

Town of Kittery Planning Board Meeting October 14, 2021

ITEM 2—89 Route 236—Preliminary Site Plan Review

Action: continue application/public hearing to a subsequent meeting; approve or deny preliminary plan. Pursuant to *Commercial (C-1, C-2, C-3, §16.8 Design and Performance Standards for Built 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 hold a public hearing to consider an preliminary site plan application from applicant/owner JD Investment Inc. and agent Jones & Beach Engineers, Inc. requesting preliminary approval to expand the existing parking lot by 11 spaces totaling 3,400-sf. of additional impervious surface with appurtenant stormwater infrastructure on real property with an address of 89 Route 236 (Tax Map 28, Lot 14-2) located in the Commercial-2 (C2) Zone.

PROJECT TRACKING

REQ'D	ACTION	COMMENTS	STATUS
No	Sketch Plan	Not Pursued	N/A
YES	Site Visit	September 30, 2021	HELD
YES	Preliminary Plan Review Completeness/Acceptance	September 9, 2021	ACCEPTED
YES	Public Hearing	October 14, 2021	PENDING
YES	Preliminary Plan Approval	May occur on October 14, 2021	PENDING
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 3,400-sf expansion of an existing parking lot in order to accommodate an increase of the amount visitors the various businesses are experiencing. Currently, there is an engineering firm, CBD retail store (not a marijuana business) and an Aroma Joes drive-thru coffee shop.

The proposed development seeks approval to create 11 additional parking spaces. To accommodate the expansion, the application proposes to add new stormwater infrastructure, updated operation and maintenance plan, landscaping, lighting fixtures and appropriate signage. Separate from this application, but a component of the overall development is the installation of two new septic systems. It was identified earlier this year that the subsurface wastewater systems were failing and were of need of replacement as soon as possible. The replacement systems fall under a separate application process under the local plumbing inspector; however, are depicted on the site plan so as to show the extent of all the elements of the proposed development.

CMA Engineering Inc. will review the plan to determine compliance from a stormwater prospective. Given that there is not a new use proposed in this application, there is no traffic impact analysis required.

The task before the Board at this juncture is to hold the public hearing, take in comments therefrom, and give direction to the applicant on any plan revisions, and, if appropriate, vote on the preliminary application.

Preliminary Plan 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 apply this definition to the water body to the rear of the lot and make a determination whether or not it is a wetland or drainage ditch for stormwater purposes.</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>Similar to the definition above, this definition and that of a drainage ditch needs to be taken together and applied to the water body that abuts the existing parking lot to the rear of the site.</p>

§16.3.2.11.D(2)	
Standard	Comment
Minimum lot size: 40,000-sf.	It appears that this standard is satisfied.
Minimum street frontage: 150-ft.	It appears that this standard is satisfied.
Minimum front setback: 50-ft.	It appears that this standard is 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.	It appears that this standard is satisfied.
Maximum building height: 40-ft.	It appears that this standard is 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.	It appears that this standard is satisfied.
§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>There appears to be adequate screening of the new and existing parking lot, as there is a woodland buffer along the side and rear sections of the property. Moreover, the applicant has identified and flagged trees of significance to be preserved during the construction of the parking lot. Planning Board may want to consider adding a condition of approval that stipulates the replanting of any trees that die during construction with a species of similar quality.</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>This standard is not applicable.</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>This standard is not applicable.</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>Ground cover. The entire landscape planter strip must be vegetated except for approved driveways, walkways, bikeways and screened utility equipment</p>	<p>This standard appears to be satisfied.</p>

<p>(a) 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>This standard appears to be satisfied.</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>This standard is 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>This standard is not applicable.</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>This standard is not applicable.</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>This standard is 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>This standard appears to be satisfied as a fence is proposed to screen the dumpsters.</p>
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(d) Traffic and circulation standards

<p>Vehicular and pedestrian circulation must meet the general provisions of the Design Handbook</p>	<p>The Planning Board may want to consider having the applicant incorporate pedestrian access (crosswalks) ways from the parking lot to the building in order to create a safe area for people to use to travel to and from the parking lot.</p>
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§16.8.4.5 Access control and traffic impacts

Standard	Comment
<p>A. Vehicular access to the development must be arranged to avoid traffic use of local residential streets.</p>	<p>This standard 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>This standard 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>This standard appears to be satisfied has the access way that will be used to service the lot is a state highway. Moreover, there is no proposed use change appended with the parking lot expansion. If a use change were to occur, the</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>This standard 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>This standard appears to be satisfied.</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>This standard is not applicable.</p>
§16.8.4.13 Sidewalks	
<p>A. Where required, sidewalks must be installed to meet minimum requirements as specified in Table 1 of this chapter</p>	<p>This standard is not applicable.</p>
§16.8 Article VI Water Supply	
<p>§16.8.6.1 <i>Service Required</i></p>	<p>This standard is not applicable.</p>
§16.8 Article VII Sewage Disposal	
<p>§16.8.7.2.C</p> <p>Replacement of subsurface wastewater disposal systems (SWDS) for existing legal uses:</p> <p>(1) Where no expansion is proposed, the SWDS must comply with § 16.8.7.2 and Table 16.9 to the extent practicable and otherwise are allowed per the Maine Subsurface Wastewater Disposal Rules; or</p> <p>(2) Where expansion is proposed, the SWDS must comply with § 16.8.7.2 and Table 16.9 in addition to the Maine Subsurface Wastewater Disposal Rules.</p> <p>NOTE: For the purposes of this subsection, "expansion" is as defined in Section 9 of the Maine Subsurface Wastewater Disposal Rules.</p>	<p>This standard appears to be satisfied, as the proposed parking lot will not be within any wetland setbacks.</p>
§16.8 Article VIII Surface Drainage	
<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. Comments have yet to be received from CMA.</p>
16.8 Parking, Loading and Traffic	
<p>16.8.9.1 <i>General standards</i></p>	<p>Planning Board may want the applicant to revise the plan notes to state that in the instance the lot reaches its capacity for snow storage, all excess snow will be carried off site.</p>
<p>16.8.9.4 <i>Parking and Loading</i></p>	<p>These standards generally appear to be satisfied.</p>
§16.8 Article X Signs	
<p>§16.8.10.3 <i>Sign Locations</i></p>	<p>This standard is not applicable.</p>
§16.8 Article XVI Lots	
<p>§16.8.16.1 – §16.8.16.10</p>	<p>These standards generally appear to be satisfied.</p>

§16.8 Article XVII Utilities	
<p>§16.8.17.2 <i>Underground installation</i></p> <p>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.</p>	<p>It is unclear on the site plan where the electrical lines to connect with the proposed parking lot light pole will be located. Planning Board should have the applicant update the site plan to incorporate this element and determine whether or not relief is needed.</p>
§16.8 Article XVIII Landscaping	
<p>§16.8.18.1 <i>General</i></p>	<p>These standards generally appear to be satisfied.</p>
§16.8 Article XXIV Exterior Lighting	
<p>§16.8.24.3.C</p>	<p>These standards generally appear to be satisfied.</p>
§16.9 Article I General	
Standard	Comment
<p>§16.9.1.3 Prevention of erosion</p>	<p>The standard appears to be satisfied.</p>
<p>§16.9.1.4 Soil suitability</p>	<p>The soils identified by the applicant—from what it appears to be a desktop analysis within the stormwater report—underneath the area designated for the parking lot expansion consists primarily of Peru Fine Sandy Loam, which is conducive to good infiltration. Regardless, the Planning Board may consider having the applicant ground truth the constitution of the soils if there is stormwater infiltration concerns.</p>
16.9 Article III Conservation of Wetlands Including Vernal Pools	
<p>§16.9.3.1.C</p> <p>Wetlands of special significance have one or more of the following characteristics:</p> <p>(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.</p> <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>There was a question during the site visit on the status of the stormwater swale and its current configuration/ constitution. To wit, whether or not in its present state it is considered a wetland. The Planning Board requested that CMA explore this question and provide a response. Nevertheless, when the original site plan was approved in 2015, the intent of that area was designed as a stormwater swale as there were no wetlands located within that space. Moreover</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>	
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§16.10 Article V Preliminary Plan Application Review and Approval Process Phase	
Standard	Comment
16.10.5.2.B(10)(b) Utilities proposed including power, water, sewer, holding tanks, bridges, culverts and drainageways	It is unclear where the proposed electrical line to the new light pole in the parking lot will be located.
16.10.5.2.C(11) Test pit(s) analysis prepared by a licensed site evaluator when sewage disposal is to be accomplished by subsurface disposal, pits, prepared by a licensed site evaluator	The Planning Board may want the applicant to indicate on the site plan the location of the test pits and corresponding results.

Discussion and Next Steps

Overall, the site plan appears to conform with the standards outlined in §16.3, §16.8 and §16.9 with minor issues as stated above. The most significant issue that is outstanding is stormwater/drainage analysis, which is still being conducted by CMA. Procedurally, the Planning Board should open and close the public hearing at this meeting and direct the applicant to incorporate any changes to the plan that are needed for final review. If there are no major issues encountered by the Planning Board, the Board should consider moving a vote for preliminary approval with the following condition:

1. Prior to final plan review, the applicant will respond to all comments made by CMA Engineers, Inc. and the October 14, 2021, Planner Review Notes and make appropriate changes to the application and site plan.

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 JD Investment Inc. and agent Jones & Beach Engineers, Inc. requesting preliminary approval to expand the existing parking lot by 11 spaces totaling 3,400-sf. of additional impervious surface with appurtenant stormwater infrastructure on real property with an address of 89 Route 236 (Tax Map 28, Lot 14-2) located in the Commercial-2 (C2) Zone.

Motion to approve preliminary application

Move to approve a preliminary site plan application from applicant/owner JD Investment Inc. and agent Jones & Beach Engineers, Inc. requesting preliminary approval to expand the existing parking lot by 11 spaces totaling 3,400-sf. of additional impervious surface with appurtenant stormwater infrastructure on real property with an address of 89 Route 236 (Tax Map 28, Lot 14-2) located in the Commercial-2 (C2) Zone.