



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

PLANNING BOARD

May 24, 2023

David Sinclair & Nicole Giusto
765 Middle Street
Portsmouth, New Hampshire 03801

RE: Site Plan Approval for property located at 765 Middle Street (LU-22-196)

Dear Property Owners:

The Planning Board, at its regularly scheduled meeting of **Thursday, May 18, 2023**, considered your application for Site Plan Approval for a fourth dwelling unit in a new detached structure with a 3-bay garage, including stormwater management improvements, expanded driveway utility services and landscaping. Said property is shown on Assessor Map 148 Lot 37 and lies within the General Residence A (GRA) and Historic Districts. As a result of said consideration, the Board voted 1) to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented; and 2) to **grant** Site Plan Approval with the following **conditions**:

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:

- 2.1) *The site plan, and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*
- 2.2) *A licensed utility engineer will determine the appropriate sizing for the fire service and domestic water lines.*

Prior to the issuance of a Certificate of Occupancy or release of the bond:

- 2.3) *The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance.*

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

This site plan approval shall not be effective until a site plan review agreement has been signed satisfying the requirements of Section 2.12 of the City's Site Review Approval Regulations.

Unless otherwise indicated above, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

The Planning Director must certify that all outstanding conditions of approval have been completed prior to issuance of a building permit unless otherwise indicated above.

This site plan approval shall expire unless a building permit is issued within a period of one (1) year from the date granted by the Planning Board unless an extension is granted by the Planning Board in accordance with Section 2.14 of the Site Review Regulations.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Planning Board Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/planning-board/planning-board-archived-meetings-and-material>

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is stylized with a large, sweeping initial "R" and a long, horizontal flourish extending to the right.

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector
Rosann Maurice-Lentz, City Assessor

Peter H. Rice, Director of Public Works

Eric Weinrieb, Altus Engineering, Inc.
R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PLLC
Jennifer Ramsey, AIA, SOMMA Studios

Findings of Fact | Site Plan Review

City of Portsmouth Planning Board

Date: May 18, 2023

Property Address: 765 Middle Street

Application #: LU-22-196

Decision: **Approve**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

Site Plan Regulations Section 2.9 Evaluation Criteria - in order to grant site plan review approval, the TAC and the Planning Board shall find that the application satisfies evaluation criteria pursuant to NH State Law and listed herein. In making a finding, the TAC and the Planning Board shall consider all standards provided in Articles 3 through 11 of these regulations.

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information
1	Compliance with all City Ordinances and Codes and these regulations. <u>Applicable standards:</u>	Meets	<u>Applicable standards:</u>
2	Provision for the safe development, change or expansion of use of the site.	Meets	The Applicant is providing residential infill on an oversized parcel. Stormwater management will be improved. Access will continue to be from the lesser travelled road. Vehicles will not back into the street. There is adequate on-site parking.

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information
3	Adequate erosion control and stormwater management practices and other mitigative measures, if needed, to prevent adverse effects on downstream water quality and flooding of the property or that of another.	Meets	Temporary and permanent erosion control and sedimentation measures will be implemented to ensure that transport of sediment will not exit the property. Infiltration and surface management of runoff will mitigate the increased impervious areas.
4	Adequate protection for the quality of groundwater.	Meets	The site is a low pollutant site. Surface water management will ensure was designed so that groundwater supplies will not be adversely impacted.
5	Adequate and reliable water supply sources.	Meets	The development will make use of the municipal water in Lincoln Avenue.
6	Adequate and reliable sewage disposal facilities, lines, and connections.	Meets	The development will make use of the municipal sanitary collection system in Lincoln Avenue.
7	Absence of undesirable and preventable elements of pollution such as smoke, soot, particulates, odor, wastewater, stormwater, sedimentation or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties.	Meets	There will be no undesirable pollutants such as smoke, soot, particulates, odor, wastewater, stormwater, sedimentation discharged into the environment that would be harmful to persons, structures or adjacent properties as a result of the additional residential dwelling unit and garage.
8	Adequate provision for fire safety, prevention and control.	Meets	The proposed building will meet and/or exceed all life safety codes and requirements.
9	Adequate protection of natural features such as, but not limited to, wetlands.	Meets	There are no wetlands on the property or within 100-feet of any sitework activities associated with the project. The site has been previously disturbed and is primarily lawn area.
10	Adequate protection of historical features on the site.	Meets	There is nothing of historical significance in the area of disturbance on this parcel.

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information
11	Adequate management of the volume and flow of traffic on the site and adequate traffic controls to protect public safety and prevent traffic congestion.	Meets	Traffic will continue to utilize the existing driveway on Lincoln Avenue. A single dwelling unit will not create traffic congestion on the adjacent public ways. All vehicles will exit the site in a forward manner.
12	Adequate traffic controls and traffic management measures to prevent an unacceptable increase in safety hazards and traffic congestion off-site.	Meets	Traffic will continue to utilize the existing driveway on Lincoln Avenue. The Middle Street frontage will not be used for access. A single dwelling unit will not create traffic congestion on the adjacent public ways. All vehicles will exit the site in a forward manner.
13	Adequate insulation from external noise sources.	Meets	Not applicable.
14	Existing municipal solid waste disposal, police, emergency medical, and other municipal services and facilities adequate to handle any new demands on infrastructure or services created by the project.	Meets	Solid waste and recycling will be curbside like all the other residential properties in the neighborhood. Fire and Police Departments as well as DPW have indicated during the TAC review process that emergency vehicles can safely access the property.
15	Provision of usable and functional open spaces of adequate proportions, including needed recreational facilities that can reasonably be provided on the site	Meets	Over 50% of the lot remains open space that can be used as gardens, passive and active recreation areas.
16	Adequate layout and coordination of on-site accessways and sidewalks in relationship to off-site existing or planned streets, accessways, bicycle paths, and sidewalks.	Meets	The existing driveway provides an adequate link to the off-site sidewalks in the rights-of-way similar to most residential properties. Additional patio area will be provided for the new residence.
17	Demonstration that the land indicated on plans submitted with the application shall be of such character that it can be used for building purposes without danger to health.	Meets	The property is zoned residential. All of the adjacent properties are residential. The building design mimics the architectural features of the other structures on the property. There are no activities proposed or construction techniques that would pose a danger to the neighborhood.

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information
18	Adequate quantities, type or arrangement of landscaping and open space for the provision of visual, noise and air pollution buffers.	Meets	The site is already well landscaped. The landscape architect has designed the site to augment the landscaping with thoughtful additions to screen the new structure. A solid fence screens the property along Middle Street and to the north and east.
19	Compliance with applicable City approved design standards.	Meets	Zoning relief has been obtained. The project complies with all other ordinances and regulations.
	Other Board Findings:		



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
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PLANNING BOARD

June 1, 2023

238 Deer Street, LLC
238 Deer Street
Portsmouth, NH 03801

RE: Conditional Use Permit for property located at 238 Deer Street (LU-20-238)

Dear Property Owner:

The Planning Board, at its regularly scheduled meeting of Tuesday, May 18, 2023, considered your application for a Conditional Use Permit in accordance with Section 10.1112.14 of the Zoning Ordinance for provision of no on-site parking spaces where 11 spaces are required. Said property is shown on Assessor Map 125 Lot 3 and lies within the Character District 4 (CD4) District. Said property is shown on Assessor Map 125 Lot 3 and lies within the Character District 4 (CD4), Downtown Overlay, and Historic Districts. As a result of said consideration, the Board voted 1) to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1112.14 and to adopt the findings of fact as presented; and 2) to **grant** the conditional use permit with the following **condition**:

2.1) Each tenant or owner who occupies a residential unit shall provide evidence of offsite parking for each vehicle they use. Such evidence will be provided to the applicant or to applicant's successor within thirty days of the beginning of the occupancy of the unit. Upon receipt of such evidence provided by tenants or owners, the applicant or its successor shall provide that evidence to the Planning Department or to such other City department as the Planning Department indicates to the applicant in writing. For a period of five years starting at the time of the issuance of the first certificate of occupancy for residential use, the applicant or its successor shall annually issue a letter report to the Planning Department documenting: a) the evidence previously supplied regarding offsite parking of vehicles used by tenants or owners; and, b) describing any changes by tenants or owners of the number and parking locations of any vehicles they use.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

Unless otherwise indicated above, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work. All stipulations of approval must be completed prior to issuance of a building permit unless otherwise indicated above.

This approval shall expire unless a building permit is obtained within a period of one year from the date granted, unless otherwise stated in the conditions of approval. The Planning Board may, for good cause shown, extend such period by as much as one year if such extension is requested and acted upon prior to the expiration date. No other extensions may be requested.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Planning Board Meeting website:

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The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is fluid and cursive, with a large initial "R" and "C".

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector
Rosann Maurice-Lentz, City Assessor

John Chagnon, PE., Ambit Engineering
Richard Desjardins, McHenry Architecture
Sharon Cuddy Somers, DTC Lawyers

Findings of Fact | Parking Conditional Use Permit

City of Portsmouth Planning Board

Date: 10 May 2023

Property Address: 238 Deer Street

Application #: LU 20 - 238

Decision: **Approve**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval.

Parking Conditional Use Permit

10.1112.14 The Planning Board may grant a conditional use permit to allow a building or use to provide less than the minimum number of off-street parking spaces required by Section 10.1112.30, Section 10.1112.61, or Section 10.1115.20, as applicable, or to exceed the maximum number of off-street parking spaces allowed by Section 10.1112.51.

	Parking Conditional Use Permit 10.1112.14 Requirements	Finding (Meets Criteria/Requirement)	Supporting Information
1	10.1112.141 An application for a conditional use permit under this section shall include a parking demand analysis, which shall be reviewed by the City's Technical Advisory Committee prior to submission to the Planning Board, demonstrating that the proposed number of off-street parking spaces is sufficient for the proposed use.	Meets	<ul style="list-style-type: none"> The Technical Advisory Committee reviewed the Parking Demand Analysis and asked that the Analysis reflect certain conditions, including the first-floor parking demand.
2	10.1112.142 An application for a conditional use permit under this section shall identify permanent evidence-based measures to reduce parking demand, including but not limited to provision of rideshare/microtransit services	Meets	<ul style="list-style-type: none"> The property is close to the parking garage, bus stops, pedestrian sidewalks to the downtown, and has on site bike storage. The unit size (micro) will favor tenants who are looking to reside in a location where a vehicle is not needed.

	Parking Conditional Use Permit 10.1112.14 Requirements	Finding (Meets Criteria/Requirement)	Supporting Information
	or bikeshare station(s) servicing the property, proximity to public transit, car/van-pool incentives, alternative transit subsidies, provisions for teleworking, and shared parking on a separate lot subject to the requirements of 10.1112.62.		<ul style="list-style-type: none"> • The property has easy pedestrian and bicycle access to a variety of services and attractions in the Downtown. • The property is adjacent to the Cove Workspace office building, which provide walkable working opportunities across multiple work scenarios (employee / owner / consultant / remote access).
3	10.1112.143 The Planning Board may grant a conditional use permit only if it finds that the number of off-street parking spaces required or allowed by the permit will be adequate and appropriate for the proposed use of the property. In making this determination, the Board may accept, modify or reject the findings of the applicant's parking demand analysis.	Meets	<ul style="list-style-type: none"> • The parking demand analysis indicates the peak period demand for parking spaces. • The submission includes findings that there will be opportunities to provide parking for residents, if needed, in close proximity to the development which include on street parking in the vicinity, and there are additional private surface lots within walking distance that provide parking.
4	10.1112.144 At its discretion, the Planning Board may require more off-street parking spaces than the minimum number requested by the applicant or may allow fewer spaces than the maximum number requested by the applicant.	Meets	<ul style="list-style-type: none"> • The site has operated with a more intense parking demand (bar – restaurant) without benefit of full on-site parking. This has not been an issue for the area. The property has no location on site to provide the required parking. In this case, a reasonable application of the non-conforming requirements might apply to the redevelopment of the site. • Residential parking demand is highest at night, when the most parking spaces are available in the area.
5	<u>Other Board Findings:</u>		

	Parking Conditional Use Permit 10.1112.14 Requirements	Finding (Meets Criteria/Requirement)	Supporting Information
6	<u>Additional Conditions of Approval:</u> See Attached		



CITY OF PORTSMOUTH

Planning Department
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PLANNING BOARD

May 24, 2023

Nobles Island Condominium Association
500 Market Street
Portsmouth, NH 03801

RE: Wetland Conditional Use Permit for property located at 500 Market Street (LU-23-34)

Dear Owner:

The Planning Board, at its regularly scheduled meeting of **Thursday, May 18, 2023**, considered your application for a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance to remove and replace existing decks on Buildings A, B, and C including the addition of new structural supports with no expansion of the existing footprint resulting in 27 square feet of permanent impact and up to 1,240 square feet of temporary impacts all within the 100' tidal wetland buffer area. Said property is shown on Assessor Map 120, Lot 2 and lies within the Character District 4- L1 (CD4-L1) and Historic Districts. As a result of said consideration, the Board voted 1) to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.50 and to adopt the findings of fact as presented; and 2) to **grant** the Wetland Conditional Use permit with the following **conditions**:

2.1) The Applicant shall submit plans for approval to the Planning & Sustainability Department prior to building permit issuance for the two storm-water outfall areas off the parking lot. These areas should be provided with some sort of infiltration before it reaches the North Mill Pond. This can include digging down into the soil and placing crushed stone or the planting of native buffer species to slow storm-water.

2.2) Native buffer plantings shall be placed along the bank behind Building B as a replacement of portions of the grass as well as others areas where appropriate.

*2.3) The property owner shall follow NOFA land care standards on the site.
http://www.organiclandcare.net/sites/default/files/nofa_organic_land_care_standards_6thedition_2017_opt.pdf*

2.4) In accordance with Section 10.1018.40 of the Zoning Ordinance, the applicant shall install wetland boundary markers during project construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

Unless otherwise indicated, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work. All conditions of approval must be completed prior to issuance of a building permit unless otherwise indicated.

This approval shall expire one year after the date of approval by the Planning Board unless a building permit is issued prior to that date. The Planning Board may grant a one-year extension of a conditional use permit if the applicant submits a written request to the Planning Board prior to the expiration date.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Planning Board Meeting website:

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Very truly yours,

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Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector
Rosann Maurice-Lentz, City Assessor

Michael Street, Property Manager, CP Management

Findings of Fact | Wetland Conditional Use Permit

City of Portsmouth Planning Board

Date: May 18, 2023

Property Address: 500 Market Street

Application #: LU-23-34

Decision: **Approve**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

In order to grant Wetland Conditional Use permit approval the Planning Board shall find the application satisfies criteria set forth in the Section 10.1017.50 (Criteria for Approval) of the Zoning Ordinance.

	Zoning Ordinance Sector 10.1017.50 Criteria for Approval	Finding (Meets Criteria for Approval)	Supporting Information
1	<i>1. The land is reasonably suited to the use activity or alteration.</i>	Meets	The overall project is an addition to the existing principal structure and new pervious pavers all within the wetland buffer. The small size of the addition and the inclusion of the porous pavers appears to be reasonable for the site.
2	<i>2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.</i>	Meets	The existing project is to expand the footprint of the interior living space where a deck currently exists. Given they are utilizing an existing footprint the location is the best alternative.

	Zoning Ordinance Sector 10.1017.50 Criteria for Approval	Finding (Meets Criteria for Approval)	Supporting Information
3	3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.	Meets	The proposed project represents a small new impact of impervious surface, but the applicant is adding landscaping and porous pavers to the site which will reduce any overall impact. The landscaping will include mulch and plantings – more details are necessary on the types of plantings.
4	4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.	Meets	There is no impact to the woodland and the only natural vegetation will be removal of some lawn and landscaped areas which are fairly small and will be replaced by porous pavers and new landscaping.
5	5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.	Meets	The applicant has provided an alternative with a small impact to the wetland buffer.
6	6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.	Meets	The proposal includes a plan with native landscaping and porous paver buffer.
7	<u>Other Board Findings:</u>		



CITY OF PORTSMOUTH

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PLANNING BOARD

May 24, 2023

Thomas E, Marybeth B, James B, & Meegan C. Reis
305 Peverly Hill Road
Portsmouth, New Hampshire 03801

RE: Site Plan Approval for property located at 305 Peverly Hill Road (LU-23-18)

Dear Property Owner(s):

The Planning Board, at its regularly scheduled meeting of **Thursday, May 18 2023**, considered your application for Site Plan Approval for the redevelopment of the property including the addition of two new dwelling units for a total of three units with associated site improvements. Said property is shown on Assessor Map 255 Lot 5 and lies within the Single Residence A (SRA), Single Residence B (SRB) and Natural Resources Protection (NRP) Districts. As a result of said consideration, the Board voted 1) to find that a waiver will not have the effect of nullifying the spirit and intent of the City's Master Plan or the Site Plan Review Regulations, and to **waive the following regulations:**

1. *Section 2.5.4.3J – outdoor Lighting; Section 10.1 – Dark Sky Lighting Measures; Section 2.5.4.3K – Landscaping; Section 7.6.5 – Stormwater Management; and Section 7.6.5 – Inspection and Maintenance Plan.*

And; 1a) the Board voted to find that the Site Plan Application meets the requirements set forth in the Site Plan Regulations Section 2.9 Evaluation Criteria and adopt the findings of fact as presented; and 2) to **grant** Site Plan Approval with the following **conditions:**

Conditions to be satisfied subsequent to final approval of site plan but prior to the issuance of a building permit or the commencement of any site work or construction activity:

- 2.1) *The site plan, and any easement plans and deeds shall be recorded at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

This site plan approval shall not be effective until a site plan review agreement has been signed satisfying the requirements of Section 2.12 of the City's Site Review Approval Regulations.

Unless otherwise indicated above, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

The Planning Director must certify that all outstanding conditions of approval have been completed prior to issuance of a building permit unless otherwise indicated above.

This site plan approval shall expire unless a building permit is issued within a period of one (1) year from the date granted by the Planning Board unless an extension is granted by the Planning Board in accordance with Section 2.14 of the Site Review Regulations.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Planning Board Meeting website:

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Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector
Rosann Maurice-Lentz, City Assessor

Peter H. Rice, Director of Public Works

Sharon Somers, Donahue, Tucker & Ciandella, PLLC
Erik Saari, Altus Engineering Inc.

Findings of Fact | Site Plan Review

City of Portsmouth Planning Board

Date: May 18, 2023

Property Address: 305 Peverly Hill Road

Application #: LU-23-18

Decision: ■ Approve

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

Site Plan Regulations Section 2.9 Evaluation Criteria - in order to grant site plan review approval, the TAC and the Planning Board shall find that the application satisfies evaluation criteria pursuant to NH State Law and listed herein. In making a finding, the TAC and the Planning Board shall consider all standards provided in Articles 3 through 11 of these regulations.

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information
1	Compliance with all City Ordinances and Codes and these regulations. <u>Applicable standards:</u>	Meets	<u>Applicable standards:</u> The project meets all applicable City ordinances, codes and regulations.
2	Provision for the safe development, change or expansion of use of the site.	Meets	The project has been vetted by the TAC which found no unsafe elements in the proposal.
3	Adequate erosion control and stormwater management practices and other mitigative measures, if needed, to prevent adverse effects on downstream water quality and flooding of the property or that of another.	Meets	The project includes adequate temporary erosion and sediment control measures for use during construction and is sited in a way to prevent any impacts to abutting properties by way of stormwater.
4	Adequate protection for the quality of groundwater.		The project does not propose any uses with high pollutant loads that could impact

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information
		Meets	groundwater.
5	Adequate and reliable water supply sources.	Meets	The site is served by City water.
6	Adequate and reliable sewage disposal facilities, lines, and connections.	Meets	The project has secured a NHDES permit for a new subsurface sanitary disposal system.
7	Absence of undesirable and preventable elements of pollution such as smoke, soot, particulates, odor, wastewater, stormwater, sedimentation or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties.	Meets	The project will not create undesirable and preventable elements of pollution such as smoke, soot, particulates, odor, wastewater, stormwater, sedimentation or any other discharge into the environment which might prove harmful to persons, structures, or adjacent properties.
8	Adequate provision for fire safety, prevention and control.	Meets	The application has been vetted by the Portsmouth Fire Department
9	Adequate protection of natural features such as, but not limited to, wetlands.	Meets	There are no wetlands within the vicinity of the project.
10	Adequate protection of historical features on the site.	Meets	The project is not impacting any know historical resources.
11	Adequate management of the volume and flow of traffic on the site and adequate traffic controls to protect public safety and prevent traffic congestion.	Meets	The proposal will utilize existing driveways and will generate a minimal amount of traffic.
12	Adequate traffic controls and traffic management measures to prevent an unacceptable increase in safety hazards and traffic congestion off-site.	Meets	The project will generate a minimal amount of traffic and no offsite traffic controls are required.
13	Adequate insulation from external noise sources.	Meets	The proposed structures will meet all applicable codes relating to noise.

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information
14	Existing municipal solid waste disposal, police, emergency medical, and other municipal services and facilities adequate to handle any new demands on infrastructure or services created by the project.	Meets	The project has been reviewed and approved by TAC which found that the project will create no unreasonable demand on City infrastructure or services.
15	Provision of usable and functional open spaces of adequate proportions, including needed recreational facilities that can reasonably be provided on the site	Meets	The project site includes a 36+ acre conservation easement which provides exemplary open space and opportunities for recreation by the occupants.
16	Adequate layout and coordination of on-site accessways and sidewalks in relationship to off-site existing or planned streets, accessways, bicycle paths, and sidewalks.	Meets	The project is of such a diminutive scale that it does not require a sidewalk connection to a City street.
17	Demonstration that the land indicated on plans submitted with the application shall be of such character that it can be used for building purposes without danger to health.	Meets	The project area is comprised of upland soils with gentle slopes which present no obstacle to construction or danger to health.
18	Adequate quantities, type or arrangement of landscaping and open space for the provision of visual, noise and air pollution buffers.	Meets	The project area is surrounded by a large conservation easement which will provide an extensive buffer to neighboring properties.
19	Compliance with applicable City approved design standards.	Meets	The project meets all applicable City design standards.
	Other Board Findings:		



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

PLANNING BOARD

May 24, 2023

City of Portsmouth
Attn: Ken Linchey
PO BOX 628
Portsmouth, NH 03801

RE: Wetland Conditional Use Permit application for property located at 50 Andrew Jarvis Drive (LU-23-32)

Dear Owner:

The Planning Board, at its regularly scheduled meeting of **Thursday, May 18, 2023**, considered your application for a Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for the reconfiguration of the existing four tennis courts at the high school along with resurfacing work and the addition of two more courts over existing wetland buffer area which will result in 84,676 s.f. of impact to the wetland buffer. The applicant is proposing pervious surfaces and improved stormwater infiltration from crushed stone areas to help mitigate and slow impacts to the wetland. Said property is shown on Assessor Map 229, Lot 3 and lies within the Municipal District. As a result of said consideration, the Board voted 1) to find that the Conditional Use Permit application meets the criteria set forth in Section 10.1017.50 and to adopt the findings of fact as presented; and 2) to **grant** the Wetland Conditional Use permit with the following **conditions**:

- 2.1) *A planting plan shall be submitted to and approved by the Planning and Sustainability Department prior to issuance of a building permit or any site work.*
- 2.2) *The applicant shall reduce walkways from 12 feet wide to 10 feet wide where possible.*
- 2.3) *The applicant shall consider the use of pervious pavement wherever possible.*
- 2.4) *The applicant shall replace the proposed silt fences and use silt socks during construction.*
- 2.5) *The applicant shall replace all Maple trees to be removed with new Maple trees and replace all trees over 4" dbh with new trees around the site and school property.*

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the

applicant's risk. Please contact the Planning Department for more details about the appeals process.

Unless otherwise indicated, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work. All conditions of approval must be completed prior to issuance of a building permit unless otherwise indicated.

This approval shall expire one year after the date of approval by the Planning Board unless a building permit is issued prior to that date. The Planning Board may grant a one-year extension of a conditional use permit if the applicant submits a written request to the Planning Board prior to the expiration date.

The Findings of Fact associated with this decision are available: attached here or as an attachment in the Viewpoint project record associated with this application and on the Planning Board Meeting website:

<https://www.cityofportsmouth.com/planportsmouth/planning-board/planning-board-archived-meetings-and-material>

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is stylized with a large, sweeping initial "R" and "C".

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector
Rosann Maurice-Lentz, City Assessor

Ken Linchey, Director of Buildings & Grounds/Maintenance, City of Portsmouth

Findings of Fact | Wetland Conditional Use Permit

City of Portsmouth Planning Board

Date: May 18, 2023

Property Address: 50 Andrew Jarvis Dr

Application #: LU-23-32

Decision: **Approve**

Findings of Fact:

Effective August 23, 2022, amended RSA 676:3, I now reads as follows: The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit and make a copy of the decision available to the applicant. **The decision shall include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval.** If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of the all conditions necessary to obtain final approval.

In order to grant Wetland Conditional Use permit approval the Planning Board shall find the application satisfies criteria set forth in the Section 10.1017.50 (Criteria for Approval) of the Zoning Ordinance.

	Zoning Ordinance Sector 10.1017.50 Criteria for Approval	Finding (Meets Criteria for Approval)	Supporting Information
1	<i>1. The land is reasonably suited to the use activity or alteration.</i>	Meets	The proposal would expand on the space that is already utilized for tennis courts and extend further into both the wetland buffer.
2	<i>2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.</i>	Meets	The four tennis courts that already exist in this location cannot currently be utilized as they do not meet NHA competition standards which require six courts. The alternative would be placing new courts farther away from the existing courts which is not desirable.

	Zoning Ordinance Sector 10.1017.50 Criteria for Approval	Finding (Meets Criteria for Approval)	Supporting Information
3	<i>3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.</i>	Meets	The proposed project represents an expansion of impervious surface within the buffer. The applicant is proposing to direct stormwater off the courts through stone and is also planning for additional landscaping.
4	<i>4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.</i>	Meets	The proposed impact to the vegetative area will only occur in the areas required to meet construction goals. The applicant is planning to install landscaping around the new courts to help offset the loss of vegetation.
5	<i>5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.</i>	Meets	The applicant has provided an alternative with a small impact to the wetland buffer and associated landscaping and stormwater control.
6	<i>6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.</i>	Meets	The applicant should provide a planting plan to display areas to be landscaped and replace any impacted vegetation.
7	<u>Other Board Findings:</u>		