



City of Portsmouth
Planning Department
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Portsmouth, NH
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Memorandum

To: Planning Board

From: Peter Stith, AICP
Planning Manager

Date: May 9, 2025 **REVISED May 14, 2025**

Re: Recommendations for the May 15, 2025 Planning Board Meeting

I. APPROVAL OF MINUTES

A. Approval of the April 17, 2025 meeting 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 April 17, 2025 meeting and vote to approve meeting minutes with edits if needed.

II. DETERMINATIONS OF COMPLETENESS

SUBDIVISION REVIEW

A. The request of **The City of Portsmouth (Owner)**, for property located at **100 Foundry Place**. The project is the subdivision of an existing parcel into five new parcels, with the existing structures to remain as currently existing, and no new construction proposed at this time.

Planning Department Recommendations

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

II. 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.

- A. The request of **Aviation Avenue Group (Owner), Kane Management Group LLC (Applicant)**, for property located at **100 New Hampshire Avenue** requesting Amended Site Plan approval to modify a prior condition of approval. Said property is located on Assessor Map 308 Lot 1 and lies within the Pease Industrial (PI) District.

Project Background

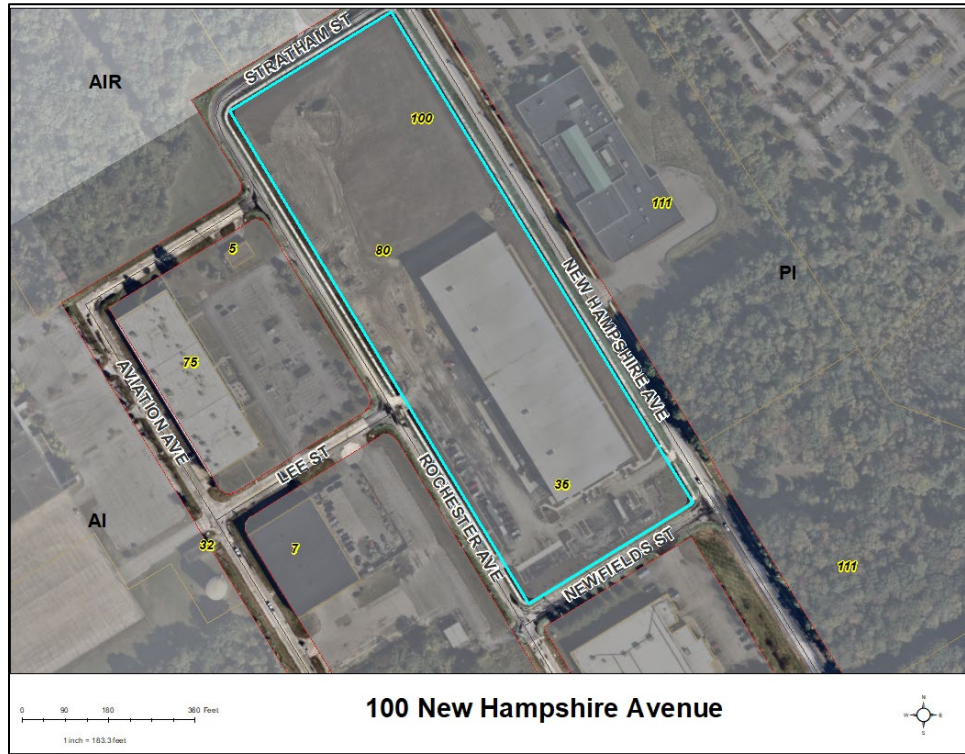
The project was before the Planning Board for a recommendation to the Pease Development Authority (PDA) for Site Plan Review on April 20, 2023 and again on August 17, 2023 for Amendment Site Plan approval for a reduced project scope. One of the recommended conditions of approval required that all truck deliveries use the Interstate 95 and Route 33 entrance to access the site.

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| 2.2) <i>Require all truck deliveries to use the Interstate I-95 and Route 33 entrance.</i> |
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According to the letter in this application, two new tenants will occupy the building, one being Georgia Pacific, and the Hospital Corporation of America (HCA) will be the second tenant. The PDA has engaged VHB to look at options for Stratham Street and Rochester Avenue, however those options may not be available until after the packet is sent out to the Board and a revised memo will be sent with the findings and recommendation.

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 this application.

A letter from PDA staff was sent this week supporting the removal of Condition 2.2. The staff recommendation below has been provided.



Planning Department Recommendation

Vote to recommend approval of the request to remove the condition to the Pease Development Authority.

II. 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. The request of **909 West End LLC (Owner)**, for property located at **909 Islington St** requesting a Conditional Use Permit in accordance with Section 10.1112.62 to allow 98 parking spaces where 103 are required. Said property is located on Assessor Map 172 Lot 7 and lies within the Character District 4 (CD-4).

Project Background

The applicant is requesting a Conditional Use Permit (CUP) to provide shared parking on an adjacent lot in accordance with Section 10.1112.62.

10.1112.62 Shared Parking on Separate Lots

The Planning Board may grant a conditional use permit to allow a reduction in the number of required **off-street parking** spaces for uses on separate **lots**, whether in common or separate ownership, subject to the following:

- (1) The shared parking requirement may be determined using the methodology in Section 10.1112.61, or by another method approved or required by the Planning Board.
- (2) The shared parking arrangement shall be secured by a covenant acceptable to the City and recorded at the Rockingham County Registry of Deeds.

The recent approval of Louie's restaurant in one of the tenant spaces triggered the need for a parking CUP. In reviewing the property, the owner has several other vacant spaces yet to be occupied. Staff advised the applicant to come forward with a designation for the vacant spaces to prevent coming back before the Planning Board each time a space is occupied. The applicant has assigned an office use designation of 1 space/350 square feet. If the proposed proposal requires more parking, they will need to come back before the Planning Board for a new parking CUP.

Based on the existing and proposed uses and using the shared parking table, 909 Islington requires 87 spaces and 959 Islington requires 16 spaces for a combined requirement of 103 spaces where 98 are provided (73 at 909 Islington and 25 at 959 Islington).

The applicant has provided a draft covenant between 959 Islington and 909 Islington that allows 909 Islington to use spaces on 959 Islington, which currently has a surplus of parking spaces. If acceptable to the Planning Board, this covenant will be recorded at the Registry of Deeds as a condition of approval.



Project Review, Discussion, and Recommendations

The project was before the Technical Advisory Committee and Historic District Commission. See below for details.

Board of Adjustment

The Zoning Board of Adjustment granted a Special Exception on January 28, 2025 to allow a restaurant with an occupancy load from 50 – 250 people.

Technical Advisory Committee

The applicant was before TAC in March and April to review the parking demand analysis as required under Section 10.1112.141. The applicant was asked to provide the draft covenant and include the required number of handicap spaces and provide an updated parking calculation based the rounding requirement in the ordinance. TAC found the parking demand analysis to be acceptable at the April 8, 2025 meeting.

Planning Department Recommendation

Parking Conditional Use Permit

1) *Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1112.14 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 10.1112.14 of the Ordinance and adopt the findings of fact as amended.

2) *Vote to grant the Conditional Use Permit with the following condition.*

2.1) *The parking covenant shall be recorded at the Rockingham County Registry of Deeds.*

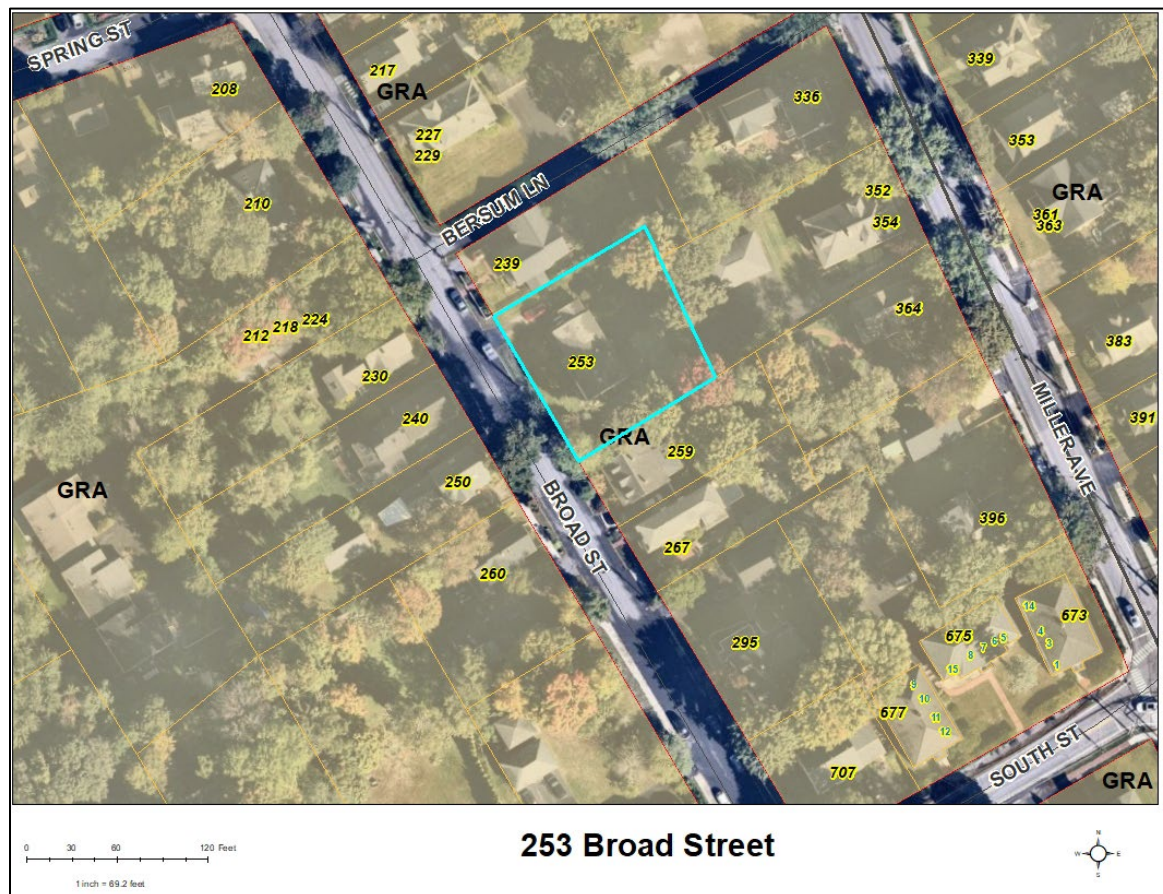
III. PUBLIC HEARINGS – NEW BUSINESS

*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. The Lawrence Brewer and Joshua Ydstie (Owners),** for property located at **253 Broad Street** requesting a Conditional Use Permit from Section 10.814 for the construction of a new single-family dwelling with an Attached Accessory Dwelling Unit. Said property is located on Assessor Map 131 Lot 16 and lies within the General Residence A (GRA) District. (LU-25-54)

Project Background

The applicants are proposing to demo the existing dwelling and construct a new single-family dwelling with an Attached Accessory Dwelling Unit (AADU) in the basement. The proposed AADU will comply with the standards in Section 10.814 and the applicant is not requesting any modifications from the Ordinance.



Project Review, Discussion, and Recommendations

The project was before the Board of Adjustment, see below for details.

Board of Adjustment

The Zoning Board of Adjustment granted a variance for a 7' side yard setback and a second driveway at their September 26, 2023 meeting with the following condition:

- 1) *Contingent that the applicant shall get an approved ADU within two years.*

Planning Department Recommendation

Attached Accessory Dwelling Unit Conditional Use Permit

- 1) *Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.814.62 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 10.814.62 of the Ordinance and adopt the findings of fact as amended.

- 2) *Vote to grant the Conditional Use Permit with the following conditions:*

- 2.1) *Documentation of the conditional use permit approval shall be recorded at the Rockingham County Registry of Deeds, together with an affidavit that either the principal dwelling unit or the accessory dwelling unit will be occupied by the owner of the dwelling as the owner's principal place of residence, as required by Section 10.814.22.*
 - 2.2) *A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner occupancy and principal residency requirements. Said certificate shall be issued by the Planning Department upon issuance of a certificate of occupancy by the Inspection Department. A certificate of use shall not be issued prior to recording of documentation as required by this Ordinance.*
 - 2.3) *The certificate of use shall be renewed annually upon submission of such documentation as the Planning Department may require to verify continued compliance with the standards of this Section. Failure to comply with this requirement shall be deemed a violation of the ordinance and may be enforced as provided in Article 2.*
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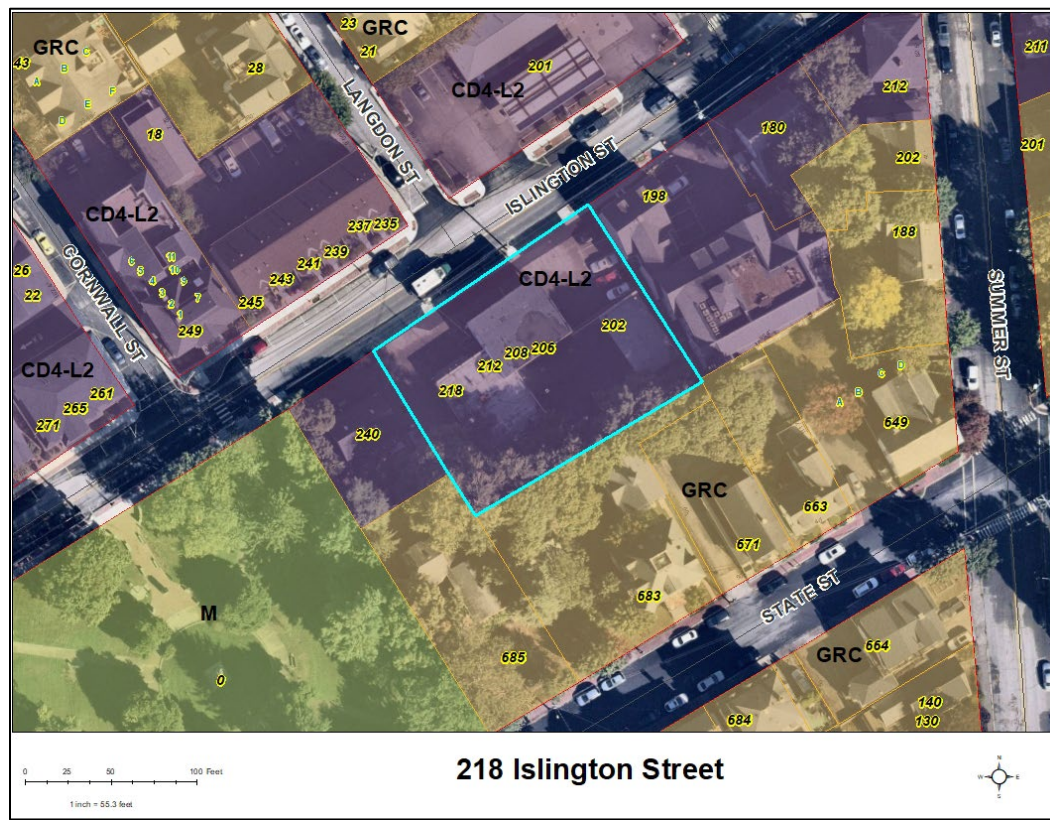
III. PUBLIC HEARINGS – NEW BUSINESS

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- B.** The request of **Brian Lampert Revocable Trust (Owner), Lexie's Joint (Applicant)**, for property located at **218 Islington Street** requesting a Conditional Use Permit in accordance with Section 10.440, Use 19.50 for an outdoor dining and drinking area as an accessory use to a permitted principal use. Said property is located on Assessor Map 137 Lot 21 and lies within the Character District 4-L2 (CD4-L2) and Historic District. (LU-25-64)

Project Background

The applicant is proposing to have permanent outdoor dining and drinking area outside of the existing restaurant, which will include the addition of four picnic tables as depicted in the application. An outdoor dining and drinking use is an accessory use and requires a CUP in the CD4-L2 district. The use does not require the need for additional off-street parking as it is accessory and will be seasonal. This approval would be subject to any other Health or Inspections Department permits and/or review through a separate permitting process.



Planning Department Recommendation

Outdoor Dining Conditional Use Permit

1) *Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.243.20 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 10.243.20 and to adopt the findings of fact as amended and read into the record.

2) *Vote to approve the conditional use permit as presented.*

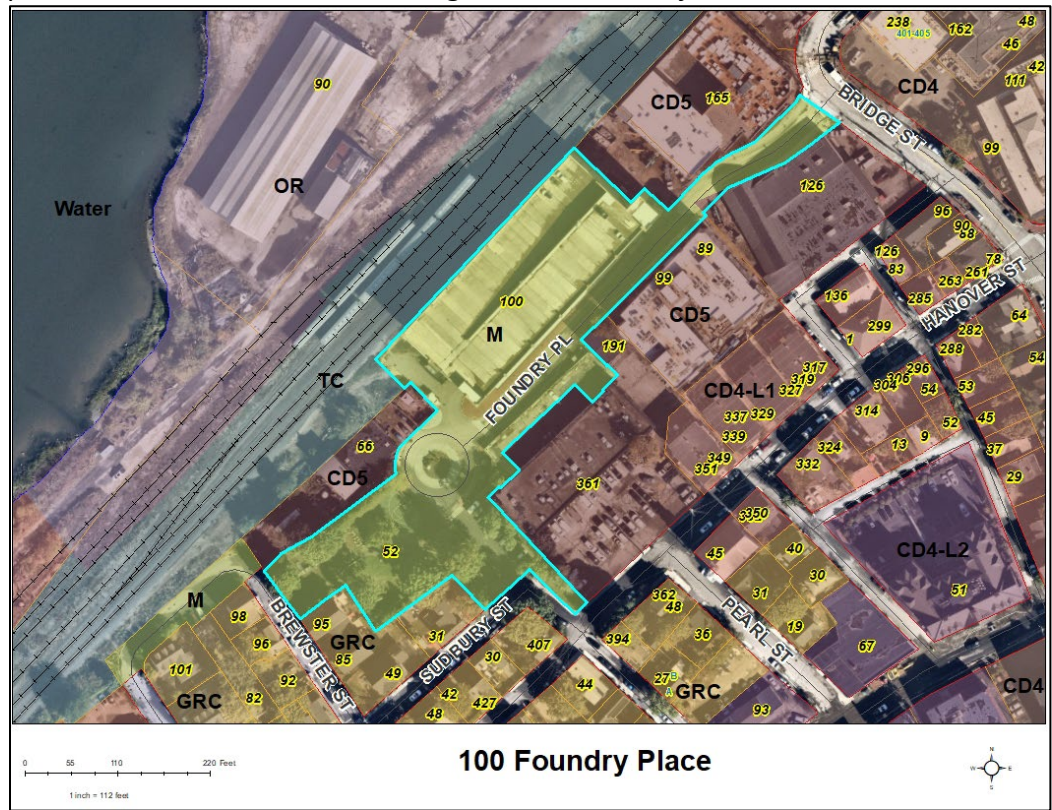
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- C. The request of **The City of Portsmouth (Owner)**, for property located at **100 Foundry Place**. The project is the subdivision of an existing parcel into five new parcels, with the existing structures to remain as currently existing, and no new construction proposed at this time. Said property is located on Assessor Map 138 Lot 60 and lies within the Downtown Overlay and Municipal (M) Districts. (LU-25-65)

Project Background

As presented in the memo from the Public Works Director, the subdivision of 100 Foundry Place is proposed to address a New Hampshire Department of Environmental Services (DES) Groundwater Management Permit and to isolate contaminated areas and subdivide areas that are not contaminated into separate parcels. An Areas of Contamination Plan is included and the subdivision will isolate these areas on 2 separate lots, one containing the Foundry Garage and the second containing the Foundry Place right-of-way. The remainder of the parcel will be subdivided into three parcels that include the Rock Street right-of-way, Rock Street Park, and the remainder of the parcel which includes the retaining wall and land adjacent to 361 Hanover.



Planning Department Recommendation

Subdivision

- 2) *Vote to grant Preliminary and Final Subdivision Approval with the following stipulations:*
 - 1.1) *The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
 - 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;*

IV. PRELIMINARY CONCEPTUAL CONSULTATION

- A. The request of **Service Credit Union (Owner)**, for property located at **126 Lang Road** requesting Site Plan approval for construction of workforce housing in two 70-unit apartment buildings, a 30-unit workforce housing building, a 30-unit veteran housing building with possible daycare on the first floor and 35 market rate townhomes in 5 buildings with associate site improvements.

The applicant has provided preliminary site plans located in the Gateway Neighborhood G-1 District. The applicant intends to build a workforce housing development behind the existing Service Credit building that will be constructed in two phases, with the first consisting of two- 70-unit apartment buildings containing all workforce housing units. The second phase will include two addition buildings that will include workforce housing and veteran housing and 35 market rate town homes in five buildings.

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. DESIGN REVIEW ACCEPTANCE

- A. The request of **Brora LLC (Owner)**, for property located at **0 Dunlin Way** **requesting** Design Review application for acceptance for the construction of three (3), six (6) story multifamily residential buildings consisting of approximately 270 dwelling units with associate site improvements. Said property is located on Assessor Map 213 Lot 12 and lies within the Office Research (OR) District and Gateway Neighborhood Overlay District (GNOD). (LUPD-25-3)

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. The applicant was before the Planning Board for Preliminary Conceptual Consultation at the March 20, 2025 meeting.

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 decides the design review process for the application has ended.

Planning Department Recommendation

- 1) *Vote to accept the application for Design Review and schedule a public hearing at the June 18, 2025 Planning Board meeting.*

VI. CITY COUNCIL REFERRALS [NOTE: ANY REFERRALS REQUIRING PUBLIC HEARING SHOULD BE INCLUDED ABOVE]

A. Islington and State Streets Drain Lin Easements

Background

Included in the packet are drainage easements across private property in conjunction with the ongoing work along Islington Street. A memo from Deputy City Attorney McCourt is included along with the easement plan and easements for each property. Below is the Section from Chapter 11 Article 11.602 referenced in Attorney McCourt's memo.

ARTICLE VI: REFERRALS TO PLANNING BOARD (Added 12/21/2009)

Section 11.601: INTENT

The intent of this Article is to ensure that proposed municipal actions relating to land acquisition, disposition or use, and to the laying out, construction or discontinuance of public streets, are considered in the context of the City's comprehensive planning.

Section 11.602: REFERRAL AND REPORT

- A. The following matters shall be referred to the Planning Board in writing at least thirty (30) days before final action is taken:
 - (1) Any acquisition or disposition of municipal real property, including fee transfers, easements and licenses;
 - (2) Any plan for the construction, alteration, relocation, acceptance or discontinuance of a public way.
- B. No final action on a matter listed herein shall be taken until either the Planning Board has reported to the City Council thereon in writing or sixty (60) days have elapsed since the referral without such report.
- C. The failure to refer a matter listed herein to the Planning Board shall not affect the legal validity or force of any action related thereto if the Planning Board waives such referral.

Planning Department Recommendation

Vote to recommend the City Council accept the drainage easements on 547/549 State Street and 72, 86, and 96 Islington Street.

VII. OTHER BUSINESS

- A.** Chairman's Updates and Discussion Items
- B.** Board Discussion of Regulatory Amendments and Other Matters

VIII. ADJOURNMENT