



City of Portsmouth
Planning Department
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Memorandum

To: Planning Board

From: Peter Stith, AICP
Planning Manager

Date: September 12, 2025

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

I. APPROVAL OF MINUTES

A. Approval of the August 21, 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 August 21, 2025 meeting and vote to approve meeting minutes with edits if needed.

II. DETERMINATIONS OF COMPLETENESS

SUBDIVISION REVIEW

- A. **REQUEST TO POSTPONE** The request of **Walter D. Hett Trust (Owner)**, for property located at **0 Banfield Road** requesting Preliminary and Final Subdivision approval to subdivide one lot into 5 new residential lots with associates site improvements.

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. **REQUEST TO POSTPONE** The request of **Walter D. Hett Trust (Owner)**, for property located at **0 Banfield Road** Site Plan Review approval to subdivide one lot into 5 new residential lots with associates site improvements.

Planning Department Recommendation

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

III. 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.

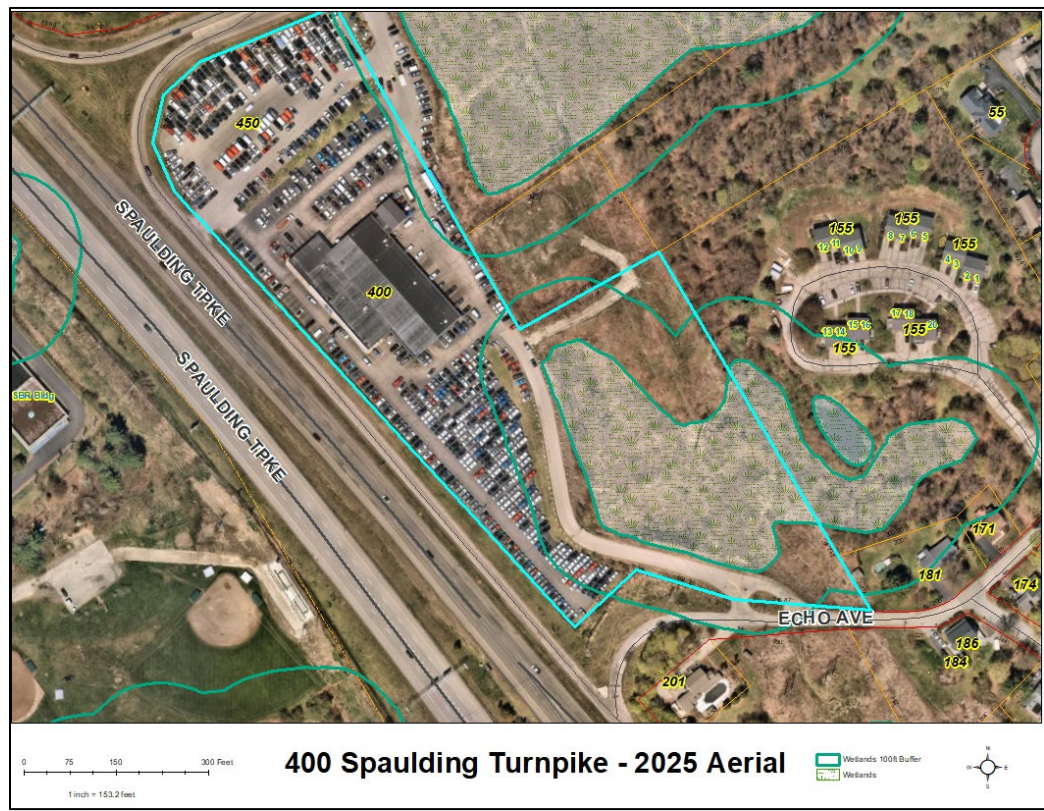
- A. The request of **SLF Realty Group LLC (Owner)**, for property located at **400 Spaulding Turnpike** requesting an amended Site Plan approval to change the temporary access path to a permanent access path. Said property is located on Assessor Map 238 Lot 2 and lies within the Gateway Corridor (G1)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

The application was before the Board in June and was continued in order for the applicant to provide more information on easement access, stormwater impacts, alternative access locations, wetland impacts, and clarification of lot boundaries on some of the exhibits. The applicant has provided a memo going through each of the items requested by the Board. Also included are recent pictures showing the access road has been revegetated.

It is important to note what it is before the Board is only located on the Portsmouth Ford lot and not the adjacent lot (238-003). The area of gravel access on the adjacent lot is outside of the buffer and appears to be within the rights of Eversource to install the gravel on that lot. The area on the subject lot is a change to their previously approved wetland CUP and site plan, thus the reason they are before the Board.



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

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.*

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.*

III. PUBLIC HEARINGS – OLD BUSINESS

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

- B.** The request of **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.

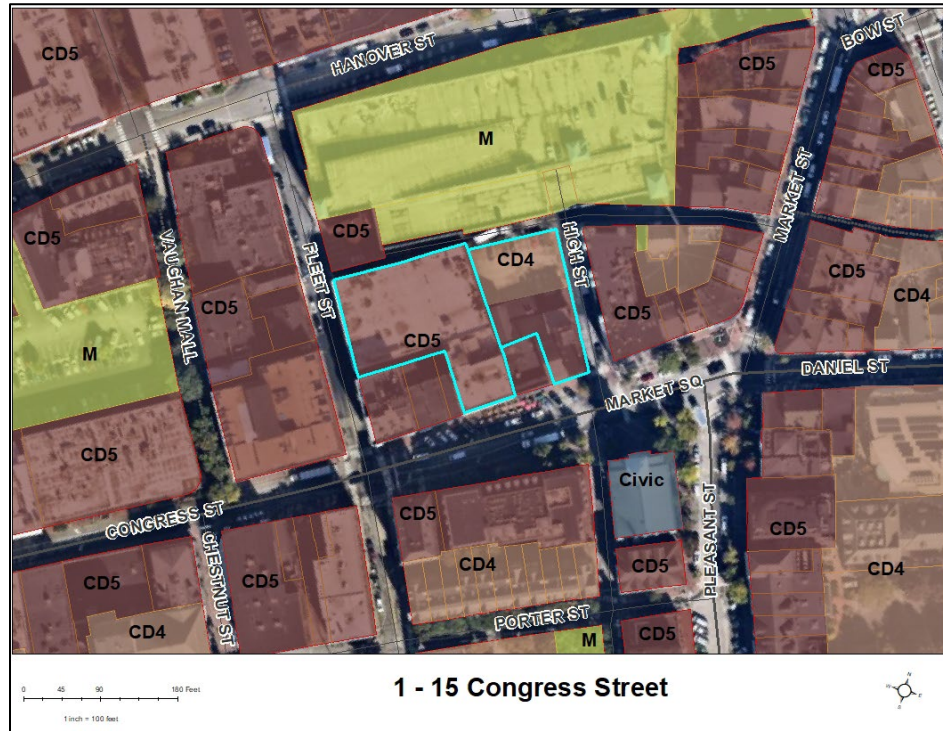
<i>See Item A under Old Business above for recommendation.</i>

- C. 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 49 sleeping units on the 2nd floor with 25 being double occupancy and 24 single occupancy, for a total of 74 residents in coliving units on the 2nd floor. The 3rd floor will have 34 coliving units with 17 double and 17 single occupancy, for a total of 51 residents where 40 are allowed, which will total 125 residents in coliving units in the building. A modification to allow more than 40 residents per floor and more than 80 per building is required for the proposed makeup of coliving units. In addition, the applicant is requesting a modification from Section 10.815.25 to have 1 on-site manager full time and one off-site manager who will be available 24/7 instead of at least one full-time on-site manager for every 40 residents.



Planning Department Recommendation
Coliving 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 10.815.25 to allow one full-time on-site manager and one off-site manager available 24/7 instead of one full-time manager on site at all times for every 40 residents and 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.

IV. PUBLIC HEARINGS – NEW BUSINESS

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

- A. The request of **Roger and Elizabeth Trudeau and The Carol A. Claburn and Billy J. Claburn Revocable Trust of 2014 (Owner)**, for property located at **10 and 40 Crescent Way** requesting approval of a lot line relocation between two lots with 2,088 square feet being transferred from Assessor's Map 212 Lot 163 to Map 212 Lot 165. The proposed lot line relocation will straighten the common lot line between the two lots. Said property is located on Assessor Map 212 Lot 163, 165 and lies within the General Residence B (GRB) District. (LU-25-128)

Background

The applicants are proposing a lot line adjustment between the two parcels to straighten the common side lot line between the two parcels. The properties are located in the General Residence B district, which requires 5,000 square feet of lot area and 80 feet of street frontage. Both lots conform to the dimensional requirements of the district and the lot line adjustment will not create any nonconformities on either lot. The lot line adjustment will not require any site work and will be reestablished between two existing monuments. Because of this, the applicant has requested waivers from the subdivision regulations for installation of monuments and bonding.

This lot line adjustment did not need to go before the Technical Advisory Committee because the application did not contain any of the following:

- a. Creation of a new lot;
- b. Construction of a new public or private street;
- c. Widening or realignment of an existing public or private street;
- d. Construction of public or private water, sewer or stormwater facilities serving more than one lot;
- e. Establishment of an easement over one lot for water, sewer or stormwater facilities to serve a different lot; or
- f. Provision of a common driveway or access easement;



Planning Department Recommendation

Subdivision Waiver

- 1) Vote to grant the requested waivers to the Subdivision Standards from Section IV.9/V.8 Requirements for Preliminary Plat and Requirements for Final Plat.

[NOTE: Motion maker must select one of the following options]:

a) *Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations.*

[OR]

b) *Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.*

Planning Department Recommendation

Subdivision

- 2) Vote to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented.

(Alt.) Vote to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as amended and read into the record.

- 3) Vote to grant Preliminary and Final Subdivision Approval with the following stipulations:*
 - 3.1) 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.*
 - 3.2) GIS data shall be provided to the Department of Public Works in the form as required by the City;*

IV. PUBLIC HEARINGS – NEW BUSINESS

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

- B. REQUEST TO POSTPONE** The request of **Walter D. Hett Trust (Owner)**, for property located at **0 Banfield Road** requesting Preliminary and Final Subdivision approval and Site Plan Review approval to subdivide one lot into 5 new residential lots with associated site improvements. Said property is located on Assessor Map 255 Lot 2 and lies within the Single Residence A (SRA) District. (LU-25-22) **REQUEST TO POSTPONE**

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

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. REQUEST TO POSTPONE** The request of **Walter D. Hett Trust (Owner)**, for property located at **0 Banfield Road** requesting a Wetland Conditional Use Permit in accordance with Section 10.1017.50 for the installation of a shared residential driveway, underground utility piping, grading work, and at-grade stormwater management BMPs for the proposed five-lot subdivision including 3,393 s.f. of permanent disturbance in the 100' wetland buffer. Said property is located on Assessor Map 255 Lot 2 and lies within the Single Residence A (SRA) District. (LU-25-22) **REQUEST TO POSTPONE**

V. 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 **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, residential apartments and coliving with associated site improvements to support the development. The project is currently being reviewed by the Historic District Commission.

- B.** The request of **Meadowbrook Inn Corp (Owner)**, and **Portsmouth Chevrolet (Applicant)** for property located at **549 US Rt 1 Bypass** requesting Preliminary Conceptual Consultation. Said property is located on Assessor Map 234 Lot 51 and lies within the Gateway Corridor (G1) District. (LUPD-25-11)

The applicant has submitted plans for redevelopment of the property which includes a four-story mixed-use building with ground floor commercial and retail and 48 rental units on the upper floors and a separate 3,000 square foot building containing a coffee shop. The application contains preliminary plans site improvements to support the development including required community space.

- C.** The request of **PNF Trust of 2013** and **282 Middle Street LLC (Owners)**, for property located at **84 Pleasant Street and 266-278 State Street** requesting Preliminary Conceptual Consultation. Said property is located on Assessor Map 107 Lots 77-80 and lies within the Character District 4(CD4), Downtown Overlay and Historic Districts. (LUPD-25-13)

The applicant has submitted plans for redevelopment of the property which includes merging the four lots into one and construction of a mixed-use building with 17 residential dwellings on the upper floors and commercial on the ground floor with associated site improvements. The project received relief from dimensional requirements from the Board of Adjustment and has received a certificate of approval from the Historic District Commission.

VI. 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 and their concern related to setbacks for generators, which currently require a 5-foot offset from openings (windows, doors, etc.) and for consistency, suggested a 5-foot setback from lot lines.

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

The City Council voted to refer solar zoning amendments to the Planning Board at their December 16, 2024 meeting:

15. Report Back on Solar Overlay District – **Voted** to refer the zoning review and drafting of Solar Zoning Amendments to the Planning Board for its recommendation in a report back to the City Council.

The Planning Board initially reviewed draft solar amendments at the February 27, 2025 work session. Since the July meeting, Chair Chellman and Member Roy have provided edits and comments for the Board's discussion and consideration of zoning amendments related to solar that are included in the packet.

Planning Department Recommendation

1) Vote to recommend the City Council hold first reading on the proposed zoning amendments as presented (or amended).

State Law Changes

Recent legislative changes have been passed that require zoning ordinance amendments. Two memos from New Hampshire Municipal Association (NHMA) are included in the packet and provide guidance on changes to zoning. Planning and Legal staff have reviewed the RSAs and for this meeting have provided proposed changes to the minimum parking standards and the

Accessory Dwelling Unit section in the Ordinance (10.814). Senate Bill 284, effective 9/13/25, prohibits municipalities from requiring more than 1 parking space per dwelling unit. House Bill 577, effective 7/1/25, significantly changes the regulations on ADUs that mandates ADUs must be treated similarly to single-family dwellings and staff has prepared a markup of the existing ordinance for the Planning Board. Related to the size of an ADU, there is flexibility in the law that allows a maximum square footage of 950 square feet and it can be larger but must be authorized in the code. A municipality cannot limit the size of an ADU to less than 750 square feet. This is the maximum currently, and the Board could opt to keep it at 750 or designate a larger size for the maximum limit.

HB631 requires municipalities to allow multi-family residential on commercially zoned land as long as there is adequate infrastructure to serve the development. This bill is broad and as staff reviewed the Ordinance for compliance, more questions were generated and staff will continue to review and prepare a memo and recommendation for the October meeting.

Planning Department Recommendation

1) Vote to recommend the City Council hold first reading on the proposed zoning amendments as presented (or amended).

B. Chairman's Updates and Discussion Items

C. Board Discussion of Regulatory Amendments and Other Matters

VII. ADJOURNMENT