



City of Portsmouth
Planning Department
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Portsmouth, NH
(603)610-7216

Memorandum

To: Planning Board

From: Peter Stith, AICP
Planning Manager

Date: March 21, 2024

Re: Recommendations for the March 21, 2024 Planning Board Meeting

I. APPROVAL OF MINUTES

A. Approval of the February 15, 2024, February 21, 2024, and February 29, 2024 minutes.

Planning Department Recommendation

1) Board members should determine if the draft minutes include all relevant details for the decision-making process that occurred at the February 15, 21, and 29th meetings and vote to approve meeting minutes with edits if needed.

II. DETERMINATIONS OF COMPLETENESS

SITE PLAN REVIEW

A. The request of **Martingale LLC (Owner)**, for property located at **99 Bow Street** requesting site plan approval to allow the expansion of the existing deck to include expanded seating for the business as well as public access to the Piscataqua River. Said property is shown on Assessor Map 106 as Lot 54 and lies within the Character District 5 (CD5), Downtown Overlay, and Historic Districts. Said property is located on Assessor Map 106 Lot 54 and lies within the Character District 5(CD-5) and Downtown Overlay District. (LU-24-21)

Planning Department Recommendation

1) Vote to determine that Item A is complete according to the Site Plan Review Regulations, (contingent on the granting of any required waivers under Section IV

of the agenda) and to accept the application for consideration.

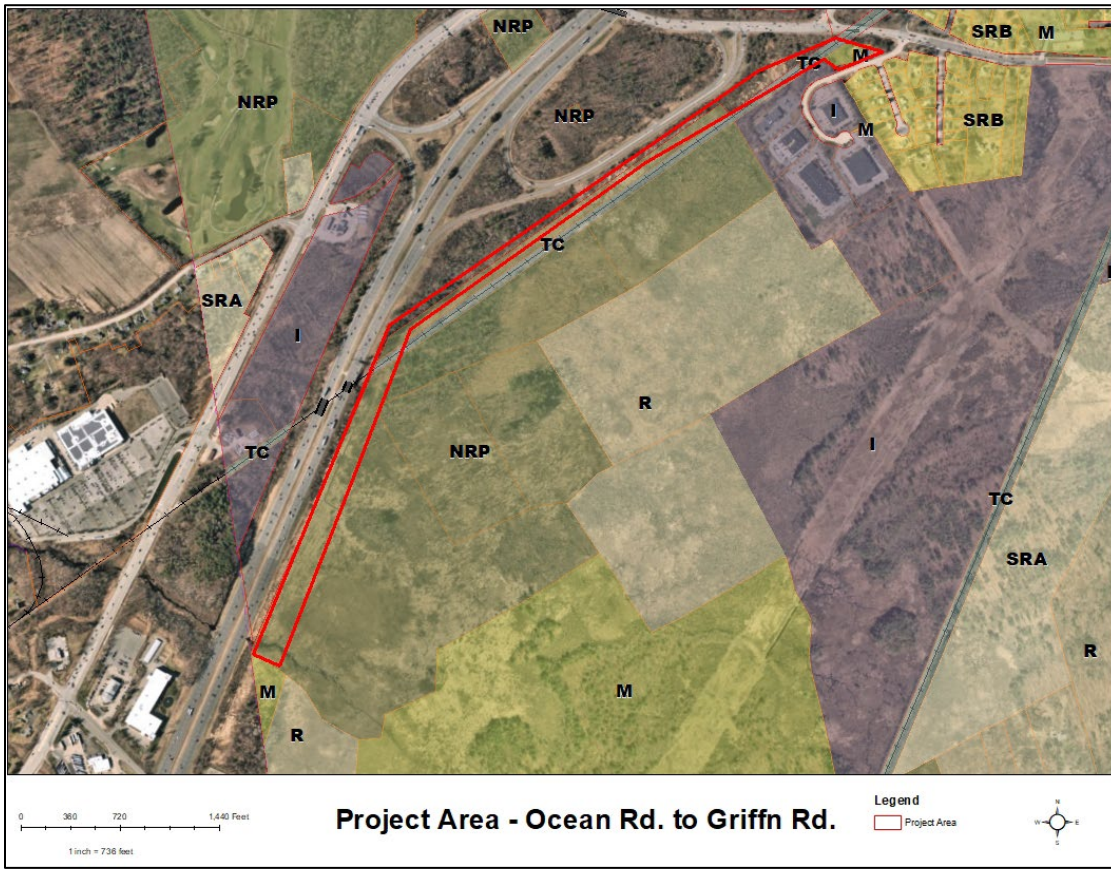
III. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- A. The request of **Public Service Company of NH (Owner)**, for property located at **300 Gosling Road** requesting a Wetland Conditional Use Permit according to Section 10.1017.60 for the removal of 0.6 miles of the existing T-13 Transmission Line and installation of a new 0.6-mile 34.5 kV Distribution Line to connect the new Portsmouth terminal. Additionally, the project requires the replacement of existing structures along the 3171 Transmission Line from 212 Ocean Road to 100 Borthwick Avenue and a second area off 300 Gosling Road from Schiller Substation to Resistance Substation. The proposed project requires approximately 256,869 sq. ft. of temporary wetland impact and 79,310 sq. ft. of temporary buffer impact in the uplands for access and work pad placement. Said property is located on Assessor Map 214 Lot 3 and lies within the Waterfront Industrial (WI) and Office Research (OR) Districts. (LU-24-2)

Project Background

This is a utility structure replacement project with work throughout the Portsmouth transmission corridor off Gosling Road and between Borthwick Avenue and the Ocean Road Substation. The purpose of this work is to replace existing wood utility pole structures with steel to increase the long-term viability of the lines. The proposed steel poles will be approximately 5-10' higher than the existing wooden poles. The current application crosses through primarily rural and industrial upland and wetland areas. Work in the right of way is proposed in upland shrublands and wetland emergent and scrub shrub habitats. This project proposes 256,144 s.f. of temporary wetland impacts for equipment access and work pad placement and 79,310 s.f. of temporary impacts within the buffer. An NHDES permit will also be filed for this proposed work.



Project Review, Decisions, and Recommendations

The applicant was before the Conservation Commission. See below for details.

Conservation Commission

The applicant was before the Conservation Commission at its regularly scheduled meeting of Wednesday, February 14, 2023 and the Commission voted 7-0 to recommend approval with the following stipulation:

1. The applicant shall update the wetland and wetland buffer impact calculations to reflect the new findings.

****The application has been updated to address the Con Com stipulation.***

Staff Analysis – Wetland CUP

According to Article 10 Section 10.1017.650 the applicant must satisfy the following conditions for approval of this utility project.

1. The proposed project is in the public interest.

The project is necessary to maintain existing corridor powerlines with upgraded support poles.

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.

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 DPCR 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.

3. No alternative feasible route exists which does not cross or alter a wetland or have a less detrimental impact on a wetland.

The applicant has chosen the routes with the least amount of impact to access the replacement poles, but the applicant has selected access designed to utilize existing historical access routes where possible to minimize impacts.

4. Alterations of natural vegetation or managed woodland will occur only to the extent necessary to achieve construction goals.

The vegetation is expected to return to its original configuration after the timber mats are removed. However, there will be some vegetation removed exactly where the structure replacement is proposed.

Planning Department Recommendation
Wetland Conditional Use Permit

1) *Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.60 of the Ordinance and adopt the findings of fact as presented.*

(Alt.) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.60 of the Ordinance and adopt the findings of fact as amended.

2.) *Vote to grant the Conditional Use Permit with the following conditions:*

- 2.1) *Silt sock shall be used wherever practical.*
- 2.2) *Plans and documents need to require a 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 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.*

III. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- B. The request of **Suzanne Winslow Revocable Trust (Owner)**, for property located at **999 Islington Street** requesting 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 located on Assessor Map 171 Lot 15 and lies within the Character District 4 (CD-4). (LU-24-14)

Background

The property is located in the CD4-W district, where an outdoor dining and drinking area requires a conditional use permit as an accessory use to a principal use. The applicant is opening a new restaurant and wants to use the existing space between the front of the building and sidewalk for dining and drinking. No sitework is planned with the proposal. The patio area will be sectioned off with planters and rope.



Planning Department Recommendation

Outdoor Dining Conditional Use Permit

1) *Vote 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.*

(Alt.) Vote 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 amended and read into the record.

2) *Vote to approve the conditional use permit as presented.*

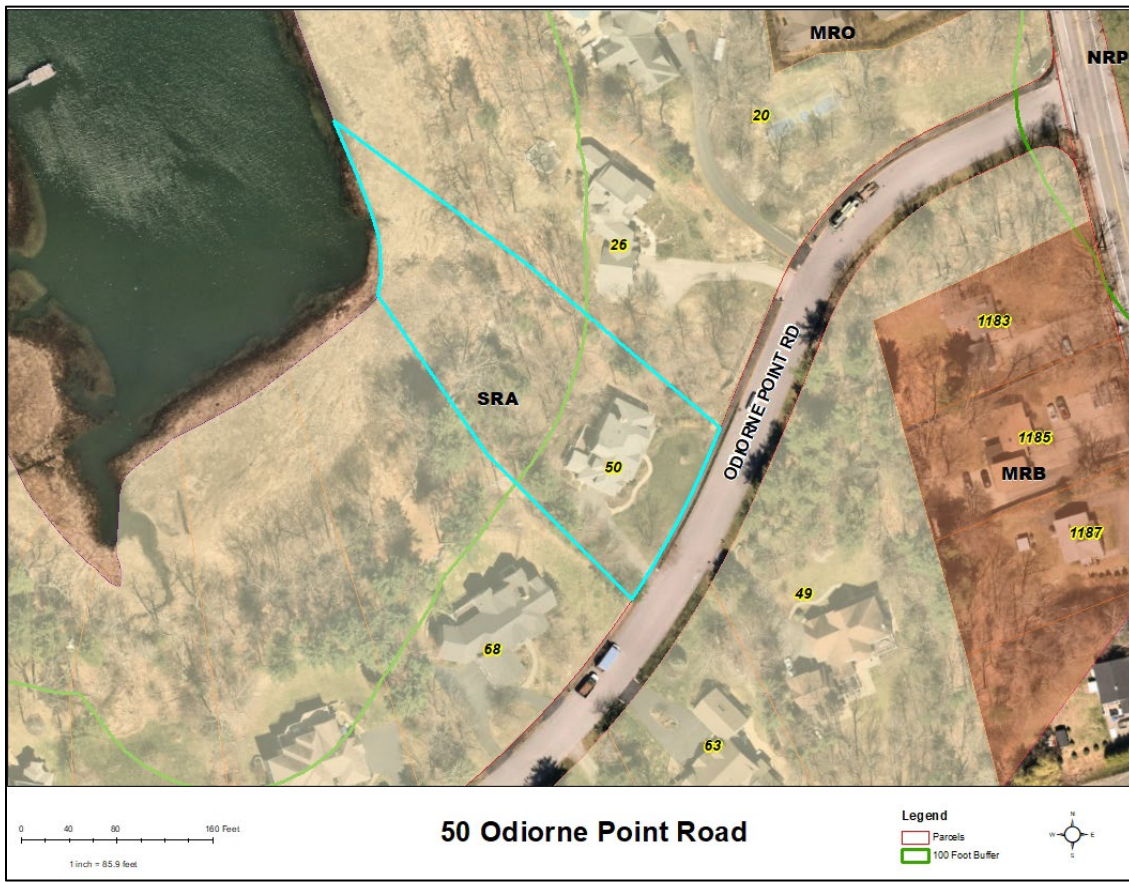
III. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- C. The request of **Rosemary L. Gardner Revocable Trust (Owner)**, for property located at **50 Odiorne Point Road** requesting an after the fact Wetland Conditional Use Permit in accordance with Section 10.1017 to come into compliance for a wetland violation for construction without permits of a 376 s.f. stone wall within a prime and tidal wetland buffer and within an inland wetland and wetland buffer and construction of a 776 s.f. stone swale to redirect stormwater into the salt marsh, and installation of 444 s.f. of crushed stone in the buffer. Said property is located on Assessor Map 224 Lot 10-3 and lies within the Single Residence A (SRA) District. (LU-24-7)

Project Background

This application is for an after the fact wetland conditional use permit. In the summer of 2022, the property owners had been found to be in violation of Article 10 of the City of Portsmouth Zoning Ordinance. The violations on the property consisted of the construction without permits of a 376 s.f. stone wall within a prime and tidal wetland buffer and within an inland wetland and wetland buffer. Additionally, the unpermitted construction of a 776 s.f. stone swale to redirect stormwater directly into the salt marsh. This swale has impacts in the prime/tidal wetland buffer, the inland wetlands and their buffers. In addition to the swale, 444 s.f. of crushed stone had been spread across the buffer area to help reduce erosion. The property owners were asked to come into compliance by submitting a plan for restoration of this area with both the State and the City. The proposed restoration plan within this application is for the City's wetland conditional use permit.



Project Review, Decisions, and Recommendations

The applicant was before the Conservation Commission. See below for details.

Conservation Commission

The applicant was before the Conservation Commission at its regularly scheduled meeting of Wednesday, February 14, 2023 and the Commission voted 6-1 to recommend approval with the following stipulations:

- 1. The restoration plan shall be amended to include the addition of coir logs to protect the live staking in the plant establishment phase.*
- 2. The property owner considers abiding by NOFA standards for all landscaping activities.*
- 3. A simplified map will be created for use by future landscapers and property owners that clearly defines what areas can and cannot be mowed, along with what areas should not be maintained and/or manicured.*

****Coir logs have been added to the restoration plan, satisfying stipulation 1***

above.

Staff Analysis – Wetland CUP

According to Article 10 Section 10.1017.50 the applicant must satisfy the following conditions for approval of this project.

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

The property owner has performed unpermitted work which is not reasonably suited to the wetland habitats on the property. To come into compliance with these criteria, the applicant is proposing to reconfigure the wall with a reduction in height to keep it at 0.5-1.5' tall with a 3-4' base. The gravel will be removed completely, and the swale stones will be mostly removed along with the existing liner to be replaced with vegetation for natural filtration and slowing of stormwater.

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

The installation of the stone swale and the large stone wall have direct impacts on the surrounding wetlands and have a negative impact on stormwater quality entering the marsh. The proposed removal of the majority of the stone swale and replacement with vegetation should help to restore the quality of runoff entering the marsh.

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

The site has been adversely impacted already due to the unpermitted work. The proposed planting and restoration plan is robust and has extensive monitoring proposed which should help to reduce impacts to the wetlands once vegetation becomes established.

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

This proposal aims to restore areas previously disturbed within wetlands and buffers. The planting of vegetation will be positive for improving the inland wetlands and buffers, and all of the vegetative buffers should be maintained naturally to further enhance the quality of the wetlands and the stormwater runoff. The proposed plantings and maintenance are impressive and should result in a successful vegetative buffer.

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

The proposal to restore the areas of disturbance and mitigate the impacts of what is being left behind should have a positive impact on the health of the surrounding wetlands and vegetation.

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

This proposal includes a large amount of live stake plantings to replace the stone swale and work to slow and infiltrate stormwater before reaching the resources. It is critical that applicants retain the first 25' of the buffer as vegetated with minimal maintenance to enhance the quality of the wetland it is buffering.

Planning Department Recommendation
Wetland Conditional Use Permit

1) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.50 of the Ordinance and adopt the findings of fact as presented.

(Alt.) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.50 of the Ordinance and adopt the findings of fact as amended.

2.) Vote to grant the Conditional Use Permit as presented.

2.1) The property owner considers abiding by NOFA standards for all landscaping activities.

2.2) A simplified map will be created for use by future landscapers and property owners that clearly defines what areas can and cannot be mowed, along with what areas should not be maintained and/or manicured.

2.3) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers. We suggest that these markers are placed along the 25' vegetative buffer at intervals of every 50' along the property. These must be installed prior to the start of any construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.

III. PUBLIC HEARINGS – NEW BUSINESS

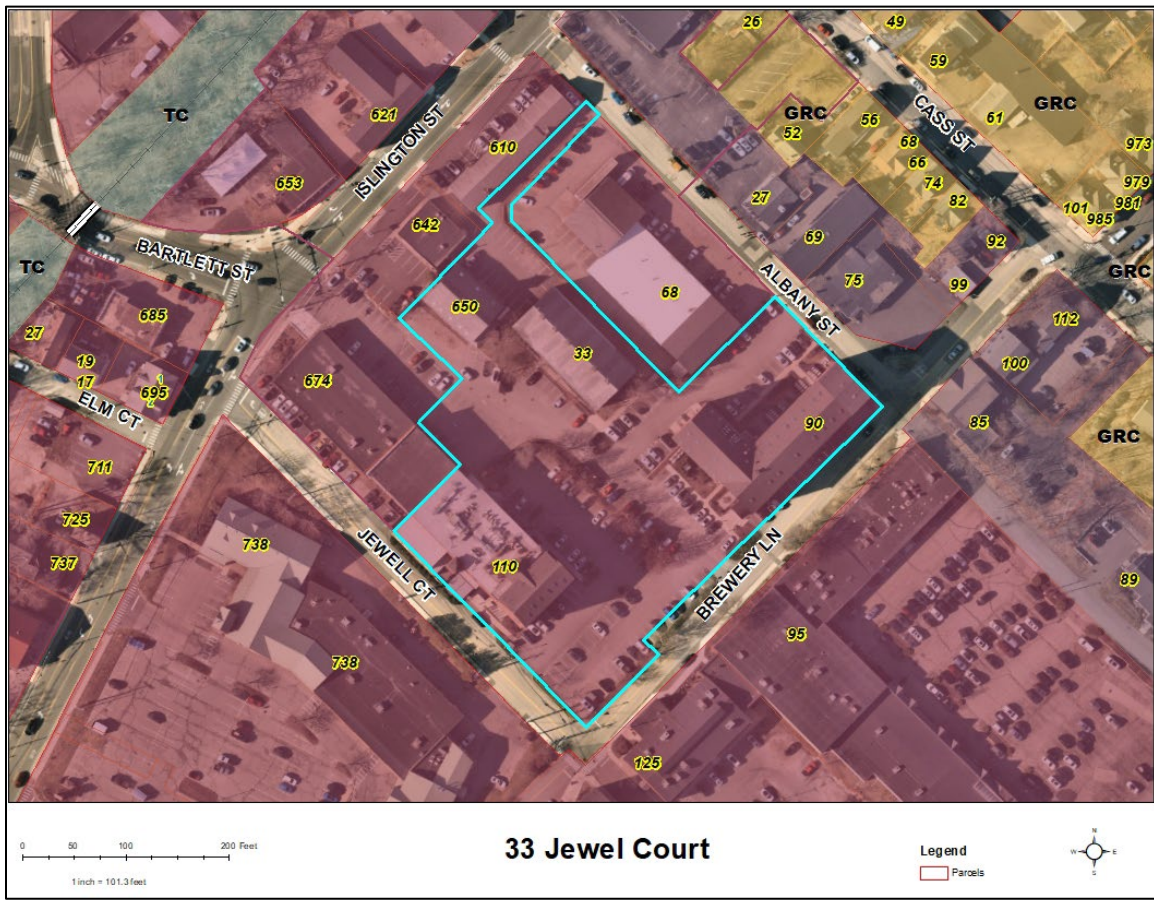
The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- D. The request of **Jewell Court Properties LLC (Owner)**, for property located at **33 Jewell Court, Unit S1** requesting a Conditional Use Permit in accordance with Section 10.1112.14 to allow 205 parking spaces where 242 are required. Said property is located on Assessor Map 155 Lot 5-S1 and lies within the Character District 4-W (CD4-W) and Historic District. (LU-23-205)

Project Background

The applicant is requesting a parking conditional use permit to provide less than the required parking for an event space that was recently approved by the Board of Adjustment to allow up to 250 occupants. It is important to note that a place of assembly permit will be required and reviewed by the Fire & Inspections Departments, which may result in a lower occupancy load than the special exception allows.

The property contains 191 parking spaces and has deeded access to 14 spaces on the adjacent CVS property, totaling 205 spaces. With the addition of an event space, the total parking required for all the uses is 242 spaces. A variance was granted in 1996 to allow 205 spaces, of which 245 were required at that time. The applicant has stated that patrons will be contractually required to use shuttle or valet services to attend events. The application states 25-35 events will be held per year and will occur on Friday, Saturday and Sunday in the afternoon/evening time and has provided a count of available spaces during those times. A parking demand was conducted between February 16 – 18th at times when events would be held to determine the availability of parking onsite. The analysis demonstrated a range of vacant spaces from 66 – 96 during those dates.



Project Review, Decisions, and Recommendations

The applicant was before the Zoning Board of Adjustment and the Technical Advisory Committee. See below for details.

Board of Adjustment

The applicant was before the Board of Adjustment at its regularly scheduled meeting of Tuesday, January 23, 2024 and the Board voted 6-0 to grant a Special Exception from Section 10.440, Use #9.42 to allow an event venue with an occupant load up to 250 people.

Technical Advisory Committee

The applicant was before the Technical Advisory Committee at its regular meeting of Tuesday, March 5, 2024, and the committee voted to find the parking demand analysis acceptable and requested the following items be included in the final application to the Planning Board:

1. *Please provide documentation that authorizes the use of any off-site parking including easements and deeded parking spaces.*
2. *Please provide the letter of support from Eric Chinburg.*

****Both documents have been included in the Planning Board application.***

Planning Department Recommendation

Parking Conditional Use Permit

1) *Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1112.14 of the Ordinance and adopt the findings of fact as presented.*

(Alt.) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1112.14 of the Ordinance and adopt the findings of fact as amended.

2.) *Vote to grant the Conditional Use Permit as presented.*

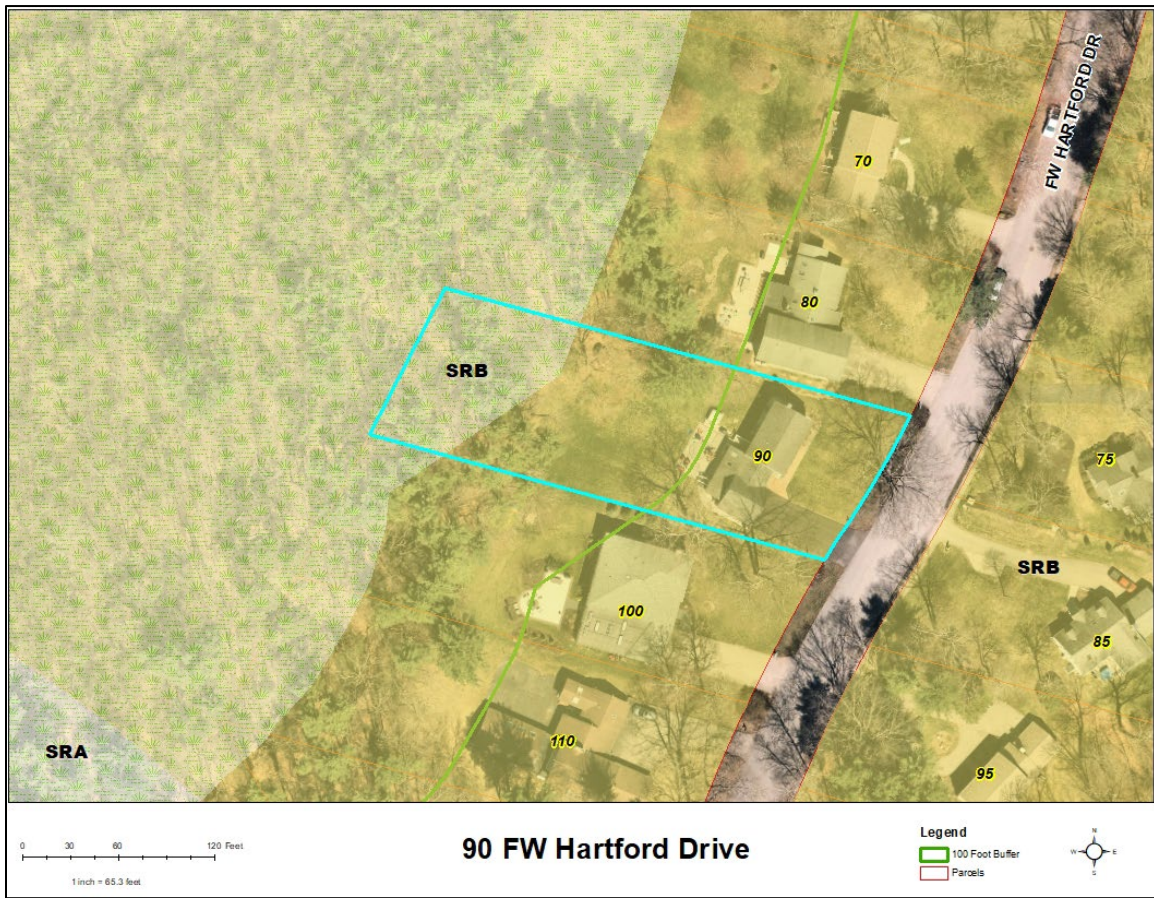
III. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- E. The request of **Ash Chicooree (Owner)**, for property located at **90 FW Hartford Drive** requesting an after the fact Wetland Conditional Use Permit in accordance with Section 10.1017 for the unauthorized removal of 28 trees within the wetland and wetland buffer area. Said property is located on Assessor Map 269 Lot 45 and lies within the Single Residence B (SRB). (LU-23-142)

Project Background

The applicant was first before the Conservation Commission in the fall of 2023 requesting an after the fact permit for the unauthorized removal of 28 trees within the wetland and wetland buffer on the subject property. The Commission tasked the applicant with hiring a wetland scientist to conduct a wetland delineation and preparing a restoration plan and was before the Commission again in December and February.



Project Review, Decisions, and Recommendations

The applicant was before the Conservation Commission. See below for details.

Conservation Commission

The applicant was before the Conservation Commission at its regularly scheduled meeting of Wednesday, February 14, 2023, and the Commission voted 6-1 to recommend approval with the following stipulations:

1. The applicant must include the 25, 50 and 100' wetland buffer delineation lines along with the location of the existing shed on the wetland delineation map.

2. The applicant will add an additional 7 trees to the planting plan, increasing it from 21 to 28 new plantings. These should be spread out between the 0-50' wetland buffer.

3. The applicant will put a note on the plans stating that all plantings will be planted by the end of June 2024 for the best survival during the upcoming growing season.

4. The applicant will put a note in the plans that a certified wetland scientist will be responsible for the monitoring reports of the restoration project and for overseeing the initial planting process.

5. A monitoring report for the first two years after planting will be required to be submitted annually to the Planning and Sustainability Department. The first report shall be submitted after the restoration work has been completed. This report will include an update on all plant health, growth, and establishment. Additionally, it should include invasive management techniques, methods for irrigation and information on routine maintenance practices. The report must demonstrate at least an 80% survival rate of new plantings after the first two years of monitoring, if not, then replanting will be required.

6. A visual barrier will be placed on the property to designate where the 'no mow' line starts and ends.

7. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers. We suggest that these markers are placed along the 25' vegetative buffer at intervals of every 50 feet. These must be installed prior to the start of any construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.

8. If the existing shed is found to be within the 100' wetland buffer, a separate after the fact Wetland Conditional Use Permit will have to be applied for.

9. Prior to the removal of any tree stumps within the wetland and/or wetland buffer, the applicant will need to apply for a separate wetland conditional use permit.

****Stipulations 1-4 have been addressed in the February 23, 2024 letter from Marc Jacobs.***

Staff Analysis – Wetland CUP

According to Article 10 Section 10.1017.50 the applicant must satisfy the following conditions for approval of this project.

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

The applicant removed multiple large trees from the buffer, many of which appear to have been within the vegetated buffer strip according to citywide wetland maps, which is not allowed according to the City of Portsmouth Zoning Ordinance Article 10 Section 10.1018.23 where any cutting of vegetation within the first 25 feet of the buffer is prohibited.

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

According to the City's wetland delineation (and confirmed by the applicant's wetland scientist), all trees that were removed appear to be within the 100-ft wetland buffer.

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

The removal of mature trees from the wetland buffer will likely have an impact on the wetland resource as a critical group of buffer plantings was removed, leaving mostly grass and bare soil in their place. It is highly recommended that the applicant restores the buffer with extensive plantings and ensures all bare soil is adequately covered with groundcover. This will help control and filter stormwater runoff as it enters the wetland and will help to increase soil health and bring back cover for wildlife.

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

The natural vegetative state was altered with the removal of these trees. Although the applicant will be unable to replace the trees with ones of equal maturity and environmental benefit, extensive planting of native species will help offset the negative impacts of tree removal and vegetation removal within the wetland buffer.

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

Removal of vegetation within the vegetated buffer strip is prohibited. Additionally, the applicant should have consulted with staff about the removal of trees within the limited cut area to ensure compliance with Article 10 Section 10.1018.23. This removal resulted in adverse impacts to the wetland buffer and will require an extensive restoration plan to attempt to offset negative environmental impacts.

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

The vegetated buffer strip was altered with the removal of these trees. Although the applicant will be unable to replace the trees with ones of equal maturity and environmental benefit, extensive planting of native species will help offset the negative impacts of tree removal and vegetation removal within the wetland buffer.

Planning Department Recommendation
Wetland Conditional Use Permit

1) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.60 of the Ordinance and adopt the findings of fact as presented.

(Alt.) Vote to find that the Conditional Use Permit Application meets the requirements set forth in Section 10.1017.60 of the Ordinance and adopt the findings of fact as amended.

2.) Vote to grant the Conditional Use Permit with the following conditions:

2.1) A monitoring report for the first two years after planting will be required to be submitted annually to the Planning and Sustainability Department. The first report shall be submitted after the restoration work has been completed. This report will include an update on all plant health, growth, and establishment. Additionally, it should include invasive management techniques, methods for irrigation and information on routine maintenance practices. The report must demonstrate at least an 80% survival rate of new plantings after the first two years of monitoring, if not, then replanting will be required.

2.2) A visual barrier will be placed on the property to designate where the 'no mow' line starts and ends.

- 2.3) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers. We suggest that these markers are placed along the 25' vegetative buffer at intervals of every 50 feet. These must be installed prior to the start of any construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.*
- 2.4) If the existing shed is found to be within the 100' wetland buffer, a separate after the fact Wetland Conditional Use Permit will have to be applied for.*
- 2.5) Prior to the removal of any tree stumps within the wetland and/or wetland buffer, the applicant will need to apply for a separate wetland conditional use permit.*

III. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- F. The request of **Martingale LLC (Owner)**, for property located at **99 Bow Street** requesting site plan approval to allow the expansion of the existing deck to include expanded seating for the business as well as public access to the Piscataqua River. Said property is shown on Assessor Map 106 as Lot 54 and lies within the Character District 5 (CD5), Downtown Overlay, and Historic Districts. Said property is located on Assessor Map 106 Lot 54 and lies within the Character District 5(CD-5) and Downtown Overlay District. (LU-24-21)

Project Background

The proposed project includes construction of an addition to the existing deck at Martingale Wharf which was previously before the City in 2021 for site plan approval. As outlined in the letter in the application, the state wetland approval was appealed. During that time, the local land use approvals expired. The applicant is seeking new approvals of the project with no changes from what was originally approved in 2021 from the Planning Board and Historic District Commission.



Project Review, Discussion, and Recommendations

The project has been before the Technical Advisory Committee, Conservation Commission and Historic District Commission. See below for details.

Conservation Commission

The application was previously before the Conservation Commission for a recommendation to the state for a NHDES major impact wetland application. The Conservation Commission, at its regular meeting on Wednesday, September 15, 2021, considered the application for and voted 4-0 to not recommend approval to the State Wetlands Bureau.

When the Conservation Commission reviewed the plans, the deck was larger and curved, which was later changed to a more rectilinear shape and eventually approved by the State and the HDC.

Historic District Commission Review

The applicant was first before the Historic District Commission, at its regularly scheduled meeting of Wednesday, October 6, 2021, and the HDC considered the application and voted to grant the Certificate of Approval. The plan was later amended at the April 13, 2022 HDC meeting, which expired in April of 2023. They are scheduled to be back in front of the HDC at their April meeting.

Technical Advisory Committee Review

The applicant was initially before the Technical Advisory Committee at their November 2, 2021 meeting and the Committee recommended approval with the following conditions:

- 1) Public access along the waterfront is increased to 20 feet.
- 2) Public access signage will be displayed.
- 3) Owner reserves the right to close gate after hours for public safety.

The Submission to the Planning Board in 2021 addressed the three conditions above. Nothing has changed with the project since the original approval and the conditions that were part of the December 30, 2021 Planning Board approval have been included in the recommendation below.

Planning Department Recommendation

Site Plan Approval

1) Vote 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.

(Alt.) Vote 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 amended.

2.) *Vote 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.

a. Easements on the plan and instrument recorded at the registry shall depict the easement to run from Bow Street to and through the stairwell to be inclusive of the area depicted as the public deck in the McHenry plan A9 to include ADA access to run with the land.

2.2 Any easement plans and deeds for which the City is a grantor or grantee shall be reviewed and approved by the Planning and Legal Departments prior to acceptance by the City Council.

2.3 Applicant is to do pre-site inspection and vibratory monitoring throughout the project to identify any impacts to for abutting properties.

2.4 Property owner will work with city staff to resolve trash issues through the Construction Management and Mitigation Plan (CMMP) process.

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

2.5 Proper signage shall be posted for public space to be consistent with the Board's request from the Street to the public space.

2.6 Deck to be built in its entirety including public space for this project to be considered complete.

2.7 Property owner is to be responsible for maintenance of the deck forever.

III. PUBLIC HEARINGS – NEW BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

- G. The Planning Board will consider a recommendation to City Council to adopt amendments related to electric vehicles and associated support equipment and facilities by amending the following: Chapter 10 – Article 4 – ZONING DISTRICTS AND USE REGULATIONS, Section 10.0440, Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, Article 8 – SUPPLEMENTAL USE STANDARDS, Section 10.811 Accessory Uses to Permitted Residential Uses and Section 10.843.30 Motor Vehicle Service Stations, Article 11 – SITE DEVELOPMENT STANDARDS, Section 10.1112.32 Parking Requirements for Nonresidential Uses, and Article 15 – DEFINITIONS, Section 10.1530 – Terms of General Applicability, of the Ordinances of the City of Portsmouth.

Background

At their May 2, 2022 meeting, City Council referred draft zoning ordinance amendments for Electric Vehicle Charging Stations to the Planning Board for a referral back for first reading. Attached is the draft sent by Council to the Planning Board. Staff reviewed the proposed amendments and provided a redlined version for consideration and discussion in January and at the February 29, 2024 meeting the Planning Board voted to schedule a public hearing on the amendments after legal review.

Legal reviewed the draft with staff and the Chair and made edits to simplify, reword and condense the amendments, which is what is included in the document dated March 14, 2024.

Currently, an Electric Vehicle Charging station as a principal use is allowed by special exception in the GB, G1, B, CD4-W and I zones as a motor vehicle service station. As an accessory use, EV charging station are currently allowed as an accessory use to any permitted principal use.

The proposed edits add definitions related to electric vehicles, setbacks for support equipment, and adding electric vehicle charging as an accessory use to both residential and commercial uses.

With the speed of change in the industry, having broad definitions that will not become obsolete is the best approach. For example, when the Board began discussion of this topic there were Level 1, 2 and 3 chargers and now there are level 4 chargers, fully automated battery exchange stations and soon there may be wireless charging. The proposed amendments capture EV charging and infrastructure that should remain relevant with the future technology in electric

vehicles.

Planning Department Recommendation

1) Vote to recommend to City Council to hold first reading on the zoning amendments dated 3/14/24.

IV. CITY COUNCIL REFERRALS

- A. Electric Vehicle Amendments (See Item Above)
- B. Home Occupation

Background

At the February 20, 2024 meeting, City Council voted to request the language in the City Council packet related to Home Occupation use be sent to the Planning Board for discussion and returned to the City Council.

The language below was sent to Council to allow more flexibility in the home occupation use, which currently prohibits any client, vendor or general public visitation. The proposed amendment below would allow up to 2 clients at one time for a home occupation, 1 or 2. This would allow, for example, someone to teach art or give music lessons as a home occupation and have clients come to their house.

Proposed language shown in red.

Home occupation

An **office** or other **use** customarily conducted as an **accessory use** to a **dwelling**, complying with all the following standards:

- (a) Conducted entirely within a **dwelling** or an existing **accessory building**, and with no change to the character of the **dwelling** or **accessory building**;
- (b) Maximum floor area of 300 square feet;
- (c) No **outdoor storage** of materials or products;
- (d) Outdoor parking of no more than one vehicle related to the **home occupation**;
- (e) No deliveries by vehicles with more than two axles.

Home occupation 1

A **home occupation** with no nonresident employees; no **sign** related to the business; no **more than 2** client, vendor or general public visitations **at one time**; and no deliveries other than by regular postal service and no more than one package delivery service truck (e.g., FedEx, UPS, etc.) per day.

Home occupation 2

A **home occupation** with not more than one nonresident employee.

Planning Department Recommendation

1) Vote to recommend to City Council to hold first reading on the zoning amendments for home occupation.

V. OTHER BUSINESS

A. Chairman's Updates and Discussion Items

B. Board Discussion of Regulatory Amendments and Other Matters

VI. ADJOURNMENT