

Town of York Planning Board
Notice of Decision & Findings of Fact
Town of York & The York Water District

Applicant: Town of York & The York Water District
Consultant: Wright-Pierce, Lacey Kremer, EI
Date:

On December of 2021, the applicant made application to the Town of York for Planning Board review. The Planning Board held it's first review of the submission on January 27, 2022, at that time, the applicant provided a presentation overview of the project indicating the parking proposed and the Clivus bathroom facilities which are composting facilities.

The Planning Board asked several questions upon completion of the presentation including issues regarding the 2016 Traffic and parking study, the stormwater design and the need for a kiosk to collect user fees. Upon completion of the board deliberation with the applicant, the board found the application complete with a 5-0 vote.

The board held a Public Hearing which was opened by the Planning Bard Chair. No one spoke on the application and the Public Hearing was closed.

The board took up the Waiver request made by the applicant. The following is a list of the waivers that were approved:

1. Regulation: Town of York Zoning Ordinance Article 6 Supplemental Use Requirements 6.1.1 Traffic and Site Plan and Subdivision Regulations Section 6.3.8. Initial assessment of traffic impacts, where required per Zoning Article 15-A, and documentation this has been submitted to the Public Works Director for review. Motion by Peter Smith 2nd by Al Cotton **Granted 5-0**
2. Regulation: Site Plan and Subdivision Regulations Section 6.3.2. A boundary survey of the entire property. Peter Smith made the motion to Waive 2nd by David Boardman **Granted 5-0**
3. Regulation: Site Plan and Subdivision Regulations Section 6.3.16. An analysis of the undeveloped habitat conducted by a Wildlife Biologist due to the project's location within Mount Agamenticus. Motion to waive the requirement by Peter Smith 2nd by Gerry Ruento There was discussion on this issue and the **vote was Granted 4-1** to waive the requirement with the Chair voting no.
4. Regulation: Site Plan and Subdivision Regulations Section 6.3.32. A high intensity soil survey signed and sealed by a Maine Certified Soil Scientist, indicting the suitability of soil conditions for the uses proposed shall be submitted. This report must meet the Maine Association of Professional Soil Scientists Standards for Soil Surveys for a Class A Soil Survey (04/04/89 and as amended). The HISS plan sha II indicate areas subject to the requirements of Article 7.4.2. Motion to Waive the regulation made by Peter Smith 2nd by Al Cotton **Granted 5-0**
5. Regulation: Site Plan and Subdivision Regulations Section 6.3.35. The Planning Board review fee based on the fee schedule in Section 2.3.1 shall be submitted. Motion to waive the fee made by David Boardman 2nd by Al Cotton **Granted 5-0**

6. A waiver request was received by the applicant regarding Regulation: Town of York Zoning Ordinance Article 10 Watershed Protection Overlay District Section 10.4.5 Lot Coverage. To waive the maximum impervious cover of 10,000 SF. The Director of Planning for the Town of York raised the issue that he did not believe the board could waive this request. The board asked Lee Jay Feldman Planning Consultant to look into the matter before the board acted on this request.

The Code Enforcement Office for the Town of York rendered the following decision regarding the above noted waiver request #6. The CEO stated "the lot is already over 10,000sf of impervious and existed prior to 1987, therefore it is an existing "grandfathered" use that is allowed to expand per article 10.7.2. The PB can't waive lot coverage, and they don't need to because it's already an existing non-conforming use. Please feel free to use this correspondence from the code office with the Planning Board in support of the project moving forward under article 10.7.2."

On February 7, the applicant submitted the application for Final review. Upon review of the submittal, the application

Article 6 Supplemental Use Requirements

Since this project is a non-residential development in zone RES-2, it has been reviewed for conformance with Article 6-Supplemental Use Requirements as detailed below:

Section 6.1 Non-residential Performance Standards Applicable to RES-2 Districts.

6.1.1 Traffic

Section 6.1.1 requires compliance with Article 15-A (Traffic Safety). Article 15-A states that the purpose of this section is to ensure that increases in traffic resulting from the proposed development activities are safely accommodated and the development provides transportation improvements.

The proposed project is in line with the intent of the Article. See Attachment 3 for a waiver requesting the need to perform a traffic assessment. There has been increased demand for accessing Mount Agamenticus over recent years, which has resulted in an overflow of vehicles parked in the shoulders of both lanes of Mountain Road and at the base of the mountain. At times this has impeded the travel of emergency vehicles. This has been a safety concern of the Fire and Police Departments. As stated in their letters of support in Attachment 7, the Fire and Police Department support the project and believe it would dramatically improve the safety in the area. The proposed improvements to the parking facilities would eliminate the need for overflow parking causing shoulders to be blocked. The project will not generate more traffic but help attenuate the currently increasing demand.

6.1.2 Noise

The proposed parking lot expansions and restroom facilities will not be a source of increased noise and are therefore in compliance with the Town's Noise Ordinance.

6.1.3 Dust, Fumes, Vapor and Gases

Not Applicable to this project.

6.1.4 Odor

Not Applicable to this project.

6.1.5 Glare

Not Applicable to this project.

6.1.6 Water Run-off

Grassed underdrained soil filters, bioretention basins, water quality swales, catch basins, and storm drains are proposed to manage and treat stormwater on site. These practices will reduce the peak runoff rate of the site, as shown in the Stormwater Management and Erosion Control Plan in Attachment 10.

6.1.7 Erosion Control

A site-specific Erosion Control Plan has been developed and attached, which outlines best management practices to be used to minimize erosion and sedimentation during construction. The Plan also outlines specific post-construction erosion control practices. See Attachment 10 for more detail. The proposed stormwater management practices will reduce runoff rates, therefore reducing erosion and sedimentation, as well as act as filters to reduce sediment in stormwater discharges.

6.1.8 Setback and Screening

The existing summit lot is located on two different parcels, one owned by the Town of York and the other owned by the York Sewer District. The Town of York and the York Water District have entered into an agreement to accommodate the existing parking and future improvements.

Both parking lots comply with screening requirements. The aim of the base parking lot is to reduce the amount of clearing required for this project. Both sites will be revegetated to the maximum extent practicable.

6.1.9 Explosive Materials

Not Applicable to this project.

6.1.10 Preservation of Landscape

The proposed restroom facility at the summit parking lot will be located adjacent to the existing barn in order to purposefully cluster structures. The proposed visitor center and restroom at the base of the mountain have been located adjacent to the woods, as far right as possible. These locations were chosen to preserve the openness and natural aesthetic of the sites as much as possible. The proposed improvements will improve safety while allowing visitors to continue to enjoy and experience the natural landscape of Mount Agamenticus. Landscape improvements will emphasize natural plantings in an effort to preserve the existing landscape. Tree removal will be minimized insofar as practicable.

6.1.11 Chemical/Fuel Storage

Not Applicable to this project.

6.1.12 Relation of Proposed Building to Environment

As stated above, proposed buildings have been located near existing buildings when possible to maintain the existing aesthetic and conform to the environment as much as possible. The exterior of the proposed summit lot restroom will be designed to aesthetically match the barn.

6.1.13 Refuse Disposal

Not applicable to this project.

6.1.14 Refuse and Recycling Facilities

There are currently trash and recycling facilities associated with the existing summit lot. Refuse will continue to be managed as it is currently.

6.5-Performance Standard to Control Erosion

A site-specific Erosion and Sedimentation Control Plan has been developed for this project. This plan addresses practices to control erosion during and after construction. Stormwater management practices

will continue to reduce and manage sediment after the project has been completed. The Stormwater Management and Erosion Control Plan is located in Attachment 10.

6.6-Prohibition of Dumping into Waterbodies, Wetlands and Man-Made Drainage Facilities

Dumping of any materials will not be permitted on site. Trash and recycling bins will be provided to provide easy disposal.

6.7-Performance Standards for Maintenance of Stormwater Management Facilities

An Inspection and Maintenance Plan has been developed and is included in Attachment 10. The plan describes inspection and maintenance procedures, frequencies, and responsible parties during and post-construction to ensure stormwater management practices are operating as intended. Work is to be performed according to the Maine Stormwater Best Management Practices Manual.

WATERSHED PROTECTION OVERLAY DISTRICT (ARTICLE10)

Because this project is within the Watershed Protection Overlay District, it has been reviewed for conformance with Article 10-Watershed Protection Overlay District as detailed below:

10.2 Land Uses

This project expands on an existing use, which is allowed by conditional use permit based on 10.2.3.

10.3 Performance Standards

10.3.1 Buffer Strips

Buffer strips will not be disturbed to the maximum degree practicable.

10.3.2 Agriculture

Not Applicable to this project.

10.3.3 Drainage

The project does not cause an increase of the volume of peak run-off or reduce the water quality of the receiving water. The Stormwater Management Plan has been included in Attachment 10.

10.3.4 Erosion and Sedimentation Control

A site-specific Erosion Control Plan has been developed and attached, which outlines best management practices to be used to minimize erosion and sedimentation during construction. The Plan also outlines specific post-construction erosion control practices. See Attachment 10 for more detail. The proposed stormwater management practices will reduce runoff rates, therefore reducing erosion and sedimentation, as well act as filters to reduce sediment in stormwater discharges.

10.3.5 Home Occupations

Not Applicable to this project.

10.3.6 Storage of Petroleum and Hazardous Materials

Not applicable to this project

10.3.7 Steep Slopes

All earthwork or site disturbance on slopes of 12% or more has been designed by a Maine Licensed Professional Engineer specialized in Civil Engineering.

10.3.8 Timber Harvesting

Not applicable to this Project

10.3.9 Wastewater Disposal Systems

The Clivus composting toilets will be installed such that no less than 24 inches of original soil shall be present between the bottom of the subsurface disposal area and the bedrock or seasonal high groundwater table (whichever is higher) as is required by 10.3.9, however it is a self-contained system that will not discharge onsite.

10.3.10 Water Quality

This project has been designed to preserve water quality. The Stormwater Management Plan is available in Attachment 10.

10.3.11 Wetlands

Not applicable to this project.

10.4 Dimensional Standards

10.4.1 Minimum Lot Size

This lot is larger than the 10-acre minimum required in this Overlay District.

10.4.2 Setbacks

No buildings or wastewater disposal systems will be within 500 feet from the normal high-water mark of a public water supply or 250 feet of a stream.

10.4.3 Vegetation Removal

This project will not strip more than 25% of the total lot area of existing vegetation.

10.4.5 Lot Coverage

The impervious area proposed for the base parking lot is approximately 35,000 SF. See Attachment 3 for a waiver requesting that this project be allowed to cover more impervious area than the 10,000 SF allowed in the watershed protection overlay district. This project has been designed with input from the York Water District, who benefits the most from the watershed protection overlay district and owns the majority of the land within the Chases

Pond Watershed.

A large component of this project is the stormwater treatment and management. The project will meet Chapter 500 quality, runoff volume, and treatment standards. This will be an improvement to the current site treatment, in which the water that runs off from the roadside parking along both sides of Mountain Road and at the base of the mountain is entirely untreated.

Town of York Site Plan and Subdivision Regulations

Since this project is a site plan, it has been reviewed for conformance with site plan regulations.

Article 1 Purposes & Criteria of Approval

1.2 Criteria of Approval

1.2.1 Pollution

This project will not result in undue water or air pollution.

1.2.2 Sufficient Water

Not applicable to this project

1.2.3 Municipal Water Supply

Not applicable to this project

1.2.4 Erosion

This project will not cause unreasonable soil erosion. The Erosion and Sediment Control Plan can be found in Attachment 10.

1.2.5 Traffic

The proposed project is in line with the intent of the Article. See Attachment 3 for a waiver requesting the need to perform a traffic assessment. There has been increased demand for accessing Mount Agamenticus over recent years, which has resulted in an overflow of vehicles parked in the shoulders of both lanes of Mountain Road and at the base of the mountain. At times this has impeded the travel of emergency vehicles. This has been a safety concern of the Fire and Police Departments. As stated in their letters of support in Attachment 7, the Fire and Police Department support the project and believe it would dramatically improve the safety in the area. The proposed improvements to the parking facilities would eliminate the need for overflow parking causing shoulders to be blocked. The project will not generate more traffic but help attenuate the currently increasing demand.

1.2.6 Sewage Disposal

Not applicable to this project.

1.2.7 Municipal Solid Waste Disposal

Not applicable to this project.

1.2.8 Aesthetic, Cultural and Natural Values

This project will not have an undue adverse effect on the scenic or natural beauty of the area and will provide safer and more effective access to scenic views, natural areas, and wildlife habitat to the public.

1.2.9 Conformity with Local Ordinances and Plans

This project is the expansion of existing amenities and complies with Regulations, Zoning, and other Town land use codes, and the Comprehensive Plan.

1.2.10 Technical and Financial Capacity

The Town has adequate financial and technical capacity to meet the required standard.

1.2.11 Surface Waters

The project will not adversely affect water quality. The Stormwater Management Plan can be found in Attachment 10.

1.2.12 Ground Water

The project will not adversely affect the quality or quantity of groundwater.

1.2.13 Flood Areas

The project is not in a flood-prone area.

1.2.14 Freshwater Wetlands

This project is not near any freshwater wetlands.

1.2.15 River, Stream or Brook

No river streams or brooks are within the proposed development.

1.2.16 Stormwater

This project provides adequate stormwater management. The Stormwater Management Plan can be found in Attachment 10.

1.2.17 **Spaghetti Lots**

Prohibited Not applicable to this project.

1.2.18 **Lake Phosphorus Concentration**

This project meets Maine Department of Environmental Protection phosphorus requirements and will therefore not unreasonably increase a great pond's phosphorus concentration during construction and the life of the proposed development.

1.2.19 **Impact on Adjoining**

Municipality Not applicable to this project.

Article 6 - Submissions

6.3 Submissions for Preliminary Plan

6.3.2 Boundary Survey

A waiver has been requested. A boundary survey of the entire property would place an unnecessary burden on the Town of York. The project is located on two adjacent parcels 21 Mount A Road, owned by the Town of York, and 270 Chases Pond Road, owned by the York Water District. The parcel owned by the Town is 218 acres and the parcel owned by the Water District is 1785 acres. Due to the size of the parcels, we do not believe that an entire boundary survey would be necessary. A boundary survey where relevant may be requested.

6.3.3 Existing Conditions Plan

An existing conditions plan with all of the required conditions depicted has been included in Attachment 12.

6.3.4 Natural Features

The location of all natural features or site elements to be preserved are depicted on the plan located in Attachment 10.

6.3.5 Impact Statements

Impact statements have been included in the project narrative located in Attachment 1. The Community impact statement is located in Attachment 6. Letters of support from the York Water District, the Town of York, the York Beach Fire Department, and the York Police Department are included in Attachment 7.

6.3.6 Site Plan

A site plan showing the proposed project has been included in Attachment 12.

6.3.7 Grading and Landscape Plan

Grading plans that meet the requirements of Article 7.3 have been included in Attachment 12. Landscape plans is available in the Final Plan submission and will emphasize native plantings.

6.3.8 Initial Assessment of Traffic Impacts

An initial assessment of traffic impacts has not been included. The proposed project is in line with the intent of the Article. See Attachment 3 for a waiver requesting the need to perform a traffic assessment. There has been increased demand for accessing Mount Agamenticus over recent years, which has resulted in an overflow of vehicles parked in the shoulders of both lanes of Mountain Road and at the base of the mountain. At times this has impeded the travel of emergency vehicles. This has been a safety concern of the Fire and Police Departments. As stated in their letters of support in Attachment 7, the Fire and Police Department support the project and believe it would dramatically improve the safety in the area. The proposed improvements to the parking facilities would eliminate the need for overflow parking causing shoulders to be blocked. The project will not generate more traffic but help attenuate the currently increasing demand.

6.3.9 Copy of the Deed

A copy of the deed has been included in Attachment 4.

6.3.10 Proof of Ownership

Proof of ownership has been included in Article 4.

6.3.11 Easements, Rights-of-Way, Other Encumbrances

A copy of all easements, rights-of-way and other encumbrances have been included in Attachment 4.

6.3.12 Phosphorus Pollution

This project utilizes Best Management Practices approved by the Maine Department of Environmental Protection to reduce the phosphorus output of the proposed development. Stormwater treatment is a significant portion of this project due to its location within the Chases Pond Watershed. This project will not unreasonably increase the Chases Pond phosphorus concentration during construction or throughout the life of the proposed development. Further details on phosphorus treatment can be found in the Stormwater Management and Erosion Control Plan in Attachment 10.

6.3.13 Scenic Resources

This project will not have an undue adverse effect on the scenic or natural beauty of the area and will provide safer and more effective access to scenic views, natural areas, and wildlife habitat to the public.

6.3.14 Historic and Archaeological Resources

There are no local historic districts or landmarks, national historic districts, properties on the National Register of Historic Places, cemeteries, or family burial plots on the project site. The York Historic District Commission and the Maine Historic Preservation Commission have been contacted. Correspondence has been included in Attachment 9.

6.3.15 Watersheds

A map of sufficient scale to identify the location of the project with respect to watersheds has been included in Attachment 8.

6.3.16 Undeveloped Habitat Blocks, High Value Plant and Animal Habitats, Focus Areas of Ecological Significance

The proposed project is in line with the intent of the Article. See Attachment 3 for a waiver requesting

the need to perform a biological wildlife analysis due to the project's location within Mount Agamenticus focus area. The project's location is shown on the Undeveloped Habitat Blocks, High Value Plant and Animal Habitats, and Conservation and Connectivity Planning Resources maps in Attachment

8. The purpose of this project is to allow safe pedestrian access to the conservation connectivity zone. The summit lot has already been developed and the base lot has been located along an existing highly trafficked pedestrian walkway. This project will be constructed in a way that will minimize off-site habitat impacts and will not block wildlife passage between undeveloped habitat blocks.

6.3.17 Streets

The locations, widths, and names of any existing, filed or proposed streets or rights-of-way are which are adjacent to the parcel or will be used as access to/from the site are shown on the plan.

6.3.19 Proposed Lot

Lines Not applicable to this project

6.3.20 Public Use

This project is intended entirely for public use.

6.3.22 Flood Prone Areas

This project is not located in a flood prone area.

6.3.24 Indication of Sewage Disposal Type

This project will not have public sewage disposal. The private sewage disposal will be self-contained composting toilets and will not be accomplished by a septic system. A display and memo of the test pits conducted on sites are located in Attachment 11.

6.3.25 Water Supply

Not applicable to this project.

6.3.26 Fire Chief Letter

A letter of support from the York Beach Fire Department is included in Attachment 7.

6.3.27 Sketch and Narrative Description

The site plan is located in Attachment 12. The narrative description is located in Attachment 1.

6.3.28 Existing and Proposed Utilities

Existing utilities are shown on the existing condition plan. Proposed utilities are shown on the proposed site map and grading plan located in Attachment 12.

6.3.29 Temporary Onsite Markers

Temporary onsite markers have not been placed due to the Town's involvement in the design process, markers are available if requested by the Planning Board.

6.3.30 Site Distances

Not applicable to this project.

6.3.32 High Intensity Soil Survey

A waiver from the high intensity soil survey has been included in Attachment 3. A Web Soil Survey display is provided in Attachment 8.

6.3.33 Parking

See Attachment 3 for a waiver requesting the need to perform a traffic assessment. There has been increased demand for accessing Mount Agamenticus over recent years, which has resulted in an overflow of vehicles parked in the shoulders of both lanes of Mountain Road and at the base of the mountain. At times this has impeded the travel of emergency

vehicles. This has been a safety concern of the Fire and Police Departments.

As stated in their letters of support in Attachment 7, the Fire and Police Department support the project and believe it would dramatically improve the safety in the area. The proposed improvements to the parking facilities would eliminate the need for overflow parking causing shoulders to be blocked. The project will not generate more traffic but help attenuate the currently increasing demand.

6.3.34 Waivers

All requests for waivers have been included in Attachment 3.

6.3.35 Planning Board Review Fee

A waiver for the planning review fee has been included in Attachment 3.

Article 7.3 Preservation of Natural and Historic Features

7.3.1 Site Plan

The site plan in Attachment 12 includes grading plans that show the preservation of existing trees, replacement of trees and vegetation, existing and final contours, streams and the preservation of scenic, geologic, historic or environmentally desirable areas. Significant trees or stands of trees, and species or clumps of trees that are rare to the area or of particular horticultural or landscape value will be preserved. Geologic rock outcroppings significant to the area and landscape will be preserved. The street and lot layout has been adapted to the topography. Extensive grading and filling shall be avoided as far as possible, however significant fill is required for the base parking lot in order to avoid digging in ledge and bedrock. Net cut and fill volumes have been included in the project narrative in Attachment 1 on the site plan in Attachment 12. Areas where elevations change more than 5 feet are shown on a grading display in Attachment 12. Elevation changes do not exceed 10 feet. The lower lot includes slopes of 3:1 and 2:1 in order reach the existing grade of Mountain Road. These slopes will be revegetated and reinforced respectively. Deep cuts have been minimized. Landscape plans will be included in the Final Plan Submission.

7.3.3 Tree Clearing

Tree clearing has been minimized to the maximum extent practicable.

7.3.4 Habitat Values

Habitat values have been maximized to the extent practicable.

7.3.5 Shoreline Access

Not applicable to this project.

7.3.6 Resource Protection

There are no historic or archaeological resources on site.

CONCLUSIONS OF LAW:

The project is approved as submitted and reviewed under the Town of York Site Plan and the Town of York Zoning Ordinance Articles 1, 6 & 7. In cases of conflicting requirements, the more restrictive regulation shall govern.

DECISIONS:

The application was reviewed by the Southern Maine Planning & Development Commission, and it was recommended that the Planning Board could act on the application with no Conditions of Approval on 2/17/22

Waivers Granted:

5 Waivers were granted during the approval for the requirements of the following:

1. Regulation: Town of York Zoning Ordinance Article 6 Supplemental Use Requirements 6.1.1 Traffic and Site Plan and Subdivision Regulations Section 6.3.8. Initial assessment of traffic impacts, where required per Zoning Article 15-A, and documentation this has been submitted to the Public Works Director for review. Motion by Peter Smith 2nd by Al Cotton Granted 5-0
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5. Regulation: Site Plan and Subdivision Regulations Section 6.3.35. The Planning Board review fee based on the fee schedule in Section 2.3.1 shall be submitted. Motion to waive the fee made by David Boardman 2nd by Al Cotton Granted 5-0

This site plan application received final approval from the Town of York Planning Board on 2/17/ 22 with the following conditions:

PRINTED NAME

SIGNATURE

DATE

TOWN OF YORK
PLANNING BOARD CHAIR