
MEMORANDUM

TO: Planning Board
FROM: Rick Taintor, Planning Director *RT.*
DATE: November 13, 2015
RE: Staff recommendations for November 19, 2015, Planning Board meeting

III. PUBLIC HEARINGS – OLD BUSINESS

A. The application of **955 Sagamore Realty Trust, Owner**, for property located at **955 Sagamore Avenue**, requesting Final Subdivision Approval to subdivide one lot into two lots as follows:

1. Proposed lot #1 having an area of 63,100 \pm s.f. (1.45 acres) and 141.82' of continuous street frontage on Sagamore Avenue and 171.49' of continuous frontage on Sagamore Grove; and
2. Proposed lot #2 having an area of 24,000 \pm s.f. (.5510 acres) and 123.13' of continuous street frontage on Sagamore Grove.

Said property is shown on Assessors Map 201 as Lot 1 and is located in the Waterfront Business (WB) district which requires a minimum lot size of 20,000 s.f. and 100' of continuous street frontage. (This application was postponed at the October 15, 2015 Planning Board Meeting.)

TAC Recommendation (11/5/15)

Voted to recommend approval of the application with the following stipulations:

- (1) The owner shall rehabilitate the Sagamore Grove pavement after construction is complete, with the limits to be determined by DPW based on the amount of disturbance during removal of the septic system tanks and construction of the water main.
- (2) The Sagamore Grove roadway shall be widened, following either Option A or Option B as shown on the plans (including recording of an easement if Option B is selected), before an occupancy permit is issued for the new house.
- (3) The water line shall be provided as shown on the plans unless a suitable alternative is determined by the City Engineer.
- (4) Access for the residents of Sagamore Grove shall be maintained at all times.

Plan Revisions Subsequent to TAC Vote:

On November 12, 2015 the applicant submitted revised plans dated 11/6/15, incorporating TAC stipulations #1, 2 and 4 in notes on the Subdivision Plan. Stipulation #3 can be addressed administratively by the Department of Public Works.

The revised plans increase the area of proposed Lot 2 from 24,000 sq. ft. to 25,698 sq. ft. in order to comply with a requirement from the NH Department of Environmental Services for state subdivision approval.

Planning Department Recommendation

Vote to grant Final Subdivision Approval subject to the following stipulations:

1. *Lot numbers as determined by the Assessor shall be added to the final plat.*
2. *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
3. *GIS data shall be provided to the Department of Public Works in the form as required by the City.*
4. *The final plat and all easements shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

It is recommended that item B under Public Hearings – Old Business and items A and B under Other Business be discussed together and voted on separately.

A motion is needed to consider these three items together.

B. The application of **Hillcrest at Portsmouth, LLC, Owner**, for property located at **3201 Lafayette Road**, requesting Site Plan approval to replace up to 80 manufactured homes over the next 10 years, to create a 20' x 20' yard waste compost site, and to create 5 new pad sites for future homes, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 291 as Lot 7 and lies within the Gateway (GW) District, Garden Apartment/Mobile Home (GA/MH) District and Rural (R) District. (This application was postponed at the October 15, 2015 Planning Board Meeting.)

TAC Recommendation (9/29/15)

Voted to recommend Site Plan Approval subject to the following stipulations:

1. Zoning compliance:

- a. The site plan approval shall be subject to a future Zoning Ordinance amendment to be adopted by the City Council to allow manufactured housing, including standards as to separation of structures, coverage, etc. Should elements of the site plan not comply with the zoning amendment that is ultimately adopted, the plan shall be amended to comply.

2. Revisions to be made to the plan set prior to Planning Board action:

- a. A plan for maintenance of the individual rain gardens shall be provided for review and approval by the Environmental Planner.
- b. The new pocket park shall be added to the site plan.
- c. A report shall be provided regarding management of invasive species.

3. Revisions to be made following Planning Board action:

- a. The applicant shall define the extent of site development areas and costs for the purpose of revising the Site Plan application fee.
- b. The applicant will be responsible for any costs for eliminating excess infiltration and inflow beyond what is covered by the prior subdivision approval.
- c. Fire hydrants are to be tested yearly to ensure that all are working at all times.
- d. The owner shall address any remaining sewer infiltration and inflow issues that have not been completely addressed by the prior owner under the subdivision approval.

Plan Revisions Subsequent to TAC Vote:

On October 9, 2015 the applicant submitted revised plans and documents addressing TAC stipulations #2a-2c.

The revised plans were considered at the October 15 Planning Board meeting. However, it became evident that there were two significant problems with approving the proposed site plan as a starting point for future expansion and redevelopment within the park: (1) the units shown on that plan were intended to be conceptual and did not necessarily represent what would actually be developed on each site, and (2) site plan approval of the full buildout would likely require significant upgrades in utilities and road infrastructure to serve the ultimate buildout, which the owner is not ready to design and construct at this time. As a result, the Board voted to postpone consideration to allow the Planning Department staff to develop recommended standards for site development.

It was also suggested at the October 15 meeting that a plan of existing conditions would be more appropriate to present for site plan approval at this time, with a process to be developed for updating or amending the site plan in the future. On November 12, 2015, the applicant submitted an updated Existing Features Plan as the proposed site plan.

Items A and B under Other Business are proposed amendments to the Zoning Ordinance that have been drafted to provide updated dimensional standards for manufactured housing parks and a revised wetland protection provisions

Planning Department Recommendation:

- (A) *Vote to find that a waiver will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations and, therefore, to waive compliance with such provisions of the Regulations as requested by the applicant.*
- (B) *Vote to grant Site Plan Approval of the Existing Features Plan with the following stipulations:*
 1. *The plan title shall be changed to "Site Plan."*
 2. *The following notes shall be added to the Site Plan as required by Sections 2.13(3) and 2.13(4) of the Site Plan Review Regulations:*
 - "1. This Site Plan shall be recorded in the Rockingham County Registry of Deeds.
 2. All improvements shown on this Site Plan shall be constructed and maintained in accordance with the Plan by the property owner and all future property owners. No changes shall be made to this

- Site Plan without the express approval of the Portsmouth Planning Director.
3. The property owner and all future property owners shall be responsible for the maintenance, repair and replacement of all required screening and landscape materials.
 4. All required plant materials shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse and debris. All required fences and walls shall be maintained in good repair.
 5. The property owner shall be responsible to remove and replace dead or diseased plant materials immediately with the same type, size and quantity of plant materials as originally installed, unless alternative plantings are requested, justified and approved by the Planning Board or Planning Director.”
3. *The Site Plan shall be recorded at the Registry of Deeds by the City or as determined appropriate by the Planning Department.*
 4. *The site plan approval shall be subject to a future Zoning Ordinance amendment, to be adopted by the City Council within one year after the date of the subdivision approval, to allow manufactured housing park as a use distinct from mobile home park, and establishing standards as to separation of structures, coverage by buildings and impervious surfaces, wetlands protection, etc.*
 5. *Fire hydrants are to be tested yearly to ensure that all are working at all times.*
 6. *Changes to the approved site plan resulting from subsequent conditional use permits and site development shall be updated on the site plan and submitted to the Planning Department for review and administrative approval.*
 7. *The owner shall address any remaining sewer infiltration and inflow issues that have not been completely addressed by the prior owner under the subdivision approval, and shall be responsible for any costs for eliminating excess infiltration and inflow beyond what is covered by the prior subdivision approval, as determined by the Department of Public Works. The amount of the Site Plan Review security shall be sufficient to cover all such costs.*
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IV. PUBLIC HEARINGS – NEW BUSINESS

A. The application of **Rye Port Properties, Owner, Charter Foods North, LLC, Applicant**, for property located at 2319 Lafayette Road (formerly 2299 Lafayette Road), requesting amended Conditional Use Permit Approval under Section 10.1017 of the Zoning Ordinance for work within an inland wetland buffer to construct a 6” PVC sewer service from an existing sewer line at the rear of the site to the new Taco Bell building, with 3,015 ± of impact to the wetland buffer. Said property is shown on Assessor Map 272 as Lot 10 and lies within the Gateway (G) District.

Conservation Commission Recommendation (10/19/15)

Voted to recommend approval of the application to the Planning Board as presented.

Planning Department Recommendation

Vote to grant the conditional use permit as requested.

B. The application of **Roger D. Greeley, Owner**, for property located at **71 Cliff Road**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to remove an existing 6' x 20' sunporch and construct a 14' x 20' addition at the back of the house; to construct a 6' x 12' addition adjacent to the rear addition; to remove an existing 7' x 12' porch and construct a 6' x 8' deck off the south side of the house; and, to remove an entryway and construct a 7' x 9'6" mudroom on the front of the house, with 400 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 223 as Lot 10 and lies within the Single Residence B (SRB) District.

Conservation Commission Recommendation (11/12/15)

Voted to recommend that the conditional use permit be granted as requested.

Planning Department Recommendation

Vote to grant the conditional use permit as requested.

C. The application of **Robert W. and Constance M. Bushman, Trustees, Owners**, for property located at **34 Marne Avenue and 43 Verdun Avenue**, wherein Preliminary and Final Subdivision Approval (Lot Line Revision) is requested between two lots as follows:

- a. Map 222 Lot 33 decreasing in area from 17,448 ± s.f. to 7,461 ± s.f. with 101.04' of continuous street frontage along Marne Avenue.
- b. Map 222 Lot 34 increasing in area from 9,097 ± s.f. to 19,084 ± s.f. with 216.61' of continuous street frontage along Verdun Avenue.

Said lots lie within a General Residence A (GRA) District which requires a minimum lot size of 7,500 s.f. and 100' of continuous street frontage.

Variances

On September 22, 2015, the Zoning Board of Adjustment granted the following variances:

34 Marne Avenue

- Lot area and lot area per dwelling unit of 7,461± s.f. where 7,500 s.f. is required for both.

43 Verdun Avenue:

- Left side yard setback of 6.9' where 10' is required for an accessory structure.
- Rear yard setback of 5'4" where 15' is required for an accessory structure.

Planning Department Recommendation

Vote to grant Preliminary and Final Subdivision Approval (Lot Line Revision) subject to the following stipulations:

1. *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
2. *GIS data shall be provided to the Department of Public Works in the form as required by the City.*
3. *The final plat and the deed shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

D. The application of **John L. Ahlgren and Bessie Palmisciano, Owners**, for property located on **Langdon Street**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into four lots with the following:

- a. Proposed Lot 1 consisting of 5,022 s.f. and 63.35' of street frontage.
- b. Proposed Lot 2 consisting of 5,301 s.f. and 68.50' of street frontage.
- c. Proposed Lot 3 consisting of 4,965 s.f. and 43.23' of street frontage.
- d. Proposed Lot 4 consisting of 7,920 s.f. and 40.94' of street frontage.

Said lot is shown on Assessor Map 138 as Lot 48 and lies within the Mixed Residential Business (MRB) District where a minimum of 7,500' of lot area and 100' of street frontage is required and also within the Office Research (OR) District where a minimum of 3 acres of lot area and 300' of street frontage is required.

TAC Recommendation (11/5/15)

Voted to recommend subdivision approval subject to the following stipulations:

- (1) Inconsistencies among the plan sheets – in particular, the Subdivision Site Plan (Sheet C2) and the Landscape Plan (Sheet LA-1.0) – shall be resolved, including (a) the location and height of the existing fence at the rear property line, (b) whether the existing fence is proposed to remain, and (c) whether the portion of the brick patio at the rear of Lot 2 is proposed to remain or be removed.
- (2) The sidewalk design shall follow the City standard which includes asphalt aprons.
- (3) The approval of the site plan is dependent upon re-approval of the variances by the Zoning Board of Adjustment.

The TAC recommendation also included the following stipulations from the prior subdivision approval that was granted on May 20, 2013:

Conditions Precedent (to be completed prior to the filing of the plat):

1. Notes shall be added to the Subdivision Plan stating that:
 - (a) No basement shall be constructed on Lot 3, and
 - (b) No basement floor on Lot 2 shall be lower than 4.5 feet below current existing grade.

2. The owner shall grant an easement to the City for utility purposes as shown on the Easement Plan submitted with the application for subdivision approval. *(Note: This condition has been satisfied.)*
3. Property monuments shall be set as required by the Department of Public Works.
4. GIS data shall be provided to the Department of Public Works in the form as required by the City.

Conditions Subsequent (to be completed prior to the issuance of any building permit):

5. The applicant shall submit a grading plan for review by the Department of Public Works, to ensure that adjacent properties are not impacted by site run-off. Approval by DPW shall not relieve the applicant of any liability for correcting off-site impacts.
6. If the City's infrastructure improvement project in Langdon Street has not been commenced or substantially completed to the point where the DPW consents to allow construction on the lots, the applicant, at the applicant's option, shall have the right to complete the project as designed by the City at the applicant's expense.
7. The applicant will coordinate with the City on the installation of underground electrical conduits in order that no excavation will be required in Langdon Street after it is reconstructed as part of the City's utility improvement project.
8. The applicant shall convey Lot 4 to the City, subject only to (1) approval and acceptance of Lot 4 by the City Council, and (2) the following restrictions as shown on a recordable plan to be prepared by the applicant and approved by the Department of Public Works:
 - (a) a 5-foot by 87.64 foot vegetative buffer along the north side of Lot 3 for the benefit of Lot 3,
 - (b) a view easement and no parking area, approved by the Planning Department, for the benefit Lot 3 as shown on the recordable plan to be prepared by the applicant.

Plan Revisions Subsequent to TAC Vote

On November 12, 2015, the applicant submitted a revised plan set addressing TAC stipulations #1 and 2, and the Planning Board's previous condition #1(a).

Variances

The applicant has not yet reapplied for the variances from minimum lot area and frontage which are required to create the proposed lots. The Planning Board may either (a) grant preliminary subdivision approval and postpone final approval pending ZBA action on the variances, or (b) condition the grant of preliminary and final approval on the granting of the required variances. The staff recommendation below assumes the latter approach.

Planning Department Recommendation

Vote to grant Preliminary and Final Subdivision approval with the following stipulations:

Conditions Precedent (to be completed prior to the filing of the plat):

- 1. Subdivision approval is contingent upon Zoning Board of Adjustment approval of variances for lot area and frontage. The Subdivision Plan shall be updated with the date of the ZBA action prior to recording.*
- 2. Lot numbers as determined by the Assessor shall be added to the final plat.*
- 3. A note shall be added to the Subdivision Plan stating that no basement floor on Lot 2 shall be lower than 4.5 feet below current existing grade.*
- 4. Property monuments shall be set as required by the Department of Public Works.*
- 5. GIS data shall be provided to the Department of Public Works in the form as required by the City.*
- 6. The applicant shall convey Lot 4 to the City, subject only to (1) approval and acceptance of Lot 4 by the City Council, and (2) the following restrictions as shown on a recordable plan to be prepared by the applicant and approved by the Department of Public Works:
 - (a) a 5-foot by 87.64 foot vegetative buffer along the north side of Lot 3 for the benefit of Lot 3,*
 - (b) a view easement and no parking area, approved by the Planning Department, for the benefit Lot 3 as shown on the recordable plan to be prepared by the applicant.**

Recording:

- 7. The final plat, deed to Lot 4, and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

Conditions Subsequent (to be completed prior to the issuance of any building permit):

- 8. The applicant shall submit a grading plan for review by the Department of Public Works, to ensure that adjacent properties are not impacted by site run-off. Approval by DPW shall not relieve the applicant of any liability for correcting off-site impacts.*
 - 9. If the City's infrastructure improvement project in Langdon Street has not been commenced or substantially completed to the point where the DPW consents to allow construction on the lots, the applicant, at the applicant's option, shall have the right to complete the project as designed by the City at the applicant's expense.*
 - 10. The applicant will coordinate with the City on the installation of underground electrical conduits in order that no excavation will be required in Langdon Street after it is reconstructed as part of the City's utility improvement project.*
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E. The application of **Wayne Semprini, Owner**, for property located at **1 Fairview Drive**, requesting Preliminary and Final Subdivision Approval to subdivide one lot into two lots as follows:

- a. Proposed lot #1 having an area of 15,388 ± s.f. (0.3533 acres) and 79.97' of continuous street frontage on Fairview Drive; and
- b. Proposed lot #2 having an area of 14,052 ± s.f. (0.3226) and 134' of continuous street frontage on Woodbury Avenue and 57' of continuous street frontage on Fairview Drive.

Said property is shown on Assessor Map 219 as Lot 26 and is located in the Single Residence B (SRB) District which requires a minimum lot size of 15,000 s.f. and 100' of continuous street frontage.

TAC Recommendation (11/5/15)

- (1) The driveways for both Lots 1 and 2 shall be off Fairview Drive.
- (2) The easements for the sewer lines and proposed drain lines shall be granted and approved by the City Attorney.
- (3) The utility connections for Lot 2 (and Lot 1, if reconstructed) shall be approved by the City Engineer.
- (4) Lot 2 shall have a Fairview Drive address.
- (5) Final Subdivision Approval shall not be granted until the Zoning Board of Adjustment has granted the required variance for lot area.

Plan Revisions Subsequent to TAC Vote

On November 12, 2015, the applicant submitted a revised plan set including notes #9-11 addressing TAC stipulations #1-4.

Variances

The Zoning Ordinance requires a minimum of 15,000 sq. ft. in the Single Residence B district, and proposed Lot 2 contains 14,052 sq. ft. The applicant has applied for a variance, which is on the agenda for the November 17 meeting of the Zoning Board of Adjustment. If this variance is not granted, the Planning Board should not grant final subdivision approval.

Planning Board Recommendation (assuming that the required variance has been granted)

Vote to grant Preliminary and Final Subdivision Approval subject to the following stipulations:

Conditions Precedent (to be completed prior to recording of the plan):

1. *Lot numbers as determined by the Assessor shall be added to the final plat.*
2. *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
3. *GIS data shall be provided to the Department of Public Works in the form as required by the City.*
4. *The easements for the sewer lines and drain lines shall be granted and approved by the City Attorney.*

Recording:

5. *The final plat and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

Conditions Subsequent (to be completed prior to the issuance of any building permit):

6. *The utility connections for Lot 2 (and Lot 1, if reconstructed) shall be approved by the City Engineer.*

V. CITY COUNCIL REFERRALS

- A. The renaming of Ledgewood Drive in accordance with the specification of E-911. (This matter was postponed at the September 17, 2015 Planning Board Meeting.)

Update Since October Planning Board Meeting

As requested by the Planning Board, I have contacted the Police and Fire Chiefs regarding their recommendations regarding a name change. In an email dated 10/5/15, the Fire Chief replied as follows:

The fire department is still supportive of the issues identified in the 2008 memo. As I agree that Ledgewood Drive should be renamed, I also believe strongly that all similar named streets / roads should be revised.

There are frequent minor issues with similar named streets and on occasion more significant issues as far as emergency incidents and response. I am available to support and discuss this further.

Planning Department Recommendation

Vote to recommend to the City Council that Ledgewood Drive be renamed in accordance with E-911 requirements.

VI. OTHER BUSINESS

- A. Proposed amendments to the Zoning Ordinance, Article 8 – Supplemental Use Standards, inserting new Manufacturing Housing Park Dimensional Standards, and making minor conforming revisions to other sections of the Zoning Ordinance; and proposed repeal of the City Ordinances Chapter 13 – Mobile Home Ordinance, in its entirety.

- B. Proposed amendments to the Zoning Ordinance, Article 10 – Environmental Protection Standards, (1) establishing a new Wetland Protection Plan option for certain uses, (2) permitting activities within a wetland buffer that are consistent with an approved Wetland Protection Plan, and (3) inserting a new definition for “impervious surface.”

Planning Department Recommendation

*Vote to schedule a public hearing on these amendments at the December 17
Planning Board meeting.*

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