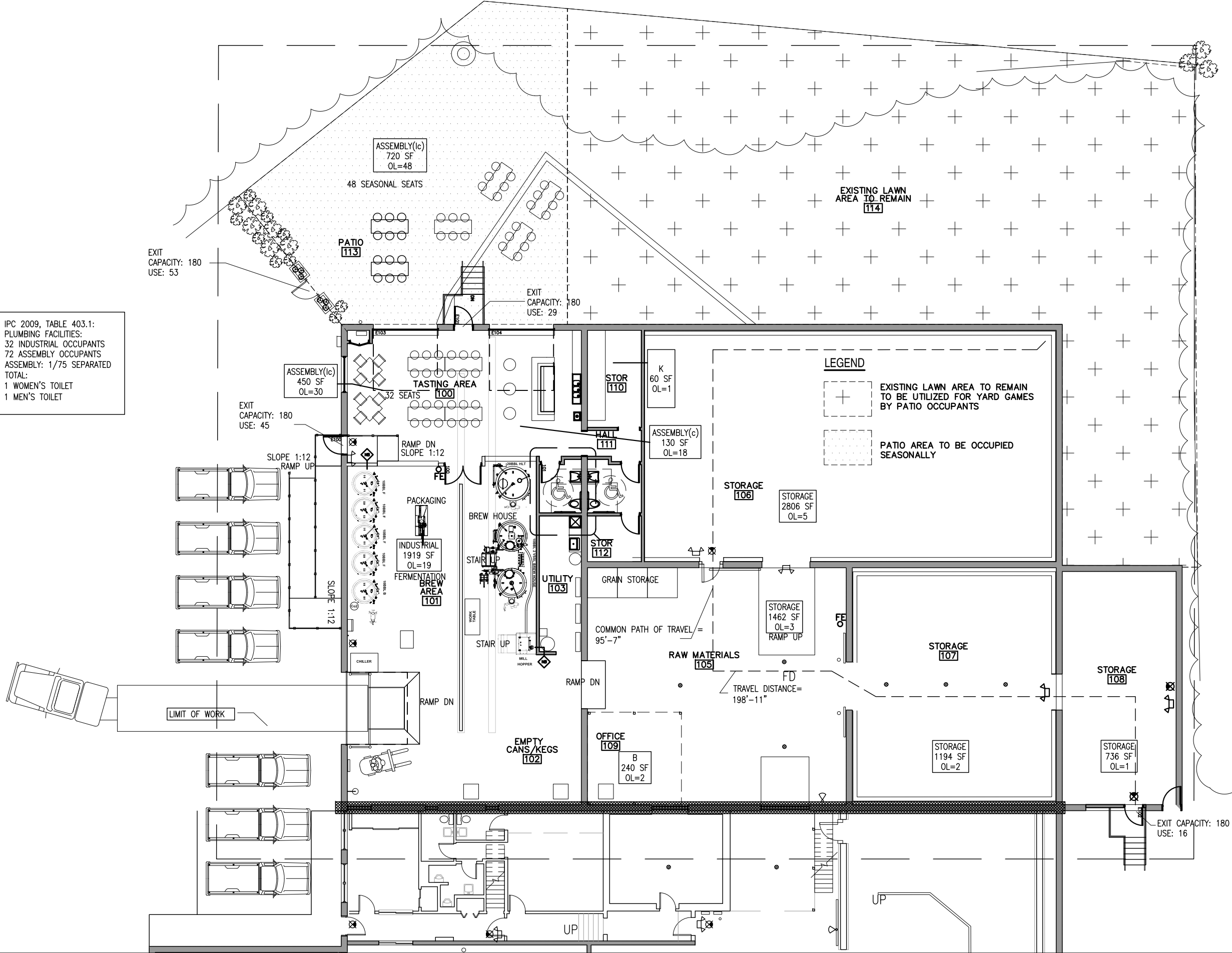


IPC 2009, TABLE 403.1:  
PLUMBING FACILITIES:  
32 INDUSTRIAL OCCUPANTS  
72 ASSEMBLY OCCUPANTS  
ASSEMBLY: 1/75 SEPARATED  
TOTAL:  
1 WOMEN'S TOILET  
1 MEN'S TOILET



SHEET TITLE

FLOOR PLAN

PROJECT

GREAT RHYTHM BREWING CO

**WINTER HOLBEN**  
architecture + design

7 WALLINGFORD SQUARE  
UNIT 2099  
KITTELY, ME 03904  
207.703.4918

REF:

PROJECT NO: 15022

DATE: 22APR2019

FILE: 15122-COVER  
SHEETS-REV190422.DWG

DRAWN BY: BMH

CHK'D BY:

DRAWING

T1

**CITY OF PORTSMOUTH  
PLANNING BOARD  
C.U.P. APPLICATION NARRATIVE**

Great Rhythm Brewing Company  
(Applicant)  
Tax Map 157, Lot 2  
105 Bartlett Street  
Portsmouth, NH 03801

**INTRODUCTORY STATEMENT**

Great Rhythm Brewing Company is a small and independently, locally owned craft brewery that opened its doors on Bartlett Street in August of 2016. From the outset, the Owners/Founders Scott and Kristen Thornton, who are Portsmouth residents, wanted to create a family-friendly, community atmosphere at Great Rhythm. Since 2016, Scott and Kristen have transformed the once a run-down, vacant building at 105 Bartlett Street, which was previously utilized as a fish processing facility, into an integral piece of the Portsmouth West End community. This has helped in propelling the revitalization of the West End. The brewery is a center for community outreach events, a job creator, a destination for visitors and tourists, and a meeting place where local residents and neighbors come together to socialize. It has created a space that people are drawn to live around. It is also a contributor to the West End Business Association, the Green Alliance and Portsmouth 400 Planning Committee.

A key component to the success and growth potential of Great Rhythm is the onsite tasting and consumption of its beer. In the summer months, one of the most common questions that visitors of the brewery ask is whether they can go outside to enjoy their beer with a view of the North Mill Pond. Living in New England, we all relish the opportunity to sit outside on a nice day, particularly by the water. Visitors of the brewery are no different. Accordingly, Great Rhythm is proposing to grow its business by making use of a 720+/- square foot outdoor area immediately adjacent to its Tasting Room for the on-site consumption of its beer. In order to do so, Great Rhythm must obtain a Conditional Use Permit ("C.U.P") from the Board pursuant to Section 10.243.20 of the Ordinance.

The 720+/- outdoor area for which the C.U.P. is sought is designed to accommodate up to forty-eight (48) seats. The low impact use of the outdoor area will conform to the spirit and intent of the CD4-W zoning. It will contribute in making the West End a more attractive place reside in and visit and will have a positive overall impact upon the City.

## CONDITIONAL USE CRITERIA

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

No further development of the property or building at 105 Bartlett Street is being proposed with the use of the 720+/- outdoor area. The building is presently used for a brewery operation. The use of the outdoor area adjacent to the Tasting Room is a natural extension of the existing use. The expanded use of the property will have negligible impact, as the outdoor area will only be used seasonally, and is ancillary to the primary use of the site. It is surrounded by commercial business operations, including Ricci Lumber, Ace Hardware and a Doggy Daycare business. The building was previously used as a fish processing facility. Arguably, the brewery and associated Tasting Room are less impactful to surrounding neighborhoods than the prior use (and other surrounding uses). The current use of the property, particularly with the addition of the outdoor area, make the surrounding neighborhoods more attractive to live in. The same cannot be said for other potential uses that could be made of the property under current zoning. The use is consistent with the goals and intent of the Master Plan, particularly as it pertains to the West End.

Great Rhythm has enhanced the character of the area through its adaptive reuse of the former fish processing building. It has worked to clean up the outdoor areas of the property, which had been historically neglected, to make it more aesthetically attractive place in the West End.

**10.243.22** *All necessary public and private utility infrastructure and services will be available and adequate to serve the proposed use.*

The proposed outdoor area is directly adjacent to THE current Tasting Room at the brewery. There are accessible bathroom and other facilities within the Tasting Room that are compliant with local, state and federal law.

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

The use of the property is not changing. The site improvements and infrastructure, including ingress, egress and parking for the site have already been deemed adequate for the existing brewery use.

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

The use of the property is not changing and is permitted. The direct abutting neighbors of the property are Ricci Lumber, Ace Hardware, and a Doggy Daycare, which are commercial uses. Aside from noise, the brewery does have any of the impacts contemplated by Section 10.243.24 of the Ordinance. Noise is mitigated, however, by the Brewery's hours of operation, which are

limited. Use of the outdoor area will be seasonal and limited to the Brewery's hours of operations. Current hours of operation are 12pm – 8pm.

Great Rhythm is located adjacent to the North Mill Pond. Noise inherently travels across the water. While this may pose a concern to those living across the water, the brewery currently has two (2) bay doors that open from the Tasting Room to the North Mill Pond which are permitted. The noise generated from inside of the brewery which travels across the water does not violate any noise or other ordinances. Any noise generated from the outdoor area would not be any greater than the natural noise generated from inside the brewery.

The North Mill Pond Trail and Greenway project seeks to create a linear community greenway along the North Mill Pond. Once implemented, it will include pedestrian and bicycle paths for the public to use. Use of the trail system by the public will generate a natural level of noise from its use by pedestrians and bicyclists that cannot be mitigated.

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

No new structures are proposed with the proposed use of the outdoor area. No vegetation will be removed with the proposed use. No impervious surface will be added to the property. The area of the proposed use was previously disturbed and contains mostly grass/weeds. Thus, there will be no adverse impact to natural resources or wildlife around the North Mill Pond associated with the proposed use.

Consistent with being a “green” business, Great Rhythm utilizes re-usable water and beverage containers and seeks to minimize the amount of waste it generates. For any rubbish it does generate, there will be a designated collection area in the outdoor area. Rubbish will be removed throughout the day by staff of the Brewery.

**10.243.26** *The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.*

The building which Great Rhythm occupies was previously utilized as a fish processing plant. The façade of the building and outdoor areas surrounding it were neglected. There was accumulated trash along the shoreline of the North Mill Pond. Great Rhythm made significant improvements to the building and its façade and cleaned up the outdoor areas. The introduction of the brewery to 105 Bartlett Street has contributed to the continued increase in property values in the West End of Portsmouth. Aside from the aesthetic improvements, Great Rhythm's presence at 105 Bartlett Street has created a neighborhood gathering space that adds value to the area.

**10.243.30** *Where specific standard or criteria are set forth in this Ordinance for the particular use permitted by conditional use permit, those standards and criteria shall apply in lieu of general standards in Section 10.243.20.*

There are no specific standards and criteria set forth in the Ordinance, to the best of the Applicant's knowledge, that would apply beyond the general criteria set forth by Section 10.243.20.

### **CONCLUSION**

The Applicant has demonstrated that it meets each of the specific criteria set forth by Section 10.243.20 of the Ordinance and thanks the Board for its consideration of the foregoing application. In conclusion, the Applicant respectfully requests that the Board grant the relief sought herein.

Respectfully Submitted,

Dated: May 6, 2019

Great Rhythm Brewing Company  
Scott and Kristin Thornton, Owners

*Derek R. Durbin*

By: Derek R. Durbin, Esq.  
DURBIN LAW OFFICES PLLC  
144 Washington Street  
Portsmouth, NH 03801  
(603)-287-4764  
derek@durbinlawoffices.com

LETTER OF AUTHORIZATION

**Great Rhythm Brewing Company, LLC.**, hereby gives its consent and authorization to Durbin Law Offices PLLC to represent it and apply for any building, zoning, planning or other municipal relief on its behalf with the City of Portsmouth. Said Letter of Authorization shall be valid until expressly revoked in writing.



Printed Name: Scott Thornton, Member  
Duly Authorized

05/13/2019

Date

Scott Thornton  
Great Rhythm Brewing Company, LLC  
105 Bartlett Street  
Portsmouth, NH 03801  
(603) 430-9640  
[scott@greatrhythmbrewing.com](mailto:scott@greatrhythmbrewing.com)  
April 24, 2019

City of Portsmouth Planning Department  
1 Junkins Ave  
Portsmouth, NH 03801

Re: Conditional Use Permit

Dear City of Portsmouth Planning Department:

Great Rhythm Brewing Company, LLC is requesting a Conditional Use Permit for an outdoor dining or drinking area, as accessory use to its currently permitted principle use of operating a Brewery and Tasting Room. Great Rhythm Brewing Company, LLC is located at 105 Bartlett Street in Portsmouth, NH. This property is in Character District CD4-W where this use requires a Conditional Use Permit.

The proposed outdoor area is directly connected and could be serviced by the current Tasting Room at the brewery (As shown in attached document 15122-Great Rhythm-Outdoor Seating Layout.pdf). The plan shows the current state of the property with the exception of the outdoor seating, which would be added if a permit was granted. All other infrastructure on the plan is currently existing.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Thornton", with a stylized, flowing script.

Scott Thornton  
Great Rhythm Brewing Company, LLC

**CITY OF PORTSMOUTH  
PLANNING BOARD**

**SUPPLEMENT TO APPLICATION NARRATIVE**

Great Rhythm Brewing Company  
(Applicant)  
Tax Map 157, Lot 2  
105 Bartlett Street  
Portsmouth, NH 03801

The owners of Great Rhythm Brewing Company (“Great Rhythm”), Scott and Kristen Thornton, voluntarily postponed last month’s Planning Board hearing on their Conditional use Permit Application after learning that several abutters and residents had expressed concerns about the proposed accessory use of the outdoor area adjacent to their tasting room at 105 Bartlett Street. An open meeting was held on June 3, 2019 at the brewery in an effort to address the questions and concerns that were raised in the letters sent to the Planning Board in May. Several people attending the meeting felt that Great Rhythm’s application did not contain sufficient detail concerning the proposed use of the outdoor area. This inherently led to speculation about the proposed use. To the extent not addressed in the prior submission to the Board, the foregoing letter is intended to clarify and respond to the two most prominent concerns raised among abutters and other residents.

**Noise**

The paramount concern raised by abutters and others at the June 3<sup>rd</sup> meeting related to existing noise generated by the brewery during the summer months. Many people attending the meeting expressed concern about the potential for outdoor speakers and regular events and live music to worsen this issue for them.

Great Rhythm has no intention of installing outdoor speakers or projecting music from the inside of the building to any customers using the proposed outdoor area. To the contrary, and in response to the concerns raised by abutters over existing noise generated from the brewery during the summer months, the owners have engaged a sound engineer to work with them on developing solutions to mitigate noise generated from inside of the brewery that can be heard from across the North Mill Pond when the tide is at a higher ebb. As you can imagine with most breweries that operate within an industrial building with metal equipment, it can be difficult to mitigate noise. Now that they have heard the abutters’ concerns over noise, the owners intend to take all feasible measures they can to mitigate the sound that currently projects from the brewery when its windows are open. Moreover, Great Rhythm has no intention of having regular live music or events for the proposed outdoor area. In the past, when Great Rhythm has held a public event in the outdoor area, the City has required them to obtain a Special Permit in advance. These events have also been monitored by a police detail.



It should be noted that no food service is proposed for the outdoor space. Likewise, there will be no outdoor bar. In the ordinary course of business, patrons will come inside to buy a beer at the counter or on occasion may be served a beer at their outdoor table. Unlike some breweries in the area, Great Rhythm does not serve food.

The maximum number of people permitted within the outdoor area is 48. This is the maximum occupancy for the outdoor area that was calculated by the City staff, which cannot be exceeded. The "lawn game" area within the outdoor space is included within this calculation. The staff will monitor the occupancy to ensure that they remain within the regulated limits, not unlike other breweries with outdoor seating. As it currently stands, there is NO provision contained within the Zoning Ordinance that prohibits the patrons of Great Rhythm from using the outdoor area adjacent to its tasting room so long as it is not being used for eating or drinking. It is merely the use of the outdoor area for "drinking" that triggers the need for a Conditional Use Permit, as the Zoning Ordinance treats it as an accessory use to an existing permitted use.

The property is zoned "CD4-W" per the amendments adopted to the Zoning Ordinance in March 2019. The property was previously zoned "Office Research" ("OR"). When viewed in the context of other uses that are permitted by right within the CD4-W Zoning District or that were permitted under the prior OR Zoning, the brewery of the property with proposed seasonal outdoor seating is relatively benign. See Exhibit A (attached).

#### **Environmental Impacts / Impacts to the 100' Wetland Buffer**

To the extent that it was not made clear in the application submission, there are no proposed impacts within the 100' protected wetland buffer that would require a separate conditional use proceeding through the Conservation Commission. Since they have leased the property, they have left this area in its natural state and contrary to some speculation, they have not removed any trees or other vegetation. Great Rhythm does not intend to remove existing vegetation in the area, erect any structures or make any other improvements to it. If any improvements are made to the outdoor space, they would only be those required and permitted by the City of Portsmouth per its health and safety regulations. The owners are only seeking to locate several picnic tables outside where their patrons can drink their beer on nice days. Incidental to this, there will be a small area for lawn games. The extent of the overall impact is extremely low.

Respectfully Submitted,

Dated: June 19, 2019

Great Rhythm Brewing Company  
Scott and Kristen Thornton, Owners



By: Derek R. Durbin, Esq.  
DURBIN LAW OFFICES PLLC  
144 Washington Street  
Portsmouth, NH 03801  
(603)-287-4764  
derek@durbinlawoffices.com

## FORMER ZONING (OR DISTRICT)

### EXHIBIT A

OR Permitted Use Section 10.440  
3.20-Secondary School  
3.30-Historic Preservation Building  
3.40-Museum  
3.80 Municipally operated parks + activities  
5.10 Professional Office  
5.20 Business Office  
5.30 Financial Institution  
5.60 Publishing Facility  
6.10 Hospital  
6.20 Medical Office and Clinics  
7.40 Trade, Craft and General Service  
10.40 Hotel up to 125 people  
14.20 R&D Special  
15.10 Transportation and Utilities Special

## CURRENT ZONING (CD4-W)

2.11 Assisted Living Center  
3.21 Primary or Secondary School  
3.30 Post-secondary school  
3.40 Museum  
3.80 Municipally operated park and related activities  
4.20 Cinema or similar outdoor amusement use with no live performance  
4.30 Indoor recreation use, such as bowling alley or arcade  
4.41 Health club, yoga studio, martial arts school, or similar use – Up to 2,000 sq. ft. GFA  
5.31 Financial services office  
5.32 Retail bank  
7.12 Group day care facility (including private preschool and kindergarten)  
7.70 Undertaking establishment, funeral parlor or mortuary chapel, excluding crematorium  
8.11 Convenience goods 1 (6am – 11pm)  
8.12 Convenience goods 2 (6am – 11pm)  
8.70 Manufacture of goods sold at retail on the premises, such as crafts, coffee roasting and bakery goods  
9.20 Restaurant, take-out only  
9.30 Restaurant, fast food  
9.40 Restaurant, place of public assembly or function room (occupant load less than 50)  
10.30 Inn