



City of Portsmouth
Planning Department
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Portsmouth, NH
(603)610-7216

Memorandum

To: Planning Board

From: Peter Stith, Planning Manager

Date: February 15, 2024

Re: Recommendations for the February 15, 2024 Planning Board Meeting

I. APPROVAL OF MINUTES

A. Approval of the January 18, 2024 and January 25, 2024 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 January 18, 2024 and January 25, 2024 meetings and vote to approve meeting minutes with edits if needed.

III. DETERMINATION OF COMPLETENESS

SITE PLAN REVIEW

- A. The request of **The Islamic Society of the Seacoast Area (Owner)**, for property located at **686 Maplewood Avenue** requesting Site Plan Review Approval for the construction of a six (6) unit residential condominium with associated paving, stormwater management, lighting, utilities and landscaping and a Conditional Use Permit in accordance with Section 10.674 Highway Noise Overlay District. Said property is located on Assessor Map 220 Lot 90 and lies within the Single Residence B (SRB) District.

Planning Department Recommendation

- 1) *Vote to determine that Item A is complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Section IV of the agenda) and to accept the application for consideration.*
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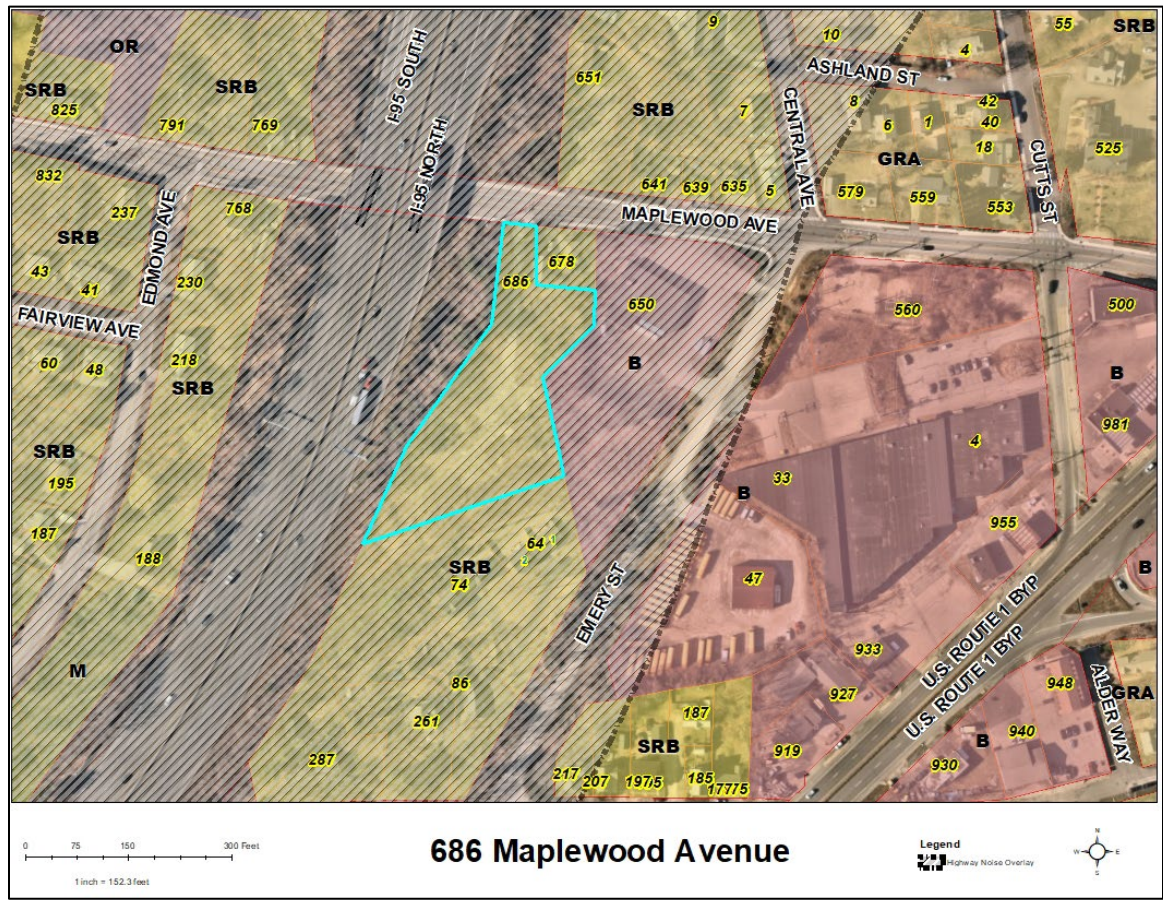
IV. PUBLIC HEARINGS – NEW BUSINESS

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 **The Islamic Society of the Seacoast Area (Owner)**, for property located at **686 Maplewood Avenue** requesting Site Plan Review Approval for the construction of a six (6) unit residential condominium with associated paving, stormwater management, lighting, utilities and landscaping and a Conditional Use Permit in accordance with Section 10.674 Highway Noise Overlay District. Said property is located on Assessor Map 220 Lot 90 and lies within the Single Residence B (SRB) District.

Project Background

The applicant is proposing to construct 6 single-family dwellings on a single lot in the Single Residence B district where only one dwelling per lot is permitted. The applicant received variances from the Board of Adjustment to allow the six dwellings on the lot (see below for Board action). The property abuts the Interstate-95 Corridor and is located within the Highway Noise Overlay District (HNOD), which requires a Conditional Use Permit to ensure that development is designed and constructed to reduce sound levels for noise sensitive land uses. An application for a CUP in the HNOD must include a noise analysis prepared by a registered engineer or qualified professional transportation noise analyst and must demonstrate that the applicable exterior and interior sound level standards are met for the proposed land use using measures listed in Section 10.674.30. The analysis completed by Reuter Associates and submitted as part of this application maintains that “typical residential construction” provides 20 dB of sound attenuation and therefore will meet the required standard, which is 45 dBA for the interior of a residential dwelling. The analysis states the outdoor recreation areas will be located behind the proposed dwellings, which will act as sound barriers for the outdoor areas, resulting in 65 dBA or less for these areas.



Project Review, Decisions, and Recommendations

The applicant was before the Board of Adjustment and the Technical Advisory Committee. See below for details.

Zoning Board of Adjustment

The applicant was before the Board of Adjustment at its regularly scheduled meeting of Tuesday, August 22, 2023 and the Board voted to grant the following relief:

- 1) Variance from Section 10.520 to permit 10,462 square feet of lot area per dwelling unit where 15,000 is required; and 2) Variance from Section 10.513 to permit six (6) free standing buildings where only one (1) is permitted.

Technical Advisory Committee

The applicant was before TAC for at their regularly scheduled meeting of Tuesday, January 2, 2024 meeting and recommended approval with the following conditions to be completed prior to submission to Planning Board:

1. Review the definition of a structure with Planning Staff and apply appropriate setbacks for the retaining wall.

2. All utility, stormwater and drainage changes shall be reviewed and approved by DPW.

Both TAC conditions have been satisfied.

Planning Department Recommendation

Site Plan Approval

1) *Vote 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.*

(Alt.) Vote 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 amended.

2) *Vote to grant Site Plan Approval with the following conditions:*

- 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>*

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a certificate of occupancy and release of the surety:

- 2.5) *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;*
- 2.6) *A stormwater inspection and maintenance report shall be completed annually and copies shall be submitted for review to the City's Stormwater Division/ Public Works Department.*

Planning Department Recommendation
Conditional Use Permit

1) *Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.674 of the Ordinance and adopt the findings of fact as presented.*

(Alt.) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.674 of the Ordinance and adopt the findings of fact as amended.

2.) *Vote to grant the Conditional Use Permit as presented.*

IV. 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.** Amend the Zoning Map to change the zoning designation to Gateway Neighborhood Business (G1) as follows: from Office Research (OR): Map 267 Lot 4, Map 267 Lot 5, Map 267 Lot 6, Map 267 Lot 7, Map 267 Lot 8, Map 252 Lot 1, Map 252 Lot 1-7, Map 233 Lot 145, Map 234 Lot 3, Map 234 Lot 7-7, Map 234 Lot 2; from Garden Apartment/Mobile Home Park (GA/MH): Map 291 Lot 1-1 and Map 285 Lot 1; from General Business (GB): Map 234 Lot 7-6, Map 234 Lot 5, Map 234 Lot 6, Map 234 Lot 51, Map 174 Lot 12, Map 174 Lot 13, Map 175 Lot 11, Map 175 Lot 4, Map 175 Lot 5, Map 236 Lot 35, Map 236 Lot 34, Map 236 Lot 33 (portion of), Map 236 Lot 36, Map 236 Lot 39, Map 237 Lot 56 (portion of) and Map 237 Lot 57; from Single Residence B (SRB): Map 243 Lot 66, Map 229 Lot 6, Map 229 Lot 6A, and Map 268 Lot 97; from Mixed Residential Business (MRB): Map 217 Lot 1 (portion of) and Map 217 Lot 2A (portion of); from General Residence A (GRA): Map 174 Lot 14; from Industrial (I): Map 273 Lot 5; from Industrial (I) and General Residence A (GRA): Map 173 Lot 9.

Amend the Zoning Map to change the zoning designation to Gateway Neighborhood Mixed Use Center (G2) as follows: from Single Residence B (SRB): Map 246 Lot 1.

Amend the Zoning Map to change the zoning designation to Garden Apartment/Mobile Home Park (GA/MH) as follows: from Gateway Neighborhood Business (G1) and Office Research (OR): Map 215 Lot 9.

Background

The Land Use Committee (LUC) was created to look at diversifying Land Use Regulations within the City. It was established by the prior Council on February 7, 2022 to look at diversifying land use regulations within the City. The LUC was tasked with reviewing current zoning and policies surrounding housing and development to encourage sustainable, diverse, and affordable development including expanded multi-modal transportation. The Committee was charged with reporting back to the City Council on recommended alterations to the zoning and existing policies along with any new zoning or policies to be considered important to furthering the City's Goals.

Over the past 2 years, amendments were made to building height standards, Accessory Dwelling unit regulations and workforce housing incentives in the Character Districts as initially recommended by the Committee. In the late summer and fall of 2023 the Committee looked at potential parcels to rezone to Gateway to create more opportunities for housing development. They identified

close to 60 parcels for consideration and split the list into short term and long term, with the short-term list consisting of parcels the LUC came to a consensus on rezoning. That list was presented to City Council on January 16, 2024 and referred to Planning Board for a recommendation back per the action below:

31. **Gateway Rezoning – Voted** to request that an ordinance amendment be drafted to change the zoning of the “consensus properties” as described in the memorandum and that the drafted ordinance amendment be sent to the Planning Board for its consideration and recommendation in February with the intention to bring back an ordinance amendment for first reading at the City Council meeting in March.

The following pages are maps of the properties showing the existing zoning. The labels on the maps indicate the proposed zoning for each property.

The recommendation below removes a parcel that is owned by the City and was shown as being zoned OR, however per Section 10.421.20 below, the property has been changed to the Municipal district and is recommended to remain and not be changed to Gateway.

10.421.20 Any property owned or leased by the City of Portsmouth and not shown on the Zoning Map as being in the Municipal or Natural Resource Protection district shall be deemed to be in the Municipal district, and when so identified shall be placed in that district.

Four small parcels that were originally considered by the LUC were not included in the January list the Council referred to the Planning Board. These parcels were included in the notice and are called out in the recommendation below.

Three map and lot numbers from the January referral were corrected for the notice and are called out in the recommendation below.

Planning Department Recommendation

- 1) *Vote to recommend to City Council the map amendments as follows:*
 - 1.1) *Remove Map 233 Lot 145 because it is municipally owned.*
 - 1.2) *Include the following lots that were considered by the Land Use Committee but not included in the referral from City Council: Map 175 Lot 5, Map 236 Lot 26, Map 174 Lot 13 and Map 217-2A.*
 - 1.3) *Correct the following map and lot numbers for three parcels: Map 273 Lot 5, Map 252 Lot 7-1 and Map 268 Lot 97.*
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V. PRELIMINARY CONCEPTUAL CONSULTATION

- B.** The request of **100 Durgin Lane, LLC (Owner)**, for property located at **5100 Durgin Lane** proposing a residential redevelopment to include 360 rental housing units with approximately 580 parking spaces and 10% community space including associated site improvements for parking, pedestrian access, utilities, stormwater management, lighting, and landscaping. Map 234 Lot 5 and lies within the General Business (GB) District. (LUPD-23-2)

The applicant has provided a set of preliminary plans for discussion with the Board.

As authorized by NH [RSA 676:4,II](#), the Site Plan 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.

V. CITY COUNCIL REFERRALS

- A. Request to rezone Salter Street from Waterfront Business to General Residence B.**

Background

Included in the packet is a letter from Marcia MacCormack, who resides at 53 Salter Street, requesting all of Salter Street be removed from the Waterfront Business district. Also included is the City Manager’s memo regarding this request that was brought before the Council in January with input from the legal department. The Council referred the request to the Planning Board at their February 5, 2024 meeting per the action below:

17. Report Back on Request to Remove Salter Street from Waterfront Business District – Voted to refer Marcia MacCormack’s January 7, 2024 letter requesting Salter Street be rezoned from Waterfront Business to General Residence B to the Planning Board for its recommendation in a report back to City Council.



There are 5 properties along Salter Street in question, all containing residential uses/structures. A request such as this may be better addressed through the Master Plan process to evaluate the waterfront designations in the City.

Planning Department Recommendation

- 1) *Vote to recommend to City Council to leave the existing zoning for Salter Street as Waterfront Business and to evaluate the waterfront designations through the Master Plan process.*
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B. Solar Energy Panel Amendment - Work session/Special Meeting scheduled for February 21, 2024 at 6 pm in the Levenson Room at the Portsmouth Library.

C. EV Charging Station Amendments

VI OTHER BUSINESS

A. Appointment to Rockingham Planning Commission Transportation Advisory Committee

Planning Department Recommendation

- 1) *Vote to recommend to City Council to appoint Eric Eby as the Portsmouth representative on the Rockingham Planning Commission's Transportation Advisory Committee and Jillian Harris as an alternate.*
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A. Chairman's Updates and Discussion Items

B. Board Discussion of Regulatory Amendments and Other Matters

VII. ADJOURNMENT