



CITY OF PORTSMOUTH

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

PLANNING BOARD

June 22, 2023

Eversource Energy dba
Public Service Company of New Hampshire
PO BOX 270
Hartford , CT 06141

RE: Wetland CUP Application for property located at 0 Ocean Road (LU-23-60)

Dear Owner:

The Planning Board, at its regularly scheduled meeting of **Thursday, June 15, 2023**, considered your application for a proposed Wetland Conditional Use Permit under Section 10.1017 for utility structure replacement project involving the replacement of wooden utility poles with steel poles and associated equipment. This work would be throughout the Portsmouth transmission corridor between Gosling Road to Echo Avenue and between Borthwick Avenue and the Ocean Road Substation. In total, the proposed project requires approximately 208,734 sq. ft. of temporary wetland impact for the placement of timber matting and structure replacements. There will be approximately 3,310 sq. ft. of temporary impact to Pickering Brook in order to span the stream with timber matting. The project also proposes 78,642 sq. ft. of temporary buffer impact in uplands for clearing and grading to gain access to structures. Said property is shown on Assessor Map 238 Lots 2, 3 and 20, Map 239 Lots 7-1, 8, 13-2, 16 and 18, Map 240 Lots 2-1, and 3, Map 258 Lot 54, Map 259 Lot 12 and lies within the Gateway-1 (G1), Waterfront Industrial (WI), Office Research (OR), Industrial (I), and Rural (R) 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 10.1017.60 and to adopt the findings of fact as presented; and 2) to **grant** the Wetland Conditional Use permit with the following **conditions**:

2.1) *Silt sock shall be used wherever practical.*

2.2) *Plans and documents need to clarify the mat cleaning process to remove invasive species.*

2.3) *Prior to construction, a pole inspection shall be conducted to identify any other poles within the project area as discussed during the Planning Board hearing that might need to be replaced within two years of the date of inspection. This information shall be provided in a letter report to the Planning Department, including the locations of any such additional poles.*

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

Findings of Fact | Wetland Conditional Use Permit

City of Portsmouth Planning Board

Date: June 15, 2023

Property Address: Gosling – Ocean Rd

Application #: LU-23-60

Decision: **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 10.1017.60 (Criteria for Approval) of the Zoning Ordinance.

	Zoning Ordinance Sector 10.1017.60 Criteria for Approval	Finding (Meets Criteria for Approval)	Supporting Information
1	<i>1. The proposed project is in the public interest.</i>	Meets	The project is necessary maintain existing corridor powerlines with upgraded support poles.
2	2.Design, construction, and maintenance methods will utilize best management practices to minimize any detrimental impact of such use upon the wetland and will include restoration of the site as nearly as possible to its original grade condition and vegetated state.	Meets	The applicant has stated that the work will be conducted in accordance with NHDES Best Management Practices Manual for Utilities in and Adjacent to Wetlands and Waterbodies (NH DNCR 2019). Prior to placement of timber mats the applicant has stated they will inspect the mats to ensure cleanliness and will clean them off with each reuse. Wooden timber matting will be used to minimize the disturbance of wetlands and sensitive areas and once removed, the areas will be restored and stabilized with seed and mulch. Any areas of soil disturbance will be stabilized with seed and straw mulch. Additional proposed BMPs include silt fences, straw wattles/bales, and the use of water bars.

	Zoning Ordinance Sector 10.1017.60 Criteria for Approval	Finding <i>(Meets Criteria for Approval)</i>	Supporting Information
3	<i>3.No alternative feasible route exists which does not cross or alter a wetland or have a less detrimental impact on a wetland.</i>	Meets	The applicant has chosen the only routes available to access the replacement poles, but the applicant has selected access designed to utilize existing historical access routes where possible to minimize impacts.
4	<i>4.Alterations of natural vegetation or managed woodland will occur only to the extent necessary to achieve construction goals.</i>	Meets	Generally, the vegetation is expected to return to its original configuration after the timber mats are removed. After removal, if erosion has occurred the areas will be restored with seed and mulch. However, there will be some vegetation removed exactly where the structure replacement is proposed to occur.
5	<u>Other Board Findings:</u>		



CITY OF PORTSMOUTH

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

PLANNING BOARD

June 22, 2023

Kevin Crowell
95 Brewery Lane
Portsmouth, NH 03801

RE: Outdoor Dining CUP for property located at 95 Brewery Lane (LU-23-75)

Dear Mr. Crowell:

The Planning Board, at its regularly scheduled meeting of Thursday, June 15, 2023, considered your application for a Conditional Use Permit in accordance with Section 10.440, Use 19.50 for an outdoor dining and drinking area as an accessory use. Said property is shown on Assessor Map 146 Lot 27 and lies within the Character District 4-W (CD-4W) and Character District 4-L2 (CD4-L-2). 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 10.243.20 and to adopt the findings of fact as presented; and 2) to **approve** the conditional use permit as presented.

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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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

Findings of Fact | Outdoor Dining Conditional Use Permit

City of Portsmouth Planning Board

Date: June 15, 2023

Property Address: 95 Brewery Lane

Application #: LU-23-75

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.

Outdoor Dining Conditional Use Permit

10.242.10 The Planning Board may grant a conditional use permit if the application is found to be in compliance with the general criteria in Section 10.243 or, if applicable, the specific standards or criteria set forth in this Ordinance for the particular use or activity.

	Outdoor Dining Conditional Use Permit 10.243 Requirements	Finding (Meets Criteria/Requirement)	Supporting Information (provided by applicant)
1	10.243.21 The design of proposed structures, their height and scale in relation to the site's surroundings, the nature and intensity of the proposed use or activity, and the layout and design of the site will be compatible with adjacent and nearby properties, buildings and uses, will complement or enhance the character of surrounding development, and will encourage the appropriate and orderly development and use of land and buildings in the surrounding area.	Meets	The design, height, scale and layout of the proposed use is 50.6' x 9.35' which is the same dimensions as what is currently in place. The proposed project is replacing the existing materials with no changes to the 'footprint' or current height, scale and layout. The outdoor dining area will be 473.11 square feet in area. Examples in the surrounding area of approved outdoor dining that are similar to scale and design are Liar's Bench, located at 459 Islington Street permitted to have up to 50 patrons, and Gallagher's Place located at 801 Islington Street.
2	10.243.22 All necessary public and private utility infrastructure and services will be available and adequate to serve the proposed use.	Meets	All necessary public and private utility infrastructure and services are available and adequate to serve the proposed outdoor dining area.

	Outdoor Dining Conditional Use Permit 10.243 Requirements	Finding (Meets Criteria/Requirement)	Supporting Information (provided by applicant)
3	10.243.23 The site and surrounding streets will have adequate vehicular and pedestrian infrastructure to serve the proposed use consistent with the City's Master Plan.	Meets	The site and surrounding streets have adequate vehicular and pedestrian infrastructure to serve the proposed outdoor dining area consistent with the City's Master Plan. The existing area does not inhibit any vehicular and pedestrian traffic or access as the proposed project is replacing the materials and not changing the current area dimensions or access. The proposed outdoor dining area has safeguards in place for the public that includes granite curbing and a 4' black aluminum fence with gate access to adequately buffer the area from vehicular traffic and provide safe pedestrian access to avoid customer-vehicular conflicts.
4	10.243.24 The proposed structures, uses, or activities will not have significant adverse impacts on abutting and surrounding properties on account of traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare.	Meets	The proposed permeable paver patio for outdoor dining use will not have significant adverse impacts on abutting and surrounding properties on account of traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare. The proposed area abuts the business the Applicant owns and a parking lot which allows current and proposed parking for the public. The parking lot will not be disturbed nor altered in any way for the proposed outdoor dining area.
5	10.243.25 The proposed structures and uses will not have significant adverse impacts on natural or scenic resources surrounding the site, including wetlands, floodplains, and significant wildlife habitat.	Meets	The proposed permeable paver patio for outdoor dining use will not have significant adverse impacts on natural or scenic resources surrounding the site, including wetlands, floodplains, and significant wildlife habitat.
6	10.243.26 The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.	Meets	The proposed outdoor dining will not cause or contribute to a significant decline in property values of adjacent properties. The proposed paver patio for outdoor dining will add to the value and enhance the aesthetics of the property and surrounding businesses. The property owner has approved the proposed paver patio for outdoor dining.

	Outdoor Dining Conditional Use Permit 10.243 Requirements	Finding (Meets Criteria/Requirement)	Supporting Information (provided by applicant)
6	<u>Other Board Findings:</u>		
7	<u>Additional Conditions of Approval:</u>		



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PLANNING BOARD

June 22, 2023

RTM Trust, Ryan T Mullen and Heidi E K Trustees
253 Odiorne Point Road
Portsmouth, New Hampshire 03801

RE: Wetland Conditional Use Permit for property located at 253 Odiorne Point Road (LU-23-36)

Dear Property Owners:

The Planning Board, at its regularly scheduled meeting of **Tuesday, June 15, 2023**, considered your application for Wetland Conditional Use Permit according to Section 10.1017 of the Zoning Ordinance for proposed improvements to existing drainage issues on the property including the installation of crushed stone to help with infiltration into two existing French drains and an additional French drain installation. The proposal includes an extension of existing stone walls, a concrete slab addition under the deck, an expansion of a deck and the relocation of deck footings and stairs which totals approximately 2,500 s.f. of impact within the wetland buffer. The applicant proposes additional native buffer plantings and a rain garden to help slow and infiltrate stormwater before it reaches the wetland source on the property. Said property is shown on Assessor Map 224 Lot 10-19 and lies within the Single Residence A (SRA) 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 silt sock shall be used in addition to the existing silt fence to help mitigate construction impacts.

2.2) No plantings shall be planted within the wetland itself, just the buffer, and no removal of invasive shall be performed within the wetland.

2.3) A final planting site plan shall be submitted to the Planning Department for review and approval prior to construction.

2.4) In accordance to Section 10.1018.40 of the Zoning Ordinance, the applicant shall install wetland boundary markers during the construction process. The signs can be purchased through the City of Portsmouth Planning and Sustainability department.

2.5) *The Conservation Commission recommends the homeowner to follow NOFA land care management standards at the site.*

http://www.organiclandcare.net/sites/default/files/nofa_organic_land_care_standards_6thedition_2017_opt.pdf

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

Findings of Fact | Wetland Conditional Use Permit

City of Portsmouth Planning Board

Date: June 15, 2023

Property Address: 253 Odiorne Point Road

Application #: LU-23-36

Decision: **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.

	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	This location is currently inundated during precipitation and the principal structure along with the surrounding yard suffers from ponding damage and lack of infiltration. The proposed permeable pavers, replacement of clay soil, renovation of existing rock walls and installation of a new French drain should help to divert and better infiltrate stormwater into the wetland behind this home.
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 entire backyard of this property is within the buffer and retains water during rain events. This area requires better stormwater mitigation and redirection in order to prevent further damage to the existing home.
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 will be redirecting stormwater into the wetland and allowing for better infiltration with the loss of clay soils. Additionally, the applicant is proposing to remove invasive Phragmites from the wetland and will install native wetland plantings which should help with the overall health of the wetland.

	Zoning Ordinance Sector 10.1017.50 Criteria for Approval	Finding (Meets Criteria for Approval)	Supporting Information
4	4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.	Meets	The proposed new areas of impact will only occur over existing lawn. The applicant is proposing to remove invasives within the immediate wetland but will be replacing with native plantings.
5	5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.	Meets	Overall, the applicant has provided an alternative with a small impact to the wetland buffer and will be improving the health of the wetland through invasive removal and native plantings. The redirection of stormwater flow should help to infiltrate and slow stormwater as it reaches the wetland.
6	6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.	Meets	The applicant is proposing to plant winterberry along the wetland edge where invasives currently exist. Additional buffer plantings could be useful surrounding the proposed patio area and along the extended walls to help slow stormwater.
7	<u>Other Board Findings:</u>		