

GOVE ENVIRONMENTAL SERVICES, INC.

February 24, 2021

Ms. Barbara McMillan, Chair  
City of Portsmouth Conservation Commission  
1 Junkins Avenue  
Portsmouth, New Hampshire 03801

**Re: Masiello After-the-Fact CUP Application  
239 Gosport Road—Tax Map 224 Lot 10-10  
Portsmouth, NH**

Dear Chair McMillan:

On behalf of Martha and Matt Masiello, I am pleased to submit the following information in support of an after-the-fact Conditional Use Permit for wetland buffer impacts at the above referenced residential property. The property is located at 239 Gosport Road in Portsmouth, and borders Tuckers Cove off Sagamore Creek. The lot was created by a subdivision approved in 1993 and the house was constructed in 2003. The wetland buffer impacts are associated with the expansion of a yard area behind the existing house and were conducted prior to the Masiello's ownership of the property which they purchased in 2016. They were unaware that any work had been conducted on the property without a permit until they properly applied for permits to construct a pool in the rear yard this past summer. A corresponding After-the-Fact Dredge and Fill Application has also been submitted to NHDES for the impacts within the 100-Foot Upland Tidal Buffer. Photos of the property and a plan depicting all the buffer impacts are attached.

### **Wetland & Wetland Buffer Description**

The eastern portion of the 1.15-acre lot contains a total of 13,510 SF of wetland, consisting of marsh bordering Sagamore Creek. The wetland is predominantly tidal high marsh dominated by *Spartina Patens* but includes a small area of largely freshwater marsh lying just above the Highest Observable Tide Line (HOTL) which is dominated by cattail. A stone wall defines the edge of the marsh after which an upland forest of oak and pine rises at moderate to steep grade to the yard, located no less than 40 feet from the wetland edge and 80 feet from the HOTL. The FEMA 100-year floodplain (Zone AE) lies at an elevation of 9-feet, which falls on the lower part of slope up from the marsh. Due to the rise in grade along this slope, the floodplain remains below the top of the slope even when a predicted sea level rise of 2 feet is added. Similarly, the limits of predicted salt marsh migration under a 2-foot sea level rise scenario falls below the top of this slope and the yard.

A total of 19,535 SF of wetland buffer exists on the property. The Vegetated Buffer Strip has been increased from 25 to 40 feet due to the steep slope and is naturally vegetated except for a small impact associated with the trail described in the following section. Only 735 SF (3.8%) of the Wetland Buffer on the property is impervious, 385 SF of which is associated with the original house and patio constructed in 2003.

The marsh associated with Sagamore Creek has also been designated as Prime and the 100-foot Prime Wetland Buffer is depicted on the enclosed plan. Since this designation occurred in 2011, after the impacts in question were carried out, the work is not subject to the additional performance criteria for projects in Prime Wetland as confirmed with NHDES during a pre-application meeting held on 12/18/20.

## **Project Description & Impacts**

The house was initially constructed with a rear patio and minimal adjacent lawn which extended to forested buffer. The rear yard was expanded by the previous owner by clearing and grading 4,790 SF of Wetland Buffer to create a larger lawn with areas of landscaping. A stone retaining wall was constructed at the limit of the expanded yard to create a level area. An additional 680 SF of buffer was disturbed to create a 6-foot wide trail for access to the shoreline. This work involved only minor clearing of vegetation and placement of stones to define the edges of the trail. No grading was conducted in this area and the trail retains a natural surface. The only impervious surface added in the Wetland Buffer as part of the unpermitted work is a 190 SF section of patio located off the pre-existing patio by the house, and a 160 SF treehouse along the southern property line. These are located approximately 83 and 67 feet from the wetland edge respectively. No direct wetland impact occurred on the property as a result on this work. The table below summarizes the Wetland Buffer impacts.

<i>Area</i>	Trail Disturbance (SF)	Yard Disturbance (SF)	Structure Disturbance (SF)	Total Disturbance (SF)
<i>Vegetated Buffer Strip (0'-40')</i>	510	0	0	510
<i>Limited Cut Buffer (40'-50')</i>	80	220	0	300
<i>Inland Wetland Buffer (50'-100')</i>	90	4,570	350	5,010
<b>Total</b>	<b>680</b>	<b>4,790</b>	<b>350</b>	<b>5,820</b>

## **Criteria for Approval (10.1017.50)**

*(1) The land is reasonably suited to the use, activity or alteration.*

The subject property is located in Zone SRA and contains an existing single-family residence. The area where the alteration was carried out is reasonably suited for the use because the buffer in this location lies well above the adjacent resource and a nearly undisturbed 40-foot Vegetated Buffer Strip was maintained. The area also lies above the predicted effects of changes that may occur to the resource as a result of sea level rise.

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

Wetland Buffer extends up to or to within 10 feet of the existing house on all but a very small portion of the property against the northern property line. There is no other area on the property that is located outside the wetland buffer which could have been utilized for the alteration.

*(3) There will be no adverse impact on the wetland functional values of the site or surrounding properties;*

Alteration for the creation of the yard occurred in the outer portion of the Wetland Buffer and involved very little impervious surface with little or no change in overall drainage patterns. The expanded 40-foot vegetated buffer strip was left undisturbed except for a minor foot path which was created in a natural manner and located so that it does not cause or contribute to erosion. These alterations and uses are consistent with the surrounding residential properties and should not adversely affect the functions and values resource area resource area.

*(4) Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals; and*

Alteration of natural vegetation only occurred up to the limit of the expanded yard. Only minor clearing and pruning of brush was conducted to construct the trail.

*(5) The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Section.*

The potential for adverse impact to the resource area was minimized by: 1) limiting new impervious surface to 350 SF overall, 2) locating the patio expansion directly adjacent to the existing patio and as far from the wetland as possible, 3) locating all grading for the yard at least 40 feet from the edge of the wetland and outside the Vegetated Buffer Strip, 4) limiting disturbance in the Vegetated Buffer Strip to minimal clearing for a natural surface trail, and 5) maintaining all areas in a stable condition.

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

The trail is an informal minor feature which is essentially natural.

The Masiello's are eager to bring their property into compliance and are committed to the future stewardship of the property to protect the adjacent wetland resources. We look forward to discussing the property with the Commission. If you have any questions, please don't hesitate to contact me.

Sincerely,

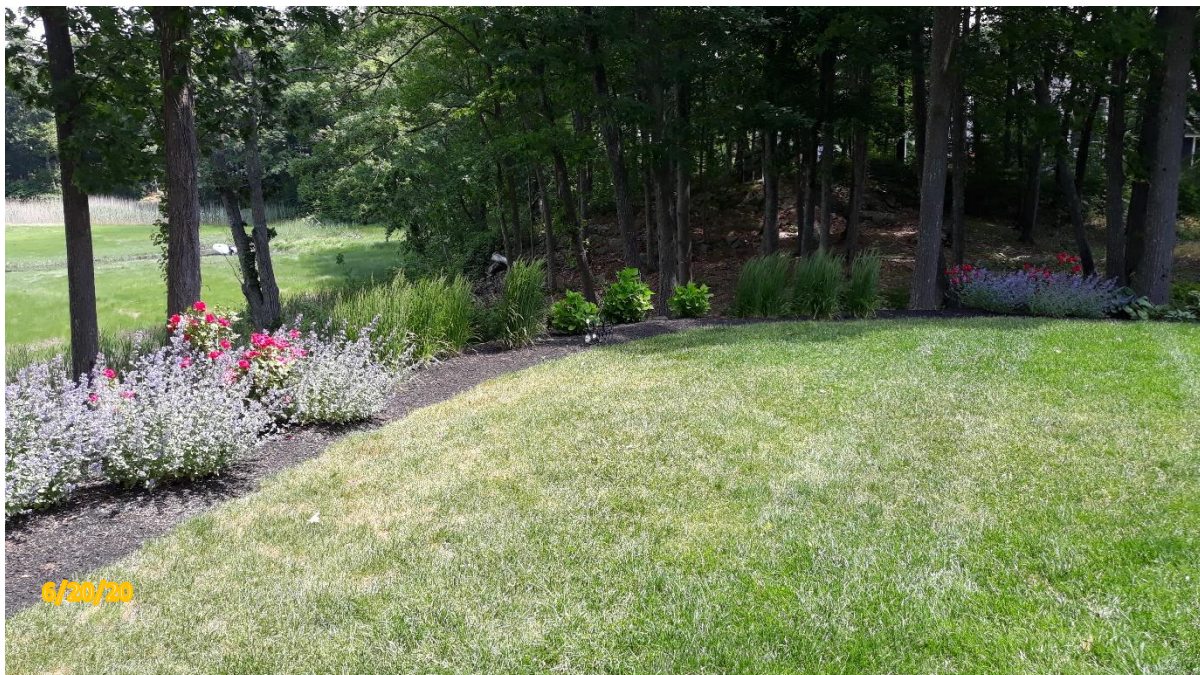


Brendan Quigley  
Gove Environmental Services, Inc.

Attachments: Plan  
Photographs of the property



Looking northeast toward marsh.



Looking southeast toward Sagamore Creek





Looking east out toward the marsh.



Looking south across the yard





Looking west at the yard from the marsh. Retaining wall and shoreline access path are noted by arrows



Closer view of the shoreline access path taken from the yard







