

MEMORANDUM

TO: Portsmouth Conservation Commission

FROM: Duane Hyde, Land Conservation Director, SELT

DATE: July 11, 2024

RE: Portsmouth's Hundred Acre Wood Conservation Project (Cavaretta)

Background

SELT has been in discussions with Joe Cavaretta about conserving his land for well over 12 years. With the Cavaretta property being nearly 100-acres, it is the largest private undeveloped (except 1 house) and unconserved landholdings remaining within the City limits. For public outreach purposes, SELT refers to this property as "Portsmouth's Hundred Acre Wood", but for the purposes of this memo we will refer to the property by the landowner's last name, "Cavaretta." The property's mix of uplands and wetlands are part of a larger system that is largely conserved in abutting Rye, and across Elwyn Road is the 182 -acre Urban Forestry Center. Joe Cavaretta is a stone mason and a lifelong Portsmouth resident. His family has deep roots in the community with his parents once owning Cavaretta General Store located at what is now the location of the Atlantic Grill at the Foyes Corner traffic circle. Initially the Cavaretta's operated a small dairy farm. But that changed to a pheasant farm which evolved into a variety of game birds including turkey, quail, partridge, Cornish game hens and the like. These were reportedly sold to Portsmouth restaurants. The old fields used to raise the birds are still evident, but there are no other improvements visibly evident.

Given the size of the property, Joe has been approached by a myriad of developers over time. Joe never really wanted to sell for development, but he is at a point in life when the physical demands of his work and his age require him to slow down and head toward retirement. With the land being his sole large asset he needs to monetize it. Some conceptual development planning has been done for the property with one scenario showing up to 13 single family houses on a cul-de-sac and another has 37 attached condominium style units on a cul-de-sac. But we all know how creative developers can get, especially as land values have skyrocketed in Portsmouth. For instance, it would not be surprising for a developer to work toward creating development access through Elwyn Park via the purchase of a house or two which could lead to a much higher density on the Cavaretta property.

Joe also really wants to be able to continue to live on the land; thus the conveyance of a conservation easement will allow him to attain this along with his need to make more liquid his largest asset.

Conservation Features

The following resource values were provided at the Conservation Commission's June 26th site walk, but are repeated here for ease of access (a few items have been added since the site walk):

City Open Space Plan

This is a critical conservation project for the largest privately owned undeveloped parcel remaining in Portsmouth; identified priority land in the City's 2020 Open Space Plan.

General Recommendations

As Portsmouth works to protect and improve the open space network, the following recommendations should be pursued:

1. Identify opportunities to partner with landowners and regional conservation organizations (such as Southeast Land Trust and the Society for the Protection of NH Forests) to increase the percent of protected open space.
- Identified in Portsmouth’s Open Space Plan as an “Emerging Area” to Retain and Expand Portsmouth’s Open Space Network; see Page 46: parcel lies within the Berry’s Brook Headwaters
 - Page 53: specifically shown as parcel OO and identified as High Priority that meets all four ranking categories.

BERRY’S BROOK HEADWATERS

Even though this area of the City is dominated by wetlands and will not contribute as much recreational value overall it is important to retain these open spaces. This will ensure water quality is maintained in Berry’s Brook as it flows into Rye and out to the coast. These contiguous open space corridors also ensure habitat connectivity exists for the many species living in and passing through this area of the seacoast. This open space area also offsets the impact of the more intensely developed corridor along Route 1 while helping to reduce flooding, improve air and water quality, reduce the heat island effect, sequester carbon, and other benefits. An effort should be made over time to green the Route 1 commercial corridor so that the developed areas provide connections between the large open space areas to the east and west. This can be accomplished using similar techniques to the ones outlined for the Downtown area.

Map Code	Description	Ownership	Opportunity		Ranking Categories				Priority		
			Acquisition/Conservation	Improvement	Proximity	Connectivity	Unique Resources	Equity & Access	High	Medium	Future
OO	Water quality protection for Berry’s Brook and habitat connectivity within Portsmouth and into nearby Rye.	Private	✓		*	*	*	*	×		

Other Conservation Plan Support:

2021 New Hampshire's Coastal Watershed Conservation Plan (TNC, GBRPP): 87-acres (93%) within a Focus Area identified in the Plan. This property ranks high for numerous reasons, but in part due to it being in a high-quality habitat block, being part of a regional wildlife connectivity corridor system, the property's nutrient attenuation and flood risk mitigation attributes, and its Wildlife Action Plan tiers.

2020 NHFG Wildlife Action Plan (NHFG): 59-acres (63%) in WAP Tiers 1 through 3. 12-acres Tier 1 (13%); 3-acres Tier 2 (3%); 44-acres Tier 3 (47%). Likely identified in the WAP due to the property being within a large matrix of unfragmented land for this particular area, the quality of the upland and wetland systems, the presence of several rare species in the area including Blanding's and spotted turtles, and the property including a tributary of Berry's Brook which includes several priority fish and natural communities downstream

2019 Connect the Coast (TNC, GBRPP): 85-acres (90%) within a Prioritized Habitat Block that is unfragmented and includes high quality habitat that is part of a larger matrix of habitat that wildlife can move through and utilize via mapped probable corridors. In addition, the property includes a 1.4-acre portion of a key wildlife Connectivity Corridor that links the habitat block this property is a part of to the habitat block that includes the Urban Forestry Center.

Resilient and Connected Landscape (TNC): 76-acres (81%) identified average or better for climate resilience: 1-acre Slightly Above Average (1%); 75-acres Average (80%). Given the coastal plain location, a largely average score is actually quite good since this model is heavily weighted by topographic and landform diversity. The Cavaretta tract scored well due to its connectedness to undeveloped and conserved land and having fairly good landform diversity. In addition, the property has a decent percentage of low elevation loam and low elevation sand geology types, which is a more unusual

geophysical setting for this region and NH. The property also scored well for Forest Carbon storage. Berrys Brook Watershed Management Plan (Berry's Brook Watershed Protection Council, 1993): Specifically identified Cavaretta property as an area subject to development that could pose potentially serious impacts to the watershed due the size of the property and nearness to Berry's Brook and its associated wetlands.

Natural Resource Values

- The project will conserve a **1.8-acre portion of a regionally significant wildlife connectivity corridor** linking the large habitat blocks of the Urban Forestry Center and the Berry's Brook area.
- SELT has documented **3 vernal pools** on the larger property (although there could be more), 2 of which are in the conservation easement area. One of the vernal pools had 5 spotted and 4 wood frog egg masses and the other 3 spotted and 3 wood frog egg masses. Spotted salamanders were also identified along the vernal pools' water's edge. This project will protect these vernal pools and upland buffer creating a connected undeveloped upland network between vernal pools and wetlands for species movement.
- The project will protect: **44.5-acres of a 220-acre Prime Wetland and 47-acres of wetlands in total**. These wetlands and buffers will be protected from potential development impacts.
- The project includes **1,725-feet of a perennial stream that is a tributary to Berry's Brook**.
- Although we have not yet documented any rare species occurrences on the property, according to the Natural Heritage Bureau, there are **documented occurrences of Blanding's turtle (S1) and spotted turtle (S2) within a 1-mile radius** of the property. Given the wetland systems, vernal pools and habitat these species may utilize the Cavaretta property.
- ~34.6 acres of the property is within a <2000 sq ft/day **High Transmissivity aquifer**.
- The **Aquatic Wildlife Action Plan** indicates that downstream of the property Berry's Brook is listed with species of concern: banded sunfish and redbfin pickerel. Conserving this property aids in protecting the water quality of Berry's Brook.

Green Infrastructure

The Cavaretta property provides documented green infrastructure services to the City of Portsmouth and the larger community which are even more important now in the face of direct impacts as a result of climate change:

- ~60-acres of the property has been documented as providing important **Flood Storage and Risk Mitigation**. The significant wetland system has a large capacity to hold and store flood waters entering the Berry's Brook system from the more heavily developed surroundings and slowly releasing these waters; thus decreasing the impacts on downstream improvements.
- ~58-acres of the property has been documented as providing **Pollutant Attenuation services**. This is largely due to the large wetland system's ability to hold water and take up or store excess nutrients/pollutants combined with the upland forested system buffering the wetlands.

Outdoor Education

Although needing further exploration, the conservation of the Cavaretta tract protects the opportunity for elementary education for not just one school, but two public schools: Portsmouth's Dondero Elementary School and the Rye Elementary School. Both of these schools offer outdoor education as part of their curriculum and reportedly the Dondero school lacks sufficient useable land and the Cavaretta's tract's proximity to the school could facilitate opportunities in the future.

Conservation Easement Agreement Structure

SELT has the Cavaretta property under agreement for the purchase of a conservation easement. Included as part of this purchase is SELT securing a right of first offer and refusal for the property. This means that if Joe ever sells the property outside of his family (he has two siblings, and he is not married and has no children) then SELT will have the right to make an offer. If that offer is rejected he cannot sell the property for less than SELT's offer. If he gets an offer that is more than SELT's offer than SELT can match that offer and the property must be sold to SELT. (This provides for the future opportunity for SELT to acquire the fee ownership of the property. Under such a scenario, the conservation restrictions would remain in effect.)

The project involves the acquisition of a conservation easement over approximately 94-acres of the property as shown on the attached map. Excluded from the conservation easement is an approximately 5-acre area surrounding the existing house and outbuildings/improvements associated with the house.

SELT's template conservation easement will be used as a basis for this project. A very brief summary of the key conservation easement terms include:

- Allows for forestry and agriculture. Commercial forestry must be conducted in accordance with a written forest management plan prepared by a licensed forester. Commercial forestry must be overseen by the licensed forester and follow best management practices and guidelines such as "Good Forestry in the Granite State". Agriculture must also follow best management practices
- Prohibits subdivision of the land
- Prohibits mining and excavations
- Prohibits structures, except those used for forestry or agricultural purposes
- Prohibits motorized vehicles (including ATVs) except for land management purposes
- Prohibits burial of man-made materials or hazardous materials
- Property cannot be used to satisfy the density, frontage or setback requirements for the development of any other property

Features specific to this property:

- Will allow for the maintenance and repair of the existing driveway and utilities along the driveway to serve the Excluded Area
- With the LCHIP funding proposed, the landowner has agreed to LCHIP's requirements that the land not be posted against public access or hunting. LCHIP's language has exceptions for when posting may be allowed, for instance during active timber harvest operations or agricultural cropland areas. This does not, however, require the landowner to provide opportunities for parking or for trail construction. This is a "dispersed" public access provision. Because SELT will likely someday have the opportunity to acquire the property, we will ensure the easement will allow for trails and parking at the landowner's discretion.

Note that SELT has decided to not pursue Aquatic Resource Mitigation (ARM) funding for the project. Based on our discussions with the ARM committee with respect to the uses and future uses (e.g. trails, outdoor education, forest management), these desirable uses could be prohibited or be very difficult to implement with ARM funding. Thus, the added complexities of ARM funding and the long-term implications for the use of this land are not worth the added revenue provided from the program.

The purchase agreement between SELT and the landowner stipulates a closing date of June 28, 2025 but we can extend until no later than December 31, 2025.

Budget/Funding

The enclosed budget shows a total project cost of \$2,276,600. The costs in the budget are fairly self-explanatory, but I'd be happy to discuss any questions the Commission may have. A few items that often spark conversation are worth noting. The budget includes SELT Project Management Costs for managing and working on the project. SELT tracks its project management costs for each project it works on and categorizes the projects based upon the structure/funding sources. Based on several prior larger land conservation projects with a significant private fundraising component and several public funding sources the Cavaretta project falls into a \$30,000 Project Management cost category.

The Stewardship Fund calculation is based upon the size/features of the property; terms of the easement; level of public access; insurance costs; extent of abutting development and potential development; the amount of staff time it will require to answer questions, monitor the property and prepare reports; and a host of other factors. SELT has a spreadsheet calculator that it enters data about the project into and it calculates the estimated contribution to the Stewardship Fund necessary to ensure that the organization will have the long-term (permanent) capacity to monitor, enforce and administer the conservation easement. The contribution to the Stewardship Fund is a one-time payment. SELT uses an annual distribution from the Stewardship Fund, typically 4% of the Fund's value, to support our costs of stewarding the property. For the Cavaretta project, SELT has calculated that \$24,700 needs to be placed in SELT's Stewardship Fund for the long-term monitoring of this conservation easement, plus a one-time contribution of \$1,800 to SELT's legal defense fund.

On the revenue side, 56% of the project costs are being funded by outside sources. Of significant note, we have the generosity of the landowner who is selling this conservation easement for \$345,000 less than its fair market value (aka, bargain sale). SELT has applied to LCHIP with a \$350,000 request. This is a very competitive round for LCHIP, but the features of this property combined with its size and location in Portsmouth make it a competitive project. Lastly SELT will apply to the Great Bay Resource Protection Partnership and initiate a large private fundraising effort to raise \$561,600 for the Cavaretta project. This is a significant private fundraising effort for SELT, but we feel confident in our ability to raise these funds due to this being such a strong project and our well-established donor base in Portsmouth and the surrounding region.

This leaves us with a request to the City of Portsmouth Conservation Commission's Conservation Fund in the amount of \$1 million, which is 44% of the overall project cost. SELT recognizes that this is a significant request and believes that this rare opportunity to conserve such a large property in bustling Portsmouth aligns well with the City's conservation planning and priorities. We hope that the significant conservation values, green infrastructure values, potential outdoor education opportunities, and the project's consistency with the City's planning efforts will lead to a favorable vote from the Commission and eventually the City Council.

It will significantly help our prospects of LCHIP funding to have the support of the City and Conservation Commission for this project and ideally having a decision on the City's financial support by the end of August so we can notify LCHIP prior to the start of their ranking and decision-making process. LCHIP will be holding a site walk of the property on August 1st.

Request to the Commission and City

Request for \$1 million in Conservation Funds to be put toward the project.

Authorization for an appropriate and designated official from the City to enter into a Letter of Understanding for this funding commitment (if/when it is made).

If required by the City, recommend acceptance of a legal interest in the conservation easement. SELT would propose either an Executory Interest (if SELT no longer exists the City can take over responsibility of the conservation easement), or a Third Party Right of Enforcement (if SELT fails to enforce the easement after being notified by the City of a violation, the City has the right to enforce the easement).

Attachments – Context Map

Aerial Map

Budget



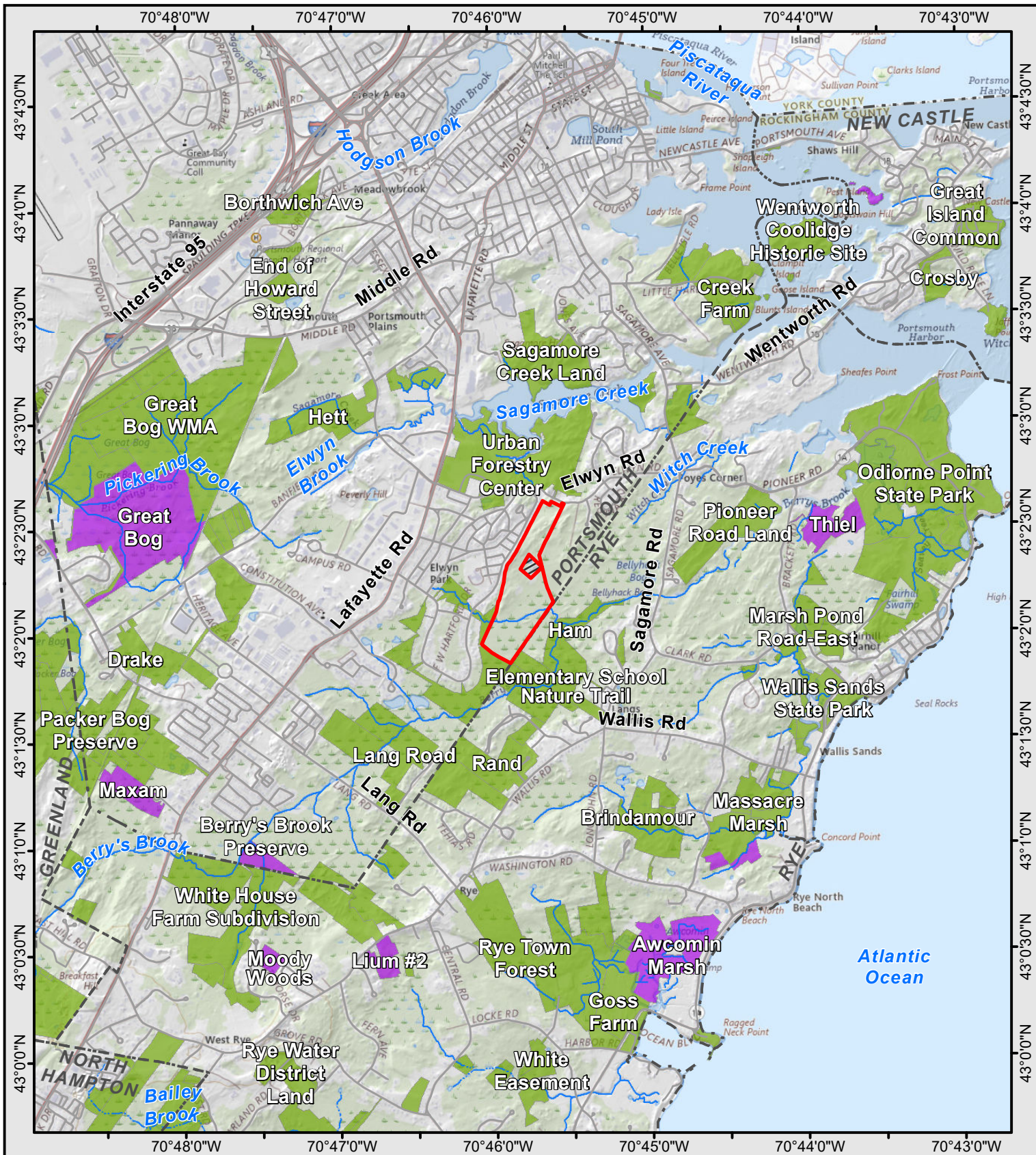
Budget Cavaretta Conservation Easement ~94- acres (Portsmouth)

EXPENSES

<u>Transaction Costs</u>	<u>Budget</u>	<u>Notes</u>
Acquisition Costs		
Easement Purchase Price	\$1,800,000	<i>Appraised FMV of CE \$2,145,000</i>
Easement Bargain Sale	\$345,000	
Due Diligence Costs		
Legal	\$12,500	<i>Title exam, title insurance, legal fees</i>
Survey	\$25,000	
Hazardous Waste Assess.	\$2,100	<i>Phase 1</i>
Appraisal(s)	\$8,200	<i>Initial appraisal and updated appraisal</i>
Closing Costs		
Recording fees	\$500	
Project Management Expenses		
SELT Project Management	\$30,000	<i>Flat Fee</i>
Conservation Consulting	\$6,500	<i>Wetlands assessment</i>
Travel	\$300	
Printing & Postage	\$10,000	<i>Community Mailing and Brochure</i>
Contingency	\$10,000	
Subtotal, Transaction Costs	\$2,250,100	
Stewardship Costs		
<u>Budget</u>		
Easement Stewardship Fund	\$24,700	<i>Min. contribution for Conservation Stewardship Fund</i>
Legal Defense Fund	\$1,800	<i>Flat rate contribution for legal defense of CEs</i>
Forest Management Plan	\$0	<i>If we were to apply to ARM this would be \$5K</i>
Archeological Assessment	\$0	<i>If we were to apply to ARM this would be \$2K</i>
Subtotal, Stewardship Costs	\$26,500	
TOTAL EXPENSES		\$2,276,600
		<i>total Transaction Costs + Long Term Stewardship Costs</i>

REVENUES

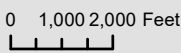
<u>Revenue Sources</u>	<u>Budget</u>	<u>Notes</u>
Government		
Portsmouth Conservation Fund	\$1,000,000	<i>44% of total project cost</i>
LCHIP	\$350,000	<i>Application submitted</i>
Private Fundraising		
GBRPP	\$20,000	<i>To apply in 2025</i>
Private gifts	\$561,600	<i>SELT to Raise</i>
Landowner Bargain Sale-CE	\$345,000	<i>Per purchase agreement</i>
TOTAL REVENUES	\$2,276,600	



- Project Boundary
- Exclusion Area
- SELT Conservation Land
- Other Conservation & Public Land
- Road
- Town boundary



1:45,000

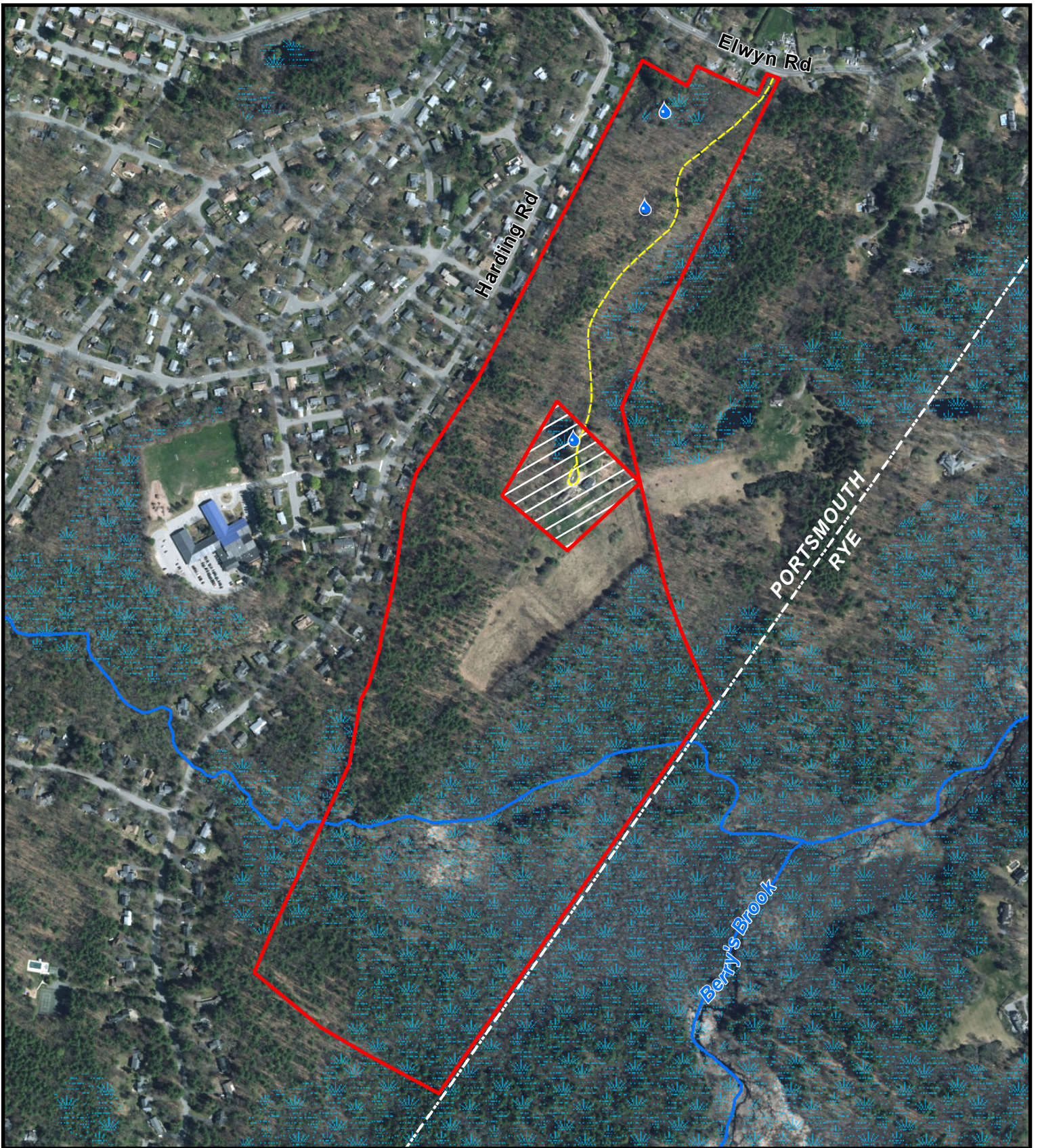


Locus Map Portsmouth's Hundred Acre Woods Portsmouth, NH

Boundary and feature locations are approximate.
Conservation lands from NH GRANIT. USGS topographic base map (published 1970-1998) processed by NH GRANIT; coordinate systems NAD83 UTM Zone 19N meters.

Map prepared by
Southeast Land Trust of NH
June 2024

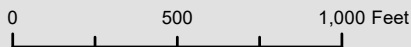




- Project Boundary
- Exclusion Area
- ~ ~ ~ NWI wetland
- Stream
- Driveway
- Town boundary
- 💧 Vernal Pool



1:7,000



Aerial Map Portsmouth's 100-Acre Woods Portsmouth, NH

Boundary and feature locations are approximate. Easement boundary based on tax maps.

Map prepared by
Southeast Land Trust of NH
May 2024



SELT