



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

Memorandum

To: Planning Board

From: Peter Stith, AICP
Planning Manager

Date: June 12, 2025

Re: Recommendations for the June 18, 2025 Planning Board Meeting

I. APPROVAL OF MINUTES

A. Approval of the May 15, 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 May 15, 2025 meeting and vote to approve meeting minutes with edits if needed.

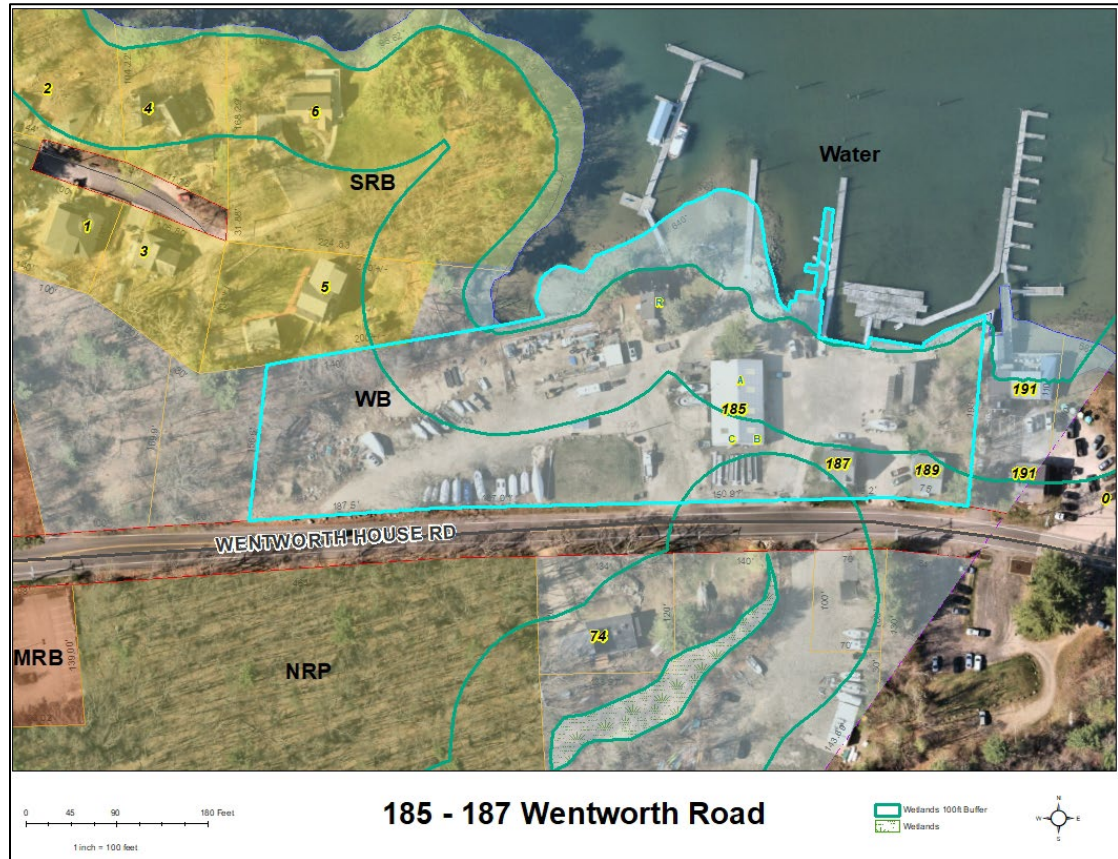
II. PUBLIC HEARINGS – NEW BUSINESS

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 **Sea Level LLC (Owner)**, for property located at **185-187 Wentworth House Road** requesting a Wetland Conditional Use Permit in accordance with Section 10.1017.50 for the required remediation of PCBs by the EPA and associated impacts within a tidal wetland and previously disturbed wetland buffer including removal of sediment from existing salt marsh. The project proposes to add 6" of sand with the addition of planting saltmarsh bulrush plugs and salt tolerant grass mix and adding boulder armoring and stone riprap for bank stability. Additional proposed impacts to the buffer include the removal of 0.5 cubic yards of soil in two different buffer locations with one of these areas proposed to be covered with a geotextile liner and 5,000 s.f. concrete cap. Said property is located on Assessor Map 201 Lot 12 and lies within the Single Residence B (SRB) and Waterfront Business (WB) Districts.

Project Background

The application is for the required remediation of PCBs by the EPA and associated impacts within a tidal wetland and previously disturbed wetland buffer. As part of this remediation, the applicant is proposing to remove 175 s.f. of sediment from existing salt marsh down to a depth of 1 ft as well as an adjacent section of 235 s.f. of fill to be removed down to a depth of 6 in. To restore these excavated areas, the applicant is proposing to add 6 in of sand in the first removal area with the addition of saltmarsh bulrush plugs. In the upper portion of the marsh area and above the high observable tide line, salt tolerant grass mix is proposed as well as boulder armoring and stone riprap for bank stability. Additional proposed impacts to the buffer include the removal of 0.5 cubic yards of soil in two different buffer locations down to 1 ft in depth, with one of these areas proposed to be covered with a geotextile liner and 5,000 s.f. concrete cap. All other areas impacted by PCBs in the wetland buffer will receive 6 inches of clean topsoil and vegetation. Other buffer work includes the reuse of existing gravel for boat storage activities and the plugging of an existing storm drain.



Staff Analysis – Wetland CUP

According to Article 10 Section 10.1017.50 the applicant must satisfy the following conditions for approval of this project.

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

A majority of this work is proposed for previously disturbed areas that need remediation done to remove contaminants from the wetland system. The existing salt marsh is not a suitable site for excavation work but the necessity of removing the PCBs and the associated replanting of the marsh should create a better outcome for the health of the wetland resource in this location if it can be properly maintained.

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

This is EPA-mandated remediation work that must occur to reduce existing PCB levels on site. It cannot occur anywhere else outside of the buffer.

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

This proposal aims to remove existing toxins from the wetland and buffer system that currently exist and bring in clean topsoil and seed for the growth of the marsh. While the temporary impacts may be harmful, the outcome will create a healthier environment for all. To minimize impacts from construction, significant erosion controls are needed as part of this project.

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

This remediation project only proposes the removal of vegetation to the extent necessary to remove the impacted soil and cap.

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

This proposal appears to be the most efficient way to clean up the PCB contaminants currently in the soils of this wetland and buffer resource. Without remediation, this site will continue to be adversely impacted from the contaminants. The applicant should ensure that any contaminated soils are properly covered if left on site at any time during the project period or afterwards.

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

While riprap is proposed for the bank immediately above the HOTL, the area between the bank and the proposed concrete cap will be loamed and hydroseeded as well as planted with a variety of trees and shrubs. The applicant should ensure that a wetland buffer seed mix is used through the 100' wetland buffer for seeding, not just wildlife-compatible mix.

Conservation Commission

The applicant was before the Conservation Commission at its regularly scheduled meeting of Wednesday, March 12, 2025 and the Commission voted unanimously (6-0) to recommend approval with the following conditions:

- 1. Applicant shall receive all necessary permissions from NHDOT and the contributing abutting landowners as applicable prior to plugging or abandoning any of the existing 15" drainage pipe. Further, please provide a drainage plan and calculation analysis for the rerouting of flow entering this pipe. This shall occur prior to Planning Board approval and may need review from TAC. Any proposed ground disturbance within a jurisdictional wetland or wetland buffer due to future rerouting or removal of the existing pipe shall require a separate wetland conditional use permit from the City.*

2. *All areas to be loamed and seeded shall receive a wetland buffer conservation seed mix or equivalent.*
3. *In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. Markers are to be placed along the edge of the gravel parking area near the restoration area at 50- foot intervals and must be installed prior to the start of any construction.*
4. *Applicant shall clearly delineate on the site plan and provide a detailed description of the proposed grassed swale. This should include dimensions, materials, depth, etc.*

Technical Advisory Committee

The applicant was before the Technical Advisory Committee at its regularly scheduled meetings of Tuesday, May 6, 2025 and June 3, 2025 to satisfy the Conservation Commission's recommended condition 1 above to determine if TAC review is needed. At the May 6th meeting, there was discussion around the state's drainage pipe location and asked the applicant to identify the location to ensure the concrete cap would not be located on top of the pipe. The applicant also confirmed the pipe would not be plugged as originally contemplated.

At the June 3rd meeting, the applicant provided the location of the pipe and the location is under the corner of the proposed concrete cap. The applicant revised the plan to show gravel instead of concrete to allow access to the pipe if needed.

With this change, TAC voted to determine that this work be exempted from site plan review. ***The other recommended conditions from the Conservation Commission have been satisfied in the Planning Board submittal or added as conditions of approval below.***

Planning Department Recommendation

Wetland Conditional Use Permit

1) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.50 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 10.1017.50 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) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. Markers are to be placed along the edge of the gravel parking area near the restoration area at 50-foot intervals and must be installed prior to the start of any construction.

II. PUBLIC HEARINGS – OLD BUSINESS

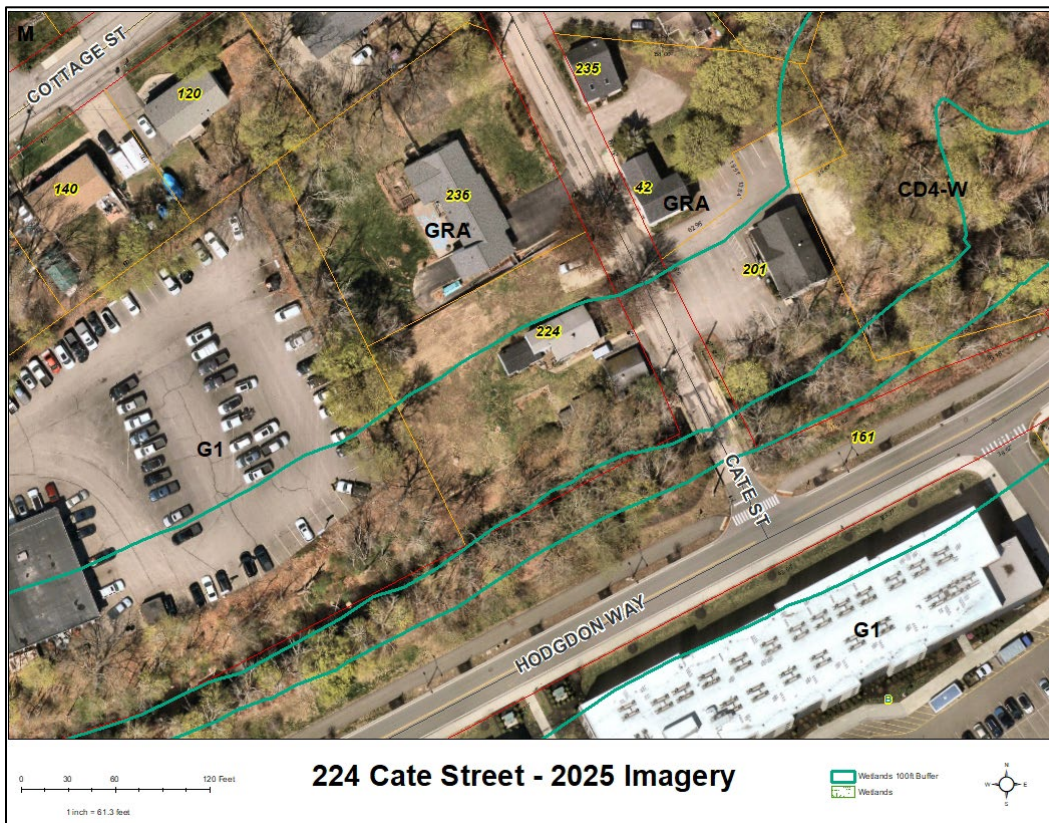
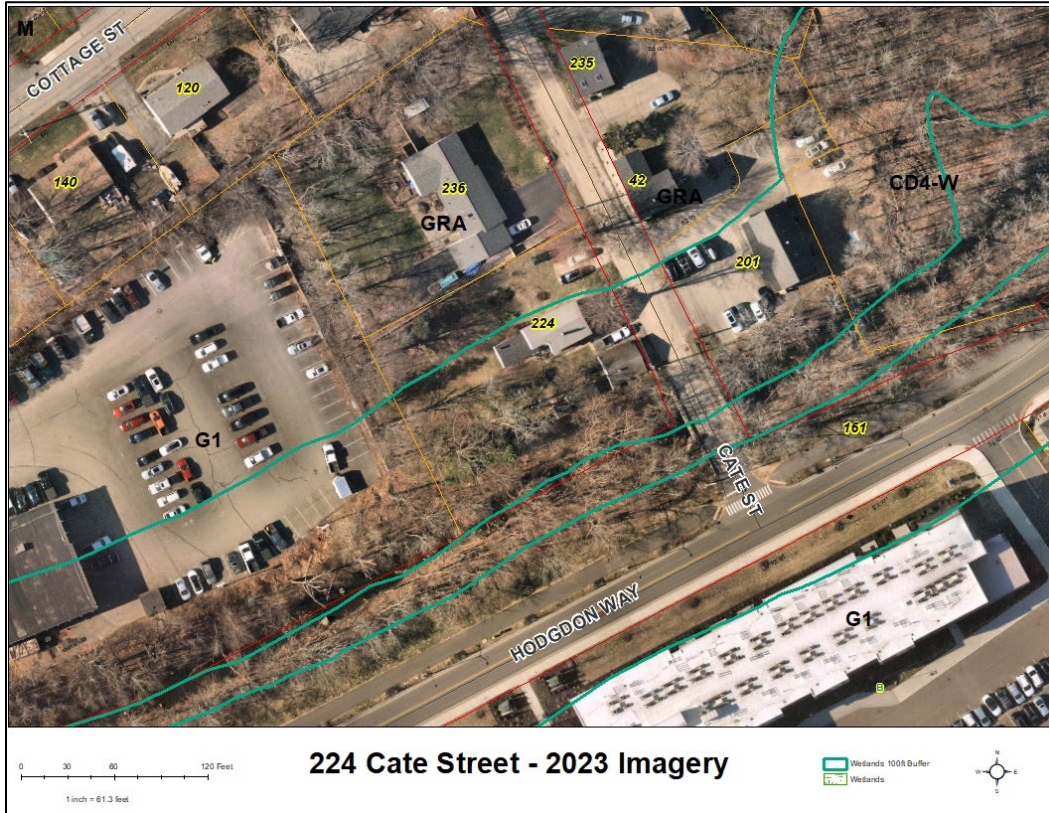
The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- A. The request of **Jesse Warren Anderson (Owner)**, for property located at **224 Cate Street** requesting an after-the-fact Wetland Conditional Use Permit for restoration work within the City's 100' wetland buffer for unauthorized removal of vegetation within the vegetated no-cut buffer and removal of the groundcover on portions of the property that were within the protected wetland buffer without a permit. Said property is located on Assessor Map 173 Lot 3 and lies within the General Residence A (GRA) District.

Project Background

The applicant removed vegetation from the buffer area without authorization and is before the Board for an after-the-fact approval of a restoration plan. Recent work was done involving removal of the top layer of soil across the majority of the buffer, removal of trees and the removal of other existing vegetation such as shrubs. This application includes a restoration plan to revegetate and plant a portion of the wetland buffer. These plans include seeding the exposed topsoil with a conservation seed mix, grinding down the stumps to the surface, planting three red maples and seven dogwood shrubs. As shown in the aerial imagery below, in 2023 the site was fully vegetated and the 2025 imagery shows the property as it is currently, with the vegetation and trees removed from the buffer.

The property is currently listed for sale, therefore a recommended condition of approval that the restoration plan is recorded in the Registry to ensure future owners are aware of the requirement to restore the areas that were impacted.



Staff Analysis – Wetland CUP

According to Article 10 Section 10.1017.50 the applicant must satisfy the following conditions for approval of this project.

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

The removal of vegetation from the buffer on this property significantly increased the impact of pollution, sediment and nutrient runoff into the brook, especially with the steep embankment leading to the water's edge. The plan to establish shrubs and replace the two trees within the 40-ft no-cut vegetative buffer will significantly help to re-establish that part of the buffer and prevent further runoff and erosion.

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

The applicant is proposing to seed all previously disturbed areas with an appropriate seed mix and plant a well-spaced section of trees within an area of the wetland buffer that relies on dense vegetation to protect the brook.

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

The disturbance of this site was in direct violation of the City of Portsmouth Zoning Ordinance and increased the risk of disturbance to Hodgson Brook, an already impaired waterbody that requires protection. With the successful establishment of the proposed plantings and conservation seed mix, the previous impacts to the wetland buffer should be mitigated.

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

This area had already been altered and is proposed to be revegetated to come into compliance with our wetland buffer requirements.

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

This restoration of the previously disturbed area will bring this site back into compliance and hopefully help to improve the health of Hodgson Brook over time.

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

This site is unique as it triggers a wider vegetated buffer strip. With the slope of the brook's bank, this site requires a 40' vegetated buffer strip according to Section 10.1018.22 of the Zoning Ordinance. Currently, two buildings exist within this area which prevents the entire vegetation of this strip, but the planting of the trees and shrubs greatly increases the amount of vegetation there currently.

Conservation Commission

The applicant was before the Conservation Commission at its regularly scheduled meeting of Wednesday, May 14, 2025 and the Commission voted unanimously (5-0) to recommend approval with the following conditions:

- 1. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. Markers are to be placed along the 40' vegetative buffer (due to the steep slope) at 50-foot intervals and must be installed prior to the start of any site work.*
- 2. A monitoring report for the first two years after planting will be submitted annually to the Planning and Sustainability Department. The first report shall be submitted after the restoration work has been completed. This report will include an update on all plant health, growth, and establishment. Additionally, it should include methods for irrigation and information on routine maintenance practices. The second report must demonstrate at least an 80% survival rate of new plantings after the first two years of monitoring, if not, then replanting will be required.*
- 3. Prior to the submission to the Planning Board, applicant shall provide a maintenance plan for current and future property owners to the Planning & Sustainability Department for review. This plan should provide instructions on maintaining the conservation mix seeded areas and provide education on the correct way to care for non-traditional grass lawns. Once approved by City staff, the applicant shall submit this plan as part of their Wetland Conditional Use Permit application to the Planning Board.*
- 4. Red Maple trees must be 4-6' in height at time of install.*
- 5. A note shall be added to the plan set stating that no mowing or cutting of vegetation shall occur between the newly planted area and the top of the stream bank.*

The applicant has addressed the Conservation Commission's recommended conditions in the Planning Board application or they have been added to the conditions below.

Planning Department Recommendation

Wetland Conditional Use Permit

- 1) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.50 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 10.1017.50 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) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. Markers are to be placed along the 40' vegetative buffer (due to the steep slope) at 50-foot intervals and must be installed prior to the start of any site work.*
- 2.2) A monitoring report for the first two years after planting will be submitted annually to the Planning and Sustainability Department. The first report shall be submitted after the restoration work has been completed. This report will include an update on all plant health, growth, and establishment. Additionally, it should include methods for irrigation and information on routine maintenance practices. The second report must demonstrate at least an 80% survival rate of new plantings after the first two years of monitoring, if not, then replanting will be required.*
- 2.3) Red Maple trees must be 4-6' in height at time of install.*
- 2.4) A note shall be added to the plan set stating that no mowing or cutting of vegetation shall occur between the newly planted area and the top of the stream bank.*
- 2.5) The obligation to complete the restoration plan and the revegetation plan shall be entered into the chain of title in a recorded document, approved by the Planning and Legal Departments, recorded at the Rockingham County Registry of Deeds. Once the restoration work is completed, the applicant may request that an appropriate release be entered into the chain of title.*

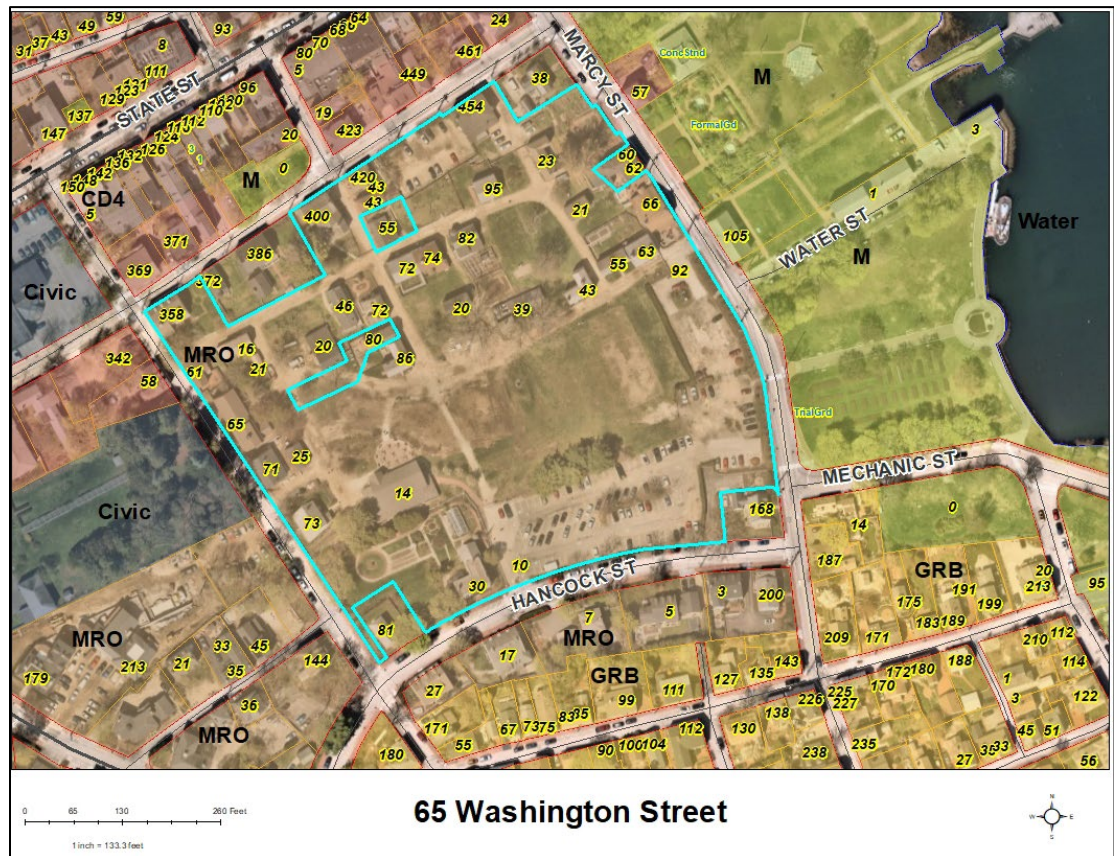
II. PUBLIC HEARINGS – NEW BUSINESS

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that issue should be raised at this point or it will be deemed waived.*

- C. The request of **Strawberry Banke Inc. (Owner)**, for property located at **65 Washington Street** requesting an amended Site Plan approval for drainage and stormwater improvements. Said property is located on Assessor Map 104 Lot 7 and lies within the Mixed Residential Office (MRO) and Historic Districts.

Project Background

The applicant is proposing drainage and stormwater alterations to alleviate standing water issues on the property through an amended site plan request. The applicant has requested a list of waivers, however since this is an amended site plan request and not full site plan review, the requested waivers are not necessary.



Project Review, Discussion, and Recommendations

The project was before the Technical Advisory Committee, see below for details.

Technical Advisory Committee

The Technical Advisory Committee, at their May 6, 2025 meeting with the following condition:

- 1) The applicant will work with DPW to ensure proper grading of the proposed rain gardens prior to submission to the Planning Board.*

The applicant reviewed the rain gardens with DPW and revised the plans accordingly prior to submission to the Planning Board.

Planning Department Recommendation
Amended Site Plan

- 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 Amended Site Plan Approval.*
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II. PUBLIC HEARINGS – NEW BUSINESS

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If any person believes any member of the Board has a conflict of interest,

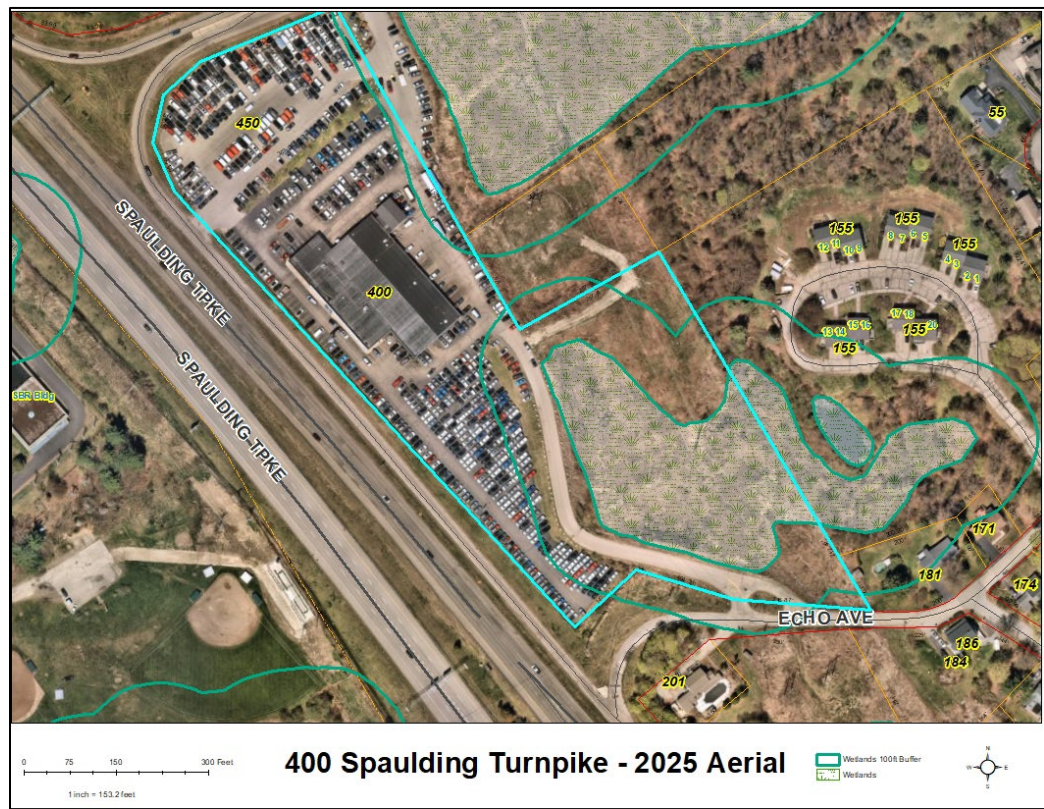
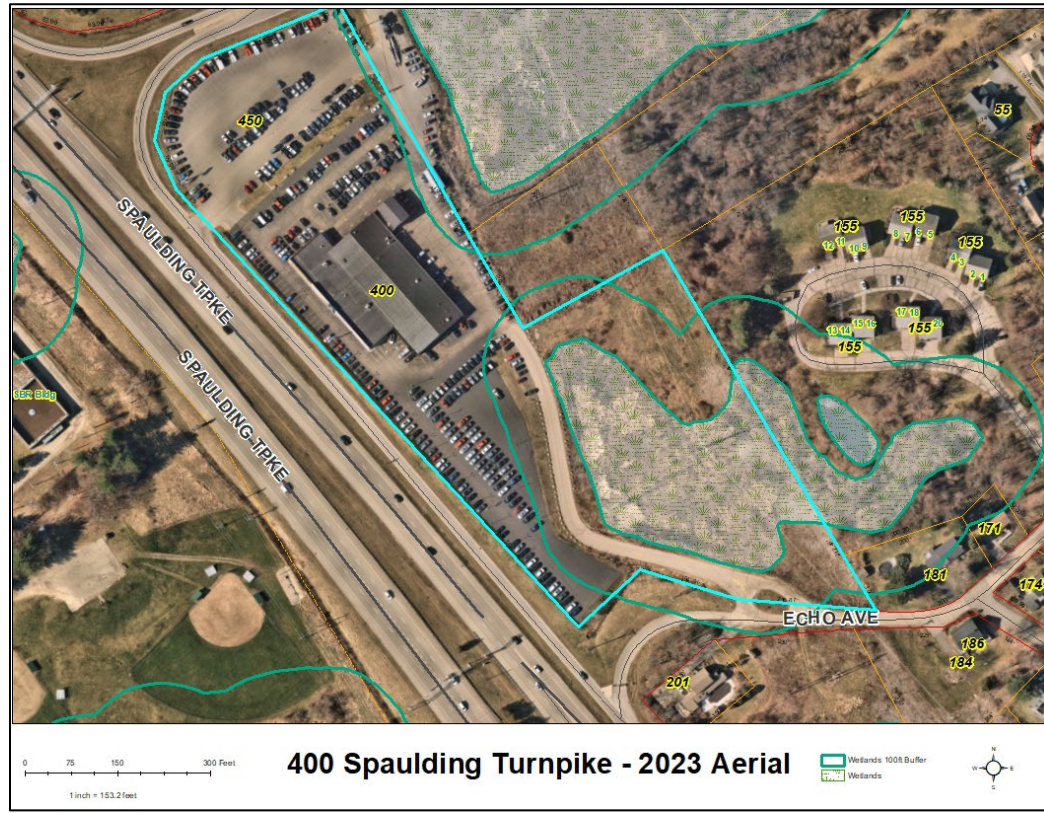
that issue should be raised at this point or it will be deemed waived.

It is recommended that Item D and E be discussed together and voted on separately. A motion is required to consider these items together.

- D.** The request of **SLF Realty Group LLC (Owner)**, for property located at **400 Spaulding Turnpike** requesting an amended Site Plan approval to change the temporary access path to a permanent access path. Said property is located on Assessor Map 238 Lot 2 and lies within the Gateway Corridor (G1) District.

Project Background

This application is for an after-the-fact wetland conditional use permit for permanent wetland buffer impacts that were not previously captured within the wetland conditional use permit for this property, among many others, that was a part of the 2018 Eversource utility pole upgrade project. While working on this parcel to replace the utility poles, the previously approved access path to reach the poles changed which changed the wetland and wetland buffer impact numbers. In addition, the access path changed from a temporary disturbance to a permanent disturbance. This permit application requests the permanent wetland buffer disturbance of 3,685 s.f. associated with keeping a portion of the access path as crushed gravel for future maintenance needs.



Staff Analysis – Wetland CUP

According to Article 10 Section 10.1017.50 the applicant must satisfy the following conditions for approval of this project.

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

This work was part of a previously approved project that had previously approved impact to the wetland for access to Eversource's Pole #19. The actual work that occurred eliminated the impact to the wetland resource and shifted impacts to the wetland buffer.

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

The poles that had to be replaced are located directly within the wetland buffer behind the Ford Dealership. To access the poles, there is no way to bring in equipment without entering into the buffer.

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

After work on replacing the poles finished, the work pad directly under the poles was naturally revegetated which is the area adjacent to the wetland to the north. The most adverse impact of this project is the permanence of the crushed gravel access road leading to the poles. This was left in place for future maintenance needs but a silt soxx buffers it from the wetland to the south, which should remain as a permanent installation with replacement over time as needed.

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

The temporary alteration to the buffer that occurred as part of this work included the work pad underneath the poles. This area has been allowed to naturally revegetate, which has since occurred. The access road has altered the natural vegetative state but it was noted during the site walk that vegetation is already growing through it and a silt soxx remains in place to protect the adjacent wetland. This seems sufficient for buffering the wetland from the permanent impacts of the accessway.

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

When this violation of the original permit was first noticed, the work pad had not yet revegetated, and the access road contained many layers of crushed gravel

for accessing the poles and for parking Ford Dealership vehicles off lot. Since this occurred, an agreement has been made to prevent future parking of vehicles within this area, a silt soxx has been replaced south of the accessway to prevent impact to the wetland, the property owners have removed a large amount of gravel from the accessway, and the work pad has started to naturally revegetate.

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

The work pad area has been returned to a natural state and while it is not feasible to allow full revegetation of the accessway due to future needs for maintenance, most of the crushed gravel has been removed which created a much thinner layer of impact to the buffer, allowing vegetation to poke through in some areas.

Conservation Commission

The applicant was before the Conservation Commission at its regularly scheduled meeting of Wednesday, May 14, 2025 and the Commission voted unanimously (5-0) to recommend approval with the following conditions:

- 1. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. The Commission recommends placing two markers on either side of the proposed gate at the bottom of the access road. These markers must be installed prior to the start of any site work.*
- 2. Applicant shall include a note on this plan set to indicate that parking and/or vehicle storage is prohibited in this accessway unless required for utility maintenance by Eversource.*

Condition 2 above has been addressed with the Planning Board submission.

Planning Department Recommendation
Amended Site Plan

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 Amended Site Plan Approval.

Planning Department Recommendation
Wetland Conditional Use Permit

1) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.50 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 10.1017.50 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) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall permanently install wetland boundary markers, which may be purchased through the City of Portsmouth Planning & Sustainability Department. The Commission recommends placing two markers on either side of the proposed gate at the bottom of the access road. These markers must be installed prior to the start of any site work.

II. PUBLIC HEARINGS – NEW BUSINESS

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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.*

- E. The request of **SLF Realty Group LLC (Owner)**, for property located at **400 Spaulding Turnpike** requesting an after-the-fact Wetland Conditional Use Permit for permanent wetland buffer impacts that were not included in the original wetland conditional use permit for this project. The new request is an increase in wetland buffer impacts from 1,644 square feet to 3,685 square feet. Said property is located on Assessor Map 238 Lot 2 and lies within the Gateway Corridor (G1) District.

See project description and recommendations under Item D above.

II. PUBLIC HEARINGS – NEW BUSINESS

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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.*

It is recommended that Item F and G be discussed together and voted on separately. A motion is required to consider these items together.

- F. REQUEST TO POSTPONE** The request of **GIRI Portsmouth 505 Inc. (Owner)**, for property located at **505 US Route 1 Bypass** requesting an amended Site Plan approval, and a Conditional Use Permit for Electric Vehicle fueling space B to install 4 EV fueling stations for 8 charging spaces. Said property is located on Assessor Map 234 Lot 5 and lies within the Gateway Corridor (G1) District. (LU-25-66)

II. PUBLIC HEARINGS – NEW BUSINESS

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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.*

It is recommended that Item F and G be discussed together and voted on separately. A motion is required to consider these items together.

- G. REQUEST TO POSTPONE** The request of **GIRI Portsmouth 505 Inc. (Owner)**, for property located at **505 US Route 1 Bypass** requesting a Wetland Conditional Use Permit in accordance with Section 10.1017.50. The project includes 1,434 square feet of impacts within the wetland buffer including 303 square feet of temporary impacts, 173 square feet of permanent impacts in the wetland buffer and 958 square feet conversion from pavement into grassed areas within the wetland buffer area. Said property is located on Assessor Map 234 Lot 5 and lies within the Gateway Corridor (G1) District. (LU-25-66)

II. 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.

- H. 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 find the design review process complete.*

III. DESIGN REVIEW ACCEPTANCE

(See Above Item H)

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

A. Petition to Layout a New Public Highway – Coakley Road Extension

Background

See memo in the packet from Marc Batchelder, Project Manager and Erich Fiedler, City Engineer, about the proposed connector road between Coakley Road and Borthwick Avenue.

City Ordinance requires a recommendation from the Planning Board prior to the acquisition of real property under Chapter 11 Article VI, Section 11.602 below:

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 acquire legal rights over privately owned land to complete the connector road between Coakley Road and Borthwick Avenue.

V. OTHER BUSINESS

- A. 1035 Lafayette Rd** – Requesting 1-Year extensions to the Site Plan Review, and Development Site, Density Bonus and Off-Street Parking Conditional Use approvals that were granted on August 15, 2024. (LU-24-92)

Project Background

On August 15, 2024, the Planning Board granted approval for Site Plan and two Conditional Use Permits for the project referenced above. The applicant is working on post approval conditions in order to obtain a building permit. The applicant has yet to obtain a building permit and has requested the one-year extension per Section 2.14 of the Site Plan Regulations below.

Section 2.14 of the Site Plan regulations allows for an extension:

Section 2.14 Approval Expiration and Extension

1. Site plan approval by the Planning Board shall expire unless used (obtain a Building Permit) within a period of one (1) year from the date granted.
2. The Planning Board may, for good cause shown, extend such period by as much as one (1) year if requested and acted upon prior to the expiration date.

Conditional Use Permit approval may be extended for an additional one year as follows:

10.246 Expiration and Abandonment of Approvals

- 10.246.10 A conditional use permit shall expire unless a **building permit** is obtained within a period of one year from the date granted, unless otherwise stated in the conditions of approval. The **Board** may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested.

Planning Department Recommendation

Vote to grant a one-year extension of the approvals granted on August 15, 2024 tot August 15, 2025.

- B. 806 US RT 1 Bypass** – Requesting 1-Year extensions to the Site Plan, which was granted a second extension on June 20, 2024, and the amended Site Plan approval granted on the same date. (LU-22-81)

Project Background

On June 23, 2022, the Planning Board granted Site Plan approval for the project referenced above. The applicant has yet to obtain a building permit and has requested the one-year extension per Section 2.14 of the Site Plan Regulations below. A one-year extension was granted on June 15, 2023. A second extension requires the applicant to go before the Technical Advisory Committee and Planning Board. In May of 2024, the Planning Board granted Site Plan Approval for the adjacent site at 822 Route 1 Bypass. The drainage design for that project resulted in changes for this property, thus the request for amended site plan approval based on the revised drainage design. A second one-year extension and amended site plan approval was granted on June 20, 2024. The project has not started and is set to expire on June 23, 2025.

The applicant was before TAC at their May 6, 2025 meeting and TAC voted unanimously to recommend another 1-year extension of the project as nothing has changed since the extension and amended plan approval in 2024.

The process for considering a second one-year extension (or additional extensions thereafter) is below from Section 2.14 of the Site Plan Review Regulations. The request cannot be denied without having held a public hearing.

Section 2.14 Approval Expiration and Extension

1. Site plan approval by the Planning Board shall expire unless used (obtain a Building Permit) within a period of one (1) year from the date granted.
2. The Planning Board may, for good cause shown, extend such period by as much as one (1) year if requested and acted upon prior to the expiration date.
3. If additional one (1) year extensions are requested, the owner will be required to have the previously approved plans reviewed by the TAC and the Planning Board. For this review the owner shall provide to the Planning Department the previously approved plans and supporting data.
4. Upon review of a request for an extension, the Planning Board shall have the authority to amend or deny a previously approved application. This review shall not require an application fee; however, the Planning Board and/or TAC may, if deemed necessary by either chair, conduct a public hearing at the owner's expense.

Planning Department Recommendation

Vote to grant a one-year extension of the site plan approval to June 23, 2026.

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

VI. ADJOURNMENT