Findings of Fact | Wetland Conditional Use Permit
City of Portsmouth Planning Board

Date: March 21, 2024
Property Address: 89 Cliff Rd.
Application #: LU-24-54
Decision: □ Approve □ Deny □ 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 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	*1. The land is reasonably suited to the use activity or alteration.*	**Meets** **Does Not Meet**	The work has been completed the work without permits. The majority of the additions are outside of the wetland buffer, with just 225 s.f. of permanent impact in the buffer, with plans to control stormwater on site more proactively with adjustments to plantings and drainage in the buffer.
2	*2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.*	**Meets** **Does Not Meet**	While the structure has already been built, the majority of the new impervious is located outside of the buffer.

	Zoning Ordinance Sector 10.1017.50 Criteria for Approval	Finding (Meets Criteria for Approval)	Supporting Information
3	*3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.*	**Meets** **Does Not Meet**	The existing conditions appear to infiltrate on site stormwater. Stormwater that does not infiltrate likely pools in the low spot of the yard without impacting abutting properties. The new additions will likely increase roof runoff but the installation of crushed stone and the proposal for a french drain and plantings should help to increase on site infiltration.
4	*4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.*	**Meets** **Does Not Meet**	While the 225 s.f. of buffer has already been altered, the applicant proposes transforming the existing lawn into micro clover or a similar groundcover, introducing new plantings along the addition, and installing a rain garden within the buffer which will increase vegetation and improve stormwater quality.
5	*5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.*	**Meets** **Does Not Meet**	The applicant is proposing to reduce the 225 s.f. of buffer impacts by installing 69 s.f. of shrubs alongside the addition, installing a 134 s.f. rain garden, and converting the entire back lawn to a non-grass groundcover.
6	*6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.*	**Meets** **Does Not Meet**	In this case, the vegetated buffer has not been disturbed, only the area within 75-100' from the wetland.
7	**<u>Other Board Findings:</u>**		

20 May 2024

Mr. Rick Chellman, Chair, Portsmouth Planning Board

RE: After-the-fact Wetland Conditional Use Permit Application #LU-24-54

Dear Mr. Chellman:

We purchased our new home at 89 Cliff Road in the summer of 2022. With the blessing of having our three children and spouses settle in the area over the past several years, we set out to create space for family gatherings: a covered three-season porch with an adjoining outdoor deck.

It has recently come to our attention that part of our property is subject to a wetland buffer, and that a portion of said structures intrude on this wetland buffer. Specifically, a 32 square foot corner of the three-season porch; 154 square feet of the outdoor deck; and an additional 39 square feet consisting of a concrete pad where stairs will land. This totals 225 square feet of impact on the wetland buffer, which itself encompasses 4,875 square feet of our property.

It is our understanding this wetland buffer is intended to preserve the health of a pond which is kitty-corner to our lot, across Walker Bungalow Road. The edge of the wetland bordering this pond is approximately 87 feet on the diagonal from the corner of the previously noted concrete pad.

Following our presentation to the Conservation Commission on 8 May, the Committee recommended approval of the Application to the Planning Board with the following stipulations:

1. "Applicant shall change language on site plans for rain garden to recessed planting area and provide an update for the total area for planting and the number of plants proposed."

   Actions taken:
   - Revised Site Plan submitted to Planning Department and uploaded to portal 15 May reflecting requested language change, updated square footage of recessed planting area, and updated planting schedule.
   - Separate document detailing updated planting schedule uploaded 15 May

2. "Applicant shall work with City staff to incorporate changes suggested by the referenced Erosion Control Certified and landscaping experts, into final plan set prior to submission to the Planning Board."

   Actions taken:
   - Site specific "Storm Water Management Best Practices" document submitted to Planning Department and uploaded to portal 15 May. Document prepared by Josh Stauble, Erosion Control Certified expert, Sea Change Land Services, York, ME.
   - Recommendations from said document reflected in Revised Site Plan submitted 15 May, and services of Josh Stauble secured to supervise completion of same, highlighted below:

* "The existing slope around the home will naturally flow most storm water to the recessed planting bed as it should. I also feel the size and location are adequate for the property needs and as a bonus it provides a great pollinator habitat."

* "What I suggest is excavating by hand the existing drip edge (of three-season porch) within its current length and width and instead of the existing 3-4" of stone have 16-18" of depth creating more of drywell for storm water to infiltrate back into the ground."

* "The use of gutters on the remaining east side of the home is recommended and that they be either combined or routed to dump under the three season porch which per the site plan provided shows 858q ft of stone to disperse and slow the flow of water allowing ground infiltration. Additionally any excess storm water will follow the natural slope under the three season porch and find its way to the recessed planting bed."

* "The gutter downspout on the north east side of the home after review should be allowed to openly flow towards the northeast corner of the property as long as the flow is directed far enough towards the vegetation that it cannot find its way onto the driveway. This can be as simple as a few feet of gutter downspout directed horizontally along the ground out way from the home into some larger stone to slow the flow and disperse the water."

3. "Applicant shall install permanent wetland boundary markers within the wetland buffer."

   Action taken:

   - "Protected Wetland Area" boundary markers purchased and posted (3) on 9 May – photos of same uploaded 9 May.

In addition to satisfying the stipulations noted, above, we will further mitigate disturbance to the wetland buffer by:

- Planting shrubs and bushes just to the east of proposed drywell, encompassing an area of approximately 75 square feet. The shrubs and bushes were selected from the pdf provided by the Portsmouth Planning & Sustainability Department: "Native Plants for NH ME VT".
- Replacing existing grass that covers most of the wetland buffer with micro-clover.

Finally, please note that no trees or shrubs were removed as a result of this project, other than a few hostas and hydrangeas; the outdoor deck boards are gapped at 3/8" to facilitate water flow; the ground beneath and at the perimeter of both the three-season porch and adjoining outdoor deck was covered with gravel and stone to infiltrate rain water more slowly; we recently abandoned our septic system and connected to the new sewer system installed on Walker Bungalow, enhancing ground water quality.

Thank you for your consideration of this Application.

Richard M. Kinney Francoise Kinney

Richard Kinney,

The purpose of this letter is to give you my professional opinion of the storm water management practices best suited for your property located at 89 Cliff Road. I have a B.S. from Unity College with 20 years experience in landscaping/excavation and hold a Maine Erosion control license # 3049. You contacted me and asked for an on site meeting to review 3 aspects of your property and I did so on 3-9-24 at 5:00 pm. The following are my recommendations based on that meeting.

1. I reviewed the concept suggested by the Conservation Commission of using the low lying area of the property in the south east corner as a recessed planting bed to collect, retain and allow ground infiltration of storm water. The existing slope around the home will naturally flow most storm water to the recessed planting bed as it should. I also feel the size and location are adequate for the property needs and as a bonus it provides a great pollinator habitat. I would advise the spillway shown as "river stone" in the recessed planting bed design be cleaned and maintained as this is the emergency overflow that will catch any larger material runoff as well as slow any water flow and prevent a "river" through the bed that can lead to erosion.
2. I reviewed the concept of a French drain on the easterly side of the home under the roof overhang of the three season porch. The elevations of the existing property do not allow a French drain to work as there is not a low enough area to drain to daylight as required. What I suggest is excavating by hand the existing drip edge within its current length and width and instead of the existing 3-4" of stone have 16-18" of depth creating more of drywell for storm water to infiltrate back into the ground. I would not advise a gutter be used along this roof pitch as that would concentrate the flow into the drip edge with potential for erosion but rather allowing it to come off the roof along the entire length as it is now. Any excess storm water will flow out of the south end of the drip edge following the existing slope into the recessed planting bed. Note that the base and sides of the drywell need to be lined with a filtration fabric that allows water to filtrate but prevent sediment from coming into the drywell.
3. The use of gutters on the remaining east side of the home is recommended and that they be either combined or routed to dump under the three season porch which per the site plan provided shows 858sq ft of stone to disperse and slow the flow of water allowing ground infiltration. Additionally any excess storm water will follow the natural slope under the three season porch and find its way to the recessed planting bed. The gutter downspout on the north east side of the home after review should be allowed to openly flow towards the northeast corner of the property as long as the flow is directed far enough towards the vegetation that it can not find its way onto the driveway. This can be as simple as a few feet of gutter downspout directed horizontally along the ground out way from the home into some larger stone to slow the flow and disperse the water. The surrounding vegetation appears more than adequate to handle the volume of water coming off the roof but with any new gutter downspout observe it over a few storms and if needed add more stone to slow the flow preventing erosion.

I believe with these three recommendations that you will significantly reduce the likelihood of any storm water runoff from your property. Lastly I will gladly supervise all work performed on site to ensure it is done to my recommendations if so desired.

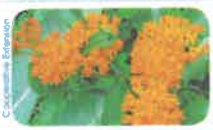
Thank you
Josh Stauble
207-464-8558
www.seachangelandservices.com

5/13/24

89 Cliff Road

Recessed Planting Area Schedule

Revision 1

Scientific Name / Common Name	Rain Garden Zone: Base	Slope	Berm	Soil Moisture	Light Exposure	Bloom Period & Color: May	June	July	Aug	Sept	Oct	Mature Size: Height (feet)	Spread (feet)	USDA Hardiness Zone	Attractive to:	Plant Notes
PERENNIALS																
12x																
 ***Caltha palustris*** Marsh marigold	●			💧	☀☁		●					0.5-1'	1-1.5'	3-7	🐦	Provides bright yellow color early in spring before anything else blooms, then goes dormant in summer.
9x																
 ***Geranium maculatam*** Spotted crane's bill		●		💧💧	☀☁	●	●		●	●		1'	1-1.5'	4-8	✨🐦	Geraniums come in many species and cultivars. 'Spessart' is a popular cultivar with pink early summer bloom. 'Rozanne' is a blue, late summer bloom.
8x																
 ***Iris versicolor*** Blue iris or Blue flag	●			💧	☀☀☁		●					2-3'	2-3'	2-7	🐦🐝	Sturdy plant with thick rhizomes. Great choice for placing near the rain garden inlet and outlet.
5x																
 ***Lobelia cardinalis*** Cardinal flower	●			💧	☀☀☁			●	●	●		2-4'	2'	3-8	🦋🐦🐝	Lobelia will often reseed itself and migrate in the garden.
3x																
 ***Asclepias tuberosa*** Butterfly milkweed		●		💧	☀			●	●	●		1-3'	1-1.5'	4-9	✨🦋🐝	Does not like wet feet - keep on dry berm. Monarch larval host.
3x																
 ***Penstemon digitalis*** Foxglove beardtongue	●	●	●	💧	☀☀							2-4'	1.5'	3-8	✨🐝	Reseeds freely.

3x

Eutrochium (formerly *Eupatorium*) ***purpureum***
Sweet Joe Pye weed

3-6' | 3' | 3-8

Popular cultivars include 'Gateway' (6' tall) and 'Little Joe' (3' tall). Other Eutrochium species are also suitable.

2x

Rudbeckia laciniata
Green-headed or Cutleaf coneflower

3-6' | 3-4' | 3-9

Spreads vigorously from underground rhizomes. Other Rudbeckias are also commonly used.

2x

Verbena hastata
Blue vervain or Swamp verbena

2-5' | 2-3' | 3-9

Tends to be tall and narrow; pinch the tops off to encourage branching and bushier growth.

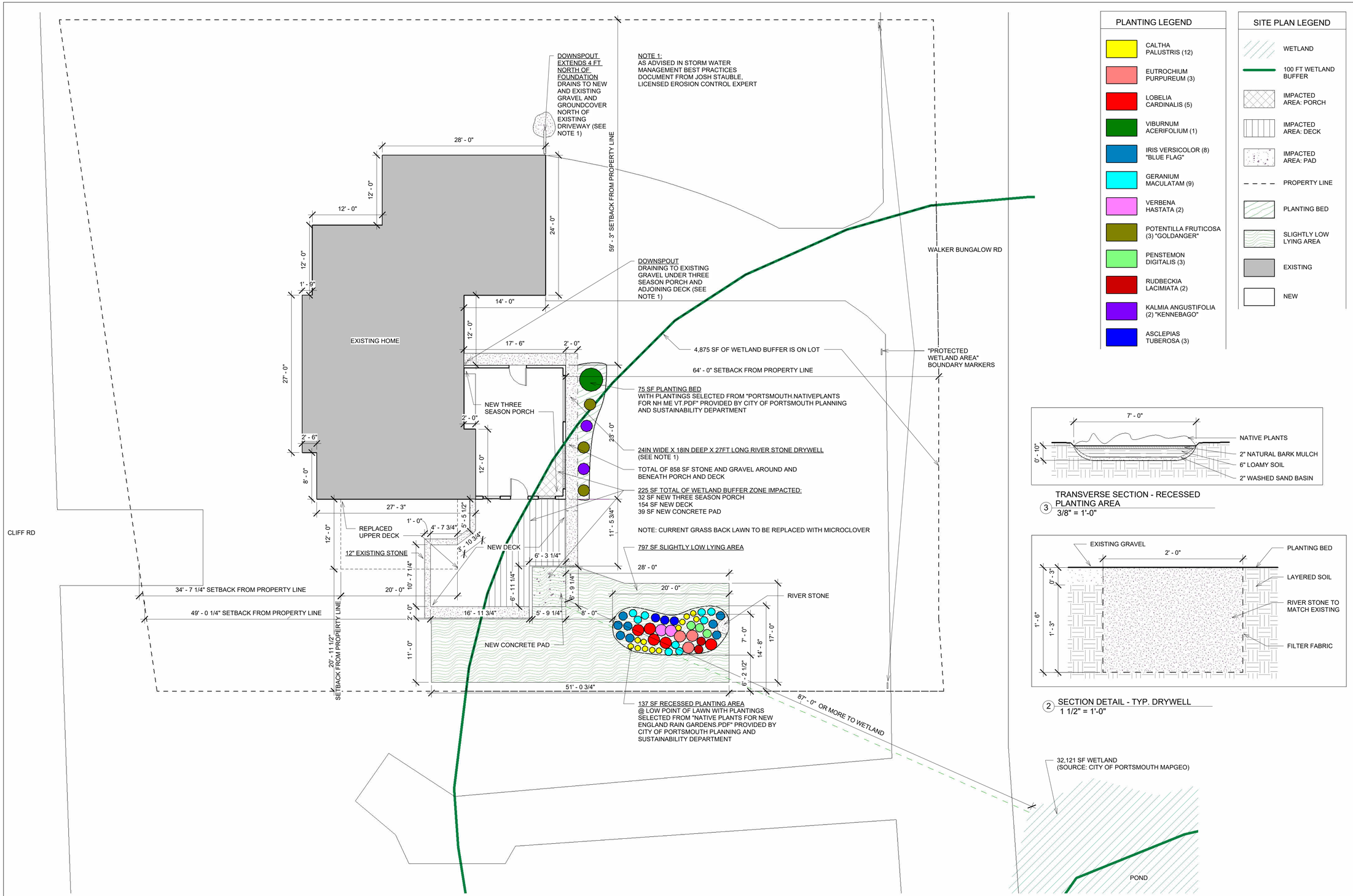
Portsmouth.Native Plants for New England Rain Gardens.pdf

89 Cliff Rd. – Porch Area Plantings

Revision 1

1x					
Mapleleaf Viburnum	*Viburnum acerifolium*	P-S	A	6'	Good for mass plantings in shady sites
2x					
Lambkill	*Kalmia angustifolia*	F-P	A	3'	Adaptable to many soils; best in acidic soil
3x					
Bush Cinquefoil	*Potentilla fruticosa*	F	A-D	4'	Summer-flowering shrub; tolerates alkaline soil

Regional Plant List - Maine, ME, New Hampshire, NH, Vermont, VT



1 SITE PLAN - WETLAND BUFFER IMPACT
1/8" = 1'-0"

PLANTING LEGEND

- CALTHA PALUSTRIS (12)
- EUTROCHIUM PURPUREUM (3)
- LOBELIA CARDINALIS (5)
- VIBURNUM ACERIFOLIUM (1)
- IRIS VERSICOLOR (8) "BLUE FLAG"
- GERANIUM MACULATAM (9)
- VERBENA HASTATA (2)
- POTENTILLA FRUTICOSA (3) "GOLDANGER"
- PENSTEMON DIGITALIS (3)
- RUDBECKIA LACIMIATA (2)
- KALMIA ANGUSTIFOLIA (2) "KENNEBAGO"
- ASCLEPIAS TUBEROSA (3)

SITE PLAN LEGEND

- WETLAND
- 100 FT WETLAND BUFFER
- IMPACTED AREA: PORCH
- IMPACTED AREA: DECK
- IMPACTED AREA: PAD
- PROPERTY LINE
- PLANTING BED
- SLIGHTLY LOW LYING AREA
- EXISTING
- NEW

3 TRANSVERSE SECTION - RECESSED PLANTING AREA
3/8" = 1'-0"

2 SECTION DETAIL - TYP. DRYWELL
1 1/2" = 1'-0"

Owner: RICHARD M KINNEY
Address: 89 CLIFF RD, PORTSMOUTH, NH 03801
Phone: 603 294 3034
E-mail: RMK8@EARTHLINK.NET

General Contractor: ALFRED BRIERE
Address: 164 ALLEN RD
Phone: BILLERICA, MA 01821
E-mail: FREDDYB1978@GMAIL.COM

No.	Description	Date

KINNEY RESIDENCE

PORCH & DECK

89 CLIFF RD

Project number	00001
Date	05/15/24
Drawn by	AK
Checked by	RMK

SITE PLAN

Scale: As indicated

5/15/2024 8:18:51 AM


Do Not Disturb or Cut
Protected Wetland Area
Portsmouth Conservation Commission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