



CITY OF PORTSMOUTH

Community Development Department
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Planning Department
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Memo

TO: Conservation Commission Members
FROM: Peter Britz, Environmental Planner 
DATE: March 4, 2016
SUBJ: March 9, 2016 Conservation Commission Meeting

2839 Lafayette Road

This is an application for Conditional Use for impacts in the wetland buffer at the proposed site of a new bank.

This application shows the wetland buffer in the SW corner of the property within which is located 4 parking spaces pavement and a dumpster. Independent review of the wetland delineation has been requested but will not be provided at this month's meeting.

Recommendation: That this application be postponed until the April 13, 2016 Conservation Commission meeting.

110 Clinton Street

This application was reviewed by the Conservation Commission on October 14, 2015 and approved by the Planning Board at their October 15, 2015 meeting. However, staff visited the site to insure they were building according to their plan and found a new landing area within the wetland buffer being built which was not on the approved application. The applicant was told to stop construction until they amended their Conditional Use approval. This application therefore represents an amendment to the application approved on October 15, 2015.

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

1. *The land is reasonably suited to the use activity or alteration.* The small landing and stairs total 51 square feet in the wetland buffer. The prior approval was for a new garage and breezeway. The applicant has sited a door in the breezeway for access/egress from the house. This door requires a landing given the height above ground. This 51 square feet is to provide that landing and stairs to it. It is reasonable to build this due to the code requirement and the small size of the landing.
2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.* Given that the owner wants a door in this location there is no other location suitable for this landing.
3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.*

The proposed landing is made up of wooden decking allowing water to pass through it and is small in size and located on the opposite side of the structure from the wetland. There will likely be no impact to the wetland functional values from the construction of this landing.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.* There will be no alteration to any natural vegetation in the buffer from this amendment.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.* The design of the landing is to allow for access to the breezeway and there is not a less impacting alternative available to meet the construction goals of this project.

Recommendation: Vote to recommend approval of the amended Conditional Use Permit as presented.

Zoning Ordinance Amendments

Article 10

The Planning Department is putting together an omnibus set of Zoning Ordinance amendments. There are a number of areas in *Article 10 - Environmental Protection Standards* that the Commission has discussed changes to in the past. Staff would like move ahead with a set of amendments to this section.

- 1) Specifically, the Zoning Ordinance was amended in 2009 to include a vegetated buffer strip in the first 25 feet from the edge of jurisdictional wetlands, vernal pools, perennial streams or rivers and tidal wetland areas. Prior to the vegetated buffer amendment, structures mowing and other impacts had been ongoing in this area. While it was not the intention of the ordinance to retroactively require all impacts in this 25 foot buffer to stop an amendment has been discussed which would move to require more compliance with this standard. In particular, when a new Conditional Use Permit application is presented the applicant must bring their property into compliance with the provisions of the vegetated buffer strip, where feasible. The way to accomplish this by ordinance is to require the applicant provide information in their application showing the condition of any vegetated buffer strip on their property, demonstrating that this area is in compliance with this provision of the ordinance or is being brought into compliance by reverting to or allowing this area to remain in as natural a condition as possible.
- 2) Given that Atlantic Heights has properties along the Piscataqua River which have sensitive roosting habitats and that these areas are different from the working waterfront along the Piscataqua River it has been discussed in the past that Atlantic Heights be included in the jurisdictional area and be provided protection under Article 10. There are areas along New Castle Avenue and near the downtown that merit consideration for protection as well.
- 3) There is currently an exemption allowing the expansion of the footprint area of a one or two family dwellings up to 25% of the area of the principal heated structure. The ordinance does not have a section stating that this is only allowed one time for any property. While it has been interpreted to mean that this exemption can only be used one time, there is not currently a provision in the ordinance stating this.

Upon review of these items a set of draft amendments will be put together which will then be reviewed by the Planning Board and if supported by the Planning Board would need to be reviewed and approved by the City Council to be included as amendments to the Zoning Ordinance.