

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: November 18, 2014
SUBJECT: Rudy's Site Plan/Resource Protection Permit Amendments

Introduction

517 Ocean House LLC is requesting amendments to the previously approved Site Plan and Resource Protection Permit for exterior siding, lighting, curbing, water lines, generator and planters. The Town Engineer's comments are attached. The application will be reviewed for compliance with Sec. 19-9, Site Plan Regulations and Sec. 19-8-3, Resource Protection Permit Regulations.

Procedure

- The Planner will provide a summary of the project within the context of town regulations.
- The applicant should summarize the changes made to the plans since the last meeting.
- The Board should open the public hearing that has been scheduled for this evening.
- At the close of the public hearing, the Board may begin discussion.
- When discussion ends, the Board has the option to approve, approve with conditions, table or deny the application.

Site Plan Review Standards

Below is a summary of application compliance with the Site Plan standards, Sec. 19-9-5.

A. Utilization of the Site

The proposed amendments that expand the developed portion of the site are located adjacent to the developed portion of the site. The second dumpster area is located immediately adjacent to the parking lot and the generator is located next to the propane tanks.

B. Traffic Access and Parking

1. Adequacy of Road System- No change.

2. Access into the Site- No change to access, however the radii curbing has been upgraded to granite.
3. Internal Vehicular Circulation- No change.
4. Parking Layout and Design - No change to the layout is proposed. The curbing in the parking lot is upgraded to slipform concrete. A second dumpster has been added off the parking area.

C. Pedestrian Circulation

No change is proposed.

D. Stormwater Management

No change is proposed.

E. Erosion Control

The approved erosion control measures will continue to apply to the site.

F. Water Supply

The original approval provided for 2 2" domestic water lines, one for the Phase 1 building and one for the Phase 2 building, and a 6" fire protection line to be shared by both buildings.

The proposed water lines are 2 2" domestic water lines to the Phase 1 building (one for the restaurant and one for the upstairs apartment), 1 2" fire protection line for the Phase 1 building, 1 2" domestic water line for the Phase 2 building and 1 2" fire protection line for the Phase 2 building. The Phase 2 building fire protection line includes a note that the line will be installed in the "future." This note should be revised to replace "future" with "Phase 2." See also the Town Engineer's comments.

The Portland Water District has provided documentation that it has approved all the proposed water lines.

G. Sewage Disposal

No change.

H. Utilities

The applicant is proposing to install a generator to be used during power outages. The generator has been placed to comply with property line setbacks and to mitigate noise impacts on residential properties. The location 10' from the propane tanks will increase the total impact on the RP1 buffer from 257 sq. ft. to 341 sq. ft.

I. Water Quality Protection

No discharge of noxious chemicals is proposed.

J. Wastes

The original approval included a dumpster on a concrete pad to be screened by a stockade fence. With a new emphasis on recycling, the traditional dumpster is usually supplemented with additional recycling receptacles, all of which does not fit into the traditional dumpster enclosure. The applicant is proposing a second dumpster location in order to accommodate anticipated recycling needs and because there is insufficient room on the site to enlarge the first dumpster enclosure.

K. Shoreland Relationship

The property is not located in the Shoreland Zone.

L. Technical and Financial Capacity

No change.

M. Exterior Lighting

The site lighting has been redesigned to use LED fixtures and to include decorative lighting mounted to the exterior of the building. An updated photometric plan has been submitted which shows the lighting level at the property line is .5 footcandles or less.

Note 2 on the photometric plan states that "Calculations show the effect of shadowing caused by building in the area." The Planning Board may want to confirm if the Phase 2 building was included in the analysis and, if so, if the lighting on the north side of the Phase 1 building will exceed .5 footcandles at the property line before the Phase 2 building is constructed.

N. Landscaping and Buffering

The applicant is proposing 5 4'x 8' raised planting beds to be located between the parking lot and the sidewalk. The beds would be planted with vegetables to augment the restaurant offerings. The beds are optional and if not installed, the footprint of the planting beds will be loamed and seeded.

O. Noise

The generator will be enclosed with a fence and sound dampening panels and will be periodically operated at partial power to keep it in working order.

When the generator operates at full power, it is expected to exceed the maximum site plan noise standards. Except for routine maintenance, the generator is not expected to operate except during a power outage. The Planning Board may want to add a condition to the approval that the generator will only operate at full power when there is a power outage.

P. Storage of Materials

No exterior storage of materials is proposed.

Resource Protection Permit Standards (Sec.19-8-3(B))

Below is a summary of the Resource Protection Permit standards of review and how they may be met.

1. Flow of surface/subsurface waters

No change.

2. Impound surface waters

No change.

3. Increase surface waters

The generator placement will increase the RP1 Buffer impact by 84 sq. ft. and the amount of additional stormwater created by this amount of impervious surface is too small to measure.

4. Damage to spawning grounds

- No change.
5. Support of structures

The generator will be placed on a crushed stone base on a non-wetland soil.
 6. Aquifer recharge/groundwater

No change.
 7. Coastal dunes

No change.
 8. Ecological/aesthetic values

The generator has been tucked into an area immediately adjacent to the developed portion of the site.
 9. Wetland Buffer

The generator placement will decrease the wetland buffer by 84 sq. ft. and has been placed on the edge of the wetland buffer.
 10. Erosion Control

The approved erosion control plan is sufficient to apply to the additional wetland buffer disturbance.
 11. Wastewater discharge

No change.
 12. Floodplain Management

No change.

Motion for the Board to Consider

Findings of Fact

1. 517 Ocean House LLC is requesting amendments to the previously approved Site Plan and Resource Protection Permit for Rudy's, an 80 seat restaurant/one apartment mixed use building and phase 2 1,240 sq. ft. village retail building, located at 517 Ocean House Rd, to change exterior siding, lighting, curbing, water lines, add a generator and dumpster, and raised planters, which requires review under Sec. 19-9, Site Plan Regulations and Sec. 19-8-3, Resource Protection Permit Regulations.
2. The Planning Board approved the site plan for Rudy's at the December 20, 2011 meeting. That approval includes plans labeling the exterior materials on the first floor of the building to be vertical steel siding. Based on the presentation by the applicant's architect at the December 20, 2011 meeting, which includes colored building drawings showing the first floor in a gray palette, submission to the Planning Board of sample building materials of a coated anodized aluminum with a .32 gauge, and statements by the architect describing the anodized aluminum and the gray palette, it was the Planning Board's understanding that the "vertical steel siding" would be a coated metal material with a corrugated profile.
3. The December 2011 plans also labeled the exterior material on the second floor gables to be a decorative shingle.
4. The applicant's architect also stated that the siding would be installed with concealed fasteners. Webster's Dictionary defines conceal as "to keep from sight or disclosure." The application of paint (does/does not) conceal the fasteners.
5. Following the December 2011 approval, the applicant sought 2 packages of amendments from the Planning Board that were approved. The amendments did not include any changes to exterior materials and the Planning Board did not review the exterior materials as part of the approval for the site plan amendment.
6. Code Enforcement Officer Ben McDougal notified the applicants by email on July 30, 2014 that "the current siding is not consistent with the facts presented and materials submitted to the planning board."
7. On October 3, 2014, 517 Ocean House LLC submitted an application for amendments to the Rudy's Site Plan, including "modifications to the plans in response to proposed changes in the restaurant building facade."
8. The Planning Board deemed the application complete on October 21, 2014 and held a site walk on October 29, 2014 at 7:30 a.m. at 517 Ocean House.

9. The Planning Board held a special meeting on November 5, 2014 at 8:00 p.m. to decide how internet research would be conducted related to the Rudy's application. The Board's decision at that meeting is hereby incorporated.
10. The Planning Board has received public comments in support and in opposition to the weathering steel siding installed on the building.
11. 517 Ocean House Rd is located in the Business A District. The Business A Design Requirements, (Sec. 19-6-5.E), state "The Ocean House Road Business A District, while also a neighborhood commercial area, has a more relaxed beach/seaside retail character."
12. Sec. 19-6-5.E (f), Exterior Materials, states: Facade materials give a structure character. Exterior materials shall be compatible with nearby buildings and with the design of the structure. No structure addition shall consist of architectural materials inferior in quality, appearance, or detail to any other exterior of the same building. The use of wood shingles, wood clapboards, copper, and brick is permitted. The use of concrete block, sheet metal, vinyl, or aluminum siding is discouraged, except for the use of concrete clapboards or siding, such as hardiplank, that mirrors the appearance of natural materials. The Planning Board finds that the proposed exterior changes (do/do not) comply with the Exterior Materials Design Standard.
13. The Town Engineer has recommended that revisions be made to the plans.
14. The Conservation Commission has recommended acceptance of the increased RP1 buffer alteration.
15. The application substantially complies with Sec. 19-9, Site Plan Regulations and Sec. 19-8-3, Resource Protection Permit Regulations.

THEREFORE BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of 517 Ocean House Rd for amendments to the previously approved site plan and resource protection permit for Rudy's, an 80 seat restaurant/one apartment mixed use building and phase 2 1,240 sq. ft. retail building, located at 517 Ocean House Rd, to change exterior siding, lighting, curbing, water lines, add a generator and add raised planters be approved, subject to the following conditions:

1. That the plans be revised to address the concerns of the Town Engineer in his letter dated November 12, 2014;
2. That lighting levels not exceed .5 footcandles at the property line at the completion of Phase 1;
3. That the generator only operate at full power during power outages;
4. That Note 12 on Sheet L-1 be augmented with the following statement:
"There will be no increase in the number of seats unless a request to amend the Site Plan approval for 80 seats has been submitted to and approved by the Planning Board."
5. That the elevations for the Phase 2 building be revised to relabel the exterior material as "7/8" A606 Type 4 corrugated steel siding."
6. That there be no issuance of a certificate of occupancy until the plans have been revised to satisfy the above conditions.