
MEMORANDUM

TO: Planning Board
FROM: Rick Taintor, Planning Director *RT.*
DATE: October 15, 2016
RE: Staff recommendations for October 20, 2016, Planning Board meeting

II. PRELIMINARY CONCEPTUAL CONSULTATION

The Site Plan Review Regulations and the Subdivision Rules and Regulations provide two options for “preapplication review” as authorized by RSA 676:4,II: “preliminary conceptual consultation” and “design review”. The design review phase has been used by two applicants (Harborcorp and 46-64 Maplewood Ave.), but the two items under this section of the agenda represent the Planning Board’s first experience with the preliminary conceptual consultation phase of site plan and subdivision review.

Preliminary conceptual consultation is described in the statute as follows:

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

The preliminary conceptual consultation phase provides the Planning Board with an opportunity to review the outlines of a proposed project before it gets to detailed design (and before the applicant refines the plan as a result of review by the Technical Advisory Committee and public comment at TAC hearings). In order to maximize the value of this phase, Board members are encouraged to engage in dialogue with the proponent to offer suggestions and to raise any concerns so that they may be addressed in a formal application.

In *The Planning Board in New Hampshire: A Handbook for Local Officials*, the NH Office of Energy and Planning stresses the importance of limiting the discussion to concepts:

New Hampshire statutes place great emphasis on the obligation of the planning board to provide notice to the abutters and the public of any substantive discussions on specific development proposals. Neither the applicant nor the planning board may go beyond the general and conceptual limits and begin discussing the design or engineering details of a proposal until the abutters and general public have been notified. This must occur either prior to the design review phase of the pre-application review or when a completed application has been filed.

Preliminary conceptual consultation does not involve a public hearing, and no vote is taken by the Board on the proposal at this stage.

A. The request of **The Foundation for Seacoast Health, Owner**, for property located on **Campus Drive**, for preliminary conceptual consultation review of a proposed subdivision to create two new lots: (1) approximately 50 acres to be conveyed to the City to expand the City's recycling center, to provide new multi-purpose playing fields, and to protect land for wetlands conservation and passive recreation purposes; and (2) approximately 11 acres to be conveyed to the Hope for Tomorrow Foundation to construct an elementary school and associated facilities.

B. The request of **Deer Street Associates, Owner**, for property located at **165 Deer Street and 181 Hill Street**, for preliminary conceptual consultation review of proposals to construct three mixed-use buildings fronting on Deer Street and a fourth mixed-use building fronting on a future public street off Bridge Street to be created in association with the City's new parking garage.

III. PUBLIC HEARINGS – OLD BUSINESS

A. The application of **599 Lafayette, LLC, Owner**, for property located at **599 Lafayette Road**, requesting Site Plan Approval for the construction of a 772 s.f. 1-story drive-thru Aroma Joe's coffee shop, revision of the existing parking and circulation layout, and relocation of dumpsters, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 229 as Lot 8 and lies within the Gateway (G) District. (This application was continued from the September 15, 2016 Planning Board Meeting.)

Description

This application is for several changes to the site plan for the Bowl-o-Rama property at 599 Lafayette Road. The immediate impetus for the application is a proposal to construct a free-standing drive-through coffee shop at the southerly edge of the property, behind the existing Lens Doctors lot and adjacent to Margarita's restaurant. In addition, the applicant is requesting changes to the parking field in front of the existing building to accommodate an ongoing expansion of the building that was allowed administratively, and revisions to dumpsters and the pedestrian route at the rear of the building to bring the site into compliance with zoning, life safety and health codes.

Technical Advisory Committee Review

This application was reviewed by the Technical Advisory Committee in a work session on March 29, 2016, and a meeting on May 3, 2016. During this process, the owner of the abutting property at 775 Lafayette Road (Lafayette Plaza / Margarita's / Fresh Market) raised a concern about the impact of the proposal on the parking for Margarita's restaurant and his ability to reconfigure the entrance to Lafayette Plaza.

At its meeting on May 3, 2016, TAC voted to recommend site plan approval subject to the following stipulations:

1. The following revisions to the Site Plan must be reviewed and approved by the Department of Public Works prior to appearing before the Planning Board:
 - (a) lighting design;
 - (b) water main connection;
 - (c) sewer connection;
 - (d) external grease trap (or a Waiver must be granted by DPW);
 - (e) the addition of ADA parking spaces and a pedestrian refuge island for the angled crosswalk abutting the [Lens Doctors] property.
2. The parking spaces shall be evaluated and, where possible, restriped so that the high turnover spaces closer to the building are wider than 8.5'.
3. Written confirmation shall be provided that the parking easement concern raised by the abutting property owner has been addressed.
4. For the record, there shall be no additional stormwater run-off leaving the site.

On May 19, Assistant City Engineer Raymond Pezzullo provided the Planning Department and the applicant with a list of issues to be addressed in response to TAC stipulation #1, as follows:

1. There should be two separate water service lines to the proposed building, i.e.: one for the domestic and one for the fire line going to the water main. Each line, domestic and fire, requires a shut-off valve.
2. The grease trap detail shown on the plan (Sheet C-7) is not correct and should be replaced with the attached Grease Trap detail.
3. The existing sewer shown on the plan (Sheet C-4) appears to be in the wrong location. The sewer needs to be shown in its correct location and a 10 foot separation distance must be maintained between the sewer main and the proposed water main.
4. Prior to receiving permits for the water connection and the sewer connection, a revised plan issued "For Construction" showing the revisions must be submitted to DPW. The plan must be stamped and signed by the Engineer.
5. DPW has no comments on the lighting plan.

The revised plan before the Board address items 1 and 2 in the above list (see Sheet C-5). With respect to item 3, the revised utility plan shows a different location for the existing sewer line but shows the proposed water line as crossing the sewer line. This will need further review by DPW.

The revised plan also addresses TAC stipulation #2. However, to date no clear resolution of the easement question has been provided (stipulation #3).

Review and Postponement by Planning Board, and Continuing Review by Staff and TAC

The Board reviewed the site plan at its meeting on May 19, 2016, at which time the applicant presented a revised plan to address certain recommendations made at the Technical Advisory Committee. The plan changes included reconfiguring the parking spaces at the front of the existing plaza and extending the pedestrian sidewalk. At that point the revised plan had not been reviewed by DPW, and therefore plans had not been provided to the Board for review.

At the May Planning Board meeting, attorneys for the applicant and the abutter (Lafayette Plaza) presented their opinions regarding the access and parking easement issue and the impact on the Lafayette Plaza property of the proposed Aroma Joe's traffic. The Board then voted to postpone consideration of the application to the June meeting to allow the applicant and abutter to resolve the easement issue and present the results to the Board.

At the June, July, August and September meetings the Board postponed consideration of the application at the applicant's request so that the applicant could continue to work with abutters toward a resolution of differences regarding modifications to the access and parking easement.

The effort to resolve these issues was complicated in June, when an application for site plan review for 605 Lafayette Road (the Lens Doctors property) was submitted. That application proposes construction of a new two-story office building and reconfiguration of the parking area at the rear of the lot, abutting the proposed Aroma Joe's site. This new plan raised concerns by TAC members about the complex and confusing internal traffic patterns that would result from the separate plans, and TAC requested that the site plans for 599 and 605 Lafayette Road be coordinated.

Revised plans for 599 Lafayette Road were submitted to the Planning Department on June 8 and September 26, and revised plans for 605 Lafayette Road were submitted on September 21. Although both plans are prepared by the same engineering firm, the latest plan submitted to TAC for 605 Lafayette Road (rev. 9/21/16) conflicts with the plan that is currently before the Board for 599 Lafayette Road (rev. 9/23/16), with respect to the traffic circulation design on the 599 Lafayette Road property.

In order to address the complex vehicular access and circulation issues posed by the two proposed projects at 599 and 605 Lafayette Road and to attempt a resolution of the issues raised by the owner of 775 Lafayette Road, the Planning Department invited representatives of all three properties to a meeting on September 27 to discuss the issues. This was followed later that day by a TAC work session on the 605 Lafayette Road application. The owner of 599 Lafayette Road was present and participated in the work session. As noted above, both site plans are designed by the same engineering firm.

At the work session, TAC members outlined the scope of a traffic study that would be required to better identify circulation and safety issues related to the two proposed developments, so that a coordinated plan could be designed to improve circulation for the two properties and to minimize impacts on the adjacent parcel. TAC members also discussed an alternative site layout that would greatly improve circulation and safety by eliminating the diagonal internal driveways and aisles.

At the October 4 TAC meeting the applicant for 605 Lafayette Road requested postponement to the November 1 TAC meeting to allow time for both properties to rework their traffic plans. However, the applicant for 599 Lafayette Road now wishes to proceed with a revised plan developed since the May Planning Board meeting. As requested by the Planning Department, the applicant's submission includes an exhibit showing how access to and egress from Aroma Joe's could be provided without using the existing mid-driveway opening on the Lafayette Plaza property.

The last site plan reviewed by the Board was dated 5/12/16. A significant difference in the revised plan is that an entrance and exit to Aroma Joe's is now proposed over the 605 Lafayette Road property rather than directly from 599 Lafayette Road to 775 Lafayette Road. As noted earlier, the site plan for 605 Lafayette Road that is under review by the Technical Advisory Committee includes reconfiguration of the parking area through which Aroma Joe's proposed access. Therefore, if the redevelopment of 605 Lafayette Road affects the access for 599 Lafayette Road, the owner of 599 Lafayette Road may have to apply for amended site plan approval.

It should be noted that the plan before the Board has not been formally reviewed by TAC.

Planning Department Recommendation

The application does not resolve the issues that have been raised by the abutter at 775 Lafayette Road and by the site plan for the abutting property at 605 Lafayette Road that is currently under review. The Planning Department and TAC have gone through great efforts to bring the various parties together and to facilitate a coordinated circulation plan among the three properties, but without success. If the Board wishes to grant site plan approval, the following motion is recommended.

Vote to grant site plan approval with the following stipulations:

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

1. *Sheets C-2 (Overall Site Plan), C-3 (Site Plan "Bowl-o-Rama"), C-4 (Site Plan "Aroma Joe's") and C-6 (Landscape & Lighting Plan) shall include the following notes:*
 - "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."*
2. *Sheet C-6 (Landscape & Lighting Plan) shall also include the following additional notes:*
 - "1. The property owner and all future property owners shall be responsible for the maintenance, repair and replacement of all required screening and landscape materials.*
 - 2. 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.*
 - 3. 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 revised utility plan shall be subject to review and approval by the Department of Public Works.*
4. *All utility easements shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department*
5. *The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments.*
6. *The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.*

B. The application of **Seacoast Trust, LLP, Owner**, and **Stonegate NH Construction, LLC, Applicant**, for property located at **150 Route 1 Bypass**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for the demolition of the existing building and the construction of a proposed 246' x 85' 3-story multi-family building with a footprint of 17,667 ± s.f. and gross floor area of 53,000 ± s.f., with 24,950 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 231 as Lot 58 and lies within the Single Residence B (SRB) District. (This application was continued from the September 15, 2016 Planning Board Meeting.)

Description

This application is to demolish the existing medical office building at 150 Route 1 Bypass and construct a 30-unit multifamily building with associated parking and circulation areas and landscaping. The Zoning Board of Adjustment has granted the necessary variances to allow the multifamily use of the property, and the applicant has also submitted an application for site plan approval, which is being reviewed by the Technical Advisory Committee.

The area behind the existing building, containing a major portion of the existing parking area, is largely within the 100-foot buffer from a wetland that immediately abuts the site. The proposed development will remove a significant amount of pavement, recreate a vegetated buffer, and provide stormwater treatment. This proposed work will result in disturbance to nearly 25,000 sq. ft. of wetland buffer area, but will reduce the amount of impervious surface in the buffer by more than half, from 20,860 sq. ft. to 10,335 sq. ft.

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].

Compared to the existing site condition, the proposed project represents a reduction in wetland buffer impacts, including a greater setback to the wetland at the rear of the site, a reduction in impervious surface within the 100-foot buffer, and the ability to develop a 25-foot vegetated buffer strip along the wetland edge.

In order to limit impervious surface in the wetland buffer, the proposed building includes a full foundation for vehicle parking, and as a result the foundation drain will move groundwater through the site in a different manner than occurs today. The Conservation Commission raised a concern that this change might affect adjacent wetlands to the rear of the site. The applicant provided a study by Stone Hill Environmental to address this and other concerns related to surface water and groundwater on the site. Based on this study, staff believes that the project will not adversely affect the wetlands.

Because the proposed work is within the existing developed footprint on the site, the site is a reasonable location for the proposed use, activities and alterations.

Overall, the reductions in impervious surface on the site should provide a reduction in impacts to the wetland at the rear of the site. The applicant has a landscape plan which provides additional plantings on the developed portion of the site which should help buffer the proposed parking area from the wetland at the rear of the site.

Conservation Commission Recommendation

The Conservation Commission considered this application at its meeting on October 12, 2016, and voted unanimously (with two members abstaining) to recommend approval of the conditional use permit as presented.

Request for Postponement

At the September meeting the Planning Board voted to postpone consideration of this application so that the conditional use permit and site plan review applications could be considered together. While the Conservation Commission has completed its review, the Technical Advisory Committee is still reviewing the application for site plan review. Therefore, the applicant has submitted a request to postpone consideration of the application for a conditional use permit to the November 17 Planning Board meeting.

Planning Department Recommendation

Vote to postpone consideration of this application to the Planning Board meeting on November 17, 2016.

IV. PUBLIC HEARINGS – NEW BUSINESS

A. The application of **Foundation for Seacoast Health, Owner**, for property located on **Campus Drive**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland and wetland buffer to pave an existing 320' sidewalk (290' of which is in the wetland buffer) extending from the parking lot near the tennis courts to the Community Campus building, to construct associated drainage swales, and to install two 12" culverts, with 240 ± s.f. of impact to the wetland and 2,130 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 266 as Lot 4 and lies within the Industrial (I) District.

Description

The Foundation for Seacoast Health is requesting conditional use approval to pave an existing gravel sidewalk that extends from the Community Campus building to a satellite parking lot. When the original sidewalk was built no accommodation was made to allow the water to move under the path or treat stormwater runoff. This proposal will improve the situation through the installation of two new culverts in the wetland crossing areas and drainage swales to contain the stormwater before it enters the wetlands.

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 the most feasible location for the project given that it is the same location as the existing sidewalk/path. The proposed paved sidewalk is narrower than the existing gravel sidewalk.

The proposal should provide a small benefit to the wetlands on the property through the treatment of stormwater and the proposed culverts which will allow better connection of the wetland surface water. The project will not require any cutting of vegetation, and should result in a net improvement to the site.

Conservation Commission Recommendation

The Conservation Commission reviewed this application at its meeting on October 12, 2016, and voted 5-2 to recommend approval of the conditional use permit with the following four stipulations:

1. The applicant shall provide a construction detail on the stormwater treatment swales.

2. The applicant shall provide a winter maintenance plan that uses no sodium chloride or the minimum necessary amount of sodium chloride on this path.
3. The applicant shall provide a construction detail on the proposed culverts including providing for an installation where the culverts are embedded into the ground at least two inches under the soil so there is a natural bottom in the culvert to allow enhanced passage for amphibians and reptiles.
4. The applicant shall install erosion control measures during construction to protect the adjacent wetland areas.

Planning Department Recommendation

Vote to grant the conditional use permit with the following stipulations:

1. *The plan shall be amended to include construction details for the stormwater treatment swales and the culverts. The culverts shall be embedded into the ground at least two inches under the soil to provide a natural surface for passage by amphibians and reptiles. The construction details shall be subject to review and approval by the Environmental Planner.*
2. *The applicant shall provide a winter maintenance plan for the path that avoids or minimizes the use of sodium chloride.*
3. *The applicant shall install erosion control measures during construction to protect the adjacent wetland areas.*

B. The application of **Alden Watson Properties, LLC, Owner**, for property located at **56 Lois Street**, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for the construction of a single family home with access driveway, with 27,581 ± s.f. of impact to the wetland buffer, and for the construction of an extension of Lois Street with 5,161 ± s.f. of impact to the wetland buffer. A Subdivision Application for said property is currently on file with the Planning Department and includes the extension of Lois Street. Said property is shown on Assessor Map 232 as Lot 8 and lies within the Single Residence B (SRB) District.

Description

The applicant proposes to subdivide an existing lot to create a new lot at the end of Lois Street, to construct a single-family dwelling on the new lot, and to extend Lois Street to provide access and frontage for the new lot. The applicant will be required to construct the extension of Lois Street to City specifications with provisions for vehicle turn-around at the end of the street. The proposed dwelling, driveway and roadway would be almost completely within the wetland buffer.

The existing lot is U-shaped, wrapping around the lots at 66 and 94 Lois Street and bounded on the northeast by the Route 1 Bypass. There is an existing house on one arm of the "U",

between the houses at 66 Lois Street and 544 Middle Road, and prior to 2003 there was a mobile home on the other arm, near the site of the proposed dwelling.

The applicant proposes to subdivide the existing lot by creating a new lot line behind 66 Lois Street. The application for subdivision approval is currently under review by the Technical Advisory Committee and will be forwarded to the Planning Board at a later date.

The southeasterly portion of the lot is part of a large wetland corridor running from the Route 1 Bypass to Greenleaf Avenue and eventually to Sagamore Creek. The proposed project would impact 32,742 square feet (0.75 acre) of the 100-foot buffer adjacent to this largely undisturbed wetland. The lot is also crossed by a wildlife corridor identified in the City's 2010 Public Undeveloped Lands Assessment (adjacent to site 63 in that study).

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 proposed project would greatly diminish the wetland buffer area. The applicant's construction goals require the removal of a great deal of vegetation in the wetland buffer, although he has proposed steps to reduce this impact through the use of low impact development techniques and buffer plantings. In addition, extending the roadway and building a dwelling would impede passage of wildlife between this property and the large tract of undeveloped land along Greenleaf Avenue.

Given the amount of wetland impact involved, the proposed subdivision to create a new building lot, construction of a new dwelling, and extension of the roadway is not the alternative with the least adverse impact to the wetland and wetland buffer.

Conservation Commission Recommendation

At its meeting on October 12, 2016, the Conservation Commission voted unanimously to recommend denial of this application. The Commission members believed that this site was unsuitable for a single-family residence because the large amount of wetland buffer impact for the home, driveway and roadway extension would have adverse impacts on the adjacent wetlands and a wildlife corridor identified in the City's Public Undeveloped Land Assessment (PULA) report.

Planning Department Recommendation

Vote to deny the application due to its significant impact to the wetland buffer and adjacent wetlands.

VI. PUBLIC HEARING – ZONING AMENDMENTS

A. Proposed amendments to the Zoning Ordinance, Articles 2, 3, 4, 5, 6, 8, 10, 11, 12 and 15, relating to variances, nonconforming buildings and structures, accessory dwelling units, building coverage and yards, residential bulk control and building heights, Historic District exemptions and design guidelines, wetlands protection, off-street parking setbacks, digital signs, and definitions. The proposed amendments are available for review in the Planning Department during normal City Hall business hours, and are also posted on the Planning Department website, planportsmouth.com.

Description

At the July work session and meeting the Board discussed the following proposed zoning amendments:

1. Housekeeping amendments:

- Article 2 – Administration and Enforcement: Extend the life of variances and special exceptions from 1 year to 2 years, to conform to a change in state law.
- Article 3 – Nonconforming Lots, Buildings, Structures and Uses: Revise one provision relating to changes to nonconforming buildings and structures, and delete three other provisions, in order to eliminate inconsistencies and clarify the intent.
- Article 11 – Site Development Standards: Off-Street Parking: Add the Gateway district to two tables of setback requirements for off-street parking areas. (These tables were not updated when the Gateway district was established.)
- Article 15 – Definitions: Amend the definition of “structure” to exclude fences up to 4 feet in height.

2. Yards (Setbacks):

- Article 5 – Dimensional and Intensity Standards: Revise and clarify several provisions relating to yards, exceptions to yard requirements, and projections into required yards.
- Article 15 – Definitions: Amend the definition of “building coverage” to clarify items that are exempted from the definition.

3. Article 5 – Bulk Control Plane and Building Height:

- Establish a new “bulk control plane” provision and reduce maximum allowed building heights in residential and mixed residential zoning districts, in order to address increasing concerns regarding infill development that is out of scale and character with the surrounding neighborhood.

4. Accessory Dwelling Units:
 - Additions to Articles 4 (Table of Uses), 8 (Supplemental Use Standards) and 15 (Definitions) to begin implementation of the new state law (SB 146), which will take effect on June 1, 2017.

5. Article 6 – Historic District Design Guidelines and Exemptions from Review:
 - Insert two provisions referencing the Design Guidelines recently developed by the Historic District Commission (and in Article 5A – Character Districts, delete Section 10.5A45 – Interim Architectural Design Guidelines).
 - Revise 15 provisions regarding exemptions from HDC review, and add 3 additional exemptions, to reduce burdens on property owners proposing minor changes.
 - Clarify that exempted activities, while not requiring a public hearing, are subject to administrative review and approval.

6. Article 10 – Environmental Protection Standards:
 - Expand the jurisdictional areas to include a portion of the Piscataqua River shorefront north of the I-95 bridge.
 - Clarify the existing allowance for a 25 percent expansion of a single- or two-family dwelling.
 - Add a sixth criterion for approval of a conditional use permit, requiring restoration of the vegetated buffer strip to a natural state to the extent feasible.

7. Article 12 – Signs:
 - Add a provision strictly limiting the type and manner of illumination of signs using “direct illumination”, such as LED or plasma signs.

At the August and September meetings the Board reviewed revised drafts of the ordinance regarding accessory dwelling units. A new draft, responding to comments at the September meeting, will be provided to the Board prior to the October 20 meeting.

No further changes have been made to the other proposed ordinances, although most seem to need little additional work before being forwarded to the City Council. A complete package, including any additional revisions, will be provided prior to the meeting.

It is recommended that an effort be made to move the complete package forward at the October meeting.

Planning Department Recommendation

- A. *Vote to recommend that the City Council enact the proposed “housekeeping” amendments to Articles 2, 3, 11 and 15.*

- B. *Vote to recommend that the City Council enact the proposed amendments to Articles 5 and 15 regarding yards and building coverage.*

- C. *Vote to recommend that the City Council enact the proposed amendments to Article 5 regarding bulk control and building height.*
- D. *Vote to recommend that the City Council enact the proposed amendments to Articles 4, 5 and 15 regarding accessory dwelling units and garden cottages.*
- E. *Vote to recommend that the City Council enact the proposed amendments to Article 6 regarding Historic District Design guidelines and exemptions from review.*
- F. *Vote to recommend that the City Council enact the proposed amendments to Article 10 regarding ...*
- G. *Vote to recommend that the City Council enact the proposed amendments to Article 12 regarding the illumination of signs using "direct illumination," such as LED or plasma signs.*

VII. CITY COUNCIL REFERRALS/REQUESTS

- A. Request for waiver of referral of the acquisition of a portion of 150 Greenleaf Avenue by eminent domain.

Description

The City Ordinances, Chapter 11, Article VI, Section 11.602(A) requires the following matters to be referred by the City Council to the Planning Board in writing at least 30 days before final action is taken:

- (1) Any acquisition or disposition of municipal real property, including fee transfers, easements and licenses;
- (2) Any plan for the construction, alteration, relocation, acceptance or discontinuance of a public way.

However, Section 11.602(C) provides that "The failure to refer a matter listed herein to the Planning Board shall not affect the legal validity or force of any action related thereto if the Planning Board waives such referral."

At its meeting on September 6, 2016, the City Council voted to commence an eminent domain proceeding to acquire approximately 4.6 acres of land at 150 Greenleaf Avenue (the Portsmouth Toyota site). The memorandum from Deputy City Attorney Suzanne M. Woodland includes the City Council Resolution and a plan of the area to be acquired.

As noted in Attorney Woodland's memorandum, the Legal Department requests that the Planning Board waive the referral of the acquisition as provided in the City Ordinances, Chapter 11, Article VI, Section 11.602(C).

Planning Department Recommendation

Vote to waive City Council referral of the acquisition of 4.6 acres or less of land located at 150 Greenleaf Avenue by eminent domain or negotiated agreement.

B. Request for waiver of referral regarding the acquisition of two parcels of land and two drainage easements and conveyance of one parcel of land on Commerce Way, in connection with the Commerce Way Conditional Road Layout and Betterment Assessment.

Description

In 2012 the Council referred to the Planning Board a proposal to upgrade Commerce Way and accept it as a City Street; and on April 29, 2012, the Board voted unanimously to recommend that the Council accept Commerce Way as a City street upon completion of the improvements shown in the Roadway Improvement Plans. Implicit in this vote was the acceptance of the deed to the street.

In order to complete the project, the City has accepted two conveyances of land and two drainage easements that were not specifically called out on the Roadway Improvement Plans. In addition, the reconfiguration of the roadway left a small parcel that is not needed by the City and is proposed to be conveyed to the abutting parcel. These transfers need to be finalized before the betterment assessments can be computed and issued to the abutting property owners.

Because these conveyances are integral to a project that has previously been reviewed and approved by the Planning Board, the Legal Department is requesting that the Board waive the City Council referral as provided for in the City Ordinances, Chapter 11, Article VI, Section 11.602(C).

Planning Department Recommendation

Vote to waive City Council referral of the following conveyances in connection with the Commerce Way Conditional Road Layout, as shown on a plan titled "Right of Way & Easement Plan Affecting Lands of Commerce Way LLC, Arnold Katz & Blair Finnegan, and Commerce Center at Portsmouth, Situated on Commerce Way, Portsmouth, New Hampshire", recorded in the Rockingham County Registry of Deeds as Plan D-38901:

- (1) Acquisition of a parcel of land containing 672 sq. ft. on the inside curve of Commerce Way (recorded at Book 5631 Page 1051);*
 - (2) Acquisition of a parcel of land at the intersection of Commerce Way and Woodbury Avenue (recorded at Book 5722 Page 0322);*
 - (3) Acquisition of two drainage easements containing 6,685 sq. ft. and 892 sq. ft. (recorded at Book 5631 Page 1057 and Book 5631 Page 1054)*
 - (4) Conveyance to 135 Commerce Way, LLC of a parcel of land containing 9,933 sq. ft. on the outside curve of Commerce Way.*
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C. Request of Northern Utilities, Inc. d/b/a Unitil for an easement across land owned by the City at 1 Franklin Drive (New Franklin School).

Description

Northern Utilities, Inc. d/b/a Unitil has requested that the City grant an easement for a new gas line across land owned by the City and used for the New Franklin Elementary School. Staff of the School Department and the Department of Public Works have worked with Unitil to identify an acceptable location for the new gas line, and the School Board has approved the granting of this easement. A report from the Planning Board is required prior to City Council action on this request.

Planning Department Recommendation

Vote to recommend that the City Council approve an easement over the City property at 1 Franklin Drive (New Franklin School) to Northern Utilities, Inc. d/b/a Unitil.

D. Proposed acquisition of property at 850 Banfield Road from George Elliott.

Description

The City has been in discussions with the owner of the property at 850 Banfield Road with regard to settling a dispute related to drainage impacts. The property is located at a low point in a series of drainages originating along Route 1 through the Portsmouth Industrial Parks on Constitution Avenue and Heritage Avenue which outlet through a railroad culvert into the Great Bog. Due to changing development patterns and lack of maintenance by the railroad, the property at 850 Banfield Road has experienced a history of stormwater inundation. The owner also believes his drinking water well was impacted by the change in groundwater hydrology.

In an effort to avoid potential litigation, the City has negotiated an agreement to purchase the entire 7.1-acre parcel. Approximately 3.3 acres are wetlands which will be used to help stormwater management. The remaining 3.8 acres are in uplands and can be subdivided to be sold as one or two building lots whereby the City could recover a majority of the cost of purchasing this land.

Planning Department Recommendation

Vote to recommend that the City Council approve the acquisition of the property at 850 Banfield Road.

VIII. OTHER BUSINESS

A. Appointment of CIP Subcommittee.

Description

Each year the Planning Board appoints three of its members to a CIP Subcommittee to review departmental proposals for projects to be included in the Capital Improvement Plan and to develop a draft CIP to be presented to the full Board in January.

The CIP Subcommittee typically meets once to complete its work. That meeting is scheduled for Wednesday, December 7, 2016, from 11:00 AM to 4:00 PM.

Planning Department Recommendations

Vote to appoint three members to the FY 2018-2023 CIP Subcommittee.
