



MEMORANDUM

To: Planning Board
From: Juliet T.H. Walker, Planning Director *JTW*
Jillian Harris, Planner 1
Subject: Staff Recommendations for the December 17, 2020 Planning Board Meeting
Date: 12/11/2020

III. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

~~A. The application of **Raleigh Way Holding, LLC, Owner**, for properties located at **0 Falkland Way** requesting Site Plan Review Approval. (request to postpone)~~

B. The application of **Madison Commercial Group, LLC, Owner**, for property located at **150 Mirona Road** requesting Site Plan Review Approval.

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 V of the agenda and to accept the application for consideration.

SUBDIVISION REVIEW

A. The request of **Richard Boutin, Owner**, for properties located at **200 & 278 Sherburne Road** requesting Preliminary and Final Subdivision (Lot Line Revision) Approval

Planning Department Recommendation

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

IV. PUBLIC HEARINGS – OLD BUSINESS

- A. The application of **Raleigh Way Holding, LLC, Owner**, for properties located at **0 Falkland Way** requesting Site Plan Review Approval for the demolition of an existing garage and shed and the construction of a new 4-unit residential building with associated parking, stormwater management, lighting, utilities and landscaping. Said properties are shown on Assessor Map 212 Lots 112 & 113 and lie within the General Residence B (GRB) District.

Description

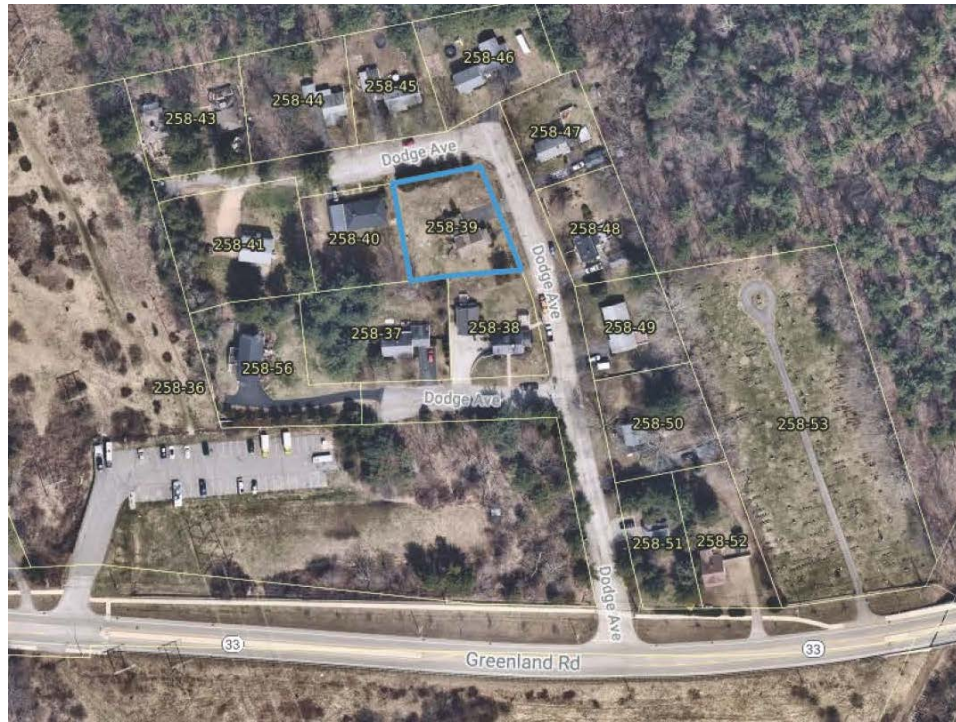
Applicant has requested to postpone this application to the January meeting.

Planning Department Recommendation

Vote to postpone to the January 21, 2021 Planning Board meeting.

IV. PUBLIC HEARINGS – OLD BUSINESS (Cont.)

- B. Petition of Thomas Murphy, Owner,** for property located at **95 Dodge Avenue** requesting a Conditional Use Permit in accordance with Section 10.814 of the Zoning Ordinance for the construction of an attached accessory dwelling unit of 745 s.f. gross floor area. Said property is shown on Assessor Map 258 Lot 39 and lies within the Single Residence B (SRB) District.



Description

The applicant is requesting a conditional use permit to create an attached accessory dwelling unit (AADU) as part of a newly constructed single-family residential structure. The applicant intends to employ a phased approach to the construction of the new units. The ADU will be built first at which point the applicant will move in and demolish the single family home. Then, construction will begin on a new single family home where the applicant will ultimately live, vacating the AADU.

The Zoning Board of Adjustment reviewed this application at their November 17, 2020 meeting and granted a variance to allow 2 driveways where only one is permitted on a lot.

The Planning Board, at the November 19, 2020 meeting, voted to grant a modification pursuant to Section 10.814.70 of the Zoning Ordinance to allow 41.4% of the total façade area to be dedicated to the ADU, which does not comply with the requirements of Section 10.814.531. However, the Board voted to deny a modification to the standards set forth in Section 10.814.43 to allow multiple entrances designed to appear as principal entrances on the front of the dwelling; and the Board voted to postpone the remainder of the application to the December Planning Board meeting to allow for modifications to the design as discussed.

In addition to the dimensional requirements of Section 10.521, 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.
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.
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.	The applicant has indicated compliance with this requirement.
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 ADU is proposed to have one bedroom and one office and to be 745 s.f.
Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling.	The applicant has made some adjustments to the original design of the entrances in response to feedback from the Board on this standard.
No portion of the AADU shall be closer to the front lot line than the existing front wall of the principal dwelling unit.	The AADU is setback from the proposed front wall of the principal dwelling unit.
An exterior wall of the AADU that faces a street on which the lot has frontage shall comprise no more than 40% of the total visible façade area of the dwelling as seen from that street.	The applicant is requesting that the Planning Board grant a modification for this requirement.

Required Standard	Planning Department Comments
The addition to or expansion of the existing single-family dwelling may include an increase in building height only as an upward expansion of the existing principal building with no increase in building footprint.	The AADU is proposed as part of a newly constructed single-family dwelling.
The building height of any addition or expansion that includes an increase in building footprint shall be less than the building height of the existing principal building.	The AADU is proposed to be less than the building height of the newly constructed principal building.
The AADU shall be architecturally consistent with the existing principal dwelling through the use of similar materials, detailing, roof pitch, and other building design elements.	The AADU is designed to be aesthetically consistent with the existing single family structure.

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 consistent with the principal dwelling on the lot.	The AADU is designed to be aesthetically consistent with the existing single family structure.
2. The site plan provides adequate open space, landscaping and off-street parking for both the ADU and the primary dwelling.	Both the primary dwelling and the AADU will have access to usable open space and landscaping. Required total parking is 3 spaces and the site design provides for more than 3 spaces.
3. The ADU will maintain a compatible relationship to adjacent properties in terms of location, design and off-street parking layout and will not significantly reduce the privacy of adjacent properties.	The proposed AADU 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.	The location of this unit in an established residential neighborhood is unlikely to create a noticeable change in traffic.

The applicant has submitted revised plans that show the ADU entrance moved to the north elevation to reduce the appearance of multiple principal entrances on the front of the dwelling. The applicant has proposed that this change helps to maintain the appearance of a single-family dwelling and appears to address the concerns of the Board for this required standard.

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 stipulation:*
 - 2.1) *In accordance with Sec. 10.814.90 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.*

V. PUBLIC HEARINGS – NEW BUSINESS

- A. The request of **Richard Boutin, Owner**, for properties located at **200 & 278 Sherburne Road** requesting Preliminary and Final Subdivision (Lot Line Revision) Approval for 2 lots as follows: Lot 76 on Assessor Map 261 decreasing in area from 94,641 s.f. to 35,507 s.f. and Lot 2 on Assessor Map 261 increasing in area from 17,304 s.f. to 76,437 s.f. Said properties are shown on Assessor Map 261 Lots 2 & 76 and lie within the Single Residence B (SRB) District.



Description

The applicant is requesting a minor lot line revision to transfer 59,133 s.f. lot area between abutting parcels.

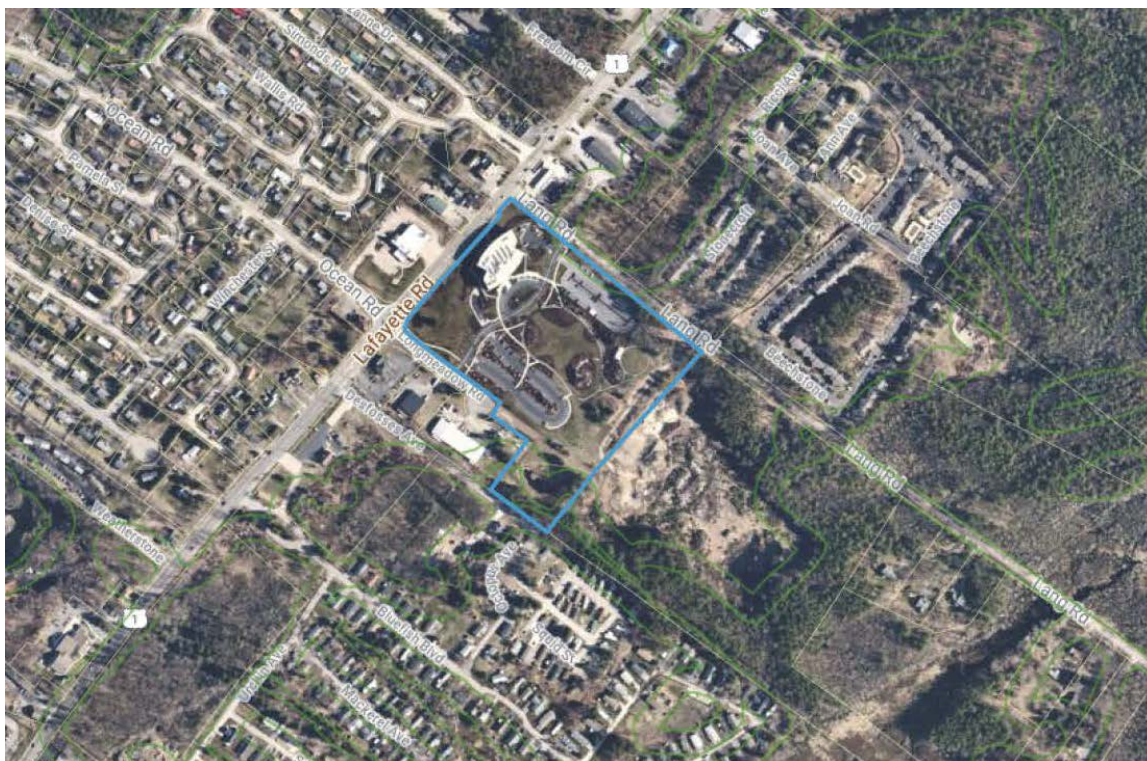
Planning Department Recommendation

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

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

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- B.** The request of the **Service Credit Union, Owner and the City of Portsmouth, Applicant**, for property located at **3003 Lafayette Road** requesting Amended Subdivision Approval for two lots and a proposed new right-of-way for revisions to the stormwater drainage design. Said property is shown on Assessor Map 291 Lot 1 and lies within the (G1) District.



Description

On February 21, 2019 this project was granted Final Subdivision Approval with stipulations from the Planning Board. This request is to amende the previously approved subdivision plans resulting from revisions to the stormwater management design.

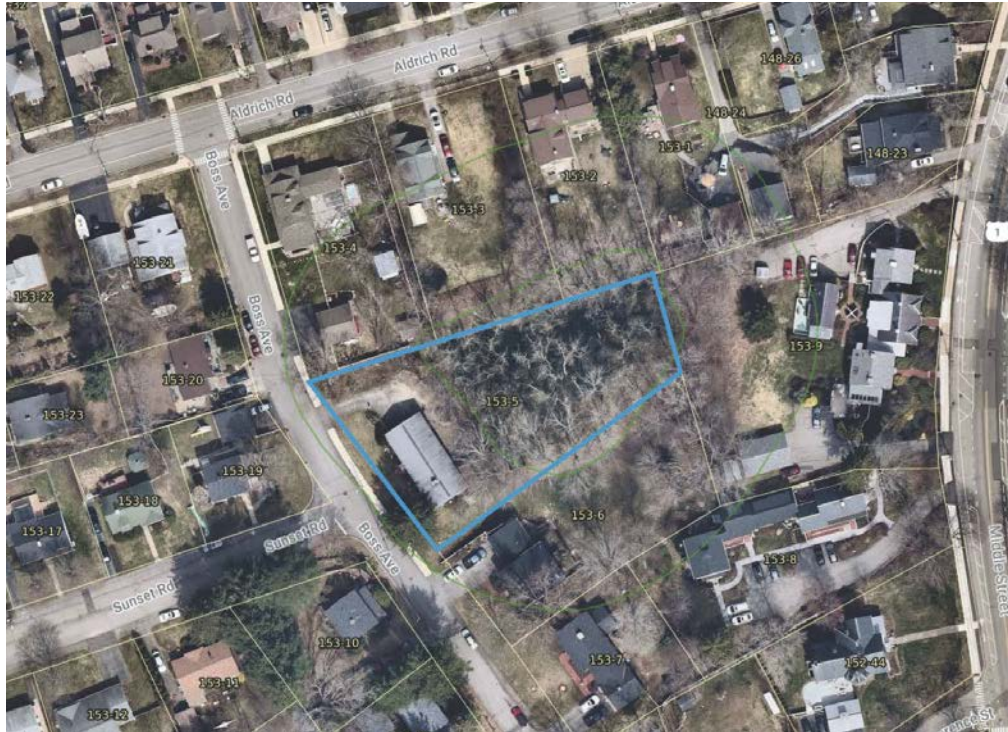
The previously approved design utilized a drainage easement across Service Credit Union's existing stormwater pond in order to provide treatment for roadway runoff. The existing stormwater pond is located on the proposed lot identified on the plans as Tax Map 291, Lot 1-2. The revised stormwater management design will provide a new rain garden in order to separate the treatment of roadway runoff from Service Credit Union's stormwater pond. The proposed rain garden will be located Tax Map 291, Lot 1-1 in the west corner of the parcel. Service Credit Union, also the owner of Tax Map 291, Lot 1-1, has agreed to grant a new drainage easement in this location to benefit the City.

Planning Department Recommendation

Vote to approve amended Subdivision Plan Approval subject to all stipulations of approval by the Planning Board and to all other requirements stated in the Planning Board letter of decision dated February 22, 2019.

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- C. The request of **Karen & Rick Rosania, Owners**, for property located at **32 Boss Avenue** requesting a wetland conditional use permit in accordance with Article 10 Section 10.1017 to remove some diseased and damaged trees, install a fence and replace an existing driveway that will result in 1,755 square feet of disturbed wetland buffer area and 545 square feet of disturbed wetland area. Said property is shown on Assessor Map 153 Lot 5 and lies within the Single Residence B (SRB) District.



Description

This application is to remove diseased and damaged trees, to install a fence, a raingarden and to replace an existing driveway. The total square footage of disturbance in the wetland buffer 1755 square feet and a temporary disturbance of 545 square feet in the wetland.

Conservation Commission Review

1. *The land is reasonably suited to the use activity or alteration.* The entire property is located in the buffer of a wetland that is in a low area directly behind the home. The property owner has provided a letter from an arborist to remove the trees and is not expanding the amount of impervious surface in the buffer with the proposed improvements. The installation of the raingarden will help to reduce the impact from the driveway runoff. With these changes the application is reasonable in this location.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* Given that nearly the entire property is within the wetland buffer there is no other location for the proposed

improvements outside of the buffer. Some of the proposed work is to repair damage from a fallen tree which is specific to the proposed location.

3. There will be no adverse impact on the wetland functional values of the site or surrounding properties. The proposed improvements will not change the overall functional value of the wetland. In fact the proposed rain garden should reduce impacts to the wetland as a filter strip for the runoff from the driveway.

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. The project is proposing to remove trees along the edge and within the wetland. While the proposed removal should not functionally impact the wetland there will be more light allowed into the wetland which could change the makeup of the wetland plant community in the wetland 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 should not cause adverse impacts to the wetland.

6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible. The applicant is proposing to install wetland buffer plantings and a wetland seed mix which should enhance the wetland buffer area.

The Conservation Commission reviewed the wetland conditional use permit application at the December 9, 2020 meeting and voted unanimously to recommend approval of this application with the following stipulations:

1. The applicant shall wait until the ground is frozen before cutting or removing trees.
2. The applicant shall have a rain-garden specialist design and install the proposed rain garden.
3. The applicant shall minimize the use of concrete during the construction of the fence.
4. The applicant should have an additional opinion on the current health of the trees to be removed or cut.

After consultation with Peter Britz regarding the Commission's discussion related to item number 4 above, staff is recommending that this not be added as a stipulation of approval.

Planning Department Recommendation

Vote to grant the Wetland Conditional Use Permit with the following stipulations:

- 1) The applicant shall wait until the ground is frozen before cutting or removing trees.*
- 2) The applicant shall have a rain-garden specialist design and install the proposed rain garden.*
- 3) The applicant shall minimize the use of concrete during the construction of the fence.*

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- D. The request of **238 Deer Street, LLC, Owner**, for property located at **238 Deer Street** requesting a Conditional Use Permit in accordance with Section 10.1112.14 of the Zoning Ordinance for provision of no on-site parking spaces where 12 spaces are required. Said property is shown on Assessor Map 125 Lot 3 and lies within the Character District 4 (CD4) District.

Description

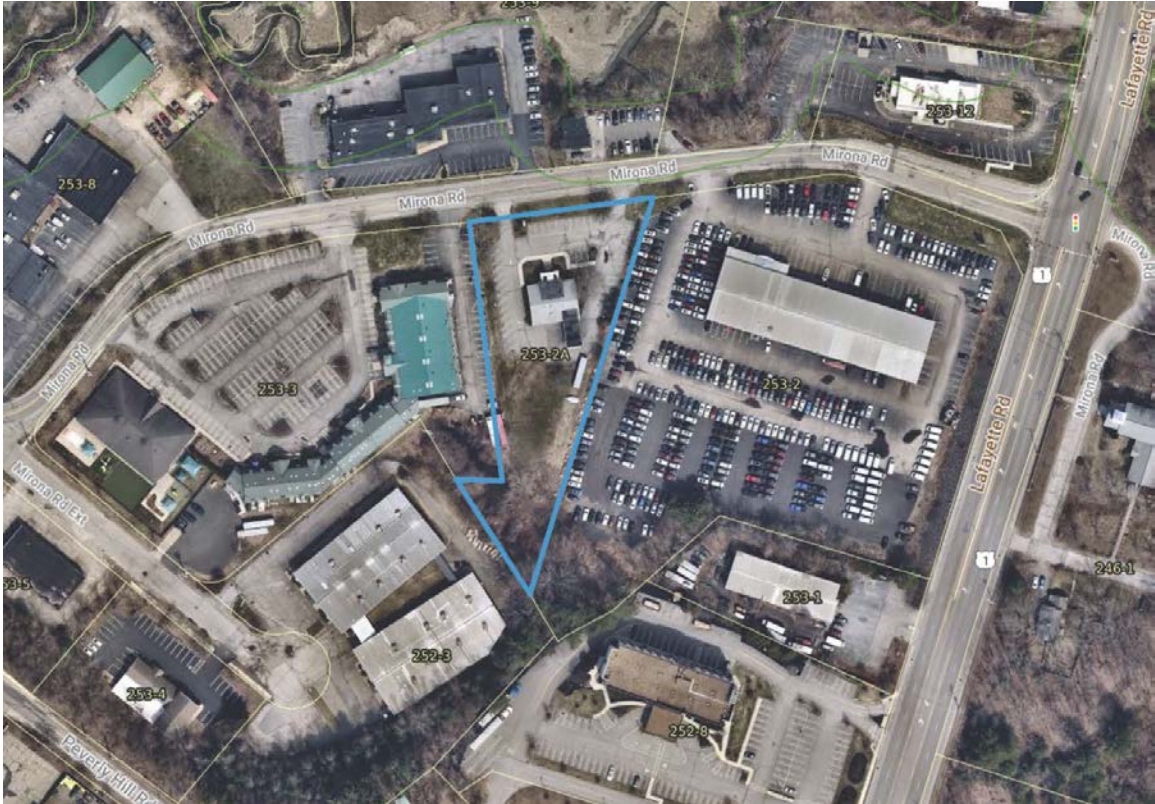
Applicant has requested to postpone this application to the January meeting.

Planning Department Recommendation

Vote to postpone to the January 21, 2021 Planning Board meeting.

V. PUBLIC HEARINGS – NEW BUSINESS (Cont.)

- E. The application of **Madison Commercial Group, LLC, Owner**, for property located at **150 Mirona Road** requesting Site Plan Review Approval for the construction of a 5,500 s.f. accessory storage building with associated paving, utilities and drainage infrastructure. Said property is shown on Assessor Map 253 Lot 2A and lies within the Gateway Neighborhood Mixed Use Center (G2) District.



Description

The applicant is requesting Site Plan Review approval for a 5,500 s.f. accessory storage building proposed for the rear of the property. The Planning Board had previously granted site plan review approval for an accessory storage building in 2011, but that approval has expired.

Technical Advisory Committee Review

The TAC reviewed the site plan review application at the December 1, 2020 meeting and voted to recommend approval with the following stipulations:

1. Plans shall be updated to address curbing changes needed to accommodate Fire and Emergency access around the site and on adjacent lot.
2. A note shall be added to the plans that cross-easements are required for fire department access through adjacent lots, should either lot transfer ownership in the future.
3. Plans shall be updated to note annual wetland clean-up and maintenance is required to clear debris.

On December 2, 2020 the applicant submitted revised plans addressing stipulations 1-3 to the satisfaction of the Planning Department.

Waiver Request

The applicant is requesting a waiver from Section 6.2 – Landscaping Plan, as the front street-facing portion of the property is already developed and landscaped and the new building will be located behind the existing building and will have little visibility from the street. Further, site constraints will limit the area available around the new building for landscaping.

Planning Department Recommendation

Waiver

- 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 Subdivision Regulations, and to waive the requirement to provide a Landscaping Plan as listed in Section 6.2 of the Site Plan Review regulations.*

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

Site Plan Review

- 2) *Vote to grant Site Plan Review approval with the following stipulations:*
 - 2.1) *The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

VI. PRELIMINARY CONCEPTUAL CONSULTATION

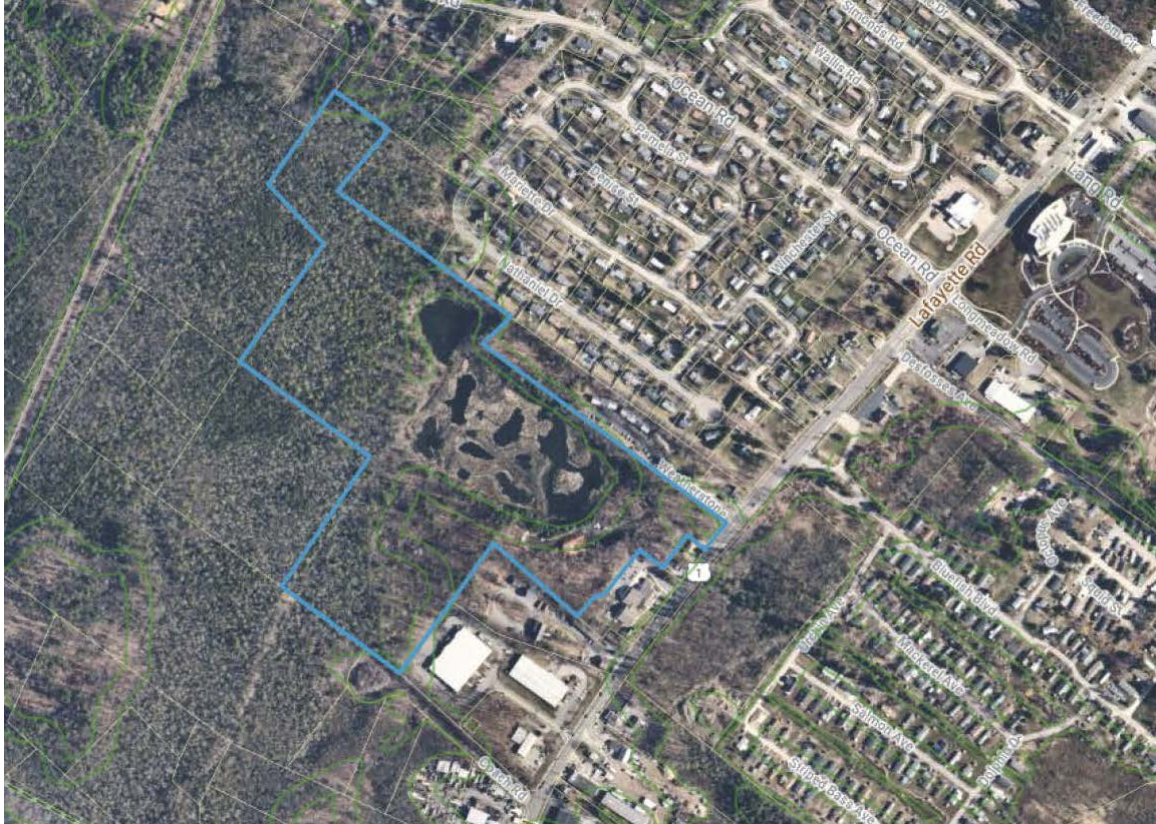
As authorized by NH RSA 676:4,II, the Site Plan Review Regulations require preliminary conceptual consultation for certain proposals, including (1) the construction of 30,000 sq. ft. or more gross floor area, (2) the creation of 20 or more dwelling units, or (3) the construction of more than one principal structure on a lot. Preliminary conceptual consultation precedes review by the Technical Advisory Committee.

Preliminary conceptual consultation is described in the state statute as follows:

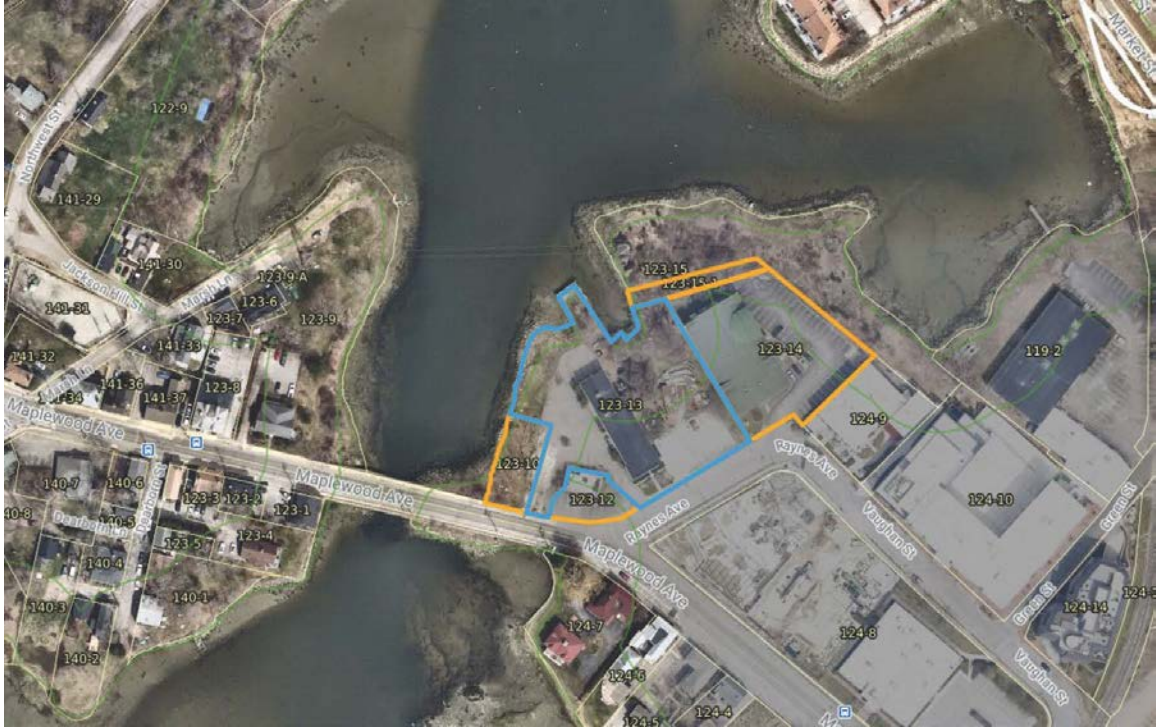
[Preliminary conceptual consultation]... shall be directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the board and statements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

The preliminary conceptual consultation phase provides the Planning Board with an opportunity to review the outlines of a proposed project before it gets to detailed design (and before the applicant refines the plan as a result of review by the Technical Advisory Committee and public comment at TAC hearings). In order to maximize the value of this phase, Board members are encouraged to engage in dialogue with the proponent to offer suggestions and to raise any concerns so that they may be addressed in a formal application. Preliminary conceptual consultation does not involve a public hearing, and no vote is taken by the Board on the proposal at this stage. Unlike Design Review, completion of Preliminary Conceptual Consultation does not vest the project to the current zoning.

- A.** The request of **Ricci Construction Co. Inc., Owner**, for property located off **Lafayette Road** requesting Preliminary Conceptual Consultation for a 54-unit multi-family townhouse residential development. Said property is shown on Assessor Map 297 Lot 11 and lies within the Natural Resource Protection (NRP) District and the Gateway Neighborhood Mixed Use District (G1).



- B.** The request of **31 Raynes, LLC, Owner**, for property located at **31 Raynes Avenue** requesting Preliminary Conceptual Consultation for a 5-story mixed-use building and a 5-story hotel building with associated site improvements. Said property is shown on Assessor Map 123 Lot 13 and lies within the Character District 4 (CD4) District.



VII. DESIGN REVIEW

- A. The request of **31 Raynes, LLC, Owner**, for property located at **31 Raynes Avenue** requesting Design Review for a 5-story mixed-use building and a 5-story hotel building with associated site improvements. Said property is shown on Assessor Map 123 Lot 13 and lies within the Character District 4 (CD4) District.

Description

This item is a request for Design Review under the Site Plan Review Regulations. Under the State statute (RSA 676:4,II), the Design Review phase is an opportunity for the Planning Board to discuss the approach to a project before it is fully designed and before a formal application for Site Plan Review is submitted. The Design Review phase is not mandatory and is nonbinding on both the applicant and the Planning Board.

Although the State statute calls this pre-application phase “design review,” it does not encompass review of architectural design elements such as façade treatments, rooflines and window proportions. Rather, it refers to site planning and design issues such as the size and location of buildings, parking areas and open spaces on the lot; the interrelationships and functionality of these components, and the impact of the development on adjoining streets and surrounding properties.

The process as outlined in Section 2.4.3 of the Site Review regulations is that the Board first has to determine that the request for design review includes sufficient information to allow the Board to understand the project and identify potential issues and concerns, and, if so, vote to accept the request and schedule a public hearing. *Completion of the design review process also has the effect of vesting the project to the current zoning.*

Design review discussions must take place in a public hearing. At the conclusion of the public hearing process, the Board makes a determination that the design review process for the application has ended.

Planning Department Recommendation

Vote to accept the request and schedule a public hearing for the January 21, 2020 Planning Board meeting.

VIII. CITY COUNCIL REFERRAL

- A. Report back on letter from resident Tom Morgan requesting zoning amendments to permit solar farms at appropriate locations, and to draft site plan review regulations to protect abutters, the environment, and taxpayers from improper installations.

Description

At the October 19 City Council meeting, the Council voted to refer correspondence from Tom Morgan to the Planning Board for a report back.

As previously reported, it is important to note that there are two large solar projects already in place in Portsmouth. One at the Portsmouth drinking water plant and one at the high school.

Supporting renewable energy is consistent with the City's Master Plan. The City does not currently prohibit installation of wind power or solar energy panels on private property and buildings (in fact, they are specifically referenced in Sections 10.517 and 10.910 of the Ordinance). We also have green building incentives in the Site Plan Review regulations.

Mr. Morgan's letter specifically mentions allowing for "five-acre solar installations" and suggests that the City's land use regulations "effectively ban such installations, citywide." The letter then goes on to acknowledge that developers of large solar arrays (or solar farms) face "several hurdles" in NH and that this is not strictly a local issue. Mr. Morgan also acknowledges that such provisions would also need to be accompanied by regulations "to protect abutters, the environment, and taxpayers from improper installations."

City Planning Department staff do not have any objections to starting a public process to consider amending the zoning to allow for large solar array installations or other renewable energy infrastructure at appropriate locations in the City. As the Planning Board knows, zoning for such uses does not guarantee that solar arrays will be installed and the public process should consider the potential impacts and benefits of siting solar in the community and should clearly identify the goals and intended outcomes of these regulations.

A zoning amendment process would typically start at the Council level with a request to Planning Board to start a zoning amendment public process.

If the Planning Board agrees with the comments above, then the Planning Department will submit a report back to the City Council along with any additional comments from the Planning Board about this matter.

IX. OTHER

A. Site Plan and Subdivision Regulations Public Comment Review.

Description

After last month's public hearing on the Site Plan Review Regulation amendments, the Planning Director discovered that, due to a staff error, a public comment submitted for the meeting did not get sent out to the Board prior to the meeting. The comments have been included in this month's packet for the Board's review. If the Board decides they would like to consider any of the suggestions, the City staff can advertise and post another public hearing on the Site Plan Review Regulations for January to review those potential amendments. In the meantime, we have posted the public comments to the Planning Board meeting page as well and notified the submitter of the comments -- <https://www.cityofportsmouth.com/planportsmouth/events/planning-board-meeting-37>.