



CITY OF PORTSMOUTH

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

PLANNING BOARD

March 28, 2024

Public Service Company of New Hampshire
d.b.a. Eversource Energy
74 Old Dover Road
Rochester, New Hampshire 03867

RE: Wetland Conditional Use Permit for property located at 300 Gosling Road (LU-24-2)

Dear Property Owner:

The Planning Board, at its regularly scheduled meeting of **Thursday, March 21, 2024**, considered your application for 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 shown on Assessor Map 214, Lot 3 and lies within the Waterfront Industrial (WI) and Office Research (OR) Districts. As a result of said consideration, the Board voted 1) 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; and 2) 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.

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 & Sustainability 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 & Sustainability Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is stylized with large, sweeping loops and a long horizontal tail.

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector
Rosann Maurice-Lentz, City Assessor
Conor E. Madison, GZA GEOENVIRONMENTAL, INC.

Findings of Fact | Wetland Conditional Use Permit

City of Portsmouth Planning Board

Date: March 21, 2023

Property Address: Gosling – Ocean Rd

Application #: LU-24-2

Decision: Approve

Findings of Fact:

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.

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	1. <i>The proposed project is in the public interest.</i>	Meets	The project is necessary to 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.

	Zoning Ordinance Sector 10.1017.60 Criteria for Approval	Finding (Meets Criteria for Approval)	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 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	<i>4.Alterations of natural vegetation or managed woodland will occur only to the extent necessary to achieve construction goals.</i>	Meets	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.
5	<u>Other Board Findings:</u>		



CITY OF PORTSMOUTH

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

PLANNING BOARD

March 28, 2024

Suzanne Winslow, Trustee
Suzanne Winslow Revocable Trust
1 Heritage Drive
Portsmouth , New Hampshire 03801

RE: Conditional Use Permit Request for property located at 999 Islington Street (LU-24-14)

Dear Property Owner:

The Planning Board, at its regularly scheduled meeting of Thursday, March 21, 2024, 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 171 Lot 15 and lies within the Character District 4-W (CD4-W) . 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 & Sustainability 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:

<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 & Sustainability Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is fluid and cursive, with the name "Rick" written in a smaller, more legible font below the main signature.

Rick Chellman, Chairman of the Planning Board

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

Findings of Fact | Outdoor Dining Conditional Use Permit

City of Portsmouth Planning Board

Date: March 21, 2024

Property Address: 999 Islington Street

Application #: LU-24-14

Decision: Approve

Findings of Fact:

Per RSA 676:3, I: 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.

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
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	<ul style="list-style-type: none"> Applicant is proposing color coordinated furniture to use in the space. The layout will be compatible with adjacent properties and the design will complement and enhance the character of surrounding development. Planter boxes will be used to enhance curb appeal.
2	10.243.22 All necessary public and private utility infrastructure and services will be available and adequate to serve the proposed use.	Meets	<ul style="list-style-type: none"> The indoor facilities will be open and available to all patrons of the proposed patio. The existing building is currently served by existing utilities.

	Outdoor Dining Conditional Use Permit 10.243 Requirements	Finding (Meets Criteria/Requirement)	Supporting Information
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	<ul style="list-style-type: none"> The site and surrounding streets will have more than adequate vehicular and pedestrian infrastructure to serve the proposed use consistent with the City's Master Plan. The proposed patio will utilize the existing brick inlaid patio that abuts the building. This still leaves the 60" walking patio wide open and available to the public. Along with the additional 43" brick addition available to the public that abuts the actual curb of Islington St.
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 proposal will not have an impact on the surrounding properties. The area will mostly cater to adults and will not have late hours of operation. The property is located among other commercial properties who are not open late. All design elements of current interior space have been made with the surrounding area in mind to add value to the west end of Portsmouth.
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	No construction proposed. The patio is already inlaid in brick.
6	10.243.26 The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.	Meets	The addition of this space will benefit the area and west end by adding an aesthetic value to the area.
6	<u>Other Board Findings:</u>		
7	<u>Additional Conditions of Approval:</u>		



CITY OF PORTSMOUTH

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

PLANNING BOARD

March 28, 2024

Rosemary L. Gardner Revocable Trust, Owner
John E. Gardner Trustee, Co-Owner
50 Odiorne Point Road
Portsmouth, New Hampshire 03801

RE: Wetland Conditional Use Permit for property located at 50 Odiorne Point Road (LU-24-7)

Dear Owner:

The Planning Board, at its regularly scheduled meeting of **Thursday, March 21, 2024**, considered your application for 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 shown on Assessor Map 224, Lot 10-3 and lies within the Single Residence A (SRA). As a result of said consideration, the Board voted 1) 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; and 2) to **grant** the Conditional Use Permit with the following **conditions**:

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.

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 & Sustainability 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 & Sustainability Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is stylized with large, sweeping loops and a long horizontal tail.

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: March 21, 2024

Property Address: 50 Odiorne Point Road

Application #: LU-24-7

Decision: Approve with Conditions

Findings of Fact:

Per RSA 676:3, I: 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 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	<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 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.

	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 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	<i>4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.</i>	Meets	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	<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 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	<i>6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.</i>	Meets	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.
7	<u>Other Board Findings:</u>		



CITY OF PORTSMOUTH

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

PLANNING BOARD

March 28, 2024

Jewell Court Properties LLC
30 Spring Street
Portsmouth, New Hampshire 03801

RE: Conditional Use Permit approval request for property located at 33 Jewell Court Unit S1 (LU-23-205)

Dear Property Owner:

The Planning Board, at its regularly scheduled meeting of Thursday, March 21, 2024, considered your application for a Conditional Use Permit in accordance with Section 10.1112.14 to allow 205 parking spaces where 242 are required. Said property is shown on Assessor Map 155 Lot 5-S1 and lies within the Character District 4-W (CD4W) and Historic District. As a result of said consideration, the Board voted 1) 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; and 2) to **grant** 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 & Sustainability 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:

<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 & Sustainability Department.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Chellman". The signature is fluid and cursive, with the first name "Rick" written in a smaller, more legible script than the last name "Chellman".

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector
Rosann Maurice-Lentz, City Assessor
John K. Bosen, Attorney, Bosen and Associates PLLC

Findings of Fact | Parking Conditional Use Permit

City of Portsmouth Planning Board

Date: March 21, 2024

Property Address: 33 Jewell Ct.

Application #: LU-23-205

Decision: Approve

Findings of Fact:

Per RSA 676:3, I: 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 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	The number of off-street parking spaces supplied at this site is sufficient for this use. Most guests will carpool or Uber to an event. Pursuant to the submitted parking demand analysis, there is excess parking supply during the anticipated peak hours for the proposed use.
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	The applicant's operation involves no staff on site and clients utilizing the facility will be contractually required to utilize shuttle or valet service over and above the spaces that the condominium association has allocated to 33 Jewell Court. In addition, parking for this site is within the regulatory purview the

	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.		condominium association, which would have the authority to establish appropriate rules and regulations in the unlikely event parking becomes problematic as a result of this use.
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	The number of spaces is adequate and appropriate for the proposed use of the property given the factors enumerated above.
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	
5	<u>Other Board Findings:</u>		
6	<u>Additional Conditions of Approval:</u>		



CITY OF PORTSMOUTH

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

PLANNING BOARD

March 28, 2024

Amrishi Chicooree
Andrea Chicooree
90 FW Hartford Drive
Portsmouth, NH 03801

RE: Wetland Conditional Use Permit for property located at 90 FW Hartford Drive (LU-23-142)

Dear Mr. and Ms. Chicooree:

The Planning Board, at its regularly scheduled meeting of **Thursday, March 21, 2024**, considered your application for a 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 shown on Assessor Map 269, Lot 45 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted 1) 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; and 2) 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.

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 & Sustainability 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 & Sustainability 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: March 21, 2024

Property Address: 90 FW Hartford Dr.

Application #: LU-23-142

Decision: Approve with Conditions

Findings of Fact:

Per RSA 676:3, I: 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.

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 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	<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	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. The restoration plan contains plantings in the wetland and wetland buffer area to resolve the violation.

	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 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. The restoration plan restores the buffer with 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	<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 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, planting of native species will offset the negative impacts of tree removal and vegetation removal within the wetland buffer.
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	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	<i>6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.</i>	Meets	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 offset the negative impacts of tree removal and vegetation removal within the wetland buffer.
7	<u>Other Board Findings:</u>		



CITY OF PORTSMOUTH

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

PLANNING BOARD

March 28, 2024

Martingale LLC
3 Pleasant Street, 4th Floor
Portsmouth, New Hampshire 03801

RE: Site Plan Approval Request for property located at 99 Bow Street (LU-24-21)

Dear Property Owner:

The Planning Board, at its regularly scheduled meeting of **Thursday, March 21, 2024**, considered your application for 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 Lot 54 and lies within the Character District 5 (CD5), Downtown Overlay, 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.*

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.

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 & Sustainability 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 & Sustainability 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

Peter H. Rice, Director of Public Works

Findings of Fact | Site Plan Review

City of Portsmouth Planning Board

Date: 3-12-2024

Property Address: 99 Bow Street

Application #: LU – 24 - 21

Decision: Approve with Conditions

Findings of Fact:

Per RSA 676:3, I: 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.

Site Plan Regulations Section 2.9 Evaluation Criteria - 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.	Meets	The project meets all codes and does not require any Variances.
2	Provision for the safe development, change or expansion of use of the site.	Meets	The site work includes the necessary railings and other safety features required for safe operation.
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 expands an overwater dock. The Erosion Control required is shown on the plan set. The applicant is required to pay the State of NH a mitigation fee as a part of the NHDES approval. No flooding hazard is created.

	Site Plan Review Regulations Section 2.9 Evaluation Criteria	Finding (Meets Standard/Criteria)	Supporting Information
4	Adequate protection for the quality of groundwater.	Meets	Groundwater is not impacted by the project.
5	Adequate and reliable water supply sources.	Meets	The project uses existing city water service(s).
6	Adequate and reliable sewage disposal facilities, lines, and connections.	Meets	The project uses existing city sewer service(s).
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 is no change to the existing operation of the facility, only where people sit.
8	Adequate provision for fire safety, prevention and control.	Meets	The Portsmouth Fire Department was represented at the Technical Advisory Committee meetings and agreed with the project.
9	Adequate protection of natural features such as, but not limited to, wetlands.	Meets	The adjacent water resource (river) is not impacted – time of year construction limitations are included.
10	Adequate protection of historical features on the site.	Meets	The development does not impact any 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 development does not impact any traffic flow.
12	Adequate traffic controls and traffic management measures to prevent an unacceptable increase in safety hazards and traffic congestion off-site.	Meets	The development does not create any traffic congestion.
13	Adequate insulation from external noise sources.	Meets	The project does not have potential impacts from this concern.

	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 city was represented at the Technical Advisory Committee meetings and agreed with the project, voting to approve.
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 creates Public Recreational Space (Public Deck)
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 Planning Board reviewed the projects connections to the adjacent sidewalk network.
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 NHDES approval indicates that the public is protected. The work is over state property.
18	Adequate quantities, type or arrangement of landscaping and open space for the provision of visual, noise and air pollution buffers.	Meets	The project includes landscape elements to accomplish the goal.
19	Compliance with applicable City approved design standards.	Meets	The Technical Advisory Committee approved the project.
	Other Board Findings:		