

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: December 18, 2018
SUBJECT: Scott Dyer Rd Resource Protection Permit

Introduction

The Town of Cape Elizabeth is requesting a Resource Protection Permit to fill up to 1,200 sq. ft. of wetland as part of the reconstruction of Scott Dyer Rd. The application will be reviewed for compliance with Sec. 19-8-3, Resource Protection Regulations.

Procedure

- The Board may want to begin by having the applicant summarize the project.
- The Board should make a finding of completeness. If the application is deemed incomplete, Board members should identify the information needed to make the application complete and no substantive discussion of the project should occur. If the application is deemed complete, the Board may begin review of the project.
- If deemed complete, the Planning Board has agreed to hold a public hearing this evening.
- At the close of the public hearing, the Board may continue substantive review.
- At the close of discussion, the Board has the option to approve, approve with conditions, deny or table the application.

Summary of Completeness

The completeness checklist and the comments of the Town Engineer are attached. No items appear to be incomplete. The applicant has requested the following waivers:

6. The applicant has requested a waiver from providing a high-intensity soil survey. A wetlands mapping report conducted using field mapping by Gary Fullerton, Maine Certified Soil Scientist, has been submitted.
9. The applicant has provided a detailed written description and plans of the stormwater management system, but has requested a waiver from providing pre and post stormwater calculations.

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. The comments of Acting Town Engineer Todd Gammon of Blais Engineering are attached.

1. Flow of surface/subsurface waters

The flow of stormwater adjacent to the filled wetland area will be maintained. The town will be installing a stormwater management system, including 9 catch basins, to collect and discharge stormwater.

2. Impound surface waters

The wetland fill extends an existing upland area adjacent to the existing Scott Dyer Rd and the waterway of existing surface water flows will continue to connect to the same discharge area.

3. Increase surface waters

Less than 1,200 sq. ft of wetland will be filled, which will not increase surface water flows a measurable amount.

4. Damage to spawning grounds

No spawning grounds have been identified in the wetland fill area, which is immediately adjacent to the existing Scott Dyer Rd, and so not expected to offer high value wildlife habitat.

5. Support of structures

No structures are proposed in the wetland fill area.

6. Aquifer recharge/groundwater

Existing discharge points are maintained as part of the stormwater management design.

7. Coastal dunes

No work in coastal dunes or back dune areas is proposed.

8. Ecological/aesthetic values

The wetland fill area is immediately adjacent to Scott Dyer Rd.

9. Wetland Buffer

No buffer is proposed as the work, by its nature, will be located entirely in the wetland area.

10. Erosion Control

The applicant has submitted an Erosion Control plan that includes erosion protection during construction and revegetation of disturbed areas upon completion of construction.

11. Wastewater discharge

No discharge of wastewater is proposed as part of the project scope.

12. Floodplain Management

The portion of the project adjacent to Willow Brook is in a floodplain. The proposed work falls under the "minor development" definition in the Floodplain Regulations (Chapter 6-6, Floodplain Management Ordinance)

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Section 6-6-6.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

The applicant will need to obtain a Flood Hazard Development Permit from the Code Enforcement Officer.

Motions for the Board to Consider

A. Motion for Completeness

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for a Resource Protection Permit to fill up to 1,200 sq. ft. of wetland as part of the reconstruction of Scott Dyer Rd be deemed (complete/incomplete). The Planning Board determination includes granting of the following waivers:

1. A high intensity soil survey, with the waiver supported by the submission of a wetlands report based on field determinations by Gary Fullerton, Maine Certified Soil Scientist.
2. Pre and post stormwater calculations, with the waiver supported by the submission of a stormwater management plan, including written materials and plans, prepared by Steve Harding, P.E.

B. Motion for Approval

Findings of Fact

1. The Town of Cape Elizabeth is requesting a Resource Protection Permit to fill up to 1,200 sq. ft. of wetland as part of the reconstruction of Scott Dyer Rd, which requires a Resource Protection Permit.
2. The proposed fill (will/will not) materially obstruct the flow of surface or subsurface waters across or from the alteration area;
3. The proposed fill (will/will not) impound surface waters or reduce the absorptive capacity of the alteration area so as to cause or increase the flooding of adjacent properties;
4. The proposed fill (will/will not) increase the flow of surface waters across, or the discharge of surface waters from, the alteration area so as to threaten injury to the alteration area or to upstream and/or downstream lands by flooding, draining, erosion, sedimentation or otherwise;
5. The proposed fill (will/ will not) result in significant damage to spawning grounds or habitat for aquatic life, birds or other wildlife;
6. The proposed fill (will/will not) pose problems related to the support of structures;
7. The proposed fill (will/will not) be detrimental to aquifer recharge or the quantity or quality of groundwater;

8. The proposed fill (will/ will not) disturb coastal dunes or contiguous back dune areas;
9. The proposed fill (will/ will not) maintain or improve ecological and aesthetic values;
10. The wetland fill (is/ is not) minimized so that the maximum amount of existing buffer area between the wetland and adjacent land uses is not disturbed;
11. The fill and road reconstruction project (will/ will not) be accomplished in conformance with the erosion prevention provisions of Environmental Quality Handbook Erosion and Sediment Control, published by the Maine Soil and Water Conservation Commission dated March, 1986, or subsequent revisions thereof;
12. The fill and road reconstruction project (will/ will not) be accomplished without discharging wastewater into Wastewater Treatment Facilities in violation of Section 15-1-4 of the Sewage Ordinance; and
13. A portion of the proposed fill will be placed in the floodplain and will require a Flood Hazard Development Permit from the Code Enforcement Officer in accordance with Section 6-6-6 of the Floodplain Management Ordinance.
14. The application substantially complies with Sec. 19-8-3, Resource Protection Regulations.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Town of Cape Elizabeth for a Resource Protection Permit to fill up to 1,200 sq. ft. of wetland as part of the reconstruction of Scott Dyer Rd be approved, subject to the following conditions:

1. That the plans be revised to satisfy the comments of the Acting Town Engineer in his letter dated December 12, 2018;
2. That the applicant obtain easements for work outside the right-of-way;
3. That the applicant obtain necessary permits from the Maine Department of Environmental Protection, U.S. Army Corps of Engineers, and Town of Cape Elizabeth Code Enforcement Officer.

4. That there be no alteration of the wetland until the above conditions are satisfied.