planning Board.

##### Bicycle Transportation

- Bicycle parking and storage areas shall be provided within the building and along the sidewalk and plaza areas.

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<sup>1</sup> This list is paraphrased from the HDC's letter of decision for the conditional use permit. Excluded from this list are (a) stipulations pertaining solely to building design and (b) stipulations referenced to site plan elements that the HDC stipulated to be provided "as determined by the Planning Board."

Bus and Truck Parking

- Two bus parking spaces shall be provided on Russell Street as shown.
- All deliveries and loading areas shall be located mid-block along the rear of the building and include screening elements as determined by the Planning Board.

Traffic Calming

- The Applicant shall contribute land and \$25,000 toward the proposed roundabout located along the Russell and Market Street intersection.

Sidewalks

- All proposed sidewalks shall be constructed of brick.
- Except for a very small section along Maplewood Ave. and the service entrance driveway, all sidewalks shall range from 8 to 50 feet in width as determined by the Planning Board.

Green Street Plaza

- The hardscape and landscaping of this plaza shall be constructed by Applicant at its sole expense but owned and maintained by the City, except that Applicant shall, at the request of the City, maintain all landscaping it installs,
- The plaza is subject to the City Council granting any necessary approvals and/ or easements for this plaza.
- Applicant may apply to the City Council for the necessary licenses, easements and approvals to operate a café/restaurant which shall be open to the public and located adjacent to its building on this plaza.

Russell Street Pocket Park

- This park shall be constructed, owned and maintained by Applicant at its sole expense and open to the public at all hours, except that the City shall own and maintain the sidewalk in this park.

Vaughan Street Pocket Park

- This park shall be constructed by the Applicant at its sole expense but owned and maintained by the City, except that Applicant shall, at the request of the City, maintain all landscaping it installs.
- This park is subject to the City Council granting any necessary approvals and/or easements.

Brick Sidewalks

- The proposed brick sidewalks shall be constructed at Applicant's sole expense but owned and maintained by the City, except that Applicant shall, at the request of the City, maintain all landscaping it installs, all subject to the City Council granting any necessary approvals and easements for these sidewalks.

Deer Street Passageway

- The passageway shall be constructed and maintained by the Applicant at its sole expense.

Building Scaling Elements - The construction drawings shall be in substantial compliance with the following scaling elements:

- Reduced Building Coverage – The proposed site plan shows a building footprint of approximately 77,000 sq. ft. which represents 90% coverage or a 5% reduction from the maximum permitted coverage.
- Reduced Building Volume – The proposed building volume excluding the underground parking area is approximately 3.5 million cubic feet, representing a 30% reduction from the maximum volume permitted by coverage and height requirements.
- Building Height – Under the definition of building height in the Zoning Ordinance, the average height of the proposed building is approximately 57.2 feet. Measuring from the higher roof structure, most segments of the building are between 53-60 feet in height.
- Perceived Building Height – Due to the use of scaling elements such as stepbacks and sloped roofs, the average perceived height at the sidewalk is approximately 49 feet, or 15% lower than the average building height. The average perceived height is further reduced to 46 feet when only the portions of the façade are considered that are located along a public sidewalk.
- Building Design Elements – Of the twenty separate building façade segments, the percentage of the segments using each of the following scaling elements is as follows: increased setbacks (100%); stepbacks (65%); pitched roofs (58%); brick pilasters or firewalls (60%); horizontal or cornice banding (85%); awnings, brackets, dormers or roof canopies (90%); varied window patterns or openings (100%); and projecting signs and lighting (50%).

#### Old North Cemetery

- The Applicant shall make a financial contribution of \$20,000 to support efforts to preserve and repair the stone retaining wall at the historic Old North Cemetery.

#### Archeological Resources

- The Applicant shall commission an archaeological study of the project area with Kathleen Wheeler of Independent Archaeological Consulting, and shall exhibit any significant archaeological findings in the publicly accessible common areas within the hotel/conference center.

#### City Council Licenses, Easements and Approvals

- The project elements relating to the Russell Street intersection realignment, the North End and the Green Street Plazas as well as for cafes and restaurants are mandatory.
- Should the City Council not grant any easement or approval necessary to provide any public project element listed above other than the two plazas, cafes and restaurants, then the Applicant shall be relieved of the requirement to provide such element.
- All other project elements shall be in substantial compliance with the proposed design submitted as presented.

#### Program or Design Changes

- Any subsequent design change to the exterior of the building from the approved plans, elevations or details shall be reviewed by the Planning Director. The Director shall determine whether the proposed change is in substantial compliance with the approved plans, elevations or details. Any change determined not to be in substantial compliance with the approved plans, elevations or details shall require an amendment to the CUP.

Required Actions by the City Council

Approvals from the City Council will be required for several land transfers, easements and licenses that are necessary to implement the site plan. These are shown on Sheets C-2.3 (Land Transfer and Easement Plan) and C-2.3A (License and Permit Plan) and include the following:

From the Property Owner to the City

- Land and temporary construction easements at the intersection of Market and Russell Streets for road widening, including construction of a roundabout.

From the Sheraton Harborside Hotel parcel to the City

- Land (and possibly temporary construction easements) at the intersection of Market and Russell Streets for construction of a roundabout.
- Land at the intersection of Deer and Russell Streets for intersection realignment.
- Easements for a street lighting control cabinet on Russell Street and for a sidewalk widening at the intersection of Deer Street and Maplewood Avenue.

From the City to the Property Owner

- Easements at the intersection of Russell and Green Streets for stairs and/or exterior facilities.
- Easements along Green, Russell and Deer Streets and Maplewood Avenue for foundation construction, stairs and building overhangs/canopies.
- Licenses along Green, Russell and Deer Streets for commercial activities (such as outdoor dining areas).
- Temporary construction licenses along Green, Russell and Deer Streets and Maplewood Avenue.

(A previously identified easement across Russell Street for an aerial connector between the proposed hotel and the existing Sheraton Harborside Hotel will not be required if the project is approved without the “sky bridge,” as now proposed.)

City Council approval will also be required for changes to the on-street parking spaces on Russell and Deer Streets.

TAC Review and Recommendation

The Technical Advisory Committee reviewed this application in a work session on March 25, 2014, and in seven meetings (public hearings) on April 1, June 3, September 30, November 4, and December 30, 2014, and February 4 and March 4, 2015.

TAC’s review of this application was supplemented by independent engineering reviews of the project’s traffic and parking impacts and the stormwater and drainage analysis. These peer reviews were conducted for the City by TEC, Inc., and included document review, supplemental analysis, and meetings with Planning and DPW staff. The applicant’s documentation submitted with the site plans includes responses to TEC’s comments on traffic and parking and on stormwater management.

At its meeting on March 4, 2015, the Committee voted to recommend approval of the application subject to a number of stipulations relating to (a) information shown on the plans; (b) additional information regarding parking, traffic and snow removal; (c) recording of plans; and (d) off-site traffic mitigation. The applicant has been addressing these stipulations through the Planning Board's public hearing process over the past three months; and the plan revisions and additional information have been reviewed by Planning and Public Works staff and by the City's independent review engineer, TEC, Inc.

#### Reviews by Other Advisory Committees

The Trees and Public Greenery Committee reviewed the proposed development at its meeting on February 11, 2015. Members suggested several changes regarding proposed tree species, locations and planting details.

The Parking and Traffic Safety Committee reviewed the application at its meetings on March 5 and 12, 2015. At the March 12 meeting, the Committee voted to approve the parking and traffic changes proposed by the applicant with the stipulations recommended by the Technical Advisory Committee, subject to approvals by the Planning Board and City Council.

#### Planning Board Review Procedure

This project first came to the Planning Board in March, and has so far followed the schedule below:

- March 26: Presentation and review of site/civil aspects of the proposed development.
- April 16: Presentation and review of traffic impacts and parking management strategies;  
Presentation and review of the application for a conditional use permit for building height.
- May 21: Presentation and review of additional information requested by the Planning Board.  
Planning Board comments to the HDC on the application for a conditional use permit.

#### Revisions to the Plan Set

On June 9, 2015, the applicant submitted a revised plan set with a number of changes, outlined in their letter. A significant change from all previous plans for this project is the proposal to eliminate the pedestrian "sky bridge" over Russell Street connecting the new hotel/conference center to the Sheraton Harborside Hotel. The new site plan set includes two versions of 32 plan sheets, with one version labeled "(S)" (for "Sky Bridge") and the other labeled "(NS)" (for "No Sky Bridge"). At the Historic District Commission meeting on June 10, 2015, the applicant requested approval of the project without the sky bridge and the HDC granted that approval. Therefore, the applicant is now requesting that the Planning Board grant site plan approval for the project without the sky bridge, i.e., as represented on the site plan sheets labeled "(NS)".

The revised plans are still being reviewed by staff of the Planning and Public Works Departments and by TEC, Inc. In a letter dated June 17, 2015, Kevin Dandrade of TEC submitted several conditions that he recommends being included in as stipulations of site plan approval. Additional recommendations and stipulations may be presented at the Planning Board meeting based on further review.

**Recommendation:** Vote to grant site plan approval subject to the stipulations included in the letter from TEC, Inc., dated June 17, 2015, and to the following stipulations:

Plan Set: The approved site plan consists of 65 drawings submitted on June 9, 2015, including the 32 sheets designated “(NS)” and not including the 32 sheets designated “(S)”.

Conditions Precedent (to be completed prior to the issuance of a building permit):

1. The following plans shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department:
  - Sheet C-2.3 – Land Transfer and Easement Plan
  - Sheet C-2.4 – Lot Consolidation Plan
  - Sheet C-3.0 – Site Layout Plan
  - Sheet L-1.0 – Landscape Plan
2. All land transfers and easements shall be executed and recorded in the Rockingham Registry of Deeds.
3. The applicant shall make the following monetary contributions for off-site traffic mitigation as stated in the “Response to TEC Traffic & Parking Engineering Peer Review Comments” letter dated February 17, 2015:
  - (a) A \$50,000 fair share contribution for improvements to the intersection of Market Street and Russell Street (which shall be in addition to the required land transfers and easements as shown on the site plan).
  - (b) A \$25,000 fair share contribution for future improvements at the Maplewood Avenue railroad crossing.
4. The applicant shall make the following monetary contributions for community benefits as stated in the Historic District Commission’s decision approving a Conditional Use Permit for increased building height:
  - (a) A \$50,000 contribution for artwork to be installed in the public plaza at the intersection of Deer and Russell Streets
  - (b) A \$20,000 contribution for (cemetery wall)
5. The applicant shall provide a traffic signal design plan for the intersection of Maplewood Avenue and Deer Street and coordination timing plan for the Maplewood Avenue system for DPW review and approval.

Conditions Subsequent (to be completed prior to the final release of site plan security):

1. The applicant shall be responsible for a post-occupancy analysis of traffic, intersections, and traffic signal operations, to be conducted after one year of full operations, including each of the signalized intersections on Maplewood Avenue.
  2. The applicant shall conduct a post-occupancy review at the intersection of Deer and Russell Streets and monitor the traffic conditions for one year after the full operation of the project to determine if the intersection should be migrated to an all-way stop condition.
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B. The application of **Moray, LLC, Owner**, for property located at **235 Commerce Way**, and **215 Commerce Way, LLC, Owner**, for property located at **215 Commerce Way**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested between two lots which are currently shown on Assessor Map 216 as Lots 1-8A and 1-8B and Assessor Map 213 as Lot 11. The applicant proposes to merge Map 216 Lot 1-8A and Lot 1-8B into Map 216 Lot 1-8A, and to revise the lot line between Map 216 Lot 1-8A and Map 213 as Lot 11 as follows:

- a. Map 216 Lot 1-8A (136,490 s.f.) merged with Lot 1-8B (196,876 s.f.) increasing in area from a total of 333,366 s.f. to 384,402 s.f. with continuous street frontage on Portsmouth Boulevard and Commerce Way.
- b. Map 213 Lot 11 decreasing in area from 290,077 s.f. to 239,040 s.f. with continuous street frontage on Portsmouth Boulevard and Dunlin Way.

Said lots lie within an Office Research (OR) District which requires a minimum lot size of 3 acres and 300 ft. of continuous street frontage. (This application was postponed at the March 19, 2015 Planning Board Meeting.)

**Staff Report:** This application is to consolidate the lot at 235 Commerce Way with the adjoining lot at 215 Commerce Way, in order to eliminate internal setback requirements and to provide for a common parking and circulation plan. The subdivision plan also includes revising the lot line with the adjacent parcel on Portsmouth Boulevard. Because TAC has not completed its review of the related site plan review application (item C below), it is appropriate to postpone consideration of the subdivision application to the Planning Board's July meeting. In addition, a zoning issue relating to the proposed lot consolidation has recently been identified, and the applicant is reviewing how best to resolve this issue.

**Recommendation:** Vote to postpone consideration of the application for subdivision approval to the Planning Board meeting on July 16, 2015.

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C. The application of **Moray, LLC, Owner**, for property located at **235 Commerce Way**, and **215 Commerce Way, LLC, Owner**, for property located at **215 Commerce Way**, requesting Site Plan Approval for a proposed 4-story office building with a footprint of 28,125 ± s.f. and gross floor area of 112,500 ± s.f., and 640 parking spaces serving the proposed building and an adjacent existing office building (including a parking deck with 161 spaces below grade), with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 216 as Lots 1-8A and 1-8B and lies within the Office Research (OR) District. (This application was postponed at the March 19, 2015 Planning Board Meeting.)

**Staff Report:** The proposed project is a four-story office building at the intersection of Commerce Way and Portsmouth Boulevard, including a below-ground garage providing a portion of the required off-street parking. This application was postponed at the Technical Advisory Committee meetings on December 2 and December 30, 2014, and February 3, March 3, March 19, April 30 and June 2, 2015, and will be considered again at the TAC meeting on June 30, 2015. Because TAC has not completed its review of the application, it is appropriate to postpone consideration to the Planning Board's July meeting.

**Recommendation:** Vote to postpone consideration of the application for site plan approval to the Planning Board meeting on July 16, 2015.



### 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. Proposal to amend the Zoning Ordinance and Zoning Map to implement Character-Based Zoning in the North End, to revise various provisions of Article 5A – Character Districts, and to make conforming amendments to other sections of the Zoning Ordinance. (This matter was referred to the Planning Board by the City Council on April 20, 2015.)

**Staff Report:** In April 2014 the City Council voted to adopt a new set of form-based zoning provisions which are referred to in Portsmouth as “character-based zoning.” This was done by inserting a new Article 5A titled “Character Districts” in the Ordinance, and by rezoning the core of the Central Business District from the existing districts (CBB, CBA and MRO) to three new Character Districts (CD5, CD4 and CD4-L), along with overlays regulating building height, façade types, and special use regulations. In May 2014, the Council voted to direct staff to expand the character-based zoning approach to the North End and the Islington Street Corridor (i.e., the West End). To implement this project, the Planning Department once again contracted with Town Planning and Urban Design Collaborative (TPUDC), the consulting firm that assisted in drafting regulations for the original Character Districts.

As the first step in this process, the Planning Department held a community design charrette for the North End in November 2104, similar to the first charrette that took place in June 2013. Over the course of four days, Brian Wright and his team from TPUDC held a series of meetings and discussions in which residents and business owners helped create a Vision Plan for the North End. The Vision Plan was published on the Planning Department website (<http://planportsmouth.com>) and Facebook page (<https://www.facebook.com/planportsmouth>) and was made available for review over a period of approximately six weeks. In mid-January the Planning Department published a revised Vision Plan, incorporating comments submitted by residents during this review period.

Since then, the Planning Department staff has been working with TPUDC to extend the existing Character-Based Zoning to the North End, based on the results of the charrette and the Vision Plan. This has included defining a fourth Character District (CD4-L2), and establishing incentives for developers to provide additional open space and/or workforce housing units.

At the same time, staff has undertaken a thorough review of the ordinance adopted in April 2014 and drafted proposed revisions to address identified substantive and procedural issues. Many of these issues resulted from the way in which TPUDC’s regulatory model was overlaid on top of the City’s established structure of zoning, site plan review and subdivision review. The proposed revisions are intended to eliminate redundancies and conflicts, and to better integrate the development review process in the Character Districts into the City’s regular regulatory framework. These changes include:

- Eliminating the requirement for an additional land use application, referred to as a “development plan” in the existing zoning.

- Eliminating the associated “development plan” requirements and review procedure, and adding requirements to the site plan application to ensure zoning compliance.
- Streamlining the “definition” section in Article 5A by removing repetition and conflicts with Article 15.
- Making the terminology in Article 5A consistent with the rest of the Zoning Ordinance. For example, using the term “yard” in Article 5A rather than “setback” when appropriate.
- Redefining terminology for clarity and consistency. For example, “civic space” is now “community space” to avoid confusion with “civic districts”

The proposed zoning amendments are contained in three documents:

- (1) a proposed revision to Article 5A – Character Districts;
- (2) a set of four maps showing the expanded Character-Based Zoning Area, proposed districts for the North End, and some minor revisions to the zoning in the original study area; and
- (3) a document titled “Conforming Amendments to Zoning Ordinance”.

The proposed changes extend Character-Based Zoning north of Deer Street, and further west down Hanover Street. In this latest revision, a new Character District has been added, CD4-L2. The dimensional standards are the same as CD4-L (now called CD4-L1), but limited retail and restaurant uses are allowed in CD4-L2. The core of the North End, confined by Deer Street, Maplewood Avenue, Raynes Avenue and Market Street is all CD5, the densest district, allowing the widest range of uses. There is a section of CD4 closer to North Mill Pond, and CD4-L1 on the other side of Maplewood Avenue. Across the bridge, a mix of CD4-L1 and CD4-L2 surrounds the Maplewood/Dennett intersection.

The Building Height Standards Map designates the greatest allowable height in the interior of the North End, with 5 stories or 65’ allowed at the corner of Vaughan Street and Green Street, tapering down to 2 stories or 35’ along North Mill Pond.

The Building Height Standards Map also includes a new “Density Bonus Area” where increased height would be allowed in exchange for the provision of workforce housing or community space, pursuant to Section 10.5A43.32 in the proposed Ordinance. This area includes the area bounded by Deer Street, Russell Street, North Mill Pond and Maplewood Avenue, as well as the property at the corner of Deer Street and Bridge Street that contains the site of the proposed Deer Street parking garage.

At its meeting on April 20, 2015, the City Council voted to schedule first reading on the proposed Zoning Map and Zoning Ordinance amendments for its meeting on June 1, 2015, and to refer the proposed amendments to the Planning Board for recommendations.

On May 5, 2015, the Planning Board held an information session about the proposed amendments in the Levenson Room of the Portsmouth Public Library.

Subsequent to the drafting of the proposed zoning amendments and the public information session, it became apparent that further revisions would be needed to address the public-private development project currently being planned on and around the Gary’s Beverage parcel at the corner of Deer and Bridge Streets. This project envisions the construction of a new public street, construction of a public

parking garage, and the redevelopment of two adjacent private parcels. Additional changes that are being developed include:

- Replace the maximum lot width with a maximum “building block length” in all CD districts;
- Add a maximum “building entrance spacing” in all CD districts;
- Add a maximum “building façade modulation” length in the CD4-L and CD4 districts;
- Exempt “parking structures and associated liner buildings” from the maximum building footprint in the CD4 and CD5 districts;
- Revise the standards and procedures for the “Increased Building Height Area” (Sec. 10.5A43.32);
- Revise the standards for parking structures (Sec. 10.5A44.35)

These changes are still in the process of being drafted and are therefore not reflected in the proposed amendments that were sent to the Planning Board last month and that are currently posted on the Planning Department website.

**Recommendation:** Vote to recommend that the City Council enact the proposed amendments to the Zoning Map and the Zoning Ordinance, including amendments to be presented at the June 18 meeting.

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B. The application of **Micronics, Inc., Owner, and City of Portsmouth, Applicant**, for property located at **200 West Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within an inland wetland and wetland buffer to provide drainage improvements to convey the stormwater by replacing the undersized 30” culvert with two 30” culverts and dredging a portion of the wetland to convey the flows, with 3,900 ± s.f. of impact to the wetland buffer and 4,600 ± s.f. of impact to the wetland. Said property is shown on Assessor Plan 267 as Lot 22 and lies within the Industrial (I) District.

**Staff Report:** The proposal is to restore the drainage from West Road and prevent roadway and property flooding. The project area has been used for stormwater drainage since construction of West Road in the 1980s. The drainage way has not been adequately maintained and as a result this project is necessary and reasonable to achieve more appropriate drainage.

In order to be granted a Conditional Use Permit for work within the wetland buffer, the applicant must satisfy the criteria for approval set forth in Section 10.1017.50 of the Zoning Ordinance, as follows:

1. The land is reasonably suited to the use, activity or alteration.
2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.
3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.
4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.
5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of the wetlands protection provisions of the Ordinance.

The goal of this project is to reduce flooding on surrounding properties and the roadway. The principal functions of this wetland are sediment/toxicant/pathogen retention. Construction of this project is in keeping with restoring and enhancing those functions through the use of an updated engineered system.

The Conservation Commission considered this application at its meeting on June 10, 2015, and voted unanimously to recommend approval as requested.

**Recommendation:** Vote to approve the Conditional Use Permit as requested.

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C. The request of **Portsmouth Land Acquisitions, LLC, Owner**, for property located at **428 U.S. Route 1 Bypass, property off Cate Street and 55 Cate Street**, for Design Review under the Site Plan Review Regulations, for a proposed mixed use development consisting of 288 dwelling units and 40,000 s.f. of commercial space in 3 buildings, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor Map 172 as Lot 1, Map 173 as Lot 2, Map 165 as Lot 2, and Map 163 as Lots 33, 34 and 37, and lie within the Industrial (I) District, the Office Research (OR) District, and the Municipal (M) District.

**Staff Report:** Portsmouth Land Acquisitions has submitted a request for design review under the Site Plan Review Regulations for a mixed-use development. The proposed development consists of the construction of two new five-story buildings containing 288 dwelling units with ground-floor parking and commercial space, and the conversion of the existing Frank Jones Center to approximately 30,000 sq. ft. of retail space. The project also includes the construction of a public road connecting Cate Street to the Route One Bypass, including an upgrade to the existing signalized intersection at Borthwick Avenue.

#### Zoning Status

The site is currently in the Industrial zoning district, in which residential and retail uses are not permitted, and the proposed development requires a land exchange with the City to assemble a larger contiguous parcel and realign Cate Street. Therefore, the applicant's site plan is contingent on several actions by the City Council and Zoning Board of Adjustment:

1. Amendment of the Zoning Map to rezone the proposed site from Office Research and Municipal to Gateway, as recommended by the Planning Board at its April 30 meeting;
2. Amendment of the Zoning Ordinance to authorize the Planning Board to modify specific zoning standards applicable to a Gateway Planned Development (including development intensity and dimensional standards, and building design standards) when necessary to provide a workforce housing component;
3. Authorization by the City Council of the land exchanges to create the consolidated parcel shown on the plan;
4. Granting of a variance to allow residential uses to occupy 85 percent of the floor area of the development, versus the 70 percent maximum for a Gateway Planned Development.

At its meeting on June 15, 2015, the City Council postponed third reading on the amendments to the Zoning Map and Zoning Ordinance (items 1 and 2 above) to its next meeting on July 13, 2015. This action was taken because several councilors raised concerns about the timing of the proposed rezoning with respect to the ongoing character-based zoning process for the Islington Street Corridor/West End.

If all the above actions are taken, the proposed development will also require four separate land use approvals by the Planning Board:

1. Subdivision approval;
2. Conditional use permit for a Gateway Planned Development;
3. Conditional use permit for work within the wetland buffer; and
4. Site plan approval.

Additional variances or special exceptions may be required, depending on the final site plan and the City Council's actions with respect to the proposed Zoning Ordinance amendments.

### Vesting

A notice of public hearing for design review "vests" the project shown in the request from any changes in land use regulations that would make the project less conforming to zoning. As a result, previous requests for design review have been motivated in large part by the applicants' desire to protect a proposed site plan from future amendments to the Zoning Ordinance.

In this case, the proposed site plan is not permitted by the existing Industrial zoning and assumes that the City will amend both the Zoning Map and the Zoning Ordinance as the applicant has requested. Key elements of the proposed development that require zoning map and/or ordinance amendments include the residential and retail uses, the residential density, the size of the buildings, and the location of the parking areas on the site. Because the proposed project is not allowed by the site's existing zoning, it will not be vested by the design review process. Unless the Zoning Map and Zoning Ordinance are amended to permit the development as shown, the project will not be able to proceed without the granting of numerous variances and waivers.

### Design Review Purpose and Scope

Under the State statute, the Design Review phase is an opportunity for the Board to discuss the approach to a project before it is fully designed, and before a formal application for Site Plan Review is submitted. While the Design Review phase is nonbinding on both the applicant and the Planning Board, the intent of this phase is for the Board to provide guidance to the applicant in preparing the application for Site Plan Review.

In the context of subdivision and site plan review "design review" 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.

In carrying out the Design Review phase, the Planning Board may consider questions such as the following, which are based on the Purpose section of the Site Plan Review Regulations:

1. Will the proposed project further the safe and orderly development of the City?
2. Will the project design support long-term economic vitality and ecologic integrity?
3. Will the project design conserve and protect natural resource systems, help to reduce infrastructure cost, and/or conserve energy?
4. Will the project design adequately manage stormwater runoff and protect water quality?
5. Will abutters be protected against hazards, unsightliness and nuisances?
6. Is the project appropriate to the available public and private services and facilities?
7. Will the project safely accommodate pedestrian, bicycle and vehicular circulation?
8. Will the project preserve and enhance the City's historic and cultural character?

The Board may also consider how the proposed site plan responds to the objectives and standards set forth for various site elements in the Site Plan Review Regulations.

**Recommendations:**

- A. Identify potential issues or concerns to provide guidance to the applicant for his future applications for subdivision, conditional use permits and site plan approval.
- B. Vote to determine that the design review process for this application has ended.

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D. The application of **Chinburg Developers, LLC, Owner**, for property located at **1163 Sagamore Avenue**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer for demolition of an existing clubhouse and construction of 11 residential units including a private access drive, stormwater/drainage structures and sewer upgrade along Sagamore Avenue, with 9,682  $\pm$  s.f. of total impact to the wetland buffer (7,295  $\pm$  of impact for on-site improvements, 649  $\pm$  for off-site stormwater/drainage structures and 1,738  $\pm$  for off-site sewer improvements along Sagamore Avenue). Said property is shown on Assessor Plan 224 as Lot 17 and lies within the Mixed Residential Office (MRO) District.

**Staff Report:** This application is for work within the tidal and inland wetland buffers adjacent to Sagamore Creek, in connection with the development of 11 single-family dwellings on the parcel currently occupied by the Moose Lodge. The subject parcel is separated from Sagamore Creek by a strip of land owned by the City of Portsmouth, which is the southern portion of the Sagamore Headlands parcel. As a result, the rear property line of the Moose Lodge parcel is roughly coincident with the 100 foot wetland buffer. The shoreline to the south of that is owned by a private property owner in Tucker's Cove.

The applicant proposes to demolish the existing 7,300 sq. ft. building on the site and construct 11 dwelling units. In order to achieve this density, the applicant has designed the development as a condominium project, rather than a subdivision which would not achieve the same number of units.

As a result, the access to the homes is proposed to be via a private driveway from Sagamore Avenue rather than a public street.

The applicant proposes grading and the installation of two rip rap areas on the City's property to dissipate the energy from overflow water from the storm water system on their property. These areas are in the wetland buffer but are not included in the conditional use permit application. Any work in the buffer must be included in the application, and the City must sign on as a co-applicant for any such work on the City-owned parcel. That signature has not yet been obtained, and the applicant is also in the process of revising the plan to reduce the extent of work needed on the City parcel.

The Conservation Commission considered this application at its meeting on June 10, 2015, and voted to postpone consideration to the Commission meeting on July 8, 2015.

**Recommendation:** Vote to postpone consideration of the application to the Planning Board meeting on July 16, 2015.

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E. The application of **Hillcrest at Portsmouth, LLC, Owner**, for property located at **3201 Lafayette Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within an inland wetland to install five new manufactured homes at the following addresses: 429 Striped Bass Avenue (with proposed garage and paved driveway expansion), 229 Mackerel Avenue (with proposed shed and paved driveway expansion), 150 Codfish Corner Road (with proposed garage and paved driveway expansion), 180 Codfish Corner Road (with proposed garage, proposed shed and paved driveway expansion), 171 Codfish Corner Road (with proposed shed and paved driveway expansion), with 25,038 ± s.f. of total impact to the wetland. Said property is shown on Assessor Plan 291 as Lot 7 and lies within the Gateway (G), Garden Apartment/Mobile Home (GA/MH) and Rural (R) Districts.

**Staff Report:** This project is to install five new manufactured homes in the Hillcrest Estates manufactured housing park, on sites where five manufactured homes have previously been removed, with a total wetland buffer impact of 25,038 square feet. The applicant has grouped together applications for five homesites within the park in order to avoid having to submit separate applications for each site.

#### Conditional Use Permit Analysis

In order to be granted a Conditional Use Permit for work within the wetland buffer, the applicant must satisfy the criteria for approval set forth in Section 10.1017.50 of the Zoning Ordinance, as follows:

1. The land is reasonably suited to the use, activity or alteration.
2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.
3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.
4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.

5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of the wetlands protection provisions of the Ordinance.

The following table summarizes the proposed increases in impervious surface and the area of temporary buffer disturbance as presented by the applicant.

Unit # and Street	Impervious Surface (sq. ft.)				Temporary Buffer Disturbance (sq. ft.)
	Existing	Proposed	Increase	% Increase	
429 Striped Bass Ave	1,158	3,154	1,996	63%	4,594
229 Mackerel Ave	2,117	2,719	602	22%	3,452
150 Codfish Corner	549	734	185	25%	5,420
180 Codfish Corner	2,140	3,766	1,626	43%	3,063
171 Codfish Corner	1,962	3,102	1,140	37%	3,432
Total	7,926	13,475	5,549	41%	19,961

While there are some similarities among the five sites, the impacts for each home are unique and need to be considered individually.

- 429 Striped Bass Avenue has the largest impact in terms of additional impervious surface. The proposal is to replace the previous unit with a larger unit, a new two-car garage and much larger paved surface. Some plantings have been provided to offset the buffer impacts. The increase in impervious surface will result in a much greater amount of stormwater leaving the site into the surrounding wetland and making its way to Berry's Brook. While an expansion to the home is reasonable, the degree of expansion proposed here will have uncertain impacts to the adjacent wetland system. An expanded home without an expanded driveway or new garage would reduce the impacts to a more reasonable level.
- 229 Mackerel Avenue proposes a 22% increase in impervious surface area to allow for a larger unit. It is not clear why the pavement must be extended to the entryway of the home. A development with a porous pathway and/or much smaller walkway to the entrance would reduce the impacts even further on this site.
- 150 Codfish Corner Road proposes a larger home and a garage and new pavement leading up to the garage. This site is able to keep the garage and new pavement out of the buffer and results in a 25% increase in impervious area. The site calls for a great deal of grading in the rear with no details. More information and details about this grading needs to be provided on this and every site.
- 180 Codfish Corner Road proposes a 43% increase in impervious surface. This is another site with a larger home and a new two-car garage and associated paving to get to the garage. There is no justification provided for the garage and this high percentage of increase in impervious surface will have cumulative detrimental impact on the surrounding wetlands.
- 171 Codfish Corner Road has a larger home and a greatly expanded paved area. The amount of paving appears to be beyond what is needed for two cars and is not clearly justified on the plan. In addition a very large shed is proposed within 20 feet of the wetland. It appears that a smaller shed could be placed further from the wetland on this site.



In addition to the specific comments above there are some overall concerns with the proposed development. There is no clear definition of the extent of the temporary disturbance. No information is provided about the volume of new fill, the size and number of trees to be removed in the buffer and the final proposed elevation of the homes. All of this information would be beneficial in reviewing this application. Staff believes the expansions proposed for 429 Striped Bass Avenue and 180 and 171 Codfish Corner Road are not reasonable given the amount of new impervious surface proposed.

The existing home sites are being used as the limiting factor for where new homes can go. While this is the preference for the owner of the park it is possible that the same number of homes could be configured through a master planning process with the net result being a site with fewer impacts in the buffer. Given the potential for large cumulative impacts if each home is expanded as proposed staff recommends a more comprehensive site plan approach to managing the wetland buffers on the site. In the case of 429 Striped Bass and 180 Codfish Corner, a larger home with no garage would clearly reduce the buffer impacts to a more reasonable level and in the case of 171 Codfish Corner Road the buffer impacts would be greatly reduced if the amount of pavement were reduced.

This site all drains into the Berry's Brook wetland system. This is one of the largest and most high value wetland systems in the City. In fact, the units at 429 Striped Bass Avenue and 171 Codfish Corner Road are within the State's Prime wetland buffer and will most likely require a State Wetland Permit for the proposed expansion. Given the amount of increase in impervious surface more stormwater will make its way to Berry's Brook wetland system which will mean transport of pollutants and other water quality impacts. Overall the total increase in impervious surface could have a cumulative adverse impact on that wetland system. The applicant is proposing plantings which could help to filter some of the new stormwater but a more comprehensive approach is warranted given the likelihood of more expansion of this nature throughout the park within the wetland buffer.

The impacts from the larger project will have an impact to the natural vegetative state. In an effort to keep sap off the proposed homes, quite a few (not clearly listed in application) established large trees will be cleared to install the proposed homes. These can be replanted but the amount of space available for trees is being limited due to the increased sizes of the proposed homes and homesites.

Based on the above review and analysis, the Planning Department staff recommended that the Conservation Commission vote to recommend denial of the application as provided, or to work on an amended plan which either reduces the impacts on a number of the units (in particular, reductions in the amount of impervious surface for the units at 429 Striped Bass and 180, and 171 Codfish Corner), or includes a more comprehensive approach to wetlands protection in the park. Given the large size of this property, the nature of the previously filled land and the proximity to the Berry's Brook wetland system, a comprehensive plan for wetlands protection is warranted on this site and may provide a path forward to the park owner with the flexibility needed to conduct the expansion proposed.

The Conservation Commission considered this application at its meeting on June 10, 2015, and voted (7-0) to recommend approval of the application with the following two stipulations:

1. The applicant shall include in the Site Plan a comprehensive water resource management plan (pavers, drainage, drip edge) as well as invasive management to include potential restriction of further future development in the wetland buffer proximal to the Berry Brook Watershed.

2. The applicant shall install pervious pavers on all walkways.

### Zoning and Site Plan Issues

The City has been working with the owner of the park to rectify pre-existing issues relating to zoning and permitting. These issues have arisen over many years, and result from the fact that the park was originally permitted under the City's Mobile Home Ordinance (City Ordinances, Chapter 13), not the Zoning Ordinance. The Mobile Home Ordinance specifically describes a "mobile home" as a vehicle with a running motor, licensed to operate on public streets and highways, and thus was designed to allow what we would today call an RV park. Over the years, the park evolved into an area for permanent structures that are not self-propelled, and various expansions were permitted without reference to the Mobile Home Ordinance or the approved site plans.

To reflect the actual development of this and other parks in the City, the Zoning Ordinance was amended at some point in the past to include a "Garden Apartment/Mobile Home" district and definitions of "mobile home" and "mobile home park" as follows:

Mobile Home – A movable or portable dwelling over 32 feet in length and over 8 feet wide, constructed to be transported on its own chassis and designed without a permanent foundation, whether or not a permanent foundation is subsequently provided, which includes one or more components that can be retracted for transporting purposes and subsequently expanded for additional capacity; or, two or more units separately transportable, but designed to be joined into one integral unit, as well as a portable dwelling composed of a single unit. All mobile homes shall comply with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.

Mobile Home Park – A single lot containing more than one mobile home with or without an internal road system or amenities.

When the Zoning Ordinance was amended in 2009, the term "mobile home" was replaced with the more accurate term "manufactured housing" and the definition was revised to follow the State statute regarding manufactured housing, as follows:

Manufactured housing – Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein. Manufactured housing does not include housing built in conformance with the United States Department of Housing and Urban Development minimum property standards or the IBC.

Manufactured housing park – A single lot containing more than one manufactured housing unit, with or without an internal road system or amenities.

A significant zoning issue with Hillcrest Estates is that the park was developed in a drained wetland with a dense network of swales. As a result, most of the housing sites within the park are located in wetland buffer areas. The Zoning Ordinance allows expansions of existing one-family and two-family dwellings in the wetland buffer without requiring a conditional use permit where the total footprint of the structure does not increase by more than 25 percent and where the addition or extension is no closer to the wetland than the existing structure. This provision only applies to expansions of existing structures and does not exempt replacement structures from the conditional use permit requirement. However, the Planning Department has long had a policy of treating the replacement of a manufactured housing unit similar to the construction of an addition – that is, a conditional use permit has not been required for a replacement unit that is not more than 25% larger than the existing unit and is no closer to the jurisdictional wetland area. This policy has worked for a number of years, but in recent years there has been increased intensity of development due to (1) replacement of smaller units with larger ones and (2) the addition of decks and garages.

Following a meeting on October 2, 2014, the City Attorney and the owner executed a letter agreement on October 3, 2014, outlining the approach moving forward from that date with respect to permitting of new dwelling units. The agreement provides as follows:

1. The City will issue the two [then] pending building permits for which applications have been filed as long as the garages which they seek to build are to be built in accordance with all applicable building codes.
2. Hillcrest Estates (Hillcrest) will proceed expeditiously to prepare, submit and seek approval of a new site plan showing the existing site layout of Hillcrest as well as whatever planned future development Hillcrest might desire.
3. Subsequent to the approval of a new site plan for Hillcrest, all future development will be in accordance with the approved site plan until such site plan might be amended by the City's Planning Board.
4. Hillcrest will comply with whatever final determination is reached by the Planning Board.
5. During the pendency of the process described in this proposal the City will continue to issue building permits to Hillcrest for structures which comply with applicable building codes, subject to Planning Department review and approval of individual site plans submitted for each permit application so long as the following milestones are kept by Hillcrest:
  - a. Within one week of the execution of this agreement, Hillcrest will identify the engineering consultant who will perform the work in accordance with it.
  - b. By the close of business on Friday, December 5, 2014, Hillcrest will have filed its application for site plan approval with the City's Planning Department.
  - c. After filing that application Hillcrest will appear at the next regularly scheduled meeting of the City's Technical Advisory Committee to commence the formal approval process with respect to that site plan approval application.
  - d. Hillcrest shall continue to proceed expeditiously through the Planning Board site review process.

Hillcrest did not file an application for site plan approval by the December 5, 2014 deadline stated in the agreement. Therefore, it would be inappropriate at this time for the Planning Board to approve any conditional use permit for development on this parcel.

A second meeting was held on December 3, 2014, between the park owner and representatives of the Legal, Planning and Inspections Departments. The purpose of this meeting was to discuss regulatory amendments that could be made to better regulate development and expansions within the park, including revised standards for dwelling unit density, minimum separation between units, and expansions within the wetland buffer. It was agreed that the City and the park owner would work on revisions to the Zoning Ordinance which could replace the non-zoning Mobile Home Ordinance and recognize changes in both the Hillcrest Estates park and the national regulatory framework governing manufactured housing.

A third meeting between the park owner and representatives of the Legal and Planning Departments was held on May 20, 2015. At that meeting, the City Attorney reiterated the need for the park owner to submit a site plan review application to the Planning Board as called for in the October 2014 agreement, and again stated that the City will not issue further permits for either new units or expansion of existing units until the site plan has been approved by the Planning Board.

A fourth meeting was held on June 12, 2015, between the park owner and the Planning Department. The owner asked for advice on how to prepare the site plan given the many unknowns about which of the existing units might become available for replacement and which tenants might want to expand their units or add a deck or garage. An approach to defining potential total buildout and potential total wetland buffer impact was suggested by Planning staff. This approach was subsequently discussed with the owner's engineering consultant in a phone call on June 15, 2015.

The Legal, Planning and Inspections Departments would like these issues to be resolved in a way that will provide realistic standards and a predictable process for allow both the park owner and park residents to upgrade units while protecting the environment and public health and safety. However, we have consistently held that permits may not be granted for replacement units or expansions until the existing zoning and site plan issues have been resolved. We do not know at this time whether the site plan that is ultimately approved by the Planning Board will be consistent with the five pending applications for conditional use permits. Therefore, we recommend that these conditional use permit applications should be postponed until they can be reviewed in concert with the site plan review application.

**Recommendation:** Vote to postpone consideration of the application until the applicant submits an accompanying site plan for approval in accordance with the agreement executed with the City on October 3, 2014.

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F. The application of **Eversource (formerly Public Service Company of New Hampshire), Owner**, for property located on **Borthwick Avenue, 445 Route 1 By-Pass, and Barberry Lane; Northern Utilities, Inc., Owner**, for property located at **139 Barberry Lane; HCA Health Services of NH, Inc., Owner**, for property located on **Borthwick Avenue; and the City of Portsmouth, Owner**, for property located on **Borthwick Avenue**, requesting an amendment to a previously approved Conditional Use Permit approved by the Planning Board on November 20, 2014 under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer to (1) construct a 10,000 ± s.f., 10' x 10', gravel switch yard with associated equipment and structures, 8' chain-link fence, gravel access way, retaining wall and paved driveway apron and (2) install a 2,250 ± linear foot 115 kV transmission line with a 90' wide path. Said amendment requests the installation of an additional 25' tall riser pole and a separate fourth underground conduit to be used for emergency back-up, with 10 ± s.f. of additional permanent impact to the inland wetland buffer. Said properties are shown on Assessor Plan 234 as Lots 1, 2, 3, 7-4A, 7-7, and 7-3 and lie within the Office Research (OR) District and Municipal (M) District.

**Staff Report:** This project is to complete a minor amendment to a Conditional Use Permit approved at the November 25, 2015 Planning Board Meeting. The proposal is to modify a large utility project previously approved with a new impact of 10 square feet of wetland buffer.

In order to be granted a Conditional Use Permit for work within the wetland buffer, the applicant must satisfy the criteria for approval set forth in Section 10.1017.50 of the Zoning Ordinance, as follows:

1. The land is reasonably suited to the use, activity or alteration.
2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.
3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.
4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.
5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of the wetlands protection provisions of the Ordinance.

This is a highly technical engineered project and the addition of the proposed equipment is necessary to assure optimal functionality of the newly installed equipment. Given the small size of the proposed amendment this is a reasonably and feasible request.

This project will create a small additional impact in the wetland buffer but will not have an adverse impact to the wetland functional values of the site or surrounding properties, and will not create an impact to the natural vegetative state beyond achieving the construction goals.

The Conservation Commission considered this application at its meeting on June 10, 2015, and voted to recommend approval as requested.

**Recommendation:** Vote to grant approval of the amended Conditional Use Permit as requested.

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G. The application of **Lonza Biologics, Applicant**, for property located at **101 International Drive**, requesting Site Plan Approval for the expansion of the existing facility including exterior improvements that include a mezzanine with cooling towers, concrete pads for four transformers, one generator and one future generator, one control house, one nitrogen tank, one compactor pad, electric duct bank and two electric manholes, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 305 as Lot 6 and lies within the Pease Airport Business & Commercial (ABC) District.

**Staff Report:** This application is for site plan approval under the Pease Development Authority's land use regulations to expand the Lonza Biologics' existing facility. Due to the complexity of ongoing projects on this site, the site plan includes elements that were required under previous approvals and are now proposed to be further deferred until completion of the current proposed expansion in 2017. The PDA staff have indicated that they have no objection to this approach.

The Technical Advisory Committee reviewed this application at its meeting on June 2, 2015, and voted to recommend approval with the following stipulations:

1. The plunge pool shall be cleaned immediately and erosion control shall be installed so that no further sediment goes into the system.
2. As part of the items to be completed by 2017, the swale on the side of Goose Bay Drive shall be engineered to be an appropriate width based on the flow that goes into it. It is the responsibility of Lonza to apply for this permit and construct the improvements to the satisfaction of the City of Portsmouth.
3. All plan modifications shall be submitted to DPW for review prior to the Planning Board meeting.

On June 9, 2015, the applicant submitted a revised plan set incorporating TAC stipulations #1 and #2 (see Sheet C-3B, notes 14 and 15). On June 10, 2015, David Desfosses of the DPW wrote that he had reviewed the revised plan submitted by the applicant and found it acceptable and ready for Planning Board review.

In addition to site plan approval, this project also requires variances from the PDA Zoning Ordinance to allow above ground storage tanks exceeding 2,000 gallon capacity for two existing and two proposed generators. The Zoning Board of Adjustment voted to recommend granting of these variances at its meeting on June 16, 2015.

**Recommendation:** Vote to recommend that the Pease Development Authority grant site plan approval as requested.

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#### IV. CITY COUNCIL REFERRALS

*The Board's action in these matters has been deemed to be quasi-legislative 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. Letter from Fr. Robert J. Archon, Saint Nicholas Greek Orthodox Church, regarding St. Nicholas Greek Orthodox Church Back Lot – Tax Map 229, Lot 6-A.

**Staff Report:** The St. Nicholas Greek Orthodox Church is interested in developing a 1-acre vacant back lot in their ownership, zoned SRB (Single Residence B). At this point no specific plan has been proposed, but according to the letter from Fr. Robert J. Archon dated May 21, 2015, housing, possibly including a component of affordable housing, is being considered. In order to facilitate such development, the Church is requesting (1) that the City accept Ledgewood Drive as a public street, and (2) that the City grant an easement from the Ledgewood Drive right-of-way to the Church's lot.

The lot abuts the City-owned parcel that includes the High School. Ledgewood Drive crosses this parcel as a right-of-way but has never been accepted as a City street. As part of the State project that replaced the Route 1 Bypass “flyover” with a signalized intersection, the New Hampshire Department of Transportation reconstructed Ledgewood Drive and relocated it slightly so that the road is now completely within the right-of-way. The intention has been for the City to accept the road as a City street once the State construction project was complete; however, no action has been taken on this yet.

As stated in the letter from Fr. Archon, since Ledgewood Drive is not a public street the Church lot has no frontage on a public way and is therefore unbuildable, and the Church is therefore requesting that the City accept Ledgewood Drive as a public street.

In addition, the edge of Ledgewood Drive is parallel to and approximately 25 feet from the Church vacant lot boundary, so even when the road has been accepted the lot will technically still not have frontage. Therefore, the Church is also requesting an access easement over the property for the purpose of ingress and egress, with the exact location being deferred until the development process and site plan approval by the Planning Board.

This parcel is currently zoned SRB which means that the only permitted use on this property is a single family dwelling. If any other use is proposed it will likely required relief from the Zoning Board of Adjustment. Also, it would be appropriate to grant any specific access easement in conjunction with a proposed site plan.

#### **Recommendations:**

- A. Vote to recommend that the City Council accept Ledgemere Drive up to the cul-de-sac as a City street.
  - B. Vote to recommend that the City Council defer action on the requested easement until a specific site plan has been prepared for submission to the Planning Board.
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B. Letter from the Michael J. Decristofaro Revocable Trust 2015, Michael J. Decristofaro, Trustee, requesting that the City accept as a donation a 6.6 acre parcel of land which abuts the Rye Town line and is very close to the Greenland Town line (Assessor Map 296, Lot 2).

**Staff Report:** Mr. Michael Decristofaro is offering a parcel Map 296 Lot 2 to the City as a donation. This is an unimproved forested parcel with a mix of upland and wetland fronting on the Hampton Branch abandoned rail line. The parcel 6.6 acres in size, directly abuts the Rye Town line and is very close to the Greenland town line. The property is about 1/3 wetland and 2/3 upland with a fairly large hill on the property. The property is adjacent to a number of city owned parcels, therefore this property will enhance the open space in this area making the contiguous area of city owned open space larger (see figure below). The Conservation Commission was supportive of the City accepting this parcel but has not yet voted to make a recommendation to the City Council. They will vote on a recommendation to the City Council at their July 8, 2015 meeting. They had one question as to the current assessed value. According to our assessor records the value of this property is \$3,300.

**Recommendation:** Vote to recommend that the City Council accept this proposed donation.

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## V. OTHER BUSINESS

A. The request of Commerce Way, LLC, Owner, for property known as Commerce Way (Assessor Map 215, Lot 1 and 1-1) for a one year extension of Conditional Use Permit approval granted by the Planning Board on June 19, 2014.

**Staff Report:** On June 19, 2014 the Planning Board granted a Conditional Use Permit under section 10.1017 of the Zoning Ordinance for work within an inland wetland for the reconstruction of Commerce Way, with 183± s.f. of permanent impact to the wetland and 43± s.f. of temporary impact to the wetland. The project will also enhance the wetland buffer area by adding 5,996± of pervious area and by constructing a 4,700 s.f. meadow planted with wetland conservation seed mix.

The Planning Board may grant a one year extension of a Conditional Use Permit if the applicant submits a written request to the Planning Board prior to the expiration date, which has been done.

**Recommendation:** Vote to grant a one year extension of the Conditional Use Permit, expiring on June 19, 2016.

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B. The request of the Clifton L. Wentworth Revocable Trust of 2002, Owner, for property located at 246 Jones Avenue (Assessor Map 221, Lot 6) for a one year extension of Conditional Use Permit approval granted by the Planning Board on June 19, 2014.

**Staff Report:** On June 19, 2014 the Planning Board granted a Conditional Use Permit under section 10.1017 of the Zoning Ordinance for work within an inland wetland for remediation of lead and PCB contamination, including fill, excavation and the installation of an asphalt cap per approved NHDES



remedial action plan, with 24,930± s.f. of impact in the wetland buffer. The stipulations of approval were:

1. A maintenance plan and schedule for the water quality filtration unit specified on the plan shall be submitted to the DPW and the Environmental Planner for review.
2. The runoff from the site shall be tested at the location of the proposed outlet and plunge pool, during a rain event and the results be forwarded to DPW and the Environmental Planner. The testing shall include all the contaminants that are being targeted with the remediation to include lead, PCB's and other contaminants. Testing shall be done during a wet weather even annually for at least two years and continued until no contaminants levels exceeding state regulatory thresholds are found.

The Planning Board may grant a one year extension of a Conditional Use Permit if the applicant submits a written request to the Planning Board prior to the expiration date, which has been done.

**Recommendation:** Vote to grant a one year extension of the Conditional Use Permit with the same stipulations, expiring on June 19, 2016.

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