



CITY OF PORTSMOUTH

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

PLANNING BOARD

March 24, 2025

HCA Health Services of NH, dba Ducharme McMillen & Associates
PO BOX 80610
Indianapolis, Indiana 46280

RE: Wetland Conditional Use Permit request for property located at 333 Borthwick Avenue,
Portsmouth, NH. (LU-24-224)

Dear Property Owners:

The Planning Board, at its regularly scheduled meeting of **Thursday, March 20, 2025**, considered your application for a Wetland Conditional Use Permit in accordance with Section 10.1017.50 for the removal of 3 existing 24" culverts and replacement with a Box Culvert. Said property is shown on Assessor Map 240 Lot 2-1 and lies within the Office Research (OR) District. As a result of said consideration, the Board voted 1) 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) Applicant shall monitor the success of proposed seeded areas and prepare a memo to be sent to the Portsmouth Planning & Sustainability Department annually for the first two years after planting/seeding. If after two years, the seeded areas show a survival rate of less than 80%, applicant will replant/reseed.

2.2) In order to maintain the existing stormwater flow, an easement shall be provided to the City to give the City the right, but not the obligation, to maintain the stormwater channel and its drainage improvements. The easement shall also contain language that if the City exercises its rights to conduct any such maintenance, the City will be reimbursed by the landowner. The applicant will work with the Legal Department to finalize the easement language.

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 a long horizontal flourish extending to the right.

Rick Chellman, Chairman of the Planning Board

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

Brenden Walden, Wetland Scientist, Gove Environmental Services

Findings of Fact | Wetland Conditional Use Permit

City of Portsmouth Planning Board

Date: March 20, 2025

Property Address: 333 Borthwick Avenue

Application #: LU-24-224

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 majority of the work area is already disturbed wetland with an existing culvert and roadway crossing. The replacement of this culvert and associated repair work proposes to improve the flow of water through this stream.
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 proposed location is where an existing culvert system and roadway are located today. While the proposal is a direct wetland impact, the post-construction culvert system is proposed to fix current sedimentation and flow issues that exist today.
3	<i>3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.</i>	Meets	This replacement project will have direct wetland impacts but construction activities are proposed to minimize direct impacts to the stream during the replacement project.

	Zoning Ordinance Sector 10.1017.50 Criteria for Approval	Finding (Meets Criteria for Approval)	Supporting Information
4	4. <i>Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.</i>	Meets	This proposal shows work involving the stream bank and utilizing erosion control blankets. The applicant proposes seeding the banks for stabilization with a conservation mix. The applicant should provide a maintenance plan to ensure the establishment of the seed mix and for long-term vegetation maintenance that would consider aspects such as sustaining wildlife habitat and maintaining sediment trapping.
5	5. <i>The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.</i>	Meets	This proposal appears to be the least adverse impact to the wetland as the alternative to increasing flow would be to dredge most of the length of the stream. This proposal limits the permanent impacts as well as the temporary impacts compared to dredging and will hopefully solve the flow issues within this wetland.
6	6. <i>Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.</i>	Meets	Applicant is proposing temporary disturbance of the streambank for construction activities. Applicant has indicated areas on plan that will receive conservation seed mix/New England wet mix.
7	<u>Other Board Findings:</u>		