

# 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     Deny     Approve with Conditions

### 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 Provided by applicant
1	Compliance with all City Ordinances and Codes and these regulations. <u>Applicable standards:</u>	Meets  Does Not Meet	<u>Applicable standards:</u>
2	Provision for the safe development, change or expansion of use of the site.	Meets  Does Not Meet	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.

	<b>Site Plan Review Regulations Section 2.9 Evaluation Criteria</b>	<b>Finding (Meets Standard/Criteria)</b>	<b>Supporting Information</b> Provided by applicant
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.	<b>Meets</b> <b>Does Not Meet</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	The development will make use of the municipal water in Lincoln Avenue.
6	Adequate and reliable sewage disposal facilities, lines, and connections.	<b>Meets</b> <b>Does Not Meet</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	There is nothing of historical significance in the area of disturbance on this parcel.
11	Adequate management of the volume and flow of traffic on the site and adequate	<b>Meets</b>	Traffic will continue to utilize the existing driveway on Lincoln Avenue. A single dwelling unit will not create traffic

	<b>Site Plan Review Regulations Section 2.9 Evaluation Criteria</b>	<b>Finding (Meets Standard/Criteria)</b>	<b>Supporting Information</b> Provided by applicant
	traffic controls to protect public safety and prevent traffic congestion.	<b>Does Not Meet</b>	congestion on the adjacent public ways. All vehicles will exit the site in a forward manner.
<b>12</b>	Adequate traffic controls and traffic management measures to prevent an unacceptable increase in safety hazards and traffic congestion off-site.	<b>Meets</b> <b>Does Not Meet</b>	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.
<b>13</b>	Adequate insulation from external noise sources.	<b>Meets</b> <b>Does Not Meet</b>	Not applicable.
<b>14</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	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.
<b>15</b>	Provision of usable and functional open spaces of adequate proportions, including needed recreational facilities that can reasonably be provided on the site	<b>Meets</b> <b>Does Not Meet</b>	Over 50% of the lot remains open space that can be used as gardens, passive and active recreation areas.
<b>16</b>	Adequate layout and coordination of on-site accessways and sidewalks in relationship to off-site existing or planned streets, accessways, bicycle paths, and sidewalks.	<b>Meets</b> <b>Does Not Meet</b>	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.
<b>17</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	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.
<b>18</b>	Adequate quantities, type or arrangement of landscaping and open space for the provision of visual, noise and air pollution buffers.	<b>Meets</b> <b>Does Not Meet</b>	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

	<b>Site Plan Review Regulations Section 2.9 Evaluation Criteria</b>	<b>Finding (Meets Standard/Criteria)</b>	<b>Supporting Information</b> Provided by applicant
			property along Middle Street and to the north and east.
<b>19</b>	Compliance with applicable City approved design standards.	<b>Meets</b>  <b>Does Not Meet</b>	Zoning relief has been obtained. The project complies with all other ordinances and regulations.
	<b>Other Board Findings:</b>		

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# 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     Deny     Approve with Conditions

### 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.

	<b>Parking Conditional Use Permit 10.1112.14 Requirements</b>	<b>Finding (Meets Criteria/Requirement)</b>	<b>Supporting Information</b>
<b>1</b>	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.	<b>Meets</b>  <b>Does Not Meet</b>	<ul style="list-style-type: none"> <li>The Technical Advisory Committee reviewed the Parking Demand Analysis and asked that the Analysis reflect certain conditions, including the first-floor parking demand.</li> </ul>
<b>2</b>	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	<b>Meets</b>  <b>Does Not Meet</b>	<ul style="list-style-type: none"> <li>The property is close to the parking garage, bus stops, pedestrian sidewalks to the downtown, and has on site bike storage.</li> <li>The unit size (micro) will favor tenants who are looking to reside in a location where a vehicle is not needed.</li> </ul>

	<b>Parking Conditional Use Permit 10.1112.14 Requirements</b>	<b>Finding</b> (Meets Criteria/Requirement)	<b>Supporting Information</b>
	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"> <li>• The property has easy pedestrian and bicycle access to a variety of services and attractions in the Downtown.</li> <li>• The property is adjacent to the Cove Workspace office building, which provide walkable working opportunities across multiple work scenarios (employee / owner / consultant / remote access).</li> </ul>
<b>3</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	<ul style="list-style-type: none"> <li>• The parking demand analysis indicates the peak period demand for parking spaces.</li> <li>• 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.</li> </ul>
<b>4</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Residential parking demand is highest at night, when the most parking spaces are available in the area.</li> </ul>
<b>5</b>	<b><u>Other Board Findings:</u></b>		

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

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# 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       Deny       Approve with Conditions

### 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.

	<b>Zoning Ordinance Sector 10.1017.50 Criteria for Approval</b>	<b>Finding</b> (Meets Criteria for Approval)	<b>Supporting Information</b>
<b>1</b>	<i>1. The land is reasonably suited to the use activity or alteration.</i>	<b>Meets</b> <b>Does Not Meet</b>	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.
<b>2</b>	<i>2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.</i>	<b>Meets</b> <b>Does Not Meet</b>	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.



	<b>Zoning Ordinance Sector 10.1017.50 Criteria for Approval</b>	<b>Finding</b> (Meets Criteria for Approval)	<b>Supporting Information</b>
3	3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.	Meets  Does Not Meet	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  Does Not Meet	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  Does Not Meet	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  Does Not Meet	The proposal includes a plan with native landscaping and porous paver buffer.
7	<b><u>Other Board Findings:</u></b>		

# 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     Deny     Approve with Conditions

### 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>	<b>Meets</b> <del>Does Not Meet</del>	<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.	<b>Meets</b> <del>Does Not Meet</del>	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.	<b>Meets</b> <del>Does Not Meet</del>	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.

	<b>Site Plan Review Regulations Section 2.9 Evaluation Criteria</b>	<b>Finding (Meets Standard/Criteria)</b>	<b>Supporting Information</b>
<b>4</b>	Adequate protection for the quality of groundwater.	<b>Meets</b> <del><b>Does Not Meet</b></del>	The project does not propose any uses with high pollutant loads that could impact groundwater.
<b>5</b>	Adequate and reliable water supply sources.	<b>Meets</b> <del><b>Does Not Meet</b></del>	The site is served by City water.
<b>6</b>	Adequate and reliable sewage disposal facilities, lines, and connections.	<b>Meets</b> <del><b>Does Not Meet</b></del>	The project has secured a NHDES permit for a new subsurface sanitary disposal system.
<b>7</b>	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.	<b>Meets</b> <del><b>Does Not Meet</b></del>	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.
<b>8</b>	Adequate provision for fire safety, prevention and control.	<b>Meets</b> <del><b>Does Not Meet</b></del>	The application has been vetted by the Portsmouth Fire Department
<b>9</b>	Adequate protection of natural features such as, but not limited to, wetlands.	<b>Meets</b> <del><b>Does Not Meet</b></del>	There are no wetlands within the vicinity of the project.
<b>10</b>	Adequate protection of historical features on the site.	<b>Meets</b> <del><b>Does Not Meet</b></del>	The project is not impacting any known historical resources.
<b>11</b>	Adequate management of the volume and flow of traffic on the site and adequate traffic controls to protect public safety and prevent traffic congestion.	<b>Meets</b> <del><b>Does Not Meet</b></del>	The proposal will utilize existing driveways and will generate a minimal amount of traffic.
<b>12</b>	Adequate traffic controls and traffic management measures to prevent an unacceptable increase in safety hazards and traffic congestion off-site.	<b>Meets</b> <del><b>Does Not Meet</b></del>	The project will generate a minimal amount of traffic and no offsite traffic controls are required.
<b>13</b>	Adequate insulation from external noise sources.	<b>Meets</b>	The proposed structures will meet all applicable codes relating to noise.

	<b>Site Plan Review Regulations Section 2.9 Evaluation Criteria</b>	<b>Finding (Meets Standard/Criteria)</b>	<b>Supporting Information</b>
		<b>Does Not Meet</b>	
<b>14</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	The project has been reviewed and approved by TAC which found that the project will create no unreasonable demand on City infrastructure or services.
<b>15</b>	Provision of usable and functional open spaces of adequate proportions, including needed recreational facilities that can reasonably be provided on the site	<b>Meets</b> <b>Does Not Meet</b>	The project site includes a 36+ acre conservation easement which provides exemplary open space and opportunities for recreation by the occupants.
<b>16</b>	Adequate layout and coordination of on-site accessways and sidewalks in relationship to off-site existing or planned streets, accessways, bicycle paths, and sidewalks.	<b>Meets</b> <b>Does Not Meet</b>	The project is of such a diminutive scale that it does not require a sidewalk connection to a City street.
<b>17</b>	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.	<b>Meets</b> <b>Does Not Meet</b>	The project area is comprised of upland soils with gentle slopes which present no obstacle to construction or danger to health.
<b>18</b>	Adequate quantities, type or arrangement of landscaping and open space for the provision of visual, noise and air pollution buffers.	<b>Meets</b> <b>Does Not Meet</b>	The project area is surrounded by a large conservation easement which will provide an extensive buffer to neighboring properties.
<b>19</b>	Compliance with applicable City approved design standards.	<b>Meets</b> <b>Does Not Meet</b>	The project meets all applicable City design standards.
	<b>Other Board Findings:</b>		

# 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       Deny       Approve with Conditions

### 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.

	<b>Zoning Ordinance Sector 10.1017.50 Criteria for Approval</b>	<b>Finding</b> (Meets Criteria for Approval)	<b>Supporting Information</b>
<b>1</b>	<i>1. The land is reasonably suited to the use activity or alteration.</i>	<b>Meets</b> <b>Does Not Meet</b>	The proposal would expand on the space that is already utilized for tennis courts and extend further into both the wetland buffer.
<b>2</b>	<i>2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.</i>	<b>Meets</b> <b>Does Not Meet</b>	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.

	<b>Zoning Ordinance Sector 10.1017.50 Criteria for Approval</b>	<b>Finding</b> (Meets Criteria for Approval)	<b>Supporting Information</b>
3	3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.	Meets  Does Not Meet	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	4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.	Meets  Does Not Meet	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	5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.	Meets  Does Not Meet	The applicant has provided an alternative with a small impact to the wetland buffer and associated landscaping and stormwater control.
6	6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.	Meets  Does Not Meet	The applicant should provide a planting plan to display areas to be landscaped and replace any impacted vegetation.
7	<b><u>Other Board Findings:</u></b>		