

WETLAND AND SHORELAND OVERLAY DISTRICTS

Zoning Amendments Recommended by the Conservation Commission - March 27, 2023

Presented to the Planning Board on April 12, 2023

This amendment involves changes to the criteria for conditional uses in the WCOD and SPOD and minor improvements in the introductory paragraphs for Permitted Use B. and Conditional Use. The same changes are proposed for the SPOD as for the WCOD.

Proposed additions to current language are shown like this.

~~*Proposed deletions to current language are shown like this.*~~

Article XIII - Wetland Conservation Overlay District

175-59. Applicability.

- C. The provisions of this article apply in addition to any state requirements for a dredge and fill permit or other state approval or permit. It is the intention of the Town that these provisions be coordinated with state requirements and standards but that these standards shall govern if they are more stringent than state standards. *(NOTE: It is the responsibility of the property owner/applicant to consult with the New Hampshire Department of Environmental Services to obtain all required permits for any ground disturbance in wetlands.)*

175-60. Permitted Uses in the WCOD.

- B. The following uses ~~or~~ *and* activities, including any necessary grading, shall be permitted in the WCOD *if provided* they are permitted in the underlying zoning district ~~provided that the Zoning Administrator issues a permit for the activity after~~ *and* the Planning Board, ~~with the advice of the Conservation Commission,~~ determines that: ~~a.)~~ *1)* appropriate erosion control measures will be used, ~~b.)~~ *2)* any disturbed area will be restored, and ~~e.)~~ *3)* the activity will be conducted in a manner that minimizes any impact on the wetland. *The Planning Board shall not take action on an application until the application has been presented to the Conservation Commission and the Conservation Commission has offered its comments/recommendations.*

175-61. Conditional Uses in the WCOD.

- A. The following uses, including any necessary grading, shall be permitted as conditional uses in the WCOD provided that the use is allowed in the underlying zoning district *and the Planning Board determines that the criteria in 175-61. B., below, are met. and a Conditional Use Permit is granted by the Planning Board in accordance with*

~~Article VII:~~ *The Planning Board shall not take action on an application until the application has been presented to the Conservation Commission and the Conservation Commission has offered its comments/recommendations.*

...

B. The Planning Board shall approve a Conditional Use Permit for a use in the WCOD only if it finds that all four of the following criteria have been met in addition to the general criteria for conditional uses and any performance standards for the particular use:

- 1. There is no alternative design and location on the parcel for the proposed project that would:
 - a) have less adverse impact on the WCOD and overall ecological values;*
 - b) be workable; and*
 - c) be fair to expect the applicant to use.**
- 2. The design, construction, maintenance and operation of the proposed structures and activities within the wetland and buffer will minimize soil disturbance and adverse impacts to water quality to the extent workable.*
- 3. Mitigation and restoration activities of the area being disturbed will allow for the site to perform the functions of the wetland and buffer to the extent workable. Planting of native or naturalized vegetation shall be included as appropriate (See Section 175-60 A. 1. for reference).*
- 4. The proposed project will not have substantial adverse impacts to rare species and habitat, water quality, aquatic connectivity, and wildlife corridors.*

C. Ecological value is defined as the environmental functions performed by all lands and waters to support the variety of habitats and the abundance, and diversity and habitat of the of all flora and fauna.

~~*B. The Planning Board shall approve a Conditional Use Permit for a use in the WCOD only if it finds, with the advice of the Conservation Commission, that all of the following standards have been met in addition to the general standards for conditional uses and any performance standards for the particular use.*~~

- ~~*1. There is no alternative location on the parcel that is outside of the WCOD that is reasonably practical for the proposed use;*~~
- ~~*2. The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;*~~

~~3. The location, design, construction, and maintenance of the facilities will minimize any detrimental impact on the wetland, and mitigation activities will be undertaken to counterbalance any adverse impacts; and~~

~~4. Restoration activities will leave the site, as nearly as possible, in its existing condition and grade at the time of application for the Conditional Use Permit.~~

Article XIV – Shoreland Protection Overlay District

175-70. Applicability.

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The provisions of this article apply in addition to any state requirements for shoreland areas or other state approvals or permits. It is the intention of the Town that these provisions be coordinated with state requirements and standards but that these standards shall govern if they are more stringent than state standards. *(NOTE: It is the responsibility of the property owner/applicant to consult with the New Hampshire Department of Environmental Services to obtain all required permits for any activities within or in proximity to protected water resources.)*

175-71. Permitted Uses in the SPOD.

- B. The following uses ~~or~~ *and* activities, including any necessary grading, shall be permitted in the SPOD *if provided they are permitted in the underlying zoning district provided that the Zoning Administrator issues a permit for the activity after and* the Planning Board, ~~with the advice of the Conservation Commission,~~ determines that: ~~a.)~~ *1)* appropriate erosion control measures will be used, ~~b.)~~ *2)* any disturbed area will be restored, and ~~c.)~~ *3)* the activity will be conducted in a manner that minimizes any impact on the shoreland. *The Planning Board shall not take action on an application until the application has been presented to the Conservation Commission and the Conservation Commission has offered its comments/recommendations.*

...

175-72. Conditional Uses in the SPOD.

- A. The following uses, including any necessary grading, shall be permitted as conditional uses in the SPOD provided that the use is allowed in the underlying zoning district *and the Planning Board determines that the criteria in 175-72. B., below, are met. and a Conditional Use Permit is granted by the Planning Board in accordance with Article VII:* *The Planning Board shall not take action on an application until the application has been presented to the Conservation Commission and the Conservation Commission has offered its comments/recommendations.*

...

B. The Planning Board shall approve a Conditional Use Permit for a use in the SPOD only if it finds that all four of the following criteria have been met in addition to the general criteria for conditional uses and any performance standards for the particular use:

- 1. There is no alternative design and location on the parcel for the proposed project that would:
 - a) have less adverse impact on the SPOD and overall ecological values;*
 - b) be workable; and*
 - c) be fair to expect the applicant to use.**
- 2. The design, construction, maintenance and operation of the proposed structures and activities within the water resource and buffer will minimize soil disturbance and adverse impacts to water quality to the extent workable.*
- 3. Mitigation and restoration activities of the area being disturbed will allow for the site to perform the functions of the water resource and buffer to the extent workable. Planting of native or naturalized vegetation shall be included as appropriate (See Section 175-60 A. 1. for reference).*
- 4. The proposed project will not have substantial adverse impacts to rare species and habitat, water quality, aquatic connectivity, and wildlife corridors.*

C. Ecological value is defined as the environmental functions performed by all lands and waters to support the variety of habitats and the abundance, and diversity and habitat of the of all flora and fauna.

~~*B. The Planning Board shall approve a Conditional Use Permit for a use in the SPOD only if it finds, with the advice of the Conservation Commission, that all of the following standards have been met in addition to the general standards for conditional uses and any performance standards for the particular use.*~~

- ~~*1. There is no alternative location on the parcel that is outside of the SPOD that is reasonably practical for the proposed use;*~~
- ~~*2. The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;*~~
- ~~*3. The location design, construction, and maintenance of the facilities will minimize any detrimental impact on the adjacent shoreland and waterbody as well as downstream waterbodies, and mitigation activities will be undertaken*~~

~~*to counterbalance any adverse impacts; and*~~

~~*4. Restoration activities will leave the site, as nearly as possible, in its pre-existing condition and grade at the time of application for the Conditional Use Permit.*~~