

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
Total	680	4,790	350	5,820

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,

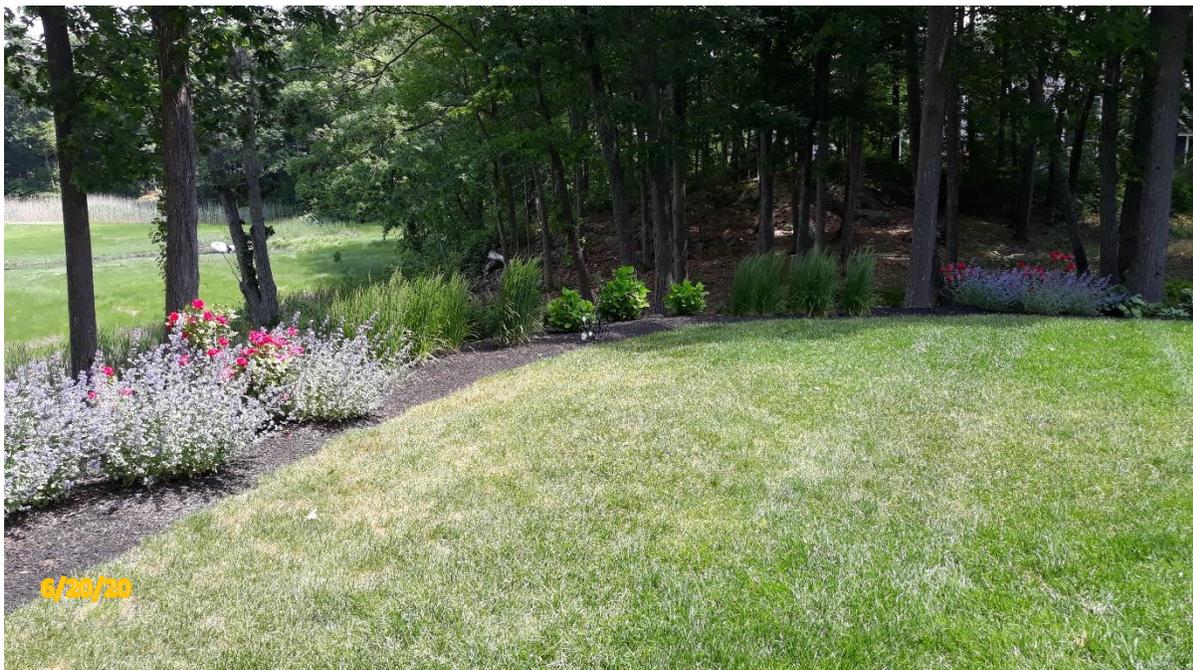


Brendan Quigley
Gove Environmental Services, Inc.

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

BUFFER DISTURBANCE AREAS					
AREA	TRAIL DISTURBANCE (SF)	YARD DISTURBANCE* (SF)	STRUCTURE DISTURBANCE** (SF)	PREVIOUS DISTURBANCE*** (SF)	TOTAL DISTURBANCE (SF)
VEGETATED BUFFER STRIP (0-40')	510	0	0	0	510
LIMITED CUT BUFFER (40-50')	80	220	0	0	300
INLAND WETLAND BUFFER (50-100')	40	4,570	350	385	5,345
TOTAL	680	4,790	350	385	6,205

NOTES:
 * - YARD DISTURBANCE INCLUDES YARD AND LANDSCAPE AREAS.
 ** - STRUCTURE DISTURBANCE INCLUDES TREEHOUSE, FIRE PIT, AND PATIO (BUILT AFTER 2003).
 *** - PREVIOUS DISTURBANCE INCLUDES PATIO AREA AND STAIRS BUILT (BOTH AS CONSTRUCTED IN 2003).

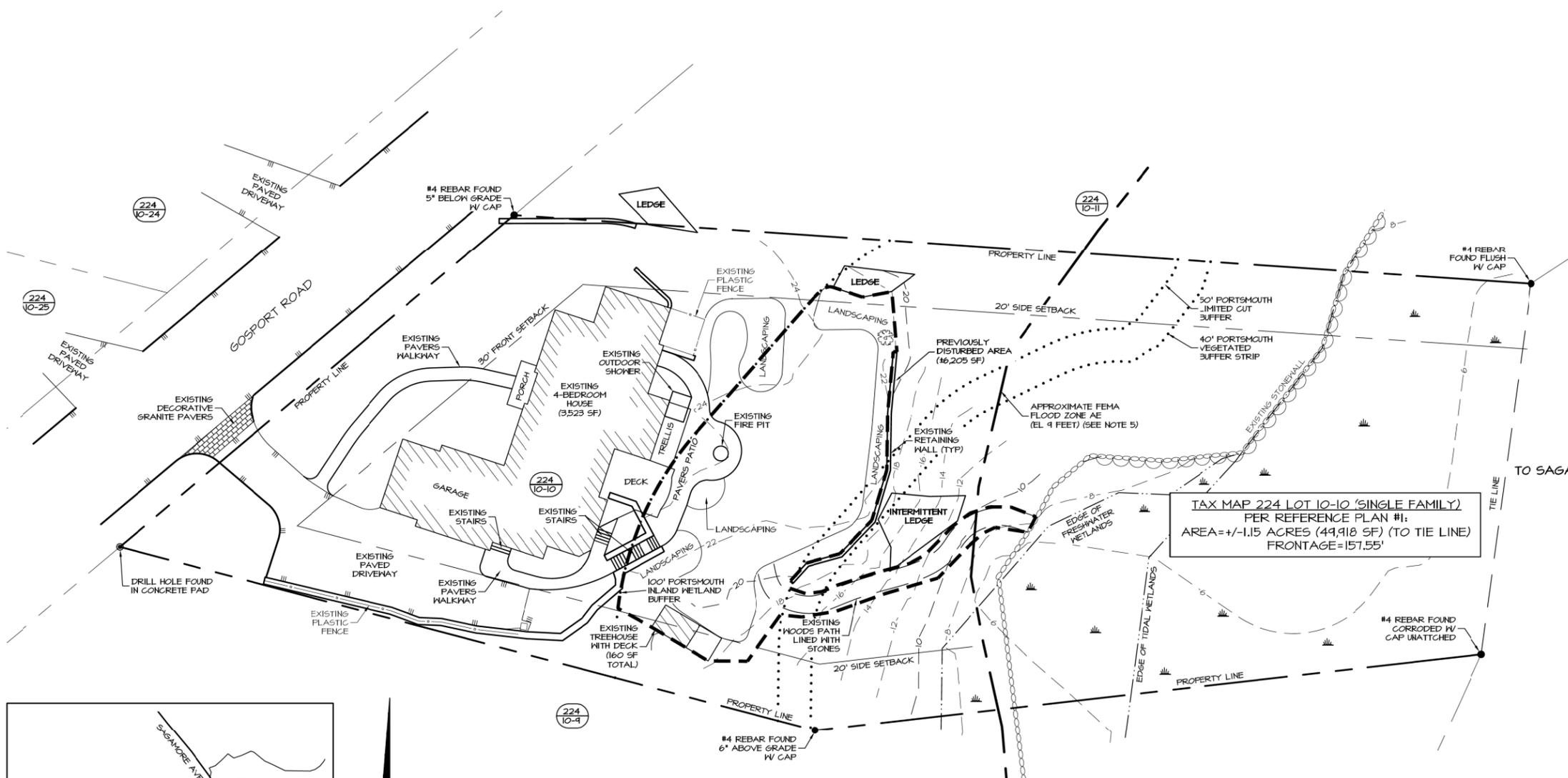
TABLE OF AREAS	
AREA OF LOT	44,918 SF
AREA OF TIDAL WETLAND ON LOT (TO TIE LINE)	10,330 SF
AREA OF FRESHWATER WETLAND	3,180 SF
SUM OF WETLANDS ON LOT (TO TIE LINE)	13,510 SF
AREA OF VEGETATED BUFFER STRIP	810 SF
AREA OF LIMITED CUT BUFFER	2,040 SF
AREA OF INLAND WETLAND BUFFER	9,395 SF
AREA OF ALL BUFFERS ON LOT	14,535 SF

REFERENCE PLANS:

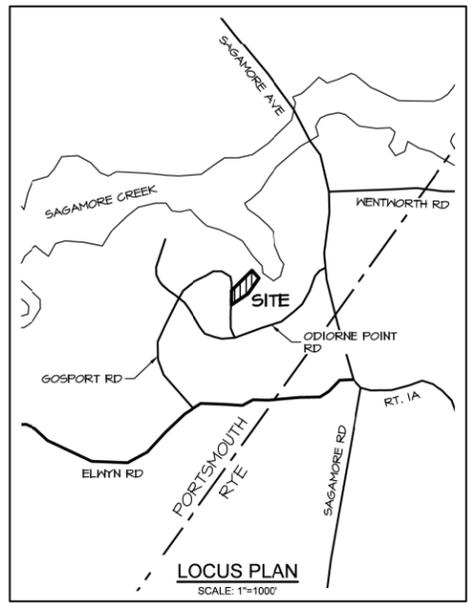
- "LOT LINE RELOCATION PLAN FOR TUCKERS COVE LIMITED LIABILITY & TUCKERS COVE BUILDERS LLC" BY MILLETTE, SPRAGUE & COLNELL, INC., DATED JANUARY 16, 2001; SCALE: 1"=40'; RCRD D-28830.
 - "DEFINITIVE SUBDIVISION PLAN OF LAND" BY LANDETECH CONSULTANTS, INC., DATED APRIL 12, 1993; SCALE: 1"=50'; RCRD D-24827.
- WETLAND NOTES:**
- US ARMY CORPS OF ENGINEERS INTERIM REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL, NORTH-CENTRAL AND NORTHEAST REGION, TECHNICAL REPORT ERDC/EL TR-09-14 (OCT 2009).
 - FIELD INDICATORS OF HYDRIC SOILS IN THE UNITED STATES, A GUIDE FOR IDENTIFYING AND DELINEATING HYDRIC SOILS, VERSION 7.0. UNITED STATES DEPARTMENT OF AGRICULTURE (2010).
 - NORTH AMERICAN DIGITAL FLORA: NATIONAL WETLAND PLANT LIST, VERSION 2.2.1 (2004).
 - CLASSIFICATION OF WETLANDS AND DEEPLYWATER HABITATS OF THE UNITED STATES. USFWS MANUAL FWS/OBS-74/31 (1974).

NOTES:

- OWNER OF RECORD, TAX MAP 224 LOT 10-10 MARTHA B. MASIELLO REVOCABLE TRUST OF 2004 MARTHA B. MASIELLO, TRUSTEE 239 GOSPORT ROAD PORTSMOUTH, NH 03801 RCRD BK5148 P60212
- THE INTENT OF THIS PLAN IS TO PROVIDE THE NECESSARY INFORMATION TO CONDITIONAL USE PERMIT WITH THE CITY OF PORTSMOUTH.
- REFERENCE BEARING FROM REFERENCE PLAN #1.
- PARCEL IS ZONED SINGLE RESIDENCE A (SRA) PER THE CITY OF PORTSMOUTH ZONING MAP AS AMENDED THROUGH FEBRUARY 4, 2019.
- A PORTION OF THIS PARCEL IS IN FLOOD HAZARD ZONE AE, REFERENCE FLOOD INSURANCE RATE MAP 3301SC0210E, DATED MAY 17, 2005.
- FIELDWORK CONDUCTED BY JJM AND MCV OF EEI ON JUNE 22, 2020.
- SOILS AND WETLANDS WERE DELINEATED BY GOVE ENVIRONMENTAL SERVICES, INC. IN JUNE 2020.
- PROPERTY SERVICED BY CITY WATER AND SEWER.
- ALL CONSTRUCTION SHOULD COMPLY WITH FEDERAL, STATE, AND LOCAL STANDARDS AND REGULATIONS.
- THIS PLAN WAS PREPARED WITH ON-SITE FIELD SURVEY AND EXISTING PLANS. THE CONTRACTOR SHOULD NOTIFY EMANUEL ENGINEERING, INC. DURING CONSTRUCTION IF ANY DISCREPANCY TO THE PLAN IS FOUND ON SITE.
- BEFORE ANY EXCAVATION, DIG SAFE AND ALL UTILITY COMPANIES SHOULD BE CONTACTED 72 HOURS BEFORE COMMENCING BY THE CONTRACTOR. CALL DIG SAFE @ 811 OR 1-888-DIG-SAFE.
- ALL UTILITIES SHALL BE LOCATED UNDERGROUND EXCEPT AS NOTED ON PLAN APPROVED BY THE PLANNING BOARD.
- ALL WORK TO TAKE PLACE IN PREVIOUSLY DISTURBED UPLAND.

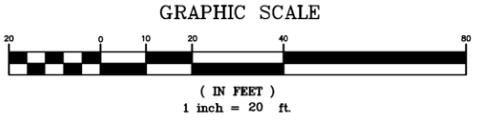


TAX MAP 224 LOT 10-10 (SINGLE FAMILY)
 PER REFERENCE PLAN #1:
 AREA = +/- 1.15 ACRES (49,918 SF) (TO TIE LINE)
 FRONTAGE = 157.55'



LEGEND:

- REBAR FOUND
- DRILL HOLE FOUND
- - - PROPERTY LINE
- ||| EDGE OF PAVEMENT (EOP)
- ~ TREELINE
- ○ ○ STONEWALL
- ☼ WETLANDS
- FENCE
- ⊙ PX PHOTO LOCATION



1	FEB 23, 2021	FOR APPROVAL	
ISS. DATE:	DESCRIPTION OF ISSUE:		CHK.
DRAWN:	JJM	DESIGN:	JJM
CHECKED:	BDS	CHECKED:	BDS



CLIENT:
MARTHA & MATT MASIELLO
 239 GOSPORT ROAD
 PORTSMOUTH, NH 03801

TITLE:
PORTSMOUTH
CONDITIONAL USE PLAN
 FOR
 TAX MAP 224 LOT 10-10
 MARTHA B. MASIELLO REVOCABLE
 TRUST OF 2004
 239 GOSPORT ROAD
 PORTSMOUTH, NH 03801

PROJECT:	SCALE:	SHEET:
20-071	1"=20'	C1

SEAL: