



CITY OF PORTSMOUTH  
PLANNING DEPARTMENT

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MEMORANDUM

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**To:** Planning Board  
**From:** Juliet T.H. Walker, Planning Director *JTW*  
Jillian Harris, Planner 1  
**Subject:** Staff Recommendations for the July 16, 2020 Planning Board Meeting  
**Date:** 7/14/2020

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II. PUBLIC HEARINGS – OLD BUSINESS

- A. The application of the **Maud Hett Revocable Trust, Owner**, for property located on **Banfield Road**, requesting a Wetland Conditional Use Permit under Section 10.1017 of the Zoning Ordinance to construct 22 single family homes and an access road with an impact of 4,013 s.f. of inland wetland area and 21,089 sq. ft. in the wetland buffer. Said property is located on Assessor Map 256 Lot 02 and lies within the Single Residence A (SRA) District.
- B. The application of the **Maud Hett Revocable Trust, Owner**, for property located on **Banfield Road** requesting Conditional Use Permit approval for an Open Space Planned Unit Development according to the requirements of Section 10.725 of the Zoning Ordinance and Site Plan Review approval for the construction of 22 single-family homes and a new road with related parking, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 256 Lot 02 and lies within the Single Residence A (SRA) District.



#### Description

This is a project to construct 22 single family homes served by septic systems and a private road on an existing undeveloped forested parcel according to the requirements for an Open Space Planned Unit Development. The proposed private road accessing the development requires a wetland crossing and the entire project will result in additional permanent impacts to the wetland buffer.

The Conservation Commission reviewed the wetland conditional use permit application at the December 11, 2019 meeting and voted 5-1-1 to recommend denial of this application as proposed, finding that the project as presented did not meet any of the criteria for approval of a wetland conditional use permit as listed in Section 10.1017.50 of the Zoning Ordinance.

Although the Commission did not provide comments specifically on the OSPUD conditional use permit, they did discuss the overall impacts on natural features due to the proposed number of units and the challenges of developing a site that has a lot of ledge and will be entirely on private septic.

Planning Department Comments

The applicant has made substantial changes to this application since it was reviewed by the Conservation Commission. In addition, the OSPUD requirements stipulate that the Conservation Commission shall be afforded an opportunity to comment on the particulars of a proposed PUD, including but not limited to the natural features of the parcel and how these may be impacted by the proposed project.

On July 14<sup>th</sup> the applicant's attorney requested that the application be postponed at Planning Board so that they can return to the Conservation Commission for review at the August meeting.

**Planning Department Recommendation**

- 1) *Vote to refer these applications to the Conservation Commission for review at their August meeting.*
- 2) *Vote to postpone the Wetland Conditional Use Permit application (Item II.A) to the August Planning Board meeting.*
- 3) *Vote to postpone the application for a conditional use permit for an Open Space Planned Unit Development (Item II.B) to the August Planning Board meeting.*

## II. PUBLIC HEARINGS – OLD BUSINESS (Cont.)

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- C. The application of **Richard Fusegni, Owner**, for property located at **1574 Woodbury Avenue** requesting a Conditional Use Permit for a drive-through facility in accordance with Section 10.440 (19.40) of the Zoning Ordinance and Site Plan Review Approval for the construction of a new retail bank with parking, utilities, landscaping, lighting, drainage and associated site improvements. Said property is shown on Assessor Map 238 Lot 17 and lies within the Gateway Neighborhood Mixed Use Corridor (G1) District.

Description

The applicant requests a postponement to the August 20, 2020 Planning Board meeting. They have revised their application since TAC reviewed and are returning to TAC to discuss the proposed revisions.

**Planning Department Recommendation**

*Vote to postpone the application to the August 20, 2020 Planning Board meeting.*



### III. PUBLIC HEARINGS – NEW BUSINESS

- A. The application of the **Charles E. Locke Living Trust, Owner**, for property located at **220 New Castle Avenue** requesting a Conditional Use Permit in accordance with Section 10.815 of the Zoning Ordinance to convert the 2nd floor of an existing accessory structure to a garden cottage with 369 +/- s.f. of gross floor area. Said property is shown on Assessor Map 207 Lot 44 and lies within the Single Residence B (SRB) District.



#### Description

The applicant requests a conditional use permit to convert the 2<sup>nd</sup> floor of an existing accessory structure on the property to a garden cottage. Different from an Accessory Dwelling Unit, 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).

Under the off-street parking requirements, the garden cottage and principal dwelling are required to provide 2 off-street parking spaces. The property has room for eight parking spaces in the driveways and garages.

The Ordinance requires that a Garden Cottage comply with the following standards (Section 10.815.30).

| <b>Required Standard</b>  | <b>Planning Department Comments</b>  |
|---|--|
| 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.                      | The applicant does not propose to modify the building vertically or horizontally.  |
| The garden cottage shall not be larger than 600 sq. ft. gross floor area.   | The gross floor area of the proposed garden cottage is 369 sq.ft.  |
| A garden cottage that is within the required yard for the zoning district shall not have any windows or doors higher than eight feet above grade facing the adjacent property.  | The garden cottage is located within the side yard setback for the zoning district and does have windows or doors facing the adjacent property. The applicant is requesting a modification for this requirement. |
| 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. | The applicant has indicated that the principal and garden cottage will remain under common ownership and be occupied by the owner of the property.   |
| Where municipal sewer service is not provided, the septic system shall meet NH Water Supply and Pollution Control Division requirements for the combined system demand for total occupancy of the premises.                               | N/A  |

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):

| <b>Required Findings</b>  | <b>Planning Department Comments</b>   |
|---|---|
| 1. Exterior design of the Garden Cottage is consistent with the existing single-family dwelling on the lot.   | The applicant is not proposing to change the exterior of the existing building.   |
| 2. The site plan provides adequate open space, landscaping and off-street parking for both the Garden Cottage and the primary dwelling.   | Both the primary dwelling and the garden cottage will have access to usable open space and sufficient parking. 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 and the privacy of adjacent properties should not be impacted significantly. |

| Required Findings  | Planning Department Comments   |
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| 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 off-street parking appears to be sufficient. The proposed conversion of an existing accessory structure without any expansion to the footprint is not anticipated to have a significant impact on noise levels. |

Request for Modifications:

The applicant requests modifications of required standards pursuant to Section 10.815.50 of the Zoning Ordinance as follows:

- 1) Section 10.815.33 of the Zoning Ordinance to allow windows/doors higher than 8 feet above grade facing the adjacent property.

**Planning Department Recommendation**

1. *Vote to grant a modification to section 10.815.33 of the Zoning Ordinance to allow windows/doors higher than 8 feet above grade facing adjacent properties.*
2. *Vote to find that the application satisfies the requirements of 10.815.40 with modifications granted.*
3. *Vote to grant the conditional use permit as presented, with the following stipulations*
  - 3.1) *In accordance with Sec. 10.815.50 of the Zoning Ordinance, documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds.*
  - 3.2) *In accordance with Sec. 10.815.70 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. 10.815, including the owner-occupancy requirement, and shall renew the certificate of use annually.*



### III. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

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- B.** The application of the **City of Portsmouth, Owner and Eversource Energy, Applicant**, for property located at **0 Borthwick Avenue** requesting an amended Wetland Conditional Use Permit in accordance with Section 10.1017 of the City's Zoning Ordinance for replacement of three wooden utility poles with one steel pole and replacement of one wooden pole with one steel pole. There is 3,359 square feet of temporary buffer impact and 3,348 square feet of temporary wetland impacts. Impacts are from the placement of timber mats to allow equipment to access the pole location with temporary impacts to wetland and wetland buffer areas. Said property is shown on Assessor Map 240 Lot 2-1001 and lies within the Natural Resource Protection (NRP) District.



#### Description

The original Conditional Use Permit for this project was issued July 1, 2019. According to the applicant, due to unforeseen circumstances during construction, the project was changed to replace Poles 3171/48 and 3171/50 (in lieu of Pole 3171/49 as previously permitted) and to remove Pole 3171/49. The actual impacts with the change were 3,348 square feet of temporary wetland impacts (a net increase of 1,121 square feet) and 3,359 square feet of temporary buffer impacts (a net decrease of 1,208 square feet).



Conservation Commission Review

According to *Article 10 Section 10.1017.60* the applicant must satisfy the following conditions for approval of this project.

1. *The proposed construction is in the public interest.* The impacts proposed from this project are all temporary and other than new or replacement power poles there are no permanent impacts due to the proposed amendment. This project is being completed to serve the public interest to maintain the electric grid.
2. *The design, construction and maintenance methods will utilize best management practices to minimize any detrimental impact 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 project is to improve the electrical network or grid. The temporary nature of the project impacts is due to the use of timber mats which will be removed from the site and vegetation will restore naturally.
3. *No alternative feasible route exists which does not cross or alter a wetland or have a less detrimental impact on a wetland.* The way the project is designed using timber mats and the closest access point is the most feasible alternative for this project. The long-term impact will be minimal once the vegetation has grown back.
4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* The vegetation where the timber mats are positioned will be impacted temporarily however the vegetation will come back naturally.

The Conservation Commission reviewed this application at the July 8, 2020 meeting and voted unanimously to approve the application as presented.

**Planning Department Recommendation**

- 1) *Vote to approve the Wetland Conditional Use Permit as presented.*

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#### IV. PUBLIC HEARINGS -- ZONING

- A. Request from James G. Nocas, Jr. on behalf of St. Nicholas Greek Orthodox Church that the church's property located on Ledgewood Drive be re-zoned from Single Residence B (SRB) to Gateway Neighborhood Mixed Use Corridor (G1). Said property is shown on Assessor Map 229, Lot 6A.

Description

The petitioner has requested that this request to re-zone be postponed indefinitely.

**Planning Department Recommendation**

*Vote to postpone consideration of this re-zoning request indefinitely.*

## V. CITY COUNCIL REFERRALS

### A. The Acceptance of sidewalk easement at **444 Pleasant Street**.



#### Description

The Department of Public Works has been improving the sidewalks on Pleasant Street, including the sidewalk in front of the Portsmouth Housing Authority (PHA) building at 444 Pleasant Street. Over the course of completing these improvements, City surveyors discovered a 566 square foot of the sidewalk was not within the public right of way. PHA has agreed to convey this small parcel of land in order to clear the City's chain of title.

#### **Planning Department Recommendation**

*Vote to recommend that the City Council authorize the City Manager to accept a sidewalk easement over land at 444 Pleasant Street from Portsmouth Housing Authority (Tax Map 102 Lot 54).*