
MEMORANDUM

TO: Planning Board
FROM: Rick Taintor, Planning Director 
DATE: December 14, 2016
RE: Staff recommendations for December 15, 2016 Planning Board meeting

II. DETERMINATIONS OF COMPLETENESS

A. Subdivisions:

1. The application of Linda-Marie and William L. Jones, Owners, for property located at 400 Middle Road, and Seacoast Trust, LLP, Owner, for property located at 150 Route 1 By-Pass, requesting Preliminary and Final Subdivision (Lot Line Revision).

Planning Department Recommendation

Vote to determine that these applications for subdivision approval are complete (contingent on the granting of any required waivers under Section IV of the agenda) according to the Subdivision Rules and Regulations and to accept them for consideration.

B. Site Plan Review

1. The application of Carol I. Cooper, Owner, and Lorax Sustainable Development, LLC, Applicant, for property located at 996 Maplewood Avenue, requesting Site Plan Approval.

Planning Department Recommendation

Vote to determine that these applications for site plan approval are complete (contingent on the granting of any required waivers under Sections IV of the agenda) according to the Site Plan Review Regulations and to accept them for consideration.

III. PUBLIC HEARINGS – OLD BUSINESS

- A. The application of Chase B. Bailey and Kit Soave-Bailey, Owners, for property located at 3 Curriers Cove, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to remove and relocate an existing pool, associated concrete, and retaining wall, including related miscellaneous improvements, with 1,770 ± s.f. of impact to the wetland buffer. Said property is shown on Assessor Map 204 as Lot 12 and lies within the Single Residence A (SRA) District.

Description

This application is to replace an existing pool and concrete apron with a new pool and apron in a somewhat different configuration, and to make a number of changes to overhangs, entryways, a retaining wall and a deck.

The Planning Board voted to postpone consideration of this application at the November 17, 2016 meeting.

Some of the components of this application have changed due to a dispute regarding the applicability of a 40' restriction along the Southeast property line brought to the Commission's attention during the November Conservation Commission meeting. In order to move the project forward the applicant has revised their plans to stay out of this "contested" area. They have moved the pool shed outdoor kitchen and hot tub out of this 40 foot area. The result is a new plan with fewer structures in the wetland buffer with the overhangs, proposed enclosed rear deck and concrete apron around the pool remaining.

According to Article 10 Section 10.1017.50 the applicant must satisfy the following conditions for approval of this project.

1. The land is reasonably suited to the use activity or alteration. The work proposed for this project includes a great deal of the work being undertaken in areas that were previously disturbed. The proposed overall impact in the applicant's original submittal stated that the total amount of permanent disturbance in the 100' wetland buffer is 880 square feet. It is likely that this area is the same or there is some reduction to that amount but the applicant has not confirmed this. I have asked that this information be provided at the meeting to confirm the specific changes with regards to impervious surfaces on the site. If the impacts have remained the same this is a fairly small change to an area that has robust landscaping which will be able to reduce any potential impacts of the proposed impervious surfaces.

2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration. The applicant is proposing remodeling to an existing home which is not feasible outside of this location.

3. There will be no adverse impact on the wetland functional values of the site or surrounding properties. Given the location of the impacts on the site and the fact that much of the impacts are in previously disturbed area there should be no adverse impacts to the wetland functional values of this site or surrounding properties.

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. There is no alteration of managed woodlands proposed.

5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section. The applicant is proposing extensive remodeling with permanent changes to the site that should be reduced by the landscape buffers on the property. It is not clear from these plans where the stormwater from the covered deck will go. Staff recommends a stipulation that this water be directed to a landscape area to allow for filtration/infiltration before that runoff makes its way to the wetland. In addition, it will be

important that careful attention to erosion control measures be followed to reduce any impacts during construction.

Conservation Commission Review

The Conservation Commission reviewed this application at its meeting on November 9, 2016 and voted to postpone consideration to the Commission's meeting on December 14, 2016.

Planning Department Recommendation

A recommendation will be provided at the meeting.

It is recommended that Items B and C under Public Hearings – Old Business be discussed together and voted on separately.

A motion is required to consider these two items together.

- B. The application of J&M Family Properties, LLC, Owner, and Dunkin' Donuts, c/o JFS Management Co., LLC, Applicant, for property located at 802 Lafayette Road, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the tidal wetland buffer for pavement and drainage improvements and onsite stormwater quality treatment, with 11,200 ± s.f. of impact to the tidal wetland buffer. Said property is shown on Assessor Map 244 as Lot 2 and lies within the Gateway (GW) District.
- C. The application of J&M Family Properties, LLC, Owner, and Dunkin' Donuts, c/o JFS Management Co., LLC, Applicant, for property located at 802 Lafayette Road, requesting Amended Site Plan Approval to re-develop the parking lot for improved site and drive-thru circulation, revised parking layout, new trash enclosure, drainage improvements and stormwater management, with related paving, lighting, utilities, landscaping, drainage and associated site improvements. Said property is shown on Assessor Map 244 as Lot 2 and lies within the Gateway (GW) District.

Description

This project is to reconfigure the parking and drive-thru circulation for the existing Dunkin' Donuts business. The drive-through lane is being adjusted to hug the north side of the building, while the parking will be moved to the outside of the drive-through and bypass lanes. On the south side of the building, the bypass lane will be widened and four parallel parking spaces will be added, increasing the width of pavement here from about 20 feet to 34 feet.

The Planning Board voted to postpone these applications at the November 17, 2016 meeting. The applicant has requested postponement of these applications to the April 21, 2017 meeting.

Planning Department Recommendation

Vote to postpone consideration of these applications to the Planning Board meeting on April 21, 2017.

IV. PUBLIC HEARINGS – NEW BUSINESS

- A. The application of Deer Street Associates, Owner, for property located at 165 Deer Street and 181 Hill Street requesting design review of proposals to construct three mixed-use buildings fronting on Deer Street and a fourth mixed-use building fronting on a future public street off Bridge Street to be created in association with the City's new parking garage. Said properties are shown on Assessor Map 125 as Lot 17 and Assessor Map 138 as Lot 62 and all lots lie within the CD5 District and the Downtown Overlay District (DOD) and two of the proposed buildings lie within the Historic District.

Description

This item is a request for Design Review under the Site Plan Review Regulations. The Site Plan Review Regulations and the Subdivision Rules and Regulations provide two options for "preapplication review" as authorized by RSA 676:4,II: "preliminary conceptual consultation" and "design review". The design review phase has been used by two applicants (Harborcorp and 46-64 Maplewood Ave.) Under the State statute (RSA 676:4,II), the Design Review phase is an opportunity for the Planning Board to discuss the approach to a project before it is fully designed and before a formal application for Site Plan Review is submitted.

The Design Review phase is nonbinding on both the applicant and the Planning Board.

Although the State statute calls this preapplication phase "design review," it does not encompass review of architectural design elements such as façade treatments, rooflines and window proportions. Rather, it refers to site planning and design issues such as the size and location of buildings, parking areas and open spaces on the lot; the interrelationships and functionality of these components, and the impact of the development on adjoining streets and surrounding properties.

Planning Department Recommendation

Vote to determine that the design review process of the application has ended.

- B. The application of Linda-Marie and William L. Jones, Owners, for property located at 400 Middle Road, and Seacoast Trust, LLP, Owner, for property located at 150 Route 1 By-Pass, requesting Preliminary and Final Subdivision (Lot Line Revision) approval between two lots as follows:
- Map 231, Lot 57 increasing in area from 8,898 ± s.f. (.20 acres) to 9,355 ± s.f. (.21 acres) with 132' of continuous street frontage along Middle Road.
 - Map 231, Lot 58 decreasing in area from 130,658 ± s.f. (2.9994 acres) to 130,201 ± s.f. (2.99 acres) with 132' of continuous street frontage along Middle Road and 709' of continuous street frontage along Route 1 By-Pass.
- Said lots lie within the Single Residence B (SRB) District which requires a minimum lot size of 15,000 s.f. and 100' of continuous street frontage.

Description

As shown on the plan, the existing garage for Lot 57 (400 Middle Rd) is partially located on the adjacent lot (150 Route 1 Bypass). This lot line revision will allow for the entirety of the existing garage to be located on Lot 57, while also providing for the required rear yard and side yard setbacks. The modification will slightly decrease the density of the planned housing project at 150 Route 1 Bypass (from 4,339.17 square feet of lot area per dwelling units to 4,340.03 square feet of lot area per dwelling unit).

Planning Department Recommendation

Vote to grant Preliminary and Final Subdivision Approval with the following stipulations:

Conditions Precedent (to be completed prior to recording of the plan and sale of lots):

- 1. Lot numbers as determined by the Assessor shall be added to the final plat.*
- 2. Property monuments shall be set as required by the Department of Public Works prior to the filing of the plat.*
- 3. GIS data shall be provided to the Department of Public Works in the form as required by the City.*
- 4. The final plat and the signal easement deed shall be recorded concurrently at the Registry of Deeds by the City or as deemed appropriate by the Planning Department.*

-
- C. The application of the Henderson Family Trust, Owner, Hayes H. and Carla C. Henderson, Trustees, for property located at 205 Odiorne Point Road, requesting a Conditional Use Permit under Section 10.1017 of the Zoning Ordinance for work within the inland wetland buffer to adjust the grade of the existing lawn, to replace a granite curbing retaining wall and to move a fire pit area, with 6,960 ± s.f. of impact to the inland wetland buffer. Said property is shown on Assessor Map 224 as Lot 10-29 and lies within the Single Residence A (SRA) District.

Description

This is an application for Hayes and Carla Henderson at 205 Odiorne Point Road. The Hendersons had begun work on a project on their property which is nearly 100% in the wetland buffer. Upon seeing the site under construction Planning Department staff spoke with the owner of the property and asked that they stop work, provide a plan, and apply for and receive Conditional Use Approval before proceeding. The Owner's landscape contractor promptly contacted the Planning Department, installed erosion control measures, had the wetland delineated and provided the details of the project.

According to Article 10 Section 10.1017.50 the applicant must satisfy the following conditions for approval of this project.

1. The land is reasonably suited to the use activity or alteration. The applicant is proposing to reconfigure their back yard to change the slope and better accommodate a fire pit and stonework. Overall the project proposes to rework the site to reduce the slope of a lawn area in the rear, move a stone fire ring towards the front of the property, remove some granite curbing and install new plants serving as a property boundary wall along the SE property boundary and replacing this curbing with a row of boulders and field stone in

addition to new plantings. In addition the applicant proposed to install wetland buffer plants along an existing boulder wall at the rear of the property and a new swale to intercept stormwater coming from the lawn. The contractor has stated that there was no plan to bring fill to the site with the exception of new topsoil to plant a new lawn area. Given this is a lawn area and the overall project will ultimately result in replacement of that lawn area in kind after some slope and landscaping features are changed, staff believes this is a reasonable project.

2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration. Given that the goal of this project was to reduce the slope and reconfigure some of the landscape features of some of their yard area this is the only place where the project could take place.
3. There will be no adverse impact on the wetland functional values of the site or surrounding properties. While this is more than a simple replacement of lawn in kind the overall result will be a new lawn where there is existing lawn, a fire pit slightly further from the wetland and a new wall along one side. These changes are largely temporary impacts. The key in protecting the wetland functional values is maintaining erosion control measures during construction and until vegetation is reestablished.
4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. There are plans to remove existing shrubs and herbaceous plants (rhododendron, lilly, hosta and astible) along the SE side of the property and replace with new landscape plants (a mix of azalea, viburnum, dogwood, fern, anemone, astible, bleeding hearts and solomons seal) while leaving any existing trees in this area. There are no plans to remove vegetation at the rear or western part of the property which where the wetland edge is located just below a row of existing boulders. The lawn will be removed and replaced in essentially the same location.
5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section. Although the applicant began work without a permit, the plan that they put together for the site is the least impacting way to accomplish the property owner goals. In re-grading the lawn there is some potential for temporary impact however the new configuration with a shallower slope adjacent to the wetland and a proposed grass swale will serve to slow and infiltrate more stormwater coming off the lawn area. The new plantings proposed along the boulder wall at the rear or western side of the plan will enhance the wetland buffer offering a slight improvement to a property almost completely in the buffer.

Conservation Commission Review

The Conservation Commission will be reviewing this application at the December 14, 2016 meeting.

Planning Department Recommendation

A recommendation will be provided at the meeting.

- D. The application of Carol I. Cooper, Owner, and Lorax Sustainable Development, LLC, Applicant, for property located at 996 Maplewood Avenue, requesting Site Plan Approval for the construction of three single family homes on a single lot with one shared driveway, each home and garage having a footprint of 1,696 ± s.f., with related paving, lighting, utilities, land-scaping, drainage and associated site improvements. Said property is shown on Assessor Map 219 as Lot 4 and lies within the Single Residence B (SRB) District.

Description

This project proposes to construct three single family homes with one shared driveway off of Maplewood Ave. The proposed homes each have a footprint of 1,938 sq. ft. with attached garages and a rear deck. The property is currently vacant, although it previously had commercial buildings and greenhouses located near the front of the property. Thompson's Pond and related wetlands take up most of the back half of the 2.6 acre property.

The applicant was granted zoning relief from the Zoning Board of Adjustment to allow more than one single family dwelling on a lot on August 16, 2016 with a stipulation that the proposal be referred to the Planning Board for placement of a conservation easement on a portion of the undeveloped area around the pond that will protect that portion of the pond and wetland area, the nature and extent of that protection to be determined by the Planning Board in their site plan review process.

The current plan proposes a 50' conservation easement around the limit of the pond, but the applicant has not provided specifics on who that conservation easement would be granted to and any other details on the nature and extent of the protection provided through that easement.

Technical Advisory Committee Review

The TAC voted to recommend approval of this application at the November 29, 2016 meeting with the following stipulations:

- a.) Add a note regarding fertilizer that is consistent with the Zoning Ordinance Section 10.1018.24.
- b.) The internal driveway widths shall be increased to a minimum of 10'.
- c.) The Grading Plan should blend with the future layout plans and profiles for Maplewood Avenue that are being developed for the City by GPI.
- d.) Fire service lines for Units 2 and 3 should be located closer to the driveway so that they are not under the rain gardens.
- e.) At the first pull box location shown, a note shall be added to the plan indicating that this may also be the location of a transformer and/or communication pull electric boxes, if needed.
- f.) The Committee was uncertain whether the City Plumbing Inspector would allow basement pump systems as shown on the detail sheets; therefore, review and approval of these pump systems by the Plumbing Inspector is required. If not allowed, they should be shown exterior to the structures.
- g.) A note shall be added regarding the 6" ductile iron fire line indicating it is to be in a polyethylene sleeve to prevent corrosion; brass wedges are also required in the pipe joints for conductivity. These details are to be reviewed by DPW prior to Planning Board submission.

- h.) The applicant will be responsible for an appropriate contribution toward creating a drainage system off of Diamond Drive that the pond can drain into given the increase in stormwater volume that will flow into that pond. That funding amount will be \$10,000.
- i.) All water connections shall be approved by the Water Department.
- j.) The appropriate valve shut offs for the different water lines in the Maplewood Avenue ROW shall be shown on the plans.

On December 7, 2016, the applicant submitted a revised plan set addressing the TAC recommendations as follows:

- a) Notes 7 and 8 regarding fertilizer were added to Sheet C-6.
- b) The internal driveway widths were increased to 10' on Sheet C-2.
- c) The grading plan was revised to be consistent with future plans for Maplewood Ave (Sheets C-2, C-4, and C-7).
- d) Fire service lines for Units 2 and 3 were moved closer to the driveway (Sheet C-3).
- e) A note was added to plan at the first pull box location (Sheet C-3).
- f) Applicant has indicated that the Chief Building Inspector was contacted about the location of the proposed basement sewer pump and a note has been added to Sheet C-3 explaining required access for inspection and maintenance.
- g) Note has been added regarding the water service trench and fire service trench details (Sheet C-7).
- h) Note has been added regarding coordination with Water Department (Sheet C-3).
- i) Valve shut-offs for water lines have been added to the plans (Sheet C-3).

Planning Department Recommendation

Vote to grant the Site Plan Approval with the following stipulation:

1. *The following notes shall be added to the Site Plan (Sheet C-2) and the Landscape Plan (Sheet C-5):*
 1. *This Site Plan and the Landscape Plan shall be recorded in the Rockingham County Registry of Deeds.*
 2. *All improvements shown on this Site Plan shall be constructed and maintained in accordance with the Plan by the property owner and all future property owners. No changes shall be made to this Site Plan without the express approval of the Portsmouth Planning Director.*
2. *The applicant shall provide details on the Conservation Easement and Easement Plan to the Planning and Legal Departments for final review and approval.*

VII. CITY COUNCIL REFERRALS/REQUESTS

- A. Proposed acceptance of a permanent easement between Porpoise Way and Portsmouth Boulevard for the purpose of constructing an emergency access road for the Atlantic Heights neighborhood.

Description

More information will be provided at the meeting.

Planning Department Recommendation

Vote to recommend acceptance of the permanent easement to City Council.