



City of Portsmouth
Planning Department
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Memorandum

To: Planning Board
From: Beverly Mesa-Zendt, Planning Director
Stefanie L. Casella, Planner
Date: June 17, 2022
Re: Recommendations for the June 23, 2022 Planning Board Meeting

I. APPROVAL OF MINUTES

A. Approval of the April 21, 2022 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 April 21, 2022 and vote to approve meeting minutes with edits if needed.

II. DETERMINATION OF COMPLETENESS

SUBDIVISION REVIEW

- A. The request of **Artwill LLC (Owner)**, for property located at **437 Lafayette Road** requesting Preliminary and Final Subdivision
- B. The request of **James and Gail Sanders (Owners)**, for property located at **445 Marcy Street** requesting Preliminary and Final Subdivision

Planning Department Recommendations

1) Vote to determine that these applications are complete according to the Subdivision Regulations, (contingent on the granting of any required waivers under Sections III and IV of the agenda) and to accept the applications for consideration.

SITE PLAN REVIEW

- A. The request of **RIGZ Enterprises LLC (Owner)**, for property located at **806 Route 1 Bypass** requesting Site Plan Review
- B. The request of **Artwill LLC (Owner)**, for property located at **437 Lafayette Road** requesting Site Plan Approval
- C. The request of **Mastoran Restaurants Inc. (Owner)**, and **Granite State Convenience (Applicant)**, for property located at **2255 Lafayette Road** requesting Site Plan Review

Planning Department Recommendations

1) Vote to determine that these applications are complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Sections III and IV 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.

- A. The request of **James and Gail Sanders (Owners)**, for property located at **445 Marcy Street** requesting Preliminary and Final Subdivision approval to subdivide one lot with 14,947 square feet of lot area and frontage on Marcy Street, Pray Street, and Partridge Street into two lots as follows: Proposed Lot 1 with 6,127 square feet of lot area and 102.43 feet of frontage on Marcy Street and 67.83 feet of frontage on Pray Street, Proposed Lot 2 with 8,820 square feet of lot area and 802 feet of frontage on Pray street and 62.44 feet of frontage on Partridge Street. Said property is located on Assessor Map 101 Lot 3 and lies within the General Residence B (GRB) and Historic Districts. (LU-22-79)

Project Review, Decisions, and Recommendations

This application has been before the Technical Advisory Committee and is currently undergoing review with the Historic District Committee. Please see below for more information.

Technical Advisory Committee (TAC) Review

On May 3, 2022 the Committee voted to recommend approval to the Planning Board with the following stipulations:

Items to be addressed prior to Planning Board approval:

1. Applicant will cut into 8" City sewer in Pray Street and install a wye and use gasketed solid couplings on either side of the wye.
2. Applicant will use a larger pipe for both inserta-tee and sewer connection to culvert than the proposed 8" pipe.
3. 1' water service will be used for property.
4. Applicant will coordinate with City DPW, Eversource, Consolidated Communications, and Comcast and report back on the implications of undergrounding wires as shown. Additional guying or other work may be necessary and not possible/feasible.
5. Driveway for Lot 1 will be at least 30 feet from the intersection of Pray Street and Marcy Street.
6. A note on the plan will be added to articulate Lot 1 has drainage rights across Lot 2.
7. Address for Lot 2 will correspond to Partridge Street until such time when a second driveway is provided on Pray Street.

Stipulations as listed above, have been satisfied with the updated application submission as provided to the Board.

Historic District Committee Review

This application completed its final work session at the HDC on June 8, 2022. The project is expected to submit an application for formal review and a public hearing at either the July or August regularly scheduled meeting.

Should the approved designs alter the dimensions of the proposed lots then applicant will be required to return to the Planning Board for amended subdivision approval.

Planning Department Recommendation

1) *Vote to grant preliminary and final subdivision approval with the following stipulations:*

Conditions to be satisfied subsequent to final approval of site plan but prior to commencement of any site work or construction activity:

- 1.1 Address for Lot 2 will correspond to Partridge Street until such time when a second driveway is provided on Pray Street.*
 - 1.2 Lot numbers as determined by the Assessor shall be added to the final plat.*
 - 1.3 Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
 - 1.4 GIS data shall be provided to the Department of Public Works in the form as required by the City.*
 - 1.5 The final plat and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City.*
 - 1.6 Any easement plans and deeds for which the City is a grantor or grantee shall been reviewed and approved by the Planning and Legal Departments and accepted by City Council.*
 - 1.7 Associated recording fees shall be paid to the City prior to recordation.*
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III. PUBLIC HEARING – 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 Mastoran Restaurants Inc. (Owner), and Granite State Convenience (Applicant), for property located at 2255 Lafayette Road requesting Wetland Conditional Use Permit Approval according to section 10.1017.5 of the Zoning ordinance to convert an existing fast food restaurant site into a retail fueling station and a convenience store/sandwich shop with drive-through window and a five fuel pump dispenser island and associated paving parking and stormwater system upgrades for the entire site creating an overall disturbance in the wetland buffer of 33,555 square feet. Said property is located on Assessor Map 272 Lot 3 and lies within the Gateway Corridor (G1) District. (LU-22-13)

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 **Mastoran Restaurants Inc. (Owner) and Granite State Convenience (Applicant)**, for property located at **2255 Lafayette Road** requesting Site Plan review and Conditional Use Approval for use 19.40 under Section 10.440 to allow a drive-thru facility as an accessory use to a permitted principal use in the Gateway Corridor Zone with a waiver for distance from order window to the turning. Said property is shown on Assessor Map 272 Lot 3 and lies within the Gateway Corridor (G1) District. (LU-22-13)

It is recommended that Item III.B and IV.A be discussed together and voted on separately.

A motion is required to consider these items together.

Project Review, Decisions, and Recommendations

This application has been before the Technical Advisory Committee, the Zoning Board of Adjustment, and Conservation Commission. Please see below for more information.

Technical Advisory Committee (TAC) Review

On May 3, 2022 the Committee voted to recommend approval to the Planning Board with the following stipulations:

Items to be addressed before Planning Board approval:

1. A note is added to the plan set (near the sewer connections) that states all work regarding to the City sewer is to be witnessed by DPW staff, provided 48 hours' notice.
2. The sidewalk proposed onsite will be moved to the northwest side of the site and removed from the wetland buffer area in the southwest corner.

Post Construction:

3. After connections are terminated and created, the applicant will video inspect the two spots to confirm that no groundwater is infiltrating.

Stipulations 1 and 2, as listed above, have been satisfied with the updated application submission as provided to the Board. Stipulation 3 has been listed below as a recommended condition of site plan approval.

Zoning Board of Adjustment

On February 15, 2022 the BOA considered six (6) variance requests as listed below.

1. A Variance from Section 10.5B33.20 to allow 0% front lot line buildout where 75% is required.
2. A Variance from Section 10.5B22.40 to allow a building to be constructed outside of the 70 - 90 foot setback from the centerline of Lafayette Road.
3. A Variance from Section 10.1113.20 to allow parking to be located between a principal building and a street.
4. A Variance from Section 10.1114.31 to allow more than one driveway.
5. A Variance from Section 10.835.32 to allow a bypass lane for a drive thru to be set back 24 feet from a lot line where 30 feet is required.
6. A Variance from Section 10.1251.20 to allow a 160 square foot freestanding sign where 100 square feet is the maximum allowed.

As a result of this consideration, the BOA granted all variance requests as presented.

Conservation Commission Review

The Conservation Commission reviewed the application at the May 11, 2022 meeting. See below for analysis of criteria as stated in Section 10.1017.50 Of the Zoning Ordinance.

1. The land is reasonably suited to the use activity or alteration.
Given that the site is currently paved and has a structure on it this project seeks to upgrade the site. The site is not seeking to expand the impact in the buffer so the land is reasonably suited to the use.

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

The site as it exists is paved within and close to the edge of wetland. There is no location on this property where the project could be completed outside of the buffer.

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

The applicant is proposing to reduce the amount of impervious surface 9,124 square feet on this previously developed site. This reduction in impervious surface combined with the addition of enhanced stormwater treatment reduces the overall site impacts for this site and surrounding properties.

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

This project is proposing an extensive landscape plan for the interior of the site. The area at the rear of the site which is being converted from pavement to proposed loam and seed could be enhanced further with the addition of wetland buffer plantings and/or a wetland seed mix. Additionally, the applicant should be clear in their application to adhere to the City's regulations for fertilizer use according to section 10.1018.24.

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

This site proposes reductions in impervious surfaces and enhanced stormwater treatment as a less impacting alternative than what is existing.

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

As stated above the buffer planting stating loam and seed should be revisited to include more appropriate wetland buffer plantings. The plantings could be mowable but staff recommends they look towards a reduced mowing cycle, i.e. annual or twice annual to enhance buffer function. Additionally, the buffer could be enhanced with specific plantings of shrubs which work for this site.

As a result of this consideration the Commission voted to recommend approval with the following stipulations:

1. The applicant will follow NOFA standards for land care.
https://nofa.organiclandcare.net/wp-content/uploads/nofa_organic_land_care_standards_6thedition_2017_opt.pdf
2. For snow storage the applicant will utilize the front area as the primary area and the snow storage area shown on the North side as the secondary snow storage area.

3. The applicant shall require all winter maintenance personnel to have a Green Snow Pro certification <https://www.des.nh.gov/land/roads/road-salt-reduction/green-snowpro-certification>
4. Applicant shall increase the number of trees to be planted in the area where pavement is proposed for removal.
5. Area shown on plan as to be loam and seeded shall be planted with a wetland buffer seed mix and mowed annually.
6. Applicant shall install signs along the edge of wetland to inform the public that this is a sensitive natural area.
7. The Commission recommends that the applicant use a pervious material for the patio.

All stipulations have been listed under “Planning Department Recommendations” as stipulations of approval.

Staff Analysis Drive-through – Conditional Use Permit Review

As outlined in Section 10.835 of the [Zoning Ordinance](#) and Section 3.6 of the [Site Plan Review Regulations](#), an accessory drive-through use in the G1 district must meet the following standards.

Required Standards (Zoning Ordinance 10.835.20, 10.835.30, 10.835.40)	Meets Standard	Does Not Meet Standard	Comments
10.835.21 A drive-through canopy shall not project more than 26 feet from the principal building and shall be consistent with the architectural style of the building.	√		No drive-through canopy proposed
10.835.22 Illuminated menu boards or other signs associated with the drive-through facility shall be shielded from public streets and residential properties.	√		Menu board is located on the side of the structure and is in excess of 175 ft from Lafayette Rd
10.835.31 All outdoor service facilities (including transaction windows, menu boards, speakers, etc.) shall be located a minimum of 100 feet from any residential zoning district, and 50 feet from any lot line.	√		Service window is in the rear of the structure and is located more than 50 feet from any lot line and is not within 100 feet of any residential districts.
10.835.32 All drive-through lanes, bypass lanes, and stacking lanes shall be located a minimum of 50 feet from any residential zoning district, and 30 feet from any lot line.		√	Lanes are not located within 50 feet of any residential district, Bypass lane is located 24 feet of the side lot line- Variance approved (see above)

Required Standards (Zoning Ordinance 10.835.20, 10.835.30, 10.835.40)	Meets Standard	Does Not Meet Standard	Comments
10.835.41 In addition to the standards and conditions for special exceptions set forth in Section 10.233, the Planning Board may grant a conditional use permit for a drive-through facility under this section only if it determines that the level of service and traffic safety conditions of all streets and intersections to be impacted by the project will be the same as, or better than, predevelopment conditions.	√		Traffic Impact Analysis provided and reviewed by staff
10.835.42 In making its determination, the Board shall consider the traffic impact analysis and additional available information, including review by independent consultants if deemed necessary.	√		Traffic Impact Analysis provided and reviewed by staff

Additional standards are provided in section 3.6 of the Site Plan Regulations

Required Standards Section 3.6 Drive-Through Facilities	Meets Standard	Does Not Meet Standard	Comments
3.6.1.1 The internal entrance into the drive-through lane shall not conflict with the general access to the site.	√		Drive-through located to the rear of the property does not interfere with site ingress.
3.6.1.2 The distance from any transaction window to the site exit shall be a minimum of sixty (60) feet.	√		Transaction window located in the rear of the building over 163' back from the exit.
3.6.1.3 Where a turn in the drive-through lane is required between a transaction window and the site exit, the distance from the transaction window to the beginning of the turn shall be a minimum of forty (40) feet with an internal minimum turning radius of seventeen (17) feet		√	34 feet provided
3.6.2 Stacking Lanes and Spaces	√		Meets all standards
3.6.3 Traffic Impact Study	√		Provided and reviewed by staff.
3.6.4 Noise Reduction Sound pressure levels created by devices in the drive-through facility, including but not limited to speakers, shall comply with the standards for noise control in the Zoning Ordinance. Methods of communicating to patrons that do not require the use of speakers shall be used where feasible or where required by the Planning Board.	√		Required as part of the approval
3.6.5 Scenic	√		Meets all standards

In accordance with Section 10.243 Approval Criteria, a conditional use permit shall be granted only if the Planning Board determines that the proposal conforms to all applicable conditional use permit criteria, as set forth below 10.243.20.

(1) The design of proposed structures, their height and scale in relation to the site's surroundings, the nature and intensity of the proposed use or activity, and the layout and design of the site will be compatible with adjacent and nearby properties, buildings and uses, will complement or enhance the character of surrounding development, and will encourage the appropriate and orderly development and use of land and buildings in the surrounding area.

Applicant Response: *The site was previously permitted and used as a restaurant with drive-thru. The proposed development is appropriate in character to the site. The neighboring businesses along Lafayette Road are similar commercial uses and the proposed development will match the spirit of the neighborhood. Increased landscaping will enhance the character of the development, as well as an enhanced building façade.*

(2) All necessary public and private utility infrastructure and services will be available and adequate to serve the proposed use.

Applicant Response: *Eversource, electric service, has confirmed they have enough capacity to serve the proposed development. Municipal water and sewer are available to the site. Until/Northern Utilities Natural Gas Division has confirmed natural gas is available to supply the proposed development at 2255 Lafayette Road.*

(3) The site and surrounding streets will have adequate vehicular and pedestrian infrastructure to serve the proposed use consistent with the City's Master Plan.

Applicant Response: *Due to the site's location along Lafayette Road, Route One, there is no pedestrian access to the site or any of the adjacent properties at this time. A 12 ft NHDOT reserve strip and a 8 ft wide Portsmouth Multiuse Path are proposed along the frontage for future DOT and Municipal use. The site has adequate maneuvering space for the drive thru with sufficient room for 13 stacked vehicles within the drive thru lanes, and adequate space for delivery trucks and emergency vehicles around the site.*

(4) The proposed structures, uses, or activities will not have significant adverse impacts on abutting and surrounding properties on account of traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare.

Applicant Response: *There will be no significant adverse impacts to the surrounding properties as the site is surrounded by similar commercial uses and is consistent with the existing use.*

(5) The proposed structures and uses will not have significant adverse impacts on natural or scenic resources surrounding the site, including wetlands, floodplains, and significant wildlife habitat.

Applicant Response: *The proposed development is consistent with the existing use and adjacent properties, and will not have a negative scenic impact on the neighborhood. The proposed site work has been designed to have the least adverse impact to the wetland buffer. The development will result in a decrease of over 9,000 sf of impervious cover within the wetland buffer zone and will increase wetland buffer widths.*

(6) The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.

Applicant Response: The proposed use will not cause any decrease to property values as the proposed use is consistent with the existing use and the uses of abutting commercial properties.

Planning Department Recommendations

- 1) *Vote to find that the application meets the criteria set forth in 10.1017.50 and to grant the Wetland Conditional Use Permit with the following stipulations:*
 - 1.1. *The applicant will follow NOFA standards for land care.*
https://nofa.organiclandcare.net/wp-content/uploads/nofa_organic_land_care_standards_6thedition_2017_opt.pdf
 - 1.2. *For snow storage the applicant will utilize the front area as the primary area and the snow storage area shown on the North side as the secondary snow storage area.*
 - 1.3. *The applicant shall require all winter maintenance personnel to have a Green Snow Pro certification* <https://www.des.nh.gov/land/roads/road-salt-reduction/green-snowpro-certification>
 - 1.4. *Applicant shall increase the number of trees to be planted in the area where pavement is proposed for removal.*
 - 1.5. *Area shown on plan as to be loam and seeded shall be planted with a wetland buffer seed mix and mowed annually.*
 - 1.6. *Applicant shall install signs along the edge of wetland to inform the public that this is a sensitive natural area.*
 - 1.7. *The Commission recommends that the applicant use a pervious material for the patio.*

- 2) *Vote to determine the placement of the transaction window as required in section 3.6.1.3 of the Site Plan Review Regulations does not nullify the spirit and intent of the City's Master Plan of the Site Plan Regulations and to grant the a waiver to the distance requirements in section 3.6.1.3 of the Site Plan Review Regulations.*

- 3) *Vote to find that the application meets the criteria set forth in section 10.243 of the Zoning Ordinance and grant the Conditional Use Permit for a drive through facility as an accessory use.*

- 4) *Vote to approve the Site plan with the following condition:*

Conditions to be satisfied subsequent to final approval of site plan but prior to commencement of any site work or construction activity:

 - 4.1 *Any easement plans and deeds for which the City is a grantor or grantee shall been reviewed and approved by the Planning and Legal Departments and accepted by City Council.*
 - 4.2 *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.*
 - 4.3 *Associated recording fees shall be paid to the City prior to recordation.*

4.4 That the turning radius from the transaction window of the driver-through meet the minimum requirements provided in section 3.6.1.3 of the Site Plan Regulations.

Condition Subsequent:

4.5. After connections are terminated and created, the applicant will video inspect the two spots to confirm that no groundwater is infiltrating.

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.** The request of **RIGZ Enterprises LLC (Owner)**, for property located at **806 Route 1 Bypass** requesting Site Plan Review for construction of 400 square feet of additional commercial space and site improvements. Said property is located on Assessor Map 161 Lot 43 and lies within the Business (B) District. (LU-22-81)

Project Review, Decisions, and Recommendations

This application has been before the Technical Advisory Committee. Please see below for more information.

Technical Advisory Committee (TAC) Review

On May 3, 2022 the Committee voted to recommend approval to the Planning Board with the following stipulations:

Items to be addressed prior to Planning Board approval:

1. Dumpsters will be relocated to parking spaces 24 and 23 with a 20 foot setback from rear lot line and at least 10 feet from side lot line. Applicant will request a waiver from the Planning Board for Section 9.3 of the Site Plan regulations to have the dumpsters located within 20' of the side lot line.
2. A note will be added to the plans regarding the use of non-combustible mulch.
3. Applicant will work with DPW to correct the sewer lateral connection and location.
4. Applicant will work with DPW staff (Eric Eby) to reconfigure handicap parking and accessibility (two spaces needed).
5. Applicant will extend landscaping and curbing at the front lot line.
6. Parking spaces 18 and 19 will be relocated and be replaced with landscaping and 3 bike racks.
7. Entryway will be striped.
8. Raised sidewalk will be extended to connect to front entryway.
9. Light Pole 3 (LP3) located at the rear of the building shall be limited to a height of 16' with cut off shields.
10. Lighting on the rear wall will not exceed a height of 9'.
11. Curbing is added to proposed landscape islands.

All items above have been satisfied with the updated plans as submitted to the Planning Board. The requested waiver must be voted on by Planning Board and language has been provided as a recommendation below.

Staff Analysis

Staff has reviewed the waivers requested by the applicant and finds that the applicant will require a waiver for the dumpster location to be closer to the property line than the required 20 feet and that all other waiver requests have been addressed. The proposed dumpster locate is adequately separated from adjacent properties across Stark Street.

Planning Department Recommendation

- 1) *Vote to determine the requested waiver do not nullify the spirit and intent of the City's Master Plan of the Site Plan Regulations and to grant the following waiver:*
- *Waiver of Site Plan Review regulations section 4.3.5 to locate a dumpster 12.2 feet from the property line where 20 feet is required.*

[Waiver requests must granted with six (6) affirmative votes by the Board. See Section 2.10 of the [Site Plan Regulations](#)]

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

Conditions to be satisfied subsequent to final approval of site plan but prior to 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 Associated recording fees shall be paid to the City prior to recordation.*
- 2.3 Light pole labels on the utility plan will be correct to reflect appropriate numbering and include LP3 and LP5 consistent with stipulation requiring light Pole 3 (LP3) located at the rear of the building to be limited to a height of 16' with cut off shields.*
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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.

- C.** The request of **Artwill LLC (Owner)**, for property located at **437 Lafayette Road** requesting Preliminary and Final Subdivision approval to subdivide one existing lot with 65,365 square feet of lot area and 123.92 of frontage on Lafayette Road and 336.61 feet of frontage on Andrew Jarvis Drive into three lots as follows: Proposed Lot 1 with 18,434 square feet of lot area and 123.92 feet of frontage on Lafayette Road and 129.57 feet of frontage on Andrew Jarvis Drive, Proposed Lot 2 with 16,606 square feet of lot area and 102.04 feet of frontage on Andrew Jarvis Drive, and Proposed Lot 3 with 30,325 square feet of lot area and 107 feet of frontage on Andrew Jarvis Drive. Said property is located on Assessor Map 229 Lot 1 and lies within the Single Residence B (SRB) District. (LU-22-82)

- D.** The request of **Artwill LLC (Owner)**, for property located at **437 Lafayette Road** requesting Site Plan Approval and Conditional Use Permit Approval as permitted under Section 10814.40 of the Zoning Ordinance to subdivide the lot and construct two new single-family dwellings (one includes an attached accessory dwelling unit) in addition to the existing single-family dwelling. Said property is located on Assessor Map 229 Lot 1 and lies within the Single Residence B (SRB) District. (LU-22-82)

It is recommended that Item IV.D and IV.E be discussed together and voted on separately.

A motion is required to consider these items together.

Background

This proposal is for the subdivision of a single lot into three proposed lots, and the construction of two single-family dwelling units and an attached accessory dwelling unit. Other improvements associated with this project include, but not limited to grading, utility installation, stormwater management, landscaping, and paving. The existing lot is located at 437 Lafayette Road and is identified on the City of Portsmouth Assessor’s Map 229 as Lot 1, and is approximately 65,365 sf (1.50 ac) in size. The site is located in the Single Residence B (SRB) Zone and currently contains one single-family residential building and a detached garage.

Project Review, Decisions, and Recommendations

This application has been before the Technical Advisory Committee. Please see below for more information.

Staff Review

Attached accessory dwelling units must comply with standards set forth in the following sections of the Zoning Ordinance:

- 10.814.10
- 10.814.20
- 10.814.30
- 10.814.40

In granting a conditional use permit for an accessory dwelling unit, the Planning Board may modify a specific standard set forth in Sections 10.814.40 (below) including requiring additional or reconfigured off-street parking spaces, provided that the Board finds such modification will be consistent with the required findings in Section 10.814.60.

Required Standards (10.814.40)	Meets Standard	Does Not Meet Standard	Comments
10.814.41 An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.	√		Door provided from garage to ADU
10.814.42 The accessory dwelling unit shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area. For the purpose of this provision, gross floor area shall not include existing storage space, shared entries, or other spaces not exclusive to the accessory dwelling unit	√		One Bedroom Provided / 747 SF
10.814.43 Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling. If there are two or more doors in the front of the dwelling, one door shall be designed as the principal entrance and the other doors shall be designed to appear to be secondary.	√		Presents as single family dwelling- The appearance of the single-family dwelling is maintained. There is one door located on the front of the dwelling that serves as the primary entrance to the principal dwelling unit. A second door is located on the east side of the AADU, which serves as the primary entrance for the AADU.
10.814.44 No portion of the AADU shall be closer to the front lot line than the existing front wall of the principal dwelling unit.	√		Attached Accessory Dwelling Unit is recessed from garage-No portion of the proposed AADU is located closer to the front lot line than the existing front wall of the principal dwelling unit.
10.814.451 An exterior wall of the AADU that faces a street on which the lot has frontage shall comprise no more than 40 percent of the total visible façade area of the dwelling as seen from that street.	√		The exterior wall of the AADU that faces the street on which the lot has frontage comprises of 18 percent of the total visible façade area of the dwelling.

Required Standards (10.814.40)	Meets Standard	Does Not Meet Standard	Comments
10.814.452 The addition to or expansion of the existing single-family dwelling may include an increase in building height only as an upward expansion of the existing principal building with no increase in building footprint.	√		Both the principal structure and the DADU are new construction
10.814.453 The building height of any addition or expansion that includes an increase in building footprint shall be less than the building height of the existing principal building.	√		Both the principal structure and the DADU are new construction
10.814.454 The AADU shall be architecturally consistent with the existing principal dwelling through the use of similar materials, detailing, roof pitch, and other building design elements.	√		The proposed AADU will be architecturally consistent with the principal dwelling (see architectural plans).

Technical Advisory Committee (TAC) Review

On May 3, 2022 the Committee voted to recommend approval to the Planning Board with the following stipulations:

Subdivision:

Items to be addressed prior to Planning Board approval:

1. Access easements will be provided to allow access across all proposed lots for travel along Artwill Ave.

2. A maintenance agreement will be provided for proposed Artwill Ave. maintenance.

3. All easements will be identified with unique identifiers and corresponding easement table that lists all easements and their purpose.

4. Gas line is to be installed under Artwill Ave and service shall come from the new line and explore feasibility of servicing the existing unit from Artwill Ave.

Site Plan and Conditional Use Permit:

Items to be addressed prior to Planning Board approval:

1. All easements will be identified with unique identifiers and corresponding easement table that lists all easements and their purpose.

Prior to Building Permit Issuance:

2. Applicant will coordinate final water and sewer connections with Portsmouth Water.

3. The final water main connection under Andrew Jarvis Dr. will be determined by Portsmouth Water.

TAC Stipulation 1 as listed above has been satisfied with the latest submission as presented to the Planning Board. Stipulations 2 and 3 have been recommended conditions of approval.

Planning Board Review Criteria

Before granting a conditional use permit for an attached or detached ADU, the Planning Board shall make the following findings (10.814.60):

10.814.61 Exterior design of the ADU is consistent with the existing principal dwelling on the lot.

10.814.62 The site plan provides adequate and appropriate open space, landscaping and off-street parking for both the ADU and the primary dwelling.

10.814.63 The ADU will maintain a compatible relationship to adjacent properties in terms of location, design, and off-street parking layout, and will not significantly reduce the privacy of adjacent properties.

10.814.64 The ADU will not result in excessive noise, traffic or parking congestion.

Staff has asked the applicant to be prepared to address the required findings with the Planning Board.

Planning Department Recommendation

1) *Vote to grant Preliminary and Final Subdivision Approval with the following stipulations:*

Conditions to be satisfied subsequent to final approval of subdivision but prior to commencement of any site work or construction activity:

1.1 Lot numbers as determined by the Assessor shall be added to the final plat.

1.2 Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.

1.3 GIS data shall be provided to the Department of Public Works in the form as required by the City.

1.4 The final plat and all easement deeds shall be recorded concurrently at the Registry of Deeds by the City.

1.5 Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments and accepted by City Council.

1.6 Associated recording fees shall be paid to the City prior to recordation.

2) *Vote to find that the application meets the requirements set forth in Section 10.814.60 of the Zoning Ordinance and to grant the Conditional Use Permit as presented.*

3) *Vote to grant Site Plan Approval with the following stipulations:*

Conditions to be satisfied subsequent to final approval of site plan but prior to commencement of any site work or construction activity:

3.1 Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments and accepted by City Council.

3.2 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.

3.3 Associated recording fees shall be paid to the City prior to recordation.

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.

- E. The request of **City of Portsmouth (Owner)**, for property located at **329 Heritage Drive** requesting Wetland Conditional Use Permit approval according to section 10.1017.5 of the Zoning Ordinance to impact 1,490 square feet wetland buffer to replace equipment at an existing sewer pump station. Said property is located on Assessor Map 284 Lot 5 and lies within the Municipal (M) District. (LU-22-96)

Project Review, Decisions, and Recommendations

This application has been before the Conservation Committee. Please see below for more information.

Conservation Commission Review

The Conservation Commission reviewed the application at the May 11, 2022 meeting. The See below for analysis of criteria as stated in Section 10.1017.50 Of the Zoning Ordinance.

1. The proposed construction is in the public interest.

The Heritage Avenue Pump Station has reached the end of its useful life and is proposed for replacement along with the diesel generator located at the site. Maintaining the City's wastewater system is in the public interest.

2. Design, construction, and maintenance methods will utilize best management practices to minimize any detrimental impact of such use upon the wetland and will include restoration of the site as nearly as possible to its original grade, condition and vegetated state.

The plan to replace the station moves the driveway to the far side of the proposed new equipment on the site and includes a stormwater treatment swale to treat any runoff from the proposed driveway. Given the entire site is prior fill the proposed restoration of the disturbed area, native shrub plantings and treatment swale should minimize any impacts in the wetland buffer.

3. No alternative feasible route exists which does not cross or alter a wetland or have a less detrimental impact on a wetland.

The location of this infrastructure is not feasible to move without greater impacts and cost. The upgrades proposed should not have a detrimental impact on the adjacent wetland areas.

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

The applicant has proposed restoring the existing site with a wetland seed mix and native shrub plantings which should minimize any impacts to the adjacent wetland.

The Commission voted unanimously to recommend approval of the Wetland Conditional Use Permit to the Planning Board as presented.

Planning Department Recommendation

- 1) *Vote to find the application satisfies the criteria set forth in Section 10.107.50 of the Zoning Ordinance.*
- 2) *Vote to grant the Wetland Conditional Use Permit as presented.*

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.

- F. The request of **Joan S. Rice Revocable Trust (Owner)**, for property located at **460 FW Hartford Drive** requesting Wetland Conditional Use Permit Approval according to section 10.1017.5 of the Zoning ordinance to temporarily impact 275 square feet and permanently impact 5.2 square feet of inland wetland buffer to install a new fence where the impact is the wooden fence posts. Said property is located on Assessor Map 249 Lot 17 and lies within the Single Residence B (SRB) District. (LU-22-69)

Project Review, Decisions, and Recommendations

This application has been before the Conservation Committee. Please see below for more information.

Conservation Commission Review

The Conservation Commission reviewed the application at the May 11, 2022 meeting. The See below for analysis of criteria as stated in Section 10.1017.50 Of the Zoning Ordinance.

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

The proposed fence posts will be hand dug and except for the gates there will be no footings installed, minimizing the footprint.

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

The entire backyard is within the wetland buffer so this is the most reasonable location for the fence.

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

Given that the fence is outside of the wetland, will surround a lawn area, and will allow the movement of stormwater this project should not have an adverse impact on the wetland functions of the adjacent wetland areas.

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

The construction of this fence will not impact any of the natural vegetation on the site.

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

The proposed fence is being hand installed and should not create an adverse impact.

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

This project contemplates a fence within a lawn area.

The Commission voted unanimously to recommend approval of the Wetland Conditional Use Permit to the Planning Board as presented.

Planning Department Recommendation

- 1) *Vote to find the application satisfies the criteria set forth in Section 10.107.50 of the Zoning Ordinance.*
 - 2) *Vote to grant the Wetland Conditional Use Permit as presented.*
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V. CITY COUNCIL REFERRALS

- A. Continue the Public Hearing and consider a recommendation to the City Council for Zoning Ordinance Amendments to Building Height standards.

On February 7, 2022, the City Council established the Land Use Committee to look at diversifying land use regulations within the City. As part of the first package of amendments, the Land Use Committee has focused on advancing the citywide housing goals identified by City Council in their 2022-2023 Goals. These objectives were refined on February 27, 2022 and include:

1. Increase diversity of housing types and price points;
2. Remove regulatory barriers for housing diversification in neighborhoods (ADUS) – context sensitive design and consideration to impacts to traffic, on street parking and other infrastructure impacts;
3. Restructure incentives to deliver greater public benefit in workforce housing construction; and
4. Identify and maximize partnerships, coalitions, and funding opportunities to deliver affordable housing.

Regulatory Amendment Work Plan

On April 9, 2022, the Land Use Committee approved transmittal of the draft 2021 Regulatory Amendment Work Plan to City Council. The work plan consists of three phases:

1. **Phase 1: Code Clean-Up – Building Height Standards.**
Purpose: Improve regulatory implementation and align with legislative intent. Eliminate ambiguous sections that result in unintended consequences.
2. **Phase 2: Accessory Dwelling Unit Amendments**
Purpose: Remove barriers and expand the number of eligible properties for ADUs and Senior Housing Facilities.
3. **Phase 3: Incentive Amendments**
Purpose: Adjust incentives to place a higher emphasis on Workforce Housing.

Phase 1 Amendments Recommendation

On April 18, 2022, the City Council approved the work plan and transmitted proposed Phase 1 amendments to the Planning Board for review and a recommendation. On May 05, 2022, the Planning Board held a work session to review proposed Phase 1 amendments. At that time, staff presented a revised document that was developed in consultation with the City Attorney's office. At the May 5th work session, the Planning Board also requested revisions which were subsequently presented at the May 19, 2022 meeting of the Planning Board, when additional comments were provided and additional clarification was requested.

A full annotated copy of proposed amendments is provided with explanatory notes and purpose statements for all the proposed edits. Final proposed revisions are also provided.

Planning Department Recommendation

Recommend approval of the proposed amendments to the Portsmouth Zoning Ordinance as presented.

VIII. OTHER BUSINESS

- A. Chairman's Update/Discussion

IX. ADJOURNMENT