



MEMORANDUM

To: Planning Board
From: Juliet T.H. Walker, Planning Director *JTW*
Subject: Staff Recommendations for July 20, 2017 Planning Board Meeting
Date: July 17, 2017

II. DETERMINATIONS OF COMPLETENESS

A. SITE REVIEW

1. The application of **Pease Development Authority, Owner, and Summit Land Development, LLC, Applicant**, for property located at **160 Corporate Drive**.
2. The application of **Pease Development Authority, Owner, and 19 Rye Street, LLC, c/o Two International Group, Applicant**, for property located at **19 Rye Street**.
3. The application of **Merton Alan Investments, LLC, Owner**, for property located at **30 Cate Street**.

Planning Department Recommendation

Vote to determine that the application is complete according to the Site Plan Review Regulations and to accept the application for consideration.

B. SUBDIVISION

1. The application of **Alexander C. Garside and Nicole Outsen, Owners**, for property located at **212 Park Street**, and the **Trudy Gould Irrevocable Living Trust, Owner, William A. Gould, Trustee**, for property located at **226 Park Street**.

Planning Department Recommendation

Vote to determine that the application is complete according to the Subdivision Regulations and to accept the application for consideration.

III. PUBLIC HEARINGS – OLD BUSINESS

- A. The application of **Ryan A. and Adrienne A. Cress, Owners**, for property located at **185 Edmond Avenue**, and **the City of Portsmouth, Owner**, for property located **off Edmond Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to excavate (8' x 55') along the south and west side of the house, remove and replace the existing headwall and failing CMP culvert and install new RCP culvert, with 750 ± s.f. of temporary impact to the wetland buffer. Said properties are shown on Assessor Map 220 as Lots 56 & 79 and lie within the Single Residence B (SRB) and Municipal (M) Districts. (This application was postponed at the June 15, 2017 Planning Board Meeting).

Conservation Commission Review

The Conservation Commission reviewed this application at the June 14, 2017 meeting and voted to recommend approval with stipulations, which have been included in the recommended action below.

Planning Department Recommendation

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

- 1) The existing woody vegetation along the bank of the wetland shall be set aside and replaced (with the exception of invasive species) upon completion of the project.*
- 2) If the project results in unintended wetland impacts an amended conditional use and state wetland permit shall be secured.*

It is recommended that Items B and C be discussed together and voted on separately.

A motion is required to consider these two items together.

- B. The application of **Pease Development Authority, Owner, and City of Portsmouth, Applicant**, for property located at **135 Corporate Drive**, requesting Conditional Use Permit approval, under Section 304.A.08 of the Pease Land Use Controls, for work within the inland wetland buffer to construct a 74' 8" X 30' 8" headworks building at the wastewater treatment facility, consisting of three levels (one above grade level and two below grade levels), with 23,790 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 303 as Lot 6 and lies within the Pease Airport Business Commercial (ABC) District. (This application was postponed at the June 15, 2017 Planning Board Meeting).

- C. The application of **Pease Development Authority, Owner, and the City of Portsmouth, Applicant**, for property located at **135 Corporate Drive**, requesting Site Plan Approval, under Chapter 400 of the Pease Land Use Controls, Site Review Regulations, to construct a 74' 8" X 30' 8" headworks building consisting of three levels (one above grade level and two below grade levels) totaling 2,290 ± s.f. with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessors Map 303 as Lot 6, and lies within the Pease Airport, Business, Commercial (ABC) District. (This application was postponed at the June 15, 2017 Planning Board Meeting).

Description

This is a project on the Pease Tradeport to construct a portion of a new headworks building and a section of new pavement to provide access to this building partially in the wetland buffer.

Note that this application is subject to the land use regulations of the Pease Development Authority rather than those of the City of Portsmouth, and the Planning Board's action is therefore to make recommendations to the Pease Development Authority regarding the requested approvals.

Wetland Conditional Use Permit

Conservation Commission Review

According to the Pease Development Authority Zoning Ordinance Part 304-A Pease Wetland Protection section 304-A.08 Conditional Use Permitting (f) Criteria for Approval the applicant must satisfy the following conditions for approval of this project.

1. *The land is reasonably suited to the use.*
The impacts proposed from this project are located to the maximum extent possible outside of the wetland buffer and the majority of the area is either existing buildings and pavement or lawn.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use.*
This is a project to improve the function of the Pease wastewater treatment plant. The applicant has worked to minimize impacts on the project and the site is reasonably suited to accommodate the development proposed.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.*
The design of the project includes infiltration of stormwater and new plantings which will should offset the impact of the new pavement and building in the wetland buffer.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.*
There is a fairly small area of existing lawn converted to pavement from this project. It is the minimum required to complete the project.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.*
The applicant has selected an alternative that reduced the amount of pavement necessary to complete the project with a design that utilized as much previously disturbed area of the site as possible.

The Commission reviewed this application at the June 14, 2017 meeting and voted 6 to 1 to recommend approval with four stipulations. The stipulations have been included in the recommended action below.

Site Plan Review

Site planning standards are included in Part 405 of the Pease Development Authority Site Plan Review Regulations.

Technical Advisory Committee Review

TAC reviewed this application at the May 30, 2017 meeting and voted to recommend approval as presented.

Planning Department Recommendation

A. Wetland Conditional Use Permit

Vote to recommend approval of the conditional use permit with the following stipulations:

- 1) The stormwater catch basins shall be maintained bi-annually,*
- 2) The site contractor shall be prepared to conduct soil remediation of contaminated soils if encountered,*
- 3) Trees being cleared for the project shall be replaced with evergreen trees to screen the site,*
- 4) The dewatering basin necessary for construction shall be located outside of the wetland buffer.*

B. Site Plan Review

Vote to recommend site plan approval.

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- D. The application of **Society for the Preservation of New England Antiquities of MA, Owner**, for property located at **62 & 76 Northwest Street**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer consisting of minor grading around the house, a new yard drain system, two new grass swales and a level spreader, with 3,400 ± s.f. of impact to the wetland buffer. Said properties are shown on Assessor Map 141 as Lot 29 and Assessor Map 122 as Lot 9 and lie within the General Residence A (GRA) District and the Historic District. (This application was postponed at the June 15, 2017 Planning Board Meeting).

Description

The Jackson House has designed a project to direct stormwater to a drainage swale and level spreader within 100' of the North Mill Pond. The project location has been selected to avoid archeological resources near the house. The design of the project includes site grading and installation of a level spreader.

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.

1. *The land is reasonably suited to the use activity or alteration.*
The area where the swale and level spreader are proposed in the buffer is existing lawn and suitable for the installation of the proposed swale and level spreader.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.*
The proposed location was selected due to constraints on the site from archeological resources.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.*
The proposed grading will dissipate stormwater velocities and should not impact 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.*
The project will result in a slightly different grade but essentially the same amount of open space and pervious area.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.*
The proposed project amounts to a fairly modest amount of grading in a lawn area within the 100' wetland buffer.
6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.*
A vegetated buffer strip approximately 30 feet wide currently exists on the property and is not proposed to be disturbed.

Conservation Commission Review

The Commission reviewed this at the July 12, 2017 meeting and voted to recommend approval with one stipulation, which has been included in the recommended action below.

Planning Department Recommendation

Vote to recommend approval of the conditional use permit with the following stipulation:

- 1) *The maintenance plan shall include cleaning of the soil and level spreader to remove any kind of sediment that accumulates.*

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- E. The application of **Gary and Aerial Sillanpaa, Owners**, for property located at **4 Sylvester Street**, requesting Conditional Use Permit approval to create a two-bedroom 676 ± s.f. detached accessory dwelling unit on the second story of a garage (to be constructed), with associated paving, lighting, and utilities. Said property is shown on Assessor Map 232 as Lot 36 and lies within the Single Residence B (SRB) District. (This application was postponed at the June 15, 2017 Planning Board Meeting).

Description

The applicant proposes to construct a new accessory dwelling unit to be constructed in conformance with all dimensional standards for the zoning district. Because the resulting unit will be a detached accessory dwelling unit (DADU), the provisions of Sec. 10.814.50 apply.

The proposed location requires that the applicant work with the City to relocate a City easement for a sewer line. The applicant is currently working with the City's DPW and Legal Department to do this.

	Required	Provided / Proposed
Min. lot area (sf)	15,000	21,344
Lot area / dw unit (sf)*	15,000	21,344
Street frontage (ft)	100	200
Lot depth (ft)	100	80
Primary front yard (ft)	30	5**
Right side yard (ft)	10	>10
Left side yard (ft)	10	10
Rear yard (ft)	30	30
Height (ft)	35	23
Bldg coverage (%) max.	20%	<20%
Open Space (%) min.	40%	>40%
Parking (#)	4	4

*In the Single Residence districts, the lot area per dwelling unit requirement only applies to the principal single family use.

**Property meets the requirements of Section 10.516.10 for a front yard exception for existing alignments (front yard average for the properties in the neighborhood).

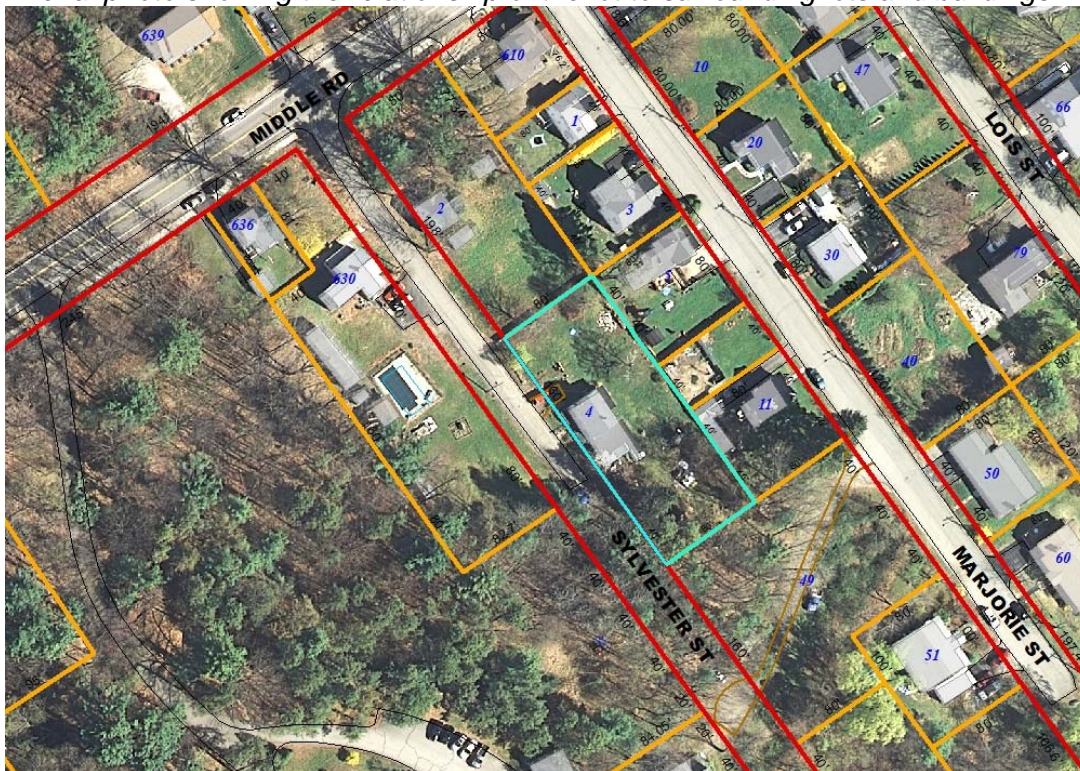
The applicant has indicated they will comply with all of the requirements of the Ordinance for a DADU as follows:

- The principal dwelling unit and the accessory dwelling unit shall not be separated in ownership.
- Either the principal dwelling unit or the accessory dwelling unit shall be occupied by the owner of the dwelling.
- Neither the principal dwelling nor the accessory dwelling unit shall be used for any business, except that the property owner may have a home occupation use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.
- In addition to the two off-street parking spaces required for the single-family dwelling, two parking spaces shall be provided for an ADU larger than 400 sq. ft.
- The DADU shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area;
- The DADU shall be separated from the single-family dwelling by at least 20 feet.

In order to grant a conditional use permit for an ADU, the Planning Board must first make the following findings (Sec. 10.814.60):

Required Findings	Planning Department Comments
<p>1. Exterior design of the ADU is compatible with the existing residence on the lot through architectural use of building forms, scale and construction materials.</p>	<p>To increase compatibility of the design with the existing residence and surrounding properties in regards to massing and general character, Planning staff recommend two design modifications – 1) change the roof to a steeper pitch (e.g. 8:12) with small shed or dog house dormers if needed; 2) change the garage door design to have more relief and to match the style of the second story (e.g. double bays with small windows along the top).</p>
<p>2. The site plan provides adequate open space and landscaping that is useful for both the ADU and the primary dwelling.</p>	<p>Both the primary dwelling and the DADU will have access to usable open space. The applicant has indicated that an existing tree on the property will need to be removed to place the garage at this location. No additional landscaping has been proposed.</p>
<p>3. The ADU will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties.</p>	<p>Due to the existing location of the driveway, the required 20' separation from the main house, and the need to provide room for the sewer easement, the proposed DADU will be located within 10' of the neighbor's side yard. The existing tree along the property line and the fence, which appear to be on the applicant's property should help decrease potential intrusion of privacy on the adjacent property.</p>
<p>4. The ADU will not result in excessive noise, traffic or parking congestion.</p>	<p>The proposed DADU is located much closer to the abutter's rear yard than the existing house, which will likely have some impact on noise levels. However, the existing trees and fence should offset this. As the property is located on a dead end street there is no pass-through traffic. Assuming two additional cars for the accessory unit, there will be a small increase in local traffic. While the applicant is meeting the off-street parking requirements, at least three of the spaces will require a vehicle passing over other spaces to get in and out of the property. For this reason, it is likely that if there are 4 cars, at least two will be parked on the street. Due to the low demand for parking along this street and the fact that this is the last house on the street, this is unlikely to present a problem for neighbors.</p>

Aerial photo showing the relationship of the lot to surrounding lots and buildings:



Planning Department Recommendation

Vote to grant the conditional use permit as presented, with the following stipulations:

- 1. The applicant shall modify the architectural design of the proposed DADU according to the guidance provided by the Planning Department.*
- 2. The applicant shall work with the City's Legal Department to secure necessary approvals for relocation of the existing sewer easement which shall be reviewed and approved by the DPW.*
- 3. The existing fence along the northwest property line shall be maintained in good repair and the existing mature tree closest to the fence shall be retained and appropriate protections shall be put in place during construction of the proposed DADU to minimize damage to the tree and root systems.*
- 4. In accordance with Sec. 10.814.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.*

- F. Request of Debra Regan to transfer title to half of the "paper street" known as Oak Street that abuts 43 Mangrove Street. (City Council Referral) (This request was postponed at the June 15, 2017 Planning Board Meeting).

Description

Ms. Regan and her neighbors who abut the paper street known as Oak St are requesting that the City release interest and “transfer title” of half of the street.

A paper street is one which shows on a plan, especially the City tax map, but which does not exist on the ground. The most common way for that situation to come about is when a street is “dedicated” to public use by a landowner recording a plan showing the street. This happened frequently in the days before planning board approval was required for the recording of plans. A street so dedicated becomes a public street only when “accepted” by the City. The acceptance can be formal, often by vote of the City Council, or by implication based on City use and maintenance of the street.

For a street dedicated (shown on a recorded plan) before 1969, the dedication was automatically terminated if the City did not accept the street within 20 years.¹ The owners of lots fronting on those paper streets may have implied easements to use the paper streets for access and development, but such easements do not override local zoning and subdivision regulations.

Based on prior research undertaken by the City in 2014 to explore potential locations for a Senior Center, a title search indicated that the City did not own Oak Street. While the City is being asked to formally release any interest it has in this paper street, such a vote is not technically required and would not necessarily have any impact, except to clarify the record. Additional title research will be required by Ms. Regan and others wishing to formally acquire the paper street in order to determine who else, if anyone, may have legal interest and/or ownership of this property.

Planning Department Recommendation

Vote to recommend that the City release any interest it may have in the paper street known as Oak Street.

IV. PUBLIC HEARINGS – NEW BUSINESS

- A. The application of **Thirty Maplewood, LLC, Owner**, for property located at **30 Maplewood Avenue** (46-64 Maplewood Ave), for a Conditional Use Permit under Section 10.535.12 of the Zoning Ordinance (as adopted when the project was vested through Design Review approval in December 2013) to allow an increase in building height above the maximum height specified in Section 10.531. Said property is shown on Assessor Plan 125 as Lot 2 and lies within Character District 4 (CD4) (Central Business District in December 2013), Downtown Overlay District and Historic District.

Description

This project originally received Design Review approval in December 2013. 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.

¹ *A Hard Road to Travel: New Hampshire Law of Local Highways, Streets, and Trails* (2015: New Hampshire Municipal Association), page 44.

At the time this project was vested, the zoning allowed a project to exceed the maximum height (which at the time was 45' or 3 ½ stories) through a conditional use permit granted by the HDC. This project proposes a height of 45' and a 4th story "penthouse" that does not meet the definition of a penthouse as described by the City's zoning ordinance and therefore is considered a full story.

At the time this project was vested, Section 10.535.13 of the Zoning Ordinance provided as follows:

Within the area bounded by Maplewood Avenue, Deer Street, Russell Street and the railroad right-of-way (Assessor Map 125 Lot 21, Map 118 Lot 28 and Map 124 Lot 126), the Historic District Commission may grant a conditional use permit to allow an increase in building height above the maximum structure height specified in Section 10.531, up to a maximum of 50 feet in the CBA district or 60 feet in the CBB district, only if the proposed building and site design positively contribute to the context, quality, and overall historic character of the neighboring properties and the district as a whole, including:

- *Publicly accessible open space areas such as widened sidewalks, plazas, pocket parks, playgrounds or other significant public open space areas;*
- *Underground parking in lieu of surface parking;*
- *The use of high-quality building materials in the building design including, but not limited to: slate or copper roofing; copper gutters and downspouts; restoration brick; granite sills, lintels, foundations, stoops and steps; and wood windows along the façade elevation;*
- *Significant scaling elements in the building design such as increased setbacks, stepbacks, reduced footprint and volume, the use of pitched roof forms, banding, quoining and other massing techniques to maintain a pedestrian scale along the façade;*
- *Significant restoration or reconstruction of a "focal" or "contributing" building;*
- *Permanent protection of a significant view corridor.*

This provision was adopted under the statutory provisions for "innovative land use controls" in RSA 674:21, and the administrative requirements of that statute state that "any proposal submitted under this section shall be reviewed by the planning board prior to final consideration by the administrator." In this case, the "administrator" of this innovative land use control is the HDC.

Thus, the responsibility of the Planning Board is to provide comments to the Historic District Commission regarding the application for a conditional use permit to allow the height of the building to exceed 3½ stories.

Planning Department Recommendation

Vote to forward a summary of comments raised during the Planning Board's discussion of this application to the Historic District Commission for consideration.

- B. The application of **Eversource Energy, Owner of a Right-of-Way**, for property located off **Ocean Road and Greenland Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland and inland wetland buffer for the reconstruction of 26 existing utility poles, with 222,124 \pm s.f. of impact to the inland wetland and 64,714 \pm s.f. of impact to the inland wetland buffer. Said properties are shown on Assessor Maps 281, 282 and 258 lie within the Municipal, Natural Resource Protection (NRP), Rural and Industrial Districts.

Description

This is an application for conditional use for impacts in the wetland and wetland buffer to replace 67 year old transmission line structures.

According to *Article 10 Section 10.1017.0* the applicant must satisfy the following conditions for approval of this utility project.

1. *The proposed construction is in the Public Interest:*
The impacts proposed from this project are required to maintain a 67 year old utility line. Protecting the electrical transmission lines is in the public interest.
2. *Design, construction and maintenance methods will utilize best management practices to minimize any detrimental impacts of such use upon the wetland and will include restoration of the site as nearly as possible to its original grade condition and vegetated state:*
The applicant has provided a carefully considered plan which includes restoring the site upon completion of each structure replaced. This includes plans for erosion control, reseeding, and inspecting/monitoring for plants an species during and after project construction.
3. *No alternative feasible route exists which does not cross or alter a wetland or have a less detrimental impact on a wetland:*
The applicant is proposing to upgrade an existing transmission line along an existing transmission line corridor and has reduced impacts as much as possible to accomplish this work.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals:*
The applicant proposed a permanent impact of 1,200 square feet where the rest of the impacts are temporary. The applicant proposes best management practices that make the impacts to the site as minimal as possible to achieve construction goals.

Conservation Commission Review

The Commission reviewed this at the July 12, 2017 meeting and voted to recommend approval with two stipulations, which have been included in the recommended action below.

Planning Department Recommendation

Vote to approve the conditional use permit with the following two stipulations:

1. *The invasive species that are removed during installation of the new poles shall be disposed of properly so as to not allow the spread of those plants.*
2. *The post construction monitoring report and any weekly progress reports which call out deviations from the plan due to spills or other impacts during project construction shall be provided to the Environmental Planner for distribution to the Conservation Commission.*

- C. The application of **Chance B. and Edward R. Allen, Owners**, for property located at **88 Sims Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for the construction of a 208 s.f. addition to a single family residence, with 300 ± s.f. of impact to the inland wetland buffer. Said property is shown on Assessor Map 232, as Lot 131 and lies within the Single Residence B (SRB) District.

Description

This is a Conditional Use Permit application proposing an addition to a home located at 88 Sims Avenue which is completely within the buffer. The applicant has designed the project to meet the exemption in Section 10.1016.10(4) but the addition did not conform to all other provisions of the ordinance without a variance. The house is non-conforming due to having a 19.5 foot front yard where 30 feet is required. The applicant is applying for a variance to expand the non-conformity but will have a 26.5 foot front yard where 30 feet is required. Due to the need for this variance this application does not meet the exemption for expansion in the wetland buffer and is before you as a conditional use permit application.

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

1. *The land is reasonably suited to the use activity or alteration:*
The impacts proposed from this project have been designed to reduce the impact in the buffer based on the exemption listed above therefore the setback proposed for the new addition is the same as the existing or 20.1 feet. The applicant has proposed additional work in the buffer to reduce the impacts to the wetland from the site.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration:*
Given that the entire house is in the buffer any expansion would need to occur in the buffer. The applicant has redesigned their plans to reduce the impact in the buffer to keep the addition no closer to the wetland than what exists today. Further, they have developed a terracing plan to reduce the velocity of stormwater going into the wetland with new plantings.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties:*
Given the small size of the addition and the plan to soften the slope to the wetland this project should reduce the impact of stormwater to the wetland.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals:*
The project is primarily within a lawn area which will be replaced with the addition and new plantings.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section:*
The proposed project has been designed to reduce impacts in the buffer such that the reduction of velocity to the adjacent wetland should offset the new impervious surface in this area.
6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible:*
This site has very little lawn. The applicant has shown new plantings in the area where the terracing is proposed.

Conservation Commission Review

The Commission reviewed this at the July 12, 2017 meeting and voted to recommend approval with two stipulations, which have been included in the recommended action below.

Planning Department Recommendation

Vote to approve the conditional use permit with the following two stipulations:

1. *The invasive species that are removed during installation of the new poles shall be disposed of properly so as to not allow the spread of those plants.*
2. *The post construction monitoring report and any weekly progress reports which call out deviations from the plan due to spills or other impacts during project construction shall be provided to the Environmental Planner for distribution to the Conservation Commission.*

It is recommended that Items D and E be discussed together and voted on separately.

A motion is required to consider these two items together.

- D. The application of **Pease Development Authority, Owner, and Summit Land Development, LLC, Applicant**, for property located at **160 Corporate Drive**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer for the construction of a two story manufacturing and office building with a footprint of 85,500 s.f. and 190 parking spaces, with 178 ± s.f. of impact to the inland wetland buffer. Said property is shown on Assessor Map 313, as Lot 2 and lies within the Pease Airport, Business, Commercial (ABS) District.
- E. The application of **Pease Development Authority, Owner, and Summit Land Development, LLC, Applicant**, for property located at **160 Corporate Drive**, requesting Site Plan Approval to construct a two-story manufacturing and office building with a footprint of 85,500 s.f., including 190 parking spaces, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessors Map 313 as Lot 2, and lies within the Pease Airport, Business, Commercial (ABC) District.

Description

Note that this application is subject to the land use regulations of the Pease Development Authority rather than those of the City of Portsmouth, and the Planning Board's action is therefore to make recommendations to the Pease Development Authority regarding the requested approvals.

Wetland Conditional Use Permit

The Pease Development Authority has a variable buffer; the Newfield Ditch which drains into Hodgson Brook has a 25' buffer while Hodgson Brook has a 100' buffer. The entrance to the site proposes a wetland buffer impact of 2833 square feet and removal of existing unused stormwater infrastructure amounts to 515 square feet in the buffer. As such the Wetland Regulations from the Pease Zoning Ordinance must be complied with.

According to *the Pease Development Authority Zoning Ordinance Part 304-A Pease Wetland Protection section 304-A.08 Conditional Use Permitting (f) Criteria for Approval* the applicant must satisfy the following conditions for approval of this project.

1. *The land is reasonably suited to the use:*
The impacts proposed from this project are located to the maximum extent possible outside of the wetland buffer.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use:*
This application proposes to develop a *commercial* site on the Pease Tradeport and to access the site a buffer impact is necessary. The impact to the buffer is along Corporate Drive where there is a lawn area and sidewalk. The driveway is located to provide adequate spacing for the adjacent business.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties:*
The design of the project includes removing old stormwater infrastructure which could drain groundwater directly to Newfield Ditch as well as the new entrance to the site. Staff has discussed the need to provide a buffer enhancement area to offset the impact of the new entrance.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals:*
The new entrance is proposed in an area of existing lawn and sidewalk. The project also proposes to remove two sections of pipe and a headwall from old stormwater infrastructure. The pipe and headwall removal will require clearing of some vegetation. Staff recommends a stipulation to minimize impacts to existing trees and shrubs for this work.
5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section:*
The applicant has selected an alternative that will impact a lawn area and a sidewalk area in the buffer. Staff recommends that an area of wetland buffer restoration be included on the plan to offset this impact.

Conservation Commission Review

The Commission reviewed this application at the July 1, 2017 meeting and voted 4-2 to recommend approval of this project to the Planning Board with two stipulations. Two members were opposed because they believe the project should have complied with what would be a City 100' buffer not the Pease 25' buffer from Newfields Ditch. The stipulations have been incorporated into the recommended action below.

Site Plan Review

Site planning standards are included in Part 405 of the Pease Development Authority Site Plan Review Regulations.

Technical Advisory Committee Review

The TAC reviewed this application at the July 5, 2017 meeting and voted to recommend approval with six stipulations.

- 1) The applicant shall work with the PDA to finalize any street lighting.
- 2) All utility connections must be installed prior to the City starting reconstruction of Corporate Drive in 2018.
- 3) The applicant shall add a detail for drain manholes with inverts per the requirements of DPW.

- 4) The existing outfalls shall be removed in the wetland buffer.
- 5) The following note shall be added to the Site Plan: "The applicant shall be responsible to perform a radio-strength test with a Motorola Service Shop to ensure sufficient signal strength within any structure included in the project to support adequate radio coverage for emergency personnel. The expense for the test shall be the responsibility of the applicant, whether or not the test indicates that amplifiers are necessary to ensure this communication. If the test indicates that amplifiers are required, that cost, too, shall be the responsibility of the applicant. All testing and installations shall be coordinated between the applicant and the police/fire communications supervisor."
- 6) The applicant shall add a corridor of trees on either side of the site entry way.

On July 12th, the applicant submitted revised plans which address all of the items above to the satisfaction of the Planning Department.

<p><u>Planning Department Recommendation</u></p> <p><u>Wetland Conditional Use Permit</u></p> <p><i>Vote to recommend approval of the conditional use permit with the following stipulations:</i></p> <ol style="list-style-type: none">1. <i>That the invasive species that are removed during project construction be disposed of properly so as to not allow the spread of those plants</i>2. <i>That the applicant maintain the buffer enhancement area located on their property so that it remains free of invasive species.</i> <p><u>Site Plan Review</u></p> <p><i>Vote to recommend site plan review approval.</i></p>

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- F. The application of **Steven H. Lee, Owner**, for property located at **174 Dodge Avenue**, requesting Conditional Use Permit approval to create a two-story 1,000 ± s.f. garden cottage in an existing building, with associated paving, lighting, and utilities. Said property is shown on Assessor Map 258 as Lot 43 and lies within the Single Residence B (SRB) District.

Description

The applicant has requested to postpone this application to the August Planning Board meeting.

<p><u>Planning Department Recommendation</u></p> <p><i>Vote to postpone this application to the August Planning Board meeting.</i></p>
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G. The application of **Alexander C. Garside and Nicole Outsen, Owners**, for property located at **212 Park Street**, and the **Trudy Gould Irrevocable Living Trust, Owner, William A. Gould, Trustee**, for property located at **226 Park Street**, requesting Preliminary and Final Subdivision Approval (Lot Line Revision) between two lots as follows:

- (1) Map 149, Lot 50 decreasing in area from 13,218 ± s.f. (0.3034 acres) to 8,736 ± s.f. (0.2005 acres) with 47.69' of continuous street frontage on Park Street.
- (2) Map 149, Lot 51 increasing in area from 7,597 ± s.f. (0.1744 acres) to 12,079 ± s.f. (0.2773 acres) with 50' of continuous street frontage on Park Street.

Said lots lie within the Municipal (M) district and Character District 5 (CD5) which have no minimum requirements for lot area or street frontage.

Description

This lot line revision is proposing to relocate the boundary line between Map 149 Lots 50 and 51 so that the rear section of land (labeled as Parcel B on the lot line revision plan) is removed from lot 50 and added to lot 51.

Planning Department Recommendation

Vote to grant Preliminary and Final Subdivision Approval with 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 easement deeds shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

H. The application of **Paul M. and Laura L. Mannle, Owners**, for property located at **1490 Islington Street**, requesting Conditional Use Permit approval to create a one-bedroom 727 ± s.f. attached accessory dwelling unit on the first floor of an existing single family residence, with associated paving, lighting, and utilities. Said property is shown on Assessor Map 233 as Lot 108 and lies within the Single Residence B (SRB) District.

Description

The applicant proposes to convert a portion of an existing single family home to an accessory dwelling unit. Per the requirements of Section 10.814.20, except as otherwise modified in Section 10.814, a property that is adding an accessory dwelling unit is subject to all of the land use regulations that would be applicable to a single family dwelling including dimensional requirements. Because the existing single family home is not currently conforming for front yard setback, the addition of the ADU requires zoning relief. This application is on the agenda for the Zoning Board of Adjustment for July 18, 2017.

Because the resulting unit will be an attached accessory dwelling unit (AADU), the provisions of Sec. 10.814.40 apply.

	Required	Provided / Proposed
Min. lot area (sf)	15,000	35,172
Lot area / dw unit (sf)*	15,000	35,172
Street frontage (ft)	100	>100
Lot depth (ft)	100	>100
Primary front yard (ft)	30	5
Right side yard (ft)	10	>10
Left side yard (ft)	10	13
Rear yard (ft)	30	>30
Height (ft)	35	<35
Bldg coverage (%) max.	20%	<20%
Open Space (%) min.	40%	>40%
Parking (#)	4	4

*In the Single Residence districts, the lot area per dwelling unit requirement only applies to the principal single family use.

The applicant has indicated they will comply with all of the requirements of the Ordinance for an AADU as follows:

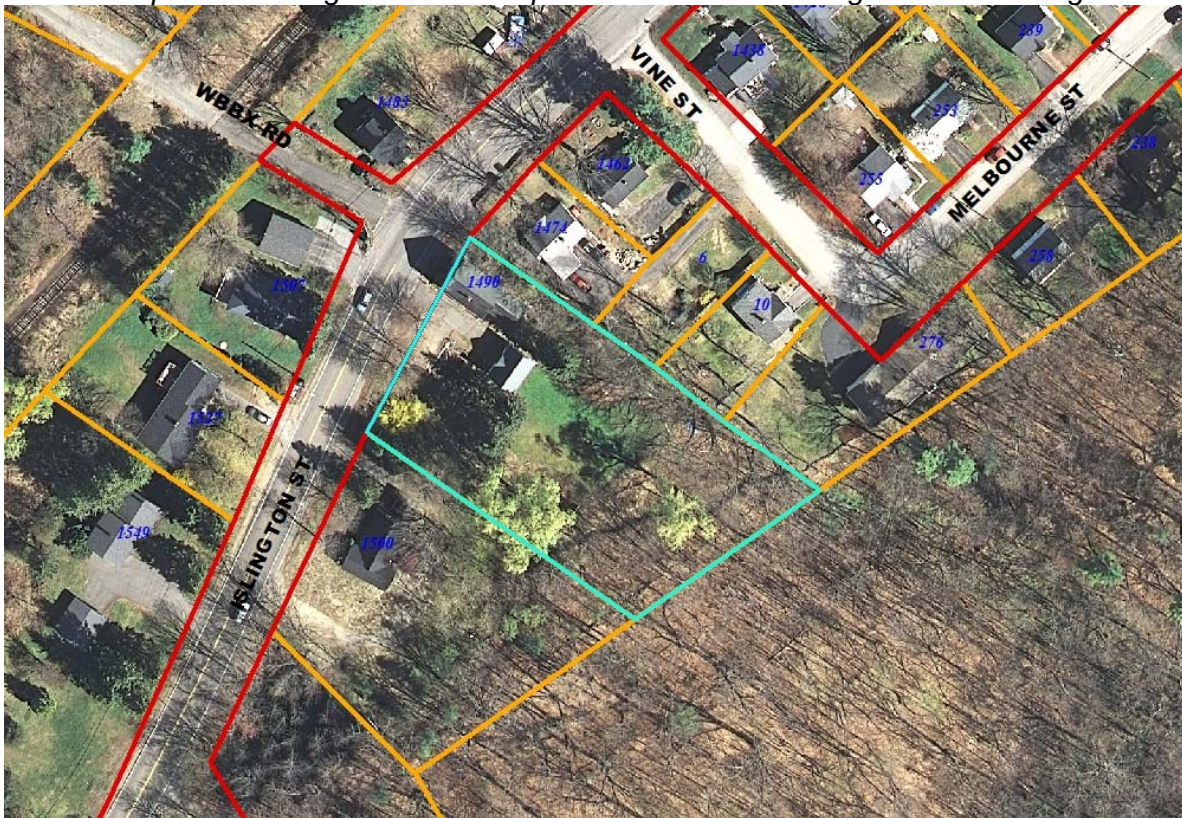
1. The principal dwelling unit and the accessory dwelling unit shall not be separated in ownership.
2. Either the principal dwelling unit or the accessory dwelling unit shall be occupied by the owner of the dwelling.
3. Neither the principal dwelling nor the accessory dwelling unit shall be used for any business, except that the property owner may have a home occupation use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.
4. In addition to the two off-street parking spaces required for the single-family dwelling, two parking spaces shall be provided for an ADU larger than 400 sq. ft.
5. An interior door shall be provided between the principal dwelling unit and the ADU.
6. The ADU shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area;
7. Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling.

In order to grant a conditional use permit for an ADU, the Planning Board must first make the following findings (Sec. 10.814.60):

Required Findings	Planning Department Comments
1. Exterior design of the ADU is compatible with the existing residence on the lot through architectural use of building forms, scale and construction materials.	No exterior changes to the building are proposed.
2. The site plan provides adequate open space and landscaping that is useful for both the ADU and the primary dwelling.	Both the primary dwelling and the ADU will have access to usable open space. No additional landscaping has been proposed.

Required Findings	Planning Department Comments
<p>3. The ADU will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties.</p>	<p>The proposed conversion of a portion of the existing home without any expansion to the footprint is not anticipated to have a significant impact on privacy of abutters. An existing parking area is being expanded and improved to accommodate 4 off-street parking spaces on the property.</p>
<p>4. The ADU will not result in excessive noise, traffic or parking congestion.</p>	<p>The addition of the ADU is not anticipated to have a significant increase in traffic and adequate off-street parking is being provided. The proposed conversion of a portion of the existing home without any expansion to the footprint is not anticipated to have a significant impact on noise.</p>

Aerial photo showing the relationship of the lot to surrounding lots and buildings:



Planning Department Recommendation

1. *Vote to find that the application satisfies the requirements of 10.814.60.*
2. *Vote to grant the conditional use permit as presented, with the following stipulations:*
 1. *In accordance with Sec. 10.814.70 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.814, including the owner-occupancy requirement, and shall renew the certificate of use annually.*

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- I. The application of **Christopher L. and Anna D. Shultz, Owners**, for property located at **140 Orchard Street**, requesting Conditional Use Permit approval to create a 2-story, one-bedroom, 584 ± s.f. garden cottage in an existing building, with associated paving, lighting, and utilities. Said property is shown on Assessor Map 149 as Lot 38 and lies within the General Residence A (GRA) District.

Description

The applicant proposes to convert an existing barn to a garden cottage dwelling unit and therefore the provisions of Sec. 10.815 apply. Different from an ADU, a garden cottage that complies with the standards of Section 10.815 is otherwise exempt from the residential density standards of the Zoning Ordinance (e.g. minimum lot area per dwelling unit).

The applicant has indicated they will comply with the requirements of the Ordinance for a Garden Cottage as follows:

1. The existing accessory building shall not be expanded either vertically or horizontally, other than through the addition of a front entry not to exceed 50 sq. ft., or a side or rear deck not to exceed 300 sq. ft.
2. The principal dwelling unit and the garden cottage shall not be separated in ownership (including by condominium ownership); and either the principal dwelling unit or the garden cottage shall be occupied by the owner of the property.

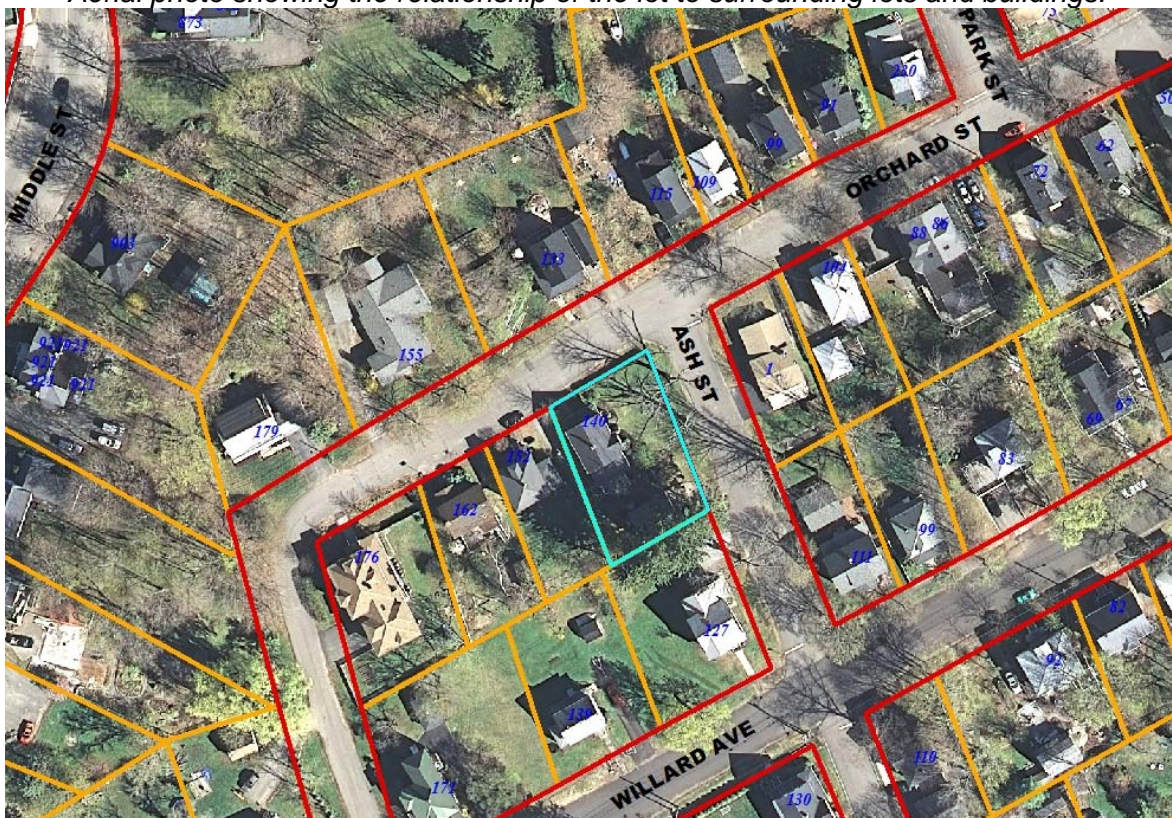
As allowed under Section 10.815.60, the Planning Board may modify a specific dimensional or parking standard. The applicant is requesting that the following standards be modified:

1. The proposed garden cottage is 1,068 sq. ft., which is larger than 600 sq. ft. gross floor area required per the Ordinance.
2. The applicant is proposing to keep the existing parking, which has space for two off-street parking spaces to fit entirely on their property without using the public right-of-way. A total of three parking spaces are required per the Ordinance.

In order to grant a conditional use permit for a Garden Cottage, the Planning Board must first make the following findings (Sec. 10.815.40):

Required Findings	Planning Department Comments
1. Exterior design of the Garden Cottage is compatible with the existing residence on the lot through architectural use of building forms, scale and construction materials.	The applicant is not proposing to change the exterior of the existing building substantially in a way that would change the existing architectural character.
2. The site plan provides adequate open space and landscaping that is useful for both the Garden Cottage and the primary dwelling.	Both the primary dwelling and the garden cottage will have access to usable open space. No additional landscaping has been proposed.
3. The Garden Cottage will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties.	The applicant is not proposing to change the exterior of the existing building substantially in a way that would change the existing character. The location of the garden cottage is on a portion of the lot that abuts a public street on one side and the rear yard of the abutting property on the other, the privacy of adjacent properties should not be impacted significantly.
4. The Garden Cottage will not result in excessive noise, traffic or parking congestion.	The addition of the Garden Cottage is not anticipated to result in a significant increase in traffic for this residential neighborhood and the combination of off-street parking and on-street parking appears to be sufficient. The proposed conversion of an existing barn without any expansion to the footprint is not anticipated to have a significant impact on noise levels.

Aerial photo showing the relationship of the lot to surrounding lots and buildings:



Planning Department Recommendation

1. *Vote to find that the application satisfies the requirements of 10.815.40.*
2. *Vote to grant the conditional use permit as presented including the requested modifications to the parking and gross floor area requirements, with the following stipulation:*
 1. *In accordance with Sec. 10.815.50 of the Zoning Ordinance, the owner is required to obtain a certificate of use from the Planning Department verifying compliance with all standards of Sec. 10.815, including the owner-occupancy requirement, and shall renew the certificate of use annually.*

- J. The application of **Pease Development Authority, Owner, and 19 Rye Street, LLC, c/o Two International Group, Applicant**, for property located at **19 Rye Street**, requesting Site Plan Approval to construct a two-story office building with a footprint of 14,859 s.f., including 146 parking spaces, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessors Map 305 as Lot 4, and lies within the Pease Airport, Business, Commercial (ABC) District.

Description

Note that this application is subject to the land use regulations of the Pease Development Authority rather than those of the City of Portsmouth, and the Planning Board's action is therefore to make recommendations to the Pease Development Authority regarding the requested approvals. Site planning standards are included in Part 405 of the Pease Development Authority Site Plan Review Regulations.

Technical Advisory Committee Review

TAC reviewed this application at the July 5, 2017 meeting and voted to recommend approval with the following stipulations:

- 1) The Landscape Plan shall be revised to include an 8' landscaped island between the double bays in the parking lot fronting on Rye Street.
- 2) The applicant shall add a detail for the drain manholes with inverts.
- 3) The telephone pole at the edge of the sidewalk on Rye Street shall be moved back so that it does not impede the sidewalk.
- 4) The following note shall be added to the Site Plan: "The applicant shall be responsible to perform a radio-strength test with a Motorola Service Shop to ensure sufficient signal strength within any structure included in the project to support adequate radio coverage for emergency personnel. The expense for the test shall be the responsibility of the applicant, whether or not the test indicates that amplifiers are necessary to ensure this communication. If the test indicates that amplifiers are required, that cost, too, shall be the responsibility of the applicant. All testing and installations shall be coordinated between the applicant and the police/fire communications supervisor."

On July 12, 2017, the applicant submitted revised plans which address all of the items above to the satisfaction of the Planning Department.

<p><u>Planning Department Recommendation</u></p>
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<p><i>Vote to recommend site plan review approval.</i></p>
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- K. The application of **Merton Alan Investments, LLC, Owner**, for property located at **30 Cate Street**, requesting Amended Site Plan Approval to remove the 10 foot wide walkthroughs in the center of the two 8-unit buildings and move the units together; to provide a 20 foot wide separation between the 6-unit building to create two 3-unit buildings; and the revision of grading and utilities to accommodate the new building locations. Said property is shown on Assessors Map 165 as Lot 1 and lie within Character District 4-W (CD-4W).

Description

This project was previously approved by the Planning Board on February 16, 2017. The applicant is proposing to modify the approved project to accommodate an existing access easement that benefits the abutter that was discovered subsequent to the approval. The location and arrangement of the buildings has been modified and related drainage and grading and utility changes have also been made.

Technical Advisory Committee Review

TAC reviewed this application at the July 5, 2017 meeting and voted to recommend approval with the following stipulations:

- 1) The applicant shall verify the location of sewer manhole 4 and proximity to the water main. If in conflict, the applicant shall relocate the water main.
- 2) The catch basin near the railroad abutment on Bartlett Street shall be removed and shall be appropriately graded.
- 3) An additional Zelkova tree shall be planted along Bartlett Street at the end of the easement area.
- 4) An American Elm tree shall be added at the western end of the easement area and the landscaping shall be modified to be consistent with the other units.
- 5) The plan shall include flush mounted Belgian block cobbles as dividers between the parking areas.
- 7) The path leading to the parking area on the south side of the units on Bartlett Street end shall be shortened to discourage general use of that walkway as a cut through to access the gazebo.

On July 12, 2017, the applicant submitted revised plans addressing the items above to the satisfaction of the Planning Department. In addition, an abutter has submitted correspondence to the Planning Department (received on July 10, 2017) reiterating concerns he raised at the Technical Advisory Committee public hearing and which were also raised during the prior approval process. TAC members did not address his concerns directly at the hearing as it was felt this is primarily a civil matter between abutting property owners and not a topic for technical review. In response to one of his concerns about being properly notified, the Planning Department has verified that appropriate notifications have been sent to this abutter during all phases of the approval process.

Planning Department Recommendation

Vote to grant amended site plan approval as presented.

V. CITY COUNCIL REFERRALS/REQUESTS

- A. Request for a traffic signal and sidewalk easement from Richard Fusegni relative to property located at 1575 Woodbury Avenue.

Planning Department Recommendation

Vote to recommend that the City Council accept a traffic signal and sidewalk easement from Richard Fusegni relative to property located at 1575 Woodbury Ave.

VI. OTHER BUSINESS

- A. Appointment of Jody Record as a Planning Board Representative to the Rockingham Planning Commission.
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As governed by RSA 36:46-III, Commissioners are appointed by the City Council for four year terms. The Planning Board nominates a representative commissioner(s) for consideration and the City Council makes the appointment. A commissioner must be a resident of the community. The number of Commissioner positions per community are based on the community's population size, and Portsmouth has four Commissioner positions. Two of the positions are currently held by City Councilors Denton and Perkins and there are two vacancies. There are also four alternate commissioner positions that can be held by non-residents (e.g. staff).

Planning Department Recommendation

1. *Vote to nominate Jody Record to the City Council for appointment to the Rockingham Planning Commission.*
2. *Vote to nominate Peter Britz to the City Council for appointment as an alternate.*