

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

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**From:** Catherine Harris <prized@comcast.net>  
**Sent:** Monday, April 12, 2021 4:36 PM  
**To:** Planning Info  
**Subject:** 105 Bartlett Street Request for Wetland CUP

To Members of the Planning Board,

I am writing to ask that your board deny the Wetland CUP requested by the developers of 105 Bartlett Street.

According to Portsmouth's Zoning regulations for Wetlands, which includes the North Mill Pond, section 10.1011 (#8) reads “To require best management practices and LOW IMPACT development in and adjacent to wetland areas”.

Further, section 10.1017.50 (#5) states that “The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section”.

There most certainly will be adverse impacts when the entire ecosystem is removed. To give an example... unbeknownst to their abutting neighbors, the area within the 25’ buffer of the pond at Great Rhythm Brewery was cleared a couple of years ago for the “view”. Portions of the mulch that was laid down washed away the after the first major rainstorm, causing erosion to the banks. The only “restorative” work that has been done since has been the addition some grasses; nothing close to it’s natural state (section 10.1017.50 - #6). To my thinking this was a violation of the Wetland ordinances. So how are we supposed to trust these developers to be responsible stewards of the rest of the shoreline?

Again, to refer to Section 10.1017.50 - Criteria for Approval (#2)

“There is no alternative location...” Yes there is, as has been shown by at least one resident’s renderings. There are always alternatives. Further, I’d like to refer you to Section 10.1016.10 about permitted uses in the 100’ buffer. They include uses, activities and alterations that do NOT involve the erection or construction of any structure or impervious surface.

I do not believe the developers have the best interests of the North Mill Pond, it’s Wetlands and the varied habitat it supports in mind. To quote Steve Miller, former president of ANMP, “No one should be allowed to have a detrimental impact on this crucial natural resource on which our community depends.”

Uphold the 100’ buffer, per the city’s own ordinances. The criteria in section 10.1017.50 has not been fully met. Therefore the board needs to deny the 105 Bartlett Street project a Wetland CUP.

Respectfully,  
Catherine(Kate) Harris  
166 Clinton Street, Portsmouth

**Juliet T.H. Walker**

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**From:** William Gindele <wgindele2018@gmail.com>  
**Sent:** Monday, April 12, 2021 5:32 PM  
**To:** Planning Info  
**Subject:** For the Planning Board RE: 105 Bartlett St

To the Members of the Planning Board,

I am writing to express my strong opposition to the application by Clipper Traders for 105 Bartlett St.

Although I do not feel this proposal meets any of the criteria necessary for approval, the issue of adverse impact on wetland functional values of the site or surrounding properties is one of the most striking to me.

Just some of the buffer's functions include:

- filtering contaminants and pollution (both soil and air) that could be harmful to nearby residents
- filtering toxins and runoff that could be harmful to the pond's ecosystem
- providing a degree of noise buffering
- storm and flood protection for neighboring properties
- allowing underground water routes to continue unimpeded to the pond
- protecting the wetlands
- future help in mitigation efforts regarding climate change and rising tides

If the buffer zone is basically eradicated and replaced by large buildings, all these critical functions will clearly be jeopardized. The buffer zone will also clearly play an increasing role in protection of the surrounding areas and homes when it comes to climate change. Flooding, leaching, and storm damage will be an increasing risk for property owners (and their property values) and we should not sabotage our defenses.

Please do not approve this application.

Sincerely,  
Julia Gindele  
229 Clinton Street

**Juliet T.H. Walker**

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**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

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**From:** Robin Husslage <rhuslage@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

## Juliet T.H. Walker

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**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,

John Howard



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 any 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

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

**Juliet T.H. Walker**

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**From:** John Strucker <struckjo@gmail.com>  
**Sent:** Wednesday, April 14, 2021 11:42 AM  
**To:** Planning Info  
**Subject:** 105 Bartlett Street

Members of the Planning Board:

I am writing to urge in the strongest terms that the Planning Board require the developers of 105 Bartlett Street to adhere to the 100-foot wetland buffer. Only development which conforms to wetland protections should be permitted on this site, or anywhere else in Portsmouth.

It would be a tragic mistake to endanger Portsmouth's wetlands and seaport heritage for short-term gain. It can take decades to repair damage done to our wetlands by excessive runoff, lawn herbicides, and nitrogen-rich fertilizers.

It makes no sense to risk creating, at worst, another Superfund site, or to risk creating algae blooms that harm fish and shellfish.

John Strucker  
73 Taft Road  
Portsmouth, NH 03801

**Juliet T.H. Walker**

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**From:** brenda shanley <shanleyb12@gmail.com>  
**Sent:** Wednesday, April 14, 2021 8:41 AM  
**To:** Planning Info  
**Subject:** 105 Bartlett Street

I urge the Planning Board to require the developers of 105 Bartlett Street to adhere to the 100 foot wetland buffer. I am not opposed to a development at the site, but I am strongly opposed to allowing infringement on wetland areas. It is inconceivable to me that the city would even entertain such a plan given the obvious need to protect wetlands. We must stop repeating the short-sighted mistakes of the past.

Sincerely,

Brenda Shanley  
73 Taft Road  
Portsmouth, NH 03801

## Juliet T.H. Walker

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**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](mailto: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

**Juliet T.H. Walker**

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**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

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**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

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**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

**Juliet T.H. Walker**

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**From:** The Schaepes <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