

Memorandum

To: Members of the Planning Board
From: Liz Durfee, AICP, Planner
Date: May 2, 2022

Type of Review:	Amended Site Plan
Property Owner:	Charles Street Holding, LLC and 284 Knox Marsh, LLC
Applicant/Agent:	Christopher Berry Surveying & Engineering Hoefle, Phoenix, Gormley and Roberts, P.A.
Property Address:	282 and 284 Knox Marsh Rd (NH Rt 155)
Map and Lot #:	Map 9 Lots 3 & 4
Zoning District:	Commercial and Light Industrial
Overlays:	Wet Areas Conservation, Aquifer and Wellhead Protection Overlay District, Flood Hazard Overlay, Shoreland Protection Overlay District
Waivers Requested:	Site Plan Review Article VII Section 3(C)
Other Planning Board Applications:	None submitted to date

Summary

The applicant proposes to amend an approved site plan for Landcare Stone, which is located on Tax Map 9 Lots 3 (2.65 ac) & 4 (5.57 ac). These lots are owned by Charles Street Holding LCC and 284 Knox Marsh LLC. Landcare is an existing business that has operated on the subject lots since 2008. The structure will serve retail and wholesale customers. Following discussions with the Planning Board on proposed activities within environmental overlay districts, the applicant has submitted a revised plan (April 2022).

Application and meeting history with links to minutes:

[11/17/21](#) – Board accepted Site Plan application as complete and initiated public hearing

[12/4/21](#) – Board held site walk

[1/19/22](#) – Continued public hearing, discussion on overlay districts

[2/16/22](#) – Continued public hearing, applicant/agent not present

[3/16/22](#) – Continued public hearing, applicant's attorney present

4/20/22 – Continued public hearing, applicant/agent not present, hearing continued to May 4

4/26/22 – Applicant submitted [revised plan set](#)

Planner's Review

The following were reviewed:

- Narrative "Presentation of Revised Materials" dated April 26, 2022 (file name: 20-084 Landcare Narrative for May 4 Meeting and Overlay Document 4-27-22.pdf)
- Plan titled "Non-Residential Site Plan Review for Charles Street Holding, LLC & 284 Knox Marsh, LLC, N.H. Route 155/ 282 & 284 Knox Marsh Road, Madbury, N.H. Tax Map 9, Lots 3 & 4" and dated October 18, 2021. Revised April 26, 2022. *Grading and gravel wetland not thoroughly reviewed by planner*.
- 20-083 Color Buffer Impact Plans.pdf, dated October 18, 2021. Revised April 26, 2022.
- [1999 Notice of Decision](#)
- [1990 Notice of Decision](#)
- Site Narrative dated October 28, 2021, including waiver request for drive lane.

Lot Size, Setbacks, and Frontage:

Map 9 Lots 3 and 4 are existing lots of 2.65 acres and 5.57 acres. Lot 3 has an existing structure that meets the setback requirements of 50 feet in the front and 25 on the side. The Zoning Ordinance states that the minimum frontage requirement is 25 feet, however this is assumed to be a typo as the side setback requirement is 25 feet. It is assumed that the requirement is 125 feet. The Board should confirm this. It does not appear that Lot 3 has 125 of frontage. The frontage and setbacks need to be shown on both lots. It is Landcare's intention to continue to utilize both parcels for the operation of its Landcare business.

Proposed Use:

The existing use is a business known as Landcare Stone, which is a permitted use in the Commercial and Light Industrial District. The existing primary structure is 6,076 sf in size. No changes to the structure are proposed. The structure will be used for retail and wholesale.

A 32ft x 50 ft fabrication workshop, also referred to as a cut shop is proposed.

The narrative/cover letter dated April 26, 2022 states that the retail hours are not limited beyond the 7AM-7PM proposed on the plan however most retail sales end around 4PM which is driven by market and user. Leased office space or other least space will have operating hours of 7am-11pm. The applicant should provide some clarification on this.

According to the narrative/cover letter submitted April 26, 2022, there are two offices within the existing building that are leased to third parties: one is for landscaping/lawncare business and one is for guitar repair business. The files contain no record for these businesses and therefore they should be included on this site plan.

Overlay Districts

- The lots are subject to the Wet Areas Conservation, Shoreland, Aquifer and Wellhead Protection, and Floodplain Overlay Districts. Applicant has provided a colored plan set that shows existing and proposed conditions and the extent of Wetland, Shoreland, and Flood Hazard Overlay. The lot is also in the Aquifer and Wellhead Protection Overlay District and this is noted on the plan.
- Table 1 on the following page summarizes the proposed uses and pertinent regulations for these overlays.

Table 1. Summary of proposed uses in each overlay district and pertinent regulations

Overlay	Proposed Uses	Pertinent Regulations Summary
Wet Areas Conservation Overlay 25 ft no disturbance buffer (Article IX)	<ul style="list-style-type: none"> • Employee parking area (3,963 sf + 722 sf = 4,685 disturbance) • Gravel inventory (2,155 sf + 1,691 sf= 3,846 sf) • Stormwater BMP outlet (450 sf) 	<ul style="list-style-type: none"> • Regulations (Section 5) require that this area is to be protected by undisturbed, naturally vegetated, contiguous upland buffer. • The board determined on 1/19/22 that an applicant could not seek a CUP for this section and that a variance(s) from the ZBA is required.
Wet Areas Conservation Overlay Building and Septic Setback	<ul style="list-style-type: none"> • Stormwater BMP/gravel wetland/impoundment (10,891 sf) • Gravel inventory (9,082 sf) • Gravel inventory and driveway (4,200 sf) • Employee parking (119 sf+93 sf= 212 sf) • Grading 	<ul style="list-style-type: none"> • Stormwater impoundment – PB seeks expert opinion to assist with determining if proposed stormwater system aligns with the term water impoundment as used in this section of the ordinance. If yes, the use is permitted, if no, then a variance is required. Driveway access is subject to a CUP • The ordinance contains no language for a use like gravel inventory storage. The Board should determine whether review under Section 4(C)(1) limited and regulation uses is appropriate, and if so, a CUP would be required.
Shoreland Protection Overlay 50 ft natural vegetation strip from shoreline, edge of wetlands, poorly, very poorly drained soil	<ul style="list-style-type: none"> • Stormwater BMP (1,009 sf) 	<ul style="list-style-type: none"> • Section 5 requires a buffer strip of natural vegetation to be maintained. The proposed use should be discussed. If not in conformance with Section 5, a variance from the ZBA would be necessary.
Shoreland Protection Overlay 100 ft from Bellamy River	<ul style="list-style-type: none"> • Stormwater BMP (10,176 sf) 	<ul style="list-style-type: none"> • Stormwater impoundment – PB seeks expert opinion to assist with determining if proposed stormwater system aligns with the term water impoundment as used in this section of the ordinance. If yes, the use is permitted, if no, then a variance is required.
Floodplain Overlay (Article XXI)	<ul style="list-style-type: none"> • 2 storage containers • Drive/travel way • Parking • Gravel inventory • Stormwater BMP • Grading + fill 	<p>Prohibited uses include (Section 6):</p> <ul style="list-style-type: none"> • Storage of construction or other materials which would impede the flow of floodwaters • Storage of hazardous, toxic, or regulated substances • Filling <p>Limited uses subject to CUP:</p> <ul style="list-style-type: none"> • Water impoundment for stormwater or on-site detention
Aquifer Protection Overlay	<p>Both lots are entirely within the overlay district.</p>	<ul style="list-style-type: none"> • Section 5 of the <u>updated ordinance</u> lists permitted, prohibited, and conditional uses within the district. This list should be reviewed with the applicant to confirm proposed uses are either permitted or allowed conditionally. • A CUP is required for imperviousness over 15% of the lot.

- The Board has discussed the term *water impoundment*, which is not specifically defined in the Zoning Ordinance but appears in the Wet Areas Conservation, Floodplain, and Shoreland Overlay Districts and has sought input from the [Conservation Commission](#) and [Water Board](#) on this term. The Board determined on 3/16/22 that expert opinion of the impacts of the stormwater system on water resources is necessary prior to determining whether the use aligned with the intent and purposes of a water impoundment in the Wet Areas Conservation Overlay District and the Shoreland Protection Overlay District.
 - The Planner reached out to the applicant's agent regarding this review on 3/23/22 to propose a third party reviewer.
 - Based on the narrative submitted 4/26/22 by the applicant, the applicant welcomes a review of the design by the proposed reviewer, Tom Ballester. However, the Board will need to discuss this review with the applicant to ensure all parties are on the same page with respect to the purpose of the review(s). The Board wants to know whether the stormwater management system (water impoundment/gravel wetland) aligns with the purpose and intent of the Wet Areas Conservation Overlay and/or Shoreland Protection Overlay Districts in order to make a determination of whether the use (stormwater BMP) is permitted (subject to design and performance standards) or not. If not permitted, a variance from the ZBA would be required.
 - The Planner has recommended a third party review of the proposed stormwater and grading plan to evaluate that the design is appropriate and sufficient (in addition to understanding potential impacts to water resources). The Board should discuss the purposes of the review(s) and how to best expedite the review process.
- Since the last plan set, the bins and storage containers have been relocated outside of the 100' Shoreland Protection Overlay District buffer (Article X Section 4(B)). The Board had previously determined on 1/29/22 that these items were considered structures and therefore a variance would be required if they were to infringe on the buffer. No variance is required for this aspect of the project under the current site layout.
- Sheet #6 note 27 indicates that the area of proposed revegetating of the 50 foot State Shoreland buffer has declined compared to the previous plan set. The applicant could explain the reason for this and/or confirm that this number is accurate.

Waivers Requested:

The applicant has requested one waiver from:

- Article VII, Section 3(C): All parking spaces and aisles, as well as site driveways, drive-through lanes, fire lanes and other paved surfaces shall be situated not closer than 20 feet to a side or rear property line and not closer than 30 feet to a front property line.

The applicant seeks to continue to allow a vehicle drive land within 20 feet of the eastern side of the property.

Signs

One lit sign is proposed. ZO Article VII Section 2 permits one sign, located on the same lot as the business, and no closer than 15 feet from any street or side lot line. A smaller accessory sign less than 12 square feet is also permitted. The size, placement, and safety of the sign is approved by the Building Inspector. The proposed sign location is shown on the site plan and appears to be greater than the minimum 15 ft distance from the road as required in the Commercial and Light Industrial Zone. Any sign lighting (internal or external) should be discussed with the Planning Board.

Site Plan Review Article VII Standards

Section 1. Off-Site Impacts

- A traffic study was not submitted with the application. Modifications to the driveway would require approval from NHDOT. The applicant indicated in their April 26, 2022 narrative/cover letter that they have reached out to Steve Pernaw regarding an updated traffic analysis and report. They will submit a NHDOT permit to NHDOT District VI once the report is prepared.
- Erosion and stormwater management are proposed. A revised drainage plan was submitted. Refer to sections 5 and 6 below.
- The applicant provided a response RE off-site impacts in their Site Narrative dated October 28, 2021, including the following:
 - There are arborvitae along the east side of the lot. Note that this appears to be partially on the adjacent lot.
 - There is noise from operating machinery around the site and cut shop.
 - No foul or irregular odors.
 - Water applied to gravel areas to tamp dust down during dry conditions.
 - No fumes other than exhaust from machinery.
 - Hours of operation have been changed from what was previously stated in the Oct 2021 narrative to 7am-7pm for retail and regular operating hours, later during inclement weather to provide salt and sand.
 - A lit sign is proposed. No additional information has been provided.
 - Statement that location, design, nature, and intensity does not have an adverse impact on surrounding environment. Stormwater BMP mitigates the impact of the gravel and other impervious surfaces on site.
 - Compatibility with Commercial and Light Industrial Zone and surrounding area and lack of residential neighborhoods.
 - No historic or cultural resources were found during the Division of Historical Resources review.

Section 2. Landscaping

- The arborvitae on the east side of the lot appear to be located on Map 9 Lot 2A. The applicant has indicated that these trees help mitigate noise. If they are removed by the adjacent property owner, the applicant should be required to install a new vegetated buffer on their property.
- Snow storage is proposed in the inventory and employee parking area.
- No landscaping is shown/proposed for the front of the lot. Information about existing and proposed landscaping is needed.
- 12 red maple, 7 high blueberry shrubs, and 7 dogwood are proposed to be installed between the proposed berm and existing tree line south of the bins. It is suggested that another tree species be added to increase diversity.
- Tree size should be listed as caliper not height on sheet L-01 and should be consistent with Sheet L101.
- There is existing fencing on the east side of the lot. No changes are proposed.
- The landscaping maintenance guide is illegible.
- Is new fencing proposed?

Section 3. Parking

- There are 30 employee parking spaces proposed around the small wetland in the middle of Lot 4. Eight spaces including 2 ADA compliant spaces are located at the front of the store.
- During the site visit on 12/4/21 there was a discussion about clearly demarcating/defining the retail customer parking vs loading areas for safety reasons.
- The location of where LandCare vehicle parking during non-operational hours will be.
- Parking spaces infringe on the 25 foot no disturbance buffer (Article IX, Section VI(A)).
 - On [1/19/22](#) the Planning Board discussed the issue of whether an applicant can seek a CUP for disturbance in the 25 foot buffer (Section 5(A)) and determined that a variance from the ZBA is needed.

Section 4. Loading

- The applicant has identified travel routes and storage locations for vehicles. No loading will occur off-site. The demarcation between retail parking and loading at the front of the store should be improved to ensure no conflicts between these activities.

Section 5. Erosion and Sediment Control

- Erosion and sediment control is proposed during construction.
- Planner recommends that the Board obtain a third party review of the proposed stormwater and erosion and sediment control measures and site grading due to the sensitive nature of this location and the proposed activities, which involve storing loam, salt, and fuel.
- Planner did not thoroughly review the Drainage Plan dated April 26, 2022.

Section 6. Stormwater Runoff

- Planner has not reviewed the grading and gravel wetland plan in detail and recommends that the Board obtain a third party review of the proposed stormwater and erosion and sediment control measures and site grading due to the sensitive nature of this location and the proposed activities, which involve storing loam, salt, and fuel.
- Planner did not thoroughly review the Drainage Plan dated April 26, 2022.

Section 7. Nuisances

- Any changes to exterior lighting should be reviewed by the Planning Board.
- Any noise or vibration that may be discernable off-site should be reviewed by the Planning Board.

Section 8. Highway Access

- Driveway is proposed to be moved and widened.
- Stop signs and striping will be added
- The site is located on a State road and therefore requires a driveway permit from NHDOT. See comments on traffic study above under Off-Site Impacts. Is there an estimated/anticipated timeframe for traffic analysis and report?
 - There is a landscape retaining wall adjacent to the driveway. Sheet #6 and #13 conflict with regard to what is proposed for the retaining wall. Will it be removed? If not, what is the height?

Section 9. Water and Sewage

- The site is served by private water and sewer.
- There are no proposed changes to the existing septic system.
- There is an existing private well located over 75 feet from the septic system on site. The wellhead will be sunk and a grate added.

Section 10. Utilities

- The site is served by overhead wires. The plan states that all utilities will be underground. No utilities plan was provided.

Section 11. Emergency Services

- The applicant should seek a written statement from the Fire Chief regarding the adequacy of fire lanes, emergency site access, and storage of fuel.

Section 12. Hazardous Materials

- The location and quantity of hazardous materials should be documented and a copy provided to the Fire Chief and the Planning Board.
- The plan set depicts an existing fuel storage and containment area near the east lot line that will be relocated to the west side of Lot 3. It will be housed in a pole barn, located on a concrete pad with secondary containment. The amount will not exceed 550 gallons. Detail for the fueling station and containment should be provided.

Development of Regional Impact:

- The Planning Board determined that the proposed plan was not a development of regional impact on 11/17/21.

Additional Discussion Items:

- It would be helpful to have a table of existing (April 2022) and proposed conditions for: impervious cover and area of disturbance of within overlay districts (including structures (buildings, bins, etc.), materials, stormwater management, vehicle storage, etc.)
- Conservation Commission should be provided sufficient time to review and comment on this application.
- Recommend third party:
 - Review of stormwater plan and associated grading
 - Review of erosion and sedimentation plan
 - Construction inspection
- Where are customers allowed? Will there be signage to direct the public?
- Clarify retail vs wholesale business hours.
- Specify categories of materials to be stored (i.e. soil, gravel, stone, salt, etc.).
- Location of solar lights to be confirmed. How is the sign currently lit?
- Any previous conditions of approval should be listed on the plan.

- The general inventory storage areas should be marked on the plan – not just a label. Particularly around the front of the site where retail customers and traffic are expected and maintaining access for emergency vehicles is needed.
- All dimensions of structures should be added to the plan (fueling, pole barn, etc.)
- Add the existing well and septic permit numbers to Sheet 6 note 20.
- Are there any safety concerns with retail customers on site?
- Confirm number of employees.

Plan Note Corrections for Applicant

Sheet 6 Proposed Conditions:

- #5 - Zoning note on Wet Area Conservation Overlay should read >3,000 sf, not <3,000 sf
- #5 - Add Flood Hazard Overlay District to list of overlays
- #5 – The Shoreland Protection Overlay District should read 100 feet from the seasonal high water level of the Bellamy River
- #19 – Madbury does not have an engineer. Suggest that Building Inspector and/or their designee (such as a third party engineer) be listed instead of “town engineer”.
- #26 - Please clarify what the total disturbed area is
- #29 – update as needed

Sheet L01

- Planting Notes #8 references Dover.

Colored sheet set

- #5 Zoning note – The local Shoreland Protection Overlay District 100 foot buffer from the Bellamy should be added to the plan notes. Floodplain Overlay District should also be added.