



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

PLANNING BOARD

February 24, 2023

Mark McNabb
One Market Square LLC
3 Pleasant Street, Ste 400
Portsmouth, New Hampshire 03801

RE: Site Plan Approval for property located at 1 Congress Street (LU-22-12)

Dear Mr. McNabb:

The Planning Board, at its regularly scheduled meeting of **Thursday, February 16, 2023**, considered your application for Site Plan Review approval for the partial demolition and expansion of the existing structure to construct a 3-story mixed-use building with 58,780 square feet of gross floor area, 12,080 square foot building footprint, 23 parking spaces, and associated onsite and offsite improvements. Said property is shown on Assessor Map 117 Lot 14 and lies within the Character District 4 (CD-4), Character District 5 (CD-5) and the Historic District. As a result of said consideration, the Board voted 1) to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented, and 2) to **grant** Site Plan Approval with the following **conditions**:

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:

- 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.
- 2.2) The applicant shall prepare a Construction Management and Mitigation Plan (CMMP) for review and approval by the City's Legal and Planning Departments.
- 2.3) The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.
- 2.4) Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit: <https://www.cityofportsmouth.com/publicworks/stormwater/ptap>
- 2.5) The proposed off-site improvements for High Street and Ladd Street and Haven Court will be reviewed and approved authorized by the City Council to ensure building, pedestrian, vehicular, and emergency vehicle safety.
- 2.6) Any utility work that is necessary to construct a fully operational building will need to be reviewed and approved by the Public Works Department.

Prior to the issuance of a Certificate of Occupancy or release of the bond:

2.7) The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance.

2.8) Add signage at the end of Haven Court to indicate no outlet and local traffic only with the preferred sign location on the Hanover garage, subject to City Council approval.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

This site plan approval shall not be effective until a site plan review agreement has been signed satisfying the requirements of Section 2.12 of the City's Site Review Approval Regulations.

Unless otherwise indicated above, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

The Planning Director must certify that all outstanding conditions of approval have been completed prior to issuance of a building permit unless otherwise indicated above.

This site plan approval shall expire unless a building permit is issued within a period of one (1) year from the date granted by the Planning Board unless an extension is granted by the Planning Board in accordance with Section 2.14 of the Site Review Regulations.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Planning Board Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/planning-board/planning-board-archived-meetings-and-material>

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector
Rosann Maurice-Lentz, City Assessor

Peter H. Rice, Director of Public Works

Tracy Kozak, JSA Design
Francis Bruton, Bruton & Berube, PLLC
John Chagnon, Ambit Engineering

Findings of Fact | Site Plan Review

City of Portsmouth Planning Board

Date: February 16, 2023

Property Address: 1 Congress Street

Application #: LU-22-12

Decision: **Approve with Conditions**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

Site Plan Regulations Section 2.9 Evaluation Criteria - in order to grant site plan review approval, the TAC and the Planning Board shall find that the application satisfies evaluation criteria pursuant to NH State Law and listed herein. In making a finding, the TAC and the Planning Board shall consider all standards provided in Articles 3 through 11 of these regulations.

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information (Provided by applicant)
1	Compliance with all City Ordinances and Codes and these regulations. <u>Applicable standards:</u>	Meets	<u>Applicable standards:</u> No Variances Required. Project complies with all Ordinance requirements including parking; see Sheet C3 Table for details.
2	Provision for the safe development, change or expansion of use of the site.	Meets	To facilitate the construction High Street will sometimes be limited to only construction, cranes, and truck deliveries. Safety plans / alternative routes will be developed.
3	Adequate erosion control and stormwater management practices and other mitigative measures, if needed, to prevent adverse effects on downstream water quality and flooding of the property or that of another.	Meets	The project proposes to provide additional drainage structures in High Street to alleviate the existing puddling and the resulting existing negative impacts. The plans show the procedures that will be utilized to provide erosion control during construction.

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information (Provided by applicant)
4	Adequate protection for the quality of groundwater.	Meets	Runoff is captured in city collection system. No groundwater withdrawal (water supply is city). No nearby production wells.
5	Adequate and reliable water supply sources.	Meets	Water supply is Public -City. Supply confirmed by TAC review. All plumbing fixtures will be low /water conserving.
6	Adequate and reliable sewage disposal facilities, lines, and connections.	Meets	Sewer connection is Public - City. Connection(s) reviewed by TAC.
7	Absence of undesirable and preventable elements of pollution such as smoke, soot, particulates, odor, wastewater, stormwater, sedimentation or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties.	Meets	The office and residential uses will not contribute the types of pollutants listed. If there is a first floor restaurant it would not contribute any more smoke / odor than the other facilities in the downtown.
8	Adequate provision for fire safety, prevention and control.	Meets	Full wet sprinkler system. Building access reviewed by Portsmouth FD – suggested making High Street wider for added safety.
9	Adequate protection of natural features such as, but not limited to, wetlands.	Meets	Urban site, no wetlands or buffers. All excavation materials will be environmentally tested prior to removal from site.
10	Adequate protection of historical features on the site.	Meets	No Historical features present. The portion of the existing building to be removed is non-contributing. The other facades will be renovated. HDC Approved.
11	Adequate management of the volume and flow of traffic on the site and adequate traffic controls to protect public safety and prevent traffic congestion.	Meets	Underground parking entrance has been placed on Haven Court so as to minimize traffic congestion on High Street. Adequate parking provided for the use.
12	Adequate traffic controls and traffic management measures to prevent an unacceptable increase in safety hazards and traffic congestion off-site.	Meets	TAC did not find that traffic will be an issue off-site given the proposed use.
13	Adequate insulation from external noise sources.	Meets	Construction to match the required conditions for the location.

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information (Provided by applicant)
14	Existing municipal solid waste disposal, police, emergency medical, and other municipal services and facilities adequate to handle any new demands on infrastructure or services created by the project.	Meets	Trash collection will be privately contracted. TAC Review included Fire and Police Departments. All concerns addressed in design. Future suggested widening of High Street may be possible.
15	Provision of usable and functional open spaces of adequate proportions, including needed recreational facilities that can reasonably be provided on the site	Meets	Site development utilizes site allowable density. Future improvements can include additional improvements to public spaces; including a potential pedestrian alley.
16	Adequate layout and coordination of on-site accessways and sidewalks in relationship to off-site existing or planned streets, accessways, bicycle paths, and sidewalks.	Meets	Adequate access for the site development is provided from High Street.
17	Demonstration that the land indicated on plans submitted with the application shall be of such character that it can be used for building purposes without danger to health.	Meets	Land is suitable for the intended purpose, currently used as an urban building site and attached parking lot. Plans follow ordinance and guidelines; see TAC approval.
18	Adequate quantities, type or arrangement of landscaping and open space for the provision of visual, noise and air pollution buffers.	Meets	Landscaping on Haven Court proposed.
19	Compliance with applicable City approved design standards.	Meets	See HDC and TAC approvals.
	Other Board Findings:		