



CITY OF PORTSMOUTH

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

PLANNING BOARD

November 1, 2023

Eric Beidleman
Amanda Beidleman
810 McGee Drive
Portsmouth, New Hampshire 03801

RE: Wetland Conditional Use Permit for property located at 810 McGee Drive (LU-23-143)

Dear Mr. and Ms. Beidleman:

The Planning Board, at its regularly scheduled meeting of **Thursday, October 26, 2023**, considered your application for Wetland Conditional Use Permit from Section 10.1017 for the removal of an existing 508 s.f. rear deck within the 100-ft wetland buffer and the associated framing and stairs. The applicant is proposing to replace the rear deck with a smaller deck of approx. 319 s.f. with a 60 s.f. landing. Said property is shown on Assessor Map 219, Lot 45-5 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 criteria set forth in Section 10.1017.60 and to adopt the findings of fact as presented; and 2) to **grant** the Wetland Conditional Use permit with the following **conditions**:

2.1) Crushed stone be placed underneath the deck area to provide storm-water infiltration.

2.2) Wetland boundary markers shall be placed along the fence towards the back of the property to designate sensitive wetland area.

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.

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 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", which is more stylized and overlapping.

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: October 26, 2023

Property Address: 810 McGee Drive

Application #: LU-23-143

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 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 is proposing removal of existing impervious surface within the wetland buffer and will be replacing with a smaller amount of impervious surface in the same spot. While the same use is being placed in this spot, it is recommended that buffer enhancements such as stormwater infiltration and native plantings be installed to offset impacts of the new deck development. |
| 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 existing deck is completely within the wetland buffer and while the proposed deck will be in the same location, it will be smaller. There is no other feasible location for the rear deck that would place it further from the wetland resource. |

| | 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 the deck and replacement with a smaller deck should help to minimize some of the impacts to the wetland but additional measures should be taken to enhance the quality of the buffer on the property and to offset the impacts from the deck. |
| 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 | No removal of vegetation is proposed. |
| 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 existing deck is completely within the wetland buffer and while the proposed deck will be in the same location, it will be smaller which should reduce impervious impacts to the buffer and wetland. |
| 6 | <i>6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.</i> | Meets | Applicant is not proposing any change to the vegetated buffer strip. It is recommended, however, that the applicant consider native plantings within the buffer and stormwater infiltration measures to help offset impacts from the new deck. |
| 7 | <u>Other Board Findings:</u> | | |



CITY OF PORTSMOUTH

Planning Department
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PLANNING BOARD

November 2, 2023

John Madden
Bantry Bay Associates LLC
540 North Commercial Street
Manchester , New Hampshire 03801

RE: Preliminary and Final Subdivision approval for property located at 0 Shearwater Drive (LU-23-138)

Dear Property Owner:

The Planning Board, at its regularly scheduled meeting of Thursday, October 26, 2023, considered your application for Preliminary and Final Subdivision approval for the subdivision of the 2.23 acre lot into nine (9) conforming Single-Family lots. Said property is shown on Assessor Map 217 Lot 2-1900 and lies within the General Residence B (GRB) District. As a result of said consideration, the Board voted 1) to **grant** the requested waivers to the Subdivision Standards from Section IX.2, Maintenance Bonds because strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; *and* 2) to find that the Subdivision (Lot Line Revision) application meets the standards and requirements set forth in the Subdivision Rules and Regulations to adopt the findings of fact as presented; *and* 3) to **grant** Preliminary and Final Subdivision Approval with the following **conditions**:

3.1) The subdivision plan, and any easement plans and deeds shall be recorded simultaneously at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.

3.2) Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.

3.3) GIS data shall be provided to the Department of Public Works in the form as required by the City.

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.

All conditions of subdivision approval, including recording of the plat as required by the Planning Department, shall be completed within six (6) months of the date of approval, unless an extension is granted by the Planning Director or the Planning Board in accordance with Section III.E of the Subdivision Rules and Regulations. If all conditions have not been completed within the required time period, the Planning Board's approval shall be deemed null and void.

This subdivision approval is not final until the Planning Director has certified that the applicant has complied with the conditions of approval imposed by the Planning Board.

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:

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Very truly yours,

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Rick Chellman, Chairman of the Planning Board

cc: Rosann Maurice-Lentz, City Assessor

Colter Krzcuik

Neil Hanson, Tighe & Bond

Findings of Fact | Subdivision Rules and Regulations

City of Portsmouth Planning Board

Date: 10/26/2023

Property Address: 0 Shearwater Drive

Application #: LU-23-138

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.

| | Subdivision Review Criteria | Finding (Meets Standards/ Requirements) | Supporting Information |
|---|---|--|--|
| 1 | Subdivision Rules and Regulations III. D. 1 The Board shall act to deny any application which is not in compliance with Section IV or V as appropriate. SECTION IV - REQUIREMENTS FOR PRELIMINARY PLAT | Meets | The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Subdivision Rules and Regulations. The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting. |
| 2 | SECTION V - REQUIREMENTS FOR FINAL PLAT | Meets | The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Subdivision Rules and Regulations, Section V. The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting. |
| 3 | SECTION VI - GENERAL REQUIREMENTS | | The application has been reviewed by the Technical |

| | Subdivision Review Criteria | Finding (Meets Standards/ Requirements) | Supporting Information |
|---|--------------------------------|--|---|
| | | Meets | <p>Advisory Committee for conformance with the minimum requirements of the Subdivision Rules and Regulations, Section VI.</p> <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 4 | SECTION VII - DESIGN STANDARDS | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Subdivision Rules and Regulations, Section VII.</p> <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 5 | <u>Other Board Findings:</u> | | |



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PLANNING BOARD

November 1, 2023

John Madden
Bantry Bay Associates LLC
540 North Commercial Street
Manchester, New Hampshire 03801

RE: Site Plan Review approval for property located at 0 Shearwater Drive (LU-23-138)

Dear Property Owner:

The Planning Board, at its regularly scheduled meeting of **Thursday, October 26, 2023**, considered your application for Site Plan Review approval for the construction of nine (9) single-family dwellings with associated paving, stormwater management, lighting, utilities and landscaping. Said property is shown on Assessor Map 217 Lot 2-1900 and lies within the General Residence B (GRB) District. As a result of said consideration, the Board voted 1) to consider the subdivision and site plan applications together and vote on them separately; *and* 2) 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* 3) 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:

3.1) *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.*

3.2) *The applicant shall agree to pay for the services of an oversight engineer, to be selected by the City, to monitor the construction of improvements within the public rights-of-way and on site.*

3.3) *Any site development (new or redevelopment) resulting in 15,000 square feet or greater ground disturbance will require the submittal of a Land Use Development Tracking Form through the Pollutant Tracking and Accounting Program (PTAP) online portal. For more information visit:*

<https://www.cityofportsmouth.com/publicworks/stormwater/ptap>

3.4) *DPW will review and approve the locations of domestic and fire service lines entering all buildings.*

3.5) *Applicant will contribute a fair share payment of \$25,000 for offsite improvements including a sidewalk to Granite Street crossing Market Street and installing pedestrian signals as part of crosswalk.*

Prior to the issuance of a Certificate of Occupancy or release of the bond:

3.6) *The Engineer of Record shall submit a written report (with photographs and engineer stamp) certifying that the stormwater infrastructure was constructed to the approved plans and specifications and will meet the design performance.*

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 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:

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Very truly yours,

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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

Colter Krzcuik
Neil Hanson, Tighe & Bond

Findings of Fact | Site Plan Review

City of Portsmouth Planning Board

Date: 10/26/2023

Property Address: 0 Shearwater Drive

Application #: LU-23-138

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 - in order 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. <u>Applicable standards:</u> | Meets | <u>Applicable standards:</u> The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations. The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting. |
| 2 | Provision for the safe development, change or expansion of use of the site. | Meets | The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations. The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting. |

| | Site Plan Review Regulations Section 2.9 Evaluation Criteria | Finding (Meets Standard/Criteria) | Supporting Information |
|---|--|---|--|
| 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 | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <ul style="list-style-type: none"> TAC reviewed the erosion control and stormwater management practices and other mitigative measures for conformance with City design requirements. <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 4 | Adequate protection for the quality of groundwater. | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <ul style="list-style-type: none"> TAC reviewed stormwater management practices for conformance with City design requirements for the protection of the quality of groundwater. <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 5 | Adequate and reliable water supply sources. | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <ul style="list-style-type: none"> TAC reviewed the water service design for conformance with City design requirements. The site will be served by city water. <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 6 | Adequate and reliable sewage disposal facilities, lines, and connections. | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <ul style="list-style-type: none"> TAC reviewed sewage disposal facilities, lines, and connections for conformance with City design requirements. The site will be served by municipal sewer. |

| | Site Plan Review Regulations Section 2.9 Evaluation Criteria | Finding (Meets Standard/Criteria) | Supporting Information |
|----|---|---|---|
| | | | The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting. |
| 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 | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 8 | Adequate provision for fire safety, prevention and control. | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations for fire safety, prevention and control.</p> <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 9 | Adequate protection of natural features such as, but not limited to, wetlands. | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <ul style="list-style-type: none"> There are no on-site wetlands, and no part of the development area is within a wetland buffer. <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 10 | Adequate protection of historical features on the site. | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <ul style="list-style-type: none"> There are no on-site historical features. <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 11 | Adequate management of the volume and flow of traffic on the site and adequate | Meets | The application has been reviewed by the Technical Advisory Committee for conformance with the minimum |

| | Site Plan Review Regulations Section 2.9 Evaluation Criteria | Finding (Meets Standard/Criteria) | Supporting Information |
|----|--|---|--|
| | traffic controls to protect public safety and prevent traffic congestion. | | <p>requirements of the Site Plan Regulations.</p> <ul style="list-style-type: none"> TAC reviewed the management of the volume and flow of traffic on the site and adequate traffic controls to protect public safety and prevent traffic congestion. for conformance with City design requirements. The proposed plan reduces the total number of residential units within the development area. <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 12 | Adequate traffic controls and traffic management measures to prevent an unacceptable increase in safety hazards and traffic congestion off-site. | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <ul style="list-style-type: none"> TAC reviewed the management of the volume and flow of traffic on the site and adequate traffic controls to protect public safety and prevent traffic congestion. for conformance with City design requirements. <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 13 | Adequate insulation from external noise sources. | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 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 | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <ul style="list-style-type: none"> TAC reviewed that police, emergency medical, and other municipal services and facilities adequate to handle any new demands on infrastructure or services created by the project. |

| | Site Plan Review Regulations Section 2.9 Evaluation Criteria | Finding (Meets Standard/Criteria) | Supporting Information |
|----|--|---|---|
| | | | The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting. |
| 15 | Provision of usable and functional open spaces of adequate proportions, including needed recreational facilities that can reasonably be provided on the site | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 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 | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <ul style="list-style-type: none"> TAC reviewed the layout and coordination of sidewalks in relationship to off-site existing or planned streets, accessways, bicycle paths, and sidewalks. <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 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 | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| 18 | Adequate quantities, type or arrangement of landscaping and open space for the provision of visual, noise and air pollution buffers. | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <ul style="list-style-type: none"> TAC reviewed the quantities, type or arrangement of landscaping and open space. <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |

| | Site Plan Review Regulations Section 2.9 Evaluation Criteria | Finding (Meets Standard/Criteria) | Supporting Information |
|----|--|---|--|
| 19 | Compliance with applicable City approved design standards. | Meets | <p>The application has been reviewed by the Technical Advisory Committee for conformance with the minimum requirements of the Site Plan Regulations.</p> <p>The application was recommended for approval on September 5, 2023 at the Technical Advisory Committee Meeting.</p> |
| | Other Board Findings: | | |



CITY OF PORTSMOUTH

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

PLANNING BOARD

October 31, 2023

Richard P. Fusegni

Richard P. Fusegni
201 Kearsarge Way, Portsmouth 03801

RE: Amended Subdivision approval for property located at 201 Kearsarge Way

Dear Mr. Fusegni:

The Planning Board, at its regularly scheduled meeting of Thursday, October 26, 2023, considered your application for Amended Subdivision approval for revisions to the grading and drainage design. Said property is shown on Assessor Map 218 Lot 5 and lies within the Single Residence B (SRB) District. As a result of said consideration, the Board voted to **grant** Amended Subdivision Approval with the following **conditions**:

1) *Removal of prior conditions 2.5.1, 2.5.1-a, 2.5.1-b and 2.5.1-c from the October 27, 2022 letter of decision and removal of prior condition 1 and 1-1 from the March 2, 2020 letter of decision. All other prior conditions of approval are still required.*

2) *The drainage easements shall be provided across lot 3 for lots 2 and 1 drainage, and across lot 2 for lot 1 drainage. Maintenance responsibilities by the homeowners for the rain garden and overflow control structures shall be included in the easement language and addressed through a maintenance agreement. That document shall be recorded as part of the conservation easement deed.*

This approval is granted subject to all conditions of approval by the Planning Board on October 20, 2022 and to all other requirements stated in the Planning Board letter of decision dated October 27, 2022, and the Planning Board letter of decision dated March 2, 2020.

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.

Unless otherwise indicated above, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any approved work.

The Planning Director must certify that all conditions of approval have been completed prior to issuance of a building permit unless otherwise indicated above.

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

Very truly yours,

Rick Chellman, Chairman of the Planning Board

cc: Shanti Wolph, Chief Building Inspector

Joseph Coronati, Jones \$ & Beach Engineers, INC
Joseph Coronati, Jones & Beach Engineers, INC



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1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

PLANNING BOARD

November 1, 2023

Daniel Sigalovsky
Sarah Cook
390 FW Hartford Drive
Portsmouth, New Hampshire 03801

RE: Wetland Conditional Use Permit for property located at 390 FW Hartford Drive (LU-23-140)

Dear Property Owners:

The Planning Board, at its regularly scheduled meeting of **Thursday, October 26, 2023**, considered your application for Wetland Conditional Use Permit from Section 10.1017 for the removal of an existing 16' x 24' rear deck within the 100-ft wetland buffer and the replacement of the deck with a 14' x 16' permeable paver patio. The project will include enhanced stormwater management including a gravel infiltration area, installation of a rain garden, native plantings, and the installation of a permeable patio in place of the existing deck. Said property is shown on Assessor Map 249, Lot 25 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 criteria set forth in Section 10.1017.60 and to adopt the findings of fact as presented; and 2) to grant the Wetland Conditional Use permit with the following **condition**:

2.1) In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers during project 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 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:

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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: October 26, 2023

Property Address: 390 FW Hartford Drive

Application #: LU-23-140

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 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 is proposing removal of existing impervious surface within the wetland buffer and will be replacing with permeable pavers and greater stormwater control measures. This will likely provide a positive impact to the wetland buffer and wetland resource. |
| 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 existing deck is completely within the wetland buffer and due to the rotting, it must be removed. The applicant will alter the existing area with impacts that are likely to increase buffer health and help with stormwater and runoff issues both into the wetland and surrounding the home. |

| | 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 the deck and replacement with greater stormwater infiltration measures will likely have a positive impact on the functional values of the wetland and site due to better infiltration of runoff. |
| 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 | No removal of vegetation is proposed. Applicant is proposing to increase native vegetation within the buffer along with a new rain garden within the 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 applicant is proposing an increase to the existing vegetation within the buffer and the removal of existing impervious surface which creates little to no adverse impacts within the site. |
| 6 | <i>6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.</i> | Meets | Applicant is proposing to increase vegetation within the overall buffer and the vegetated buffer strip. |
| 7 | <u>Other Board Findings:</u> | | |