

# CITY OF PORTLAND, MAINE

## PLANNING BOARD

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Timothy Dean, Vice Chair  
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April 16, 2014

Doug Roncarati, Stormwater Program Coordinator,  
City of Portland Department of Public Services  
55 Portland Street  
Portland, ME 04101

**Project Name:** Capisic Pond Enhancement; Level III Site Plan  
**Project ID:** #2013-268  
**Project Address:** Vicinity of Capisic Street  
**CBL:** 224 C 001; 192 C001; 224 A X001  
**Applicant:** Doug Roncarati, Stormwater Program Coordinator,  
City of Portland, Department of Public Services  
**Planner:** Jean Fraser

Dear Doug:

On March 25<sup>th</sup>, 2014 the Portland Planning Board approved a Level III Final Site Plan for the enhancement project to the Capisic Pond within the Capisic Pond Park in the vicinity of Capisic Street. The proposals include the removal of cattails and sediments from historically open waters and replanting with a diverse range of vegetation that will support a greater diversity of habitat and help maintain the open water area. The area of disturbance is approximately 8 acres.

The Planning Board reviewed the proposal for conformance with the standards of the Site Plan Ordinance and voted 5-0 (Dundon and O'Brien absent) to approve the application with the following conditions as presented below.

On the basis of the Level III site plan application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the public hearing on March 25, 2014 for application #2013-268 Capisic Pond Enhancement, relevant to the Site Plan standards and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan is in conformance with the site plan standards of the Land Use Code, subject to the following conditions of approval:

- i. That a copy of the NRPA, Army Corps and MDEP permits shall be submitted to the Planning Authority prior to the issuance of a building permit. If there are significant modifications to the proposals as a result of these reviews, then an amended site plan would be required for approval by the Planning Authority prior to the issuance of a building permit; and
- ii. That the applicant shall obtain easements or temporary construction agreements for all work outside the boundaries of the site, to be reviewed and approved by Corporation Counsel and the recorded copies shall be provided to the Planning Authority prior to the issuance of a building permit; and
- iii. That the applicant and contractors and all associated truck operators shall follow the submitted routing program (including Notes on Plan 2 G-001) and avoid the peak drop off and pick up times at Breakwater School, and that Breakwater School shall be formally advised, 3 weeks prior to the start of any associated truck traffic, of the times of truck traffic so that they may advise parents of the arrangements; and
- iv. That the best management practices and timeframes listed and required in the City of Portland Ordinances for the Shoreland Zone shall be followed during the construction work; and
- v. That this approval is valid for 3 years from the date of Planning Board approval.

The approval is based on the submitted plans and the findings related to site plan review standards as contained in the Planning Board Report for the public hearing on March 25<sup>th</sup>, 2014 for application #2013-268 (Capisic Pond Enhancement), which is attached. The standard conditions of approval are listed below.

#### STANDARD CONDITIONS OF APPROVAL

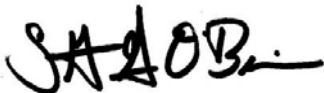
Please note the following standard conditions of approval and requirements for all approved site plans:

1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
2. **Separate Building Permits Are Required** A "Site Work Only" Building Permit for the site work is required; please coordinate with the Inspections Division to arrange for this building permit.
3. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within three (3) years of the approval, as per condition v. above. This expiry date may not be extended.
4. **Inspection Fees** An inspection fee payment of \$300 and seven (7) final sets of plans must be submitted to the Planning Division prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
5. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
6. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
7. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If you have any questions, please contact Jean Fraser at 874 8728 or jf@portlandmaine.gov.

Sincerely,



Stuart O'Brien, Chair  
Portland Planning Board

**Attachment:** P. B. Hearing Report for the public hearing on March 25<sup>th</sup>, 2014 re #2013-268 (Capisic Pond Enhancement)

3.

**Electronic Distribution:**

Jeff Levine, AICP, Director of Planning and Urban Development  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Jean Fraser, Planner  
Philip DiPierro, Development Review Coordinator  
Marge Schmuckal, Zoning Administrator  
Tammy Munson, Inspections Division Director  
Lannie Dobson, Inspections Division  
Michael Bobinsky, Public Services Director  
Katherine Earley, Engineering Services Manager, Public Services  
Bill Clark, Project Engineer, Public Services  
David Margolis-Pineo, Deputy City Engineer, Public Services  
Greg Vining, Associate Engineer, Public Service  
Michelle Sweeney, Associate Engineer

John Low, Associate Engineer, Public Services  
Rhonda Zazzara, Field Inspection Coordinator, Public Services  
Mike Farmer, Project Engineer, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Jeremiah Bartlett, Public Services  
Captain Chris Pirone, Fire Department  
Danielle West-Chuhta, Corporation Counsel  
Jennifer Thompson, Associate Corporation Counsel  
Thomas Errico, P.E., TY Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Approval Letter File



# PLANNING BOARD REPORT PORTLAND, MAINE

Capisic Pond Enhancement

vicinity of Capisic Street

Final Level III Site Plan

Project #: 2013-268 CBL 192-C001001

City of Portland, Doug Roncarati, Stormwater Program Coordinator, DPS, applicant

Submitted to: Portland Planning Board  
Public Hearing Date: March 25<sup>th</sup>, 2014

Prepared by: Jean Fraser, Planner  
Date: March 21<sup>st</sup>, 2014

## I. INTRODUCTION

Woodard & Curran have submitted a final Level III Site plan application on behalf of the City of Portland for an enhancement project to the Capisic Pond within the Capisic Pond Park on the north side of Capisic Street. The project was considered at a PB workshop on January 28, 2014.

The project involves the removal of cattails and sediments from historically open waters using mechanical excavation methods and then replanting with a diverse range of vegetation that will support a greater diversity of habitat and help maintain the open water area. The area of disturbance is approximately 8 acres.

Overall the project is important to allow the pond to remain classified as a moderate value Inland Waterbird and Waterfowl Habitat by the Maine Department of Inland Fisheries and Wildlife. The project is located within the City's Recreation Open Space Zone and Stream Protection Overlay Zone with a small part also within the Shoreland Overlay Zone. The entire area is within the "AE" Flood Area.

The project has been revised in response to Workshop comments (Attachment N and revised Plans P2., P3., and P4.) with additional information on truck traffic, construction management, tree preservation and the NRPA Permit public meeting (Attachment M) and application (Attachment O).

This hearing has been noticed to 354 local neighbors and interested citizens with a legal advertisement in the *Portland Press Herald* on March 10<sup>th</sup> and 11<sup>th</sup>, 2014. A Neighborhood Meeting was held on January 21, 2014 (Certificate and Notes in Attachment M). The Planning office has not received any public comments as of the time of preparing this Report.

### Required reviews:

The project is being reviewed as a Level III Site Plan because the scale of the disturbance is over 3 acres and it includes park improvements over 20,000 sq ft. It also requires NRPA, Army Corps and MDEP permits due to the impacts on significant Wildlife Habitat and wetlands and scale of disturbance to land (described in Attachment D).

### Waiver requests:

The project does not necessitate any waivers but the applicant has requested a three year period of validity for the approval if granted (rather than 1 year with a later request for an extension of 2 years) because the funding for this anticipates a summer 2015 start on site.



**II. PROJECT DATA**

|                                |                                   |
|--------------------------------|-----------------------------------|
| Area of site:                  | 784,080 sq ft (18 acres)          |
| Proposed area of disturbance:  | 357,300 sq ft (8.2 acres)         |
| Impervious surfaces:           | none                              |
| Zoning:                        | ROS; Shoreland; Stream Protection |
| Land Use:                      | Public park (Capisic Pond Park)   |
| Estimated Cost of the Project: | \$2,090,000                       |

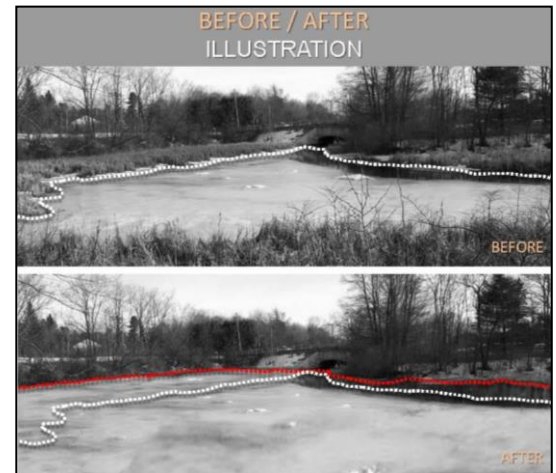
**III. BACKGROUND/EXISTING CONDITIONS**

Capisic Pond is the City of Portland’s largest freshwater water body and the surrounding park is well used by area residents and bird watchers. The application (Project Description in Attachment B) explains it is a man made pond created by dams that were first installed in the 1600’s and recent weir modifications.

It is classified by the Maine Department of Inland Fisheries and Wildlife (MDIFW) as a moderate-value Inland Wading Bird and Waterfowl habitat, which is considered “Significant Wildlife Habitat” under the State law.

The pond has become overgrown with invasive cattails which have reduced the open water area from about 7.7 acres (1950’s) to about 2 acres. This problem has accelerated over the last 10 years and has developed into a cattail monoculture and dense cattail stands that reduce the water flow, the open water areas and the range of plant species - all of which reduce its value as a wildlife habitat.

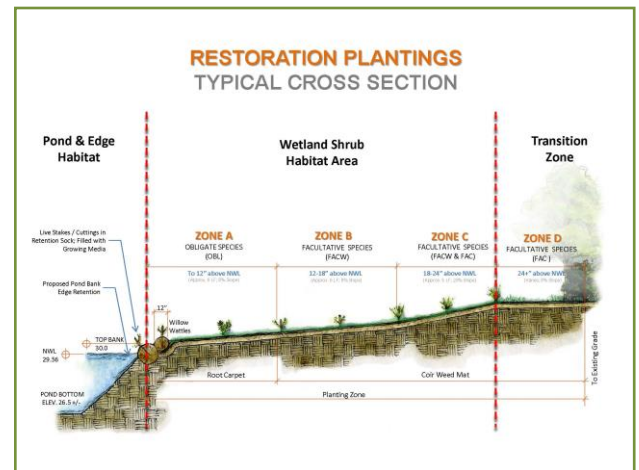
The project anticipates funding to be confirmed for a start in 2015 (summer) and all approvals are expected to be in place in the next few month so that final construction documents can be prepared by the end of 2014.



From applicant - see Plan 9 set of graphics

**IV. PROPOSED DEVELOPMENT**

The proposals are described in detail in Attachment H and Attachment N; it is illustrated in the Plans P1-P8 and the illustrative material in Plan P9. In summary the project proposes to remove the cattails and sediment from the pond area and modify the pond edge profile and increase the open water area, then replant the pond edge with a range of suitable plant species. This is shown in the extract from the Plan P9 series of illustrations at right:



This will entail reduction in the water level to allow for mechanical excavation and dredging and removal of materials by truck, starting at the northern end of the pond. The amount of material to be removed is substantial and will involve up to a hundred truck loads per day over 3-4 weeks for the sediment removal (Attachment N pg 2). The final Construction Plan (Plan P4) shows three proposed construction vehicle access locations on Capisic Street and associated protection measures; Plan 2 includes notes regarding the routing of trucks.

**V. PUBLIC COMMENT AND WORKSHOP**

The applicant has held a number of public meetings on this project since July 2011 and the proposals reflect neighbor input as well as discussions with State permitting agencies. The Planning Office has not received any written comments and the Planning Board did not raise any particular issues over and above those highlighted by staff in the Workshop Memo.

## VI. RIGHT, TITLE AND INTEREST

The City (applicant) owns all of the pond area impacted by the project to the north of Capisic Street but the improvements and construction access will also be undertaken on areas of the Pond that are privately owned to the south of Capisic Street. The City's Legal Department is working with the Project Engineer to secure easements for these areas and a potential condition of approval requires these to be secured and recorded prior to the issuance of a building permit.

## VII. STAFF REVIEW

### A. ZONING ASSESSMENT

The applicant has submitted an assessment of zoning (Attachment F) and the Zoning Administrator has approved the project subject to conditions (Attachment 2):

*This project is located in an ROS zone with floodplain and shoreland overlay. Floodplain regulations [14-450.8(c)] state: "All development associated with altered or relocated portions of a watercourse shall be constructed and maintain in such a manner that no reduction occurs in the flood carrying capacity of the watercourse." This project is to specifically open up the closed in areas by overproductive cat-o-nine tails. The pond is being brought back to a healthier state with this "clean-out".*

*Shoreland/Stream protection also allows clearing within the pond to historically open areas [14-14-449(e)3 & 4]. 14-449(d) allows the excavation or similar activities, however that section of the Shoreland Zone goes on to list best management practices that must be met and within the time frames given in the Ordinance. The applicant shall follow these required practices during the construction work.*

*Zoning approves the work being proposed.*

### B. SITE PLAN STANDARDS

The project is unusual in that it does not involve building construction and many of the site plan standards are not applicable. However, the project affects a large area and is surrounded by residential and institutional uses and the review below addresses the impacts of the project.

#### (A) *Transportation*

- ***Impact on surrounding street system***

The project involves an intense period of sediment removal near the start of the contract and Tom Errico, Traffic Engineering reviewer, had requested further information on the truck traffic generation, sightlines and truck routes. The applicant has provided this information in Attachment N. Mr Errico has confirmed that the traffic levels are not expected to be problematic from a capacity or safety perspective and that the sight distances for the construction access points meet City standards (Attachment 3).

- ***Construction Management Plan***

The written Construction Management Plan in Attachment K explains this aspect of the project in detail, and revised Plan P2, Notes 30, 31 and 32 clarify truck traffic routes and requirements for sweeping of the ROW. The issue of truck routes is a concern because the preferred route goes by the main drop off and pick up location for Breakwater School (grades pre-school to 8<sup>th</sup>) and Tom Errico has commented (Attachment 3):

*A proposed truck routing plan shall be documented. It is my understanding that it is likely that trucks will be destined to the City of Westbrook via Brighton Avenue. Accordingly, it seems reasonable that the routing consist of travel along Capisic Street to Brighton Avenue. I would suggest that truck activity avoid peak drop-off and pick-up times at Breakwater School. Also, provisions to ensure that vehicles are cleaned prior to entering the public street system should be included.*

***Status: The applicant has provided a routing program that I find acceptable. This should be considered a condition of approval.***

The following condition of approval, based on Tom Errico's comments, is suggested:



That the applicant and contractors and all associated truck operators shall follow the submitted routing program and avoid the peak drop off and pick up times at Breakwater School, and that Breakwater School shall be formally advised, 3 weeks prior to the start of any associated truck traffic, of the times of truck traffic so that they may advise parents of the arrangements; and

- ***Sidewalk and ROW***

The Plan (Note 30 on Plans P2. and P4.) has been revised to address the previous DPS comments (Attachment 4) that requested that the contractor be responsible for any sweeping due to materials inadvertently falling on the roadway between the dredge and disposal site. Comments from the Department of Public Services were not received in time to be included in this report and will be circulated at the PB meeting.

**(B) *Environmental Quality Standards***

- ***Preservation of Significant Natural Features***

The project team has been working with the MDEP, MDIFW, and the Army Corps of Engineers to ensure that the impacts on the existing wildlife and habitats are fully understood and addressed. As confirmed in Attachment D, a NRPA Permit is required along with Army Corps and other MDEP permits and the NRPA application is included at Attachment O. The application is currently under review and the applicant is addressing questions from the MDEP. The applicant has requested, and staff recommend, that the receipt of NRPA and other required State permits be a condition of approval.

- ***Landscape Preservation***

The City Arborist had previously highlighted the need for some “treesaves” in the vicinity of the construction access off the north side of Capisic Street. The Existing Conditions Plan (Plan P3.) has been revised to identify the larger existing trees in the vicinity of the proposed construction access. The Construction Plan (Plan P4) has shown these trees and confirmed that two are proposed for removal to allow for the construction access.

The City Arborist has confirmed these proposals are acceptable and anticipates being involved as the project progresses (Attachment 1).

- ***Stormwater and Erosion control***

The project does not result in any additional impervious area and therefore the only requirements under Chapter 500 and the City’s Technical standards relate to erosion and sedimentation control (see Attachment I). The Site Details Plan (P7) includes notes/details for the measures proposed to control erosion and sedimentation.

**(C) *Public Infrastructure and Community Safety Standards***

- ***Consistency with City Master Plans/infrastructure***

The City has made a significant investment over the past 15 years in improving the Capisic Brook watershed through combined sewer overflow improvements and stormwater management, with additional steps identified in the Capisic Brook Watershed Management Plan adopted in November 2012. The proposed project complements the other initiatives as well as addressing other State and local objectives.

**(D) *Site Design Standards***

(these do not apply to this project)

**VIII. STAFF RECOMMENDATION**

The project is a large-scale endeavor and impacts the adjoining neighborhood. Although it is part of a wider project that began in 2011, the site plan process has provided an opportunity for the public and site plan reviewers to ensure that there are unlikely to be any concerns once the project commences. Staff recommend that the approval be extended to three years (normally one year, with option to extend another 2 years if requested prior to the expiration of one year) and to the granting of approval subject to the receipt of NRPA and other permits since these are largely involved with technical details.

## IX. MOTIONS FOR THE BOARD TO CONSIDER

### DEVELOPMENT REVIEW

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the public hearing on March 25, 2014 for application #2013-268 Capisic Pond Enhancement, relevant to the Site Plan reviews and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds the following:

### SITE PLAN REVIEW

The Planning Board finds that the plan (**is/is not**) in conformance with the site plan standards of the Land Use Code, subject to the following condition(s) of approval:

Potential conditions of approval:

- i. That a copy of the NRPA, Army Corps and MDEP permits shall be submitted to the Planning Authority prior to the issuance of a building permit. If there are significant modifications to the proposals as a result of the these reviews, then an amended site plan would be required for approval by the Planning Authority prior to the issuance of a building permit; and
- ii. That the applicant shall obtain easements or temporary construction agreements for all work outside the boundaries of the site, to be reviewed and approved by Corporation Counsel and the recorded copies shall be provided to the Planning Authority prior to the issuance of a building permit; and
- iii. That the applicant and contractors and all associated truck operators shall follow the submitted routing program (including Notes on Plan 2 G-001) and avoid the peak drop off and pick up times at Breakwater School, and that Breakwater School shall be formally advised, 3 weeks prior to the start of any associated truck traffic, of the times of truck traffic so that they may advise parents of the arrangements; and
- iv. That the best management practices and timeframes listed and required in the City of Portland Ordinances for the Shoreland Zone shall be followed during the construction work; and
- v. That this approval is valid for 3 years from the date of Planning Board approval.

## ATTACHMENTS

### Staff Review Comments

1. City Arborist comments 3.20.2014 and 1.17.2014
2. Zoning Administrator comments 1.22.2014
3. Traffic Engineering Review comments 3.20.2014
4. DPS Engineering comments 1.24.2014 and (update awaited)

### Public Comments

(None received as of completion of this Report)

(continued)



**Applicants Submittal**

- A. Application
- B. Project Description
- C. Right, Title and Interest
- D. Evidence of State and Federal Approvals
- E. Financial and Technical Capacity
- F. Zoning Assessment
- G. Conformance with Site Plan Standards
- H. Significant Natural Features
- I. Stormwater Management
- J. Solid Waste
- K. Construction Management Plan
- L. Fire Department Review

**Received since Workshop:**

- M. Public/Neighborhood Meeting Documents
- N. Response to Workshop comments 3.3.2014
- O. NRPA application

**Plans**

- P1. Cover sheet and Index
- P2. General Notes and legend (revised)
- P3. Existing conditions (revised to show trees)
- P4. Construction Plan (revised)
- P5. Landscaping Plan
- P6. Landscaping Details
- P7. Site Details
- P8. Site Details (revised)
- P9. Pond Cross sections and illustrations (12)