



Memo

TO: Conservation Commission Members
FROM: Peter Britz, Environmental Planner
DATE: June 4, 2021
SUBJ: June 9, 2021 Conservation Commission Meeting

0 Marjorie Street

This is a City of Portsmouth project to install a wastewater pump station in the undeveloped City Right of Way to redirect the flow of wastewater from this location. The overall project impacts in the 100 foot wetland buffer are 5,750 square feet with 1,540 square feet of new impervious pavement.

According to *Article 10 Section 10.1017.60 Public and Private Utilities within Rights-of-Way in Wetlands and Wetland Buffers* the applicant must satisfy the following conditions for approval of this project.

1. *The proposed construction is in the public interest.* The Department of Public Works has chosen to keep all of the work within an existing right of way. This location is appropriate for the work as it will allow City vehicle access without disturbing private property. This work is intended to enhance the City's wastewater system which is maintained and improved for public benefit.
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.* The project has been designed to minimize new impervious surface to just areas which will be plowed. A grass treatment swale and bio-infiltration area have been included in the project to minimize stormwater impacts currently existing and from new site development.
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 selected has the least detrimental impact to the wetland in this area. The proposal expanding a City Right of way with pavement, pump station equipment and new impervious surface. This work has been done in as minimally impacting fashion as possible to have the least adverse impact of all alternatives.
4. *Alterations of natural vegetation or managed woodland will occur only to the extent necessary to achieve construction goals.* The project does require removal of a large willow and some shrub vegetation but has been limited to only that necessary for project completion.

Recommendation: Staff recommends approval of this application as presented.

375 Banfield Road

This project is to construct an industrial building outside of the 100' wetland buffer. This application has changed since the last meeting with the building location and parking location flipped. The new application

includes a lined stormwater treatment swale in the wetland buffer to address remediation concerns. As part of the project the applicant is removing an area of pavement for the proposed entrance to the site.

1. The land is reasonably suited to the use activity or alteration. The prior application was proposed to remove pavement from the wetland buffer and revegetate the same area. While that is a suitable activity in the buffer the amended proposal is for 4000 square feet of new stormwater treatment swale to be constructed in the wetland buffer almost to the edge of the existing wetland area. It was stated by the applicant that this swale needed to be constructed here to stay away from waste. It needs to be demonstrated why no location outside of the buffer could be used for this.

2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration. The proposed pavement to be removed from the buffer this is the appropriate location for this work. However it is not clear that the proposed stormwater treatment swale and stone check dam are not appropriate for the buffer. While it does not make sense to route stormwater through contaminated soil as the applicant has said would occur with the previous location it is also not clear given the site is being completely demolished to construct the building why another location away from the waste and out of the buffer could not be used.

3. There will be no adverse impact on the wetland functional values of the site or surrounding properties. This pavement removal will result in a reduction of impervious surface in the wetland buffer but the stormwater treatment swale and stone check dam are all new impacts to the buffer. The new swale will have impact to the wetland buffer that may be avoidable if a different location outside of the buffer could be used.

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. The removal of pavement from the buffer will result in an expansion of the natural vegetative state of the buffer. The addition of the new vegetated area will provide some buffer function as the natural vegetation in this location where there is pavement today.

5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section. The proposed pavement removal will reduce the amount of impervious surface in the wetland buffer but the new swale at the rear of the site does not appear to be the least impacting alternative. While they cannot discharge stormwater through the fill if the site design were different it may be possible to avoid this area of impact.

6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible. The plan provides for removal of pavement in the buffer to provide a planted area and the proposed swale will be vegetated so it will be vegetated over much of its area but the maintenance will now allow for as robust a planting as would be if this were undisturbed buffer.

Recommendation: There are still answered questions about this project regarding the swale location and the need to impact the buffer for this location.

Shearwater Drive

This application was postponed at the May 12th meeting to this meeting. This project is an area that the Kane Company along Shearwater Drive from the Corner of Commerce Way has been working to improve since June of 2019. The contractor hired to clear the invasive species cut a much larger area than was planned by the property owner and extensively cut vegetation in the wetland and wetland buffer. The cutting of vegetation in the wetland and portions of the wetland buffer is not allowed without a Wetland Conditional Use permit therefore this is an after the fact application.

According to *Article 10 Section 10.1017.50* the applicant must satisfy the following conditions for approval of this project.

1. *The land is reasonably suited to the use activity or alteration.* The applicant has stated their intention to clear trash and invasive species from this parcel. While that activity is permitted and would not normally need a wetland conditional use permit the extent of clearing exceeded what is allowed under our wetland regulations.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The proposed location is where the work was proposed but the applicant went beyond the area where they had stated they would be clearing and mowed down a large area of wetland vegetation removing habitat, and creating ruts and the potential for erosion.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* This project did create a temporary impact as they mowed down wetland vegetation exposed slopes by drainage ways and created ruts. However, once the violation had been identified the applicant was responsive and took immediate action to protect the erosion areas and stabilize the site. Once the site was stabilized the vegetation was allowed to return and the site is returning to a vegetated emergent wetland.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* This is the main issue with this project. A large area of wetland vegetation and the vegetated buffer were mowed without a wetland conditional use permit. While there are certainly short term impacts from this work the applicant appears committed to allow the area to restore naturally.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* Not mowing the wetland would have been less impacting. The fact that there was no fill placed in the wetland area and no major changes to the site beyond the mowing will mean the site can restore itself to its former condition.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.* The plan is to allow the vegetated wetland and vegetated buffer strip to restore naturally using the existing seed bank in the soil on the site.

Recommendation: Staff recommends approval of this application with the following stipulations:

1. The applicant install signage to clearly describe the 25' buffer outside of the wetland area as proposed by the applicant.
2. The applicant provide a letter report at the end of the summer of 2021 with photos and a description of the installed signs and the extent of the vegetated regrowth on the site.