



City of Portsmouth  
Planning Department  
1 Junkins Ave, 3<sup>rd</sup> Floor  
Portsmouth, NH  
(603)610-7216

Memorandum

To: Planning Board

From: Peter Stith, AICP  
Planning Manager

Date: August 15, 2025 (*Revised August 18, 2025*)

Re: Recommendations for the August 21, 2025 Planning Board Meeting

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## **I. MASTER PLAN UPDATE - UTILE**

Presentation by Utile followed by Q & A with the Board.

## **II. PRESENTATIONS**

2. Receive a presentation on the Capital Improvement Plan Process

### **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 and City Council Adoption

Beginning in 2024, the Planning Board and City Council held a joint work session and joint public hearing to streamline the process to allow the Council to adopt the CIP in December. This same adoption process is proposed this year as is presented in the timeline below. 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 18, 2025 - City Council CIP Presentation
- **August 21, 2025 - Planning Board CIP Presentation**
- September 19, 2025 - Citizens/Committee Requests Due
- September 26, 2025 – Staff/Department Submissions Due
- October 9, 2025 - City Council Citizen Request Subcommittee meeting
- **November 12, 2025 – Joint Work Session City Council & Planning Board**
- **November 17, 2025 - Joint Public Hearing City Council & Planning Board**
- **November 20, 2025 - Planning Board Meeting Vote to Recommend CIP to City Council**
- December 8, 2025 - City Council Adoption of CIP

### III. APPROVAL OF MINUTES

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

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#### IV. DETERMINATIONS OF COMPLETENESS

##### SUBDIVISION REVIEW

- A. The request of **361 Hanover Steam Factory LLC (Owner)**, for property located at **361 Hanover Street** requesting Site Plan Review approval and Preliminary and Final Subdivision Approval for the addition of four new residential structures and the renovation of the existing commercial building at 361 Hanover Street with the associated and required site improvements.

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##### Planning Department Recommendation

*Vote to determine that Item A is complete according to the Subdivision Review Regulations, (contingent on the granting of any required waivers under Section VI of the agenda) and to accept the application for consideration.*

##### SITE PLAN REVIEW

- A. The request of **361 Hanover Steam Factory LLC (Owner)**, for property located at **361 Hanover Street** requesting Site Plan Review approval and Preliminary and Final Subdivision Approval for the addition of four new residential structures and the renovation of the existing commercial building at 361 Hanover Street with the associated and required site improvements.
- B. The request of **Bromley Portsmouth, LLC (Owner)**, for property located at **1465 Woodbury Avenue** requesting a Conditional Use Permit from Section 10.5B41.10 for a Development Site, a Conditional Use Permit from Section 10.440, Use 19.40 for a drive-through facility, and Site Plan Review Approval for the construction of a ±2,847 square-foot, single-story banking facility with drive-through and associated site improvements including parking, pedestrian access, utility infrastructure, stormwater management systems, lighting and landscaping.
- C. The request of **The City of Portsmouth (Owner)**, for property located at **35 Sherburne Road** requesting review of Site Plan Review and Conditional Use Permit applications within the Highway Noise Overlay District for a recommendation to the City Manager for the construction of 127-workforce housing units in three buildings including demolition of the rear gym of the school and converting the remaining structure into 8 units, construction of a 4-story 90 unit building, construction of a 3-story 29 unit building and associated site improvements including utilities, lighting, landscaping, stormwater, parking and access.

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**Planning Department Recommendation**

*Vote to determine that Items A-C are complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Section VI of the agenda) and to accept the applications for consideration.*

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**V. 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.*

***It is recommended that Old Business Item A and B be discussed together and  
voted on separately. A motion is required to consider these matters together.***

- A. REQUEST TO POSTPONE** 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.

**V. PUBLIC HEARINGS – OLD BUSINESS**

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

- B. REQUEST TO POSTPONE** 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. **REQUEST TO POSTPONE**

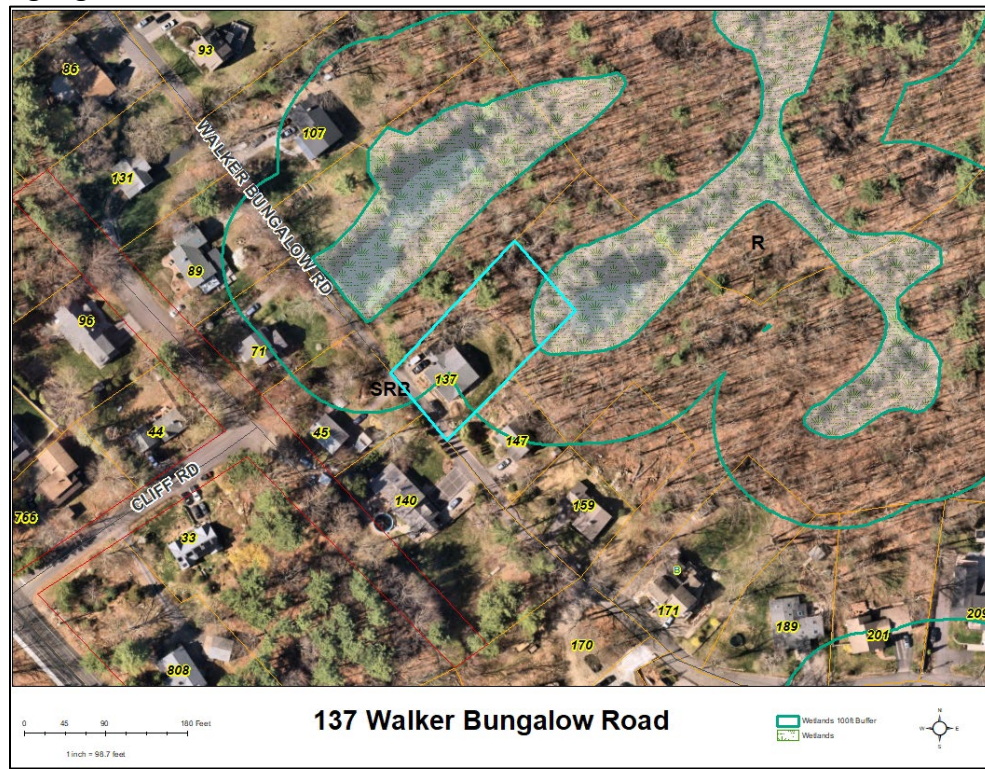
## VI. PUBLIC HEARINGS – NEW BUSINESS

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

- A. The request of **Ryan Leibundgut (Owner)**, for property located at **137 Walker Bungalow Road** requesting an after-the-fact Wetland Conditional Use Permit for work done within the 100' wetland buffer and 100' vernal pool buffer without a permit. The applicant had previously removed a 6 x 12' rear deck and footings and new concrete footings were poured and a new 6 x 12' deck was built. Crushed stone underneath the deck, a set of stairs and a 5 s.f. concrete landing, and new plantings within the buffer area are all proposed with this application. Said property is located on Assessor Map 202 Lot 4 and lies within the Single Residence B (SRB) District. (LU-25-81)

### Background

The applicant removed the rear deck without any permits and is proposing to build a new deck the same dimensions as the old. As shown on the map below, most of the property and house are located within the 100-foot wetland buffer area. Two vernal pools nearby which impact this property with a buffer protection area. Vernal pools, regardless of size, have a 100-foot buffer area. The application includes improved drainage under the new deck, plantings, signage and has delineated a no mow area in the buffer.



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.**

The property previously had the same size deck in place. The impact from the new deck will be from the soil disturbance created to rebuild the deck and pour new footings.

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

The egress already existed within this location of the home and stairs or a deck were needed to access the doorway. This location is reasonable as there was a deck here and the new deck will be the same size.

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

The applicant is proposing to help offset impacts from the new build with crushed stone placed below the deck and plantings within the yard to increase the vegetation within the buffer.

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

This project was rebuilt in an already disturbed area and the applicant is proposing the installation of new plantings to bolster the vegetative state of the buffer.

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

This rebuild appears to be almost entirely within the existing impacted area where the previous deck was located. Impacts to the wetland resource were offset with the removal of the existing sump pump drainage and removal of the septic system as noted by the applicant. In addition, the introduction of new plantings will help to offset impacts and the crushed stone placement should slow stormwater that is entering the wetland buffer.

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

This project proposes no impact to the 50' vegetated buffer strip. Applicant proposes new plantings within this area.

### Conservation Commission

The applicant was before the Conservation Commission at its regularly scheduled meeting of Wednesday, July 9, 2025 meeting, the Commission voted (6-0) 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 25' vegetative buffer at 50-foot intervals and must be permanently installed as a part of this after the fact permit.*
2. *Prior to submission to the Planning Board, applicant shall provide a detail sheet depicting the profile of the proposed crushed stone for underneath the deck (depth, stone size, material layers, etc.).*
3. *Prior to submission to the Planning Board, applicant shall provide a planting plan with the following information: the species, size, quantity and exact location of the five plantings proposed at least five feet inward from the existing silt fence and the delineation of the proposed no-mowing line where the existing silt fence is.*

***The conditions have been satisfied with the Planning Board application or added as conditions of approval below.***

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### 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 25' vegetative buffer at 50-foot intervals and must be permanently installed.*



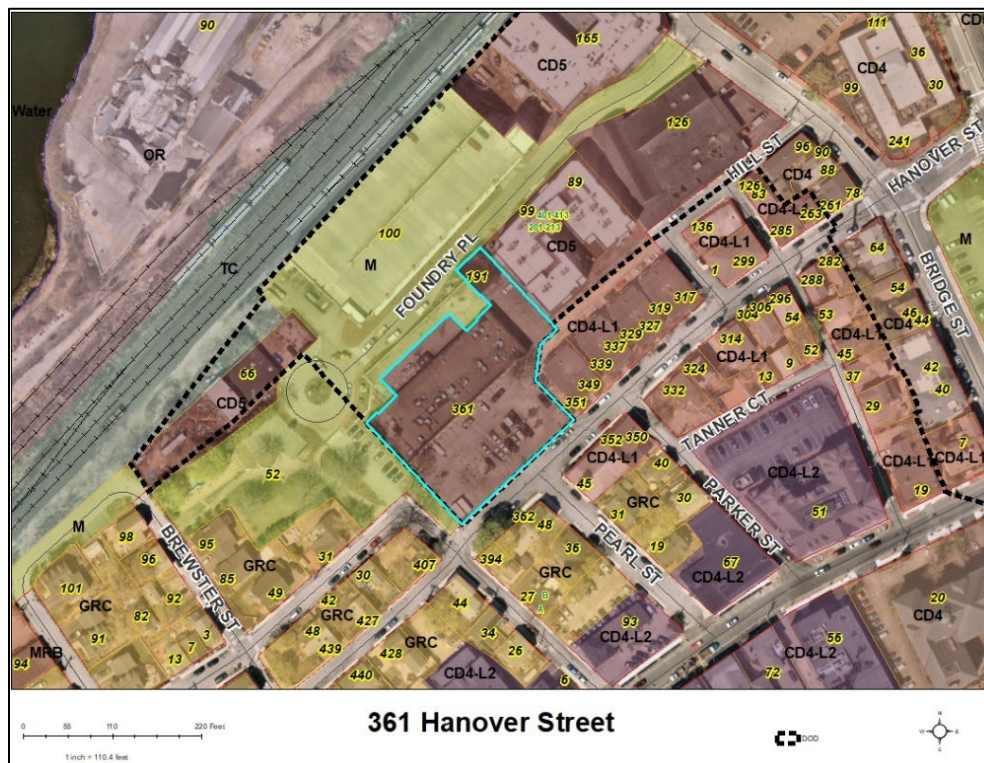
## VI. PUBLIC HEARINGS – NEW BUSINESS

*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 **361 Hanover Steam Factory LLC (Owner)**, for property located at **361 Hanover Street** requesting Site Plan Review approval and Preliminary and Final Subdivision Approval for the addition of four new residential structures and the renovation of the existing commercial building at 361 Hanover Street with the associated and required site improvements. Said property is located on Assessor Map 138 Lot 63 and lies within Character District 5 (CD5) and Downtown Overlay District. (LU-24-196)

### Project Background

The applicant is proposing to renovate the existing building and construct three new residential buildings for a total of 40 residential units in four buildings. construct a 4-bay garage attached to an existing three-unit dwelling. The applicant received Design Review approval for a by-right development in 2024, however the applicant's preferred plan required variances. The applicant sought relief from the Board of Adjustment and after the applicant received variances they came back to the Planning Board for Design review in early 2025 and Design Review was determined to be complete at the April 17, 2025 Planning Board meeting after a public hearing.



### **Project Review, Decisions, and Recommendations**

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

#### **Board of Adjustment**

The applicant was before the Zoning Board of Adjustment for several months in 2024 and at its regularly scheduled meeting of Tuesday, February 18, 2025 the Board voted 4-1 to grant the following variances and condition of approval below:

- 1) Variance from Section 10.642 to allow residential principal use on the ground floor of the buildings;
- 2) Variance from Section 10.5A41 - Figure 10.5A41.10D to a) allow for "Apartment", "Rowhouse" and "Duplex" building types where they are not permitted; and b) allow a ground floor height of 10.5 feet where 12 feet is required.

Condition of Approval:

- 1) The design and locations of the buildings may change as a result of the Planning Board's review and approval.

#### **Technical Advisory Committee**

The applicant was before the Technical Advisory Committee at its regularly scheduled meeting of Tuesday, July 1, 2025 and the Committee voted unanimously to recommend approval with the following conditions:

The Committee voted to recommend approval of this application unanimously to the Planning Board with the following conditions to be satisfied prior to submission to the Planning Board:

- 1. The proposed electrical service must come off of a pole that is not within the City sidewalk.*
- 2. The radii of the curb in the entrance driveway needs to be five feet.*
- 3. The back corner of Building E needs to be chamfered or relocate last garage door.*
- 4. The final grade needs to be shown on the plans and it cannot inhibit vehicular access across the property.*
- 5. The final proposed connections to the water and sewer system needs to be approved by DPW.*
- 6. Applicant will be required to obtain a stormwater connection permit.*
- 7. An updated traffic study is needed and shall be reviewed by DPW.*

8. *The proposed sidewalks on Hanover Street will be reconstructed to City standards.*
9. *Proposed disturbed areas on Hanover Street will be milled and paved as approved by DPW.*
10. *A CMMP is required.*

***The conditions have been satisfied with the Planning Board application or added as conditions of approval below.***

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**Planning Department Recommendation**

**Subdivision**

- 1) *Vote to find that the Subdivision Application meets the requirements set forth in the Subdivision Regulations and adopt the findings of fact as presented.*
- 2) *Vote to grant Preliminary and Final Subdivision Approval with the following stipulations:*
  - 2.1) *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.*
  - 2.2) *Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat;*
  - 2.3) *GIS data shall be provided to the Department of Public Works in the form as required by the City;*

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**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.*
- 2) *Vote to grant Site Plan approval with the following conditions:*

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

- 2.1) *The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 2.2) *The applicant shall prepare a Construction Management and Mitigation*

*Plan (CMMP) for review and approval by the City's Legal and Planning Departments unless City staff determines that such plan is not needed.*

- 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) Owner shall provide an access easement to the City for water valve access and leak detection. The easement shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.*
- 2.5) 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> <<https://www.cityofportsmouth.com/publicworks/stormwater/ptap>>*

*Conditions to be satisfied subsequent to commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy.*

- 2.6) 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;*
  - 2.7) 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.*
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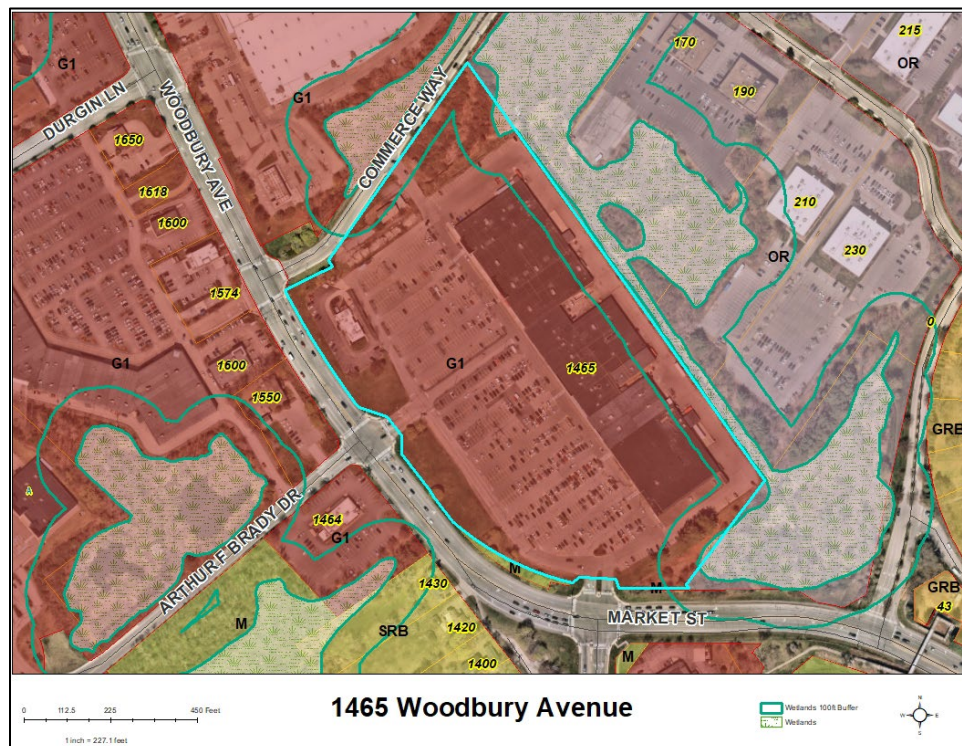
## VI. PUBLIC HEARINGS – NEW BUSINESS

*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 **Bromley Portsmouth, LLC (Owner)**, for property located at **1465 Woodbury Avenue** requesting a Conditional Use Permit from Section 10.5B41.10 for a Development Site, a Conditional Use Permit from Section 10.440, Use 19.40 for a drive-through facility, and Site Plan Review Approval for the construction of a ±2,847 square-foot, single-story banking facility with drive-through and associated site improvements including parking, pedestrian access, utility infrastructure, stormwater management systems, lighting and landscaping. Said property is located on Assessor Map 216 Lot 3 and lies within the Gateway Corridor (G1) District. (LU-25-93)

### Project Background

This proposal is for the construction of a new bank building along Woodbury Avenue. The property is located in the Gateway-1 District and the addition of the new building triggers a Conditional Use Permit (CUP) for a Development Site under the zoning which has a requirement for 10% community space which equates to almost 2 acres of community space because the parcel is over 19 acres. A CUP is also required for the drive-through facility associated with the bank.



### **Project Review, Decisions, and Recommendations**

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

#### **Technical Advisory Committee**

The applicant was before the Technical Advisory Committee at its regularly scheduled meeting of Tuesday, July 1, 2025 and the Committee voted unanimously to recommend approval with the following conditions:

The Committee voted to recommend approval of this application unanimously to the Planning Board with the following conditions to be satisfied prior to submission to the Planning Board:

1. *The hydrant valve should be placed next to the hydrant, not at the split.*
2. *The hydrant connection needs to face the entrance.*
3. *Existing and proposed hydrants must be shown on the landscaping plans.*

***The conditions above have been addressed in the Planning Board submission.***

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#### **Planning Department Recommendation**

##### **Development Site**

##### **Conditional Use Permit**

1) *Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.5B11 and 10.5B73 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 10.5B11 and 10.5B73 and to adopt the findings of fact as amended and read into the record.*

2) *Vote to grant the Conditional Use Permit for the development site.*

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#### **Planning Department Recommendation**

##### **Drive Through Conditional Use Permit**

1) *Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.243 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 and to adopt the findings of fact as amended and read into the record.*

2) *Vote to grant the Conditional Use Permit for accessory drive through facility.*

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**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.*

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

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

- 2.1) *The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 2.2) *The applicant shall 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.*
- 2.3) *Owner shall provide an access easement to the City for water valve access and leak detection. The easement shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.*
- 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 commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy.*

- 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.*
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## VI. 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.*

- D. The request of **The City of Portsmouth (Owner)**, for property located at **35 Sherburne Road** requesting review of Site Plan Review and Conditional Use Permit applications within the Highway Noise Overlay District for a recommendation to the City Manager for the construction of 127-workforce housing units in three buildings including demolition of the rear gym of the school and converting the remaining structure into 8 units, construction of a 4-story 90 unit building, construction of a 3-story 29 unit building and associated site improvements including utilities, lighting, landscaping, stormwater, parking and access. Said property is located on Assessor Map 259 Lot 10 and lies within the Municipal (M ) District. (LU-25-94)

### Background

The City has partnered with the Portsmouth Housing Authority (PHA) after a request for proposals (RFP) to construct below market rate housing on city land at 35 Sherburne Road. The site is 5.3 acres and is Municipally zoned and is located in the Highway Noise Overlay District (HNOD). The ground lease is attached which provides more background about the selection process and the terms of the lease with PHA. The development consists of building 127 below market rate units in 2 new buildings and renovating a portion of the existing school, which will contain 8 units.

Because the property is zoned Municipal, the Zoning Ordinance does not apply, with the exception of Article 10, Environmental Protection Standards, of which there are no wetlands on the property. Included in the packet is a Land Use Compliance Agreement between PHA and the City that outlines the land use review process. This process was voted on by the City Council at their February 18, 2025 meeting. Relevant excerpts from the review agreement are below that outline the review and approval process for this project with regard to the Planning Board's role.

**WHEREAS**, the Portsmouth City Council voted on February 18, 2025 to establish a land use review process, as further defined below.

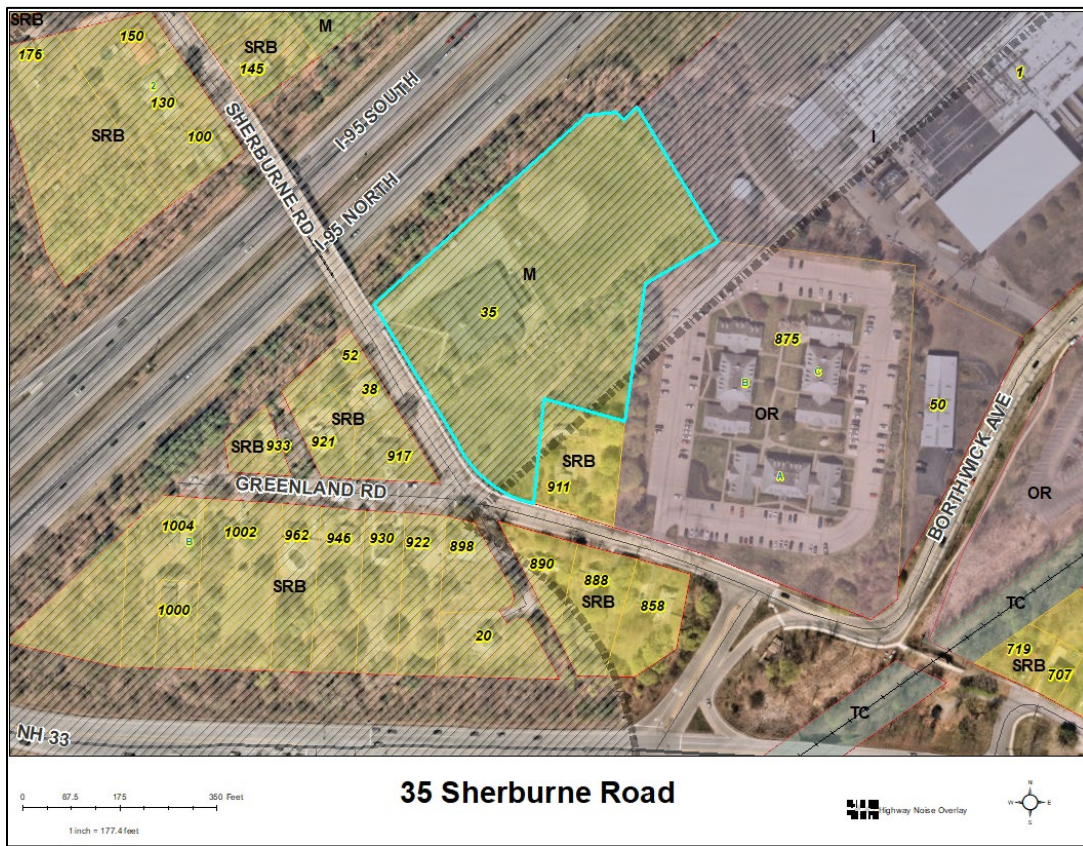
**NOW THEREFORE**, the Parties agree that the PHA Project shall be subject to the following land use approval process.

- . **Review Criteria:** Pursuant to the City Council vote of February 18, 2025, Portsmouth Housing's development of the Property shall be subject to the following criteria:
  - i. Consistency with Portsmouth's Site Plan Review Regulations
  - ii. Consistency with the City's Highway Noise Overlay District, Portsmouth Zoning Ordinance Section 10.670.
  - iii. Consistency with the RFP and all addenda thereto.
  - iv. Consistency with the PHA Response.
  - v. Consistency with the best interests of the City. (i – v collectively the "Review Criteria")
- . **Review Process:**
  - A. Portsmouth Housing Authority shall submit a Site Plan application to the City in accordance with the City's published Site Plan Review Regulations. Within thirty (30) days of receipt of the Site Plan Documentation, the City's Technical Advisory Committee shall review the Site Plan Review Documentation at a public meeting. PHA representative(s) shall be present at the TAC meeting and shall present the proposed Site Plan Review documentation, specifications, construction schedule, and provide any explanation. TAC shall then provide nonbinding comments based on the Review Criteria to the Planning Board for the Planning Board's consideration. Within thirty (30) days of receipt of a recommendation by TAC, the Planning Board shall hold a public hearing to consider the Site Plan Review Documentation submitted by PHA. PHA representative(s) shall be present at the Planning Board meeting and shall present the proposed Site Plan Review documentation, specifications, construction schedule, and provide any explanation. The Planning Board shall then provide nonbinding comments based upon the Review Criteria to the City Manager for final approval.
- . **City Manager Approval Process:** The City Manager shall accept or reject PHA's proposal, or request modification to PHA's proposal, within five (5) days receipt of comments from the Planning Board. The City Manager's review shall be in accordance with the Review Criteria.
- . The above process shall be collectively referred to as the "Project Approval Process". Acknowledging the short time period the City Manager has to render a final decision regarding the applications for the PHA Project, starting on April 15, 2025 PHA shall provide written updates to the City Manager at least every thirty (30) days, including but not limited to submission of any and all project site plans, design plans, and architectural plans which are available at the time of submission.



If the City Manager approves the project, any material changes to those items subject to review pursuant to the City's Site Plan Review Regulations to the form or substance of the approved project shall only be made following a written request from Portsmouth Housing. The City Manager, at her discretion, may request additional information from Portsmouth Housing in order to process the request. The City Manager may, in her discretion, request additional feedback regarding any proposed amendments from TAC, the Planning Board, or the Public Art Review Committee as the City Manager deems appropriate. If the City Manager reasonably determines that any requested amendment is inconsistent with the Review Criteria, Portsmouth Housing may within thirty (30) days withdraw the request or amend the request to be consistent with the Review Criteria. If, following the thirty-day period, Portsmouth Housing has not withdrawn the request or amended the request in an effort to be consistent with the Review Criteria, the City may terminate this Option Agreement without any further recourse on the part of Portsmouth Housing or PHA, unless the City grants an extension in its reasonable discretion.

Acknowledging that the TAC and Planning Board meeting schedules are publicly posted for the 2025 calendar year, it shall be the responsibility of PHA to ensure that the Project Approval Process results in Planning Board consideration no later than August 21, 2025, unless extended by the City in its reasonable discretion. The City shall work in good faith to provide flexible deadlines for submission of documents and scheduling of special meetings to accommodate the Project Approval Process while respecting statutory deadlines for public hearing notices.



### **Project Review, Decisions, and Recommendations**

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

#### **Technical Advisory Committee**

The applicant was before the Technical Advisory Committee at its regularly scheduled meeting of Tuesday, July 1, 2025 and the Committee voted unanimously to recommend approval with the following conditions

1. *The 3" line needs to be upgraded to a 4" line.*
2. *A test of the actual speeds on Sherburne Road needs to be performed.*
3. *The hydrant in the accessway needs to be relocated and the hydrant locations need to be included in the landscape plans.*
4. *Fire Department must review and approve the landscaping plans prior to Planning Board submission.*

***The conditions above have been addressed in the Planning Board submission.***

At the request of the applicant two "Projects" are proposed for this development. Project 1 which will include construction of the 4-story, 90-unit building and Project 2 will include renovation of the school and construction of the 3-story, 29-unit building. The recommendations below are 2 votes for each Project, which have the same conditions for each with the exception of Project 2, which outlines a timeline for when a building permit must be obtained.

#### **Planning Department Recommendation** **Highway Noise Overlay District** **Conditional Use Permit Project 1**

*1) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.674 of the Ordinance and recommend the City Manager adopt the findings of fact as presented for Project 1 and Project 2.*

*(Alt.) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.674 of the Ordinance and recommend the City Manager adopt the findings of fact as amended for Project 1 and Project 2..*

*2.) Vote to recommend the City Manager approve Conditional Use Permit as presented for Project 1.*

*3.) Vote to recommend the City Manager approve the Conditional Use Permit as*

*presented for Project 2.*

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**Planning Department Recommendation**

**Site Plan Approval Project 1**

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 recommend the City Manager adopt the findings of fact as presented for Project 1 and Project 2.*

2) *Vote to recommend the City Manager grant Site Plan approval for Project 1 with the following conditions:*

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

- 2.1) *The site plan and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 2.2) *The applicant shall 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.*
- 2.3) *Owner shall provide an access easement to the City for water valve access and leak detection. The easement shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.*
- 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 commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy.*

- 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.*

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**Planning Department Recommendation**  
**Site Plan Approval Project 2**

*2) Vote to recommend the City Manager grant Site Plan approval for Project 2 with the following conditions:*

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

- 2.1) The applicant has 2 years from the issuance of the first building permit for Project 1 to obtain a building permit for Project 2.*
- 2.2) 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.*
- 2.3) 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) Owner shall provide an access easement to the City for water valve access and leak detection. The easement shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.*
- 2.5) 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 commencement of site work and construction activity but prior to release of surety bond or certificate of occupancy.*

- 2.6) 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;*
- 2.7) 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.*

## VI. PUBLIC HEARINGS – NEW BUSINESS

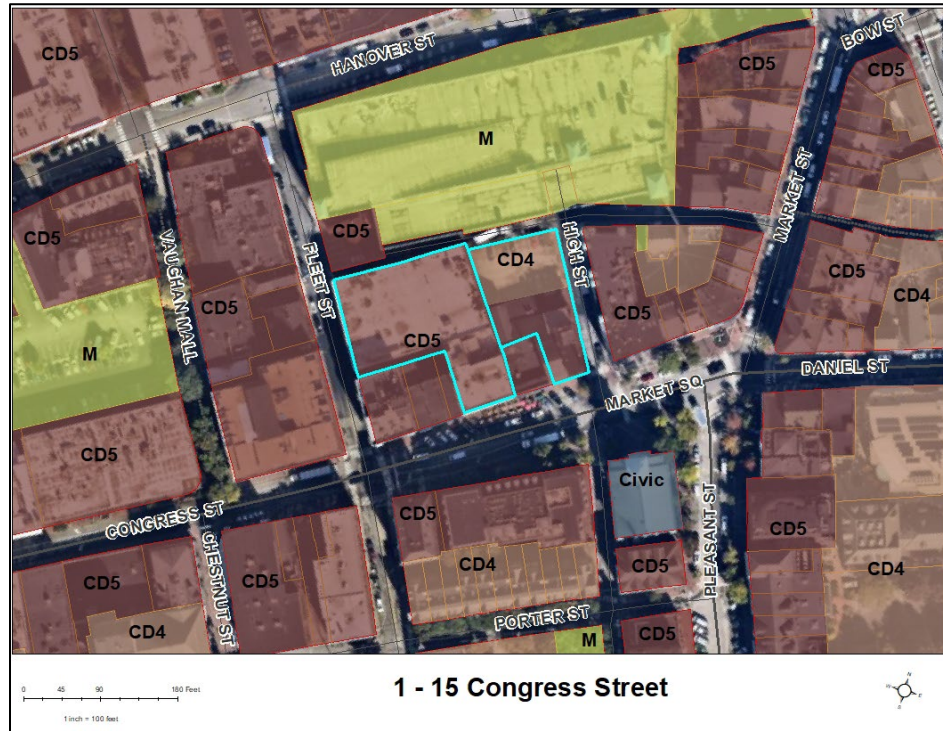
*The Board's action in these matters has been deemed to be quasi-judicial in nature.  
If any person believes any member of the Board has a conflict of interest,  
that issue should be raised at this point or it will be deemed waived.*

- E. The request of **Market Square LLC (Owner)**, for property located at **1 and 15 (21) Congress Street** requesting a Conditional Use Permit from Section 10.440, Use 1.71 Coliving. Said property is located on Assessor Map 117 Lots 12 & 14 and lies within the Character District 4 (CD-4), Character District 5 (CD-5), Historic, and Downtown Overlay Districts. (LU-22-12)

### Project Background

This applicant was before the Board in January for site plan review to combine the former 1 Congress project with the 15 Congress. That proposal included 40 apartments in the JJ Newbury building and the Board granted a Conditional Use Permit (CUP) for parking related to the residential use to allow 21 parking spaces where 53 were required. It is important to note that HB284, passed on July 15, 2025, limits the number of residential parking spaces to no more than 1 space per unit. This law takes effect on September 13, 2025 and with the new proposal, the site will be compliant with parking with 21 spaces required and 21 provided. The zoning amendments for coliving we adopted on May 5, 2025 and the applicant is requesting a CUP to provide coliving on two floors to replace some of the originally proposed apartments.

Section 10.815 outlines the standards for coliving, which can be modified by the Planning Board upon request by the applicant per section 10.815.41. The applicant complies with the standards for coliving with the exception of Section 10.815.26 which states that coliving facilities shall not exceed 80 units per building or 40 residents per floor. The proposal includes 34 double occupancy units on the 3<sup>rd</sup> floor, which equals 68 residents per floor and is proposing 49 double occupancy units on the 2<sup>nd</sup> floor, which equals 98 residents per floor and 166 residents per building where 40 and 80 are allowed, respectively.



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**Planning Department Recommendation**

**Development Site**

**Conditional Use Permit**

1) Vote to find that the Conditional Use Permit application meets the criteria set forth in Section 10.243 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 and to adopt the findings of fact as amended and read into the record.

2) Vote to grant the modification from Section 10.815.26 to allow more than 80 residents per building and more than 40 residents per floor.

3) Vote to grant the Conditional Use Permit for coliving with the following conditions:

3.1) The applicant shall obtain a permit through the City Clerk's office in accordance with Section 10.815.50 prior to a Certificate of Occupancy for any Coliving Facility.

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## VII. PRELIMINARY CONCEPTUAL CONSULTATION

The applicants under Items **VII A** and **B** have provided preliminary site plans for their respective projects. 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.

- A.** The request of **St. Nicholas Greek Orthodox Church (Owner)**, for property located at **0 Lafayette Road** requesting Preliminary Conceptual Consultation. Said property is located on Assessor 229 Map Lot 6A and lies within the Gateway Corridor (G1) District. (LUPD-25-8)

The applicant has submitted plans proposing one building containing 16 units on the subject property with associated site improvements.

- B.** The request of **Double MC LLC (Owner)**, for property located at **134 Pleasant Street** requesting Preliminary Conceptual Consultation. Said property is located on Assessor Map 116 Lot 30 and lies within the Character District 4 (CD4) and Historic Districts. (LUPD-25-9)

The applicant has submitted plans for redevelopment of the property which includes a front addition for expansion of the bank footprint, added retail space and coliving with associated site improvements to support the development.

## VIII. OTHER BUSINESS

### A. Zoning Amendments

#### Mechanical Units

Earlier this year, the Planning Board considered zoning amendments referred by the City Council regarding accessory structures, fences and mechanical units. The Planning Board recommended removal of Section 10.515.14, which related to setbacks for mechanical units. The section below was previously in the Ordinance and was struck as part of the amendments the City Council adopted in March. After the July Planning Board meeting, staff met with the Inspections Department to discuss standard sizes of mechanical equipment.

#### **Article 5 Dimensional and Intensity Standards**

##### **Section 10.510 General Requirements**

##### **10.515 Measurement Rules**

10.515.13 Fences not over 4 feet in height shall be exempt from front yard requirements, and fences not over 8 6 feet in height shall be exempt from side and rear yard requirements.

~~10.515.14 A mechanical system (i.e. HVAC, power generator, etc.) that is less than 36 inches above the ground level with a mounting pad not exceeding 10 square feet shall be exempt from yard requirements, but shall be set back at least 10 feet from a property line; and shall not be located closer to the street than the front of the principal structure.~~

To further clarify the intent of the amendment above, staff suggests the following revisions to the definition of building coverage and structure to clarify that these types of mechanical systems are exempt from setbacks and coverage.

**Building coverage**

The aggregate horizontal area or percentage (depending on context) of a **lot** or **development site** covered by all **buildings** and **structures** on the **lot**, excluding

- (a) gutters, **cornices** and eaves projecting not more than 30 inches from a vertical wall, and
- (b) **structures** less than 18 inches above ground level (such as decks and patios);
- (c) balconies, bay windows or awnings projecting not more than 2 feet from a vertical wall, not exceeding 4 feet in width, and cumulatively not exceeding 50% of the width of the **building** face;
- (d) fences; and
- (e) mechanical systems (i.e. HVAC, power generator, etc.) ~~that is less than 36 inches above the ground level with a mounting pad not exceeding 10 square feet.~~

**Structure** (including **roof structure**)

Any production or piece of work, artificially built up or composed of parts and joined together in some definite manner. **Structures** include, but are not limited to, **buildings**, fences over 4 feet in height, **signs**, and swimming pools. (See also: **temporary structure**.) ~~For the purposes of this Ordinance, mechanical systems (i.e. HVAC, power generator, etc.) shall not be considered structures, but any power generator must be setback a minimum of 5 feet from any lot line.~~

**Planning Department Recommendation**

- 1) *Vote to recommend the City Council hold first reading on the proposed zoning amendments as presented.*

Solar

Staff will work to bring amendments back to the Planning Board at the September meeting.

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

For the September meeting, Staff and Legal will provide the Board with recently enacted legislation that will need zoning amendments which impact Accessory Dwelling Units (HB 577), Parking requirements (HB 284), permitting residential uses on commercially zoned property (HB 631), and vesting time periods for subdivisions and site plans (HB 413).

**VII. ADJOURNMENT**