

Findings of Fact | Wetland Conditional Use Permit

City of Portsmouth Planning Board

Date: July 18, 2024

Property Address: 0 Maplewood Ave.

Application #: LU-24-102

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	This work is an in-kind repair job. The damaged wall is structurally integral to keeping the cemetery border and fill contained.
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	There is no alternative location to rebuild this wall in. The safety of the tomb and burials behind the wall is reliant on the structure of this wall and it must be fortified in order to prevent further erosion, or worse, collapse.
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	The applicant used professional services to access the area and wall from the adjacent property, so as not to disturb the hallowed ground. This may have impacts on the pathway of any necessary construction vehicles. The applicant shall restore any disturbed soils with native wetland buffer conservation seed mix and monitor for establishment.

	Zoning Ordinance Sector 10.1017.50 Criteria for Approval	Finding (Meets Criteria for Approval)	Supporting Information
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 vegetated state was disturbed in order to get construction equipment onto the site. This area should be stabilized with erosion controls, along with the wall, and should be reseeded at the end of construction with a native wetland buffer conservation seed mix.
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	The alternatives to not repairing this wall would be allowing it, and the fill, and historic infrastructure to erode and/or slide into the North Mill Pond. The repair of this wall was an emergency repair.
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	All areas disturbed within the 25' vegetated buffer shall be reseeded at the end of construction with a native wetland buffer conservation seed mix.
7	<u>Other Board Findings:</u>		

City of Portsmouth

Department of Public Works

MEMORANDUM

TO: Samantha Collins, Conservation Commission Chair

CC: Peter Britz, Director of Planning and Sustainability
Kate Homet, Associate Environmental Planner

FROM: Christine Sproviero, Project Manager

DATE: June 7, 2024

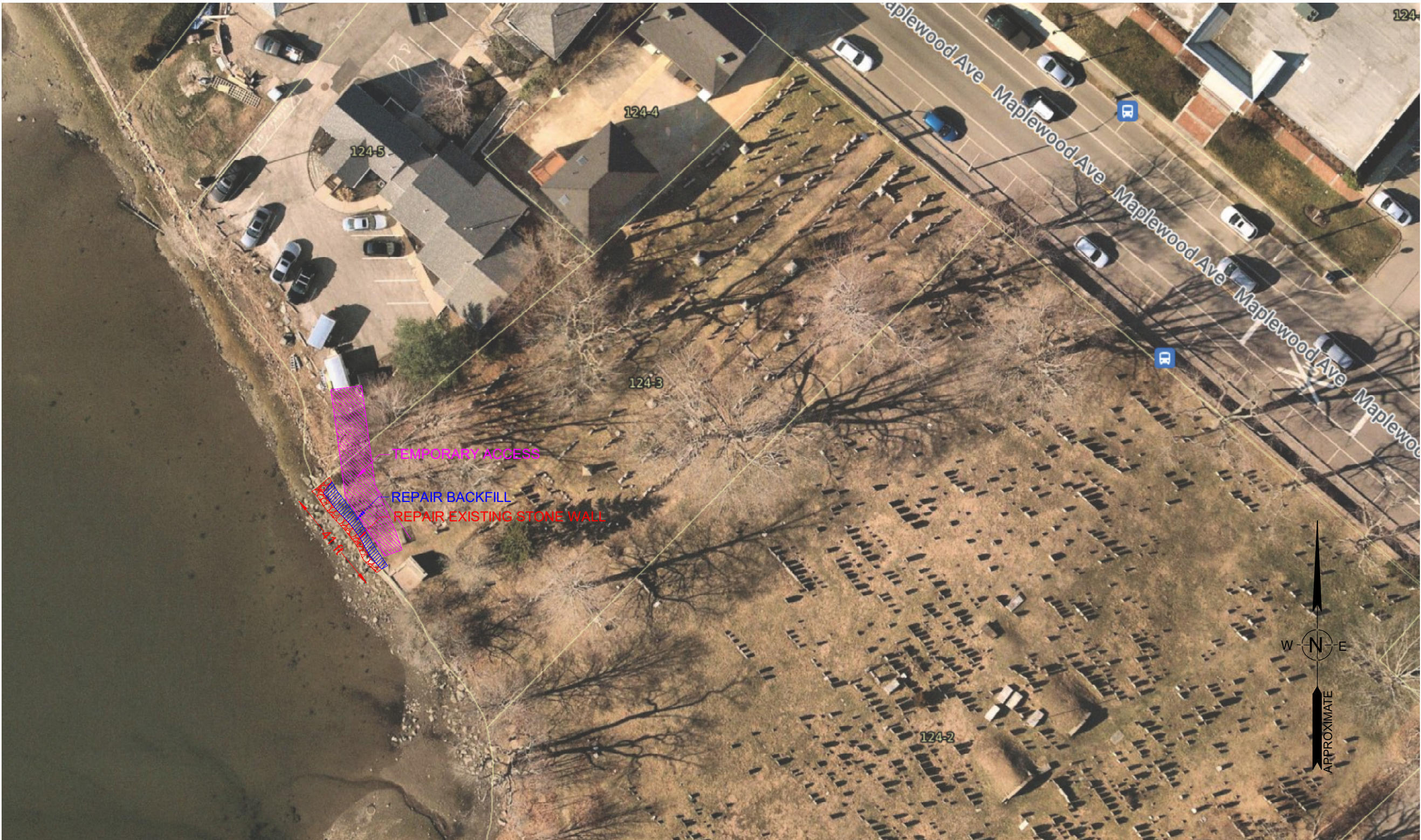
SUBJECT: Union Cemetery Emergency Shore Wall Repair

The Union Cemetery shore wall has sustained damage and erosion over multiple years due to large storm and tidal events. On 4/26/24, it was observed that multiple sections of the wall have fallen into the tidal area below. The City immediately filed a wetlands emergency authorization request to the New Hampshire Department of Environmental Services (NHDES) to perform repairs on the 41' section of shore wall, as shown in the plans attached, before further degradation occurs. The City received authorization from NHDES on 5/16/24 which is attached.

Once authorization was granted, the City engaged Riverside & Pickering Marine Contractors to schedule the emergency repair "in kind" work which is scheduled to begin on 6/10/24. Following the completion of the re-construction of the wall, the City will submit post work photos as required by the Emergency Authorization.

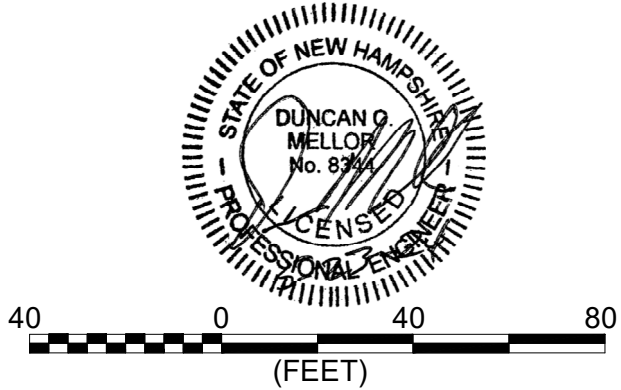
Kind Regards,

Christine Sproviero

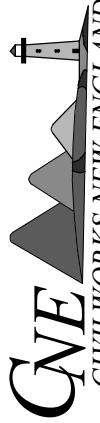


TIDAL RELATIONSHIPS:
IN FEET TO NAVD88 DATUM, 1983-2001 TIDAL EPOCH
REF:NOAA TIDE GAUGE STA 8419870
FEMA 1% +50 YR SLR = 8.3'
FEMA 1% = 8'
HOTL = 3.88' (OBS. 8-21-23)
MHHW = 4.18'
MHW = 3.76'
NAVD88 EL = 0.0'
MEAN TIDE LEVEL EL = -0.32'
MLW EL = -4.39'
MLLW EL = -4.71'

- CONSTRUCTION SEQUENCE:
1. ALL WORK SHALL BE PERFORMED IN DRY CONDITIONS WORKING ABOVE WATER LEVELS.
 2. NO SOIL EXCAVATION IS ANTICIPATED. IF SOIL DISTURBANCE OCCURS, INSTALL EROSION CONTROL SOCK ALONG THE TOE OF A WORK AREA AND MAINTAIN IT UNTIL STABILIZED. REMOVE EROSION CONTROL SOCK WHEN THE ASSOCIATED WORK IS COMPLETE.
 3. STABILIZE PLACED BACKFILL WITH LOAM AND SEED, WATER UNTIL ESTABLISHED.



CITY OF PORTSMOUTH UNION CEMETERY MAPLEWOOD AVENUE TAX MAP 124, LOT 3	DATE: 5-23-24 SCALE: SHOWN DRAWN BY: DCM DESIGN BY: DCM	UNION CEMETERY SEAWALL REPAIRS PORTSMOUTH, NH ROCKINGHAM COUNTY NORTH MILL POND	WF - 1

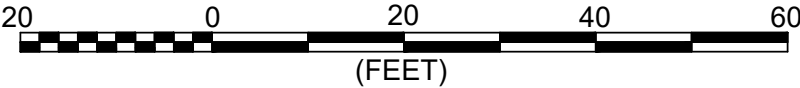
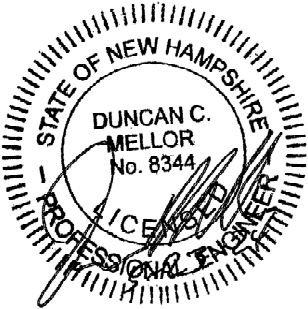



CIVILWORKS NEW ENGLAND
CIVIL & WATERWORTH ENGINEERING
181 Watson Road, PO Box 1166
Dover, New Hampshire 03821
603.749.0445



SCOPE OF REPAIRS:

- 1. EXISTING STONE WALL IS DAMAGED WITH SOME BACKFILL EROSION.
- 2. IMPORT NEW WALL STONES MATCHING EXISTING FOR REPAIRS.
- 3. REBUILD UPPER WALL WITH DRY SET STONEWORK FROM REMAINING WALL UP TO THE CREST ELEVATION OF THE GRANITE SLABS ADJACENT TO CRYPT.
- 4. INSTALL 8 OZ/SY NON-WOVEN GEOTEXTILE ONTO ERODED BANK.
- 5. IMPORT AND INSTALL CRUSHED ROCK STRUCTURAL BACKFILL AND WRAP GEOTEXTILE OVER THIS MATERIAL.
- 6. ADD LOAM AND GRASS SEED TO MATCH ADJACENT GRADES AND SURFACES, WATER UNTIL ESTABLISHED.



 <div>181 Watson Road, PO Box 1166 Dover, New Hampshire 03821 603.749.0445</div>					
REPAIR PLAN	CITY OF PORTSMOUTH UNION CEMETERY MAPLEWOOD AVENUE TAX MAP 124, LOT 3	UNION CEMETERY SEAWALL REPAIRS PORTSMOUTH, NH ROCKINGHAM COUNTY NORTH MILL POND	WF - 2	DATE: 5-23-24	
				SCALE: SHOWN	
				DRAWN BY: DCM	
				DESIGN BY: DCM	



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

EMERGENCY AUTHORIZATION VERIFICATION

FILE NUMBER: 2024-01385
OWNER: CITY OF PORTSMOUTH
SITE LOCATION: UNION CEMETERY MAPLEWOOD AVE, PORTSMOUTH
AGENT/CONTRACTOR: TBD
AUTHORIZATION DATE: MAY 16, 2024
WATERBODY: TIDAL BUFFER ZONE

This is to confirm that New Hampshire Department of Environmental Services (NHDES) Wetlands Bureau has given emergency authorization in accordance with NH Administrative Rule Env-Wt 315 to the owner/agent to conduct the following work in the NHDES Wetlands Bureau jurisdiction (under RSA 482-A):

DESCRIPTION: Emergency authorization for the in-kind repair to an existing retaining wall.

This authorization is subject to the following conditions:

1. The applicant/contractor shall file a follow up report describing the work performed under this authorization including pre-construction and post-construction photos to NHDES by June 24, 2024; the need for additional permitting will then be determined by NHDES (if no further impacts are needed).
2. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
3. Appropriate siltation, erosion controls, turbidity, and sedimentation controls shall be utilized.
4. Extreme precautions shall be taken within riparian areas to limit unnecessary removal of vegetation for access.
5. Construction equipment shall be inspected daily for leaking fuel, oil, and hydraulic fluid prior to working near surface waters or wetlands.
6. Faulty equipment shall be repaired prior to working near jurisdictional areas.
7. The contractor shall have appropriate oil spill kits on site and readily accessible at all times during construction and each operator shall be trained in its use.
8. This form shall be properly posted at the work site.
9. This authorization does not convey a property right, nor authorize any injury to property of others, nor invasion of rights of others.

THIS AUTHORIZATION EXPIRES ON June 17, 2024. All work must be completed by this date. This authorization has been given file number **2024-01385**. Please use this number in all future correspondence.

Signed:

Eben M. Lewis
Southeast Region Supervisor
Land Resources Management, Water Division

ec: Portsmouth Conservation Commission
US Army Corps of Engineers (Richard.C.Kristoff@usace.army.mil)
NH HSEM Planning (hsemplanning@dos.nh.gov)
NHPA (DOS.nhpa@dos.nh.gov)

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588
TDD Access: Relay NH 1 (800) 735-2964

Christine R. Sproviero

From: Christine R. Sproviero
Sent: Wednesday, May 22, 2024 9:05 AM
To: Duncan Mellor
Subject: Authorization for Civilworks New England

Good morning Duncan,

Please consider this as an authorization for Civilworks New England to act as an authorized agent for the City of Portsmouth in regard to the Union Cemetery Shore Wall Project.

Regards,

Christine R. Sproviero
Project Manager
City of Portsmouth
Public Works Department
680 Peverly Hill Road
Portsmouth, NH 03801
Office: (603) 766-1755
Mobile: (603) 380-4805
Email: crSproviero@cityofportsmouth.com

CIVILWORKS NEW ENGLAND

181 WATSON ROAD
P.O. BOX 1166
DOVER, NH 03821-1166
PHONE: 603.749.0443

MEMORANDUM

Date: June 25, 2024

To: Portsmouth Planning Board

Re: DES 2024-01385, City of Portsmouth, Union Cemetery wall repairs

From: Duncan Mellor, PE

Civilworks New England

The damaged stone wall at Union Cemetery in Portsmouth on the bank of North Mill Pond has been repaired in-kind with dry set stonework in the Tidal Buffer Zone. All work was performed in the dry and was above and inshore of the high tide line. The disturbed lawn area was seeded with the City wetland buffer seed mix. Concurrently the project was approved by the Portsmouth Conservation Commission (letter attached).

Before Photograph:



Photo 1 Main span removal for localized member removal and observation

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P.O. BOX 1166
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After Photographs:



Photo 2 Repaired wall looking north 6-18-24



Photo 3 Disturbed area erosion controls and seeding 6-18-24

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P.O. BOX 1166
DOVER, NH 03821-1166
PHONE: 603.749.0443



Photo 4 Disturbed area erosion control matting over City wetland buffer seed mix 6-18-24.

In accordance with the Portsmouth Conservation Commission WCUP approval conditions, dated June 17, 2024, this area will be reseeded if growth is not successful, and native wetland buffer shrubs will be planted along the temporary access area.

\\cneserver2\\Users\\Dmellor\\Documents\\R&P\\Pickering\\Union Cemetery\\CUP\\Union cemetery completion report 6-25-24.docx



CITY OF PORTSMOUTH

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

CONSERVATION COMMISSION

June 17, 2024

City of Portsmouth

PO BOX 628
Portsmouth, NH 03802

RE: Wetland Conditional Use Permit for property located at 0 Maplewood Avenue

Dear Owner:

The Conservation Commission, at its regularly scheduled meeting of **Wednesday, June 12, 2024**, considered your application for an after the fact Wetland Conditional Use Permit due to the emergency authorization for repair of the stone wall alongside the North Cemetery. This application is for the restoration and repair of the wall in-kind which includes installation of new stone, installing non-woven geotextile along the eroded bank, importing structural backfill, and loam and seeding the disturbed areas once finished. Said property is shown on Assessor Map 124, Lot 3 and lies within the Municipal (M). As a result of said consideration, the Commission voted to **approve** the Wetland Conditional Use Permit with the following stipulations.

1. Applicant shall monitor the success of reseeded areas to ensure stabilization. If stabilization is not successful within 30 days of seeding, the area will need to be reseeded.
2. Native wetland buffer shrub plantings shall be installed within the temporary accessway area in the Fall of 2024. This should be included in updated plan set for the Planning Board submission.

This matter will be placed on the agenda for the Planning Board meeting scheduled for **Thursday, July 18, 2024**. 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, June 26, 2024.

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: