

Town of Kittery Planning Board Meeting September 9, 2021

ITEM 1—2-4 Dana Ave—Preliminary Site Plan Review

Action: Accept plan as complete; continue application to a subsequent meeting; set public hearing and/or site walk; Pursuant to §16.3.2.11 *Commercial (C-1, C-2, C-3)*, 16.6.4.D *Special exception use request*, §16.8 *Design and Performance Standards for Built Environment*, §16.9 *Design and Performance Standards for Natural Environment* and Article V *Preliminary Plan Application Review of §16.10 Development Plan Application* of the Town of Kittery Land Use and Development Code, the Planning Board shall consider an preliminary site plan application from applicant/owner Dow Highway Properties requesting preliminary approval to construct 12,750-sf storage unit facility with appurtenant infrastructure and landscaping on real property with an address of 2 Dana Ave. (Tax Map 21, Lot 7) located in the Commercial-2 (C-2) and Residential-Suburban (R-S) Zones and Resource Protection (OZ-RP) Overlay Zone.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
No	Sketch Plan	Not Pursued	N/A
YES	Site Visit	TBD	TBD
YES	Preliminary Plan Review Completeness/Acceptance	May occur on September 9, 2021	TBD
YES	Public Hearing	May be schedule for 10/14/21	TBD
YES	Preliminary Plan Approval	TBD	TBD
YES	Final Plan Review and Decision	TBD	TBD

Applicant: Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and, when applicable, recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.13 - Grading/Construction Final Plan Required. - Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

Project Introduction

The application before the Planning Board (“Board”) is a site plan development that seeks to construct a three (3) self-storage unit buildings consisting of a gross footprint of approximately 12,750-sf. The project intends to incorporate internal road infrastructure along with landscaping and stormwater best management practices.

The current site comprises of vacant land along with a 5-unit mobile home park. The vacant land recently had various structures that were associated with the mobile home park but were demolish in order to accommodate the proposed development. Surrounding the lot, which is approximately 2.36 acres, is Dana Ave, Route, 236, drainage swales and/wetlands—this is discussed in more detail in the Plan Acceptance Review section—the on-ramp of Interstate 95 and Chickering Creek, which is protected by the Resource Protection Overlay Zone. Across the street from the proposed development is an additional mobile home park and further down Dana Ave. are single-family dwelling units.

The task before the Board at this juncture is to determine if the plan materials as submitted constitute a complete application and to identify any critical issues that would require further analysis other than the standard peer review from CMA Engineers, Inc.

Plan Acceptance Review

§16.2.2 Definitions	
Standard	Comment
<p>Drainage Ditch A man-made, regularly maintained channel, trench or swale for conducting water that has a direction of flow to remove surface water or groundwater from land by means of gravity. For the purposes of this title, any new activity that reroutes a streambed or dredges a wetland is not considered to be a "drainage ditch." Where a drainage ditch widens out into a larger wetland, a route no more than 12 feet in width can be considered to be the drainage ditch. The remainder is considered wetlands unless it is demonstrated that the originally developed drainage ditch was designed to be greater than 12 feet in width.</p>	<p>The Planning Board needs to determine if the existing wetland is indeed a wetland, or a drainage ditch as identified and attested by the applicant's agent. See letter from Steven Riker, dated August 18, 2021.</p> <p>The importance of this determination is significant. If it is indeed classified as a wetland by the Board the corresponding setback would be 100-ft. thereby rendering the current site plan's design nonconforming, requiring a major design change by the applicant and possibly a variance by the Board of Appeals.</p>
<p>Warehouse and Storage Premises where goods or materials are stored in an enclosed structure or in specific outdoor areas.</p>	<p>This is the primary use of the proposed application, which is permitted by special exception. This proposed use will be coupled with a pre-existing mobile home park. This use will be the exclusive use in the portion of the lot that is designated as C-2.</p>
<p>Wetland Areas that under normal circumstances have hydrophytic vegetation, hydric soils and wetland hydrology, as determined in the Corps of Engineers Wetlands Delineation Manual — Waterways Experiment Station Technical Report Y-87-1, January 1987" (1987 manual). This definition of wetland is based on the 1987 manual and is not subject to further revisions and/or amendments.</p>	<p>Again, this application hinges on the Board's determination of the water body behind the proposed development. The applicant contends that the purpose of the entity was to receive stormwater run-off from Route 236 and Interstate 95 as indicated in a plan dated July 1967. See letter from Steven Riker, dated August 18, 2021 for more details. The question before the Board is, was it the original intent of that area to be designated as a swale when the plans for Interstate 95 were designed?</p>
§16.3.2.11.D(2)	
Standard	Comment
Minimum lot size: 40,000-sf.	Appears to be satisfied.
Minimum street frontage: 150-ft.	Appears to be satisfied.
Minimum front setback: 50-ft.	Appears to be satisfied.
Minimum rear and side setbacks: 30-ft., except as may be required by the buffer provisions of this title, and where the side and/or rear yards of the proposed nonresidential use abut a residential zone or use; in which case a minimum of 40 feet is required.	The Planning Board needs to have a discussion on this standard. Considering that the lot would have two uses: a proposed storage unit and an existing mobile home park, does the split zone constitute the line of demarcation or is it the use itself. Also, if it indeed is the use, not all the buildings on the site plan show their corresponding buffer distance from the proposed use.
Maximum building height: 40-ft.	Appears to be satisfied.
§16.3.2.11.D(2)(f) Impervious surface	
[4] Minimum setback from streams, water bodies and wetlands: in accordance with Table 16.9, § 16.3.2.17 and Appendix A, Fee Schedules.	If it is determined that the waterbody behind the proposed development is a wetland, the setback is 100-ft.
§16.3.2.11.D(2)(k) Underground utilities are required	
The Planning Board may allow an alternative but it is incumbent upon the applicant to demonstrate why such a modification request should be granted.	It appears that this standard is satisfied.

§16.3.2.11.D(5) C-2 Zone Standards

Standard	Comment
(a) Parking	
<p>All new or revised parking must be visually screened through the use of landscaping, earthen berms and/or fencing from adjacent public streets or residential properties. (See the Design Handbook for appropriate examples.)</p>	<p>The applicant appears to have provided screening via a proposed vinyl fence, coupled with a berm with shrubs and small evergreen trees. The Planning Board should determine if this is satisfactory or not.</p>
(b) Building design standards	
<p>[1] New buildings should meet the general design principles set forth in the Design Handbook. In general, buildings should be oriented to the street with the front of the building facing the street. The front or street facade must be designed as the front of the building. The front elevation must contain one or more of the following elements:</p> <p>[a] A "front door," although other provisions for access to the building may be provided;</p> <p>[b] Windows; or</p> <p>[c] Display cases.</p>	<p>It appears the applicant will need to request a waiver for this standard as the proposed storage units will not have windows and each units door will be on the side façade of the buildings.</p>
<p>[2] A building's prominent roofs must be pitched a minimum of 4:12 unless demonstrated to the Planning Board's satisfaction that this is not practicable. Acceptable roof styles are gabled, gambrel and hipped roofs. Flat roofs, shed roofs and roof facades (such as "stuck on" mansards) are not acceptable as prominent roof forms except as provided above. (See Design Handbook for examples of acceptable designs.)</p>	<p>Appears to be satisfied.</p>
(c) Landscaping site improvements.	
<p>To achieve attractive and environmentally sound site design and appropriate screening of parking areas, in addition to the landscaping standards contained in Chapter 16.8 the following landscaping requirements apply to new and modified existing developments:</p> <p>[1] Landscape planter strip. A vegetated landscape planter strip must be provided a minimum of 20 feet in depth adjacent to the right-of-way of all public roads and include the following landscape elements:</p> <p>(a) Ground cover. The entire landscape planter strip must be vegetated except for approved driveways, walkways, bikeways and screened utility equipment.</p>	<p>While there is landscaping proposed around the storage facility, the applicant needs to clarify if this standard has been achieved. It is difficult to ascertain if the distance requirement of 20-ft. has been realized.</p>

<p>(b) Street-side trees. A minimum of one street tree must be planted for each 50 feet of street frontage. The trees may be spaced along the frontage or grouped or clustered to enhance the visual quality of the site. (See Design Handbook for examples.) The trees must be a minimum two-and-one-half-inch caliper and be at least 12 feet high at the time of planting. The species should be selected from the list of recommended street trees in the Design Handbook. Existing large healthy trees must be preserved if practical and will count toward this requirement.</p>	<p>It appears that the frontage along Dana Avenue will require approximate 9 street trees. The Planning Board should ascertain this number and discuss how the applicant plans on complying with this standard.</p>
<p>[c] Special situations.</p> <p>[i] Expansions of less than 2,000 square feet to existing uses are exempt from the landscaping standard of this subsection.</p>	<p>Not applicable.</p>
<p>[ii] Depth of landscape planter strip. In instances where the required minimum depth of the landscape planter strip is legally utilized, in accordance with previous permits or approvals for parking, display, storage, building or necessary vehicle circulation, the depth may be narrowed by the Planning Board to the minimum extent necessary to achieve the objective of the proposed project, provided that the required shrubs and perennials are planted along the street frontage to soften the appearance of the development from the public street.</p>	<p>Considering that this is a redevelopment of the lot, the Planning Board should discuss if this provision is applicable. If so, a direction to the applicant should be given on the type of vegetation to be planted.</p>
<p>[iii] Additions and changes in use. For additions to existing buildings and changes of residential structures to a nonresidential use, one street-side tree (see list of recommended street trees in Design Handbook) is required to be planted for every 1,000 square feet of additional gross floor area added or converted to nonresidential use. In instances where parking, display area, storage, building or necessary vehicle circulation exists at the time of enactment of this section, the required trees may be clustered and/or relocated away from the road as is necessary to be practicable. The preservation of existing large trees is encouraged; therefore, the Planning Board may permit the preservation of existing healthy, large, mature trees within the landscape planter strip or other developed areas of the site to be substituted for the planting of new trees.</p>	<p>It appears that an additional 12 tree is required to be incorporated into the site plan as 12,750-sf of space is being added to the lot. The Planning Board should inquire with the applicant on how this provision is to be satisfied.</p>

<p>[iv] Residences. Residential additions to existing single- and two-family dwellings and proposed single and duplex family dwellings are exempt from the landscaping standards of this subsection.</p>	<p>Not applicable.</p>
<p>[2] Outdoor service and storage areas. No areas for the storage of raw materials, equipment or finished products other than small areas for the display of samples of products available for sale or rent may be located between the front property line and the front facade of the building. Display areas may not be located within the required landscape planter strip. Facilities for waste storage such as dumpsters must be located within an enclosure and be visually buffered by fencing, landscaping and/or other treatments. (See Design Handbook for examples of appropriate buffering.)</p>	<p>Appears to be satisfied.</p>
<p>(d) Traffic and circulation standards</p>	
<p>Vehicular and pedestrian circulation must meet the general provisions of the Design Handbook</p>	<p>The Planning Board may want the applicant to clarify how the vehicular traffic circulation is to flow. It is unclear if there is to be a certain traffic pattern or if a laissez-faire approach is to be taken.</p>

<p>§16.8.4.5 Access control and traffic impacts</p>	
<p>Standard</p>	<p>Comment</p>
<p>A. Vehicular access to the development must be arranged to avoid traffic use of local residential streets.</p>	<p>Appears to be satisfied.</p>
<p>B. Where a lot has frontage on two or more streets, the access to the lot must be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.</p>	<p>Appears to be satisfied.</p>
<p>C. The street giving access to the lot and neighboring streets which can be expected to carry traffic to and from the development must have traffic-carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed use. No development may increase the volume/capacity ratio of any street above 0.8 nor reduce any intersection or link level of service to "D" or below.</p>	<p>The Planning Board should inquire into the amount of traffic anticipated to be generated before making a final determination on this standard.</p>
<p>D. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision must be made for turning lanes, traffic directional islands, frontage roads, driveways and traffic controls within public streets.</p>	<p>Appears to be satisfied.</p>

<p>E. Accessways must be of a design and have sufficient capacity to avoid hazardous queuing of entering vehicles on any street.</p>	<p>Again, the applicant should clarify the internal circulation of the lot. Once this is established, compliance with this standard can be determined. Also, there appears there is no stop sign proposed, which is required. Moreover, there is no detail for it the stop sign.</p>
<p>F. Where topographic and other conditions allow, provision must be made for circulation driveway connections to adjoining lots of similar existing or potential use:</p> <p>(1) When such driveway connection will facilitate fire protection services as approved by the Fire Chief; or</p> <p>(2) When such driveway will enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a street.</p>	<p>Not applicable.</p>
<p>§16.8.4.13 Sidewalks</p>	
<p>A. Where required, sidewalks must be installed to meet minimum requirements as specified in Table 1 of this chapter</p>	<p>There appears to be a sidewalk across the street from the proposed development.</p>
<p>§16.8 Article VI Water Supply</p>	
<p>§16.8.6.1 <i>Service Required</i></p>	<p>The applicant is not proposing to supply the storage units with water as there is no need for water. The closest fire hydrant is approximately 425-ft. from the proposed redevelopment on Dana Ave.</p>
<p>§16.8 Article VII Sewage Disposal</p>	
<p>§16.8.7.1 <i>Sewers</i></p>	<p>The applicant is not proposing to connect / service any of the proposed storage unit as no bathrooms are proposed therein.</p>
<p>§16.8 Article VIII Surface Drainage</p>	
<p>§16.8.8.1 & §16.8.8.2</p>	<p>The applicant has filed a stormwater management report, which will be peer reviewed by CMA Engineers Inc. to determine compliance.</p>
<p>§16.8.9.4 Off-Street Parking</p>	
<p>D. When determination of the number of parking spaces required results in a requirement of a fractional space, any fraction of 1/2 or less may be disregarded, while a fraction in excess of 1/2 is counted as one parking space...</p> <p>Warehouse and storage:</p> <p>1 parking space for each 500 square feet of gross floor area except that portion of such facility which is used for retail sales and display or office area, which adds additional parking in accordance with the standards for those uses</p>	<p>Considering the proposed amount of area of the storage units (12,750-sf), the requisite amount of parking calculates to 26 spaces. The applicant appears not to incorporate any parking spaces into the site layout of this development. Presumably, the applicant intends to have a renter park by to their unit.</p> <p>The Board has the power to modify the amount of parking spaces pursuant to §16.7.4.1 <i>Waiver Authorization</i> by using the criterion under §16.7.4.2 <i>Objectives secured</i>. The applicant appears to not have requested a waiver from this standard and the Board should request this action to be done if it is indeed the intension of the applicant not to provide traditional parking spaces.</p>

§16.8 Article X Signs	
§16.8.10.3 <i>Sign Locations</i>	It is unclear if a sign will be installed for this development. The Planning Board should confirm with the applicant if it's the intension of the application to install a sign.
§16.8 Article XVI Lots	
§16.8.16.7 <i>Multiple frontages</i> When lots have frontage on two or more streets, the plan and deed restrictions must indicate vehicular access to be located only on the least-traveled way.	The proposed site plan has the entrance into the storage unit from Dana Ave, which complies with the intent of this ordinance. The Board should direct the applicant to ultimately have the lot deed restricted to prevent and future development directly accessing Route 236.
§16.8 Article XVII Utilities	
§16.8.17.2 <i>Underground installation</i> Utilities, where feasible, are to be installed underground. The Board must require the developer to adopt a prudent avoidance approach when aboveground electrical installations are approved.	Standard appears to be satisfied.
§16.8 Article XVIII Landscaping	
§16.8.18.1 <i>General</i>	The Planning Board may want the applicant to indicate on the site plan that the landscaping is to be maintained throughout the life of the development. Also, there is a reference to an existing and proposed retaining wall on Sheet C-2. It is unclear where it is / to be located. Further, there is no detail illustration its proposed design.
§16.8 Article XXIV Exterior Lighting	
§16.8.24.2.C Except for ornamental lighting fixtures that utilize lamps with initial lumen ratings of 8,500 lumens or less, wall-mounted building lights must include full-face shielding consisting of either a solid panel or full-face louvers. Exposed lamps, reflectors or refractors may not be visible from any part of the fixture except the bottom light-emitting surface.	It appears the site plan and the light fixture specification sheet are inconsistent with each other. While the site plan (Sheet C-6) indications that all light fixtures will be downward-facing, shielded and dark sky compliant, the fixtures specification sheet appears not to be designed with downward-facing shielding. The Board should have the applicant clarify the type of fixture to be installed in order to determine compliance with this standard.
§16.9 Article I General	
Standard	Comment
§16.9.1.3 Prevention of erosion	The standard appears to be satisfied.
§16.9.1.4 Soil suitability	It is unclear of the location of the various soils on the site. The drainage analysis report states that the some soils as identified by the Natural Resources Conservation Service NRCS were not present and transformed from Class-A to Class-C soils. The Board should inquire how this could have occurred and how the development can be supported by these types of soils.
16.9 Article III Conservation of Wetlands Including Vernal Pools	
§16.9.3.1.C Wetlands of special significance have one or more of the following characteristics: (1) Critically imperiled or imperiled community. The freshwater wetland contains a natural community that is "critically imperiled" as defined by the Maine Natural Areas Program.	Before moving forward with plan acceptance, the Board needs to determine if the waterbody behind the proposed development is a drainage swale or a wetland. The Board should review the criteria under §16.9.3.1.C to make their determination. If a peer review opinion from a certified soil scientist is found necessary to have in order to make an objective decision, the Board should have one filed for review.

<p>(2) Significant wildlife habitat. The freshwater wetland contains significant wildlife habitat as defined by 38 M.R.S. § 480-B(10).</p> <p>(3) Location near coastal wetland. The freshwater wetland is located within 250 feet of a coastal wetland.</p> <p>(4) Location near a water body. The freshwater wetland is located within 250 feet of the normal high-water line and within the same watershed of a lake or pond.</p> <p>(5) Aquatic vegetation, emergent marsh vegetation or open water. The freshwater wetland contains, under normal circumstances, at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, unless the twenty-thousand or more square foot area is the result of an artificial pond or impoundment.</p> <p>(6) Wetlands subject to flooding. The freshwater wetland is inundated with floodwater during a one-hundred-year flood event based on flood insurance maps produced by the Federal Emergency Management Agency or other site-specific information.</p> <p>(7) Peatlands. The freshwater wetland is or contains peatlands, except that the Planning Board may determine that a previously mined peatland, or portion thereof, is not a wetland of special significance.</p> <p>(8) River, stream or brook. The freshwater wetland is located within 25 feet of a river, stream or brook.</p> <p>(9) Monetary value. An estimation can be determined based on the importance of the wetland with respect to the individual or collective functions it provides.</p> <p>(10) Vernal pools. The wetland contains a particular aquatic habitat as defined by the Maine Department of Environmental Protection (MDEP), including those mapped as significant vernal pools by MDEP.</p>	<p>If it is found that the waterbody is a wetland, the applicant would have to apply for a variance first from the Board of Appeals before moving forward with Planning Board approval.</p>
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§16.10 Article V Preliminary Plan Application Review and Approval Process Phase	
Standard	Comment
§16.10.5.2(8) Names and addresses of all owners of record of property abutting the development, including those across a street;	Abutters across Route 236 need to be on the plan
§16.10.5.2(h) Setbacks existing and proposed	Setback from existing structures and proposed structures need to be added to the plan. Also setback distances from the purported drainage ditch to the proposed buildings as well.
16.10.5.3 Planning Board acceptance review	It is the opinion of staff that the plan as presented is complete, absent the information stated hereinabove. The Planning Board should move forward with a vote.
16.10.5.3.B Public hearing schedule	Public hearing date should be scheduled for the October 14, 2021 meeting. This should be adequate time to receive a peer reviewed opinion from Maine registered soil scientist.

Discussion and Next Steps

The major issue that was identified by staff was how to classify the waterbody surrounding the lot. It appears at one point in time that a certain portion of the lot was designated for stormwater retention; however, the question is how has the area evolved since the mid-70's and has the original intent for the land change significantly enough that would warrant a reclassification? Staff recommends that a peer reviewed opinion be obtained in order to verify the applicant's claim that the area is a drainage swale exclusively. Also, considering that the Town of Kittery has a more expansive definition of the constitution of a wetland, it is important for the Board to review those criteria as well. Meanwhile, the public hearing and a site walk can be scheduled as stated herein. All the facts and information should be present at the public hearing, and, at that time, a final determination can be made of the status of the waterbody.

Recommended Motions

Below are recommended motions for the Board's use and consideration:

Motion to continue application

Move to continue a preliminary site plan application from applicant/owner Dow Highway Properties requesting preliminary approval to construct 12,750-sf storage unit facility with appurtenant infrastructure and landscaping on real property with an address of 2 Dana Ave. (Tax Map 21, Lot 7) located in the Commercial-2 (C-2) and Residential-Suburban (R-S) Zones and Resource Protection (OZ-RP) Overlay Zone.

Motion to accept plan as complete

Move to accept a preliminary site plan application from applicant/owner Dow Highway Properties requesting preliminary approval to construct 12,750-sf storage unit facility with appurtenant infrastructure and landscaping on real property with an address of 2 Dana Ave. (Tax Map 21, Lot 7) located in the Commercial-2 (C-2) and Residential-Suburban (R-S) Zones and Resource Protection (OZ-RP) Overlay Zone.

Motion to set site walk

Move to set a site walk on _____ to take place on real property with an address of 2 Dana Ave. (Tax Map 21, Lot 7) located in the Commercial-2 (C-2) and Residential-Suburban (R-S) Zones and Resource Protection (OZ-RP) Overlay Zone.

Motion to set public meeting

Move to set a public hearing on _____ for a preliminary site plan application from applicant/owner Dow Highway Properties requesting preliminary approval to construct 12,750-sf storage unit facility with appurtenant infrastructure and landscaping on real property with an address of 2 Dana Ave. (Tax Map 21, Lot 7) located in the Commercial-2 (C-2) and Residential-Suburban (R-S) Zones and Resource Protection (OZ-RP) Overlay Zone.