

**City of Newport
Department of Planning and Economic Development
Preliminary Staff Report to the Planning Board**

Demolition Approval

Meeting: November 16, 2020
Filed: July 31, 2019

Location: 25 Waites Wharf, 1 Waites Wharf, 16 Waites Wharf, and 20 W Extension Street
Applicant(s): Harbour Realty LLC, Harbour Realty LLC, Tomorl LLC, and 20 West Extension LLC, respectively
Assessor's Plat: 32
Assessor's Lot(s): 155, 268, 248, and 267, respectively

Zoning District: WB Waterfront Business

The Applicant is requesting Conditional Demolition Approval of 6 principal structures on 4 separate lots to enable the construction of a Transient Guest Facility (hotel) in two lots on either side of Waites Wharf, subject to a Special Use Permit, Development Plan Review, and a Subdivision. As the project requires a Special Use Permit, Development Plan Review will be performed by the Planning Board at a future date. Substantial review of the proposed development is more applicable at that time.

Travel

The applicant submitted a single application for Demolition Approval on July 31, 2019. The petition was scheduled to be reviewed at the Planning Board's November 18, 2019 special meeting. Prior to this meeting, a review of the Southern Thames Historic District nomination form by the Preservation Planner brought to the City's attention that buildings in the application were listed as contributing to the significance of the historic district, contrary to the applicant's submission. Also, at this time, it was determined that one of the buildings to be demolished was not listed in the nomination form at all, despite its similarities to contributing buildings listed in the nomination form. This matter was brought to the attention of the Rhode Island Historic Preservation and Heritage Commission (RIHPHC) staff, who revised their February 20, 2019 letter ([Exhibit C](#)) of "no significant impact on any significant cultural resources" with a letter dated December 2, 2019 ([Exhibit B](#)) stating "the demolition of the buildings on lots 248, 267, [and] 268...will constitute a direct and adverse effect on the significance, integrity, and character of the historic district."¹ The petition was continued into 2020 while the applicant worked to address the RIHPHC concerns stated in this letter. A third letter from RIHPHC, dated March 27, 2020 ([Exhibit A](#)) appears to express support for the project to move forward with the Coastal Resources Management Council. Once the pandemic hit, it was clear that this petition would not be heard for a period of time.

Concurrently, the applicant is working with the Rhode Island Department of Environmental Management (RIDEM), additional information about this process is available at

¹ It is worth noting that the review by the RIHPHC is part of the Coastal Resources Management Council's review, which is independent of municipal review.
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<http://dem.ri.gov/programs/wastemanagement/site-remediation/waites-wharf.php>. This site is a designated brownfield and the applicant is in the process of developing a remedial action work plan to address site contaminants. It is important to note that protection from environmental contaminants is not a focus of the intent of the ordinance requiring Demolition Approval. The State of Rhode Island has assigned that power to its Department of Environmental Management. This process has generated considerable community interest, culminating in a period of public comments through the summer of 2020. Eager to connect this review to the Planning Board's demolition approval process, many people commented at Planning Board meetings in late summer and early fall regarding the interconnectedness of the two reviews. No expert testimony was presented on behalf of the objectors. The Planning Board expressed their desire for the scheduling of the public hearing for the demolition approval to be contingent upon seeing the most recent correspondence between the applicant and RIDEM. For the Planning Board to insert its own determinations into this proceeding without justification would be improper.

At this time, the Applicant has requested to proceed with the public hearing and start with presenting evidence unrelated to environment issues and then complete the hearing at a later date with evidence relating to the public health, safety, and general welfare of the community

This preliminary staff report is presented given the most recent knowledge available at its date of publishing. Portions of it may become obsolete or require update as the Planning Board's review process further unfolds. It does not address the expert witness reports provided to staff on Tuesday, November 10, 2020.

Planning Department Findings

The Planning Department makes the following general findings:

1. That the subject properties are identified as described above. The parcel is considered to be located within the Harbor/Lower Thames neighborhood (Comprehensive Land Use Plan, Map 5-7, Neighborhood Areas).
2. The properties are fully within the VE-zone, a coastal high hazard (due to potential wave action) area identified by the Federal Emergency Management Agency.
3. Lot 272 is part of the development project, but does not include any principal structures and therefore is not included in the Demolition Approval petition.
4. Lot 293 (23 Coddington Wharf) was originally included in the petition. In a November 10, 2020 email to staff ([Exhibit D](#)), the applicant conveyed they were dropping lot 293 from the demolition request.
5. 1 Waites Wharf contains three principal structures, numbered 24 and 26 and one unnumbered. Buildings 24 and 26 are listed individually in the National Historic Places Registration Form for the Southern (Lower) Thames Historic District ([Exhibit E](#)), along with the other structures mentioned in the petition. The unnumbered building was most likely missed in the survey and therefore not listed in the nomination form. Given the condition and construction period of the building and its relationship to the other buildings on the lot which are listed as contributing, this building certainly would have been considered contributing and should be evaluated as such.

6. 24 and 26 Waites Wharf (1 Waites Wharf), 16 Waites Wharf, and 14 (20) W Extension are listed as “contributing” in the National Historic District Registration Form. 30 Waites Wharf (25 Waites Wharf) is listed as NC (not contributing). Part of the description for 16 Waites Wharf is described thusly: “This functional structure recalls the historic working waterfront” (p. 140). 14 W Extension is described, “Its accretive quality makes it a fine, typical example, though hardly picturesque or winsome” (p. 150).
7. As a requirement of listing a Historic District on the National Register of Historic Places, property owners are notified and given the opportunity to concur or object to the listing of their property ([Exhibit F](#)). Staff is not aware of any objections filed for the subject properties during the nomination process for the Southern (Lower) Thames Historic District. While the applicant did not own 20 West Extension Street at the time of nomination, the structure is not entirely different from the Waites Wharf properties and it can be assumed that the applicant could expect similar analysis for that property was undertaken as part of the Historic District nomination process.
8. That the subject property consists of four tax assessor’s lots and is currently zoned WB Waterfront Business. The minimum lot area is 5,000 square feet. The minimum lot width is 50 feet. Setbacks are 0 feet (front) and 5 feet (side and rear). Lot coverage is limited to 40 percent. 16 Waites Wharf, 20 West Extension Street, and 23 Coddington Wharf are nonconforming by dimension. 16 Waites Wharf and 20 West Extension Street exceed the permitted lot coverage and do not meet the side and rear setback requirements.
9. The present use of the structures are restaurants (1 and 25 Waites Wharf) and storage (16 Waites Wharf, 20 West Extension Street, and 23 Coddington Wharf). 16 Waites Wharf was previously a stable. Signage on 20 West Extension Street appears to indicate the property used to be a machine shop. The storage structures are in a deteriorated condition, but given the success of the restaurants, that appears to be at the discretion of the applicant.

Standards of Review

The intent of the demolition approval ordinance is outlined in Section 17.86.010 of the City of Newport Code of Ordinances:

“The City of Newport is committed to preserving the historically and culturally significant built environment and neighborhood architectural identities. The demolition of structures in an historic and culturally significant city may damage the physical fabric and architectural context of the community. Therefore, a demolition permit is required prior to the demolition of any principal structure beyond the established border of the local historic district.”

From **17.86.020** of the *City of Newport Code of Ordinances*, “Prior to the issuance of a demolition permit for any principal structure, the planning board must approve any demolition of a principal structure.”

17.86.070 Review standards, required findings

The planning board will review all building demolition permit applications in accordance with this chapter and the ordinances of the city, together with the following standards:

1. *The granting of a permit is not detrimental to the public health, safety, and general welfare of the community.*

2. *The proposed demolition of the structure is consistent with the goals and policies of the Comprehensive Land Use Plan.*
3. *The proposed demolition does not create land with constraints to development.*
4. *The proposed demolition does no harm to the character of the immediate neighborhood or area of the city.*

Staff analysis of these standards will be presented at a future meeting of the Planning Board, during the course of their review of this petition.

Planning Department Recommendations

Approval shall be conditional on the applicant's receipt of the Special Use Permit to construct the Transient Guest Facility (hotel). Additional recommendations will be presented as the review process unfolds.