

Findings of Fact | Wetland Conditional Use Permit

City of Portsmouth Planning Board

Date: 9-17-26

Property Address: 579 Sagamore Ave.

Application #: LU-26-103

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 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 Does Not Meet	The applicant has removed a mature tree within the 25' vegetated buffer. This activity is not allowed within this buffer area and the applicant now proposes to remediate their actions through replanting.
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 Does Not Meet	This is for an after-the-fact permit to mitigate the impacts of tree removal in a restricted area. Replanting of native trees and shrubs should occur close to the wetland resource, as is proposed here, in order to strengthen the wetland buffer.

	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 Does Not Meet	Any time vegetation is removed from within 25' of a wetland edge, the positive impacts of a wetland buffer could diminish. The replanting of this area will help to mitigate the adverse impacts that have occurred.
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 Does Not Meet	The natural vegetative state has already been altered. This application proposes necessary mitigation to offset this alteration.
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 Does Not Meet	This proposal is intended to mitigate existing adverse impacts.
6	<i>6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.</i>	Meets Does Not Meet	This proposal aims to mitigate the removal of an existing tree within the vegetated buffer strip through replanting.
7	<u>Other Board Findings:</u>		

Lee Tree Company
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York, Maine 03909
leetreecompany@gmail.com
Tel: 207-363-2306

August 26, 2026

Rick Chellman, Chair
Portsmouth Planning Board
c/o Portsmouth Planning Department
1 Junkins Avenue
Portsmouth, N.H. 03801

Re: After-the-Fact Wetland Conditional Use Permit - Application No. LU-26-103 - Revised Application
Incorporating Conservation Commission Conditions
579 Sagamore Avenue, Portsmouth, NH - Tidewatch Condominium Association (behind Unit 8)
MBL 0223-0030-0000

Dear Chairman Chellman,

This letter is submitted by Lee Tree Company on behalf of the Applicant regarding the after-the-fact land use application for the tree removal and replanting plan at Tidewatch Condominium Association (behind Unit 8), MBL 0223-0030-0000, Application No. LU-26-103. This letter updates and resubmits the Applicant's July 24, 2026 application to incorporate the conditions recommended by the Conservation Commission at its August 12, 2026 meeting, as set forth in the Commission's August 14, 2026 decision letter (Attachment C), and is submitted for consideration at the Planning Board's September 17, 2026 meeting.

As background, the affected area is approximately 130 square feet, located within the 25-foot vegetated buffer strip in this wooded area, where American Beech trees were present but diseased and severely declining from Beech Leaf Disease.

The Applicant proposes to restore the area with a practical replanting plan consisting of native trees and shrubs to fill the area around the removed tree. This will help stabilize the soil and restore the buffer's natural functions.

In the attached photo of the site (Attachment A), the best possible planting locations for the three trees have been marked with stakes. The understory shrubs would be planted inside the area defined by those three stakes.

Ania and Kim Rogers, the Property Owner Representatives for this unit, have received approval from the Tidewatch Condominium Association to proceed with replanting the area in the manner described in this proposal.

Conditions of Approval - Conservation Commission Recommendation (August 14, 2026)

At its meeting of August 12, 2026, the Conservation Commission voted to recommend approval of this application to the Planning Board, subject to the following conditions. This revised application addresses each condition as follows:

1. Wetland Boundary Markers. In accordance with Condition 1, the Applicant will install 1 to 2 permanent wetland boundary markers along the 25-foot wetland buffer edge in the area of impact.

2. Tree Caliper. In accordance with Condition 2, trees will be planted at a minimum of 2-inch caliper at time of planting, to the best ability of the contractor performing the planting. As discussed at the Commission's meeting, the planting area is situated a considerable distance from the street with no vehicular access; to avoid bringing heavy equipment into the buffer, all plants will be carried in and installed by hand. Tree caliper will therefore be maximized within the practical limits of hand-carried, hand-installed nursery stock.

3. Watering. In accordance with Condition 3, initial watering-in will be performed at the time of planting to support establishment, and maintenance watering will be performed as needed thereafter.

4. Monitoring & Reporting. In accordance with Condition 4, the Applicant will monitor the survival of the 3 new trees and 8 shrubs and will submit an annual memo to the Portsmouth Planning & Sustainability Department for the first two years after planting. If the survival rate is below 80% after two years, the Applicant will replant.

Thank you for your time and consideration.

Sincerely,
Mitchell Lee
Lee Tree Company
207-363-2306

cc: Thomas DiMatteo, President, Tidewatch Condominium Association; Ania & Kim Rogers, Applicants
This application includes the following attachments, incorporated below: Attachment A (Site Photo); Attachment B (Aerial Site Location Map); Attachment C (Conservation Commission Decision Letter, August 14, 2026); Attachment D (Photographic Plant List).

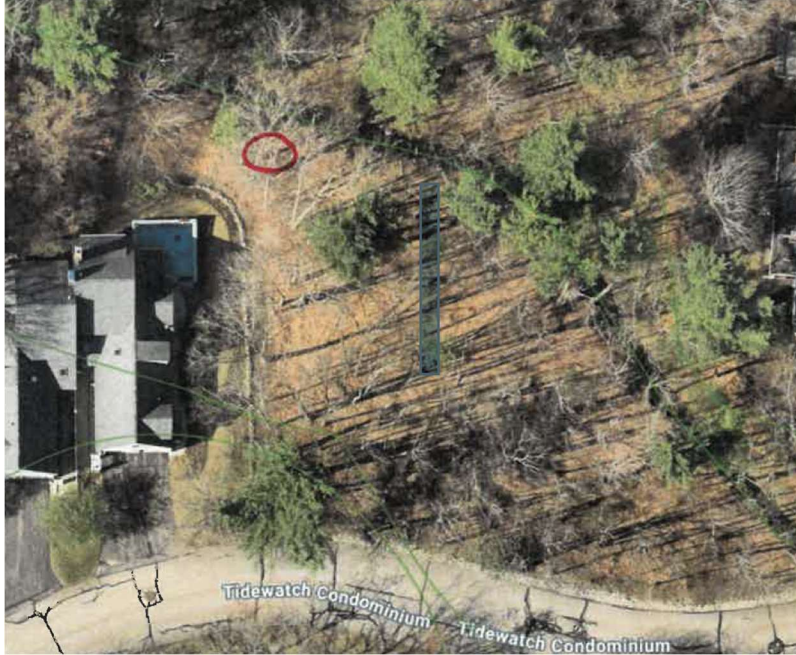
Attachment A: Site Photo – Staked Planting Locations

The photo below shows the site with the three proposed tree planting locations marked with stakes. The understory shrubs would be planted inside the area defined by those three stakes.



Attachment B: Aerial Site Location Map

The aerial image below shows the location of the affected area (blue rectangle) relative to Tide Watch Condominium and the adjacent unit.



Attachment C: Conservation Commission Decision Letter (August 14, 2026)

The Conservation Commission's August 14, 2026 decision letter (Application No. LU-26-103) is reproduced below in full. It documents the Commission's August 12, 2026 vote to recommend approval of this application to the Planning Board, subject to the four conditions addressed above.



CITY OF PORTSMOUTH

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

CONSERVATION COMMISSION

August 14, 2026

Tidewatch Condominium Association, c/o CP MANAGEMENT, LLC
11 Court Street Suite 100
Exeter, New Hampshire 03833

RE: After-the-Fact Wetland Conditional Use Permit for property located at 579 Sagamore Avenue, Portsmouth, NH (LU-26-103)

Dear Property Owner:

The Conservation Commission, at its regularly scheduled meeting of **Wednesday, August 12, 2026**, considered your application for an after-the-fact permit to remediate the loss of a mature beech tree within the vegetated 'no-cut' wetland buffer. The applicant is proposing to introduce new plantings within three areas of the 25' buffer to help stabilize the area – this includes the planting of red maple trees, yellow birch trees and northern bayberry shrubs. Said property is shown on Assessor Map 223 Lot 30 and lies within the Single Residence A (SRA) district. As a result of said consideration, the Commission voted to **recommend approval** to the Planning Board with the following conditions.

- 1. Applicant shall install 1 to 2 permanent wetland boundary markers along the 25' wetland buffer edge in the area of impact.*
- 2. Applicant shall note on plans that trees to be planted will be 2" caliper or greater at time of planting.*
- 3. Initial watering in of new plantings is required for establishment and maintenance shall be performed as needed to ensure success of new plantings.*
- 4. Applicant shall monitor the success of 3 new trees and 8 shrubs and must 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.*

This matter will be placed on the agenda for the Planning Board meeting scheduled for **Thursday, September 17, 2026**. One (1) hard copy of any revised plans and/or exhibits as well as an updated electronic file (in a PDF format) must be filed in the Planning & Sustainability Department and uploaded to the online permit system no later than Wednesday, August 26, 2026.

The minutes and audio recording of this meeting are available by contacting the Planning & Sustainability Department.

Very truly yours,



Samantha Collins, Chair
Conservation Commission

cc:

Thomas DiMatteo, President, Tidewatch Condominium Association
Ania & Kim Rogers, Applicant

Attachment D: Photographic Plant List

Tidewatch Condominium Association - MBL 0223-0030-0000 - Application No. LU-26-103

The species below are proposed to replant the approximately 130 sq. ft. area within the 25-foot vegetated buffer strip where diseased American Beech (Beech Leaf Disease) was removed. Three trees will be planted at the staked locations shown in Attachment A; understory shrubs will be planted within the area defined by those three stakes.

See the Conditions of Approval and Installation and Follow-Up Plan, above, for the full planting specifications and monitoring schedule.

Photograph	Plant Name	Role in Buffer Restoration	Planting Condition / Spec
	Red Maple <i>Acer rubrum</i>	Highly reliable for this inland wetland buffer; tolerates the moist soils present at this location. Develops an extensive fibrous root system that stabilizes soil and reduces erosion. Improves water infiltration and filters nutrients and sediments before they reach the drainage ditch.	Tree – minimum 2" caliper at time of planting (per Condition 2; hand-installed, no heavy equipment - see note above) Balled & burlapped or equivalent container stock Spaced 8–12 ft. from adjacent trees
	Yellow Birch <i>Betula alleghaniensis</i>	Thrives in moist woodland soils with variable drainage, matching site conditions. Forms a strong, spreading root system that anchors soil around disturbed areas and stumps. Supports buffer function by enhancing infiltration and contributing to nutrient cycling and runoff filtration.	Tree – minimum 2" caliper at time of planting (per Condition 2; hand-installed, no heavy equipment - see note above) Balled & burlapped or equivalent container stock Spaced 8–12 ft. from adjacent trees
	Northern Bayberry <i>Morella pensylvanica</i>	Well-adapted to wet and variable soils typical of New Hampshire buffers. Produces dense, fibrous, often rhizomatous roots that hold soil and control erosion between stumps. A nitrogen-fixer; improves soil fertility for surrounding trees while aiding infiltration and pollutant filtration within the buffer.	Shrub – 1-gallon container Understory planting inside the three-stake tree layout Spaced 4–5 ft. apart
	Creeping Juniper (alternate ground cover) <i>Juniperus horizontalis</i>	Alternate low-growing ground cover option in place of, or in addition to, Northern Bayberry. Low, spreading habit helps suppress erosion and weed establishment at the soil surface. Evergreen cover contributes year-round buffer function.	Shrub / ground cover – 1-gallon container Understory planting inside the three-stake tree layout Spaced 4–5 ft. apart

Planting Recommendation

Red Maple

Red Maple is highly reliable for this inland wetland buffer. It tolerates the moist soils present in this location. It develops an extensive fibrous root system that stabilizes soil and reduces erosion. Environmentally, it improves water infiltration and filters nutrients and sediments before they reach the drainage ditch.

Yellow Birch

Yellow Birch thrives in moist woodland soils with variable drainage. It forms a strong, spreading root system that anchors soil around disturbed areas and stumps. It supports buffer function by enhancing infiltration and contributing to nutrient cycling and runoff filtration.

Northern Bayberry

Northern Bayberry is well-adapted to wet and variable soils in New Hampshire buffers. It produces dense, fibrous, and often rhizomatous roots that effectively hold soil and control erosion in the gaps between stumps. As a nitrogen-fixer, it improves soil fertility for the surrounding trees while aiding infiltration and pollutant filtration within the buffer.

An alternate option is juniper for ground cover.

Installation and Follow-Up Plan

The trees and shrubs will be planted within the approximately 130 square-foot area between the location of the removed tree and the wetland edge. Per Condition 2 of the Conservation Commission's recommendation, trees will be a minimum of 2-inch caliper at time of planting - to the best ability of the installing contractor, given that all plantings will be carried in and installed by hand rather than with heavy equipment, as the site is set back a considerable distance from the street - spaced 8–12 feet apart from one another; the one-gallon shrubs will be planted 4–5 feet apart. Once the plan is approved, the plants will be ordered and installed within the timeframe provided. Trees should be planted in late September to early October. They will be installed using natural fill mixed with organic fertilizer to support establishment and survival, with an initial watering-in at planting per Condition 3.

The plantings - 3 trees and 8 shrubs in total - will be inspected in April 2027 and again in July 2027, with continued annual monitoring through 2028, consistent with Condition 4's two-year monitoring and reporting requirement. An annual memo documenting survival will be submitted to the Portsmouth Planning & Sustainability Department each year. If the survival rate is below 80% at the two-year mark, the Applicant will replant.

Beyond the initial watering-in, a scheduled supplemental irrigation plan is not recommended, because the replanting zone is a low area where excessive watering would risk saturating the root systems in this already moist buffer environment. Instead, trees should only be watered as needed when the soil is dry.