

# Memo



TO: Conservation Commission Members  
FROM: Kate Homet, Associate Environmental Planner; Peter Britz,  
Director of Planning and Sustainability  
DATE: September 6, 2024  
SUBJ: September 11, 2024 Conservation Commission Meeting

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**100 Durgin Lane  
Oak Street Real Estate Capital, Owner  
Assessor Map 239 Lot 18**

**Note: This application was postponed at the August meeting of the Conservation Commission to the September meeting.**

The application is proposing to demolish the existing Bed Bath & Beyond/Christmas Tree Shop site, removing all existing impervious, and rebuilding on multiple lots to incorporate 360 rental housing units, community spaces, roads, parking, site improvements, stormwater upgrades, lighting, landscaping, etc. This application proposes an overall reduction in impervious surface within the wetland buffer by 17,323 s.f. (approx. 28.28% reduction) compared to the existing site. This proposal includes stormwater improvements and new native buffer landscaping.

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

This application proposes completely removing all existing buildings and impervious area on site and installing 43,922 s.f. of impervious surface with new rental housing units, community buildings, associated roads, parking lots, site improvements and landscaping. This will likely increase or change activity within this area such as foot traffic, vehicle traffic and use of existing wetland buffer space but the applicants have done extensive work to protect and enhance the wetlands and wetland buffers on site.

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

The applicants have gone through many iterations of planning and design to minimize potential impacts to the wetlands, wetland buffers and all systems associated these sensitive areas. This current proposal greatly reduces the impacts on the wetland buffer and reduced the overall impervious area proposed for the site by over 7,000 s.f. compared to the last submission.

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

The wetlands on and off site will experience increased impacts from the proposed use which encourages more people, pets and traffic along the very edges of these wetlands and buffers. To minimize adverse impacts, the applicants have made efforts to remove extensive impervious surfaces from the wetland buffer and added extensive landscaping and stormwater filtration to the site.

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

This project proposes minimal impact to existing natural vegetation and plans to improve vegetation and landscaping across the site and within the buffer.

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

This application proposes a large amount of impact to this site, both temporary and permanent, that are countered with wetland buffer protection measures such as signage, fencing, landscaping, stormwater management and filtration systems. Compared to the existing site, there will be an overall reduction in impervious surfaces on this site and the increased open space should have a positive impact on the environmental systems in this area.

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

There are no new impacts proposed within the 25' vegetated buffer.

**Recommendation:** Staff recommends **approval** of this application with the following stipulations:

1. Applicant shall provide details on interpretative signage within the wetland buffer (content messaging, size, etc.) as well as detail and dimensions on any proposed fencing/guard rails within the buffer.
2. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers. We suggest that these markers are placed along the 25' vegetative buffer at intervals of every 50 feet. These must be installed prior to the start of any construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.
3. One year after landscaping is complete, if at least an 80% success rate has not been reached, applicants will replant and report back to the Planning & Sustainability Department one year after planting is complete and each subsequent year until an 80% planting success rate has been achieved.

**913 Sagamore Avenue  
Hogswave LLC, Owner  
Assessor Map 223 Lot 27**

This application is for the demolition of an existing residential structure and the construction of a new home, reconfiguration of the existing gravel driveway, the addition of a pervious paver patio, deck, removal of impervious surfaces, reconstruction of a retaining wall, grading, utility connections and landscaping. The existing conditions within the 100' wetland buffer include a one-story residential structure with 1,110 s.f. of impact and approximately 900 s.f. of impervious pavement. This application proposes the removal of the 1,110 s.f. of building impact within the buffer and the removal of 900 s.f. of pavement. The applicant is proposing to impact 2,719 s.f. for the new residential structure, garage, drip edges and walkway. This application proposes 5,269 s.f. of temporary impact proposed due to construction, landscaping, hardscaping, grading and utility connections.

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

This area is a previously disturbed area within the tidal buffer with an existing residential structure. The proposal looks to remove the old structure and construct a new, larger structure. Regrading of the land within this tidal buffer is concerning due to the proximity to resource and the existing runoff conditions and slope. Applicant is proposing stone drip edges and crushed stone beneath the rear deck, but additional

stormwater filtration and slowing is needed due to steep grade. In addition, applicant must show compliance with Article 10 Section 10.1017.22 (3).

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

It appears there is space further upland and outside of the 100' wetland buffer where this construction could occur. This alternative should be explored.

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

There are a large number of temporary impacts to the wetland buffer with this proposal and the applicant states an overall decrease in impervious impact. The existing gravel driveway along the shoreline is proposed to be removed but it is unclear what is proposed for that space (native wetland seed mix, plantings, stormwater retention, etc.). The proposed replanting of the 25' vegetated buffer should have a positive impact on the wetland functional values on site where sheet flow over gravel previously existed.

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

The proposed restoration of the 25' vegetated buffer will help to protect the adjacent wetland. In addition, the applicant should consider planting some open space areas within the 100' wetland buffer with wetland conservation seed mix areas (or other appropriate buffer seed mixes).

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

This project will be decreasing the overall impervious impact within the 100' wetland buffer. While the plantings in the 25 foot buffer are a significant improvement to the site it would be beneficial to include additional plantings (or a better description of the plantings in those areas if they are proposed) in the 25-100' buffer, stormwater controls and other alternative locations for the building.

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

Applicant is proposing revegetation of the majority of the 25' vegetated buffer.

**Recommendation:** Staff recommends **approval** of this wetland conditional use permit application if the items listed below can be provided to staff for review prior to submission to the Planning Board:

1. Applicant should consider additional depth of crushed stone under deck (up to 12")
2. Applicant shall provide details on how the retaining wall will be reconstructed and give exact final heights of wall (Sheet C-501 says 18" + or -).
3. Please update Sheet C-102 to be consistent with the new planting area in the buffer shown on Sheet C-104.
4. Note #1 on Sheet C-104 should be reworded to state "Plant species in the wetland and wetland buffer can only be substituted with approval from the City of Portsmouth Planning and Sustainability Department."
5. Note needs to be added to Sheet C-104 stating compliance with Section 10.1018.24 and 10.1018.25 in the City of Portsmouth Zoning Ordinance. Additionally, multiple fertilizer notes need to be removed from Sheet C-501.

6. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers. We suggest that these markers are placed along the 25' vegetative buffer at intervals of every 50 feet. These must be installed prior to the start of any construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department. If applicant intends to utilize signage not provided by the City, it must include language indicating a sensitive wetland area and must be of an appropriate size, final approval can be given by the Planning and Sustainability Department staff. In addition, applicant should note proposed locations for wetland boundary markers on final plan set.
7. Applicant should note on plans what the 2,718 sf of gravel to be removed will be replaced with.
8. Please provide information on the seed mix plans for the 25-100' wetland buffer.
9. Applicant should consider additional plantings within the 25-100' wetland buffer.
10. Please include depth of drip edge on the drip edge detail on Sheet C-501.
11. The grass seed mixture table on Sheet C-501 needs to be updated to reflect the proposed seed mix within the 25' buffer and an appropriate wetland buffer mix for within the 25-100' buffer.
12. Erosion control notes on Sheet C-501 mention swales. Please indicate on plans where swales are to be located.
13. Plant monitoring notes on Sheet C-501 appear to be generic and repeated. Please be consistent with monitoring requirements.