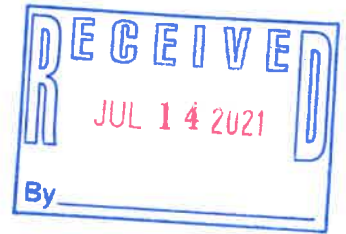


DUNCAN J. MACCALLUM
ATTORNEY AT LAW

536 STATE STREET
PORTSMOUTH, NEW HAMPSHIRE 03801-4327
(603) 431-1230
TELECOPIER: (603) 431-1308

ALSO ADMITTED IN NY, PA, OHIO & MA



July 14, 2021

Juliet Walker, Planning Director
City of Portsmouth
One Junkins Avenue
Portsmouth, New Hampshire 03801

Re: 105 Bartlett Street Project
Appeal of Planning Board's Decision

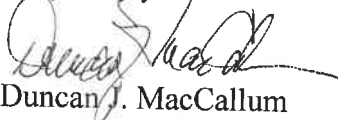
Dear Ms. Walker:

Enclosed are ten sets of copies of materials that I am submitting in support of our appeal in connection with the above-referenced project.

Would you please make sure that they are included in the ZBA members' packages which, as I understand it, are being mailed out today.

Thank you.

Very truly yours

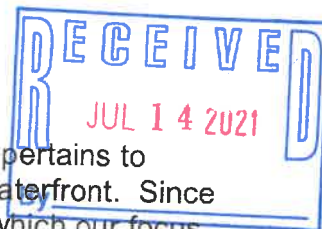

Duncan J. MacCallum

DJM/eap
Enclosures
cc. Michael D. Ramsdell, Esquire
Robert A. Previti, Esquire

HAND DELIVERED TO ADDRESSEE ONLY

To: Planning Board
From: Rick Chellman

June 15, 2021



Re: Waterfront and building siting

I have perceived some confusion in the interpretation of the City's zoning as pertains to waterfront parcels and the related relationships between buildings and the waterfront. Since formal meetings obviously deal with particular applications and are times in which our focus must necessarily be on the applications at hand, I thought it might be helpful to prepare this discussion document outlining how I think the zoning applies in different and theoretical circumstances.

There is no particular "scale" to the diagrams that follow, they are shown simply to illustrate the topics being discussed. This memo is also only focused on the waterfront buffer, so the myriad other criteria that impact development such as setbacks, building orientation, parking supply and other important aspects are NOT a part of this discussion.

Terminology is, in my opinion, very important, especially when reviewing a zoning ordinance with defined terms as is the case here. To somewhat simplify this discussion, I will focus on a theoretical parcel on the "tidal wetland" (a defined term) adjacent to North Mill Pond.

Beginning with a simple example, a parcel fronting the North Mill pond without any manmade improvements could appear as below- the waterfront at the high tide line in blue, the lot lines outlined in dashed black. Parallel with the high tide line, I have added 3 lines described in the zoning, with references to those areas. The most important one of these, as relates to buildings, is the "wetland buffer" (a defined term) 100' from the high tide. The vegetated and limited cut buffers are also shown for reference, but the wetland buffer is the important line as relates to buildings.

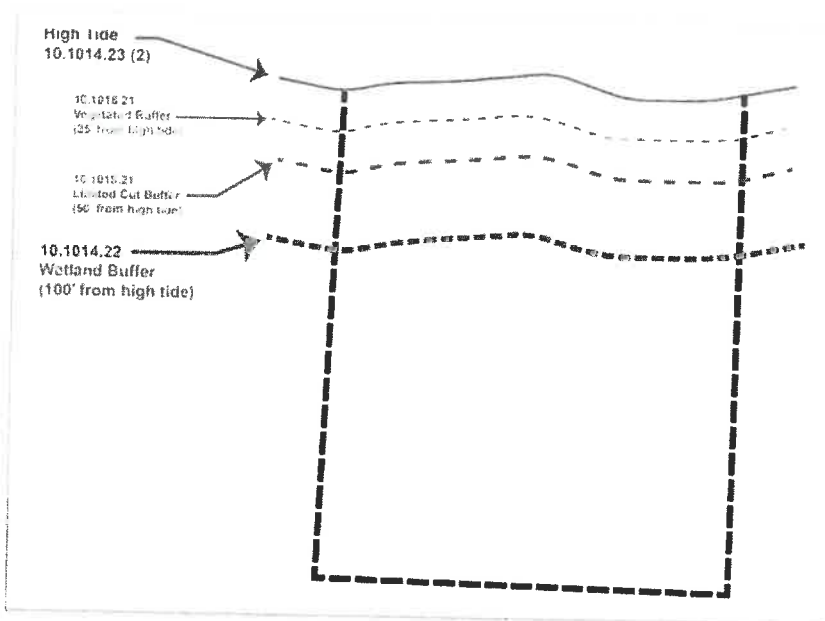


Figure 1: Theoretical vacant Lot on North Mill Pond

For this theoretical vacant lot, the general permitted uses are listed elsewhere in the zoning ordinance, but as relates to the **wetland buffer**, 10.1016.10 sets forth the permitted uses within

the **wetland buffer** area itself. These permitted uses are few and exclude any structure or impervious surface unless related to a minor expansion of a lawfully pre-existing one or two-family dwelling. Other uses are also listed, but these restrictions I believe establish the intent of the ordinance which is to preserve the **wetland buffer** area. In fact, 10.1016.20 prohibits other uses without a conditional use permit.

Returning to Figure 1's theoretical vacant lot, a proposed building and parking area (an impervious surface) could be sited as shown in Figure 2¹, since the proposal is outside the **wetland buffer** area.

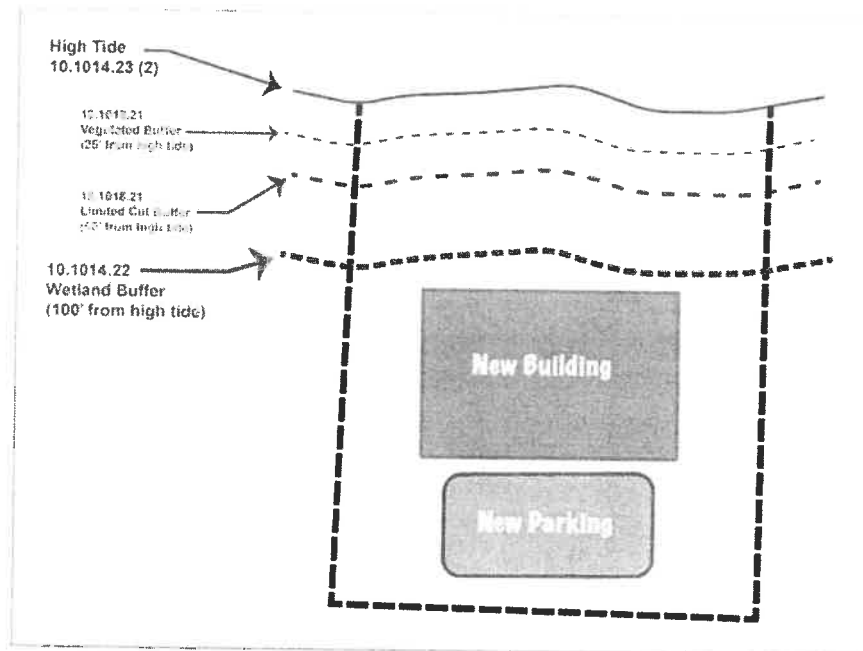


Figure 2: Possible Building on Previously Vacant Lot

Any other use proposed to impact the **wetland buffer** area not specifically listed as permitted requires a conditional use permit from the Planning Board under 10.1017.

Below, for discussion, I have moved the possible new commercial building in Figure 3 closer to the high tide line so it would partially extend into the **wetland buffer** area.

This then results in a theoretical proposal that would require a conditional use permit (CUP) application.

I know everyone has the zoning ordinance, but I have added relevant sections of it to this memo for ease of reference. Where I have done that, I have used images of the ordinance to avoid typos in transposing from one to the other.

Following under Figure 3, the general provisions for a CUP process are listed.

¹ Again, ONLY as relates to the wetland buffer being discussed in this memo. The proposal may have other problems with other sections of the ordinance.

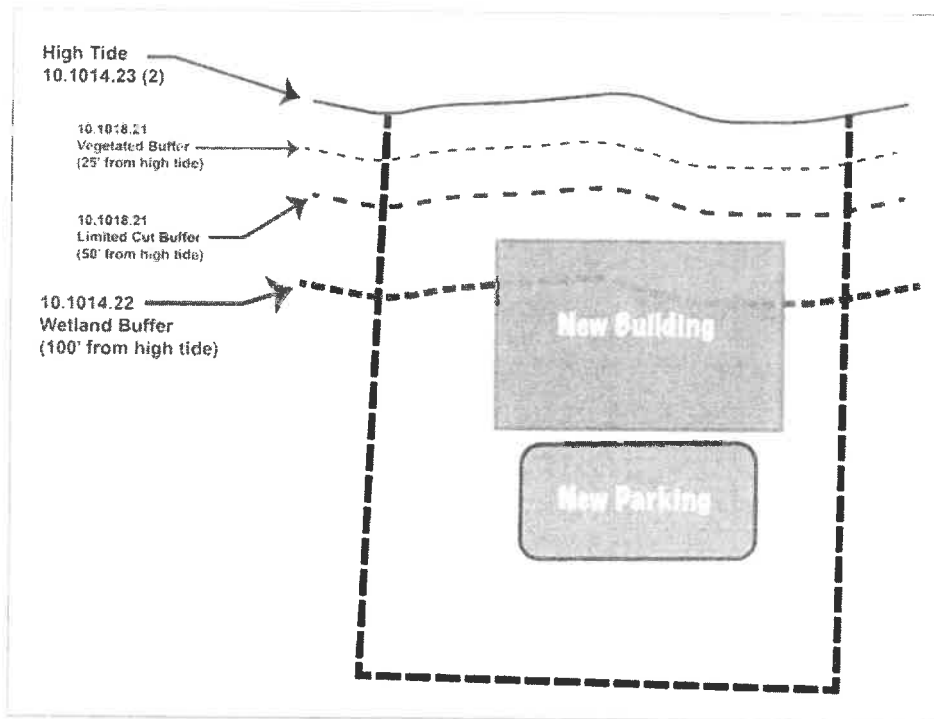


Figure 3: Possible Commercial Building Partially in Wetland Buffer

10.1017.40 Conditional Use Approval

- 10.1017.41 The Planning Board shall grant a conditional use permit provided that it finds that all other restrictions of this Ordinance are met and that proposed **development** meets all the criteria set forth in section 10.1017.50 or 10.1017.60, as applicable.
- 10.1017.42 The Planning Board shall evaluate an application for a conditional use permit in accordance with *The Highway Methodology Workbook Supplement – Wetland Functions and Values: A Descriptive Approach*, NAEPP-360-1-30a, US Army Corps of Engineers, New England Division, September 1999, as amended.
- 10.1017.43 The burden of proof that the criteria required for approval of the conditional use permit exist or are met shall be the responsibility of the applicant.
- 10.1017.44 Economic considerations alone are not sufficient reason for granting a conditional use permit.
- 10.1017.45 Where new **impervious surface** is proposed in a **wetland** or **wetland buffer**, the submission of a plan to compensate for such new **impervious surface** does not guarantee that a conditional use permit will be granted.

Note that 10.1017.41 requires a proposal to meet “all the criteria” of 10.1017.50 but in turn obligates the Planning Board to grant a CUP if it does.

10.1017.44 states explicitly that economic considerations alone are **not** sufficient to grant a CUP and 10.1017.45 states that a proposal to compensate for impervious surface in a **wetland buffer** does **not** guarantee the granting of a CUP.

The criteria used to determine compliance with the ordinance are listed under 10.1017.50 (10.1017.60 pertains to utilities).

10.1017.50 Criteria for Approval

Any proposed **development**, other than installation of utilities within a right-of-way, shall comply with all of the following criteria:

- (1) The land is reasonably suited to the **use**, activity or **alteration**.
- (2) There is no alternative location outside the **wetland buffer** that is feasible and reasonable for the proposed **use**, activity or **alteration**.
- (3) There will be no adverse impact on the **wetland** functional values of the site or surrounding properties;
- (4) **Alteration** of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals; and
- (5) The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Section.
- (6) Any area within the **vegetated buffer strip** will be returned to a natural state to the extent feasible.

Returning to the example in Figure 3, above, I think that simple example would likely fail to satisfy 10.1017.50 (2) as Figure 2 shows that the simple proposal could fit outside of the **wetland buffer**. This is not to minimize any other possible problems with a proposal such as Figure 3: such a proposal would also likely fail to meet the criteria of 10.1017.50 (3) and/or 10.1017.50 (4) and possibly other criteria depending on details not relevant to this memo.

A “Figure 3 proposal”, in my opinion, should therefore fail in a request to have a CUP granted based on the plain language of the ordinance.

Since there are many parcels around the North Mill Pond that are improved in various ways, this then raises the related question of how the ordinance pertains to a previously improved parcel.

Figure 4 shows such a possibility, with an existing commercial building and some of its parking inside the **wetland buffer** area.

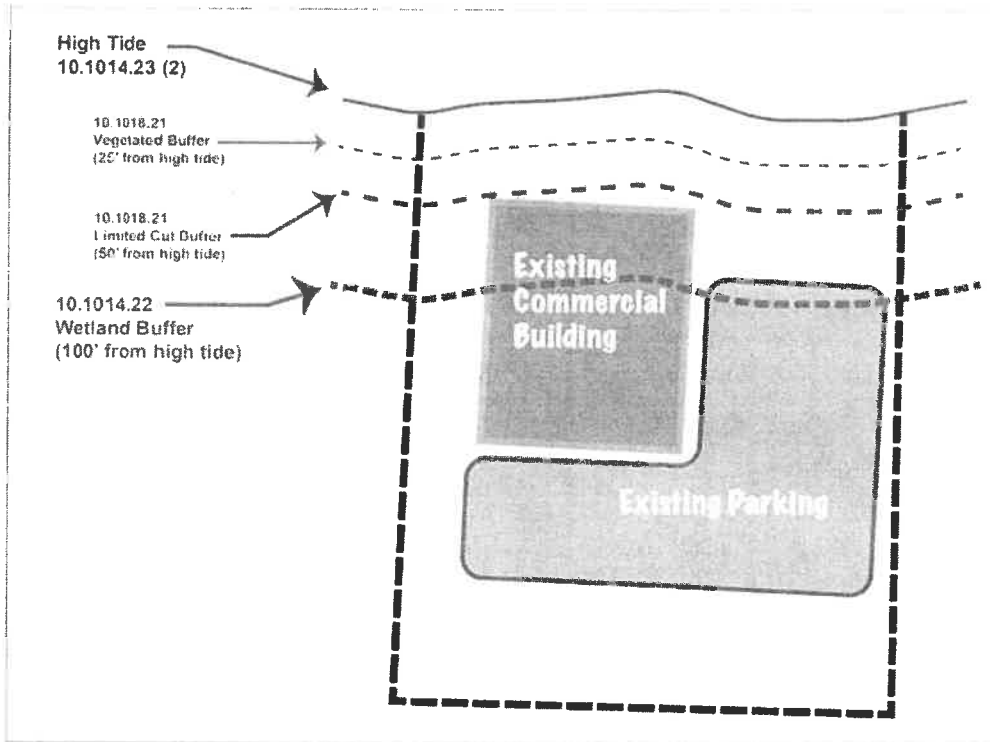


Figure 4: Theoretical Existing Improved Parcel on North Mill Pond

Using the same base in Figure 4, Figure 5 depicts a possible proposal to redevelop the site with new construction in a way that reduces wetland buffer impacts.

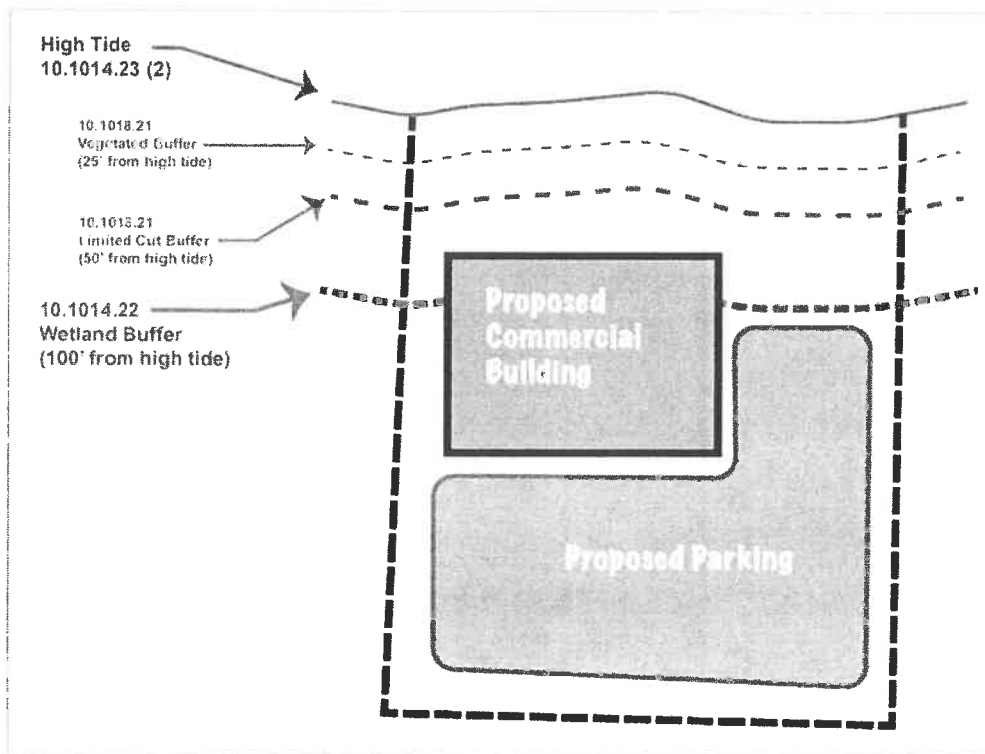


Figure 5: Possible New Project on Figure 4 Base

To further detail Figure 5, I have made it into an overlay onto Figure 4 (the pre-existing condition) and added some transparency to make Figure 6. This shows, and for sake of this discussion we may assume, an overall reduction in impact to the wetland buffer (reductions in blue), with 2 new areas of impact to the wetland buffer (in red). As noted above, the uses permitted in 10.1016.10 do not include commercial uses and there are

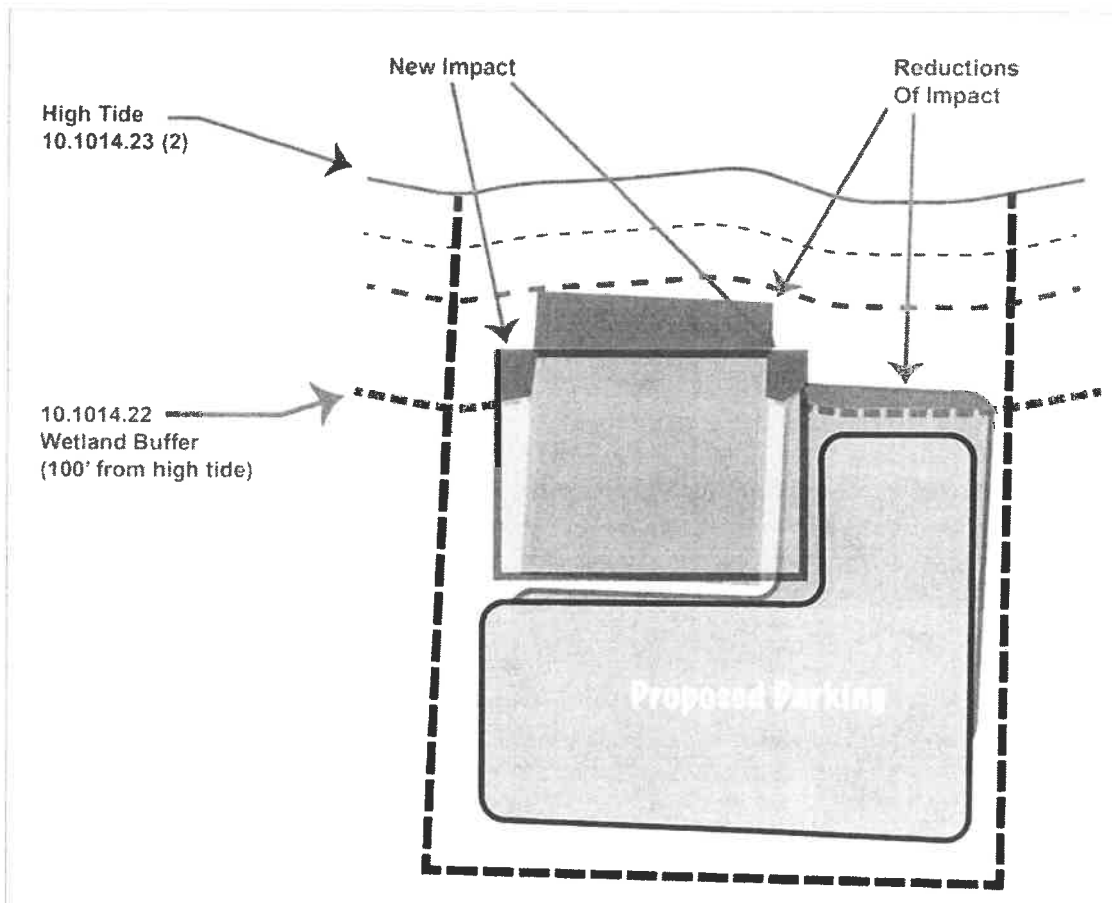


Figure 6: Figure 5 Overlay onto Figure 4

no provisions to change or extend a pre-existing commercial building or use. This is to distinguish such a proposal from the limited extension or expansion of certain one and two-family dwellings which is a permitted use.

This leads back to 10.1016.20 which states:

10.1016.20 Any **use**, activity or **alteration** not specifically permitted by Section 10.1016.10 above is prohibited unless authorized by the Planning Board through the grant of a conditional use permit.

Figure 7: 10.1016.20

Therefore, without a CUP, the proposal of Figure 5 is prohibited.

The same general provisions and criteria of 10.1017.40 and 10.1017.50, respectively, noted above pertain to a review of Figure 5.

From what I have seen in my limited time on this Board, it seems some are under the impression that the ordinance allows a proposal such as shown in Figure 5 specifically because it proposes a reduction in impact to the **wetland buffer**.

I believe this idea flows from section 10.1017.24 of the ordinance:

10.1017.24 Where feasible, the application shall include removal of **impervious surfaces** at least equal in area to the area of **impervious surface** impact. The intent of this provision is that the project will not result in a net loss of pervious surface within a jurisdictional wetland buffer. If it is not feasible to remove **impervious surfaces** from the wetland buffer at least equal in area to the area of new **impervious surface** impact, the application shall include a **wetland buffer** enhancement plan that describes how the wetland functions and values will be enhanced to offset the proposed impact.

However, that section of the ordinance is not a part of the criteria which are used to evaluate a CUP application- rather, it is under the application requirements. In addition, the prior section notes (below) as additional application requirements:

10.1017.23 The application shall describe the impact of the proposed project with specific reference to the criteria for approval set forth in Section 10.1017.50 (or Section 10.1017.60 in the case of utility installation in a right-of-way), and shall demonstrate that the proposed site **alteration** is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Ordinance.

Again, the application requirements: direct applicants to the “criteria for approval” in 10.1017.50; and, require them to demonstrate that the proposal is “the alternative with the least impact”. The “least adverse impact” is a recurrent phrase in the ordinance.

For 10.1017.24 to come under consideration, a proposal must therefore first satisfy the criteria of 10.1017.50 and only then, would the provisions of demonstrating a reduction in impervious area under 10.1017.24 become relevant. For a previously vacant lot proposal, 10.1017.24 of course would also not be relevant.

Note too that the requirements of 10.1017.45 (above) which are specifically under the provisions relating to CUPs note that any plan to compensate for new impervious surfaces in a **wetland buffer** does not guarantee the granting of a CUP.

CUP Criteria

The criteria under 10.1017.50 establish relatively high thresholds to allow **any** development within the **wetland buffer**. This is evident in the criteria themselves and in the very limited uses allowed without a CUP.

None of the six criteria for approval of a CUP relate to a reduction in impervious area nor do they establish any criteria by which to judge such a proposal. The ordinance does not even acknowledge previously existing buildings except certain residential ones. Structures and impervious surfaces are not allowed in the wetland buffer (10.1016.10 (1)) unless all six criteria for approval of a CUP are met.

This may first be viewed an oversight in the ordinance, but actually this is consistent with the prohibitions throughout the ordinance of allowing development in the wetland buffer.

For new development and redevelopment of sites, two of the review criteria provisions impose especially high or strict standards, and extracting those from 10.1017.50 (2) and (5), they state (emphasis added):

- There is **no alternative location outside the wetland buffer**; and
- The proposal is the alternative with the **least adverse impact** to areas...under jurisdiction.

Clearly, and much like the first simple example above, a proposal for development in the **wetland buffer** is likely required to move outside the **wetland buffer** unless it can be shown that the six criteria for approval have been satisfied. Returning to the hypothetical diagram in Figures 5 and 6, it would likely need to be modified as below to satisfy the ordinance.

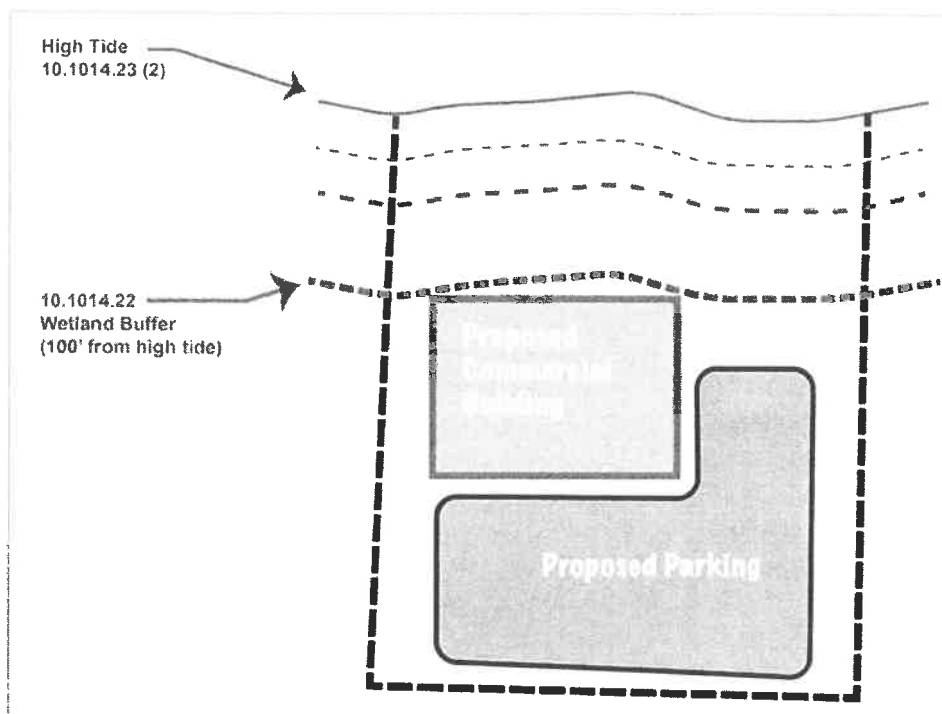


Figure 8: Revised Proposal Outside wetland buffer

Figure 8 represents a reduction of approximately 10% in the footprint of the building shown in Figures 5 and 6. It seems apparent that a reduction in the scale of development is effectively required as the alternative to have the least adverse impact and to stay outside the wetland buffer.

A possible counter argument to this is perhaps that smaller buildings, which are perhaps less costly to build, generate less income potential for the developer. However, such considerations are not sufficient to justify granting a CUP and this is explicit in the ordinance.

10.1017.44 **Economic considerations alone are not sufficient reason for granting a conditional use permit.**

10.1017.44, like 10.1017.45, is within the specific CUP section of the Ordinance.

Related to this discussion of the **wetland buffer** section of the ordinance are the Article 3 provisions pertaining to nonconforming buildings, such as an existing building encroaching on the wetland buffer. 10.321 is quite specific in not allowing the example building changes depicted in Figure 6 in the **wetland buffer** area because they would not conform with the **wetland buffer** requirements.

10.321 **A lawful nonconforming building or structure may continue and be maintained or repaired, but may not be extended, reconstructed or enlarged unless such extension, reconstruction or enlargement conforms to all the regulations of the district in which it is located.**

Allowing new development that simply reduces impervious impact without specifically satisfying all of the other six CUP criteria would allow new development or reinvestment/reconstruction and new construction of buildings and other improvements into the protected **wetland buffer** area. This interpretation essentially guarantees the ongoing and possibly perpetual encroachment into the **wetland buffer**. That defeats the purpose of the **wetland buffer**.

This also cannot be an essentially circular argument such as “this is the least adverse impact because it reduces the existing impervious coverages”.

I welcome discussion on this important topic.

From: planning@cityofportsmouth.com,
Cc: bethpjefferson@gmail.com, madbarrister@aol.com,
Subject: Fwd: 105 Bartlett Development Appeal
Date: Mon, Jun 14, 2021 12:43 pm

Just a quick note to inform the Planning Board that I, as an abutter to 105 Bartlett, wish to be put on the record as concurring 100% with Beth Jefferson's email below.

Kind regards,
Joe

Joe Famularo
141 Mill Pond Way Unit 3, Portsmouth, NH 03801

----- Forwarded message -----

From: **Beth Jefferson** <bethpjefferson@gmail.com>
Date: Mon, Jun 14, 2021 at 10:32 AM
Subject: 105 Bartlett Development Appeal
To: <planning@cityofportsmouth.com>
Cc: bethpjefferson@aol.com <bethpjefferson@gmail.com>, Duncan Maccallum <madbarrister@aol.com>

As a concerned 20- year Portsmouth resident who lives on Sparhawk Street, in the Christian Shore neighborhood, I am writing to request your serious re-consideration regarding the large-scale housing project that recently received an exception to a very important rule that has governed the North Mill Pond area for many years.

Many who have lived in this area for many years have served as custodians of the mill pond and worked hard to help improve the health of the pond and the surrounding banks, vegetation and wildlife. Many of us belong to a community non-profit called Advocates for the North Mill Pond, and have invested our time and money in preserving and stewarding our beautiful but fragile pond. We respect the rules that have been established and adhere to the protective standards. We hold our neighbors to these standards if we see non-compliance.

We ask that all who develop here comply with the laws and standards by which we comply. Portsmouth's rapid development and developers are not justification for overlooking the protections that keep our pond healthy and our community intact..

I "attended" the planning meeting where the exception was granted to allow building within the buffer zone. I listened to the citizens who called in, mostly opposed to the exception. I observed the shift of those who were ready to support the protection of the pond and oppose the encroachment in the buffer zone, after staff at the meeting instilled fear that the developer would walk away from the project if the exception wasn't granted. This was highly speculative, and frankly sad to see our Planning Board leadership playing the fear card to sway the board.

Many developers are investing in Portsmouth, some without regard for the aesthetic, historical and environmental balance that we need to preserve the spirit and commitment of the city during such a growth period. Asking the developer to reduce footprint and comply with our standards should not be overlooked as the city oversees this development.

Please consider our appeal - it reflects the majority of the residents' wishes who have spoken and written. The developers will find a way to comply as long as we adhere to the boundaries that have been established.

Sincerely,

Beth Jefferson
111 Sparhawk Street
Portsmouth, NH

--

Joe Famularo
Portsmouth, NH

The content of this message is confidential. Unauthorized disclosure, reproduction, use, or dissemination in whole or in part is prohibited. If you are not the intended recipient of this message, please notify the sender and delete the message from your system.

6/14/2021

To Members of the Zoning Board of Adjustment,

My name is Kate Harris. I am one of the city residents that signed on to the 105 Bartlett Street development appeal.

As I once again address the reasons why we felt compelled to take this particular action, I would hope that your board has the time to look over the correspondence of the last three plus years to the various city departments by scores of residents. You'll find the same few recurrent themes and the same ardent pleas and petitions:

1. - Build something that fits the character and size of the surrounding neighborhoods, not enormous boxes that dwarf all that surrounds them. You have only to look at what's been done on Cate Street to get a clear sense of how inappropriate it would be in this case and what a slap in the face it is to every resident living in this part of town who has begged for better. What started out as a plan for a townhouse style development, when it was first presented to us by Ed Hayes 3+ years ago has morphed into something completely different. It's now become a massive project driven

by big development interests with the goal of maximum profits. The principals of this project admitted that they could indeed build outside the 100' buffer, but doing so would cut into their profit margins because it would mean something smaller.

2. - Uphold and enforce the city's 100' Wetlands Setback to offer a measure of buffer protection to The North Mill Pond. We are concerned about water quality, harmful effects of runoff, loss of rapidly diminishing coastal areas to support wildlife habitat, harmful pollution from light, noise, traffic etc...

I would strongly urge everyone on your board to take a drive down Dennett St. to Mill Pond Way for a closer look at what's at stake before you meet on this issue. Stand in the newly named McEachern Park and imagine the utter destruction across the pond when that land is completely leveled. The current plans addressing habitat restoration are a joke. Wildflowers, grasses and a couple of trees will not mitigate the loss of critical shoreline protection that is provided by what's there now - only the 100' setback can do that.

I believe that the misery that's about to be unleashed on the residents living on both sides of the pond at hands of developers who care nothing for the people of these neighborhoods is appalling.

And do date, after more than 3 years of writing letters, gathering signatures, attending meetings and petitioning the boards, our city planners have actively

chosen to ignore their own residents. Instead, they're kneeling before the big money interests, aiding and abetting a poorly conceived project and calling it "character" development.

I beg your members to rule in favor of the hundreds of city residents who have spoken up and out for years in an effort to protect the valuable resource that is the North Mill Pond. We can and must do better for our city.

Sincerely,
Catherine(Kate) Harris
166 Clinton Street, Portsmouth, NH

Cc: bethpjefferson@gmail.com, madbarrister@aol.com,

Subject: 105 Bartlett Development Appeal

Date: Mon, Jun 14, 2021 10:32 am

As a concerned 20- year Portsmouth resident who lives on Sparhawk Street, in the Christian Shore neighborhood, I am writing to request your serious re-consideration regarding the large-scale housing project that recently received an exception to a very important rule that has governed the North Mill Pond area for many years.

Many who have lived in this area for many years have served as custodians of the mill pond and worked hard to help improve the health of the pond and the surrounding banks, vegetation and wildlife. Many of us belong to a community non-profit called Advocates for the North Mill Pond, and have invested our time and money in preserving and stewarding our beautiful but fragile pond. We respect the rules that have been established and adhere to the protective standards. We hold our neighbors to these standards if we see non-compliance.

We ask that all who develop here comply with the laws and standards by which we comply. Portsmouth's rapid development and developers are not justification for overlooking the protections that keep our pond healthy and our community intact..

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Many developers are investing in Portsmouth, some without regard for the aesthetic, historical and environmental balance that we need to preserve the spirit and commitment of the city during such a growth period. Asking the developer to reduce footprint and comply with our standards should not be overlooked as the city oversees this development.

Please consider our appeal - it reflects the majority of the residents' wishes who have spoken and written. The developers will find a way to comply as long as we adhere to the boundaries that have been established.

Sincerely,

Beth Jefferson
111 Sparhawk Street
Portsmouth, NH

Elizabeth Bratter
159 McDonough St
Portsmouth Property Owner
December 4, 2020

Conservation Commission
RE: 105 Bartlett St
Meeting: December 9, 2020
SITE WALK: First paragraph December 7, 2020

Dear Chairperson McMillan and Members of the Conservation Commission,

As you proceed on the Site Walk on Monday, please take a moment to **notice the lack of development in the 100' Wetland Buffer across the pond** from the development site. Please notice the many leave-less trees beyond Great Rhythm Brewing; this area has been pretty much untouched for years, which has allowed a **LOT of vegetation, trees, shrubs, wildflowers to grow into excellent nesting and feeding areas** for the wildlife which calls the North Mill Pond home. No we don't see deer everyday but we do see many small critters which are the bottom of the food chain and sustain the chain. As you pass the Marina (the old machine shop), notice all the vegetation which grows there. It was hard to see the trees and vegetation growing between and under the storage container, boats and other stuff until they were removed. **Think about how much pervious surface presently exists just past Great Rhythm and how much impervious surface is being proposed, TWO over 20,000 sf buildings over 65' tall! Notice as you leave the level of darkness on both sides of the pond, yet the crime rate on the tracks is far less than downtown.**

As you meet on Wednesday please remember that **NHDES regulations state the most stringent standards shall control, whether local or state. In this case the City of Portsmouth, which claims to be a sustainable, eco-friendly community, has in place excellent well thought out zoning regulations in Article 10. It is up to you to request the regulations be followed to protect this natural resource that once no one cared about.** After having cleaned it up for YEARS I think a developer who states "they will be good stewards of the North Mill Pond" should be held to the bare minimum standards-no development in the 100' wetland buffer, various types of permeable pavement throughout the complex and a lot less light pollution! Part of the parking lot was moved out of the 100' wetland buffer because: Fire Road Access, snow storage, access to the Cabot St Culvert and a turnaround at the end of the parking lot were needed.

TONS of fill will be added, the proper substrate can be chosen to utilize any one of HUNDREDS of different types of permeable pavements available today! Many are aesthetically appealing and require little to no maintenance compared to the ones that look like asphalt. **Imagine the parking lot looking like a lawn yet plowable!**

Neighbors and many board have asked the 100' Wetland buffer be respected from the beginning, yet there seems to be constant whining about constraints of the property, **ALL of which were known PRIOR to purchasing it!!** *The biggest constraint of concern by the developer was land contamination; per the environmental summary it will have almost no impact on the development.*

Please postpone the request for a Conditional Use Permit until this project has truly presented the TAC and Conservation Commission changes requested. Please ask for a copy of the **two lists** of changes requested by TAC *which will directly impact the environmental status of this development*, from the 14' wide fire staging areas facing the buildings along the greenway, the proposed fire road, the clearing of all trees at Cabot St necessary to maintain the integrity of the Cabot St Culvert, now carrying a LOT more water, and the many landscape and drainage changes.

A 100' Wetland buffer with no structures, more permeable pavement on the Greenway, parking lots and sidewalks with a well-chosen substrate, rear fire access outside of the 50' buffer and less lighting would make for this development a sustainable design plan during the "Age of Nature" (PBS).

Respectfully,
Elizabeth Bratter

Izak Gilbo

From: Juliet T.H. Walker
Sent: Monday, December 7, 2020 8:14 AM
To: Peter L. Britz
Cc: Izak Gilbo
Subject: FW: Conservation Commission Meeting 12/9/2020; 105 Bartlett St

Follow Up Flag: Follow up
Flag Status: Flagged

From: Nancy Johnson [mailto:n_johnson81@comcast.net]
Sent: Sunday, December 6, 2020 3:04 PM
To: Juliet T.H. Walker <jthwalker@cityofportsmouth.com>
Subject: Conservation Commission Meeting 12/9/2020; 105 Bartlett St

To: Juliet Walker, City Planner; Peter Britz, Environmental Planner; Conservation Commission Members
Re: Conservation Commission Meeting 12/9/2020; 105 Bartlett St
From: Nancy & Brian Johnson, 81 Clinton St, Portsmouth (residents since 1975), 12/6/2020

We noticed that the date on the ConCom packet for the 12/9 meeting predates the packet provided for TAC on 12/1. We hope that posting for the public is in error, and that the ConCom members actually received the latest set of plans, and in a timely manner.

We plan not to attend the site walk because of Covid concerns and our difficulty in hearing if we are not up close to the speaker. We really regret having to make this decision - it will be the first site walk for 105 Bartlett that we will not attend. We really wanted to see the marked circumference of the 6 foot raised hill the developers will be constructing. We have walked out there twice in the last few days with the plans in our hands, but just cannot visualize it.

The developers say they cannot use porous pavement for the fire road they will build due to the existing soil - why not?? The road will not be on the existing soil, but on the soil the developers bring in for the hill. The road is at about 12 feet. They can lay appropriate soil under the road way to allow for porous pavement. Sandy Point in Stratham has studied various porous pavements in their parking lot and found it does not ice up in the winter - no salt required, because rain and snow melt does not puddle on it. Porous pavement is easily maintained.

The size of the parcels of land are sufficient that there is room for attractive housing units that fit into the shape and constraints of the land, especially the City 100 foot buffer, and are enhanced by the presence of the tidal estuary. We do not believe anyone is trying to prohibit development in this location. We are hoping for a beautiful development that will be lucrative to the builders and sought after by prospective renters/buyers.

We are concerned about the weight of the planned buildings with their contents and parking. Remember the implosion of the Granite State Minerals salt pile ("Salt Pile Collapse: How it Happened", Seacoastonline.com, 9/25/08). "Ray Cook, associate professor of civil engineering at UNH said the weight of the salt was enough to drive soil out from underneath it, sending asphalt and other material used to contain the pile into the water."

The North Mill Pond has been dubbed A Treasure in Our Backyard. Salt marshes have been planted, with amazing success, along the edges. School children learn first hand about the value of estuaries on-site at Mill

forested buffer along much of the edge on both sides provides much needed shade to the estuary, bird nesting and feeding habitat, homes for small mammals, and the mud flats support many shorebirds and a place for horseshoe crab mating rituals.

One of the primary developers was an active member of The Advocates for the North Mill Pond for many years, and an ANMP Board member for several of those years. He was well aware of the importance of the 100 foot setback when he purchased the land. Ricci Lumber kindly provided members of the Advocates with trash bags and gloves for our annual cleanup of the shore line (done with the permission of the Railroad, we all signed the liability waivers the RR required). The cleanups ended in 2007, after 12 consecutive years, when we found there was very little litter that accumulated in a year. Since then we have walked the roadway from Bartlett St to Maplewood Ave three or four times a year, and we have been saddened by the amount of litter that has been showing up over just the past four years.

Portsmouth prides itself on being an Eco-municipality. Developers are watching closely to see if Portsmouth really believes in its own 100 foot tidal buffer set-back. That buffer exists to protect marine estuary habitats and their very narrow vegetated upland shore-land.

Nancy & Brian Johnson

Izak Gilbo

From: JAH <samjakemax@aol.com>
Sent: Sunday, December 6, 2020 9:23 PM
To: Izak Gilbo; Peter L. Britz
Subject: 105 Bartlett Street Conservation Commission Meeting December 9, 2020
Attachments: portsmouth8x11scoring.pdf; Highest Ranked Wildlife Habitat 12.9.2020.pdf; A Plan That Works 12.5.2020.pdf; 42 Rockingham Front Yard Ditcha .jpg; 482 Broad Street Front Yard Ditch .jpg

Please forward this email (including the May 31 and Nov. 24 emails below to TAC) and attachments to all members of the Conservation Committee.

Kindly reply with confirmation of the time and date this information was forwarded.

Dear Conservation Commission Members:

I understand at your December 9, 2020 meeting you will continue to discuss whether this project satisfies the six criteria needed for the Planning Board to grant a conditional use permit (using the six criteria in Article 10, Section 10.1017.50) to allow this project to build on and disturb area within the North Mill Pond 100 ft wetlands setback buffer.

I noted the materials for the Dec. 9, 2020 meeting are exactly the same the materials submitted for the Nov 4, 2020 meeting, so I am not sure what has changed based on feed back the Commission gave the developer last time.

When previously pressed to explain why this project can not be constructed completely outside the 100 ft buffer, Cathartes stated its present design is the only option that "works". I believe with a little effort, they will find numerous development options that will "work", and also have a far less devastating impact to North Mill Pond estuary environment. Attached is one such example.

On page 17 of the Tighe & Bond submittal, there is a map of Highest Ranked Wildlife Habitat by Ecological Condition produced by New Hampshire Fish and Game.(attached) . Oddly, Cathartes presented this map at a scale so large the area around North Mill Pond can't be seen. Attached is a map at the appropriate scale that shows the 3 large areas of North Mill Pond that the NH Fish and Game has given its highest habitat ranking.

I believe the Commission now has more than ample evidence to conclude beyond a reasonable doubt this project easily fails all six criteria needed to grant a CUP to build within the North Mill Pond 100 ft wetland setback buffer.

Regards,

Jim Hewitt

-----Original Message-----

From: JAH <samjakemax@aol.com>
To: planning@cityofportsmouth.com <planning@cityofportsmouth.com>
Cc: ebeby@cityofportsmouth.com <ebeby@cityofportsmouth.com>; phrice@cityofportsmouth.com <phrice@cityofportsmouth.com>; plbritz@cityofportsmouth.com <plbritz@cityofportsmouth.com>; djdesfosses@cityofportsmouth.com <djdesfosses@cityofportsmouth.com>; seachilles@cityofportsmouth.com <seachilles@cityofportsmouth.com>; tgermain@cityofportsmouth.com <tgermain@cityofportsmouth.com>
Sent: Tue, Nov 24, 2020 8:15 pm
Subject: 105 Bartlett Street TAC December 1, 2020

Dear TAC members:

The oven at Cathartes must be on the fritz as the latest project plans are just as half baked as the ones submitted 6 months ago. Discussing these plans at TAC was a waste of time then, it is a waste of time now.

has stated quite clearly (twice) that the footprint of any new or reconstructed building must be located outside the North Mill Pond 100 foot wetlands buffer. Any impervious surface also must be located outside the 100 foot buffer, including the 12 foot wide paved emergency fire access road that the Fire Department has made clear needs to encircle any new or reconstructed buildings. In keeping with "Portsmouth the Eco-Municipality" principles, any contemplated nature trail along North Mill Pond will be built in the most ecologically sensitive manner possible, which means a three to four wide path constructed with wood chips.

Until the building footprint and fire lane limits have been approved by the Conservation Commission, the Planning Board, and NHDES, there is really nothing for TAC to talk about. NHDES permits haven't even been applied for. I suggest TAC make a motion instructing the applicant not to submit these plans again until the building and fire lane footprint limits are approved by City land use boards and approval / conceptual approval have been granted by NHDES wetlands, shoreland protection and alteration of terrain programs.

Regards,

Jim Hewitt

P.S. As a refresher, my May 31, 2020 comments below still apply

-----Original Message-----

From: JAH <samjakemax@aol.com>

To: Planning@cityofportsmouth.com <Planning@cityofportsmouth.com>

Sent: Sun, May 31, 2020 11:30 pm

Subject: 105 Bartlett Street TAC June 2, 2020

Dear TAC members:

I have a few comments to the recent submission, as follows:

1) These plans remain half-baked, and TAC should not even be reviewing them. This entire project depends on getting a Conditional Use Permit (CUP) from the 100 foot wetlands buffer setback from the Portsmouth Conservation Commission, which is far from certain. TAC should table this project indefinitely until the ConCom votes on the CUP request, otherwise its a giant waste of everyone's time.

2) These plans looked like they were designed in 1950's with respect to storm water management. This design puts all storm water into closed drainage and shoots it directly into North Mill Pond with minimal treatment. What ever happened to groundwater recharge and post-development flows not exceeding pre-development flows, a basic tenet of storm water management best practices in New Hampshire for over 30 years ? TAC , again, should not even review these plans until NHDES Alteration of Terrain program gives this project conceptual approval for compliance with its regulations. If Portsmouth the "Eco-Municipality" can require a lowly homeowner to construct storm water infiltration basins like the ones on 42 Rockingham and 482 Broad St to protect the environment, certainly TAC can require the same for a massive 174 apartment project located in such an environmentally sensitive location adjacent to North Mill Pond. See attached.

3) Where are the architectural drawings with elevation views of this project ? The applicant is doing his darnedest not to show how this project is playing with existing grades in order to comply with Portsmouth's new flood plain zoning rules and sneak in an extra three quarters of a story in building height. The existing site grade is about 10 to 11 feet. The first finish floor elevation of the apartment building is 17.5 ft. The means 7 feet of fill needs to be brought in to create a giant mole hill on top of which the apartment building will be constructed. This will also create a giant wall obstructing the view corridor on Dover Street. The first floor apartment building elevation needs to be lowered to 11-12 feet (i.e., at existing grade, which will comply with the Flood Zoning Ordinance) and the underground parking constructed below that.

4) If building the underground parking can not be dug that deep into the marine clays (finish floor underground parking / basement elevation 1.5 ft +/-) then the below building parking needs to be built on a slab at existing grade (11 to 12 ft) and the apartments built above that.

road. I'll trust the Fire Chief's call on that. I don't believe fire access roads are permitted in the 50 or 100 foot wetlands setback buffer.

6) Portsmouth DPW is taking sea level rise seriously and is raising the access road to the Pierce Island WWTP from a low point of about 8 ft and raising it to 11 ft near the dog park. This is so that the WWTP doesn't become an inaccessible island during high water events that will occur on a regular basis in the near future. Portsmouth should require the same for this project and require the new public road from Bartlett Street (which Portsmouth tax payers will fund to maintain) to be raised to at least elevation 11 ft so this project too will not become an island inaccessible to emergency vehicles and services during high water high events.

Regards,

Jim Hewitt



2020 HIGHEST RANKED WILDLIFE HABITAT BY ECOLOGICAL CONDITION

-  Highest Ranked Habitat in New Hampshire
-  Highest Ranked Habitat in the Biological Region
- Biological region = TNC ecoregional subsection for terrestrial habitats or Aquatic Resource Mitigation region for wetlands and floodplain forests.
-  Supporting Landscapes
-  Conservation or public

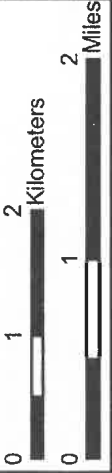


Base map data provided by NH GRANIT at UNH May 2020. Intended for planning use only.

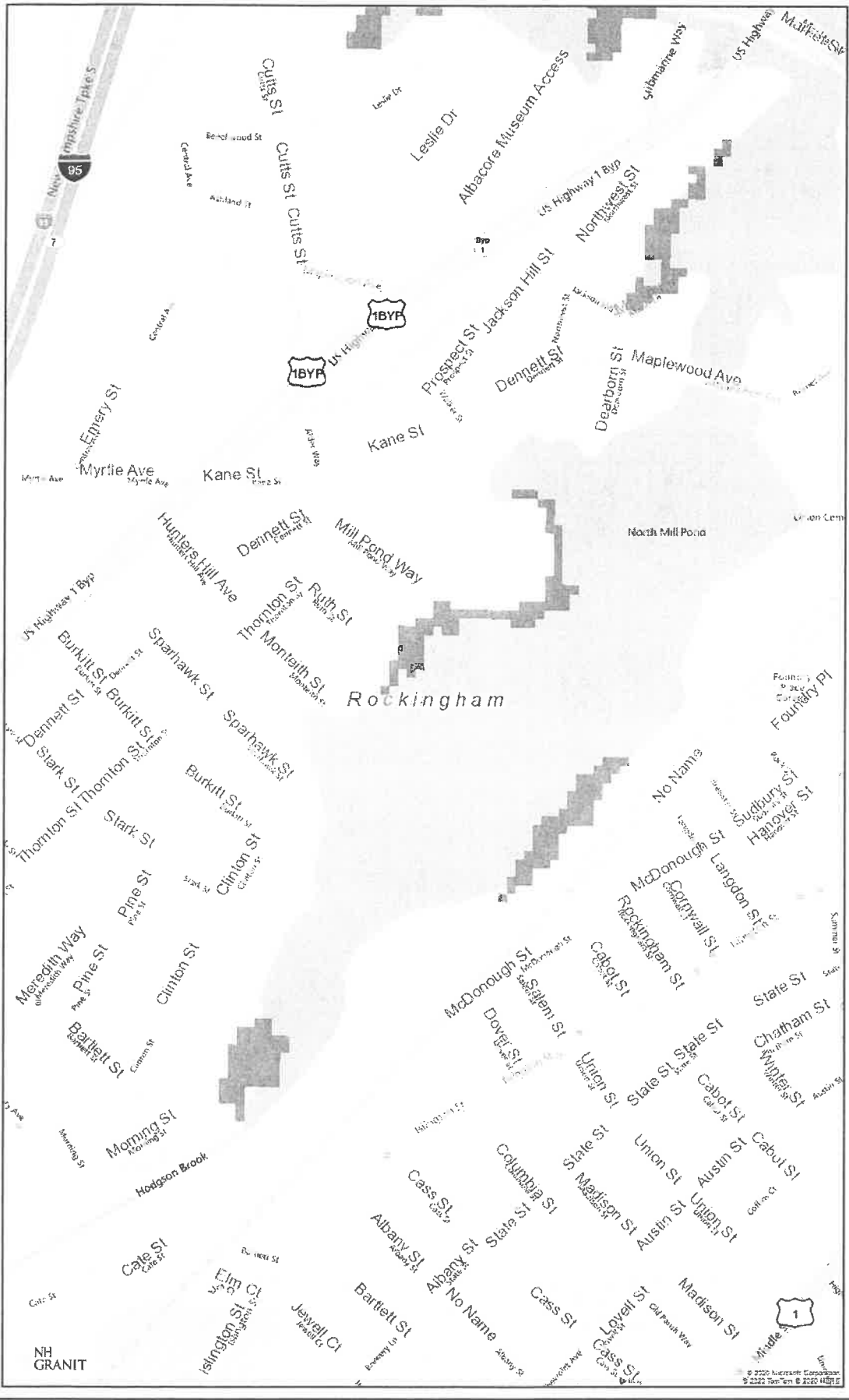


NEW HAMPSHIRE
Wildlife Action
Plan

Sept. 2015, spatial data Apr. 2020



100 Bartlett Street Project



Legend

- State
- County
- City/Town

Highest Ranked Wildlife Hat

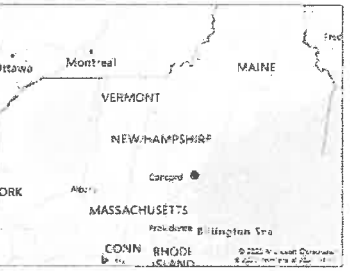
- 1 Highest Ranked Habitat in NH
- 2 Highest Ranked Habitat in Region
- 3 Supporting Landscape

Map Scale
1: 6,494



© NH GRANIT, www.granit.unh.edu
Map Generated: 12/6/2020

Notes



NH GRANIT

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Izak Gilbo

From: Abigail Gindele <agindele@gmail.com>
Sent: Monday, December 7, 2020 6:53 AM
To: Planning Info
Subject: RE: 105 Bartlett St

Please deliver this letter to any and all committees and boards reviewing the 105 Bartlett St proposal now and in the future. The most immediate would be the Conservation Commission.

To decision makers on the 105 Bartlett St proposal,

A small group of influential, experienced, and very economically flush men got together to buy and "develop" a strip of land on the bank of the North Mill Pond. They would've known their plans for this land would require lots of bending-the-rules, special favors, or looking-the-other-way to get approved but they are influential in city politics so they counted on friends in high places, cashed in chits, and/or passes from those who don't see the long term damage of destroying a natural landmark and who prioritize development above all else.

Other community members have since brought up a **staggering** number of reasons why this project should not be allowed to happen -- for engineering, cultural, zoning, environmental, and ecological reasons. And I will leave that list to other letters.

My main point is actually two questions to the people in charge of looking out for our city, those sitting on the boards and committees of Portsmouth:

Why should the act of buying this land give these LLCs the automatic right to break the rules and protections they were fully aware of or should've been? And why has this been allowed to go as far as it has by the decision-makers of our city?

I hope your answers are that it shouldn't and it stops now. That was their gamble in a system they assumed was geared for them to reap their profits. Please prove them wrong and stand up for the long term beauty and well being of Portsmouth. This is a defining moment for the City: distinct and valuable coastal charm vs. nondescript soullessness.

As an alternative, perhaps these LLCs could realize their mistake and, instead, choose to gift this North Mill Pond land to the City to remain a natural ecosystem and treasure... as a thank-you for all the monetary gain they've reaped from their business dealings in Portsmouth. Or, at the very least, sell it to the City for what they paid for it. The City could then maintain the required 100ft (or make wider) buffer zones, install an eco-friendly greenway out of the buffer zone, and keep this amazing tidal feature for the future Portsmouth.

With hope,
Abigail Gindele

Izak Gilbo

From: Terry Coyle <terryhcoyle@gmail.com>
Sent: Sunday, December 6, 2020 6:17 PM
To: Planning Info
Subject: North Mill Pond/ 105 Bartlett

Dear Conservation Commission, I encourage you to "DENY" the Conditional Use Permit for 105 Bartlett. All structures should be moved out of the 100' Wetland Buffer and all pavements should be required to be porous. Also, I believe all lighting should be reduced to a minimum and no lighting be allowed along the proposed greenway (it should be closed after dark).

North Mill Pond is a scenic and wildlife treasure and should not be compromised by infringing on the wetland buffers. Again, please deny the conditional use permit.

Please share this email with all Commission Members.

Regards,

Terrence Coyle
241 Islington St.

--

Terry Coyle
207-450-6205
terryhcoyle@gmail.com

Izak Gilbo

From: Melissa Lore <melissafolklore@gmail.com>
Sent: Sunday, December 6, 2020 5:40 PM
To: Planning Info
Subject: 105 Bartlett development

Dear Conservation Commission,

I am writing with serious concerns regarding the proposed next phase of development for 105 Bartlett. I live at 4 McDonough st and North Mill Pond is a treasure, a big part of the reason we bought in this neighborhood, and it needs to be protected. I'm very concerned that the project as proposed poses serious threats to our wetlands and to our ability to enjoy them equitably as a neighborhood.

I strongly urge you to DENY THE CONDITIONAL USE PERMIT for 105 Bartlett St. Please insure that no development happens within the 100' wetland buffer. Also, require porous pavement throughout the complex. To further protect our wildlife as well as the character of our neighborhood, I ask that you do NOT allow additional lighting along the North Mill Pond Greenway or adjoining areas, and only limited lighting along the private road and around buildings.

Your attention to this matter is deeply appreciated.

Sincerely,
Melissa Lore
4 McDonough St
718-213-1777

Sent from my iPhone

Izak Gilbo

From: Comcast <bb2xy@comcast.net>
Sent: Sunday, December 6, 2020 5:26 PM
To: Planning Info
Subject: Clipper Traders North Mill pond project

To Conservation Commission,

I support the recommendation that the North Mill Pond 100 ft. buffer setback be enforced and held to the same standards as everyone else living along the pond. The North Mill pond is a priceless, if not important marine estuary that supports valuable habitat. We can not afford to lose this valuable habitat. Please! no building in that buffer zone of the north Mill pond. We've lost too much as it is. Thank you,

Brenda Brewster, Resident
251 Sagamore Av
Portsmouth, NH

Izak Gilbo

From: John Howard <JEHOWARD7@comcast.net>
Sent: Sunday, December 6, 2020 4:28 PM
To: Planning Info
Subject: 105 Bartlett development

Board Members,

My name is John Howard. My wife, Nancy, and I live at 179 Burkitt Street directly across the North Mill Pond from the proposed '105 Bartlett' development site. The intense development of this area is inappropriate for numerous reasons.

1. The attempt to squeeze the massive structures between an active railway and a very environmentally sensitive body of water. All setbacks must be enforced especially the 100 foot Wetland Buffer. This buffer was created in LAW for just such a situation as this.
2. A colossus project like this can not help but be a major source of pollutants especially run-off and light pollution. Noise will also be a concern.
3. Architecturally the colossus has no qualities which will match or rhyme with the neighborhoods which will surround it.

If you climb to the top floor of the Foundry Place garage and view the development site it is obvious that it is extremely narrow and will disappear under the too high structures and surrounding pavement.

Please deny the Conditional Use permit for '105 Bartlett Street'.

Respectfully,

John & Nancy Howard

Please share our e-mail with the Conservation Commission and future Planning Board meetings

Izak Gilbo

From: Glenn Meadows <glmeadows@msn.com>
Sent: Sunday, December 6, 2020 2:22 PM
To: Planning Info
Subject: Re: 105 Bartlett

Please deny the conditional use permit as proposed. Please have all Structures be moved out of the 100 ft wetland buffer. All pavements included in the plan should be porous. Any lighting included should be the minimal amount required.

Thank you,
Linda Meadows

245 Thornton Street
Portsmouth, NH

Izak Gilbo

From: Ken Goldman <krgoldman@comcast.net>
Sent: Sunday, December 6, 2020 1:35 PM
To: Planning Info
Cc: Ken Goldman
Subject: 105 Bartlett Residential Development Proposal

To The Members of the Conservation Committee,

As someone who lives in a relatively new home in the West End, I am not opposed to development, but I would prefer to see smart development that is consistent with the surrounding neighborhoods and protects our fragile and precious environment. Please **deny** the proposed Conditional Use Permit, especially for the specific reasons stated below.

In reading about the subject development, there are several aspects I find troubling, especially the ones that endanger the adjacent wetlands. I respectfully request that the development within the 100 foot Wetland Barrier be **denied**. Our wetlands are a precious resource for all residents of Portsmouth, as well as a home to an abundance of wildlife. Once damaged, these wetlands can never be repaired. In the same vein, I request that the developer be required to use porous pavements to allow for proper drainage and avoid runoff into the wetlands.

In order to respect current residents living around North Mill Pond, and minimize any impact on them and their property, please require that the developer keep all outdoor lighting, and lighting along the proposed Greenway, to a minimum.

Finally, I request that that the waiver to allow for six story buildings, as opposed to the currently allowed five story buildings, also be **denied**. Buildings of this height are not consistent with the current neighborhoods around and close to North Mill Pond.

Thank you, and please share this email at future Planning Board meetings.

Kenneth R. Goldman
271 Islington Street
Portsmouth

Ken Goldman
krgoldman@comcast.net
www.kenphoto geek.com

Izak Gilbo

From: Robin Husslage <rhusslage@hotmail.com>
Sent: Sunday, December 6, 2020 12:48 PM
To: Planning Info
Subject: 105 Bartlett Street Development

Dear Members of the Conservation Commission,

I am concerned with certain aspects of the planned development project known as 105 Bartlett, as follows:

- **Wetland Buffer:** Please deny the developer's request for a Conditional Use Permit to build 20,000 sq ft structures that are over 65' high within the 100' wetland buffer. Why should the Commission allow such an egregious encroachment within the 100' setback required for wetlands, especially given the delicate condition of North Mill Pond? Please do not approve this and require instead that the proposed structures be moved outside of the 100' wetland buffer.
- **Pavement:** Given the delicate condition of the soils, wetland, and body of water, please require that all paved surfaces be permeable to reduce runoff into this delicate ecosystem.
- **Lighting:** Please reduce lighting required on the sight to the minimum required with no lighting along the greenway. Public spaces are closed after dark and this should be no exception. The Foundry Garage's lighting is already an eyesore and continual annoyance to neighbors who live across the pond...please don't make it worse!

Thank you for listening to my concerns and please share these concerns with the Portsmouth Planning Board for future meetings regarding the proposed 105 Bartlett Street Development project.

With regards,

Robin Husslage
27 Rock Street
Portsmouth

Izak Gilbo

From: Elizabeth Claire Prout <claire.prout@comcast.net>
Sent: Sunday, December 6, 2020 12:11 PM
To: Planning Info
Subject: 105 Bartlett

I am writing to you to ask that the requested conditional use Permit to allow the development at 105 Bartlett to build over 65' high, 20,000 sf of structures within the 100' wetland buffer be DENIED as proposed. The Mill PondI needs to be protected. My daughters who are now 30 and 35 years old were children doing planting when students at New Franklin. Please recognize the value of this natural resource. I ask that all pavements be porous. The lighting should be reduced to the absolute minimum.

On another note but on the same subject, I'm wondering how the traffic is going to flow onto Bartlett St. We have the new building off Cate St and the new West End Yards which are also going to come towards Bartlett St as well. It is going to be a nightmare trying to get to or from Islington with this increased amount of traffic. Has this been considered.

Please share this email for future planning board meetings and whomever is in charge of traffic and safety.

Elizabeth Claire Prout
108 Sparhawk St.
Portsmouth, NH

From: Catherine Harris <prized@comcast.net>
Sent: Sunday, December 6, 2020 10:33 AM
To: Planning Info
Subject: Conservation Commission meeting on 12/9/2020

Dear Commission members,
This is one more submission for your upcoming meeting on 12/9/2020

After reading the 12/3/2020 staff report addressed to you from Peter Britz, I feel I need to address a few items in that memo.

The word "derelict" comes up 3 times in that memo. While I cannot speak to the former railroad property, I must comment on that land portion belonging to the owner of Ricci Lumber. It has long gone without maintenance by HIS choice. In addition to the large amounts of trash that have piled up over the years, there is the detritus from the business itself. The owner has had ample opportunities to improve the condition of his property, but has instead allowed it to deteriorate over time - willful neglect. So I find it a bit disingenous to now suddenly tie this proposed development to site enhancement. How do massive buildings in an environmentally sensitive area qualify in that regard?

Again in this memo, there is mention of reduction of impacts in the 100' wetland buffer. Per the city's own regulations, there should be NO negative impacts in this zone. What is the deciding factor between compliance to those regulations that ALL residents who live along the North Mill Pond are bound and proposed commercial development along that same pond - money?

Again, I urge you to vote in favor of conservation as your commission was set up to do. Listen to your fellow Portsmouth residents who have devoted so much time and energy into improving the quality of this tidal marine estuary habitat. Listen to their pleas for responsible development over the last three years and act on it.

Thank you again.
Sincerely,
Catherine Harris
166 Clinton Street

Izak Gilbo

From: Beth Jefferson <bethpjefferson@gmail.com>
Sent: Sunday, December 6, 2020 7:57 AM
To: Planning Info
Cc: ICE Dawn Przychodzien; Beth Jefferson
Subject: 105 Bartlett project

To all who are involved with decision making around the proposed 105 Bartlett St. development project:

I have been a resident of the Seacoast for over 40 years, 18 of which have been in Portsmouth and 12 years on the North Mill Pond, living on Sparhawk street.

Many of us know the history of the North Mill Pond; how it was mistreated in the 1800's and early 1900's ,and also of all of the valiant restoration efforts that have been ongoing in the last few decades. As a member of the North Mill Pond Advocates, I have learned so much about the efforts of citizens in the area to help preserve the North Mill Pond, not only for us and for future generations but for the wonderful wildlife that exists because the pond has been renewed. Homeowners around the pond are proud of the respect we give to the pond and to the land around it. We promote conservation and total respect for the wetlands. We make sure not to use pesticides that would harm the pond in the drain off. We do not throw anything into the wetlands that didn't originate there, like cut grass or leaves. We keep our eye on each other to make sure that we comply with the rules that have been set for the conservation of this area. In short we try to be good stewards of our city and of the land around us.

I once looked at a beautiful view of the North Church across the pond from my house. Now I look at a very large concrete parking garage with obnoxious lights that reflect all the way across the pond. While I understand that development is important for the city of Portsmouth I firmly believe that decisions have been made that don't consider the aesthetics and the environment of those of us in surrounding neighborhoods.

The proposal to build so many units at 105 Bartlett, with such height and mass, and within in the 100 foot wetland buffer demonstrates a lack of respect for all of us who have been working so hard to preserve the important environmental places in our city. It is hard to understand how large building companies can change the rules for their own profits while those of us who are taxpayers and citizens in the city must comply with a different set of rules. This is getting increasingly frustrating.

I ask that whatever the building decision is for 105 Bartlett development, it complies with the 100 foot buffer zone and height restriction and is not given any exception to the rules. All pavement should be constructed so that it is porous and doesn't create unnecessary and dangerous runoff into the pond. And should there be a walkway or park on the pond we ask that it not be lighted, creating even more light pollution for those of us who live around the pond.

I sincerely request that this consideration be given and that you deny any other less desirable and less compliant options by the builders who are involved with this project.

Sincerely,

Beth Jefferson
111 Sparhawk Street

Izak Gilbo

From: Mary Louise Brozena <zena03802@gmail.com>
Sent: Saturday, December 5, 2020 8:31 PM
To: Planning Info
Subject: 105 Bartlett Street Development

5 December 2020

To the Conservation Commission:

I have lived in the North Mill Pond area since 1991—Woodbury Avenue and Pine Street. I had also been active over several years since the 90's in the work of the Advocates for the North Mill Pond to protect this wonderful resource.

I have concerns about the proposed 105 Bartlett Street development that is planned within the 100 foot wetland buffer of the Pond. Please, PLEASE honor the wisdom of all who put this protective buffer in place and do not set a precedent that we will certainly regret.

***Please, do not allow development within the 100-foot wetland buffer.** Please protect this special habitat so we can continue to have such a wonderful spot to attract wildlife year 'round to our Pond.*

Thank you for your thoughtful consideration of all whose goal is to protect this natural resource.

Sincerely,

Mary Louise Brozena
64 Pine Street
603/498-1167

Izak Gilbo

From: Laura Lajeunesse <lauralaj@icloud.com>
Sent: Saturday, December 5, 2020 3:48 PM
To: Planning Info
Subject: 105 Bartlett

>

> I am very concerned regarding the proposed development at the subject location. Please do not allow the conditional use permit to be approved in it's current form. No structure should ever encroach on the 100' wetland buffer. No lighting should be permitted on the Greenway. The project must be denied in it's current form. It is way too damaging to the North Mill Pond ecosystem and the surrounding neighborhoods. This will damage our city and must be denied.

>

> Please share my opinion with the planning board at a future meeting.

>

> Laura Lajeunesse
> 161 Thornton St.
> Portsmouth, NH 03801
> Lauralaj@icloud.com
> 435-901-3964

Izak Gilbo

From: Jim LaJeunesse <jimlaj@gmail.com>
Sent: Saturday, December 5, 2020 3:46 PM
To: Planning Info
Subject: 105 Bartlett

I am very concerned regarding the proposed development at the subject location. Please do not allow the conditional use permit to be approved in it's current form. No structure should ever encroach on the 100' wetland buffer. No lighting should be permitted on the Greenway. This project must be denied in it's current form. It is way too damaging to the North Mill pond ecosystem and surrounding neighborhoods. This will cause damage to our city and must be denied!

Please share my opinion and perspective with the planning board at a future meeting.

Jim LaJeunesse
161 Thornton St.
Portsmouth, NH 03801
jimlaj@gmail.com
Mobile: 703-258-5868

Izak Gilbo

From: Barbara Sadick <barbsadick@comcast.net>
Sent: Saturday, December 5, 2020 1:35 PM
To: Planning Info
Subject: 105 Bartlett

Dear Members of the Conservation Commission,

I am writing to you to voice my opposition to allowing development within the 100' wetland buffer of North Mill Pond. The pond is an important asset to our whole community. We depend on it for wildlife and for the environmental health of our city.

I believe that thoughtful, environmentally sensitive development near North Mill Pond will be a tremendous asset to the West End and all of Portsmouth. However, if the current proposal is accepted, it will be almost impossible to recover from the damage done.

Please require that the developers build all buildings OUTSIDE of the critical 100' buffer zone. All pavement should be required to be porous and outside lighting should be limited.

Now is the time to make sure that North Mill Pond development is done in an environmentally appropriate manner so that it remains a special place for both wildlife and people.

Thank you for your consideration. Please share this email for future Planning Board meetings.

Best regards,
Barbara Sadick
271 Islington St.
Portsmouth

Barbara Sadick

Izak Gilbo

From: Jodi Gould <jodi.gould.akbd@gmail.com>
Sent: Saturday, December 5, 2020 10:42 AM
To: Planning Info
Subject: Re: 105 Bartlett

To Whom It May Concern,

As a resident of the North Mill Pond area, it has come to our attention that a proposed 20,000 sf structure is intended to be built within the 100' wetland protection buffer. I'm not exactly sure why a project of this size and impact would be approved to do so, especially within such a vibrant wildlife habitat. As residents, we enjoy walking around the pond, enjoying the wildlife we have the privilege to see. It does not seem it is in the city's, residents' nor wildlife's best interest to interrupt this ecosystem. It is my firm opinion we need to protect this fragile and much appreciated feature of our city.

I would also like to note that most, if not all, parks in the city are closed after dark, which should not be an exception for the proposed Greenway. Excessive lighting would add to light pollution and likely be a nuisance to current residents of the North Mill Pond.

In addition, I would prefer to see a porous pavement used in this development as a non-porous surface will add to run-off, etc, likely impacting the pond.

I really hope that our great city uses common sense when considering the proposals of this project. The least amount of impact is of the greatest importance.

Thank you,

Jodi & James Gould
248 Thornton St.

--
Jodi Gould, AKBD 860.428.3103

10.1017.40 Conditional Use Approval

- 10.1017.41 The Planning Board shall grant a conditional use permit provided that it finds that all other restrictions of this Ordinance are met and that proposed **development** meets all the criteria set forth in section 10.1017.50 or 10.1017.60, as applicable.
- 10.1017.42 The Planning Board shall evaluate an application for a conditional use permit in accordance with *The Highway Methodology Workbook Supplement – Wetland Functions and Values: A Descriptive Approach*, NAEPP-360-1-30a, US Army Corps of Engineers, New England Division, September 1999, as amended.
- 10.1017.43 The burden of proof that the criteria required for approval of the conditional use permit exist or are met shall be the responsibility of the applicant.

rough December 16, 2019

10-7

Article 10 Environmental Protection Standards

- 10.1017.44 Economic considerations alone are not sufficient reason for granting a conditional use permit.
- 10.1017.45 Where new **impervious surface** is proposed in a **wetland** or **wetland buffer**, the submission of a plan to compensate for such new **impervious surface** does not guarantee that a conditional use permit will be granted.

10.1017.50 Criteria for Approval

Any proposed **development**, other than installation of utilities within a right-of-way, shall comply with all of the following criteria:

- (1) The land is reasonably suited to the **use**, activity or **alteration**.
- (2) There is no alternative location outside the **wetland buffer** that is feasible and reasonable for the proposed **use**, activity or **alteration**.
- (3) There will be no adverse impact on the **wetland** functional values of the site or surrounding properties;
- (4) **Alteration** of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals; and
- (5) The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Section.
- (6) Any area within the **vegetated buffer strip** will be returned to a natural state to the extent feasible.

10.1017.24 Where feasible, the application shall include removal of **impervious surfaces** at least equal in area to the area of **impervious surface** impact. The intent of this provision is that the project will not result in a net loss of pervious surface within a jurisdictional wetland buffer. If it is not feasible to remove **impervious surfaces** from the wetland buffer at least equal in area to the area of new **impervious surface** impact, the application shall include a **wetland buffer** enhancement plan that describes how the wetland functions and values will be enhanced to offset the proposed impact.

10.1017.25 A **wetland buffer** enhancement plan shall be designed to enhance the functions of the jurisdictional **wetland** and/or **wetland buffer** on the lot, and to offset the impact of the proposed project.

- (1) The **wetland buffer** enhancement plan shall include a combination of new plantings, invasive species removal, habitat creation areas, improved site hydrology, or protective easements provided offsite.
- (2) Where the vegetated buffer strip contains grass or non-native plantings, or is otherwise not intact, the first priority of the **wetland buffer** enhancement plan shall be to include revegetation of the vegetated buffer strip with native, low-maintenance shrubs and other woody vegetation.

Izak Gilbo

From: Catherine Harris <prized@comcast.net>
Sent: Saturday, December 5, 2020 10:01 AM
To: Planning Info
Subject: Conservation Commission meeting on 12/9/2020

To the members of the Conservation Commission,
I am writing to you about the proposed 105 Bartlett Street development project.

I would first like to thank your commission for recommending(twice!) that the 100' wetland setback buffer be enforced as it pertains to any proposed building in that zone. You have heard many voices raised up in favor of your decision because this marine estuary and the variety of flora and fauna it supports is just too valuable a habitat to lose.

Because your commission has heard from me before, I won't belabor the point further. I would simply like to urge you to continue recommending that the 100' buffer be enforced; that no building be allowed within that setback. Please deny these developers the CUP they're requesting and hold them to a more sustainable standard.

The North Mill Pond deserves so much better than the building plans that have been presented to date. I ask that a new set of plans be submitted by the developers of this property; plans that meet with your 100' setback requirements. Thank you.

Sincerely,
Catherine Harris
166 Clinton Street.

Izak Gilbo

From: Juliet T.H. Walker
Sent: Monday, December 7, 2020 8:41 AM
To: Izak Gilbo
Cc: Peter L. Britz
Subject: FW: 105 Bartlett

-----Original Message-----

From: wrightski0122@aol.com [mailto:wrightski0122@aol.com]
Sent: Monday, December 7, 2020 8:40 AM
To: Juliet T.H. Walker <jthwalker@cityofportsmouth.com>
Subject: 105 Bartlett

Ms. Walker:

I've written and addressed this issue before, therefore, I'll be very brief and to the point:

I adamantly oppose the development at this site!! 170 apartments!?? Why not 500!!! 700!?? C'mon!!! When is Portsmouth going to stop conceding to developments of this genre!?? Enough is enough!! It's time for Dover, Rochester..etc. to fall victim to this foolishness!!
I digress, I'm sorry!! I am angry!

PLEASE DENY ANY REQUESTS THAT FACILITATES THIS PROJECT....PLEASE!!!! Leave our pond alone.
Thank you Ms. Walker, you work hard and I, for one, appreciate it.
Stay healthy.

R.W.Wright
Sudbury Street
(32 years)
R. W. WrightSent from my iPhone

December 7, 2020

Re: 105 Bartlett

Dear Conservation Commission,

As a 20+ year resident of Cabot Street, I am writing to appeal to your committee to deny the Conditional Use Permit for the 105 Bartlett Project. As it has been discussed numerous times with various committees and the developers themselves, there is to be a 100' wetland buffer and no buildings are to be built within that zone as stated in Portsmouth's own Zoning Articles.

In addition, please require that all pavement surfaces be porous to further protect the runoff into this tidal pond. We need to be responsible for protecting our natural resources.

Thank you in advance for your time and consideration.

Best regards,

Jennifer Meister, resident since 2000
287 Cabot Street
Jenjmeister@gmail.com

Izak Gilbo

From: Jonathan Wyckoff <jon9wyckoff@gmail.com>
Sent: Monday, December 7, 2020 12:18 PM
To: Planning Info
Subject: Conservation Committee

Please reject this ill conceived project and give the Planning board a negative recommendation. Have the developers respect the 100 buffer and the highest designation of wildlife nesting area as mapped out by the fish and game department. The developers have heard all of this for years ,make miniscule changes,while basically leaving everything intact. Their response is to hire more lawyers and consultants hoping everyone will just forget. This is a huge tract of land in the city core with many species of birds and animals calling it home. Permeable surfaces should be left alone

When this is gone.....it's gone forever, thank you. Jon Wyckoff

135 Sparhawk St

Sent from my iPad

Izak Gilbo

From: Allison Willson Dudas <willsoal@gmail.com>
Sent: Monday, December 7, 2020 1:12 PM
To: Planning Info
Subject: RE: 105 Bartlett

Hello Conservation Committee,

My name is Allison Dudas and I live on North Mill Pond. We love looking out our window and seeing the herons come for a visit! Or the hawks and foxes -- and even the groundhogs, although they're not great for our garden.

Living near the pond is a privilege that we take seriously. I implore you to protect our pond by denying the conditional use permit being requested by the developers at 105 Bartlett. They want to build something TOO big. With TOO MANY units. They knew the rules of the land upon purchase. Why should they be able to build such an imposing structure within the 100 foot wetlands buffer? Why should they be allowed to put down pavement that isn't porous?

I am not opposed to development. I am opposed to unreasonable development. If we don't protect this pond, we are in danger of losing one of the things that makes Portsmouth, Portsmouth.

Please, protect our pond. Ask developers to follow the rules in place. There's no reason to grant them an exemption -- they will still be able to build and turn a profit if they observe the wetland buffer.

Thank you for your time,
Allison

--

Allison Willson Dudas
32 Monteith Street
Portsmouth, NH 03801
willsoal@gmail.com
(617) 869-7559
t. @blonde_yogini

Izak Gilbo

From: William Gindele <wgindele2018@gmail.com>
Sent: Monday, December 7, 2020 1:36 PM
To: Planning Info
Subject: RE: 105 Bartlett St

I am writing to implore you to deny the 105 Bartlett Street CUP.

The North Mill Pond is one of the very last remaining natural gems of the downtown area, where wildlife has sanctuary and native plant species can be protected. I'm sure the Commission needs no reminding of what an important entity the Pond and its surrounding areas are for environmental conservation and protection of Portsmouth.

The 100 foot wetland buffer regulation exists for a reason, and for it to be flouted by developers for their own personal profit, while all of us suffer from the environmental degradation this project will cause, is actually quite shocking to me. Not only has buffer protection been strictly enforced around the North Mill Pond for many decades, but it is also a statewide rule, and needs to be followed. I do not understand why it is even up for debate.

I could go on and on about the value of conservation around the Pond -- a multitude of reasons which you have heard from other people and petitions -- so I won't restate them here. But please do not allow this lovely area of Portsmouth to be destroyed. We can never get it back once it is gone.

Respectfully,
Julia Gindele
229 Clinton St, Portsmouth

Please deliver this letter to any and all committees and boards reviewing the 105 Bartlett St proposal now and in the future. The most immediate would be the Conservation Commission.

Izak Gilbo

From: linda@campaignfree.org
Sent: Monday, December 7, 2020 2:31 PM
To: Planning Info
Subject: 105 Bartlett Street Permit

Good morning,

I have some comments and amendments I would like to suggest for the proposed Conditional Use Permit for 105 Bartlett Street.

1. As a Portsmouth taxpayer, I am dismayed that the city is accepting a donation of land from the development group at 105 Bartlett for a "greenway". First, this means a redistribution of the lost revenue to current taxpayers. I understand that the property will increase in value and therefore increase in property taxes, but that would happen with or without the donation. And the increased need of services for 170 new units will require that additional revenue cover the increased use of city services, which may still leave a deficit. Second, adding insult to injury, we will have to pay for development and maintenance for the "greenway". This essentially amounts to using city revenue to landscape and maintain that landscape for a private development. I understand that anyone will have access to the "greenway", but in fact the people benefitting most from this arrangement is the development company.
2. There are beautiful full grown trees along the shore of the North Mill Pond. They provide shelter and protection for the birds and wildlife that visit the pond. It is an eco-system and needs to be protected. I have seen the "greenway" along Market street and the Piscataqua. First they removed all the shrubs and trees and replaced them with saplings of 3' to 4' and grass that will need constant watering and mowing. It will take 20 to 30 years to get back to the full growth that existed before. In the meantime, the eco-system will have been destroyed and will not come back after all that time. We can call it whatever we like, but it is anything but green. SOLUTION for the Mill Pond: Leave as many of the existing trees and natural shrubs as possible. They will continue to provide cover for the wildlife and also act as a buffer for the North Mill Pond from the development. Do not plant a lawn that will need constant care and maintenance.
3. Keep the 100' buffer requirement for wetlands. These guidelines were decided based on impact studies and water quality studies. Why ignore them? If it means that a few less units can be built, it may mean a better balance for the community. After all, at one time, they believed that 120 units would make a profit, so clearly there is room for adjustment.
4. We now have experience with increased lighting. The Great Rhythm Brewery/Bar has installed night lighting and this lighting, probably less than would be proposed for the "Greenway" lighting, has completely disturbed the nighttime peace that has kept the North Mill Pond a special area and has created a lack of privacy for the residences on the other side of the pond. Because all lights are reflected in the water, any lighting has double the effect. People do not move to Portsmouth because they miss the bright lights and noise of bigger cities. We are destroying the very things that made Portsmouth a desirable location to visit or live. SOLUTION: No lights on the greenway; revisit point 1 about leaving trees; make sure security lights are downward facing and limited to the lowest number necessary; street lights should be no more than we have on residential roads in other parts of the city and fewer might be considered because of the reflection factor.
5. Finally, I am concerned that the fill required will end up filling in around the edges of the pond. This has happened in the past. If one were to look at photos of the pond before the buildings on Maplewood and before the salt piles were located on the shores of the pond, you can plainly see how the pond has gotten smaller and smaller. Once done, removing the fill is almost impossible and would be very expensive. SOLUTION: Include very specific requirements about keeping the fill out of the pond in the permit, with substantial enforcement penalties for violations.

development without thought of balance and consequences. I hope you find that my comments and suggestions are helpful to your deliberations and recommendations. Thank you for reviewing these concerns and feel free to share this at future planning board meetings.

Respectfully submitted,
Linda Griebisch
Finn Connell

Izak Gilbo

From: Joe & Denyse Richter <richter5@comcast.net>
Sent: Monday, December 7, 2020 4:35 PM
To: Planning Info
Subject: 105 Bartlett st Project

Dear Planning Board,

As neighbors to this project, we ask that the conditional use permit of 105 Bartlett St. development be denied and structures kept out of 100' Wetland Buffer per Zoning Article 10. What is the demonstrated hardship to allow?

We additionally ask for porous pavement to be used and no lighting added to the North Hill Pond Greenway path. Each is to protect wildlife and the integrity of the pond.

Please include our email into your minutes as correspondence.

Thank you,
Joseph Richter
Denyse Richter
29 Rockingham St.
Portsmouth, NH 03801

Dear Chair McMillan and members of the Conservation Commission:

I understand the Conservation Commission has been asked to recommend to the Planning Board that they grant a Conditional Use Permit (CUP) to 105 Bartlett Street to allow development inside the 100 foot wetlands buffer along North Mill Pond.

This project easily fails each of the six criteria needed to grant a CUP as outlined in Article 10, Section 10.1017.50 as described below:

- 1) *The land is reasonably suited to the use, activity or alteration.* The land inside the 100 ft buffer is suited for wildlife habitat and the protection of the flora and fauna that call North Mill Pond home. It is not suited to be destroyed by development.
- 2) *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* There is plenty of room outside the 100 foot wetland buffer to construct this project, acres in fact. There is absolutely no reason this entire project cannot be constructed upland of the 100 ft wetlands buffer.
- 3) *There will be no adverse impact on the wetland functional values of the site or surrounding properties.* There will be a massive adverse impact to wetland functional values ranging from habitat destruction to huge increases in stormwater runoff.
- 4) *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* This project's construction goals can easily be achieved by building the entire project upland of the 100 ft wetlands buffer. No need to alter the natural vegetative state at all.
- 5) *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The proposal with the least adverse wetlands impacts has not been presented. This project does not need a CUP because it can be constructed entirely outside the 100 ft wetlands buffer.
- 6) *Any area within the vegetation buffer strip will be returned to a natural state to the extent feasible.* Since there is no reason this project needs to be constructed inside 100 ft buffer, the existing vegetative does not need to be disturbed, and therefore no restoration required.

I would also like to remind the Commission, that Portsmouth has a Wetlands Protection Ordinance in the first place in order to protect, and where possible improve: the quality of surface waters and ground water; wildlife habitats and maintain ecological balance; unique or unusual natural areas and rare and endangered plant and animal species; and shellfish and fisheries. And finally, to require the use of best management practices and low impact development in and adjacent to wetland areas.

Please consider very carefully the impact of this decision on the North Mill Pond, it's wildlife and plant species, and the human residents who call this area home. Destroying this very special area of Portsmouth is a FINAL decision.

Thank you for your time and very careful consideration.

Liza Hewitt
169 McDonough St

From: Scott
To: Planning Info
Subject: Letter regarding 105 Bartlett Development Proposal
Date: Monday, December 7, 2020 9:04:24 PM

Dear Conservation Commission,

I am writing to express my opposition to the conditional use permit for the proposed development at 105 Bartlett. I urge you to consider allowing only structures to be built outside of the 100' wetland buffer zone. As a resident of the North Mill Pond neighborhood, I am deeply concerned about the impact that this development will have on our neighborhood. Buildings that are 65' in height and 20,000 sq. ft. within a 100' wetland buffer will forever impact the ecology and aesthetics of the North Mill Pond. One does not need to be an Environmental Science major or have studied horticulture (although I have done both) to realize the impact that this will have. Having walked the current trail surrounding the North Mill Pond, I am disheartened by the realization that this wild, natural, and open space will be forever changed. And for what? Who benefits? I think we all know the answer to that. Sure, a "greenway" or some form of trail that provides safe access around the pond and enjoyment of this natural resource would be a wonderful benefit to the community and should absolutely be incorporated into any proposed plan. But wild and open and truly natural areas are few and far between, and my fear (which I know I share with others in the community) is that we are sacrificing a lot in exchange for what could very well end up being an uninspiring, well-lit, paved trail that punctuates a bunch of lawn and poorly planned non-native and immature tree species. And with wonderful views of... haphazard development in the City of Portsmouth. Do we call this progress? We must take into consideration how the overall ecology of the pond is impacted, and a comprehensive plan is one that accounts for this inevitable impact. Not only should native plants be used and outdoor lighting be limited, but a real, qualified and dedicated landscape designer or architect should be hired to be a part of this process, preferably one who has a connection to the community and someone with skin in the game. Please do not misinterpret this letter, as I am all for well thought out, and appropriate, respectful development. This project could potentially be a win-win for all, with the right planning, respectful and ecologically-sound treatment of our (rare and dwindling!) open space, and community involvement. If we let it slip into the hands of others, we may not be so lucky.

Respectfully,
Scott McDermott
120 Thornton Street
Portsmouth NH

From: Sally Minkow
To: Planning Info
Subject: 105 Bartlett
Date: Monday, December 7, 2020 7:13:29 PM

To: Planning Commission
To: Conservation Commission

Re: 105 Bartlett

I am a homeowner in the West End of Portsmouth. I am writing to express my dismay and concern at the over-building of this area of the city.

I am particularly concerned with the North Pond area and the precious wetlands that surround the pond. I would like to request that the Planning and the Conservation Commissions consider the following:

- **Denial** of the Conditional Use Permit for 105 Bartlett to build within 100' feet the wetland buffer zone. No structure should be allowed within the 100' buffer zone.
- All pavement be of porous material
- Greenway lighting reduced to a minimum with closure of the Greenway at dark (as with other parks and common areas in the city). The light from the Foundry Garage already overwhelms this end of town with an endless glow

I have lived in NH for over 40 years - always in cities. I have been a resident of Portsmouth for only 3 years, and I have been shocked and deeply concerned by the lack of greenspace and the disregard for protecting the little space that is left. This is very different from the other cities in NH that I have called home.

Please consider protecting and, if ever possible, expanding our parks, recreation, and greenspace areas. Outdoor spaces offer an opportunity to create a sense of community and beauty that can not be replaced by buildings!

Thank you very much for considering my comments.

Best regards,

Sally Minkow
18 McDonough Street

Portsmouth NH

Dec 7, 2020

Carol Clark
28 Rockingham St
Ports NH 03801

To Ports Planning Board – Conservation Commission

I am writing to you re: the **105 Bartlett St Project**

I do not support the current proposal, allowing the developers to build any structures with in the 100' wetland setback. In addition, I would request that all paved areas along the proposed Greenway, consist of porous materials which will address the excessive run off created from change in land contours (sloping towards the pond)

Please protect the North Mill Pond!

Please deny the conditional use permit as it is currently proposed

Thank you
Carol Clark

From: Jackandbey
To: Planning Info
Subject: 105 Bartlett
Date: Tuesday, December 8, 2020 10:26:16 AM

Dear Planning Board:

Please DENY the Conditional Use Permit for 105 Bartlett Street due Wetland Buffer issues.

Application can go forward if:

- 1) All structures be moved out of the 100' Wetland Buffer;
- 2) All pavements be porous throughout the complex; and
- 3) No additional lighting along the Greenway path or adjoining areas and limited lighting along the private road and around buildings.

The Conservation Commission must consider to protect the environment for the wildlife there.

Thank you for your attention in this matter.

John Kocak
21 Brewster Street, Unit 6

Sent from my iPhone

From: Judy Howard
To: Planning Info
Cc: Judy Howard
Subject: 105 Bartlett Street Conditional Use Permit
Date: Tuesday, December 8, 2020 5:48:31 PM

To whom it may concern:

My name is Judy Howard and I live within one block of the North Mill Pond.

I am opposed to the granting of the Conditional Use Permit to the 105 Bartlett Street project. It is imperative that the City of Portsmouth adheres to its own Zoning Article 10 which specifically states that NO permanent structure will be built within the 100' Wetland Buffer.

- 1) All structures should be moved outside of the 100' Wetland Buffer.
- 2) All pavement should be porous / permeable
- 3) Lighting should be reduced to an absolute minimum on the site, and
- 4) No lighting should be allowed on the proposed Greenway and any parks associated with the developed area.

On our side of the pond we are already assaulted by the lighting at the Foundry Place Garage. It interferes with the natural cycles of wildlife, as well as the humans who live here. Restoration of the pond will be a lot more expensive and time consuming than preserving all the work that's been done by the volunteer residents in the past two decades.

Please share this email with the Planning Board.

Thank you for doing the right thing.

Sincerely,

Judy Howard
80 Burkitt Street
Portsmouth
603-436-0688

From: Steve Wood
To: Planning Info
Subject: RE: 105 Barlett
Date: Tuesday, December 8, 2020 4:55:59 PM

Please deny the conditional use permit for 105 Bartlett to build on the wetland buffer. We shouldn't sacrifice the North Mill Pond's natural wildlife area for more condo construction. Zoning restrictions intended to protect the area don't mean much if exceptions are made for this project - and then future projects could also request the same exceptions. Please restrict additional lighting to the minimum required for the area. Please require all pavement to be porous. We live on the corner of MacDonaugh and Cabot Street, the neighborhood is already very developed and filled with streets and houses. The North Mill Pond is a small piece of nature that allows birds and other animals a place to survive. Adding 65' tall developments to this area and allowing development on the wetland buffer is a bad idea, this and future developments should respect the 100' wetland buffer that's in place.

Please add this email to the list for future Planning Board meetings.

Thank you,

Steve & Elizabeth Wood

From: [Kendra Ford](#)
To: [Planning Info](#)
Cc: ib.act@runbox.com
Subject: re 105 Barlett
Date: Tuesday, December 8, 2020 4:01:13 PM

Dear Members of the Conservation Commission -

We appreciate all your work as our town navigates a wave of development. We live in the Creek neighborhood and love that the west end is experiencing a revival. We also love our proximity to North Mill Pond, a beautiful body of water that supports many kind of birds. We are aware that as seas rise, North Mill pond and this neighborhood will be deeply impacted. Wetlands and these tidal areas are especially important as we all meet rising seas and changing climates.

In light of all that, the development at 105 Barlett as it is currently proposed doesn't make sense. Portsmouth Zoning Article 10 prohibits permanent structures within that 100 foot wetland buffer. The current proposal would violate that restriction, which is not good for the project and it's not good for the planet. The Zoning requirements should be enforced. It's also time for us all to be moving to porous pavements, especially in places so close to wetlands. This project should be required to have porous pavement.

The pond is a beautiful and important habitat and we could build near it in a way that treats it like a treasure. The development could highlight and celebrate this gem and protect it. Making the greenspaces large enough and not brightly lit at night time and tell people it's for the sake of the birds and wildlife. One of the attractions of a place like Portsmouth is its proximity to wild spaces. Let's care for them.

Please share our email with the Planning Board for future meetings. Thank you again for your work.

Sincerely,
Kendra Ford and John Benford
30 Pine St
Portsmouth, NH 03801

cc: John Benford

From: Pat Hammer
To: Planning Info
Subject: 105 Bartlett Street
Date: Tuesday, December 8, 2020 3:35:52 PM

Conservation commission

I am requesting that the conditional use permit to allow the development at 105 Bartlett st to build over 65 feet high, 20,000 sf structures within the 100 foot wetland buffer BE DENIED. All structures need to be out of the 100 foot buffer.

I also request that all pavements be porous for proper drainage.

Also please have the lighting reduced to the MINIMUM amount and NO lighting on the greenway or any park associated with it. (the cruise ship , foundry garage, is enough light for the whole pond!

Thank you, pat hammer

Sent from my iPad

From: Sarah Cornell
To: Planning Info
Subject: Comments on development on the banks of North Mill Pond - Conservation Commission meeting
Date: Wednesday, December 9, 2020 1:03:58 PM

Hello,

I have lived in Portsmouth since 2009, and have been a homeowner on Thornton Street since 2016. North Mill Pond is a precious resource for every single resident of Portsmouth, including the birds, fish, and mammals that live in and around the creek. This stretch of undeveloped shore should be preserved with the same priority as our historic buildings. The 100-foot buffer should be strictly enforced, with no compromises or trade-offs. Any paved surface should be permeable and responsible runoff management should be required. In fact, I think that the developer should be responsible for restoring the shoreline and leaving it better than they found it by installing and maintaining native wetland plants and reducing the amount of manicured grass lawn in the plans.

Portsmouth should not sell out the wildlife who share our home just for the sake of tax income, and developers should not be allowed to damage our resources for the sake of a profit.

Thank you for your consideration.

Sincerely,

Sarah Cornell
275 Thornton Street, Portsmouth

Conservation Committee
Re: 105 Bartlett St. Development Project
Letter for Public Comment
Dec 9th 2020 meeting

Dec 9th, 2020

Dear Committee members

I am writing in regard the proposal by Iron House for the development of the 3 buildings on the 4.71 acre lot reference Map 157 Lot 1. and approval of the Conservation Committee.

Due to the below reasons, I would ask that the committee either deny the developers request, or at least postpone any decisions until all information has been submitted for review by not only city & state officials but also the numerous abutters to this project.

The lack of transparency in regard to this project raises many questions to those of us who are abutters. Do not forget that the initial request of rezoning was to build housing that merged with the characters of the surrounding neighborhoods of McDonough & Clinton Streets with 120 units. Now, we are being told that 170 units in 3 massive buildings will be built. The environmental impact of this project on residents, wildlife, light pollution and quality of life for those of us who have called Portsmouth our home would be massive.

- Concomm raised many issues with the January 2, 2020 proposal in regards to building within the 100' buffer. None of the latest plans reflect those requests.
- At the site walk, we were told that the "greenway path" was to be dual purpose for the needs of the fire department, 14' wide 10' asphalt, 4' of road grade gravel plus 4 spots of underground structure for ladder truck outriggers. Later, we were told that packed gravel is considered impervious surface by NHDES standards.
- Iron Horse stated in the January 2, 2020 proposal that the city would receive +/- 55,192 sq ft approx 25% of 4.71 acres easement for the greenway allowing them the added 1 story building height. The wording of the easement states, 50' coastal lands and the rain gardens.
- However in the latest proposal, the area mapped is only the 50' buffer. If we consider that the 50' length is 650' the total sq feet eased to the city for added incentive is 32,914 sq ft which is less then the required 41,033 sq feet for the 20%. Due to the project requiring the "pathway to be dual purpose, then 9200 sq ft should not be considered community space therefore not complying with the 20 % easement for added incentive.
- IF the project needs the path for fire access, then it should not be considered "community space" as without it the project cannot comply to TAC/ city fire ordinances .
- Where are the inspection results for compliance with current EPA & state asbestos in renovation/demolition requirements. (The round house has large 5' x10' pressed ACM materials that were used for heat shields for the engines, along with petroleum products on the ground floor).
- Where are the full dimensional building heights widths in the package?
- Where are the approved plans for removal and storage of contaminated soils that will be removed from the site for construction.
- IF the committee approves the building within the 100' buffer zone on this project it will allow all city & state coastal projects to use this as case.
- During the sitewalk, we were told that the average water table is at 3' elevation. This does not include king tides, or increased sea level rises.

- There was talk that the rain garden would hold “venues” increasing the noise and disturbance to the coastal shoreline, impacting not only the resident waterfowl and other shoreline creatures, but also creating a ampitheatre of sound to the residences across the water.

In conclusion, I would ask that the committee look hard at the 50-100 year impact that a project of this scale will have on the coastal shoreline in regard to a sterile view as the disturbance and disruption of fragile coast line is affected. Science indicates rising sea levels which cause not only localized flooding, but degradation to building foundation causing instability and infrastructure damage. Who pays for short term errors of approval as our society moves forward.

Thank you for listening.

Sincerely

James Beal

Abutter McDonough St Neighborhood.

From: Michelle Anderson
To: Planning Info
Subject: 105 Bartlett
Date: Wednesday, December 9, 2020 11:28:41 AM

To Whom It May Concern:

I'm writing in regards to the project at 105 Bartlett. While I support this project, I do so only if the wetlands of Mill Pond are protected and a CUP is NOT issued where it pertains to wetland or natural habitat protection.

Protecting the natural wildlife in this area is essential to the enjoyment and long term viability of the wetlands and the wildlife that live there. I live nearby on Cate St. In the past 6 years that we have lived about 100 feet from Hodgson's Brook, we have seen opossum, woodchucks, fox and coyote in our yard. We often walk down to Mill Pond and enjoy seeing the herons and other birds and wildlife that live there. Expanding access to North Mill Pond is a wonderful idea, BUT not if there is a negative impact to the ecosystem.

I implore you to heed the advice of the conservation committee on this issue and I will leave you with a recent experience I had:

I was helping to clean up an area of Douglass Woods in Eliot that is now home to my daughter's Forest Preschool. The area is littered with glass as this area was a dumping area 2-3 generations ago. The timeframe is apparent by the types of glass bottles that have been found. Many people were disgusted as to why people would dump trash into the woods! Well, 50 years ago that is just what was done and the mess was left to us to clean up. The moral of this story is that our decisions today will have impact in 50+ years. Don't leave future generations wondering why we put commerce and profits over the inherent beauty of our beloved and unique Mill Pond.

Regards,

Michelle Anderson

December 9, 2020

Dear Conservation Commission Members:

I am writing regarding the application for a Conditional Use Permit (CUP) at 105 Bartlett Street.

Thank you for the thought and consideration you have already put into this application. This is a complex and evolving project that many neighbors, abutters, and other residents who simply value the North Mill Pond have been concerned about since it was originally proposed a few years ago. It is encouraging to see ConComm use its sound expertise, judgment, and rules to carefully evaluate the proposed development.

In reviewing this application, I respectfully ask that you re-read the attached list of public concerns regarding this project, which was compiled at the recommendation of the City Council following the recent rezoning of the land in this application.

I echo many of the concerns already submitted to you by so many residents. My primary concern is: What will the impact of any development in the 100-foot wetland buffer – much less one of this **size, scale, and intensity**– be on the North Mill Pond itself and on the abutting properties?

Additionally, I am concerned that the proposed project only represents a portion of land along the North Mill Pond that the applicants intent to develop. In the recent rezoning process, the applicants stated that they own land continuing to Langdon Street, which they intend to develop. Keep in mind, during the rezoning process, the applicants stated they intended to build approximately 126 units total (from Bartlett to Langdon Streets). Frankly speaking, if the applicants were willing to decrease the total unit count to a number closer to the original estimate, would the application even be necessary? Please consider the precedent (and consequences) that might be set should you approve this application.

The North Mill Pond is arguably one of Portsmouth's last and most precious natural environments. Your task is not easy, but I thank you in advance for using your wisdom and the tools at your disposal to strike a balance between the protection and development of this special area.

Sincerely,
Melissa Doerr
Abutter for 20 years

Subject: FW: 105 Bartlett Street - Conditional Use Permit

-----Original Message-----

From: Sarah Landres [mailto:sarah.landres@gmail.com]

Sent: Wednesday, December 9, 2020 5:27 PM

To: Planning Info <Planning@cityofportsmouth.com>

Subject: 105 Bartlett Street - Conditional Use Permit

Hello,

I am writing to ask that the Conditional Use Permit for 105 Bartlett St be denied as it is currently proposed. Please share this email for future Planning Board meetings.

I have serious concerns about allowing building within the 100' Wetland Buffer of the pond.

Please continue to protect the North Mill Pond and the wildlife it is home to.

I also ask that porous pavement be used throughout the complex and that no lighting be added to the North Mill Pond Greenway path or adjoining areas and limited lighting be added along the private road and around buildings.

Thank you,
Sarah Landres

6 McDonough St
Portsmouth, NH

Juliet T.H. Walker

From: Jonathan Wyckoff <jon9wyckoff@gmail.com>
Sent: Thursday, April 15, 2021 9:31 AM
To: Planning Info
Cc: James Hewitt; Private General
Subject: 105 Bartlett Site Plan Review. Item#1

Members of the Planning Board; I realize how many letters you get on many projects and I can only hope you read this one. Before even considering the Conditional use permit, I believe you should look at the plan review approval, as I believe there has been purposeful and negligent facts presented and failure to be presented.

No project of this size can be constructed without interfering with the perimeter buffer as presented. Only 2 outfalls are presented, however I think the demolition of the 2-story brick shop, the remains of the roundhouse, and the removal of the locomotive round table will cause significant damage and releasing long buried pollutants.

They seem to be getting past this on the site by bringing in 5-8' of fill which causes the whole height situation into question. Maybe the buildings are pulled back from the 50' buffer but is the fill?

Also something that has been totally ignored is the question of school children, play areas, school bus stops etc. Is this the job of the planning board? As you know, many of the apartments are 2-bedroom, as well as 3-bedrooms. Families are going to live here!! Where will the children play, and where is the bus stop. Everything and all traffic is dependent on that little roundabout. Little Roundabout...including the underground parking. A lot has been made about the Bartlett st congestion at 8:00, 200/300 more cars heading off to work. When do most contractors get their material?. Seriously we their could be traffic jammed up to the Little Roundabout, not even mentioning the Riccis tractor trailer deliveries, in the mornings. Also speaking of traffic, what is missing in the consultants reports, are the afternoon soccer mom responsibilities.

Will the school be able to accept a great many more students? Are the sidewalks able to accept a great many more students. Who is responsible? Basically most of these problems are directly related to the size of the project, ie 152 units. Who's going to pay for the infrastructure?

Yes you can postpone this decision and ask for more information. You can ask for a reduction in units, and elimination of 3-bedroom apartments. You're the planning board, arguably the most important of all land use boards.

Good luck, tonight. Jon Wyckoff, 135 Sparhawk st

Sent from my iPad

Juliet T.H. Walker

From: The Schaepees <schaepes@comcast.net>
Sent: Tuesday, April 13, 2021 5:18 PM
To: Planning Info
Subject: 105 Bartlett Street

To the members of the Planning Board,

My name is Jennifer Nealon and I have lived at 149 Sparhawk Street with my family for 10 years and in the neighborhood for 15 years. The project at 105 Bartlett impacts me as I have a direct line of site from my home to the property.

I would like to express my objection to this project as I believe it does not meet the criteria for a Site Review Permit, Lot Line Revision Permit, Conditional Use Permit for Shared Parking, or a Wetland Conditional Use Permit.

The only hardship and constraints placed on this project are to the financial gain of the developers. This is a classic case of trying to squeeze 10 pounds of potatoes into a 5 pound sack. The project is simply too large for the lot.

I would like to further suggest that the Traffic Study prepared by Pernaw, Inc for the 2018 Subdivision Approval is now obsolete. A Trip Generation Memorandum is not sufficient based on the multiple changes in the immediate area. The surrounding infrastructure and schools are not equipped to support this project.

Thank you for your consideration and for your service to the community.

Respectfully,

Jennifer Nealon
149 Sparkhawk St
Portsmouth, NH 03801
603 812-6471

4/12/2021



To the Planning Board:

We join our neighbors to urge the planning board members to keep our beautiful North Mill Pond environment safe from the current proposal at 105 Bartlett Street. The build is **too large a footprint for the space** as well as **too much mass for the fill on which it is to be built**.

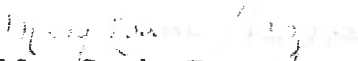
Please insist that the developers adhere to the established 100-foot buffer, and not endanger this beautiful but fragile space in our City.

Note, the land in question is NOT suited for this size project, nor is this space the only available location. The adverse impacts on the functional habitat during the build will not be "returned to its natural state" as noted in the proposed plan and the negative effects will be long-lasting and likely felt forever.

Any developer can make promises to restore areas disturbed by the construction, but in the end, Portsmouth, and this Creek neighborhood will likely forever regret any precedent-setting vote to permit this project as presented.

Please protect this treasure in our city's backyard and deny the request coming before you on 4/15/2021.

Sincerely,


Mary Louise Brozena and Cheryl Kenney
64 Pine Street

RE: 105 Bartlett St Site Plan Review

April 12, 2021

Dear Chairperson Legg and Members of the Planning Board,

The City of Portsmouth defines impervious surface as **any modified surface that cannot effectively absorb or infiltrate water**. *105 Bartlett Street's development team over stated the amount of impervious surface when this development came before you 11/15/18 for Subdivision Approval*. It listed 29,191sf of impervious gravel on Lot 5. This number has been brought forward from one plan to another.

Currently 110,110sf of impervious surface are presented as existing at 105 Bartlett St, on page 144 of the application (Overall Wetland Buffer Exhibit). The over 32,400sf fenced area around the 3200 sf RR Machine Shop are shown as completely impervious in the 25, 50 and 100' foot buffers.

Impervious surfaces *by definition* cannot absorb or infiltrate water; therefore it is not going to grow vegetation. The area surrounding the old RR Machine Shop(2 story brick bldg.) absorbs and allows water to infiltrate because no new gravel has been added, in possibly as long as 50 years! It sustains, ground covers, saplings, grasses and small bushes even during the drought last summer (see summited photos). The developer, after owning the property for over 4 years, cleaned said area and has been mowing it ever since, *everything is growing so well*. The "Lot Line Location Plan" revised 01/19/21 (pg 15) shows the fenced area around the RR Machine Shop. It also shows structures which do not exist (see last picture in series).

This over 32,400 sf of area **does NOT meet the Portsmouth criteria** as impervious surface and should be updated as pervious on ALL design plans, especially the "Overall Wetland Buffer Exhibit" before moving forward with the Site Plan Review.

Respectfully,

Elizabeth Bratter
159 McDonough St
Portsmouth Property Owner

Juliet T.H. Walker

From: sdl@sethlevine.com
Sent: Saturday, April 10, 2021 9:16 PM
To: Planning Info
Subject: 105 Bartlett plan

Hello,

Please note my opposition to the Bartlett plan-- too many apartments, WAY too close to water, too much traffic, turns our city into an overdeveloped New Jersey slum.

*Seth D. Levine
569 Middle Street
Portsmouth*

Sent From My Mobile Phone

Juliet T.H. Walker

From: Mary Lou McElwain <ml259@comcast.net>
Sent: Thursday, April 15, 2021 3:26 PM
To: Planning Info
Subject: 105 Bartlett St.

Planning Board Members,

I would like to join dozens of other Portsmouth residents in objecting to the proposed development at 105 Bartlett Street.

The plan would encroach on wetlands that should be protected by the City's wetlands ordinance, enacted to protect all rivers, ponds, brooks, coves in the city. There should not be an exception for this massive development on The North Mill Pond.

Although I reside on South Street, I know that every resident will be affected by this development. The rising tide is real. Please consider the long term effects of building in and changing the wetlands.

thank you.

Mary Lou McElwain
259 South Street

Sent from my iPad

Juliet T.H. Walker

From: Liza Hewitt <hewittliza@gmail.com>
Sent: Tuesday, April 13, 2021 8:10 PM
To: Planning Info
Subject: 105 Bartlett

Dear Planning Board Members,

Let's be clear, this project is as much about getting a multi-use path as it is about three, 56 foot tall buildings. It is quite clear that for the planning department, this is about gaining the property they need to build a multi-use path along the North Mill Pond. They are apparently willing to ignore the feelings of the residents, ignore the environmental impacts, and ignore Portsmouth's Wetland Protection Ordinances to get it, essentially selling their souls and ours to build a path.

Mr Ed Hayes has called this project his family's legacy. Apparently that legacy will also include threatening the city. At the January 22, 2020, ZBA meeting, the developers' lawyer at the time, Tim Phoenix, said that if the developers were not able to develop their project as they wished, the city would not get their greenspace and path. At the February 10, 2021 Conservation Committee meeting, the developers' current lawyer, Robert Prevet, told the Committee that if his client was not able to build his project as he wished, the city would not get their greenspace and path. Let's remember, this project is not about a path. I haven't heard anyone say that a path is a bad thing. But what the city's planning department is willing to do to get that path is.

It is fascinating to me that no one is talking about the fact that these developers are not sacrificing anything. They are already getting a density bonus and adding an extra floor on their buildings in exchange for providing the city with land to build a path (in the 100 foot buffer). This land is not buildable anyway, according to the city's own Wetland Protection Ordinance. If they don't provide the greenspace, their project and number of apartments will be reduced anyway. So, why do we have to give them the wetland buffer too?

Let's separate the city's desire for a multi-use path and some greenspace from the specifics of this project. One should have nothing to do with the other.

Liza Hewitt
169 McDonough St

April 13, 2021

Re: 105 Bartlett Project

Dear Planning Board,

Once again, as a 21+ year resident of the Islington Creek area (287 Cabot Street), I am writing to encourage you to NOT grant to 3 conditional use approvals for 105 Bartlett.

My biggest concern is the 100' wetland buffer. Once allowed here, this will become a precedent for any future development in the city. The North Mill Pond is finally getting cleaner, and wildlife has returned. Now there is no plan to restore or save the existing habitat.

The agreement will be there is no alternative but to build within the 100' buffer. Other proposals have been presented by other abutters and neighbors.

As mentioned in my numerous previous letters, I am not opposed to developing the property. The developers have asked and are asking for so many variances that if granted, will alter the North Mill Pond for eternity. The precedent this sets will be catastrophic to the things that make Portsmouth a delightful place to live.

PLEASE deny the approval for the variance on the 100' buffer.

Respectfully submitted,

Jennifer Meister
287 Cabot Street

Re: 105 Bartlett St

To the members of the Planning Board,

Below is a letter submitted to the Conservation Commission in which we ask that they recommend denying the conditional use permit for alteration and development within the 100ft wetland buffer. We still feel, even after revisions, that this project does not meet the criteria for the conditional use permit. Once this project is built there is no going back. Many of us are long term residents of this neighborhood, some are new, and some are residents of other neighborhoods, but we all agree that protecting our shore lands is the top priority. We residents urge the Planning Board to deny the Wetland CUP requested by the principals of the 105 Bartlett Street project.

We speak as concerned members of the community and residents of the Mill Pond neighborhood. The proposed project at 105 Bartlett St will have permanent and unalterable effects on both the North Mill Pond and the surrounding neighborhoods. Because of this, decisions regarding this project must be made slowly, deliberately and with the future in mind. Our foremost consideration should be given to protecting our estuary and the habitat areas of the pond and its shores.

Clearing and excavating will affect not just the views and privacy for surrounding property owners but habitat for wildlife and could contribute to erosion and degradation of the shore, and further contamination of the pond.

Storm water management, impervious surface, building footprint, density and proximity as well as soil disturbance all need to be studied and considered with great concern.

There are multiple aspects to this project and they need to be considered in conjunction as well as surrounding projects. The proposed city trail, the Deer St development and even recently completed developments need to be taken into consideration (i.e., Cate St., The Foundry Garage, West End Yards and the future Green St and Raynes Ave developments have or will impact this neighborhood). A lot has changed surrounding our protected estuary and changed quickly. We need to be mindful of the overall consequences to the North Mill Pond and the surrounding neighborhoods.

We ask you to deny the conditional use permit allowing construction in the 100ft buffer area. The owners claim that property constraints make this necessary but the owners were aware of the constraints on the property from the start. Those constraints exist for a reason.

We need to promote conservation, use of regenerative planting, increasing preservation of natural habitat and limiting construction and excavation. The most recent study on the North Mill Pond is 23 years old (See: The State of the North Mill Pond from Advocates for the North Mill Pond, April 1998). The study highlights multiple concerns. A project of this magnitude on a protected body of water warrants significant and thorough investigation into the existing conditions of the North Mill Pond and the impacts this construction will have. Careful and deliberate planning should occur after those studies with regeneration and preservation in mind.

Thank you,

Residents of the Creek Hill & North Mill Pond Neighborhood

Resident Names

Nancy Brown	333 Bartlett St.
Steve Dunfey	675 South St.
Marylin McElwain	259 South St.
Ron Sousa	146 Sparhawk St.
Bob Chaffee	122 Mill Pond Way #1
Jennifer & Matt Schaepe	149 Sparhawk St.
Jim Sparling	108 Sparhawk St.
Elizabeth Prout	108 Sparhawk St.
Diana Frye	436 Jones Ave.
Anne Bliss	48 Thornton St.
Sue Evans	1 Jackson Hill
Larry Caltado	133 Islington St.
Peter and Jane Keenan	1A Jackson Hill
Darrell and Sue Marta	1B Jackson Hill

Sheridan Lloyd	45 Cliff Rd.
Beth Dinan	639 Maplewood Ave.
Trace and Steve Miller	38 Thornton St.
Rick Downer	100 Concord Way
Mary Martisius	47 Thornton St.
Philippe Favet	132C Dennett St.
Robin Husslage	27 Rock St.
Mary and Rich Brady	124 Burkitt St.
Becky McBeath	243 Middle Rd.
Andrew Harvey	710 Middle Rd.
Roy Hesel	777 Middle Rd.
Mark Brighton	Richards Ave.
Mickey McCore	Mill Pond Way
Barbara Adams	75 Kent St.
Mary Louise Brozena	64 Pine St.
Nancy MacDonall	28 Ball St.

Nancy and Brian Johnson	81 Clinton St.
Catherine Harris	166 Clinton St.
Donna Morse-Relyea	249 Clinton St.
Elizabeth & Jan Ebeling	142 Mill Pond Way
Mary McDermott	40 Rockingham St.
James Beal	286 Cabot St.
Joe & Kathy Famularo	141 Mill Pond Way
Joanne and Jon Wyckoff	135 Sparhawk St.
Paula Tayler	23 Kane St.
Mimi Clark	1039 South St.
Susan Denenberg	44 Wibird St.
Cynthia Keenan	61 Mill Pond Way
Liza & Jim Hewitt	169 McDonough St.
Ronnie Anania	290 Bartlett St.
Paul Kahl	1135 Maplewood Ave.

Michael O'Connor	163 Sparhawk St.
Jesse Pratt	163 Sparhawk St.
S.B Sordillo	136 Sparhawk St.
Tara Jenkins	123 Sparhawk St.
Abigail and Julia Gindele	229 Clinton St.
Pat Hammer	73 Montieth St.
Laura Coakley	236 Bartlett St.
Dawn Przychodzien	111 Sparhawk St.
Amy Wolfe	104 Thornton St.
Lloyd Wessling	57 Thornton St.
Jessica Patten	250 Clinton St.
Martha Caverly	199 Clinton St.
Beth Jefferson	111 Sparhawk St.
S, Zuidema	126 Burkitt St.
Marianne Janik	21 Burkitt St.
Maryellen Hurley	69 Stark St.

Robert Clark	117 Burkitt St.
Mark Fleisher	129 Burkitt St.
Charlotte Gindele	116 Sparhawk St.
Eva Marino	114 Pine St.
Greg Morneault	137 Northwest St.
Martina Berger	116 Sparhawk St.
Nancy & John Howard	179 Burkitt St.
David Loehwing	130 Thornton St.
Brendan Flavin	460 Dennett St.
Peter Gorman	29 Sparhawk St.
Judith Howard	80 Burkitt St.
Karstan Pohl	416 Dennett St.
Daniel Thompson	25 Sparhawk St.
Samantha Finigan	29 Sparhawk St.
Brenda Brewster	251 Sagamore Ave

Stephanie Campbell	1001 Islington St.
Ted Soter	1001 Islington St.
Jennifer Meister	287 Cabot St.
Judy Miller	77 Hanover St #7
Linda Briolat	260 Thornton St
Angela Lambert	65 Benson St
Lori Sarsfield	56 Clinton St
Thomas Penaskovic	29 Burkitt St
Emily Penaskovic	29 Burkitt St
Ilara Donarum	90 Clinton St
Marie Lyford	Frank Jones
Catherine R. Jones	40 Dodge Ave.
Steve & Emily Piro	72B Woodbury Ave.
Mr. & Mrs. R. Hogan	Woodbury Ave.
Maria Montanaro	34 Cabot St.
Sarah Cornell	275 Thornton St

Susan Curry	275 Thornton St.
Donna Garganta	471 Colonial Dr
Aimee Belliveau	105 Burkitt St
Philip McCarthy	105 Burkitt St

NOTE: The original signature pages of ALL the above residents are available to the Planning Board upon request.

Juliet T.H. Walker

From: Jan Ebeling <ebelingja@gmail.com>
Sent: Wednesday, April 14, 2021 5:51 PM
To: Planning Info
Subject: 105 Bartlett St CUP

Ladies and Gentlemen of the Planning Board,

We are aghast at the gigantic 5-story structure going up on Maplewood Avenue and are horrified to have a structure of such a large scale going up on North Mill Pond. Development like this belongs on Raynes Avenue.

To summarize the project as I see it: Build three **Big Box** buildings which don't resemble anything in the area in size or scope, with above and below grade **parking for 170** cars at the end of a **dead end lot, behind a lumberyard** with its egress onto the narrow **Bartlett Street Chicane** which is already **traffic challenged** by the Cate Street townhouse condos and apartments. And while we're at it let's squeeze this development in between some immovable train tracks, sewer lines and an environmentally sensitive tidal pond and ignore the 100 foot wetland buffer. If there was ever a time to reconsider, it is now!

I understand there are six (6) criteria for approval of the CUP in the wetland buffer. It's going to need some very creative imagination to comply with any of these.

- 1) Is this land reasonable suited for this- not in any reasonable way
- 2) Is there no alternative outside the wetland buffer- probably not for a development of this size
- 3) How can there not be an adverse impact on a naturally wooded area on the shores of the wetland?
- 4) The natural vegetative state is being wiped out
- 5) There have to be many alternatives to this proposal that have far lesser impact.
- 6) How can we believe the buffer strip be returned to its natural vegetative state- I site South Mill Pond

I repeat from my letter of a year ago:

If ever there was a reason for a protected 100' Shoreland Buffer, this would be it!

Sincerely,
Jan and Elizabeth Ebeling

Juliet T.H. Walker

From: April Weeks <aprilweeks412@gmail.com>
Sent: Saturday, April 10, 2021 10:43 AM
To: Juliet T.H. Walker
Subject: Questions for April 15 webinar

Hello Juliet,

Thank you for your email. My questions concern egress, entry and traffic issues created by the proposed project, as well as the encroachment of 50 feet (rather than 100 feet) toward the wetlands.

Thank you.

April Weeks

Sent from my iPad

Juliet T.H. Walker

From: Philippe Favet <philfavet@yahoo.com>
Sent: Sunday, April 11, 2021 6:30 PM
To: Planning Info
Subject: 105 Bartlett project

Hello Members of the board, my name is Philippe Favet ,i live at 152c Dennett st ,over the last few years i have a lot of construction in my neighborhood on the edge of the pond ,but they have been mostly done with some respect to the environment ... In contrast the 105 project by his gigantism is a environmental disaster ,by giving the permission to work in the 25' buffer zone.The North Mill Pond is a living ecosystem and should not be rework as parking lot ,not it should be filled with a story hight of rocks and dirt to achieve their goals of building . I urge the board to keep the limit of 100' buffer zone or more . Philippe Favet

Juliet T.H. Walker

From: bill@portsmouthkayak.com
Sent: Thursday, April 15, 2021 5:45 PM
To: Planning Info
Subject: 105 Bartlett St.

PB Members,

The potential cost to the ecology of the North Mill Pond is too great to permit a project off such mass located within the 100' setback. I am of the opinion the legacy of such a proposed project would be detrimental.

Sincerely,

Bill Downey
67 Bow St.
Portsmouth NH

Juliet T.H. Walker

From: Brian Gibb <bkgibb@gmail.com>
Sent: Sunday, April 11, 2021 11:11 AM
To: Planning Info
Subject: North Mill Pond Development

I live very close to this area and I am writing to ask you to deny the proposed development requiring a Wetlands Conditional Use Permit. I am asking you to at minimum, uphold the 100' Wetland Buffer and not allow buildings in that zone. We must continue to balance development with the natural areas in our city. Please do not allow this one to be destroyed forever.

Thank you,
Brian Gibb
Portsmouth Resident

April 15, 2021

To: Chairman Dexter Legg and members of Portsmouth Planning Board

I am a home owner, citizen of Portsmouth, living on Bartlett Street. Let me share important concerns of mine about the proposed overdevelopment project on the North Mill Pond. It is our hope and vision that we can agree to set strict guidelines that seriously reduce and inhibit the development of a massive main building of 150 units. Instead we are asking for an environmentally friendly footprint with responsible development. We want more greenspace including a public park, picnic area, and a pathway for walking and biking along a shoreline planted with beautiful trees, bushes, and flowers. This vision means that we uphold the 100 feet tidal buffer. Indeed, it is critical for Portsmouth to retain its wetlands.

Secondly, we are very concerned about the impact of traffic on and off Bartlett as well as other streets in the neighborhood. We have already faced an increase of traffic in the last few years. Imagine the greater intensity of traffic and safety issues that would happen with 150 more units. With all the massive development throughout Portsmouth, it is time to say enough is enough.

Please listen to the citizens and families from our neighborhood. Help us save the North Mill Pond, the only pond still alive in our downtown. We want responsible development that is safe and environmentally sound. It is not too late for us to come together, to protect and respect this valuable part of our city and our neighborhoods.

Sincerely and Respectfully,



Nancy Brown and family,

TO: The Portsmouth Planning Board

April 15, 2014

Dear Chairman Legg and members of the Planning Board,

I am a longtime resident of Portsmouth and concerned about the new development proposed for the shores of the North Mill Pond. The investors have requested to cut the wetlands buffer in half so that more units can be built and their profits increased at the expense of every citizen of Portsmouth.

There is a reason for 100 foot buffer zones on sensitive tidal and wetlands areas: the ecosystem and the wildlife need protection from overcrowding, habitat destruction, the interference of humans, the runoff of nitrogen fertilizer which will choke the millpond, and a hundred other reasons.

There is absolutely no reason to destroy the environment any more than necessary by reducing the buffer from 100 feet. Many kinds of ducks, egrets, and other water fowl frequent the Mill Pond to feed and rest. Development threatens them as well as the creatures that live along the shore.

The request to further harm the Mill Pond should be denied. It is a resource for all Portsmouth, not just developers and outside money interests.

Thank You,

Michael Frandzel

404 Union St.
Portsmouth, NH

Juliet T.H. Walker

From: Shan Zuidema <shan.zuidema@gmail.com>
Sent: Thursday, April 15, 2021 8:57 AM
To: Planning Info
Subject: 105 Bartlett Street - Wetland Conditional Use Permit

Hello!

I would like to state my opposition to granting a conditional use permit for encroaching on wetland buffers by the redevelopment proposed at 105 Bartlett Street. I acknowledge that the redevelopment would reduce impervious surfaces within the buffer, which is part of the criteria for granting a CUP. However, the applicants fail to "demonstrate that the proposed site alteration is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Ordinance." - City of Portsmouth, Zoning Ordinance 10.1017.23

I have three personal motivations for opposing the plan in the application:

- 1) Wetland buffers have been demonstrated as critical to maintaining ecological health of water bodies (see Mayer et al. 2005, 2007 for comprehensive reviews). I am a research scientist that utilizes simple models of hydrology and biogeochemistry to understand how humans derive value from watersheds and have seen first-hand the importance that buffers have in protecting water bodies from contamination from nutrients (Samal et al. 2017) or road salt (Zuidema et al. 2018).
- 2) Wetland buffers play a critical role in maintaining habitat and migratory passages for wildlife (DeCecco and Brittingham, 2016).
- 3) I personally think that the passage for the walking path between the pond and the proposed building is too narrow. The design has pedestrians walking immediately adjacent to the building and seems to be too close for comfort. This detracts from the value of the "huge amenity" the developer is trying to sell the community on (<https://www.seacoastonline.com/story/news/local/2021/04/13/north-mill-pond-greenway-portsmouth-nh/7122184002/>), and may create tension with eventual residents immediately adjacent to the path.

For these reasons, I think that it is best for the applicant to again re-design the structures to provide a comfortable space for residents, the community, wildlife, and ecological function to have the room they need. Our regulations state that this room is a 100 foot buffer.

Thank you for consideration of this comment.

Shan Zuidema
Burkitt Street

Juliet T.H. Walker

From: Claire <claire.prout@comcast.net>
Sent: Wednesday, April 14, 2021 2:06 PM
To: Juliet T.H. Walker
Subject: Fwd: Set back in wetlands

Sent from my iPhone

Begin forwarded message:

From: Claire
Date: April 14, 2021 at 2:02:45 PM EDT
To: plbritz@cityofportsmouth.com
Subject: Set back in wetlands

My name is Claire Prout, 108 Sparhawk st. I want to object to any variation from the 100 foot setback for the project along the north mill pond.

#1 there IS another possible plan

#2 there will be serious damage to the millpond as a habitat

The South Mill Pond may be a disaster, the North Mill Pond doesn't need to be.

When my children were at New Franklin, they worked to protect this environment. Please do your part. There is NO benefit in ignoring the setback.

Please share this with others on the board tonight. Claire prout

Sent from my iPhone

Juliet T.H. Walker

From: John Howard <JEHOWARD7@comcast.net>
Sent: Monday, April 12, 2021 8:39 PM
To: Planning Info
Subject: April 15 2021 meeting. The applications of Clipper Traders,LLC, Portsmouth Hardware and Lumber,LLC,Owners and Iron Horse Properties,LLC Owner and Applicant for 105 Bartlett development

Greetings,

My name is John Howard. My wife, Nancy, and I live at 179 Burkitt Street which is directly across the North Mill Pond from the proposed development. We have lived at this address for the past 30 years.

I will address the 10.1017.50 Criteria. I feel that the development will meet none of them.

1. The land is a narrow strip of filled land squeezed between an active railway (often hauling hazardous cargo) and a very fragile estuary, the North Mill Pond. The setbacks should not be invaded as the developer was aware of them at the outset of development planning and a project that honors them is what should have and can still be brought forward to the Board. The land is not suitable to the developers proposed use, activity or alteration.
2. There are alternative locations outside the wetland buffer that are more feasible and reasonable to pursue a development. Mr. Jim Hewlett has a reasonable plan to submit to the Board.
3. There will be a massive impact on the health and betterment of the North Mill Pond if a residential Colossus is built within the legal setbacks given by law to avoid this very thing.
4. The existing natural vegetative state will be flat-cut and bulldozed to make way for a massive layer of fill. Not all of the plant species are 'invasive'. Many, many are naturally occurring and will be lost and will not reoccur if grassland and mowing is the developer's 'new normal'.
5. I would declare that the developer's proposal is the alternative with the greatest adverse impact to the fragile North Mill Pond which is what the 100 foot setback was meant to protect. The developer intends to encroach on both the 50 foot and 25 foot buffers as well. I am asking the Board to please prevent this.
6. What the developer should be required to do is to plant trees and shrubs, not grasslands, within the 100 foot setback that the development will obey.

In closing I would just like to say again that the developer, architect and engineers were aware of setback requirements. Trying to encroach upon them had to do with the more than century old brick railway buildings being closer than a modern building can or should be built to a wetland. They are attempting to push out in this area. Please require any development to be outside the 100 foot buffer. Please don't establish a precedent that will help others push development closer to our fragile waterways.

Respectfully,

Juliet T.H. Walker

From: patricia Bagley <ppbagley@icloud.com>
Sent: Thursday, April 15, 2021 9:06 AM
To: dexter.legg@gmail.com; clarkcj7@gmail.com; chellman@tndengineering.com; pharris_portsnhplan@icloud.com; pawhelan@comcast.net; Karen Conard; Juliet T.H. Walker
Subject: For tonight's Planning Board

Dear Chairman Legg and Planning Board Members:

I am writing to ask you to deny a CUP for the 105 Bartlett Street project.

Development and over-development are very different. The former is thoughtful and beneficial. This project represents the latter, with negative overreach.

Are we to bicycle on a multi-use path and ignore three four-story buildings squeezed onto a site to maximize profits? Open up the pond for the public to enjoy while violating conservation common sense?

What I've learned from watching development over the last ten years is to be careful when translating from paper to reality. View West End Yards from Route 1 or from Bartlett Street. It looks like its own city.

Portsmouth residents do not desire Mr. Hayes' idea of a legacy. Cleaning up the area would be a legacy, but what he wants in return is too great of a price. His overreach is disrespectful. Please do not violate our buffer zone requirement by granting a CUP.

Thank you for your consideration.

Patricia Bagley
213 Pleasant Street

Juliet T.H. Walker

From: Sarah Cornell <sarahbcornell@gmail.com>
Sent: Tuesday, April 13, 2021 9:02 PM
To: Planning Info
Subject: 105 Bartlett Street

Greetings,

I am writing to urge the Planning Board to deny the Wetland conditional use permit requested for 105 Bartlett Street.

Many residents will tell you that the shores of North Mill Pond need to be cleaned up and developed because they aren't pleasing to look at. Many will also say that residents need a safe multi-use path to connect downtown with the West End. These are both excellent arguments in support of the general concept of the 105 Bartlett Street project. We agree that the shoreline needs cleaning up and that a multi-use path would be a boon to the neighborhoods.

But neither beautification nor increased access is worth compromising the health of our estuary. The 100 foot buffer zone was well known before the project began, and the Planning Board and Conservation Commission must stand by the rules they themselves set. The developers must find a way to fit the development in the land beyond the 100 foot buffer.

Please do not be swayed by the "good will" shown by the developers in revising their plans. This is not about good will between Portsmouth and business interests, it's about respecting the needs of the wildlife and habitat that were here long before us and will be here long after we are gone.

Sincerely,

Sarah Cornell
Susan Curry
owners, 275 Thornton St.

Juliet T.H. Walker

From: Margaret O'Neil <peggyooo@icloud.com>
Sent: Thursday, April 15, 2021 6:58 PM
To: Planning Info
Subject: Regarding 105 Barlet St

Please submit the following comment regarding construction near North Mill Pond: The 100 foot wetland buffer is created to protect the pond from environmental hazards. 100ft. Is the minimum that should be required for this purpose. There should be no exceptions to this, no allowances, no variances. The rule was implemented to protect the environment. If anything, the North Mill Pond is already under stress from surrounding neighborhoods, traffic, noise, climate change, etc. We certainly don't need to further cause damage to this fragile ecosystem by allowing permission to breach the 100ft. Barrier, whether temporary or permanently. It is simply not worth it .

Thank you for considering my thoughts,

Peg O'Neil
87 Cabot St

Juliet T.H. Walker

From: Seth D. Levine <sdl@sethdlevine.com>
Sent: Monday, April 12, 2021 11:14 AM
To: Planning Info
Subject: Re: 105 Bartlett Plan - "There Ain't No Strawberries No More, and There Ain't No Dock, Neither"

Hello Juliet,

Thank you.

I respectfully ask that you share my further objections to the Bartlett plan with the Board for consideration at the meeting on April 15, 2021:

I oppose the plan because it threatens the wildlife living in and around the pond, including fish, water creatures, all sorts of birds, and scurrying animals. This development *should not be built, at all*, except that the developers, who will *never* yield, keep at it, year after year, expecting that the Board will, one day, compromise and capitulate. DON'T DO IT!!!

Proposing that it be built just a few yards from the water invites the Board to make the "inevitable" compromise (the developers will say, "we'll just move it back to 75 feet, we'll just knock off 20 units, okay?"). None of these compromises are acceptable.

The proposed plan is too large, most obviously its insane *height*.

Generally, I am *alarmed* by unrestrained development. While a developer can surely figure out how to make money from every square inch of land in Portsmouth ("let's knock down the Ladd house and build another Portwalk"), the Planning Board should be tasked with putting on the brakes!!! Our town (no, "City") became so crowded that when we walk through town it's like traveling through caverns of concrete (with only a view of not-so, so-called "historic" new buildings). I watched the Hill (and its history) absolutely disappear, watched the North End disappear, watched when the Parade Mall and Sheraton started the progression of development, and all with no control except to green light unrestricted development.

Of course, this happens as the population increases and people move to nice places within a tight radius around cities-- everyone wants a nice hotel to visit, the citizens want a new food store, and the people want a place to get their brakes fixed. But this leads to calamity.

This is nothing new. We started filling in the Dock and never stopped. As my long-deceased friend said, "there ain't no strawberries No More, and there ain't no dock, neither."

Well, if the Planning Board approves this development, "there won't be no foxes or seals, and there won't be no wildflowers, neither."

We can put a new sign up, "Welcome to New Jersey! Bienvenue au New Jersey!!"

Thank you very much.

To the Members of the Planning Board,

I would like to speak in strong opposition of the wetland conditional use permit for 105 Bartlett St in which they are seeking relief from adhering to wetlands protections. Specifically, the criteria that would grant relief.

10.1017.50 Criteria for Approval Any proposed development, other than installation of utilities within a right-of-way, shall comply with all of the following criteria:

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

The existing land outside of the buffer zone is reasonably suited to the use and alteration. There is no need to develop within the buffer, which is not reasonably suited to the alteration. This is why we have the protections we have in place.

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

There is. The development can be successfully scaled back and omit development in the buffer zone(s).

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

There will be adverse impact on the shoreline, the wildlife and existing vegetation. The surrounding properties include many established residential neighborhoods with 1.5 – 2 story homes. The light and noise pollution will certainly have an effect to residents across the pond and McDonough areas. The traffic impacts will have an effect on all surrounding neighborhoods. The residents of these neighborhoods have made it clear that we feel there will be significant adverse impacts.

I would also like to see any mention or plan of an “amphitheater” removed. As I write this I am listening to conversations occurring at Great Rhythm as if the patrons inside the building were in my yard. We do not need anything amplifying sound across the pond.

(4) Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals; (and)

This is a big concern. Restrictions on removals, planting and irrigation should be thoughtfully included in the permit. This language is far too vague.

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

The least adverse impact would be following the wetland ordinance and not allow construction in the buffer. The buffer zones should be kept as vegetated as possible and a regenerative planting plan should be in place. The current planting plan falls short.

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

Yes, but “to the extent feasible” is vague and unenforceable.

This project has had many advantages, zoning changes, and incentives. They have been given ample opportunity to design a successful project. Where do we draw the line? I believe, right here, at the 100ft buffer zone. This is where we say “no.” I believe working within the confines of the wetland protections is reasonable and feasible. For all these reasons, I ask that you deny the wetland conditional use permit for altering/developing within the 25, 50 or 100ft buffer for the plans as presented. New construction should be restricted to areas outside the buffer zone only.

Thank you,
Jesse Pratt
163 Sparhawk St.

Jul T.H. Walker

From:
To:
Subject:

Seth D. Levine <sdl@sethdlevine.com>
Monday, April 12, 2021 11:14 AM
Planning Info
Re: 105 Bartlett Plan - "There Ain't No Strawberries No More, and There Ain't No Dock, Neither"

Hello Juliet,

Thank you.

I respectfully ask that you share my further objections to the Bartlett plan with the Board for consideration at the meeting on April 15, 2021:

I oppose the plan because it threatens the wildlife living in and around the pond, including fish, water creatures, all sorts of birds, and scurrying animals. This development *should not be built, at all*, except that the developers, who will *never* yield, keep at it, year after year, expecting that the Board will, one day, compromise and capitulate. DON'T DO IT!!!

Proposing that it be built just a few yards from the water invites the Board to make the "inevitable" compromise (the developers will say, "we'll just move it back to 75 feet, we'll just knock off 20 units, okay?"). None of these compromises are acceptable.

The proposed plan is too large, most obviously its insane *height*.

Generally, I am *alarmed* by unrestrained development. While a developer can surely figure out how to make money from every square inch of land in Portsmouth ("let's knock down the Ladd house and build another Portwalk"), the Planning Board should be tasked with putting on the brakes!!! Our town (no, "City") became so crowded that when we walk through town it's like traveling through caverns of concrete (with only a view of not-so, so-called "historic" new buildings). I watched the Hill (and its history) absolutely disappear, watched the North End disappear, watched when the Parade Mall and Sheraton started the progression of development, and all with no control except to green light unrestricted development.

Of course, this happens as the population increases and people move to nice places within a tight radius around cities-- everyone wants a nice hotel to visit, the citizens want a new food store, and the people want a place to get their brakes fixed. But this leads to calamity.

This is nothing new. We started filling in the Dock and never stopped. As my long-deceased friend said, "there ain't no strawberries No More, and there ain't no dock, neither."

Well, if the Planning Board approves this development, "there won't be no foxes or seals, and there won't be no wildflowers, neither."

We can put a new sign up, "Welcome to New Jersey! Bienvenue au New Jersey!!"

Thank you very much.

Seth Levine
569 Middle Street
Portsmouth

On 4/12/2021 8:32 AM, Planning Info wrote:

Received, this will be shared with the Planning Board for their April 15th meeting.

*Juliet T. H. Walker, AICP
Planning Director
Planning Department
City Hall
1 Junkins Ave
Portsmouth, NH 03801
(603) 610-7296
www.cityofportsmouth.com/planportsmouth
Twitter: @PlanPortsmouth
Facebook: @plan.portsmouth
Office Hours: M 8-6, T-Th 8-4:30, F 8-1*

From: sdl@sethdlevine.com [mailto:sdl@sethdlevine.com]
Sent: Saturday, April 10, 2021 9:16 PM
To: Planning Info <Planning@cityofportsmouth.com>
Subject: 105 Bartlett plan

Hello,

Please note my opposition to the Bartlett plan-- too many apartments, WAY too close to water, too much traffic, turns our city into an overdeveloped New Jersey slum.

*Seth D. Levine
569 Middle Street
Portsmouth*

Sent From My Mobile Phone

Juliet T.H. Walker

From: Seth D. Levine <sdl@sethdlevine.com>
Sent: Monday, April 12, 2021 11:14 AM
To: Planning Info
Subject: Re: 105 Bartlett Plan - "There Ain't No Strawberries No More, and There Ain't No Dock, Neither"

Hello Juliet,

Thank you.

I respectfully ask that you share my further objections to the Bartlett plan with the Board for consideration at the meeting on April 15, 2021:

I oppose the plan because it threatens the wildlife living in and around the pond, including fish, water creatures, all sorts of birds, and scurrying animals. This development *should not be built, at all*, except that the developers, who will *never* yield, keep at it, year after year, expecting that the Board will, one day, compromise and capitulate. **DON'T DO IT!!!**

Proposing that it be built just a few yards from the water invites the Board to make the "inevitable" compromise (the developers will say, "we'll just move it back to 75 feet, we'll just knock off 20 units, okay?"). None of these compromises are acceptable.

The proposed plan is too large, most obviously its insane *height*.

Generally, I am *alarmed* by unrestrained development. While a developer can surely figure out how to make money from every square inch of land in Portsmouth ("let's knock down the Ladd house and build another Portwalk"), the Planning Board should be tasked with putting on the brakes!!! Our town (no, "City") became so crowded that when we walk through town it's like traveling through caverns of concrete (with only a view of not-so, so-called "historic" new buildings). I watched the Hill (and its history) absolutely disappear, watched the North End disappear, watched when the Parade Mall and Sheraton started the progression of development, and all with no control except to green light unrestricted development.

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Well, if the Planning Board approves this development, "there won't be no foxes or seals, and there won't be no wildflowers, neither."

We can put a new sign up, "Welcome to New Jersey! Bienvenue au New Jersey!!"

Thank you very much.

Juliet T.H. Walker

From: Nancy Johnson <n_johnson81@comcast.net>
Sent: Sunday, April 11, 2021 2:15 PM
To: Planning Info
Subject: Fwd: Re: Planning Board Meeting 4/15/21; 105 Bartlett

Third attempt to send this letter - two tries came back with a Permanent Error.

----- Original Message -----

From: Nancy Johnson <n_johnson81@comcast.net>
To: "planning@cityofportsmouth.com" <planning@cityofportsmouth.com>
Date: 04/11/2021 11:22 AM
Subject: Re: Planning Board Meeting 4/15/21; 105 Bartlett

On 04/11/2021 11:20 AM Nancy Johnson <n_johnson81@comcast.net> wrote:

To: Planning Board Members; Juliet Walker, City Planner
Re: Planning Board Meeting 4/15/21; Re: 105 Bartlett St
From: Nancy & Brian Johnson, 81 Clinton St, Portsmouth (residents since 1975), 4/11/2021

Regarding the Criterion for Approval 10.1017.50 of the Zoning Ordinance

(1) The land is reasonably suited to the use, activity or alteration:

The size of the parcels of land are sufficient that there is room for attractive housing units that fit into the shape and constraints of the land, especially the City 100 foot buffer, and are enhanced by the presence of the tidal estuary. We do not believe anyone is trying to prohibit development in this location. We are hoping for a beautiful development that will be lucrative to the builders and sought after by prospective renters/buyers.

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

Portsmouth prides itself on being an Eco-municipality. Developers are watching closely to see if Portsmouth really believes in its own 100 foot tidal buffer setback. That buffer exists to protect marine estuary habitats and their very narrow vegetated upland shore-land. Building a less massive development that is right-sized for the property could still be very profitable for the developers while protecting and maintaining the 100 foot buffer. The resulting development could actually be beautiful and meet all the developers needs.

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

We are concerned about the weight of the planned buildings with their contents and parking. Remember the implosion of the Granite State Minerals salt pile (“Salt Pile Collapse: How it Happened”, Seacoastonline.com, 9/25/08). “Ray Cook, associate professor of civil engineering at UNH said the weight of the salt was enough to drive soil out from underneath it, sending asphalt and other material used to contain the pile into the water.”

We recall that the Foundry Parking Garage needed many more, and much longer, pilings than originally anticipated. Similarly this project is located entirely on filled land which is very fragile.

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

It would appear from the plans that the entire 100 foot buffer will be cleared and not replaced in kind, but instead with grasses and wildflower mix, and leaving or replacing a scattering of shrubs and trees. Certainly where the outfalls are planned, particularly the very long one from the amphitheater/rain garden hill, will totally remove all existing vegetation.

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

Looking at the plans we see a plethora of non-native plants and of purely decorative plantings such as wildflowers which are to be maintained by mowing. Certainly the existing plant growth in the 0 – 25 foot buffer should remain untouched except for the narrowest channels possible for the planned outfalls.

Nancy & Brian Johnson

Juliet T.H. Walker

From: Robin Husslage <rhusslage@hotmail.com>
Sent: Monday, April 12, 2021 9:11 PM
To: Planning Info
Subject: 105 Barlett Wetland CUP Application

Dear Planning Board,

I am writing to ask for you to deny the 105 Bartlett Wetland CUP Application as the application does not meet ANY of the Criteria for Approval, as addressed below for each Criteria:

Conditional Use Permit

10.1017.50 Criteria for Approval

- (1) The land is reasonably suited to the use, activity or alteration.** Within the 100-foot wetland area, the proposed uses/activities/alteration described by 105 Bartlett are not a suitable for use/activity/alteration of this area other than supporting the wildlife and natural vegetation within the 100-foot wetland zone.
- (2) There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.** The developers are already planning to develop the land outside of the 100-foot wetland and do not need to develop one square inch of the 100-foot wetland area.
- (3) There will be no adverse impact on the wetland functional values of the site or surrounding properties.** There will absolutely be a huge adverse impact on the wetland's functional values of the site within the 100-foot wetland area if the developers are allowed to remove all the natural vegetation, dig up the land to remove structures and replace it with vegetation which requires mowing which is not allowed within areas closest to the water.
- (4) Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.** With what the developer has planned with removal of dirt, vegetation, and structures and placing 8 to 10 feet of soil on top of the land and the resultant need for grading, this will obliterate any and all vegetation existing on the site and within the 100-foot wetland area.
- (5) The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Section.** While the developer has scaled up, scaled back, and modified this design many times over the course of this planned development, they continue to insist that they should be allowed to build within the 100-foot wetland area when regular people, residents owning single-family homes are not even allowed to put a small gardening shed within this 100-foot wetland area. There is NO EXCUSE why this developer should be allowed to put a shed, let alone a huge 4-story building within any part of this 100-foot wetland area.
- (6) Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.** As the developer has planned to demolish and then plant wildflowers within the vegetated

buffer strip which require mowing (I believe they state annually, which is not allowed), wildflowers are not what are natural to this area.

The current developer's plans which include placing 4-story buildings within the 100-foot wetland area is not allowed per code. Their Wetland Conditional Use Permit APPLICATION FAILS ON ALL 6 CRITERIA and therefore should be denied, permanently and completely.

Thank you,

Robin Husslage
27 Rock Street
Portsmouth, NH 03801

Planning Board
meeting April 15,2021
Re: 105 Bartlett St Proposal
Letter in contrary to proposal

April 12, 2021

Dear Chairman and Members of the board

I am writing in response to the current proposal of 105 Bartlett for approval of the project of 152 units within the 100' wetlands buffer.

This project does not meet the full 6 criteria of Section 10.1017.50 of the zoning ordinance.

Criteria 1).

Per Portsmouth Master Plan 2025 pg 52-53

- Authentic new development would be **sensitive to scale, massing and volume of its surrounding context.**

- Goal 2.1

“Ensure that new **development complements and ENHANCES its surroundings.**”

This projects does not enhance but ENCROACHES on its surrounding.

- This project does not implement standards & guidelines to protect community character and assets, including factors such as mass, scale & resilience, as stated in the CD4 guidelines.

Criteria 2).

Though the developer states that site has unique site conditions, proximity to North Mill Pond, 15 yard railroad setback, 25 foot city sewer easement, **these factors were known prior to the purchase of the property.** The view corridor constraints were added due to the fact that the developer attempted to increase project from the original proposed 120 townhouse character based buildings to 3 over massed buildings.

Criteria 3).

Wetland functional value will be dimensed due to high density impact of humans on the area. **No asphalt, previous or not should be allowed in the 50' buffer zone.**

The project does not fully calculate the known increased coastal flood heights, nor near future higher tides due to climate change. The change due to

increased grade raise will highly impact all aspects of the wetlands leading into the pond.

Criteria 4).

The mere fact that the elevation grade will be raised to protect against future costal flooding, will completely impact the full 4 + acres of land. This does not follow the master plan 2025 to "ENHANCE" its surroundings.

Criteria 5).

The proposal with the least adverse impact

Per the history of ownership of this land, the evidence of work done on the shoreside of Great Rhythm Brewery destroying the habitat and vegetation, even though the city provided required care shows the human impact of working within the 50 ft wetlands buffer. This scale will be multiplied 1,000 fold due to the current proposal.

The scale, massing and close proximity to this unique natural resource, ie the north mill pond **should be built with a 100 year goal in mind**, not the short term of providing profit to a few individuals. The **impact of parking** in the McDonough neighborhood **will be severely impacted and cause impacts to surrounding property values..**

This project can be built while still maintaining a 100 ft wetlands buffer. This buffer will be reduced in the coming years due to increased sea levels.

I ask that the board deny the current application as shown.

Sincerely;
James Beal
286 Cabot St.
Portsmouth, NH
22 year resident

Juliet T.H. Walker

From: JAH <samjakemax@aol.com>
Sent: Tuesday, April 13, 2021 9:31 PM
To: dexter.legg@gmail.com; clarkcj7@gmail.com; chellman@tndengineering.com; pharris_portsnhplan@icloud.com; pawhelan@comcast.net; Karen Conard; Planning Info
Subject: Fwd: 105 Bartlett Street
Attachments: 2.22.2021 A B C 105 Bartlett elevation.pdf; 6.18.2020 105 Bartlett elevation .pdf; 2.22.2021 Dover St View Corridor.pdf; ZBA 105 Bartlett 1.22.2020.pdf

Dear Chairman Legg and Planning Board Members:

Kindly read the email exchange below. I suggest the Planning Board get a second opinion on zoning ordinance compliance from the City Legal Department.

Regards,

Jim Hewitt

-----Original Message-----

From: Karen Conard <kconard@cityofportsmouth.com>
To: JAH <samjakemax@aol.com>
Sent: Tue, Apr 13, 2021 9:32 am
Subject: RE: 105 Bartlett Street

Good morning Mr. Hewitt:

The Planning Department has completed its review of this application and has found it to be compliant with the Zoning Ordinance and that it satisfies the application requirements. Any additional questions or comments members of the public may have at this point would best be directed to the Planning Board for consideration in their final review. Please direct all comments to planning@cityofportsmouth.com.

Regards,
Karen

From: JAH [mailto:samjakemax@aol.com]
Sent: Monday, April 12, 2021 11:06 PM
To: Karen Conard <kconard@cityofportsmouth.com>
Subject: Re: 105 Bartlett Street

Ms. Conard:

I recently realized the proposed 105 Bartlett Street project violates Portsmouth Zoning Ordinance Section 10.5A42.40 with respect to blocking view corridors and Sections 10.5A43.31 and 10.5A46.10 with respect to 50 foot maximum building height.

As per attached , the project will truck in fill material and raise the elevation of the existing grade 7 to 8 feet, from approximately 10 feet to approximately 17.5 feet, which will be the first floor finish elevation. This additional fill, plus structures that will be built on top of it , will violate the zoning ordinance by blocking the Dover Street view corridor. The applicants requested a variance to allow obstructing the Dover Street view corridor during a January 22, 2020 Zoning Board of Adjustment meeting, and were denied, 6-0. (see link to video below)

Similarly , the addition of 7 to 8 feet of fill will cause the top of the buildings to be approximately 56 feet above natural grade, (66 feet above sea level) which is six feet more than the zoning ordinance allows. The applicants requested a variance from the 50 foot height restriction and to allow a 60 foot tall building during a January 22, 2020 ZBA meeting, and were denied, 6-0.

The Planning Department therefore needs to administratively reject these plans as they violate Portsmouth's Zoning Ordinances and the will of the Zoning Board of Adjustment.

Regards,

Jim Hewitt

Board of Adjustment 1.22.20 - YouTube

<https://www.youtube.com/watch?v=AQbn3hkMbgw&list=PLNWsoVwtYMQsesIKCwFXatJY6JabatA0U&index=22>

105 Bartlett starts at 2:02

Public Comment at 3:06:30

ZBA deliberations at 4:03