



City of Portsmouth
Planning Department
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Portsmouth, NH
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Memorandum

To: Planning Board
From: Beverly Mesa-Zendt, Planning Director
Stefanie L. Casella, Planner
Date: June 10, 2022
Re: Recommendations for the June 16, 2022 Planning Board Meeting

I. APPROVAL OF MINUTES

- A. Approval of the May 19, 2022 regular meeting minutes.
- B. Approval of the March 30, 2022 and May 5, 2022 special meeting minutes.
- C. Approval of the May 19, 2022 site walk minutes.

Planning Department Recommendation

1) Board members should determine if the draft minutes include all relevant details for the decision making process that occurred at the May 19, 2022 meeting, and vote to approve the meeting minutes with edits if needed.

2) Board members should determine if the draft minutes include all relevant details for the Special Meeting that occurred on March 30, 2022 and May 5, 2022, and vote to approve meeting minutes with edits if needed.

3) Board members should determine if the draft minutes include all relevant details for the Site Walk that occurred on May 19, 2022, and vote to approve meeting minutes with edits if needed.

II. DETERMINATION OF COMPLETENESS

SUBDIVISION REVIEW

- A. The request of **North Church of Portsmouth (Owner)**, for property located at **355 Spinney Road** requesting Preliminary and Final Subdivision approval.

Planning Department Recommendation

1) Vote to determine that the application is complete according to the Subdivision Regulations, (contingent on the granting of any required waivers under Section III of the agenda) and to accept the applications for consideration.

III. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- A. REQUEST TO POSTPONE** The request of **Mastoran Restaurants Inc. (Owner) and Granite State Convenience (Applicant)**, for property located at **2255 Lafayette Road** requesting Site Plan review and Conditional Use Approval for use 19.40 under Section 10.440 to allow a drive-thru facility as an accessory use to a permitted principal use in the Gateway Corridor Zone. Said property is shown on Assessor Map 272 Lot 3 and lies within the Gateway Corridor (G1) District. (LU-22-13) **REQUEST TO POSTPONE**

Planning Department Recommendation

- 1) Vote to postpone consideration of this item until the June 23, 2022 Planning Board meeting.*
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III. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- B. The request of **North Church of Portsmouth (Owner)**, for property located at **355 Spinney Road** requesting Preliminary and Final Subdivision approval to subdivide one existing lot with 146,666 square feet of lot area and 10,429.68 feet of frontage into two lots as follows: Proposed Lot 1 with 17,817 square feet of lot area and 117.6 feet of frontage, and Proposed Lot 2 with 128,849 square feet of lot area and 360.62 feet of lot frontage. Said property is located on Assessor Map 169 Lot 1 and lies within the Single Residence B (SRB) District. (LU-22-49)

Background

The 3.37 acre lot is currently the site of a church parish house and a parsonage. The applicant is proposing subdividing to provide a separate lot for the parsonage. The SRB district requires the following minimum lot dimensional standards:

- 15,000 SF lot area per dwelling unit.
- 100' of continuous street frontage.

The proposed subdivision complies with these dimensional standards.

Project Review, Decisions, and Recommendations

This application has been before the Technical Advisory Committee. Please see below for more information.

Technical Advisory Committee (TAC) Review

This item was reviewed by TAC on June 7, 2022 where the application was recommended for approval by the Planning Board as presented.

Planning Department Recommendation

1) *Vote to approve Preliminary and Final Subdivision as presented with the following stipulations:*

- 1.1) *Lot numbers as determined by the Assessor shall be added to the final plat prior to recordation with the Registry of Deeds.*
- 1.2) *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
- 1.3) *GIS data shall be provided to the Department of Public Works in the form as required by the City.*

1.4) The final plat and all easement deeds (if applicable) shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

III. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- C. The request of **404 Islington Street LLC (Owner)**, for property located at **404 Islington Street** requesting a Conditional Use Permit under Section 10.1112.14 of the Zoning Ordinance to provide ten (10) parking spaced where thirteen (13) are required. Said property is shown on Assessor Map 145 Lot 33 and is located in the Historic District and the Character District 4L-2 (CD4-L2). (LU-22-74)

Project Review, Decisions, and Recommendations

This application has been before the Technical Advisory Committee, the Historic District Committee, and is required to go before the Zoning Board of Adjustments prior to use of the property as a 10-unit Inn.

Staff Review

It has been determined by staff that this is a change of use and that the proposed project, at 404 Islington Street, will require a special exception. Upon receipt of the Conditional Use Permit and review of the land use files it was determined that there are no approvals on file for the current use, leading staff to believe that this is an existing non-conforming use. The current building houses seven (7) guest units including a permanent care takers unit which is currently owner occupied, similar to a Bed and Breakfast. As the application proposes the expansion on the units from 7 to 10 with the elimination of the care takers unit, staff concluded that the proposed use qualified as an "Inn" use and should go before the Zoning Board of Adjustment for the proper review and noticing as identified in the [Zoning Ordinance](#) (See Section 10.440 Table of Uses). Under Section 10.232 Special Exceptions, the Zoning Board of Adjustment reviews and approves special exceptions.

Section 10.1530 of the Zoning Ordinance provides the following definition for Bed and Breakfast and Inn uses.

Bed and breakfast. The provision of short-term lodging and breakfast within an owner-occupied dwelling. The capacity of the dining facilities shall accommodate no more than 25 persons. (See also: hotel, motel, inn.) Bed and Breakfast 1 A bed and breakfast with between 1 and 5 guest rooms. Bed and Breakfast 2 A bed and breakfast with between 6 and 10 guest rooms.

Inn. A building offering lodging for transient boarders with up to 15 sleeping rooms. An inn may have a caretaker residence but does not have to be occupied by the owner, and shall not serve food to the public. (See also: bed and breakfast, hotel, motel.)

Technical Advisory Committee (TAC) Review

On May 3, 2022 the Committee review the proposed project. Per section 10.1112.143 of the [Zoning Ordinance](#), the TAC is required to review the parking demand analysis provided by the applicant. As a result of this review and consideration the Committee voted to recommend approval to the Planning Board with the following stipulations:

Items to be addressed prior to Planning Board approval:

1. Applicant explores and identifies supplemental parking opportunities to meet parking requirements as defined in the ordinance and present findings to Planning Board.

Prior to Building Permit Issuance:

2. Applicant obtains special exception approval per section 10.440 (10.30) of the Zoning Ordinance.

Condition 1 listed above has been satisfied with the preparation of an overflow parking plan (included in the submission materials). It will be up to the Planning Board to determine if the proposed overflow agreement is needed and/or adequate for the request at hand.

Condition 2 addresses the special exception for the use of an Inn which will be considered by the Zoning Board of Adjustment.

Historic District Committee (HDC) Review

On May 4, 2022 the Historic District Commission (HDC) review the proposed exterior renovations of an existing structure. The renovations under review included the removal and infill of a door, the installation of mechanical equipment, and the installation of an ADA compliant ramp. As a result of this consideration the HDC voted to grant the Certificate of Approval as Presented.

Zoning Board of Adjustment

Applicant has not yet requested a special exception for the use of an inn in the CD4-L2 District (See Section 10.440 Table of Uses in the [Zoning Ordinance](#)). A special exception will be a requirement for the applicant to obtain a building permit and has been listed below as a recommendation of approval.

Planning Board Consideration

10.1112.14 *The Planning Board may grant a conditional use permit to allow a building or use to provide less than the minimum number of off-street parking spaces required by Section 10.1112.30, Section 10.1112.61 or Section 10.1115.20, as applicable, or to exceed the maximum number of off-street parking spaces allowed by Section 10.1112.51.*

10.1112.141 *An application for a conditional use permit under this section shall include a parking demand analysis, which shall be reviewed by the City's*

Technical Advisory Committee prior to submission to the Planning Board, demonstrating that the proposed number of off-street parking spaces is sufficient for the proposed use.

10.1112.142 *An application for a conditional use permit under this section shall identify permanent evidence-based measures to reduce parking demand, including but not limited to provision of rideshare/microtransit services or bikeshare station(s) servicing the property, proximity to public transit, car/van-pool incentives, alternative transit subsidies, provisions for teleworking, and shared parking on a separate lot subject to the requirements of 10.1112.62.*

10.1112.143 *The Planning Board may grant a conditional use permit only if it finds that the number of off-street parking spaces required or allowed by the permit will be adequate and appropriate for the proposed use of the property. In making this determination, the Board may accept, modify or reject the findings of the applicant's parking demand analysis.*

10.1112.144 *At its discretion, the Planning Board may require more off-street parking spaces than the minimum number requested by the applicant, or may allow fewer spaces than the maximum number requested by the applicant.*

Planning Department Recommendation

1) Vote to find that the number of off-street parking spaces provided will be adequate and appropriate for the proposed use of the property and to grant the conditional use permit as presented with the following stipulation:

Prior to Building Permit Issuance:

1.1) Applicant obtains special exception approval per section 10.440 of the Zoning Ordinance.

III. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

D. REQUEST TO POSTPONE The request of **James and Gail Sanders (Owners)**, for property located at **445 Marcy Street** requesting Preliminary and Final Subdivision approval to subdivide one lot with 14,947 square feet of lot area and frontage on Marcy Street, Pray Street, and Partridge Street into two lots as follows: Proposed Lot 1 with 6,127 square feet of lot area and 102.43 feet of frontage on Marcy Street and 67.83 feet of frontage on Pray Street, Proposed Lot 2 with 8,820 square feet of lot area and 802 feet of frontage on Pray street and 62.44 feet of frontage on Partridge Street. Said property is located on Assessor Map 101 Lot 3 and lies within the General Residence B (GRB) and Historic Districts. (LU-22-79) **REQUEST TO POSTPONE**

Planning Department Recommendation

1) Vote to postpone consideration of this item until the June 23, 2022 Planning Board meeting.

IV. CITY COUNCIL REFERRALS

- A. REQUEST TO CONTINUE AND POSTPONE** Public Hearing and consider a recommendation to the City Council for Zoning Ordinance Amendments to Building Height standards **TO THE JUNE 23, 2022 PLANNING BOARD MEETING**

Planning Department Recommendation

- 1) Vote to postpone consideration of this item until the June 23, 2022 Planning Board meeting.*
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IV. CITY COUNCIL REFERRALS

- B.** Consider a Report Back to the City Council on how to improve the work of the Demolition Review Committee (DRC).

Please reference the attached *Planning Board Report Back on the Demolition Committee Memo* and related recommendations.

Planning Department Recommendation

1) *Vote to recommend that the City Council consider implementing the recommendations of the DRC subject to a detailed legal analysis to ensure that the recommendations are in conformance with state law, case law, and best practices with the following change:*

- *Rather than extending the stay of demolition to 180 days, it would be advisable to commence the 90-day demolition delay period from the date of the public hearing required under Section 14.205. Additionally, expanded notification procedures to abutters would serve the purpose of broadening public awareness of impending demolitions and it would provide opportunities to affected community members to gain photographic records, influence the property owner to consider other courses of action, and to consider alternatives to demolition.*
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V. OTHER BUSINESS

- A.** Consider a recommendation to City Council to accept a right-of-way easement which would incorporate a section of the proposed roadway into the City's existing Sagamore Grove right-of-way.

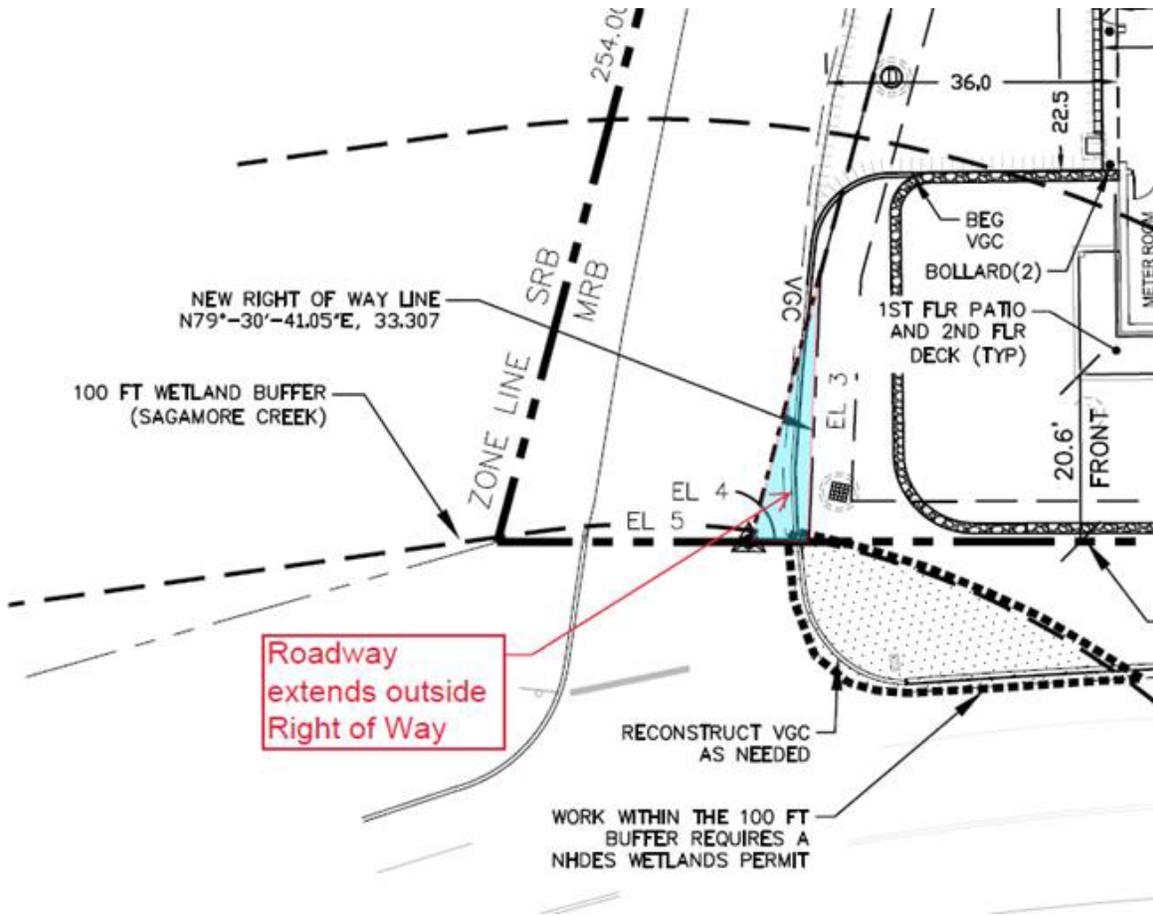
Staff Review

On January 27, 2022, the Portsmouth Planning Board granted Site Plan Approval to demolish the existing mixed-use structure and construct a 6-unit residential structure totaling 21,066 square feet of gross floor area, 21 parking spaces as well as associated utilities, lighting, landscaping, and site improvements. Said property is shown on Assessor Map 201 Lot 2 and is located in the Mixed Residential Business (MRB) district.

Subsequent to the approval, City staff identified that the existing Sagamore Grove Right of Way (ROW), as articulated in the exiting Easement Deed, does not include approximately 124 square feet of the new, proposed roadway approved on January 27, 2022. The enclosed easement deed would incorporate this section of proposed roadway into the City's existing Sagamore Grove right of way. The attached drawing depicts the area to be added to the right of way.

The consideration before the Planning Board is to review the drafted easement and make a recommendation to the City Council. The drafted easement included in the June 16, 2022 meeting packet was prepared by the project engineer representing Sagamore, LLC and reviewed by the City Planning and Legal staff. The new easement accounts for the post construction location of Sagamore Grove and establishes the new boundaries of the ROW. Adoption of this document will allow for the continued public access and city maintenance of the road.

Please review the drafted easement language and the map identifying the new easement boundaries and make a recommendation to the City Council.



Planning Department Recommendation

- 1) Vote to recommend that City Council accept a right-of-way easement which would incorporate a section of the proposed roadway into the City's existing Sagamore Grove right of way.

VII. OTHER BUSINESS

- B.** Consider a recommendation to City Council to accept a right-of-way easement located on Albany Street, requested by the Planning Board on January 27, 2022 as part of the project located at 89 Brewery Lane.

Staff Review

Please reference the *Albany Street Right of Way Planning Board Recommendation Memorandum* and attachment from Staff Attorney Trevor P. McCourt, staff attorney, dated June 2, 2022 included in the Planning Board Packet.

Planning Department Recommendation

1) Vote recommend that the City Council accept a right-of-way easement, located on Albany Street, requested by the Planning Board on January 27, 2022 as part of the project located at 89 Brewery Lane.

VII. OTHER BUSINESS

C. Chairman's Update/Discussion

VIII. ADJOURNMENT