



MEMORANDUM

To: Planning Board
From: Juliet T.H. Walker, Planning Director *JTW*
Jillian Harris, Planner 1
Subject: Staff Recommendations for the September 20, 2018 Planning Board Meeting
Date: 09/14/18

II. PRESENTATIONS

- A. Informational Presentation on FY 2019-2024 Capital Improvement Plan Process and Schedule
 - B. Informational Presentation on Historic Properties Climate Change Vulnerability Assessment
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III. DETERMINATIONS OF COMPLETENESS

- A. Site Plan Review
 - 1. The application of **Foundry Place, LLC, Owner**, for property located at **Deer Street ("Lot 2")**

Planning Department Recommendation

Vote to determine that the application is complete according to the Site Plan Review Regulations (contingent on the granting of any required waivers under Section IV of the agenda) and to accept the application for consideration.

IV. OLD BUSINESS – ZONING AMENDMENTS

- A. Proposed Amendments to Article 12 of the Zoning Ordinance – Signs. The proposed amendments include deleting the existing Article 12 – Signs, and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated September 12, 2018.

The Board held a public hearing on this proposed amendments at the August 16, 2018 meeting. The revised amendments reflect changes discussed at the previous meeting, including:

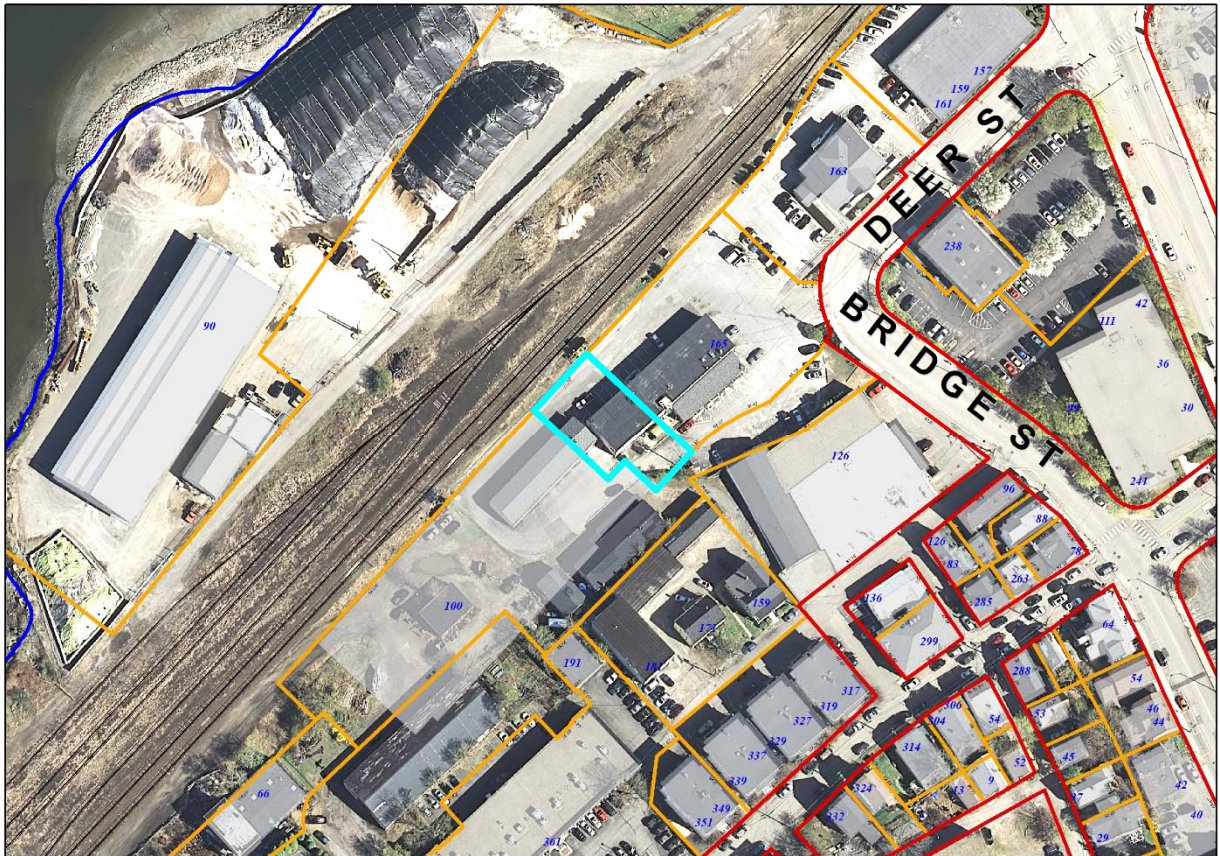
1. Deleted 10.1223.31 (number of temporary signs per frontage) and renumbered the remaining paragraphs.
2. In 10.1223.11 and 10.1223.21, changed 60 days to 90 days.
3. In 10.1223.13, changed 30 days to 60 days.
4. In 10.1224.80, added a sentence that exempts projected signs on the same lot.
5. In 10.1232, deleted “Municipal”.
6. Sign area of projected signs: Inserted a new 10.1251.40 linking to the requirements for wall signs.
7. Holiday lighting and displays: Inserted a new 10.1222.90, copying the existing language in 10.1142.34 and adding the words “and displays”.

Planning Department Recommendation

Vote to recommend approval of the proposed amendments to City Council.

V. PUBLIC HEARINGS – OLD BUSINESS

- A. The application of **Foundry Place, LLC, Owner**, for property located off of **Deer Street (“Lot 2”)** on the future **Foundry Place**, requesting Site Plan Review approval for the creation of a community space meeting the requirements of Article 5A of the Zoning Ordinance and a Conditional Use Permit approval for banking of community space under Section 10.5A46.23 of the Ordinance with related landscaping, utilities, easements, and other site improvements. Said property is shown on Assessor Map 125 as Lot 17-1 and lies within the CD5 and Downtown Overlay (DOD) District.



Description

Please review packet materials sent previously for this application at the August 16, 2018 Planning Board Meeting.

This application is submitted in connection with site plan approvals for Lots 3 (165 Deer St, Map 125, Lot 17) and 6 (181 Hill St, Map 138, Lot 62), which awarded the Applicant incentive bonuses for height and density based upon the development of Lot 2 as community space.

The proposal requests waivers for submittal and other requirements in the Site Plan review regulations with the condition that the community space lot would be transferred to the City of Portsmouth for implementation of the design.

Typically, any community space that is proposed as part of a development project under Section 10.5A43.43 would be designed and constructed as part of the overall project. In this case, after some preliminary reviews with the Technical Advisory Committee, the applicant is proposing to deed "Lot 2" to the City and make a financial contribution to the City to cover the cost of the improvements. The City would then be responsible for finalizing the design and engineering plans and ultimately constructing the improvements.

This is a similar situation to the Planning Board condition of approval for the AC Hotel, (299 Vaughan Street) property, which included a community space park to be constructed by the City along the North Mill Pond. In addition, similar to the AC Hotel project, the applicant is requesting that the excess community space not required for the incentives used by Lots 3 and Lot 6, be banked for future potential use by nearby properties currently owned by the applicant (Lots 4 and 5), which have not yet come to the Planning Board for site plan approval. Any future use of the excess community space for incentives on these lots would require a conditional use permit from the Planning Board and can only be used for an increase in allowed building height (additional 1-story or 10') or building footprint (up to 30,000 sq. ft.).

Planning Department Recommendation

1. *Vote to find that a waiver will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to waive all submittal and other requirements in the Site Plan Review regulations that would not be satisfied by the Application and Plans as submitted.*

[Note: An affirmative vote of six members of the Planning Board is required to grant a waiver.]

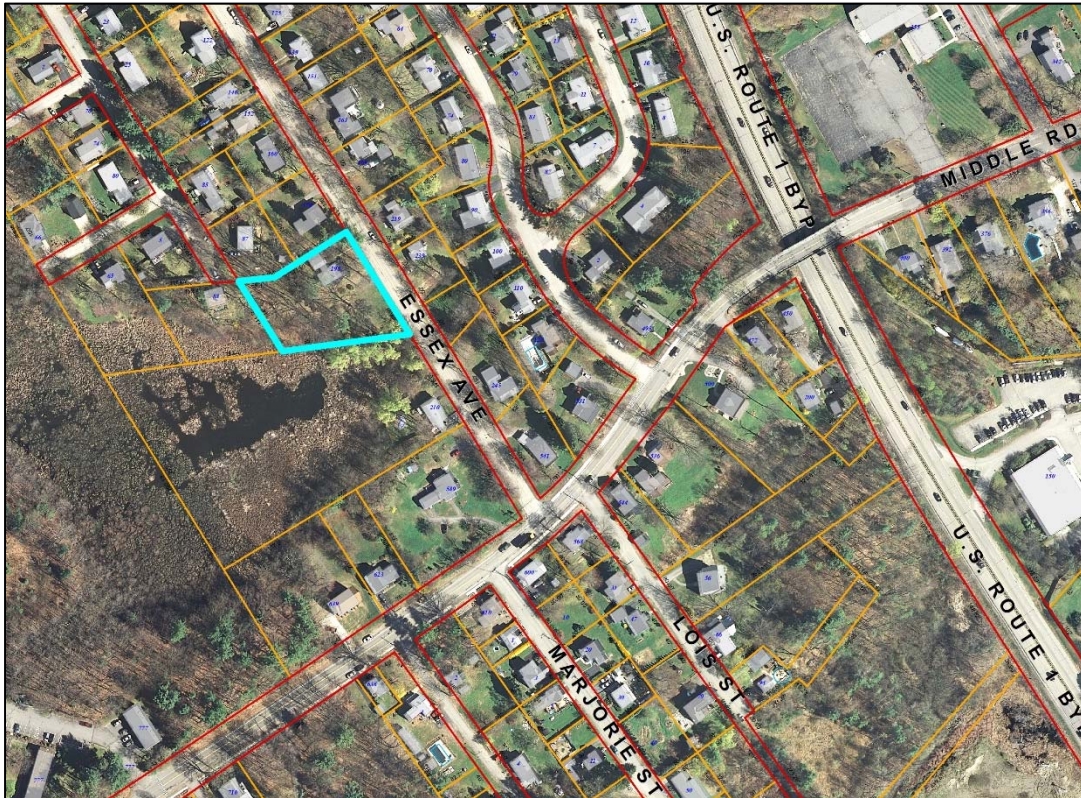
2. *Vote to grant Site Plan Approval with the following stipulations:*

- 1) *The future community space shall be transferred to the City on or before the issuance of a certificate of occupancy for Lots 3 or 6 (whichever occurs later) but in any event no later than September 9, 2022.*
- 2) *The applicant shall provide a financial contribution \$145,000 to the City, payable on or before the time the City commences construction of the improvements shown on the Plans (as may be amended), \$10,000 of which shall be placed in escrow by the City and used to pay for art work to be displayed on Lot 2, as mutually agreed to by the City and the Applicant.*
- 3) *Prior to the issuance of a building permit for either Lot 3 or Lot 6, the applicant shall provide a surety bond or letter of credit to insure payment from the Applicant as stipulated in item 2 above. The Planning Board shall approve release of the payment bond or letter of credit without payment from the Applicant if construction of the improvements on Lot 2 is not developed substantially in accordance with the Plans (as may be amended) by the City within three (3) years of the transfer of Lot 2 to the City.*

- 4) The Applicant shall provide to the City all of the preliminary engineering design plans and survey data that have been produced for property by the applicant to date.*
- 5) The easements from the City to the applicant shall be reviewed and approved by the Planning and Legal Department and approved by City Council. These easement deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 3. Vote to grant Conditional Use Permit Approval to allow the excess community space as marked on the submitted Plans as "Community Space to Benefit Lot 4 (Tax Map 125, Lot 17-2) and/or Lot 5 (Tax Map 125, Lot 17-2)" to be credited to the developer or its assigns to be used for development approvals for Lots 4 and/or 5 according to the requirements of Section 10.5A46.23 with the following stipulations:*
 - 1) The terms of the conditional use permit for the banking of the community space per Section 10.5A46.23 shall be documented in a Prospective Development Incentive Agreement (PDIA) to be entered into between the applicant and the Planning Department.*

V. PUBLIC HEARINGS – OLD BUSINESS (Cont.)

- B. The application of **Robert and Whitney Westhelle, Owners**, for property located at **198 Essex Avenue**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct a wood 12' X 18' garden shed, on cement blocks, with 216 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 232 as Lot 128 and lies within the Single Residence B (SRB) District.



Description

This application is to install a garden shed on the property located completely within the wetland buffer.

Conservation Commission Review

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 shed is proposed to be located in an area that is partially lawn and given its small size of 216 square feet with no foundation the area is reasonably suited to the proposal.

2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration. The location of the shed is within a lawn and brush area and is reasonable given nearly the entire property is located within the wetland buffer.
3. There will be no adverse impact on the wetland functional values of the site or surrounding properties. The proposed shed should not create any adverse impacts to adjacent properties.
4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. There will need to be lawn and some brush cleared to install the shed.
5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section. The proposed shed if constructed on blocks and constructed where lawn and brush exist can be constructed to not have any greater impacts than the existing lawn.
6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible. The applicant has stated they were interested in removing invasive species and planting native vegetation. However, no specific locations have been shown on the plan.

The Conservation Commission reviewed this application at the September 12, 2018 meeting and voted to recommend approval as presented with one member recusing.

Planning Department Recommendation

Vote to grant the wetland conditional use permit as presented.

V. PUBLIC HEARINGS – OLD BUSINESS (Cont.)

- C. The application of **Pease Development Authority, Owner, and Lonza Biologics, Inc., Applicant**, for property located at **70 and 80 Corporate Drive**, requesting Conditional Use Permit approval, under Chapter 300 of the Pease Land Use Controls, Part 304-A Pease Wetlands Protection, for work within the inland wetland buffer for the construction of three proposed industrial buildings: Proposed Building #1 with a 132,000± s.f. footprint; Proposed Building #2: 150,000 ± s.f. footprint; Proposed Building #3 with a 62,000± s.f. footprint; and two 4-story parking garages, with 55,555 ± s.f. of impact to the wetland, 66,852 ± s.f. of impact to the wetland buffer and a 1,000± l.f. stream restoration for Hodgson Brook resulting in 42,500 s.f. of wetland creation. Said property is shown on Assessor Map 305 as Lots 1 & 2 and lies within the Pease Airport Business Commercial (ABC) district.

Planning Department Recommendation:

No vote required, the Planning Board previously voted to postpone this application so that it can be considered at the same time as the applications for Subdivision and Site Plan Review. The applicant has requested a postponement to the October Planning Board meeting.

VI. PUBLIC HEARINGS – NEW BUSINESS

- A. The application of **Kyle Langelier, Owner**, for property located at **304 Leslie Drive**, requesting Conditional Use Permit approval to convert an existing one-story, one room addition to an Attached Accessory Dwelling Unit (AADU), with a footprint of 354 s.f. and a gross floor area of 354 s.f. Said property is shown on Assessor Map 209 as Lot 47 and lies within the Single Residence B (SRB) District.

Description

The applicant is proposing to convert an existing studio unit addition to an accessory dwelling unit.

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

Section 10.521 Dimensional Requirements

	Required	Provided / Proposed
Min. lot area (sf)	15,000	25,264.80
Lot area / dw unit (sf)*	15,000	25,264.80
Street frontage (ft)	100	70
Lot depth (ft)	100	250
Primary front yard (ft)	21'+/-	25'
Right side yard (ft)	10	14'-4"
Left side yard (ft)	10	10'
Rear yard (ft)	30	141'
Height (ft)	35	17'
Bldg coverage (%) max.	20%	5.06%
Open Space (%) min.	40%	91.38%
Parking (#)	2	4

* For an attached accessory dwelling unit, the lot area per dwelling unit requirement only applies to the principal single family use.

In addition to the dimensional requirements of Section 10.521 above, the Ordinance requires that an AADU comply with the following standards (Section 10.814.30 and 10.814.40).

Required Standard	Planning Department Comments
The principal dwelling unit and the accessory dwelling unit shall not be separated in ownership.	The applicant has indicated compliance with this requirement, verification will be required in order for a certificate of use to be issued.
Either the principal dwelling unit or the accessory dwelling unit shall be occupied by the owner of the dwelling.	The applicant has indicated compliance with this requirement, verification will be required in order for a certificate of use to be issued.

Required Standard	Planning Department Comments
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.	The applicant has indicated compliance with this requirement.
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.	Adequate off-street parking is being provided.
An interior door shall be provided between the principal dwelling unit and the ADU.	An interior door is being provided.
The ADU shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area.	The proposed ADU is an existing 1-bedroom, 354 s.f. addition.
Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling.	The applicant is not proposing any modifications to the exterior of the residence.

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.	The applicant is not proposing to modify the exterior of the existing residence and the proposed AADU will be located in an existing addition.
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 AADU will have access to usable open space and the existing landscaping on the property will not be altered.
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.	The addition was permitted in 2008 and is not proposed to be modified. It should not be incompatible with adjacent properties, nor have a significant impact on the privacy of adjacent properties.
4. The ADU will not result in excessive noise, traffic or parking congestion.	Adequate off-street parking is provided and the location of this unit in an established residential neighborhood is unlikely to create a noticeable change in traffic.

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, with the following stipulations:*
 - a) *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.*
 - b) *The conditional use permit shall expire unless the initial certificate of use is obtained within a period of one-year from the date granted. The Board may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested.*

VI. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- B.** The application of **Eric Schroeder and Suzanne Heiser, Owners**, for property located at **1047 Banfield Road**, requesting Conditional Use Permit approval under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to construct a 187 s.f. addition to an existing shed, with 180 \pm s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 283 as Lot 40 and lies within the Single Residence A (SRA) District.



Description

This application is to install an addition to a garden shed on the property a portion of which is located within the wetland buffer.

Conservation Commission Review

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 shed addition is located in a grass/yard area and is approximately 85 feet from the edge of wetland. Given the proposed design removal of pavement, rain barrel and plantings this addition is reasonable within the buffer.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* This project is an addition to an existing shed which requires the location requested.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed shed should not create any adverse impacts to adjacent properties.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There will be no clearing of natural woodland to expand the existing shed.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The proposed shed addition if constructed as proposed on blocks and constructed where lawn is currently should not have any greater impacts than the existing shed.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The applicant has stated that they plan to remove an area of approximately 200 square feet of existing pavement, install some plantings and rain barrels to reduce impacts in the buffer.

The Conservation Commission reviewed this application at the September 12, 2018 meeting and voted unanimously to recommend approval with the following stipulation:

1. The applicant shall update the plan to include drainage underneath the rain barrels at all four corners of the shed.

Planning Department Recommendation

Vote to grant the wetland conditional use permit with the following stipulation:

1. *The applicant shall update the plan to include drainage underneath the rain barrels at all four corners of the shed.*

VI. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- C. The application of **Pease Development Authority, Owner, and Lonza Biologics, Inc., Applicant**, for property located at **70 and 80 Corporate Drive**, requesting Site Plan Review Approval, under Chapter 400 of the Pease Land Use Controls, Site Review Regulations, for the construction of three proposed industrial buildings with heights of 105 feet: Proposed Building #1: 132,000 s.f. footprint and 430,720 s.f. Gross Floor Area; Proposed Building #2: 142,000 s.f. footprint and 426,720 s.f. Gross Floor Area; Proposed Building #3: 62,000 s.f. footprint and 186,000 s.f. Gross Floor Area; and two 4-story parking garages, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said properties are shown on Assessor Map 305 as Lots 1 & 2 and lie within the Pease Airport Business Commercial (ABC) district.

Description

The applicant has requested to postpone to the October 18, 2018 Planning Board meeting.

Planning Department Recommendation

Vote to postpone this application to the October 18, 2018 Planning Board meeting.

- D. The application of **Pease Development Authority, Owner, and Lonza Biologics, Inc., Applicant**, for property located at **70 and 80 Corporate Drive**, requesting Subdivision approval, under Chapter 500 of the Pease Land Use Controls, Subdivision Regulations, to merge Map 305, Lots 5 & 6 (17.10 acres), Map 305, Lot 1 (13.87 acres), Map 305, Lot 2 (10.18 acres) and a discontinued portion of Goosebay Drive to create Map 305, Lot 6 (43.37 acres). Said properties are shown on Assessor Map 305 as Lots 1 & 2 and lie within the Pease Airport Business Commercial (ABC) district.

Description

The applicant has requested to postpone to the October 18, 2018 Planning Board meeting.

Planning Department Recommendation

Vote to postpone this application to the October 18, 2018 Planning Board meeting.

VII. OTHER BUSINESS

A. Staff Report Back on Accessory Dwelling Units

Enclosed with this memo is a summary of the Accessory Dwelling Units and Garden Cottages that have been considered by the Planning Board since the zoning amendments were adopted in 2017. Based on the experience with the Ordinance to date, staff has recommended some proposed modifications, which are referenced below.

B. Proposed Zoning Amendments Update

1. Proposed Amendments to Sections 10.814 & 10.815 – Accessory Dwelling Units & Garden Cottages; and related amendments to Article 15 – Definitions
2. Proposed New Section 10.240 – Conditional Use Permits
3. Amendments currently under review by Planning Department staff

Drafts of these proposed amendments were sent previously at the July 19, 2018 Planning Board Meeting. The draft amendments are also posted online at www.cityofportsmouth.com/planportsmouth/current-zoning-amendments. At this time, the Planning Department is proposing to holding a public hearing on each of these amendments at the October Planning Board meeting. If Planning Board members would like to request any additional changes before the public hearing, please provide comments at the meeting or send to the Planning Director directly.

Staff is currently working on a number of additional amendments with Planning Consultant, Rick Taintor, which we will bring to the Planning Board for review in the near future including revisions to the Floodplain and Wetlands Ordinance, “Transition Zoning” in areas abutting residential neighborhoods, Short-Term Rentals, regulations for Multiple Principal Buildings on a Lot, and food trucks.

C. 439 Hanover Street Sidewalk Easement

Description

The attached memo from the Deputy City Attorney describes the purpose of a sidewalk easement to be deeded to the City at this location.

Planning Department Recommendation

Vote to recommend that the City Council accept a sidewalk easement from the Wirths across property located at 439 Hanover Street.