




# CITY OF PORTSMOUTH

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## Memo

TO: Conservation Commission Members  
FROM: Peter Britz, Environmental Planner   
DATE: July 8, 2021  
SUBJ: July 14, 2021 Conservation Commission Meeting

### **Raynes Ave and Maplewood Ave Mixed Use Project Request for Reconsideration**

The Conservation Commission at the June 16, 2021 meeting voted to recommend approval of the Wetland Conditional Use Permit to the Planning Board which resulted in a 3-3 vote, therefore, the motion failed. The applicant has provided a letter to review the decision. The letter requests the Conservation Commission reconsider its June 16, 2021 vote while taking into consideration the points raised by the applicant's attorney in the letter mentioned above. Staff recommends that the Conservation Commission vote on whether to reconsider the decision made at the June 16, 2021 meeting on this application.

### **0 Shearwater**

The Conservation Commission reviewed an application for Wetland Conditional Use at their June 9, 2021 meeting. The Commission postponed the application with the intention of receiving information from the applicant pertaining to proposed plantings, signage and management of the site.

### **145 Lang Road**

This project was first on the April 14<sup>th</sup> agenda of the Conservation Commission and postponed at the May and June meetings. The applicant is requesting to install playground equipment in a lawn area of an existing play area in the Arbor View Pines development. The work will include removing existing lawn and replacing it with an area of woodchips to provide fall zones for the play equipment. The applicant also proposes to remove a debris pile and install a stormwater outfall which was approved as a part of a prior 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 lawn area is being disturbed to accommodate the playground equipment. It is likely that the woodchips and playground equipment will provide better infiltration than the lawn that is there today. In addition to the playground equipment the debris pile has been removed from the buffer. It appears that there is additional work needed to remove an area of fill still at the wetland edge at the rear of the property as in its current state there is ponding of water and fill still located in the transition area between the wetland and upland.

*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 lawn area now and the use will not substantially change the way the area functions today. There has been material stored in the buffer since at least the 1980's so the removal of this material from the wetland buffer is a positive effort on the part of the applicant. However, additional work is needed to complete the project.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* The proposed playground equipment should not create adverse impacts to the adjacent wetland area. In addition the removal of material from the wetland buffer is a benefit to the site which needs to be completed so that longterm sedimentation and erosion issues are prevented.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* The project proposes to remove existing lawn area to install the playground equipment. A revegetation plan should be proposed for the material storage area which has been removed from the 100' wetland buffer.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The proposed removal of lawn area and replacement with woodchips is a better alternative than an impervious surface for the fall zone below the playground equipment. In addition the removal of the material pile from the 100' wetland buffer represents a reduction of impacts but that work appears to need additional attention to complete.

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 lawn area and replacement with woodchips which is likely slightly better from an infiltration standpoint. In addition the material storage area needs planting to complete and stabilize the site.

**Recommendation:** Staff recommends approval of this application with some additional information as to how the prior materials storage area will be completed.

### 3400 Lafayette Road

This application is to construct a 50 unit multifamily residential development. The majority of the proposed development falls outside of the wetland buffer however there is stormwater treatment area and site drainage proposed to go into the wetland area.

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

The size and scale of this development adjacent to what is intended to be a highly functioning wetland system does not appear to be appropriate. A portion of the stormwater treatment is within the wetland buffer which will require over 7000 square feet of disturbance in the wetland buffer. All of the runoff water will go into the adjacent wetland system. It is staff's understanding that this wetland system was constructed as mitigation for the Portsmouth Regional Hospital construction.

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

The applicant appears to have maximized the residential development on this site which could have longterm impact to the wetland area adjacent to it.

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

While the stormwater from the site will be treated it is not clear how this treated water and new volume of water will impact the functioning wetland mitigation which was created to offset wetland impacts in a different part of the city. The longterm impact of stormwater in this wetland could have an adverse impact on the created wetland system.

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

The area proposed for development is currently being used as a wood processing area therefore a portion of the natural vegetation has been impacted. The introduction of 50 housing units in this area will require

removal of all the natural vegetation outside of the buffer and some of the vegetation in the buffer at least as a temporary impact.

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

While the applicant has kept all of the proposed housing and roadways out of the wetland buffer the proposed impacts to the wetland buffer for stormwater treatment are not the least impacting alternative and the runoff from the development while proposed for treatment still will have longterm impacts to the adjacent wetland system.

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

The applicant is proposing temporary impacts in the wetland buffer but it is not clear how these will be restored when the project is complete.

**Recommendation:** This is an intensive development bordering a conservation area. Some of the stormwater treatment is proposed in a Natural Resource Protection zoning district and over 7,000 square feet of temporary impact is proposed in the wetland buffer. The longterm impact of all the stormwater from this site could have significant impacts to the adjacent wetland system. Staff recommends that the applicant redesign the project to be less intensive and treat all of the stormwater outside of the buffer and consider alternate locations other than the adjacent wetland as an outlet to protect the integrity of this mitigation area. The applicant should also provide the mitigation plans which were developed for the adjacent wetland area and demonstrate how this development is compatible with those plans.

The above is what was provided at the last meeting on June 16, 2021. The Commission requested a wetland functions and values assessment be provide in advance of the next meeting as described in Article 10.1017.22 but at the time of this writing none has been provided. Also according to section 10.10107.25 a wetland buffer enhancement plan should be provided to describe how the impacts of the project will be offset.

### **0 Patricia Drive**

This application was previously before the Commission in October of 2020 and proposed to restore a portion of an existing roadway including new stormwater treatment in the wetland buffer to access two new proposed home sites. The applicant is proposing to change the stormwater treatment from a detention area and vegetated overflow into the Prime Wetland buffer to a series of treatment catchbasins. That application was postponed to get more information. The applicant has provided revised stormwater treatment in their plan but City staff has not been able to review this at the time of this writing. Given the importance of stormwater treatment at this site a review by the City engineer stating the efficacy of the revised stormwater treatment is a very important part of this project given the proximity to a Packer Bog, a designated prime wetland. If a City Engineer has not had time to review the revised stormwater treatment for this site staff recommends postponement of a decision on this application until such a review has been completed.

### **10 FW Hartford Drive**

This is a project proposal to remove trees in the wetland and wetland buffer behind the home at 10 FW Hartford. The applicant has hired an arborist to assess the health of the trees on the property and requests removal of five trees inside the wetland area, two trees on the line or just outside the wetland area and 8 trees outside of the vegetate buffer and limited cut area.

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 trees in the wetland or just outside of the wetland require approval for the owner to cut trees 8-14 as shown in the provided plans. The other trees 1-7 and 15 are not regulated by the City's Zoning Ordinance.

*2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* The health of the trees or the threat to property make the decision to remove these trees the only reasonable alternative for this proposal.

*3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.* Given the density of trees in this forest and the goal of improving the health of the woodland this project will not have an adverse impact on wetland values.

*4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* This is a project to manage the trees on the site. Removal of the trees is intended to keep the property safe and according to the arborist improve the function of the woodland.

*5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The proposed is intended to improve the health of the forest and make the site safer for people and the adjacent home.

*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 trees but not to change the natural state of the forested area surrounding the home.

**Recommendation:** Staff recommends approval of this application as presented.