



City of Portsmouth
Planning Department
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Portsmouth, NH
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Memorandum

To: Planning Board
From: Peter Stith, Planning Manager
Date: August 17, 2023
Re: Recommendations for the August 17, 2023 Planning Board Meeting

I. PRESENTATIONS

- A. Receive a presentation on the Capital Improvement Plan Process and appoint a CIP Advisory Committee.

Background

The Capital Improvement Plan (CIP) is both a financial and infrastructure planning tool that sets forth a multi-year schedule and financing strategies for accomplishing public capital projects that both maintain safe quality city infrastructure and assist in the achievement of Citywide Goals. Careful development of and adherence to the CIP ensures that needed capital projects are accomplished within the City's financial capability. In combination with the annual City budget, the Capital Improvement Plan has a significant impact on the planned allocation of fiscal resources and is thus one of the most important documents considered by the City Council.

State/Local Regulatory Context

RSA 674.5: Capital Improvement Program

"674:5 Authorization. – In a municipality where the planning board has adopted a master plan, the local legislative body may authorize the planning board to prepare and amend a recommended program of municipal capital improvement projects projected over a period of at least 6 years....

The capital improvements program may encompass major projects being currently undertaken or future projects to be undertaken with federal, state, county and other public funds. The sole purpose and effect of the capital improvements program shall be to aid the mayor or selectmen and the budget committee in their consideration of the annual budget."

City Charter

City Charter Section 7.6 - Capital Program:

The Manager shall prepare and submit to the Council a six (6) year capital program at least three (3) months prior to the final date for submission of the budget (May 15). The program shall include:

- *A general summary of its content;*
- *A list of all capital improvements proposed during the next six (6) fiscal years;*
- *Cost estimates, methods of financing, recommended time schedules for each improvement; and*
- *Estimating annual operating and maintenance costs.*

The purpose of the CIP is to:

1. Implement needed improvements on a scheduled basis
 - Provides a complete picture of the City's major development needs
 - Coordinates activities of various City departments and agencies
 - Assists in implementing recommendations of the City's Master Plan
2. Forecast future allocation of fiscal resources
 - Establishes fiscal priorities for projects
 - Aids in the proper utilization of funding sources
3. Help plan for future City expenditures
 - Discourages piecemeal improvements and duplication of expenditures
4. Ensure capital project needs are provided within the City's financial capability
 - Informs the taxpayers of anticipated future improvements
 - Helps to schedule major projects to avoid large fluctuations in the tax rate

As used in the CIP, a capital improvement project is defined as a major fiscal expenditure that falls into one or more of the following categories:

- ✓ Land acquisition;
- ✓ Construction or expansion of a public facility, street, utility or public infrastructure;
- ✓ Rehabilitation of a public facility or public infrastructure provided the cost is \$50,000 or more;
- ✓ Design work or planning study related to a capital project or implementation of the Master Plan;
- ✓ Any item or piece of equipment, non-vehicular in nature, that costs more than \$50,000 and has a life expectancy of 5 or more years; or
- ✓ Replacement and purchase of vehicles which have a life expectancy of more than 5 years or cost more than \$50,000.

Plan Development Process

The capital planning process is coordinated by the Finance and Planning Departments under the direction of the City Manager. Capital project requests are initially formulated by City department heads and submitted to the Finance Department. Members of the public may

also submit project requests, which are reviewed by City departments and incorporated into the departmental project submissions as appropriate.

CIP projects originate from three sources.

- ✓ Capital Improvement Plan from the Prior Fiscal Year
- ✓ City Staff
- ✓ Residents

Staff works to update the prior year's CIP projects to reflect the current status, project needs and costing. After city departments and residents submit their new requests for capital project, staff works with the City Manager to prioritize them by utilizing the following:

- **Project requirements** – Is the project required to meet legal, compliance, or regulatory requirements?
- **Timing** – How soon does the project need to be implemented to address the needs identified?
- **Strategic alignment** – To what extent is the project aligned with other city projects, policies, processes?
- **Public value** – How much value does the outcome of this project provide to the general public? How much public support is there for implementing this project?
- **Finance planning** – Is the project fundable in the time frame identified, are there available funding sources for this project?

Although the factors above are consistently utilized in the prioritization process, other factors, such as urgent community needs or public health and safety, may also contribute to the final project placement, allowing the process to be nimble and responsive to emerging community needs.

Planning Board Advisory Committee and City Council Adoption

The Planning Board appoints a three-member Advisory Committee to review the projects in the initial draft CIP. The Finance Department incorporates the Advisory Committee's recommendations into a revised form of the CIP which is then reviewed by the Planning Board. The Planning Board holds a public hearing and votes to recommend the adoption of the document to the City Council. The City Council holds a public hearing and adopts the CIP in accordance with City Charter requirements. Once adopted, the CIP is utilized in the development of the annual budget in accordance with RSA 674.5.

Financing

Capital improvement projects are funded from a variety of sources. These funding sources include: General Fund (GF) Capital Outlay; Federal/State Grants; Bond or Lease; Revenues (Parking, Water and Sewer); State Revolving Loan Fund (SRF) and Public Private Partnerships (PPP).

General Fund – Capital Outlay – One method used for financing capital projects is through the use of the General Fund – Capital Outlay. The General Fund includes the money raised by the local property tax for a given year. When a project is funded with General Fund revenues,

its entire cost is paid off within the year. The intent is to budget annually a certain amount from the General Fund (approximately 2% of previous Fiscal Year General Fund total Budget) to address City General Fund priorities.

Grants – One source of grants is from other levels of government, for example, the Environmental Protection Agency, the NH Department of Health and Human Services, U.S. Housing and Urban Development, NH Department of Environmental Services, and the NH Department of Transportation. Generally, these Federal and State sources provide an outright grant or matching funds to go with locally raised funds. The City also pursues non-governmental private grants when applicable.

General Obligation Bonds – Bonds are used to finance major municipal capital projects. These are issued for a period of time generally extending from ten to thirty years during which time principal and interest payments are made. They are secured by the full faith and credit of the Municipal Government. This type of payment has the advantage of allowing the costs to be amortized over the life of the project and of allowing taxpayers or rate payers to pay a smaller amount of the project's cost at a time. However, they do commit the City's resources over a long period of time and decrease the flexibility of how yearly revenues can be utilized. The City's bonding capacity is a limited resource. All projects that are to be bonded should meet minimum eligibility criteria and must have a useful life of at least equal to the bond terms.

Projects that are funded through bonds must go through an additional process, after the adoption of the CIP and the budget, of authorization by the City Council after a public hearing.

Revenues – The City has two established Enterprise Funds (Water and Sewer). The needs for these two divisions are met through the revenues raised from providing that particular service. Therefore, there is no impact on the City's tax rate. Additionally, the City has established a Parking and Transportation Fund (Special Revenue Fund). Revenues derived from the City's parking functions are transferred to this fund in order to operate the City's parking and traffic related activities.

State Revolving Loan Fund (SRF) – This is a program offered through the NH Department of Environmental Services for the purpose of providing low interest rate funding for approved water pollution control projects. State approval of applications does not bind the City to any of the individual projects but does lock into a low interest rate loan. Upon completion of projects, the loan becomes a serial bond payable by the City of Portsmouth Sewer or Water Fund to the State of NH. In addition, the City applies for State Aid Grant (SAG) funding to assist in repaying SRF loans up to 30% of the total project cost.

Public Private Partnership – This method of financing involves joint funding of a particular project between the City and one or more private sector or non-governmental partners. This method is used for projects that will benefit the partners and help to minimize costs to local taxpayers.

Deciding on which method of financing should be selected for a given project depends on a number of factors. These include the cost of the project, its useful life, the eligibility of the project to receive funds from other than local taxes, long-term and short-term financial obligations of the City and a project's relative priority in terms of implementation. The Capital Improvement Plan seeks to maximize the potential benefits from all revenue sources.

Timeline

- August 17, Process Kick Off – Planning Board Presentation
- October - Citizen requests and City department project request reviewed/ financials prepared
- October/November- Planning Board Advisory Committee meets to review draft CIP
- November/December – Planning Board holds a public hearing and recommends the adoption of the CIP by the City Council
- January/February/March – City Council holds a public hearing and adopts CIP.

II. APPROVAL OF MINUTES

A. Approval of the July 20, 2023 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 July 20, 2023 regular meeting and vote to approve meeting minutes with edits if needed.

III. DETERMINATION OF COMPLETENESS

SITE PLAN REVIEW

- B. REQUEST TO POSTPONE** The application of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting Site Plan review approval to demolish two existing commercial buildings and an existing shed and construct a 75,000 s.f. industrial warehouse building with 75 parking spaces as well as associated paving, stormwater management, lighting, utilities and landscaping. **REQUEST TO POSTPONE**

Staff Note: The Applicant was before TAC in August for a subdivision proposal and with submit applications for the subdivision and Wetland Conditional Use Permit for the September meeting.

IV. PUBLIC HEARINGS – OLD 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 **Tanner Family Revocable Trust (Owner)**, for property located at **380 Greenleaf Avenue** requesting a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for the construction of a new 20 x 20' one-story garage on a residential property with various additions of native buffer plantings and areas of storm water improvement to mitigate any impervious impacts from the garage. The proposal includes removal of 885 square feet of impervious asphalt, installation of 2' drip edge of crushed stone around the perimeter of the garage and 484 square feet of pervious pavers leading up to the garage where asphalt currently exists. Additional planting beds are proposed in areas of existing asphalt. Said property is located on Assessor Map 243 Lot 63 and lies within the Single Residence B (SRB) District. (LU-23-62)

Project Background

This application proposes the construction of a new 20 x 20' one-story garage on a residential property with various additions of native buffer plantings and areas of stormwater improvement to mitigate any impervious impacts from the garage. This property consists of a large wetland system and is completely within the 100' wetland buffer. AS noted in the description, the project includes removal of 885 square feet of impervious asphalt and the garage will be located on a portion of the area where impervious asphalt currently exists. A 2' drip edge of crushed stone is proposed around the perimeter of the garage and 484 square feet of pervious pavers will be installed leading up to the garage where asphalt currently exists.



Project Review, Discussion, and Recommendations

The applicant is going before the Board of Adjustment on August 15th, requesting a variance to allow an accessory structure to be in front of and closer to the street than the principal structure. The project has been before the Conservation Commission. See below for details.

Conservation Commission

The Conservation Commission, at its regularly scheduled meeting of Wednesday, June 14, 2023, considered the application and voted to recommend approval of the Wetland Conditional Use Permit to the Planning Board with the following conditions:

- 1. The applicant shall provide detailed specifications for the proposed pervious pavers including a cross-section plan and information about how they will be installed within the driveway area.*
- 2. The applicant shall provide a maintenance plan for the proposed pervious pavers.*

Staff Analysis

- 1. The land is reasonably suited to the use activity or alteration.***

The applicant is proposing to build the garage on an area of already disturbed and impervious land within the buffer. The overall project will be reducing the amount of impervious surface on the property and will be infiltrating stormwater and

further buffering the wetland through planting beds.

- 2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.***

The entirety of this property is either within the wetland or the wetland buffer. There is no alternative location to build and the applicant is proposing to build in an existing disturbed area to minimize further impact to the buffer.

- 3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.***

The applicant is proposing an overall reduction in impervious area to the site. This proposal will increase the number of plantings in the buffer while also helping to infiltrate and slow stormwater on the property due to added crushed stone drip edges.

- 4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.***

The applicant is proposing no disturbance to the natural vegetative state on the property. The existing asphalt will be removed, and a garage and pervious pavers will be placed. Additional plantings will add to the vegetated buffer.

- 5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.***

While the entire parcel is within wetland and buffer boundaries, the applicant is proposing to build in an area that is already impervious and will be significantly reducing existing impervious area while offsetting impacts with additional plantings, stormwater controls and pervious pavers.

- 6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.***

The applicant is not proposing to disturb any area within the first 25' of the wetland boundary. Disturbances within the buffer will be offset with the removal of asphalt, the addition of native buffer plantings and stormwater controls.

Planning Department Recommendation

Wetland Conditional Use Permit

- 1) Vote to find that the Conditional Use Permit application meets the criteria set forth in***

Section 10.1017.60 and to adopt the findings of fact as presented.

(Alt.) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.60 and to adopt the findings of fact as amended and read into the record.

2) Vote to grant the Wetland Conditional Use permit with the following conditions:

- 2.1) The applicant shall provide detailed specifications for the proposed pervious pavers including a cross-section plan and information about how they will be installed within the driveway area.*
 - 2.2) The applicant shall provide a maintenance plan for the proposed pervious pavers.*
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IV. PUBLIC HEARINGS – OLD 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. REQUEST TO POSTPONE** The application of **Banfield Realty, LLC (Owner)**, for property located at **375 Banfield Road** requesting Site Plan review approval to demolish two existing commercial buildings and an existing shed and construct a 75,000 s.f. industrial warehouse building with 75 parking spaces as well as associated paving, stormwater management, lighting, utilities and landscaping. Said property is shown on Assessor Map 266 Lot 7 and lies within the Industrial (I) District. **REQUEST TO POSTPONE** (LU-20-259)

Staff Note: The Applicant was before TAC in August for a subdivision proposal and anticipates submitting applications for the subdivision and Wetland Conditional Use Permit for the September meeting.

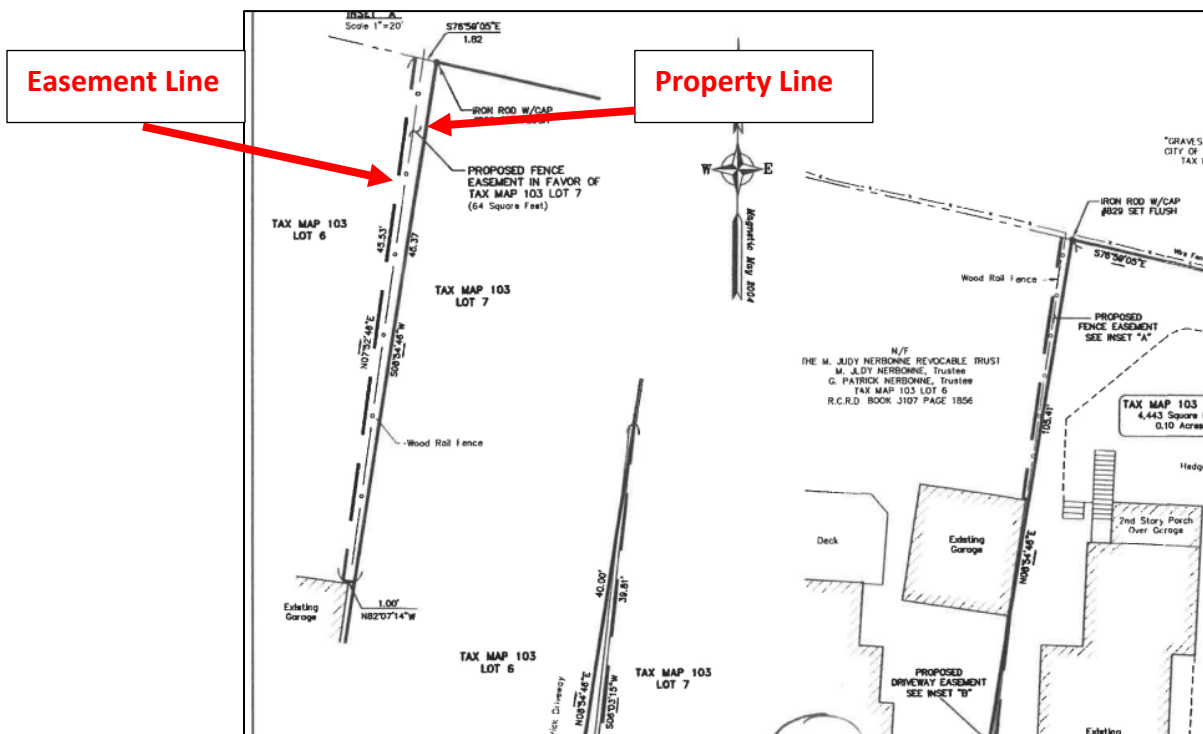
V. PUBLIC HEARINGS – NEW BUSINESS

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. The request of **Nerbonne Family Revocable Trust (Owner)**, for property located at **189 Gates Street** requesting to modify conditions of approval of the previously approved Conditional Use Permit for an accessory dwelling unit granted on April 21, 2022. Said property is shown on Assessor Map 103 as Lot 6 and lies within the General Residence B (GRB) and Historic Districts. Said property is located on Assessor Map 103 Lot 6 and lies within the General Residence B (GRB) and Historic Districts.

Project Background

The applicant was granted a Conditional Use Permit for a Garden Cottage on April 27, 2022. The applicant is requesting modifications to the original conditions of approval. The applicant's representative has provided a copy of the original letter of decision with three conditions. They are requesting to change the third condition that requires a fence along the property line to require the fence to be located along the fence easement line as shown below on the plan. The second request is to change the requirement that the conditions of approval must be met prior to issuance of a building permit. The applicant is requesting to have the conditions be met prior to the issuance of a certificate of occupancy.



Planning Department Recommendation

- 1) *Vote to amend the conditions of approval as presented.*

V. 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 **Whitney and Robert Westhelle (Owners)**, for property located at **198 Essex Avenue** requesting a a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for the following: Demolition of the existing garage and breezeway and construction of a new 753 square foot attached garage with a patio and deck. Construction of a new addition located 62 feet from the wetland and completely within the 100-foot buffer resulting in total impervious impacts of 993 square feet. Said property is located on Assessor Map 232 Lot 128 and lies within the Single Residence B (SRB) District.

Background

This application proposes to create two new additions to a residential home. One of these additions is mainly outside of the 100' wetland buffer and calls for the removal of an existing garage and breezeway to be replaced with a new two-story garage and breezeway. Proposed additional impervious areas would not extend closer to the wetland than the existing structure. Additionally, a patio and deck space are proposed to be constructed as part of this addition. The second building addition (South) is an attached new family room. This addition would be located approximately 62 feet from the wetland and would be completely within the wetland buffer. Total proposed impervious impacts to the buffer (including both the north and south additions) will be 512 s.f. of added impact. The deck addition adds an additional 481 square feet of impact in the wetland buffer, for a total of 993 square feet of buffer impact.



Project Review, Discussion, and Recommendations

The project has been before the Conservation Commission. See below for details.

Conservation Commission

The Conservation Commission, at its regularly scheduled meeting of Wednesday, July 12, 2023, considered the application and voted to recommend approval of the Wetland Conditional Use Permit to the Planning Board with the following conditions:

1. Any trees to be removed will be replaced with a similar species type and number trees.
2. Any patio or deck area installed shall be pervious.
3. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers during project construction along the 25' vegetated buffer. These can be purchased through the City of Portsmouth Planning and Sustainability Department.
4. Applicant shall provide a report back to the Planning and Sustainability Department one year after vegetated buffer area has been planted, demonstrating at least an 80% survival rate of new plantings.
5. An additional method of infiltration shall be provided for rain barrel overflows.
6. Any increase in impervious surface will require a new wetland conditional use permit.
7. Applicant shall use only dark sky friendly lighting on the exterior of the home.
8. Applicant shall update site plans to indicate exact locations of proposed rain barrels

and include a detail sheet showing a cross-section of the proposed deck/patio including details of how infiltration from the design will occur. These updates shall be approved by the Planning & Sustainability Department prior to submission to the Planning Board.

Condition #8 has been met with the updated application for the Planning Board.

Staff Analysis

1. The land is reasonably suited to the use activity or alteration.

Nearly the entire parcel falls within the wetland buffer, with the wetland along the southern edge. None of the proposed additions lie within the wetland or vegetative buffer but do lie within the 100' buffer and require the transformation of some previously pervious areas to impervious.

2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.

Given that much of the property is within the buffer, there is no other reasonable location for the additions, with the garage addition existing almost entirely outside of the buffer.

3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.

The applicant is proposing to use erosion control measures during construction including materials like silt soxx and will be adding native plantings within the buffer. Additionally, the proposal includes removal of invasive species and the installation of rain barrels to slow runoff to the wetland.

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.

This project is not proposing any construction within the 25' vegetative buffer but will be enhancing the buffer with various plantings as well as Northeast Wildflower seed mix. It is recommended that no grass or lawn should be introduced in this area, instead opting for grass alternatives wherever possible throughout the entire buffer.

5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.

This application proposes creating two additions, one mostly outside the buffer and one completely within the buffer but still 62' from the edge of the wetland.

While this project will overall increase the amount of impervious surface within the buffer, the applicant proposes enhancing the buffer through conversion of existing lawn areas to natural areas along with new plantings which will help protect the buffer. Additionally, while the rain barrel will help with trapping excess stormwater runoff, additional mitigation techniques are recommended to slow down and infiltrate stormwater. For example, the applicant proposes a deck or patio which is to be 412 square feet in the buffer. Staff recommends that this be constructed to allow infiltration so new impervious surface is added. If a patio is constructed it should be made of porous pavers and if a deck is constructed it should allow infiltration with crushed stone below.

6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.

The applicant is proposing to convert 2,680 sf of lawn to natural area and continue to remove invasive species within the wetland buffer. As stated above, new buffer plantings are to be added to the vegetative buffer strip and staff recommend that no lawn is planted/seeded.

Planning Department Recommendation

Wetland Conditional Use Permit

1) *Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.50 and to adopt the findings of fact as presented.*

(Alt.) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.50 and to adopt the findings of fact as amended and read into the record.

2) *Vote to grant the Wetland Conditional Use permit with the following conditions:*

- 2.1) *Any trees to be removed will be replaced with a similar species type and number trees.*
- 2.2) *Any patio or deck area installed shall be pervious.*
- 2.3) *In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers during project construction along the 25' vegetated buffer. These can be purchased through the City of Portsmouth Planning and Sustainability Department.*
- 2.4) *Applicant shall provide a report back to the Planning and Sustainability Department one year after vegetated buffer area has been planted, demonstrating at least an 80% survival rate of new plantings.*
- 2.5) *An additional method of infiltration shall be provided for rain barrel overflows.*
- 2.6) *Any increase in impervious surface will require a new wetland conditional use permit.*
- 2.7) *Applicant shall use only dark sky friendly lighting on the exterior of the home.*

V. 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 **Aviation Avenue Group LLC (Applicant)**, for property located at **80 Rochester Avenue (100 New Hampshire Avenue)** requesting Amended Site Plan Approval for construction of a 101,200 sq. ft. footprint including 4,700 sq. ft. of office space and associated site improvements consisting of parking, loading docks, underground utilities, landscaping, lighting, and a stormwater management system. Said property is located on Assessor Map 308 Lot 1 and lies within the Pease Industrial (PI) District.

Project Background

The existing area is a flat open space with areas of pavement from a former development. The Planning Board recommended approval to the PDA for a 209,750 square foot advanced manufacturing building with associated site improvements at the April 20, 2023 meeting. The applicant has since found a tenant that requires a smaller building footprint, thus the reason for the amended plan.

The recent amendments to RSA 676:3 with regards to adopting findings of fact for a project apply to local planning boards making decisions based on the municipality’s regulations. Pease falls exclusively under RSA 12-G and the Pease Land Use Controls, therefore the requirement to vote on and adopt findings of fact do not apply for either of these applications.

Project Review, Discussion, and Recommendations

The project was before the Technical Advisory Committee in July. See below for details.

Technical Advisory Committee

The applicant was before TAC for Amended Site Plan Approval at their regularly scheduled July 5, 2023 meeting and recommended approval with the following conditions:

- 1) *DPW will review the third-party stormwater report; and*
- 2) *All other revisions will be made based on their comments.*

Planning Department Recommendation
Site Plan Approval

- 1) *Vote to recommend Amended Site Plan Approval to the PDA Board with the following conditions:*
 - 1.1) *Third-party stormwater report shall be reviewed by DPW.*

VI. OTHER BUSINESS

- A. Chairman's Updates and Discussion Items
- B. Planning Board Rules and Procedures
- C. Board discussion of Regulatory Amendments, Master Plan Scope & other matters

VII. ADJOURNMENT