



City of New Bedford

Department of Planning, Housing & Community Development

608 Pleasant St, New Bedford, Massachusetts 02740
Telephone: (508) 979.1500 Facsimile: (508) 979.1575

PATRICK J. SULLIVAN
DIRECTOR

STAFF REPORT

REPORT DATE
May 15, 2019

PLANNING BOARD MEETING
June 12, 2019

Case # 19-11: REZONING
157-161, and 171
Coggeshall Street
Map: 93 Lot: 169 & 227

Case #19-12: REZONING
ES Mitchell Street
Map: 93 Lot:275

Petitioner: City Councilors
Joseph P. Lopes, Ward 6
Ian Abreu, At Large
Maria Giesta, Ward 2
133 William Street, Rm 215
New Bedford, MA



Overview of Request:

The Planning Board reviews rezoning petitions as standard practice and provides a recommendation based on their findings to the City Council Committee on Ordinances.

This case requests the rezoning of three adjacent parcels located at the north west corner of Coggeshall Street and along the east side of Mitchell Street. The properties are 157-161 Coggeshall Street (Map: 93, Lot:169), a 0.28-acre parcel of land; 171 Coggeshall Street (Map: 93 Lot: 227), a 0.184-acre parcel; and East Side Mitchell Street (Map: 93 Lot: 275), a 0.44-acre parcel of land. The request is to rezone the properties from their existing designation as Mixed-Use Business (MUB) to an Industrial B (IB) zoned district.

Background:

New Bedford City Councilors Joseph P. Lopes, Councilor Ward 6; Ian Abreu, Councilor at Large; and Maria Giesta, Councilor Ward 2 have put the zoning requests forward on behalf of Mr. Antonie J. Khalife and Mr. Michael J. Khalife, owners of the 157-161 and 171 Coggeshall Street properties; and Ms. Heidi Johnson, Trustee of Mitchell Street Trust-2013, owner of ES Mitchell Street.

This proposal before the board represents a revision of the rezoning request that was before the board on March 13, 2019. The Planning Board sent an unfavorable recommendation to the City Council on the previous request. The board expressed concerns that the previous proposal would be perceived as spot zoning, as the request was to change the zoning on only one parcel surrounded by parcels predominantly zoned Mixed-Use Business. The Board indicated it would be more amenable if there were other adjacent properties included in the rezoning request.

The current request represents the inclusion of multiple properties to address the previous concern expressed by the board at the March hearing.

At the previous hearing, The Khalife brothers petitioned that they were unaware a previous rezoning of the site to MUB would limit the use of the building as a marijuana establishment and therefore seek to return the property zoning to Industrial B zoning district. Further, they note that there are other industrial zoned properties in the neighborhood. They also explained they propose to develop 157-161 Coggeshall Street into a retail cannabis shop. They acknowledged in the current site configuration the property would not meet the 200' residential buffer under marijuana establishment ordinance; however, they are exploring multiple options to obtain compliance. These options include pursuing a zoning variance or purchasing abutting property and applying for a property lot line revision to make the site property line in conformance with the setback.

Existing Conditions:

Located just west of the I-195 Exit 23 on and off ramps, the subject area in total is 0.9± acres, with 191.5'± of frontage on Coggeshall Street and a combined frontage of 180'± of on Mitchell Street.

Currently the sites consist of:

- 157-161 Coggeshall Street has a 1,968 SF retail building with two units and an attached 720 SF car wash.
- 171 Coggeshall Street has a 1,350 SF gas station and convenience store known as Petro Mart.
 - There is shared vehicular access through both Coggeshall Street properties.
- ES Mitchell Street is an undeveloped parcel of land abutting 157-161 Coggeshall Street in the rear.

It should be noted that 8 Mitchell Street (Map: 93, Lot: 168), currently Scott Collision, an auto repair business, located between 171 Coggeshall Street and ES Mitchell Street, is not included in the request. 8 Mitchell Street is already zoned Industrial B. If the request is approved the entire corner would therefore be zoned Industrial B.

Also, present in the neighborhood directly abutting the parcels to the east is a McDonalds fast food restaurant. Directly abutting in the rear is a Market Basket grocery store. Directly south of the sites is undeveloped land associated with the highway and a Sunoco gas station with convenience store and auto service center.

Multiple zoning districts are represented in the area surrounding the subject site, including: Mixed Use Business (MUB), Industrial A (IA), and Industrial B (IB). Additionally, these parcels are within the Hicks Logan Sawyer Interim Planning Overlay District (HLS IPOD).

Historically, industrial mill buildings were located along the Acushnet River and therefore much of this area was zoned for industrial uses. Overtime the area developed including housing and a variety of commercial uses.

The Hicks Logan Sawyer District, in which the subject site is in, was identified as an area for redevelopment in the early 2000's. Extensive planning efforts were undertaken for this area and a Master Plan¹ was developed. An interim overlay district was adopted for this area in 2008.

Hicks Logan Sawyer Interim Planning Overlay District (HLS IPOD)

The HLS IPOD is a temporary overlay zoning district that supersedes all underlying zoning regulations, except when a development is an expansion of an existing use and does not exceed 500 SF or if the proposed development is located within another overlay district adopted prior to this overlay; or for projects that were issued permits prior to enactment of this overlay.

The HLS IPOD is a flexible district allowing for the mix of compatible land uses, such as residential, commercial, and light manufacturing through a Special Permit process.

¹ Hicks Logan Sawyer Master Plan, available online: www.newbedford-ma.gov/planning/hicks-logan-sawyer-district-2/

Each project proposed under the HLS IPOD Special Permit process are evaluated for conformance with the HLS district mater plan design policies, principals, and goals:

- **Relationship to Public Spaces**
- **Historic Context**
- **Relationship to the Waterfront**
- **Environmental Goals**
- **Economic Development Goals**
- **Master Plan**

Rezoning History

Planning staff research found that:

Pre-2006 – the properties were previously zoned Industrial B. A determination would need to be made through archival records search as to exactly when the zoning changed to Mixed Use Business (MUB).

2006 – the Zoning Board of Appeals granted a Special Permit (Case #3739) for the 157-161 Coggeshall Street property (f/k/a 149-159 Coggeshall Street) to be developed into a retail building with car wash. The decision indicates the property was zoned mixed use business at that time.

2008 – City adopts the Hicks Logan Sawyer Interim Planning Overlay District (HLS IPOD).

Master Plan.2020

In the Master Plan, these parcels are identified as part of an area known as the Hicks Logan Sawyer District. A district with identified goals to: maintain the historic character of the District, create a vibrant mixed-use center as a new city destination, better utilize the waterfront and public access to the Acushnet River, and improve connections to surrounding neighborhoods.

Input from Other City Departments:

The rezoning request was distributed to City Clerk, City Solicitor, Health Department, Inspectional Services, Engineering, Public Infrastructure, Conservation Commission, Fire Department and School Department. Although no comments have been received as of the production date of these Planning Staff Comments, any such comments subsequently received will be provided at the Planning Board’s public hearing.

For Board Member Consideration:

A table comparing the uses permitted in the existing MUB zone and proposed IB zone is available as an attachment (Attachment #1) to these comments.

MERITS

If the rezoning was to be adopted, sixteen (16) new uses would be allowed. These uses include: motor vehicle body repairs manufacturing, marijuana retailer, manufacturing, light manufacturing, biotechnology facilities, medical device manufacturers, wholesale warehouse/self-storage/mini-warehouse or distribution facility, transportation terminal, contractors’ yard, batch asphalt and concrete plants, craft marijuana cooperative, independent testing laboratory, marijuana cultivator, marijuana product manufacturer, marijuana research facility, and medical marijuana treatment centers.

The area was historically an industrially zoned area and other industrial properties are in the surrounding area.

CONCERNS

If the rezoning was to be adopted, twenty-five (25) uses that are currently allowed in the MUB zoning district would be prohibited under a new IB district. These uses include: residential uses, cemeteries, hospitals, adult and family daycares, club, funeral home, bed and breakfast, big box retail, mixed use, live/work spaces, restaurant, fast food restaurant, business or professional office, medical office, bank, indoor or outdoor recreation, theater/auditorium.

There are only 4 other Industrial B zoned properties in the immediate vicinity of the subject: the abutting auto body property (Scott Collision), the Sunoco gas station across Coggeshall Street, the municipal pump house, and a light manufacturing property east on Coggeshall Street.

The Industrial A zoned block located west of the site consists of predominantly multifamily dwellings, a few mixed residential commercial properties, and two auto repair businesses. This block may also require a zoning re-assessment given the mixture of uses.

The intention of the HLS IPOD district was to allow for the development of a smart growth mixed use district. Since, the overlay supersedes any underlying zoning, any change to the base zoning would have little effect. Additionally, the overlay district allows for greater flexibility regarding uses in the district than either the existing or proposed base zoning district provides.

Staff acknowledges that the overlay district was intended as a interim measure and more permanent zoning regulations have yet to be accepted for the area.

Standards for Evaluating Rezoning Requests

The Planning Board has previously relied on the following criteria in its evaluation of other rezoning requests to ensure its action is consistent with case law:

- Uniformity: the extent to which the zoning change would resemble the surrounding zoning;
- Consistency: whether or not the parcel is being singled out for a zoning change;
- Surroundings: how the proposal would change the neighborhood;
- Fiscal Impact: what impact on local/city economic development the rezoning would have; and
- Discriminating Benefit: an assessment of whether the reclassification of a single parcel that allows a use beneficial to the property owner is made to the detriment of the neighbors or community-at-large.

Attachments:

1. Use Table Comparison
2. Written Motion by City Councilors: Joseph P. Lopes (Ward 6); Ian Abreu (At Large); and Maria Giesta (Ward 2)
3. Zoning Maps & Aerials

ATTACHMENT 1: USE TABLE

EXISTING:	
MIXED USE BUSINESS DISTRICT	
A. Residential	
1. Single-family dwelling	Y
2. Two-family dwelling	Y
3. Multi-family townhouse (3 stories)	Y
5. Multi-family mixed use (6 stories)	PB
8. Boarding house	BA
9. Group residence	BA
10. Assisted or Independent living facility	BA
11. Nursing or Convalescent home	BA
14. Animals or head of poultry, not to exceed one animal or head of poultry per one thousand (1,000) square feet of net area of the lot. Net area shall be determined by subtracting the gross ground floor area of all buildings and structures on the lots from the gross area of the lot plus any contiguous lots owned by the same party.	Y
B. Exempt and Institutional Uses	
1. Use of land or structures for religious purposes	Y
2. Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y
3. Child care facility (in existing building)	Y
4. Child care facility (not in existing building)	Y
5. Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area	Y
6. Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	Y
7. Municipal facilities	Y
8. Essential services	BA
9. Cemeteries	Y
10. Hospital	Y
1. Nonexempt agricultural use	BA
2. Nonexempt educational use	Y
3. Animal clinic or hospital; with ancillary animal boarding	BA
4. Adult day care	BA

C. Commercial	
5. Family day care	BA
6. Large family day care	BA
7. Club or lodge, nonprofit	CC

Proposed:	
INDUSTRIAL B DISTRICT	
A. Residential	
9. Group residence	BA
10. Assisted or Independent living facility	BA
11. Nursing or Convalescent home	BA
B. Exempt and Institutional Uses	
1. Use of land or structures for religious purposes	Y
2. Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y
3. Child care facility (in existing building)	Y
4. Child care facility (not in existing building)	Y
5. Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture on a parcel of more than five acres in area	Y
6. Facilities for the sale of produce, and wine and dairy products, provided that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	Y
7. Municipal facilities	Y
8. Essential services	BA
1. Nonexempt agricultural use	BA
2. Nonexempt educational use	BA
3. Animal clinic or hospital; with ancillary animal boarding	BA
4. Adult day care	BA

C. Commercial	

C. Commercial (continued)	
8. Funeral home	BA
9. Adult entertainment establishment	CC
10. Bed & Breakfast	BA
11. Motel, hotel or inn	Y
12. Retail stores and services not elsewhere set forth	Y
13. Grocery stores	Y
14. Big Box Retail (60,000 Sq. ft. or greater)	BA
15. Health clubs	Y
16. Mixed use	Y
17. Live /work	BA
18. Motor vehicle sales and rental	CC
19. Motor vehicle general repairs	CC
21. Motor vehicle light service	CC
22. Restaurant	Y
23. Restaurant, fast-food	BA
24. Business or professional office	Y
25. Medical offices, center, or clinic	BA
26. Bank, financial agency	Y
27. Indoor commercial recreation	Y
28. Outdoor commercial recreation	BA
29. Wireless Communications Facilities	PB
30. Theatres and auditoriums	PB
31. Convention Centers	PB
D. Industrial	
4. Research, development or testing laboratories and facilities	Y

C. Commercial (continued)	
9. Adult entertainment establishment	CC
11. Motel, hotel or inn	Y
12. Retail stores and services not elsewhere set forth	Y
13. Grocery stores	BA
15. Health clubs	Y
18. Motor vehicle sales and rental	CC
19. Motor vehicle general repairs	CC
20. Motor Vehicle body repairs	CC
21. Motor vehicle light service	CC
29. Wireless Communications Facilities	PB
31. Convention Centers	PB
32. Marijuana Retailer	PB
D. Industrial	
2. Manufacturing	Y
3. Light manufacturing	Y
4. Research, development or testing laboratories and facilities	Y
5. Biotechnology facilities	Y
6. Medical devices manufacturing	Y
8. Wholesale, warehouse, self-storage mini-warehouse, or distribution facility	Y
9. Transportation terminal	Y
15. Contractor's yard	Y
18. Batch asphalt & concrete plants	CC
19. Craft Marijuana Cooperative	PB
20. Independent Testing Laboratory	PB
21. Marijuana Cultivator	PB
22. Marijuana Product Manufacturer	PB
23. Marijuana Research Facility	PB
24. Medical Marijuana Treatment Center	PB

***Highlighted (green) uses would be newly permitted if the proposed rezoning were to be adopted.**
****Highlighted (gray) uses would no longer be permitted if the proposed rezoning were to be adopted.**
*****Prohibited uses in either zoning district have been removed from the use table for clarity purposes**



CITY OF NEW BEDFORD
CITY COUNCIL

April 11, 2019

WRITTEN MOTION

Requesting on behalf of Antoine J. Khalife and Michael J. Khalife, that 157-161 Coggeshall Street, Plot 93/Lot 169 and 171 Coggeshall Street, Plot 93/Lot 227, be rezoned from Mixed-Use Business to Industrial "B". (To be Referred to the Committee on Ordinances and the Planning Board.)

Joseph P. Lopes, Councillor Ward Six
Ian Abreu, Councillor at Large
Maria Giesta, Councillor Ward Two

PLANNING
APR 17 2019
DEPARTMENT

IN CITY COUNCIL, April 11, 2019

Referred to the Committee on Ordinances and the Planning Board.

Dennis W. Farias, City Clerk

a true copy, attest:

City Clerk



CITY OF NEW BEDFORD

CITY COUNCIL

April 11, 2019

WRITTEN MOTION

Requesting on behalf of Heidi Johnson "Trustee"/ Mitchell Street Trust - 2013, that E.S. Mitchell Street, Plot 93/Lot 275 be rezoned from Mixed-Use Business to Industrial "B". (To be Referred to the Committee on Ordinances and the Planning Board.)

Joseph P. Lopes, Councillor Ward Six

Ian Abreu, Councillor at Large

Maria Giesta, Councillor Ward Two

PLANNING
APR 17 2019
DEPARTMENT

IN CITY COUNCIL, April 11, 2019

Referred to the Committee on Ordinances and the Planning Board.

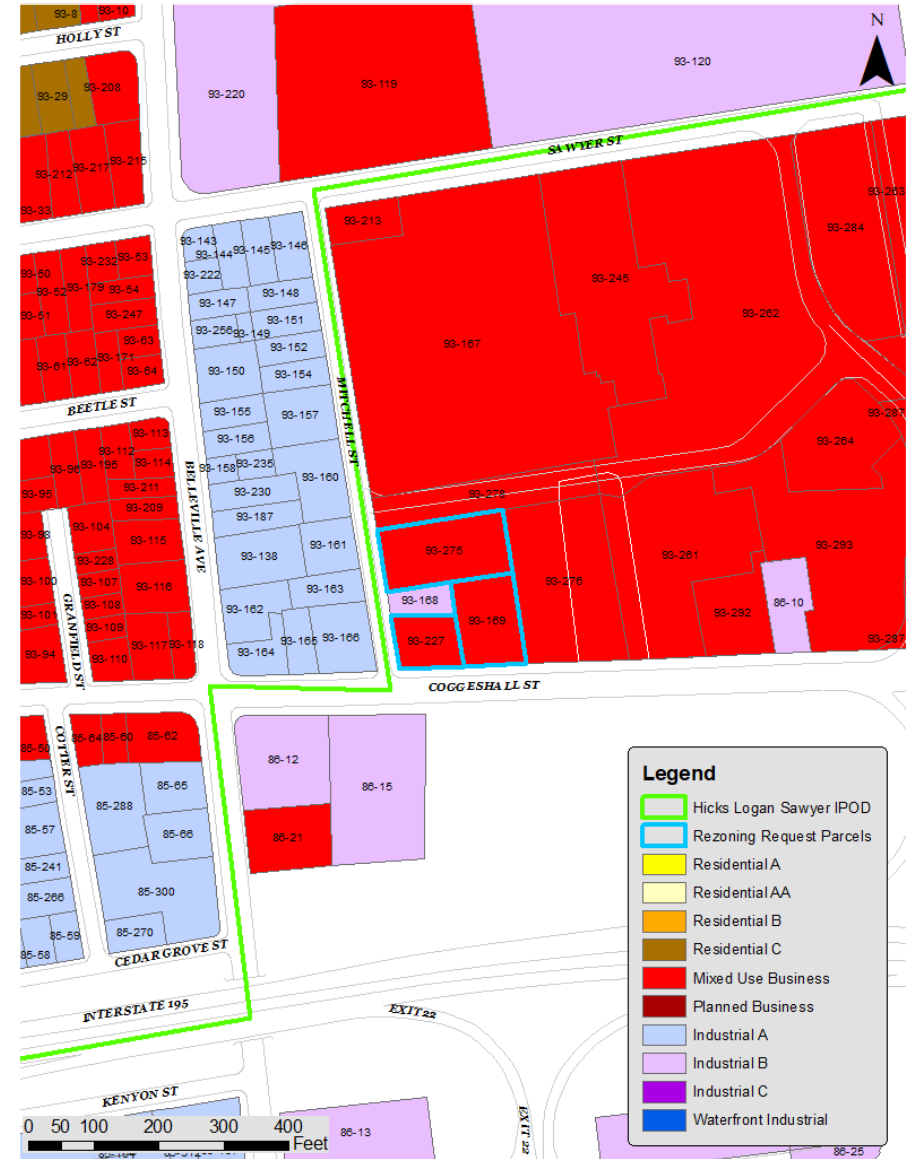
Dennis W. Farias, City Clerk

True copy attested

City Clerk

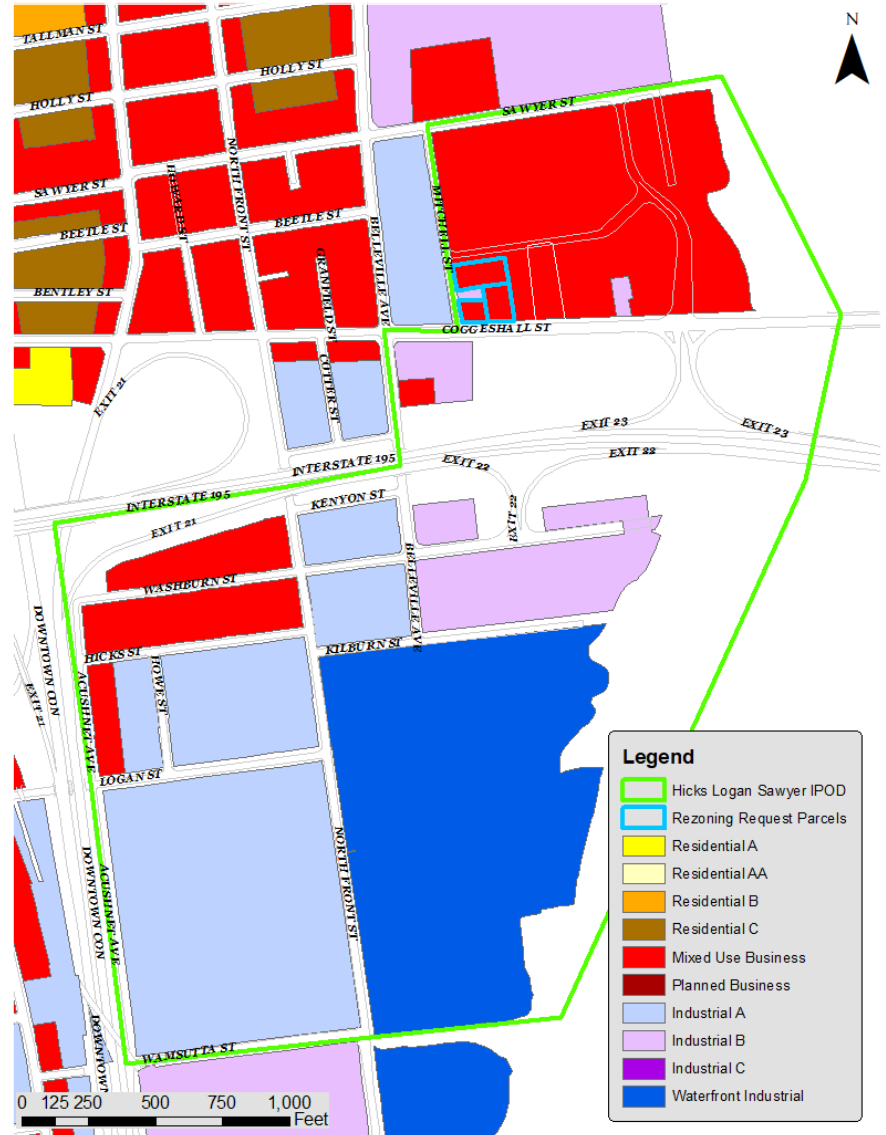
AERIAL & ZONING MAP OF SITE & NEARBY PROPERTIES

NOTE: Property line is approximate; for discussion purposes, only. Aerial map is oriented north.



AERIAL & ZONING MAP OF HICKS LOGAN SAWYER IPOD

NOTE: Property line is approximate; for discussion purposes, only. Aerial map is oriented north.



157-161, & 171 Coggeshall Street Map: 93 Lots: 169 & 227 ES Mitchell Street Map: 93 Lot: 275

NOTE: Property line is approximate; for discussion purposes, only. Aerial map is oriented north.

