

Memorandum

To: Members of the Planning Board
From: Liz Durfee, AICP, Planner
Date: September 14, 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: Conditional Use Permit—Article IX-A, Section 5(c). Aquifer
Protection District
Conditional Use Permit—Article XXI, Section 7(c), Flood Hazard
Overlay District

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 set dated 8-29-22.

Planner's Review

The following were reviewed:

- 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 August 29, 2022.
- 20-083 Color Buffer Impact Plans 8-29-22.pdf, dated October 18, 2021. Revised August 29, 2022.
- 20-083 3rd Party Review Response 8.29.22.pdf
- 20-083 LandCare Associates Drainage Binder 8-29-22.pdf
- 20-083 LandCare Conditional Use Permit Documents.pdf, dated August 8, 2022
- 20-083 LandCare Waiver Request Document.pdf, dated August 8, 2022
- 20-083 Site Plan Application Package.pdf, with narrative dated August 29, 2022
- 20-083 Trip Generation.pdf, dated August 29, 2022

- Third Party Review of Amended Site Plan dated July 20, 2022, and prepared by Tom Ballestero

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 primary structure that meets the setback requirements of 50 feet in the front and 25 on the side. An existing, unpermitted shed that was built in 2020 is located approximately 2 feet from the property line and does not meet the setback requirement. The applicant received a variance from Article VII, Section 3.D for the placement of a structure within the 25-foot setback with the following condition: (1) A safety review and appropriate permits for the shed and all utilities shall be obtained through the Madbury Building Inspector and Fire Department. This shed should be clearly labeled on the existing and proposed plan sheets.

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.

Proposed Use:

The existing use is a business known as Landcare Stone, which is a stone and landscaping supply wholesale store and permitted use in the Commercial and Light Industrial District. It is Landcare's intention to continue to utilize both parcels for the operation of its Landcare business. Additional businesses lease space within the primary structure. The existing primary structure is 6,076 sf in size. No changes to the structure are proposed. The structure is currently used for retail and wholesale but only approved for wholesale. The applicant has request to allow retail in addition to wholesale at the site. Half the business will be wholesale, half retail business according to discussion at the Planning Board on June 1, 2022.

A 32ft x 50 ft fabrication workshop, also referred to as a cut shop is proposed. This structure currently exists. No expansion is proposed.

The proposed LandCare hours are M-F 6am-4:30pm, Sat-Sun 7am-3pm with extended hours from Nov 1 to Apr 15 of 4am-6pm during snowstorms.

According to the narrative/cover letter submitted April 26, 2022, and information in the plan set, 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 Town's files contain no record for these businesses. These types of uses are permitted uses within the Commercial and Light Industrial District.

Note 32 on Sheet 7 of the plan set includes the nature and hours of these businesses:

- Allegro Lawn Corporation, operating M-F 6am-6pm, Sat-Sun 7am-3pm, with 30 employees, 15 of which leave the site each day after loading materials
- Guitar repair service shop, operating 3pm-12am, with 3 employees.

Overlay Districts

- The lots are subject to the Wet Areas Conservation, Shoreland, Aquifer and Wellhead Protection, and Floodplain Overlay Districts.
- The applicant has submitted two Conditional Use Permit applications for the following:

- Conditional Use Permit—Article IX-A, Section 5(c). Aquifer Protection District. The applicant proposes an increase coverage over the maximum of 15%.
- Conditional Use Permit—Article XXI, Section 7(c), Flood Hazard Overlay District. The applicant seeks to create a water impoundment for the purpose of creating on-site detention of stormwater runoff.
- In addition to the CUP criteria of Article IX-A and XXI, the applicant must meet the criteria of Article IV Section 9 of the Zoning Ordinance.
- The applicant has received two Variances approvals from the Zoning Board for the following:
 - Article IX, Section 4.B.3 for the alteration of the surface configuration of the land within the Wet Area buffer
 - Condition of approval: (1) The Subsurface Gravel Wetland Design is subject to approval by the Madbury Planning Board, incorporating suggestions from the third-party review by Tom Ballestero, dated July 20, 2022, as presented to the Madbury Zoning Board.
 - Article X, Section 4.B.3 for the alteration of the surface configuration of the land within the Shoreland buffer
 - Conditions of approval: (1) The Subsurface Gravel Wetland Design is subject to approval by the Madbury Planning Board, incorporating suggestions from the third-party review by Tom Ballestero, dated July 20, 2022, as presented to the Madbury Zoning Board (2) Applicants shall obtain all applicable permits

CUPs and variances associated with existing and proposed uses within the overlay districts have been discussed at several meetings. Some changes to the plan have been made to move storage bins out of the shoreland overlay.

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

Overlay	Proposed Uses (sf updated 9.13.22)	Pertinent Regulations Summary (from memo dated 5.2.22)	Updated review 9.13.22**
Wet Areas Conservation Overlay 25 ft no disturbance buffer (Article IX)	<ul style="list-style-type: none"> ● Employee parking/storage/drive area around the wetland in middle of site (8,531 sf proposed disturbance) ● Stormwater BMP (450 sf disturbance) 	<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. 	<ul style="list-style-type: none"> ● The applicant received a variance for alteration of the surface configuration within the wet area buffer. The Zoning Board approved alteration associated with the stormwater impoundment. ZBA minutes and NOD do not reference the parking area but the variance application dated June 13, 2022, does specify parking within the 25ft no disturbance area.
Wet Areas Conservation Overlay Building and Septic Setback	<ul style="list-style-type: none"> ● Stormwater BMP/gravel wetland/impoundment (10,891 sf) ● Gravel inventory (unclear what area is) 	<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 	<ul style="list-style-type: none"> ● The applicant received a variance for alteration of the surface configuration within the wet area buffer associated with the stormwater BMP.

	<ul style="list-style-type: none"> • Driveway (unclear what area is) • Employee parking (unclear what area is) • Grading (unclear what area is) 	<p>section of the ordinance. If yes, the use is permitted, if no, then a variance is required. Driveway access is subject to a CUP</p> <ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • Driveway access is subject to a CUP.
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. 	<ul style="list-style-type: none"> • The applicant received a variance for alteration of the surface configuration within the Shoreland zone associated with the stormwater BMP.
Shoreland Protection Overlay 100 ft from Bellamy River	<ul style="list-style-type: none"> • Stormwater BMP grading (10,176 sf proposed disturbance) 	<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. 	<ul style="list-style-type: none"> • The applicant received a variance for alteration of the surface configuration within the Shoreland zone associated with the stormwater BMP.
Floodplain Overlay (Article XXI)	<ul style="list-style-type: none"> • Drive/travel way • Parking • Gravel inventory • Stormwater BMP • Grading + fill • Cut Shop 	<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 	<ul style="list-style-type: none"> • Board should review prohibited uses with applicant to ensure none are proposed. • Applicant has submitted a CUP for the water impoundment.
Aquifer Protection Overlay	Both lots are entirely within the overlay district.	<ul style="list-style-type: none"> • Section 5 of the <u>updated ordinance</u> lists permitted, prohibited, and conditional uses within the district. This 	<ul style="list-style-type: none"> • The applicant has submitted a CUP for imperiousness over 15% of the lot.

		<p>list should be reviewed with the applicant to confirm proposed uses are either permitted or allowed conditionally.</p> <ul style="list-style-type: none"> • A CUP is required for imperviousness over 15% of the lot. 	<ul style="list-style-type: none"> • List of permitted, prohibited, and conditional uses within the district should be reviewed with the applicant.
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****Note:** Planner has recommended that the Planning Board seek guidance from legal counsel on the specifics of what was approved by the ZBA. The variance application form to the ZBA did not reference Article IX, Section 5(A) which pertains to the no disturbance buffer and is a separate provision from Article IX, Section 4(B).

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 Trip Generation and Distribution study was submitted August 29, 2022.
 - The applicant’s conclusions and recommendations are included on page 16 of the report. A total of 31 vehicle-trips were observed during morning peak hour during summer. A total of 28 vehicle trips (16 entering/12 existing) are predicted at weekday morning peak hour and 11 vehicle trips in evening peak hour for this type of use. Over 80% of observed vehicles that entered the site traveled to and from points east on NH 155.
 - The number of vehicle trips associate with the site would not be expected to exceed the capacity of Route 155 or significantly impact the surrounding area. However, recommendation number 4 is not especial clear and should be explained (“ITE Trip generation total trip generation calculation is nearly inversely proportional to observed values. The nature of LandCare’s business is higher AM generation, providing further evidence for the generation. July & August are seasonally higher trip generations.”)
- Erosion and stormwater management are proposed. A drainage plan was reviewed by Tom Ballestero. 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. *Note that this has again changed according to the latest plan set. The applicant should confirm their proposed hours.*
- 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, except a landscaped retaining wall with no additional detail. Information about existing and proposed landscaping is needed.
- 13 red maple, 7 high blueberry shrubs, and 7 dogwoods 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.
- A decorative white chain fence is proposed at the front of the employee parking.

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. The total number of employees at all three businesses is 63. How many employees from each business are usually onsite during a typically workday? Where do the Allegro vehicles park?
- 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. This does not appear to have been added to the plan
- Parking spaces infringe on the 25 foot no disturbance wetland buffer. See variance discussion in Table 1.

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.
- A third party, Tom Ballestero, reviewed the proposed stormwater and erosion and sediment control measures and drainage plan. Please refer to this report (“Third party review of the amended site plan at LandCare,” dated July 20, 2022). Applicant has provided a response to comments (“20-083 3rd Party Review Response 8-29-22”). Tom Ballestero is preparing a follow up review of the updated (Aug 29, 2022) plan set.

Section 6. Stormwater Runoff

- A third party, Tom Ballestero, reviewed the proposed stormwater and erosion and sediment control measures and drainage plan. Please refer to this report (“Third party review of the amended site plan at LandCare,” dated July 20, 2022). Applicant has provided a response to comments (“20-083 3rd Party Review Response 8-29-22”). Tom Ballestero is preparing a follow up review of the updated (Aug 29, 2022) plan set.

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

- Western driveway is proposed to be moved and widened.
- Stop signs and striping will be added to both driveways.
- The site is located on a State road and therefore requires a driveway permit from NHDOT. Has a DOT driveway permit been submitted?
- There is a landscape retaining wall adjacent to the driveway. What is the height of this?
- A Trip Generation and Distribution study was submitted August 29, 2022. See comments above under Section 1.

Section 9. Water and Sewage

- The site is served by private water and sewer.
- There are no proposed changes to the existing septic system. No information has been provided about the 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.

- Per conditions of approval from the variance granting relief to locate a shed within 2 feet of the property line, a safety review and appropriate permits for the shed and all utilities shall be obtained through the Madbury Building Inspector and Fire Department

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 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 (completed)
 - Review of erosion and sedimentation plan (completed)
 - Construction inspection
- Where are customers allowed? Will there be signage to direct the public?
- 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 7 note 20.
- Are there any safety concerns with retail customers on site?
- All variances should be listed on the plan.

Plan Note Corrections for Applicant

- Sheet 3 and Sheet 7: #5 - Zoning note on Wet Area Conservation Overlay should read >3,000 sf, not <3,000 sf
- Sheet 3 and Sheet 7: #5 - Add Flood Hazard Overlay District to list of overlays

- Sheet 3 and Sheet 7: #5 – The Shoreland Protection Overlay District should read 100 feet from the seasonal high water level of the Bellamy River
- #12 of sheet 4 and #24 on sheet 7: Add text to clarify that the information displayed is the total area and the percent impervious cover.
- Sheet 7: #15 – This is something that the applicant should include in the plan details themselves, not a note to include on the plan.
- Sheet 7: #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”.
- Sheet 7: #26, #27, and all other instances, need to clarify when referencing the state shoreland and the town shoreland zone instead of just stating shoreland zone.
- Sheet 7: #29 – correct CUPs requested.
- Sheet 7: #31 – clarify that the existing *primary* structure is 6,076 sq ft
- Sheet 7: #36 - please use consistent units (either cubic yards or cubic feet)
- Sheet 7: Add a note about specific variances received, conditions of approval, and the date of approval.