

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: April 25, 2016
SUBJECT: Tarbox Triangle Minor Subdivision
Cape Chiropractic and Acupuncture Site Plan

Introduction

Two Penguin Properties, LLC, owned by Dr. Zev and Amber Myerowitz, are requesting Minor Subdivision Review of a 3-lot subdivision and Site Plan Review of two buildings containing 6,205 sq. ft. of medical office space, 10 multi-family residential units and a 357 sq. ft. building connector, located at 12 Hill Way. The application will be reviewed for compliance with Sec. 16-2-3, Minor Subdivision Review, Sec. 19-9, Site Plan Review and Sec. 19-6-4, Town Center Design Standards. The comments of the Town Engineer are attached.

Procedure

- The Board should begin with a summary from the applicant of changes made to the plans since the last meeting.
- The Board may then open the public hearing scheduled for this evening.
- At the close of the public hearing, the Planning Board should begin substantive discussion.
- At the close of discussion, the Board has the option to approve, approve with conditions, deny or table the project to the next meeting.

Subdivision Review (Sec. 16-3-1)

(a) Pollution

The project is not located in a vulnerable natural resource, such as a floodplain, and will not be discharging wastes into soils or streams.

(b) Sufficient Potable Water

Lots 1 and 2 will be connected to a public water line in Scott Dyer Rd and a stub for public water connection will be provided for lot 3.

(e) Erosion

An erosion and sedimentation control plan has been submitted.

(d) Traffic

1. Road congestion and safety. A traffic study has been submitted which calculates the anticipated number of trips generated by the project and the adequacy of the road system to handle the added traffic.
2. Comprehensive Plan. No new roads are proposed.
3. Connectivity. The subdivision includes multiple existing and proposed access points and further avoids installing a new driveway on the problematic frontage on Ocean House Rd.
4. Safety. No new roads are proposed and the existing roadway system appears adequate for the anticipated new traffic.
5. Through traffic. No new road is proposed.
6. Topography. No new road is proposed.
7. Block Length. Not applicable.
8. Lot Access. Each lot has access to Hill Way and lot 3 has access to Scott Dyer Rd.
9. Sidewalks/pedestrian connections. A new sidewalk is proposed on the east side of Hill Way along the frontage of lots 1, 2 and 3. The applicant is requesting a waiver from constructing a sidewalk along the Scott Dyer Rd frontage of lot 3. (There is an existing sidewalk on the south side of Scott Dyer Rd) If lot 3 is developed, it will require site plan review and compliance with the Town Center Design Standards, when a sidewalk would be required.
10. Road Name. No new road is proposed.
11. Road Construction Standards. No new road construction is proposed.

(e) Sewage Disposal.

All lots will be served by public sewer. Town Engineer Steve Harding has provided a letter confirming adequate capacity to convey and treat the estimated wastewater flow. The applicant should prepare sewer easement deeds for lots 1 and 2 across lot 3.

(f) Solid Waste Disposal.

Lot 3 solid waste will be handled by a commercial solid waste disposal company. Lot 2 solid waste is currently disposed of at the town recycling center. Lot 1 is undeveloped at this time.

(g) Aesthetic, cultural and natural values

1. Scenic. The site is not located in a vista or view corridor as identified in the Visual Impact Study conducted by the town.
2. Wildlife. No significant wildlife habitats have been identified.
3. Natural features. Most of the area of lot 1 is wooded and the applicant is proposing to preserve portions of the woods where no development is proposed.
4. Farmland. No farmland is located on the subdivision.

(h) Conformity with local ordinances

1. Comprehensive Plan. The subdivision is located in the Town Center District, which is one of the town's growth areas.
2. Zoning Ordinance. The subdivision is located in the Town Center District. There is no minimum lot size for commercial uses. Lot 2 includes 2 dwelling units and has 19,528 sq. ft. The minimum lot size for multifamily units is 7,500 sq. ft. Building envelopes are shown on each lot demonstrating compliance with setbacks.
3. Multiplex Housing. The multiplex housing is included in a mixed use building designed for compliance with the Town Center Design standards.
4. Addressing Ordinance. No individual residential units are proposed.

(i) Financial and Technical Capability

The applicant has provided a letter from Machias Savings Bank asserting adequate financial capacity and a list of professionals with experience in designing subdivisions.

(j) Surface Waters

The property is not within 250' of a water body.

(k) Ground Water

The project has been designed to have no or a positive impact of ground water.

(l) Flood Areas

The subdivision is not located in the floodplain.

(m) Wetlands

No wetland alteration is proposed.

(n) Stormwater

The paved portion on lot 1 will be constructed with porous pavement, which dramatically reduces post-development stormwater flows. A rain garden is also proposed. With these Low Impact Development features, the post-development flows are still modeling slightly above pre-development flows. Stormwater will discharge into the town stormwater system, which outlets into marsh on Route 77. The Town Engineer has reviewed the stormwater plan and supports this approach.

No construction on lot 2 or 3, except for the shared parking on lot 2 for the benefit of lot 1, are proposed.

(o) Lake Phosphorus concentration

The subdivision is not located within the watershed of a great pond.

(p) Impact on adjoining municipality

The subdivision does not cross municipal boundaries.

(q) Land subject to Liquidation Harvesting

The subdivision does not include liquidation harvesting.

(r) Access to Direct Sunlight

Each lot has substantial access to sunlight.

(s) Buffering

The subdivision includes preservation of a small area of existing woodlands on lot 1. A landscaping plan is included to landscape and screen portions of the subdivision.

(t) Open Space Impact Fee

The applicant has agreed to pay a fee of \$6,729 x 2 new lots for a total of \$13,458.

(u) Utility Access.

The lots will have access to public water, electrical, telephone and public sewer utilities.

(v) Phasing.

Proposed phasing is development of lot 1 and lot 2, a portion of which will include a parking lot connected to lot 1. Lot 3 will be developed at a future date.

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

Lot 1 is located in the Town Center District, which is one of the town's growth areas. Most of the site will be developed, however remnants of the woodland along the southern end of Hill Way and along Ocean House Rd will be preserved. The sloping terrain of the property and ledge limit the ability to preserve natural areas and still develop the lot. The applicant is using the sloping topography of the lot to construct the first floor akin to a daylight basement and reduce the overall height of the 3-story building.

B. Traffic Access and Parking

1. Adequacy of Road System- The applicant has submitted a traffic study that generally finds the adjacent road network to have adequate capacity to absorb additional traffic. The traffic study does identify deficiencies on the Hill Way /Route 77 crosswalk. The Public Works Director is aware of the deficiencies. The Town Council has made improvements to Hill Way a town council goal. The scope of improvements has not yet been developed.

The applicant is not proposing vehicular access onto Ocean House Rd. The Ocean House Rd frontage is problematic for a driveway location. The plans do call for a pedestrian connection from the existing sidewalk on Ocean House Rd to lot 1.

2. Access into the Site- The applicant is proposing to create a circular driveway with two new access points on Hill Way.
3. Internal Vehicular Circulation- A loop driveway is proposed with two access points onto Hill Way. The loop connects all parking areas.
4. Parking Layout and Design- The applicant has calculated parking based on proposed uses in accordance with Sec. 19-7-8, Off-Street Parking. No shared parking is proposed. It is expected that the peak demand for office and residential parking spaces will not be at the same time, so some sharing opportunities are expected. Three handicapped accessible spaces are included.

Fourteen spaces are located on lot 2 and an easement should be prepared for the use of those spaces by lot 1.

C. Pedestrian Circulation

The project will include construction of a new sidewalk along the frontage of lot 1, 2 and 3 on Hill Way. A pedestrian walkway will also be constructed to connect to the existing Ocean House Rd sidewalk.

D. Stormwater Management

The project will add 35,850 sq. ft. of impervious area. The paved portion on lot 1 will be constructed with porous pavement, which dramatically reduces post-development stormwater flows. A rain garden is also proposed. With these Low Impact Development features, the post-development flows are still modeling slightly above pre-development flows. Stormwater will discharge into the town stormwater system, which outlets into marsh on Route 77. The Town Engineer has reviewed the stormwater plan and supports this approach.

One option to further reduce post-development flows would be to add a detention area. A detention area would likely be located on the northern tip of the site and would require the removal of trees which are proposed to be preserved. Staff is not recommending this option.

E. Erosion Control

An Erosion and Sedimentation Control plan has been submitted.

F. Water Supply

The Portland Water District has confirmed that there is adequate water for the proposed use.

G. Sewage Disposal

The Sewer Superintendent has confirmed that there is adequate sewer capacity for the proposed use.

H. Utilities

Electrical and communication service will be provided from existing overhead utilities on Ocean House Rd.

I. Water Quality Protection

No discharge of noxious chemicals is proposed.

J. Wastes

The plan includes a screened dumpster pad at the rear of the property. If the applicant intends to add recycling receptacles to the dumpster enclosure, the pad and enclosure may need to be resized.

K. Shoreland Relationship

The property is not located in the Shoreland Zone.

L. Technical and Financial Capacity

The applicant has provided a letter from Machias Savings Bank asserting adequate financial capacity and a list of professionals with experience in project development.

M. Exterior Lighting

The applicant is installing 9 light fixtures that have been used by the town for pedestrian lighting in the town center. These are high quality light fixtures that should contribute to a cohesive identify for the town center. The isometric plan indicates that the light installed in the southerly parking island and at the southerly driveway will exceed .5 footcandles at the property line. No lighting on the building or at building entrances is shown. If this type of lighting will be installed, it should be added to the plans and details of the lighting fixture provided. Any sign lighting should also be indicated.

N. Landscaping and Buffering

The applicant has prepared an extensive landscaping plan, which the tree warden has also reviewed. His comments are attached and generally recommend that tree species should be selected with sensitivity to a policy of diversification of the community forest. He has recommended against planting any more oaks or maples in the near term. The applicant should consider replacing the sugar maples (7), red oak (2) and heritage river birch (1) with alternative species, preferably from the list provided by the tree warden.

Landscaped islands include street trees.

The site is challenging in that the majority of road frontage on Hill Way dictates that the building face Hill Way, yet Ocean House Road is a town center gateway that should also be addressed. The landscaping plan includes courtyards and landscaped walkways that connect the building with the Hill Way frontage. When reviewing the plan, it is important to note that the residential connections on Hill Way slope uphill from the road and the commercial doorways facing Hill Way slope downhill from the road.

Landscaping between lots 1 and 2 is located on lot 2 due to the shared parking lot. On the north side of lot 1, some existing trees will be preserved which will not completely obscure but buffer the proposed building.

The Ocean House Rd view of the project is important because Ocean House Rd is the town center's "main street¹." Three stories of the building will be visible as one approaches the hill toward the town center. In this area, it is more appropriate to have a distinctive and decorative landscaping plan rather than landscaping that attempts to block the building from view.

The landscape plan includes decorative fencing and plantings at the project walkway intersection with the Ocean House Rd sidewalk. Planting in this area is constrained by an existing drainage swale that the walkway crosses and ledge. The primary upright plantings at the walkway intersection are forsythia and a hickory tree, supplemented by spirea and lily of the valley.

As the walkway climbs the hill toward the building, some existing trees are preserved and supplemented with an oak and another shagbark hickory. While the likelihood of ledge in this area is high, would it be desirable to add presence to the walkway by framing the edges with plantings that will add seasonal color?

The landscaping at the northeast corner of the building is significant because this is a gateway area, and challenging because it is on the north side of the building. The planting is anchored by a cluster (4) of white spruce supplemented with forsythia and a serviceberry. The board may want to discuss if this area should have the primary goal to block the building or to be a focal point.

Note 13 implies that plant species may be substituted, however plant species substitutions must be submitted to the town for approval.

¹See 2014 Town Center Plan, Recommendation 2, p. 6.

O. Noise

The proposed use is not expected to generate noise levels in excess of those permitted.

P. Storage of Materials

No exterior storage of materials is proposed.

Town Center Design Standards

The site is located in the Town Center District and the proposed project must also comply with the following Town Center Design Requirements.

a. Footprint

Building 1 has a footprint of 3,789 sq. ft. Building 2 has a footprint of 2,416 sq. ft. Both buildings are linked with a 357 sq. ft connector. They are each less than the 5,000 sq. ft. maximum. Footprints are oriented toward the street.

b. Scale

The proposed building is consistent with the scale of the larger buildings in the Town Center District, such as the Town Hall, library, and the C Salt market. The building sides are broken with features including porches, decks and building bump-outs.

c. Height and Roof Pitch

Building 1 has a height of 30', 11" and building 2 has a height of 26'2", which is less than the maximum height of 35'. The roof pitch varies, with a pitch of 12:12 on the major roofs, which exceeds the minimum pitch of 7:12.

d. Building and Parking Orientation

The site presents a challenge with the majority of frontage on Hill Way and additional, visible frontage on Ocean House Rd. The first floor is commercial and oriented to Hill Way with walkways and a courtyard. The applicant has avoided presenting the building's "back door" to Ocean House Rd by orienting the 2nd/3rd floors of building 1, which are residential townhouses, toward Ocean House Rd.

Parking is not located in the front yard setback of either Hill Way or Ocean House Rd.

e. Openings

The doors and windows are compatible with the building design. The first floor front facade includes a significant proportion of openings to wall space, with calculations presented on plan AE201.

f. Exterior Materials

The applicant has displayed a range of exterior materials. Wood shingles have been suggested, but the applicant has also mentioned using a composite material dependent on cost. The plans note shingle siding, but the labels should be clear about the use of wood or composite.

g. Landscaping and Site Development

The plans include full landscaping plans for the front yard setback that include walkways, courtyard, and steps. A possible shift in the landscaping concept for the Ocean House Rd frontage is noted above.

One front yard tree is required for each multifamily unit. The applicant has provided a combination of preserving existing trees and adding new trees in the front yard setback in excess of the minimum 10 required. The applicant has also discussed with the tree warden adding specifications to the plans to increase likelihood that existing trees will survive construction.

The parking lot includes landscaped islands with street trees so that no more than 10 parking spaces in a row appear.

Motions for the Board to Consider

A. Motion for Approval

Findings of Fact

1. Two Penguin Properties, LLC, owned by Dr. Zev and Amber Myerowitz, are requesting Minor Subdivision Review of a 3-lot subdivision and Site Plan Review of two buildings containing 6,205 sq. ft. of medical office space, 10 multi-family residential units and a 357 sq. ft. building connector, located at 12 Hill Way, which requires review for compliance with Sec. 16-2-3, Minor Subdivision Review, Sec. 19-9, Site Plan Review and Sec. 19-6-4, Town Center Design Standards.
2. The Town Engineer has recommended revisions to the plans.
3. The Planning Board finds, in accordance with Sec. 16-3-2(A)(3), that no sidewalk is required on the Scott Dyer Rd frontage of lot 3.
4. Cross easements between lots 1, 2 and 3 will be needed.
5. The subdivision is subject to the open space impact fee requirement and is proposing to pay a fee of \$13,485 to meet the requirement.
6. The applicant is proposing to develop lot 1 and 2 as a phase, and lot 3 as a separate phase.
7. Current solid waste handling typically includes separating recycled materials.
8. Lighting on the site should be adequate to move safely around the site but also not exceed .5 footcandles at the property line to minimize impact on abutting and nearby properties.
9. The tree warden is recommending a policy to diversify the tree species in the community forest.
10. Landscaping plans are an important component of site development and substitution of plant species should not occur without confirmation from the town that the substitution is equivalent to the species shown on the approved plans.
11. The application substantially complies with Sec. 16-2-3, Minor Subdivision Review, Sec. 19-9, Site Plan Review and Sec. 19-6-4, Town Center Design Standards.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Two Penguin Properties, LLC for Minor Subdivision Review of a 3-lot subdivision and Site Plan Review of two buildings containing 6,205 sq. ft. of medical office space, 10 multi-family residential units and a 357 sq. ft. building connector, located at 12 Hill Way, be approved, subject to the following conditions:

1. That the plans be revised to address the comments of the town engineer in his letter dated April 13, 2016;
2. That deeds be prepared in a form acceptable to the Town attorney for sewer easements to benefit lot 1 and 2, and a parking easement to benefit lot 1, and that the deeds be signed by the applicant and recorded with the subdivision plan;
3. That the applicant will pay an open space impact fee of \$13,458 prior to the issuance of a building permit for any lot in the subdivision;
4. That the subdivision plan be revised to show phase 1 and phase 2;
5. That the dumpster area be resized to accommodate recycling receptacles if recycling will be stored in the dumpster area;
6. That the lighting plan be revised so that no lighting exceeds .5 footcandles at the property line, that any outside building mounted lighting, including entry lighting, be added to the plans, and that any sign lighting be added to the plans. Details of all proposed lighting fixtures shall be submitted.
7. That the proposed oak, maple and heritage river birch trees be replaced with species recommended by the tree warden;
8. That Note 13 on the Landscaping plan, LP101, be augmented to clarify that any plant species substitutions must be approved by the town.
9. That there be no recording of the subdivision plan, issuance of a building permit or alteration of the site until the plans have been revised to address the above conditions and submitted to the town planner.
10. That there shall be no issuance of a building permit nor alteration of the site until a performance guarantee has been provided to the town in an amount approved by the town engineer, a form approved by the town attorney and all approved by the town manager.