

1. Planning Board Meeting Materials

Documents:

2023-06-8 PLANNING BOARD AGENDA.PDF  
ORDINANCE AMENDMENTS FOR PLANNING BOARD PUBLIC  
HEARING\_DRAFT\_ 2023-5-15.PDF  
MAY 11, 2023 PLANNING DRAFT MINUTES.1.DOCX  
MAY 25, 2023 PLANNING DRAFT MINUTES.3.DOCX



**AGENDA**  
**York Planning Board Meeting**  
**Thursday, June 8, 2023**  
**7:00 PM**  
**York Public Library**

- 1. Call to Order; Determination of Quorum; Appointment of Alternates**
- 2. Field Changes**
- 3. Public Forum**
- 4. Public Hearing- November 2023 Ordinance Amendments**
  - a. Accessory Dwelling Units
  - b. Workforce Affordable Housing
  - c. Open Space Conservation Subdivision
  - d. Board of Design Review
- 5. Discussion/Review**
  - a. Formation of Committee to Review Access on York River
  - b. GEROD Design Charettes
  - c. Comprehensive Plan Steering Committee/Future Land Use Committee
  - d. Update on the Environmental Planner
- 6. Minutes**
- 7. Other Business**
- 8. Adjourn**



**Notice of Public Hearing  
Planning Board  
Thursday, June 08, 2023  
7:00 PM  
York Public Library**

The York Planning Board will conduct a Public Hearing regarding proposed zoning ordinance amendments as follows:

Zoning

1. Accessory Dwelling Units
2. Workforce Affordable Housing
3. Open Space Conservation Subdivision
4. Board of Design Review

Printed copies of the proposed amendments (draft document dated May 15, 2023) and any associated maps are available with the Town Clerk at the Town Hall, and digital copies are available on the Town's Web page ([www.yorkmaine.org](http://www.yorkmaine.org)).

# **Proposed Ordinance Amendments**

to be considered at a

## **November 2023 General Referendum**

### Amendment

1. Accessory Dwelling Units
2. Workforce Affordable Housing
3. Open Space Conservation Subdivision
4. Board of Design Review

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## Amendment #

### *Accessory Dwelling Units*

**Ballot Language:** The following language would appear on the ballot:

Article X

The Town hereby ordains to amend the **Zoning Ordinance**, specifically Article 7 Special Provisions section 7.17 Accessory Dwelling Units.

Statement of Fact: The purpose of this amendment is to ensure municipal compliance with state statute, which sets development standards and requires municipalities to permit accessory dwelling units where single-family dwellings exist or are permitted. The amendments also seek to comply with York's Comprehensive Plan goals of promoting a variety of housing types that are affordable to a socially and economically diverse population.

Recommended by the Planning Board:

Recommended by the Board of Selectmen:

**Amendment:** Amend Article 7, Special Provisions, specifically section 7.17 Accessory Dwelling Units, as follows:

#### **7.17 Accessory Dwelling Units**

7.17.1 Purpose Statement for Accessory Dwelling Units: This ordinance is intended to increase the variety of housing opportunities for York's diverse population, *provide additional affordable housing*, while ~~affording~~ *allowing* long-term residents tax relief potential through rental opportunities.

7.17.2 Performance Standards:

- A. An accessory dwelling unit (ADU) is a small apartment which is part of an existing single family owner-occupied ~~home~~ *dwelling*, in the same building as the principal dwelling unit or in a building accessory to the principal dwelling unit, and which is clearly secondary to the single-family home. The ADU shall have living, sleeping, sanitary and kitchen facilities for the exclusive use of the unit occupants. The ADU may be rented so that the owner-occupant may benefit

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from the additional income. The owner may also elect to occupy the accessory dwelling unit and rent the principal dwelling unit.

- B. Owner-occupied means that either the principal dwelling unit or the accessory dwelling unit is occupied by a person who has a legal or equitable ownership interest in the property and bears all or part of the economic risk of decline in value of the property and who receives all or part of the remuneration, if any, derived from the lease or rental of the dwelling unit.
- C. An accessory dwelling unit may be permitted as an accessory use to a single-family ~~home~~ *dwelling* under the following conditions:
  - 1. Only one ADU is permitted per lot. The ADU shall be located in the same building as the principal dwelling unit or in a building accessory to the principal dwelling unit *and shall be exempt from base zone density requirements for dwelling units and the minimum floor area requirements as specified in section 5.3 of this ordinance.* Any structure containing an ADU must meet the minimum yard and setback requirements for the principal structure, and must meet all relevant sections of the state and local Plumbing Codes. The ADU permit process shall be applicable to all zones town wide, regardless of underlying base zone use requirements. All other Town of York Zoning requirements shall be met *unless otherwise specified in section 7.17 of the Zoning Ordinance.* ~~Within the Shoreland Overlay District and Watershed Protection Overlay District, each ADU shall be considered an additional residential unit, and no permit shall be issued for a new ADU which would exceed the residential density standards of these overlay districts.~~
  - 2. A building permit for the proposed creation of a new ADU ~~must~~ *may* be issued by the CEO. Planning Board approval is not required for an ADU.
  - 3. This ADU ordinance is intended to create year-around housing. Therefore, the ADU ~~may~~ *shall* not be utilized ~~for as short term (less than 12 months) or seasonal rental as a short term residential rental or for transient occupancy.~~
  - 4. The property owner must occupy either the principal dwelling unit or the ADU as ~~his/her~~ *their* principal residence, and at no time receive rent for the owner-occupied unit. Principal residence must be proven by voter registration or other evidence acceptable to the CEO, such as but not limited to car registration, utility bills and the like.
  - 5. The total gross floor area of the ADU unit shall not exceed 50% of the total gross floor area of the principal residence or 750 square feet, whichever is more restrictive. Calculation of total gross floor area for an ADU shall not include: garage areas or unfinished attic space. Unfinished attic space shall not include electrical receptacles, finished walls or finished flooring. Total floor area of an ADU shall be measured from the interior faces of the inside walls. *The minimum gross floor area for an ADU shall not be less than 190 square feet.*

6. A home occupation or home business may be conducted, subject to existing regulations, as an accessory use to either the ADU or the principal dwelling unit, but not both.
7. ~~Any apartments existing on November 3, 2004, which lack specific zoning authorization shall not be considered lawful non-conforming uses, unless the property owner applies for a building permit for the ADU and brings the unit up to the health and safety provisions of the minimum housing code standards. A grace period of one year from the adoption of this article will be allowed for homeowners to modify such unlawful non-conforming units. Due to the fact that many older homes were built before any codes were established, minor dimensional variances may be granted by the Board of Appeals as allowed under the Town of York Zoning Ordinance within applicable health and safety requirements. On November 3, 2005, all owners of unlawful non-conforming units who have not brought them up to the health and safety standards of the minimum housing code will be in violation of this ordinance and subject to fines per Section 106.4 of the Town of York Building Code *Reserved*.~~
8. When any property containing an ADU is sold or transferred, the new owner must continue to meet the requirements of this Section in order to continue the use of the ADU. Should the new owner not meet the requirements of this Section, the use of the unit must be discontinued to the satisfaction of the CEO. However, any lease in effect at the time of transfer may be continued until it expires or up to one year from the date of the transfer, whichever is shorter. ~~If the ADU is abandoned at any future date, the added bedrooms shall be subject to the Residential Impact Fee Ordinance as if newly constructed.~~
9. To ensure continued compliance by current and subsequent owners, the applicant shall provide and record in the York County Registry of Deeds a covenant in a form acceptable to the Town attorney that the existence of the ADU is predicated upon the occupancy of either the ADU or the principal dwelling by a person who owns the property. *Furthermore, the covenant must specify the ADU shall not be utilized as a short term residential rental or for transient occupancy as defined in this ordinance.* It is also required that any owner of the property must notify a prospective buyer of the limitations of this section. ~~Violations of the terms of this covenant shall result in the loss of the ADU permit be considered a violation of this section and subject to enforcement provisions specified in Article 19- Enforcement and Violations. Conformance to the conditions of the ADU permit and covenant shall be certified yearly by the owner subject to inspection by the Code Enforcement Officer. Inspection shall be allowed by the owner after 48 hours notice by certified mail from Town authorities such as the CEO office. This certification process shall be subject to an appropriate fee as decided by the Board of Selectmen.~~
10. ~~ADUs of either studio or one-bedroom configuration shall not be subject to the requirements of the Growth Management Ordinance. Two-bedroom ADU~~

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~~permits shall be limited to ten (10) a year on a “first come first serve” basis.~~  
**Reserved**

11. This provision shall not prohibit the conversion of a single family dwelling to a multifamily dwelling so long as said conversion complies with all current zoning requirements. However, if such conversion is approved, any ADU previously allowed under this section must be incorporated into and meet all the requirements for one of the units of the multifamily dwelling. Multifamily dwellings shall not include ADUs as defined in this section.
12. Design Criteria:
  - a. An ADU shall be designed to maintain the architectural design, style, appearance, and character of the main building as a single-family residence. If an ADU extends beyond the existing footprint of the main building, such an addition must be consistent with the existing façade, roof pitch, siding, and windows. In the interest of energy efficiency and conservation, active and passive solar features are exempted from this requirement.
  - b. Exterior stairs are restricted to the rear or sides of the structure wherever practicable.
  - c. Wherever practicable, no more than one curb cut per lot shall be permitted, unless the lot has multiple curb cuts at the time of the application being filed.
  - d. A detached accessory structure housing an ADU must be designed and constructed in the style of a barn, garage, carriage house, or similar structure customarily located on the same lot with a single family residence.
13. For residences with an ADU not on Town water, a test of the residential well water shall be ~~performed annually with the results~~ reported to the Code Enforcement Office ~~as part of the annual owner certification process prior to the issuance of an occupancy permit for an ADU.~~
14. ~~One off-street parking space must be provided for each vehicle registered to occupant(s) of the ADU in one-bedroom units and two for two-bedroom units, in addition to the off-street parking required for the principal dwelling unit. In general, new parking must comply with current parking standards. An accessory dwelling unit is not subject to additional motor vehicle parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located.~~
15. An occupancy permit must be issued by the CEO prior to occupancy of an ADU created or modified pursuant to this section.
16. The CEO shall prepare an annual report to the ~~Board of Selectmen~~ *Selectboard* and Planning Board on ADUs which will include: (a) the number of units established; (b) the geographic distribution of the units; and (c) the average size of the units and other pertinent information as may be requested by the ~~Board of Selectmen~~ *Selectboard*.

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17. Reserved. -**AMENDED 11/05/2019**
  18. A detached accessory structure containing an ADU shall be located no further than 150 feet from the nearest point of the principal structure.
  19. Non-conformities shall not be created or increased in the creation of an accessory *dwelling* unit.
  20. The maximum density for any lot which is not serviced by public sewer shall not exceed the standards of the State Minimum Lot Size Law (Title 12 M.R.S.A. §4807 et seq.).
- D. If any part, section or clause is found to be unlawful these shall have no effect on the legality of the remaining. - **AMENDED 05/18/2013**

## Amendment #

### *Workforce Affordable Housing*

**Ballot Language:** The following language would appear on the ballot:

**Article X**

The Town hereby ordains to amend the **Zoning Ordinance**, specifically Article 10-F Workforce Affordable Housing Overlay District.

**Statement of Fact:** The purpose of this amendment is to promote municipal compliance with state law regarding permitting workforce affordable housing in the Town's designated Growth area where water and sewer are currently located. This amendment also seeks to better implement the Town's Comprehensive Plan goal of encouraging and promoting a variety of types and prices of housing opportunities.

**Amendment:** Amend Article 10-F Workforce Affordable Housing Overlay District, as follows:

- 10-F.1 Workforce Affordable Housing Overlay District**  
The provisions of this Article pertain to the Workforce Affordable Housing Overlay District as described in section 3.16. *The purpose of this Article is to support workforce affordable housing within the Town's Municipal Growth Area and comply with M.R.S.A. 30-A §4364.*
- 10-F.3.3 Floor Area**  
Each dwelling unit in Workforce Affordable Housing shall have no less than ~~500~~ 190 square feet and no more than 1,500 square feet of living space. Where this standard conflicts with §5.3, the less restrictive standard shall apply.
- 10-F.4.6 Parking Standards**  
*There shall be a minimum of 2 off-street parking spaces for every 3 dwelling units of workforce affordable housing. This section shall supersede parking requirements imposed elsewhere in this Ordinance.*
- 10-F.4.7 Adequate Conditioned Space**  
*Each dwelling unit in Workforce Affordable Housing shall provide adequate heating and cooling facilities to maintain a habitable space.*
- 10-F.8 Conflicting Provisions**  
*If any part, section, or clause of these provisions are found to be inconsistent with M.R.S.A. 30-A §4364 it shall have no effect on the legality of the remaining.*

# **Amendment #**

## *Open Space Conservation Subdivision Application*

**Ballot Language:** The following language would appear on the ballot:

Article X

The Town hereby ordains to amend the **Zoning Ordinance** specifically section 7.6- Open Space Conservation Subdivision Application.

Statement of Fact: The purpose of this amendment is to modify section 7.6 of the zoning ordinance regarding Open Space Conservation Subdivision Applications by repealing that section of the ordinance and replacing it with a modified version of what currently exists. The intent of the proposed amendment is to ensure there are clear procedures in place that developers must follow for obtaining an open space conservation subdivision approval from the Planning Board; that the open space theme, design and holder of a proposed open space conservation subdivision is reviewed and approved by the Planning Board prior to reviewing and approving the proposed development portions (house locations, road locations, utility infrastructure) of a proposed open space conservation subdivision; that developers provide clear depictions regarding the number of dwelling units that can be located on a given lot if a conventional subdivision (not an open space conservation subdivision) was proposed; seeks to ensure that wooded/vegetated buffers are established between existing public ways and a proposed open space conservation subdivision development; and that implements Comprehensive Plan strategy 2.6 to better preserve the Town's natural resources.

**Recommendations:**

Recommended by the Planning Board:

Recommended by the Board of Selectmen:

**Amendment:** Amend Article 7- Special Provisions, specifically section 7.6 regarding Open Space Conservation Subdivision Application by repealing and replacing that section with the following:

~~7.6 — **Open Space Conservation Subdivision Application (formerly Cluster Housing Subdivision Application)**~~

~~NOTE: Substantive revision to all of §7.6 was approved on November 5, 2013. All prior dates of amendment have been removed in the November 5, 2013 printing of this Ordinance for the sake of clarity. Prior amendments are identified by date in earlier printings.~~

~~Open space conservation subdivisions shall be permitted in all base zoning districts. Permissibility within overlay districts is addressed as needed by district. The standards of this Section (§7.6) shall apply to all open space conservation subdivisions.~~

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~~7.6.1 — **Procedures**~~

~~Open space conservation subdivisions require subdivision approval by the Planning Board.~~

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- ~~A. Proposed residential subdivisions that are not created through exemptions in the State Subdivision law are required to be designed as an open space conservation residential development based on the requirements in this ordinance when any of the following exists:~~
- ~~1. The residential subdivision is proposed to contain a private or public road that provides access to the lots/dwellings; or~~
  - ~~2. The lot for which the residential subdivision is proposed abuts conservation land or land that can't be developed that is 10 acres or greater; or~~
  - ~~3. The lot to be subdivided is partially or fully located within the Cape Neddick or York River Watersheds (see the Natural Resources Chapter of the Comprehensive Plan for reference).~~
- ~~B. The Planning Board may waive the open space conservation subdivision requirement if the applicant can demonstrate why the open space conservation subdivision is not a reasonable design option for the parcel to be subdivided. When making this determination the Board shall consider the following:~~
- ~~1. Lot shape/configuration;~~
  - ~~2. Protection of natural features such as slopes greater than 20%, wetlands, vernal pools, surface waters and stream location(s) on the lot would not benefit from an open space conservation design;~~
  - ~~3. The open space conservation design would not meet the intended purposes specified in zoning §1.3.12 Concerning Open Space Conservation Subdivision.~~
- ~~C. The applicant shall be responsible for justifying the proposed open space design, and identify a primary conservation theme, including but not limited to forest preservation, water quality preservation protection, farmland preservation, or watershed protection. The conservation theme shall guide the location and use of the designated open space. For instance, if setting aside open space for agricultural use, there should be a demonstration that the open space has good agricultural soils, or if setting aside open space for protection of wildlife habitat, the design should be based on science and the expert opinion of a qualified wildlife biologist. (See also §7.6.3.B)~~
- ~~D. The proposed holder of the open space shall be involved in the process of defining the open space and drafting appropriate restrictions and controls.~~
- ~~E. The first meeting with the Planning Board shall be Conceptual Design Review, and shall precede submission of a Preliminary Review application. During this stage in the review process the Board shall consider waiving the requirement for open space conservation development if the applicant can justify the open space conservation subdivision design option is not reasonable for the parcel based on letter B above. The reasons for or against granting a waiver of this requirement shall be detailed in the Planning Board application for preliminary and final approval and subsequent Findings of Fact if or when final approval is granted.~~
- ~~F. Conceptual Design Review shall include the submission of an Existing Site Resources Map, identifying both significant natural and cultural resources. It is not required that this be an engineered plan, and widely available Town or State public data are acceptable data sources. It shall include wetland and Shoreland areas, significant habitat corridors, rare or endangered habitat, roads and buildings within 100 feet of the property, indication of overall stormwater flow direction, species and sizes of significant trees, copses of trees, historic and cultural resources such as existing barns, trails, cellar holes, stone walls, and other noteworthy features unique to the property. It should be conveyed in a clear graphic style that is easy to read. The Existing Site Resources Map shall not include road layouts, house locations, or lot lines. The Planning Board may schedule a site walk to the property, using the Existing Site Resources Map. The intent of this phase of review for there to be an opportunity to build greater Planning Board, applicant, and open space holder consensus on critical resources and overall site design early in the review process, before the applicant proceeds into formal design of the project.~~

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- G. ~~It is intended that the open space shall be designed first, and the built environment shall be constructed in the remaining area. During the Conceptual Design Review process, the Board shall determine whether or not the open space layout, design and configuration is appropriate based on purposes stated in §1.3.12. For sites with on site septic, the Board shall balance the purposes to be achieved (as stated in §1.3.12) with the need to locate the septic system(s) on the best available soils. Other development considerations shall be of secondary importance.~~
- ~~The Board may require alteration of the open space configuration to maximize achievement of the purposes of open space conservation subdivision design. The Board shall include in its Findings of Fact the basis for its conclusions about the suitability of the open space conservation subdivision design with respect to the specific site.~~
- H. ~~An application for an open space conservation subdivision shall submit a Yield Plan, a visual showing the maximum number of lots that could reasonably be expected to be achieved through a conventional layout given conventional subdivision dimensional requirements and site conditions, and utilizing the net buildable area calculation used to determine maximum permitted density under Zoning 7.6.4.B, and defined in Site Plan and Subdivision Regulations Article 3. The Yield Plan is prepared to determine the base number of dwelling units to be permitted for the open space conservation subdivision proposal, to be submitted in conjunction with the net developable acreage calculations.~~
- I. ~~The York Conservation Commission shall be solicited for feedback on the site design during Conceptual Design Review.~~

**7.6.2 — Reserved — AMENDED 11/06/2018**

**7.6.3 — Open Space Standards**

- A. ~~Open space shall be required to meet 2 standards. First, the open space must contain at least 50% of the total area of the property in order to comply with Comprehensive Plan policy #1.2.1. Second, the open space must contain at least 50% of the net developable area (as defined in the Subdivision Regulations) of the property in order to comply with Comprehensive Plan policy #6.2.1. These standards shall be applied concurrently, not sequentially (e.g. a site with land that is entirely buildable can place 50% of its land in open space and meet both standards simultaneously).~~
- B. ~~Design. The open space shall be designed to maximize achievement of the purposes described in Zoning §1.3.12. The applicant shall present a plant and narrative description to illustrate how this is to be accomplished. To the greatest extent possible, the open space should be in one large piece rather than separate pieces or narrow buffer strips that have little conservation value. The Board may require alteration of the layout and design of the subdivision open space to better achieve these purposes. The Board may solicit input on the efficacy of the open space design as needed, including but not limited to review by a third party wildlife biologist, a landscape architect, or another professional qualified to respond to the aspect of the application in question. Any technical assistance deemed necessary by the Planning Board to conduct the review shall be paid for by the applicant in accordance with Zoning 18 A.2.D.~~
- C. ~~Requirements. Any open space conservation subdivision open space area shall comply with all of the following requirements:~~
  - 1. ~~Open Space.~~
    - a. ~~The open space may be held in fee simple ownership or as open space with a conservation easement placed upon it. In the event the open space is held by a qualified conservation organization, such as a land trust, the York Conservation Commission, or another body the Planning Board deems capable of land stewardship, a separate conservation easement may not be required if it can be demonstrated that the use, maintenance and other requirements of the open space will be continued in~~

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- perpetuity. Reference to open space throughout §7.6 refers to either the fee simple or conservation easement arrangement.
- b. ~~The open space land shall be owned by the homeowners, the Town, or other entity acceptable to the Planning Board. In no case shall the homeowners association or private property owner be the holder of the conservation easement, or the holder of the open space if there is no approved, partnering conservation organization. In determining whether or not a party is acceptable, the Board shall base its decision on the ability of the owner to control, maintain, manage and protect the open space in a manner consistent with the subdivision approval.~~
  - c. ~~If the homeowners take ownership of the open space land, the following shall be provided for:~~
    - 1. ~~the ownership shall pass with conveyance of the lots or residential units;~~
    - 2. ~~compulsory assessment of all related costs to each of the homeowners; and~~
    - 3. ~~a conservation easement shall be held by a qualified conservation organization.~~
  - d. ~~Control of Open Space. There shall be some form of legal arrangement made to ensure:~~
    - 1. ~~there is a plan for the use, management, maintenance and protection of the open space, and that specifies the responsibilities of the owner;~~
    - 2. ~~the owner is responsible for maintenance, taxes and insurance of the open space; and~~
    - 3. ~~the terms of the legal arrangement cannot be changed without prior approval of the Planning Board.~~
2. ~~Open Space Holder. The Planning Board shall approve the open space, including terms, conditions, purpose, and open space holder. The open space holder must have a demonstrated capacity to fulfill the purposes of the open space. Capacity shall be determined by the ability of the organization to:~~
- a. ~~produce baseline documentation of the property;~~
  - b. ~~perform monitoring and maintenance of the property on an annual basis, or more frequently, as needed;~~
  - c. ~~have the capacity to seek remedies to violations of open space approval conditions, legally or through other enforcement measures;~~
  - d. ~~have staff with suitable professional capacity, which may include land stewardship, wildlife biology, or other areas of expertise suitable to the primary purpose of the open space.~~
3. ~~Open Space Conditions~~
- a. ~~The open space approval shall:~~
    - 1. ~~regulate the use, maintenance, management and protection of the open space land;~~
    - 2. ~~be established and remain with this land in perpetuity;~~
    - 3. ~~specify the method of management and maintenance;~~
    - 4. ~~establish responsibility for maintenance, taxes and insurance;~~
    - 5. ~~establish a mandatory inspection program for the open space, which may retain a qualified neutral third party to perform this duty, and which may involve the subdivision homeowners and the Conservation Commission, and which shall require annual inspections at a minimum; and~~
    - 6. ~~address other requirements deemed necessary by the Planning Board to achieve the purposes for which the open space is established.~~
4. ~~The open space land shall be used and managed consistent with the purposes for which it was established.~~

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5. ~~The Planning Board strongly encourages the allowance of public access to and/or through designated open space. If access is to be provided the Board shall consider the following guidance:~~
  - a. ~~The type of access shall be appropriate based on the plan for the open space, the clustered homes, and the traditional uses of the land;~~
  - b. ~~Reasonable limitations may be placed on public access, including but not limited to type of access (pedestrian only, etc.), specific locations (along a trail or path, to the entire open space, etc.), and timing controls (access during daylight only, no access near vernal pools in the spring, etc.); and~~
  - e. ~~The open space steward shall be permitted to temporarily restrict public access to prevent abuse. No such restriction shall be in effect for more than 90 days without application to and approval of the Planning Board. The Planning Board shall treat the matter as an application to amend the Subdivision Approval.~~
  - d. ~~The Board shall expressly review public access issues during the Conceptual Design Review of any open space conservation subdivision application.~~
6. ~~Where ownership of the open space is to be held by the homeowners, all the open space lands shall be owned in common by a homeowners association.~~
7. ~~Ownership of open space and, where applicable, the conservation easement, shall be transferred from the developer in a timely manner. Where a third party will hold an easement or ownership, the transfer shall be made prior to the sale of any lot in the subdivision. Where a homeowners association is to be the holder of the land, the transfer shall take place within 30 days of establishment of the association.~~

#### **7.6.4 — Development Standards**

- A. ~~Uses. Open space conservation subdivisions shall be limited to single family, duplex and multifamily residential development as permitted in the base and overlay district(s) in which the lot is located. Each residential building shall be located on its own lot unless the proposed development is to be condominiumized. Regardless of the form of ownership all standards within §7.6.4 shall be depicted for adherence purposes.~~
- B. ~~Density.~~
  1. ~~The standard calculation of density shall be total net developable area divided by the minimum lot size for the base and overlay zoning district(s) in which the lot is located. Open space conservation subdivision applications also must submit a yield plan in accordance with 7.6.1.H to determine the total number of lots and dwelling units permitted.~~
  2. ~~Within the Shoreland Overlay District, the following shall apply regardless of any other provisions of this Ordinance:~~
    - a. ~~On portions of the lot in Resource Protection and Stream Protection subdistricts, buildings and building lots shall be prohibited consistent with Article 8.~~
    - b. ~~On portions of the lot in Limited Residential and Mixed Use subdistricts that have frontage on a Shoreland waterbody, and one or more dwelling units are proposed to be located in the land area within the Limited Residential or Mixed Use Subdistrict, the parcel must have a minimum of 200 linear feet of shore frontage to allow its development as an open space conservation housing subdivision. The following standards shall also govern the lay out of such an open space conservation housing subdivision:~~
      1. ~~A minimum of 50% of the shore frontage shall be undeveloped and shall be dedicated as open space.~~

~~2. The configuration of the dwelling units within the Limited Residential or Mixed Use Subdistrict shall be staggered, and shall not be located in a row immediately adjacent to the minimum setback from the Normal High Water Mark of the protected waterbody. No more than 50% of the dwelling units located within the Limited Residential or Mixed Use Subdistrict can be located within 50 feet of the standard Shoreland setback.~~

~~3. The maximum number of dwelling units permitted in the Shoreland Overlay District shall not exceed the density standards of Zoning §5.2.3.~~

~~e. Buildable area within any area of the Shoreland Overlay District may be counted in the calculation of net developable area. The density standards of Zoning §8.1 shall apply, or others if more restrictive.~~

~~C. Workforce Affordable Housing. A proposed subdivision development that consists of ten (10) or more dwelling units shall include at least ten percent (10%) of the total number of dwelling units within the development as workforce affordable housing. All calculations for deciding the number of workforce affordable housing units required in a particular development shall be rounded up to the nearest whole number.~~

~~Density Bonus. A density bonus of twenty percent (20%) above that indicated by the yield plan shall be allowed if at least twenty five percent (25%), rounded to the nearest whole number, of the proposed dwelling units within a residential open space conservation subdivision development are defined as "workforce affordable housing" as determined by the Planning Board. The following standards shall also apply:~~

- ~~1. All dimensional, lot coverage, and open space standards as prescribed in this ordinance shall be adhered to; and~~
- ~~2. Proposed workforce affordable housing units shall be integrated within the design of the development and not be "stand alone" as determined by the Planning Board; and~~
- ~~3. The governance standards specified in §10 F.6 shall be followed for dwelling units defined as "workforce affordable housing." This requirement shall be noted in the approved plan and Findings of Fact.~~

~~D. Dimensional Standards.~~

- ~~1. Lot Size. Building lots shall not be larger than the minimum lot size requirements specified in Zoning §5.2.1, §5.2.2 and §5.2.4. However, lots not served by municipal sewer service shall not be less than 20,000 square feet in total size.~~
- ~~2. Street Frontage. Building lots shall have frontage on streets sufficient to provide access to the lot, but shall not be required to meet the frontage standards of Zoning §5.2.1, §5.2.2 and §5.2.4.~~
- ~~3. Setbacks from Lot Lines. Minimum structure setbacks specified in Zoning §5.2.1, §5.2.2, and §5.2.4 shall be reduced to 1/3 of the measurements specified in those sections.~~
- ~~4. Lot Coverage. Lot coverage shall be evaluated in aggregate for the entire open space conservation subdivision, and overall the open space conservation subdivision shall be required to comply with the standard for the zone(s) in which it is located.~~

~~E. Access. Unless as required in §7.6.1 A above and if a road is to be developed, access to lots in an open space conservation subdivision shall be from an internal road, not from existing road frontage.~~

~~F. Abutter Buffers. To protect neighborhood qualities outside the open space conservation subdivision, the following shall apply:~~

- ~~1. Setback. No building within the open space conservation subdivision shall be located closer than 50 feet to any property outside the open space conservation subdivision.~~
- ~~2. Buffers. On building lots, there shall be a 50 foot buffer along the property line of any abutting lots outside the open space conservation subdivision. This buffer shall be left undisturbed with natural vegetation, or at the direction of the Planning Board may be~~

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~~landscaped to enhance the buffer function. Roads and utilities shall be allowed to cross through buffers to access the subdivision, as well as to adjacent properties. AMENDED 11/05/2013, 11/06/2018~~

**7.6 Open Space Conservation Subdivision Application (formerly Cluster Housing Subdivision Application)**

*NOTE: Substantive revision to all of §7.6 was approved on November 5, 2013. All prior dates of amendment have been removed in the November 5, 2013 printing of this Ordinance for the sake of clarity. Prior amendments are identified by date in earlier printings.*

*Open space conservation subdivisions shall be permitted in all base zoning districts. Permissibility within overlay districts is addressed as needed by district. The standards of this Section (§7.6) shall apply to all open space conservation subdivisions.*

**7.6.1 Procedures**

*Open space conservation subdivisions require subdivision approval by the Planning Board. The approval is obtained after approval of a Conceptual Design Review followed by the Preliminary Plan Subdivision Application.*

A. **Design Requirements.** *Proposed residential open space conservation subdivisions that are not created through exemptions in the State Subdivision law are required to be designed as an open space conservation residential development based on the requirements in this ordinance when any of the following exists:*

1. *The residential subdivision is proposed to contain a private or public road that provides access to the lots/dwellings; or*
2. *The lot for which the residential subdivision is proposed abuts conservation land or land that can't be developed that is 10 acres or greater; or*
3. *The lot to be subdivided is partially or fully located within the Cape Neddick or York River Watersheds (see the Natural Resources Chapter of the Comprehensive Plan for reference);*
4. *The lot to be subdivided is partially or fully located in the Town's Rural Area (See Town of York's 2022 Comprehensive Plan "Future Land Use Plan" chapter).*

B. **Conceptual Design Review.** *The first meeting(s) with the Planning Board shall be the Conceptual Design Review, shall include information as specified in §7.6.1 (B-F), and shall precede submission of a Preliminary Plan Subdivision application. During this stage in the review process the Planning Board shall consider waiving the requirement for open space conservation development, if the applicant can justify the open space conservation subdivision design option is not reasonable for the parcel based on §7.6.1.F. The reasons for or against granting a waiver of this requirement shall be detailed in the Planning Board application for preliminary and final plan approval and subsequent Findings of Fact.*

*As discussed below, the conceptual design review phase of the plan review process is primarily to ensure the open space design and conservation theme has been established and approved by the Planning Board prior to proceeding to preliminary and final subdivision plan approval. This phase of the review process provides opportunity for the Planning Board, applicant, and potential open space holder to build consensus on critical resources and overall site design early in the review process before the applicant initiates formal preliminary and final review/design of the project.*

*The Conceptual Design Review shall include the submission of an Existing Site Resources Map, identifying both significant natural and cultural resources; and a yield plan as described in 7.6.1.E. It is not required that this be an engineered plan, and widely available Town or State public data are acceptable data sources. The plan and supplemental documents shall include the following:*

1. *Wetland and Shoreland areas, significant habitat corridors, rare or endangered habitat, roads and buildings within 100 feet of the property, indication of overall stormwater flow*

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*direction, species and sizes of significant trees, groups/copses of trees, historic and cultural resources such as existing barns, trails, cellar holes, stone walls, and other noteworthy features unique to the property.*

2. *The plan should be conveyed in a clear graphic style that is easy to read.*
3. *The Existing Site Resources Map shall not include new road layouts, house locations, or lot lines.*
4. *During the conceptual design review the Planning Board may schedule a site walk of the property using the Existing Site Resources Map and other information provided by the applicant to depict the open space design and conservation theme.*
5. *The York Conservation Commission shall be solicited for feedback by the applicant regarding the open design and conservation theme during the Conceptual Design Review process with the Planning Board. Comments from the Conservation Commission shall be provided by the applicant to the Planning Board for consideration.*
6. *Any proposed holder of the open space shall be involved in the process of defining the open space and drafting appropriate restrictions and controls. (Note: Please see §7.6.2 for greater details on Open Space Design)*

**C. *Open space design and conservation theme.***

1. *The applicant shall be responsible for justifying the proposed open space design, and identify a primary conservation theme, including but not limited to forest preservation, water quality preservation protection, farmland preservation, forest/wildlife corridor connectivity, or viewshed protection. The conservation theme shall guide the location and use of the designated open space. For instance, if setting aside open space for agricultural use, there should be a demonstration that the open space has good agricultural soils, or if setting aside open space for protection of wildlife habitat, the design should be based on science and the expert opinion of a qualified wildlife biologist. The open space design and conservation theme shall be approved by the Planning Board prior to submission of an application for preliminary plan approval. (Note: Please see §7.6.2 for greater details on Open Space Design)*
2. *The open space shall be designed to maximize achievement of the purposes described in Zoning §1.3.12. The applicant shall present a plan and narrative description to illustrate how this is to be accomplished. To the greatest extent possible, the open space should be in one large piece rather than separate pieces or narrow buffer strips that have little conservation value. The Planning Board may require alteration of the layout and design of the subdivision open space to better achieve these purposes. The Planning Board may solicit input on the efficacy of the open space design as needed, including but not limited to review by a third-party wildlife biologist, a landscape architect, or another professional qualified to respond to the aspect of the application in question. Any technical assistance deemed necessary by the Planning Board to conduct the review shall be paid for by the applicant in accordance with Zoning 18-A.2. D. (Note: Please see §7.6.2 for greater details on Open Space Design)*

**D. *Intent of the open space design.***

1. *As specified above, it is intended that the open space shall be designed first, and the built environment shall be constructed in the remaining area. During the Conceptual Design Review process, the Planning Board shall determine whether the open space layout, design and configuration is appropriate based on purposes stated in §1.3.12. For sites with on-site septic, the Planning Board shall balance the purposes to be achieved (as stated in §1.3.12)*

with the need to locate the septic system(s) on the best available soils. Other development considerations shall be of secondary importance.

2. The Planning Board may require alteration of the open space configuration to maximize achievement of the purposes of open space conservation subdivision design. The Board shall include in its Findings of Fact the basis for its conclusions about the suitability of the open space conservation subdivision design with respect to the specific site. (Note: Please see §7.6.2 for greater details on Open Space Design)

E. **Yield Plan Submission.** During the Conceptual Design Review Phase of the application process, Yield Plans will be reviewed by the Planning Board after the open space design and conservation theme has been approved by the Planning Board as specified above. An application for an open space conservation subdivision development shall submit a Yield Plan, which shows the maximum number of lots/dwelling units that could reasonably be achieved through a conventional layout and design given conventional subdivision requirements, zoning requirements, and site conditions on the lot and within the underlying zoning or overlay district. The yield plan shall provide the net buildable area/acreage calculation used to determine maximum permitted density under Zoning §7.6.3.B and defined in Article 3 of the Site Plan and Subdivision Regulations. To aid the Planning Board in determining if a yield plan is considered “reasonably achievable” the applicant, at a minimum, shall illustrate the following:

1. Lots that comply with zoning dimensional requirements for the underlying zoning district including depicting structural setback lines within each lot.
2. Lots shall not be oddly shaped and must meet lot ratio requirements as defined in the Subdivision regulations. In general, lots should be rectangular/square and not consist of narrow portions of land that may be considered “spaghetti” or depicted as a “flag lot” in form.
3. If house lots are not served by public water or public sewer, or a combination thereof, lots shall show the rough locations of septic systems and water wells with the associated protective well radiuses.
4. Each lot shown in the Yield Plan shall indicate that the soils will support a house and septic system and be certified by a Maine Licensed Professional Engineer as such.
5. The presence of wetlands, slopes greater than 20% and ledge outcrop contained on each yield plan lot is considered reasonable for home, septic, well and driveway construction.
6. Road and driveway access to a lot or lots are “reasonably achievable” (e.g., no wetland fill and minimum, if any, stream, or wetland crossings).
7. The Planning Board may request other details needed to assess that the yield plan is deemed “reasonably achievable.”

F. **Potential waiver of open space conservation subdivision requirement.** The Planning Board may waive the open space conservation subdivision requirement if the applicant can demonstrate why the open space conservation subdivision is not a reasonable design option for the parcel to be subdivided. When making this determination the Planning Board shall consider the following:

1. Lot shape/configuration;
2. Protection of natural features such as slopes greater than 20%, wetlands, vernal pools, surface waters and stream location(s) on the lot would not benefit from an open space conservation design;

3. *The open space conservation design would not meet the intended purposes specified in zoning §1.3.12 - Concerning Open Space Conservation Subdivisions.*

**7.6.2 Open Space Standards.** *Upon approval of the Conceptual Design Review, the Preliminary Plan Subdivision Application can be submitted, subject to the following criteria.*

A. **General.** *Open space shall be required to meet the following standards:*

1. *The open space must contain at least 50% of the total area of the property if a portion of the property is within the Town's defined Growth Area (See Future Land Use Chapter of the Comprehensive Plan) or 60% of the total area if the entire property is located outside the Town's designated Growth Area(s) in order to comply with Comprehensive Plan Strategy 2.6.*
2. *The open space must contain at least 50% of the net developable area/acreage (as defined in the Subdivision Regulations) of the property if the property or portion thereof is located in a defined Growth Area and 60% if the property is located outside of the Towns defined Growth Area(s).*
3. *These standards shall be applied concurrently, not sequentially (e.g. a site with land that is entirely buildable can place 50% or 60% of its land in open space and meet both standards simultaneously).*

B. **Requirements.** *Open space areas defined within an open space conservation subdivision shall comply with the following requirements:*

1. *The following are ownership options for designated open space.*
  - a. *The open space may be held in fee-simple ownership or as open space with a conservation easement placed upon it. In the event the open space is held by a qualified conservation organization, such as a land trust, the York Conservation Commission, or another body the Planning Board deems capable of land stewardship, a separate conservation easement may not be required if it can be demonstrated that the use, maintenance, and other requirements of the open space will be continued in perpetuity. Reference to open space throughout §7.6 refers to either the fee-simple or conservation easement arrangement.*
  - b. *The open space land shall be owned by the homeowners, the Town, or other entity acceptable to the Planning Board. In no case shall the homeowners association or private property owner be the holder of the conservation easement, or the holder of the open space if there is no approved, partnering conservation organization. In determining whether a party is acceptable, the Board shall base its decision on the ability of the owner to control, maintain, manage and protect the open space in a manner consistent with the subdivision approval.*
  - c. *If the homeowners take ownership of the open space land, all the open space lands shall be owned in common by a homeowners association., and the following shall be provided for:*
    - i. *The ownership shall pass with conveyance of the lots or residential units;*
    - ii. *Compulsory assessment of all related costs to each of the homeowners; and*
    - iii. *A conservation easement shall be held by a qualified conservation organization.*
  - d. *Legal arrangement of the Open Space. There shall be some form of legal arrangement to ensure the following:*
    - i. *There is a plan for the use, management, maintenance, and protection of the open space, and that specifies the responsibilities of the owner.*

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- ii. *The owner is responsible for maintenance, taxes, and insurance of the open space; and*
  - iii. *The terms of the legal arrangement cannot be changed without prior approval of the Planning Board.*
- 2. *The Planning Board shall approve the open space, including terms, conditions, purpose, and the open space holder prior to final approval. The open space holder must have a demonstrated capacity to fulfill the purposes of the open space. Capacity shall be determined by the ability of the organization to:*
  - a. *produce baseline documentation of the property;*
  - b. *perform monitoring and maintenance of the property on an annual basis, or more frequently, as needed;*
  - c. *have the capacity to seek remedies to violations of open space approval conditions, legally or through other enforcement measures;*
  - d. *have staff with suitable professional capacity, which may include land stewardship, wildlife biology, or other areas of expertise suitable to the primary purpose of the open space.*
- 3. *The open space approval shall include the following:*
  - a. *Regulate the use, maintenance, management and protection of the open space land;*
  - b. *Be established and remain with the land in perpetuity.*
  - c. *Specify the method of management and maintenance;*
  - d. *Establish responsibility for maintenance, taxes and insurance;*
  - e. *Establish a mandatory inspection program for the open space, which may retain a qualified neutral third party to perform this duty, and which may involve the subdivision homeowners and the Conservation Commission, and shall require annual inspections at a minimum; and*
  - f. *Address other requirements deemed necessary by the Planning Board to achieve the purposes for which the open space is established including, and as noted on the plan, where the applicant will place signage placards that field delineates the edge of open space boundary.*
- 4. *The open space land shall be used and managed consistent with the purposes for which it was established.*
- 5. *The Planning Board strongly encourages the allowance of public access to and/or through designated open space. If access is to be provided the Board shall consider the following guidance:*
  - a. *The type of access shall be appropriate based on the plan for the open space, the clustered homes, and the traditional uses of the land;*
  - b. *Reasonable limitations may be placed on public access, including but not limited to type of access (pedestrian only, etc.), specific locations (along a trail or path, to the entire open space, etc.), and timing controls (access during daylight only, no access near vernal pools in the spring, etc.); and*

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- c. *The open space steward shall be permitted to temporarily restrict public access to prevent abuse. No such restriction shall be in effect for more than 90 days without application to and approval of the Planning Board. The Planning Board shall treat the matter as an application to amend the Subdivision Approval.*
  - d. *The Board shall expressly review public access issues during the Conceptual Design Review of any open space conservation subdivision application.*
6. *Ownership of open space and, where applicable, the conservation easement, shall be transferred from the developer in a timely manner. Where a third-party will hold an easement or ownership, the transfer shall be made prior to the sale of any lot in the subdivision. Where a homeowner's association is to be the holder of the land, the transfer shall take place within 30 days of establishment of the association.*

**7.6.3 Development Standards**

A. **Uses.** *Open space conservation subdivisions shall be limited to single-family, duplex and multifamily residential development as permitted in the base and overlay district(s) in which the lot is located. Each residential building shall be located on its own lot unless the proposed development is to be condominiumized. Regardless of the form of ownership all standards within §7.6.3 shall be depicted for adherence purposes.*

**B. Density.**

- 1. *The standard calculation of density for a subdivision shall be determined by the density requirements of the underlying base zone, all applicable overlay districts and uses, and the subdivision regulations.*
- 2. *Within the Shoreland Overlay District, the following shall apply regardless of any other provisions of this Ordinance:*
  - a. *On portions of the lot in Resource Protection and Stream Protection subdistricts, buildings and building lots shall be prohibited consistent with Article 8.*
  - b. *On portions of the lot in Limited Residential and Mixed Use subdistricts that have frontage on a Shoreland waterbody, and one or more dwelling units are proposed to be located in the land area within the Limited Residential or Mixed Use Subdistrict, the parcel must have a minimum of 200 linear feet of shore frontage to allow its development as an open space conservation housing subdivision. The following standards shall also govern the lay-out of such an open space conservation housing subdivision:*
    - i. *A minimum of 50% of the shore frontage shall be undeveloped and shall be dedicated as open space.*
    - ii. *The configuration of the dwelling units within the Limited Residential or Mixed Use Subdistrict shall be staggered, and shall not be located in a row immediately adjacent to the minimum setback from the Normal High Water Mark of the protected waterbody. No more than 50% of the dwelling units located within the Limited Residential or Mixed Use Subdistrict can be located within 50 feet of the standard Shoreland setback.*
    - iii. *The maximum number of dwelling units permitted in the Shoreland Overlay District shall not exceed the density standards of Zoning §8.1.5*

- c. *Buildable area within any area of the Shoreland Overlay District may be counted in the calculation of net developable area/acreage. The density standards of Zoning §8.1 shall apply, or others if more restrictive.*
- C. **Workforce Affordable Housing.** *A proposed subdivision development that consists of five (5) or more dwelling units shall include at least ten percent (10%) of the total number of dwelling units within the development as workforce affordable housing. All calculations for deciding the number of workforce affordable housing units required in a particular development shall be rounded up to the nearest whole number.*

**Density Bonus.** *A density bonus of twenty percent (20%) above that indicated by the yield plan shall be allowed if at least twenty five percent (25%), rounded to the nearest whole number, of the proposed dwelling units within a residential open space conservation subdivision development are defined as “workforce affordable housing” as determined by the Planning Board. The following standards shall also apply:*

1. *All dimensional, lot coverage, and open space standards as prescribed in this ordinance shall be adhered to;*
2. *Proposed workforce affordable housing units shall be integrated within the design of the development and not be “stand alone” as determined by the Planning Board; and*
3. *The governance standards specified in §10-F.6 shall be followed for dwelling units defined as “workforce affordable housing.” This requirement shall be noted in the approved plan and Findings of Fact.*

D. **Dimensional Standards.**

1. **Lot Size.** *Building lots shall not be larger than the minimum lot size requirements specified in Zoning §5.2.1, §5.2.2 and §5.2.4. However, lots not served by municipal sewer service shall not be less than 20,000 square feet in total size.*
  2. **Street Frontage.** *Building lots shall have frontage on streets sufficient to provide access to the lot, but shall not be required to meet the frontage standards of Zoning §5.2.1, §5.2.2 and §5.2.4.*
  3. **Setbacks from Lot Lines.** *Minimum structure setbacks specified in Zoning §5.2.1, §5.2.2, and §5.2.4 shall be reduced to 1/3 of the measurements specified in those sections.*
  4. **Lot Coverage.** *Lot coverage shall be evaluated in aggregate for the entire open space conservation subdivision, and overall the open space conservation subdivision shall be required to comply with the standard for the zone(s) in which it is located.*
- E. **Access.** *Unless as required in §7.6.1-A above and if a road is to be developed, access to lots in an open space conservation subdivision shall be from an internal road, not from existing road frontage.*
- F. **Abutter Setbacks and Buffers.** *To protect surrounding properties and neighborhood qualities outside the open space conservation subdivision, the following shall apply:*
1. **Setback.** *No building within the open space conservation subdivision shall be located closer than 50 feet to any property outside the open space conservation subdivision.*
  2. **Buffers.**
    - a. *The applicant shall ensure vegetated buffers are clearly shown on subdivision plans and are clearly demarcated in the field prior to construction by adequate signage/placards.*

- b. Except in areas of the municipality designated by the Comprehensive Plan as a “Growth Area(s),” the open space conservation subdivision shall be designed to minimize the visibility of buildings from existing public roads. A proposed open space conservation subdivision proposed outside of municipal designated Growth Areas shall provide a wooded/vegetated buffer strip no less than 50 feet in width along existing public roads.*
- c. New roads and utilities shall be allowed to cross through required wooded/vegetated buffers to access the subdivision, as well as to adjacent properties.*
- d. On building lots, there shall be a minimum 50 foot wooded/vegetated buffer along the property line of any lots outside the open space conservation subdivision.*
- e. All wooded buffers shall be left undisturbed with natural vegetation. The Planning Board may require additional landscaping to enhance the functionality of wooded/vegetated buffers.*



## **Amendment #**

### *Board of Design Review*

**Ballot Language:** The following language would appear on the ballot:

#### Article X

The Town hereby ordains to amend the **Zoning Ordinance**, specifically Article 18 Administration section 18.9 Site Design Review/Board of Design Review- Applicable to RES-4, BUS-1, BUS-2 Districts, Article 4- Use Regulations, specifically section 4.3 Additional Requirements, Article 6- Supplemental Use Requirements, specifically section 6.1 Non-Residential Performance Standards, 6.1.8 Setbacks and Screening, and 6.1.15 Drives, Parking, and Circulation and Article 16- Sign Standards, specifically section 16.9.6 Prohibited Signs and Displays.

Statement of Fact: The purpose of this amendment is to repeal the zoning ordinance section that established a Site Design Review/Board of Design Review for non-residential projects that take place in the RES-4, BUS-1, BUS-2 Districts and relocate certain performance standards specified in that section to other sections of the zoning ordinance in order to maintain development standards specified therein.

#### **Recommendations:**

Recommended by the Planning Board:

Recommended by the Board of Selectmen:

**Amendment:** Amend Article 4- Use Regulations, specifically section 4.3 Additional Requirements with the following.

#### **4.3 Additional Requirements**

- A. Shoreland/Wetland Permits (All Districts): Certain activities within designated shoreland or wetland areas require a special permit. See Articles: 4 (Use Regulations); 8 (Shoreland Overlay District); and 11 (Wetlands Protection Overlay District).
- B. Watershed Protection Overlay District (RES-2, GEN-1, GEN-2 Districts): Certain activities within the Watershed Protection Overlay District require a permit from either the Planning Board or Code Enforcement Officer. See Article 10.
- C. Planning Board Subdivision/Site plan Review (All Districts): Subdivision/Site Plan approval is required from the Planning Board for:

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1. All non-residential development, except that which must receive an Article 18 Route One Use Permit, which is greater than 5,000 square feet of floor space; or
  2. The construction of 3 or more units for lease, rent or sale; or
  3. The development of 3 or more residential house lots.
- D. Route One Use Permit (Route One-1, Route One-2, Route One-3, Route One-4, Route One-5, Route One-6 Districts): Certain activities within the Route One Districts require a Route One Use Permit from the Planning Board or Code Enforcement Officer. See Articles: 4 (Use Regulations); 6.3 (Supplemental Use Requirements); and 18.1 (Administration).
- E. York Harbor Site Design Review (RES-4, BUS-1, BUS-2 Districts): The ~~Board of Design Review~~ *Planning Board* reviews all non-residential development within the confines of Zoning Districts RES-4, BUS-1 and BUS-2. See §18.9.
- F. York Beach Design Review Standards (YBVC District): See §6.4.

**Amendment:** Amend Article 18- Administration, specifically section 18.9 Site Design Review/Board of Design Review- Applicable to RES-4, BUS-1, BUS-2 Districts with the following.

~~18.9 — Site Design Review/Board of Design Review — Applicable to RES-4, BUS-1, BUS-2 Districts~~

~~18.9.1 — Findings and Objectives~~

~~Excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of structures and signs and the lack of proper attention to site development and landscaping in the business, commercial, and certain residential areas hinders the harmonious development of the area, impairs the desirability of residence, investment or occupation in the area, limits the opportunity to attain the optimum use and value of land and improvement, adversely affects the stability and value of property, produces degeneration of property in such areas with attendant deterioration of conditions affecting the peace, health and welfare of the inhabitants, and destroys a proper relationship between the taxable value of property and the cost of municipal services therefor.~~

~~The purpose and objectives of site development requirements and the site design review procedure are to:~~

~~18.9.1.1 — Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of said development;~~

~~18.9.1.2 — Discourage monotonous, drab, unsightly, dreary and inharmonious development;~~

~~18.9.1.3 — Conserve the area's natural beauty and visual character and charm by insuring that structures, signs, and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of the area's structures, signs and other improvements;~~

~~18.9.1.4 — Protect and enhance the area's appeal to tourists and visitors.~~

~~18.9.1.5 — Stabilize and improve property values and prevent blighted areas and thus, increase tax revenues.~~

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~~18.9.1.6 — Achieve the beneficial influence of pleasant environments for living and working on behavioral patterns and, thus decrease the cost of governmental services.~~

~~18.9.1.7 — Foster civic pride and community spirit so as to improve the quality and quantity of citizen participation in local government and in community growth, change and improvement.~~

~~18.9.1.8 — Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of the area's favorable environment, and thus, to promote and protect the peace, health and welfare of the Town of York.~~

**18.9.2 — Board of Design Review**

~~— There is hereby established a Board of Design Review whose members, term, officers, and manner of transacting business shall be as follows:~~

~~18.9.2.1 — Members. The Board shall consist of five members, each of whom shall be a resident of the Town of York.~~  
~~— AMENDED 05/17/2014~~

~~18.9.2.2 — Appointment; Term. The members of the Board shall be appointed by the Board of Selectmen for 3 year terms, maintaining a staggered rotation such that only one or two appointments expire each year. The Board of Selectmen shall appoint a qualified person to fill the vacancy for the remainder of any unexpired term.~~  
~~— AMENDED 05/17/2014~~

~~18.9.2.3 — Vacancies; Removal. Any vacancy shall be filled for the remainder of the unexpired term as original appointments are herein provided. The Board of Selectmen may remove any member of the Board, after hearing, for misconduct or non performance of duty.~~

~~18.9.2.4 — Officers. The Board shall elect a Chair, Vice Chair and Secretary at the first meeting on or after each July 1st. During the absence, disability or disqualification of the chairman and vice chairman, the remaining members shall select an acting chairman.~~ AMENDED 5/17/2014

~~18.9.2.5 — Quorum; Voting. A quorum shall consist of three members. The Concurrence of a majority of the members of the Board present and voting shall be necessary to determine any questions before the Board.~~ AMENDED 11/07/2000

~~18.9.2.6 — Meeting Records. The Board shall hold one regular meeting each month. However, a meeting need not be held if there are no drawings or plans submitted for review by the Board. The deliberations and proceedings of the Board shall be public records. The Board shall keep minutes of its proceedings and such minutes shall be public records.~~

~~18.9.2.7 — Rules. The Board may adopt and amend by laws to govern the conduct of its business consistent with Robert's Rules of Order and the provisions of this ordinance.~~ AMENDED 05/17/2014

**18.9.3 — Jurisdiction and Powers of the Board**

~~18.9.3.1 — No building permit shall be issued for a new non-residential building, and no sign permit shall be issued until the plans, drawings, sketches, and other documents required under Section 18.9.5 have been reviewed and approved by the Board in conformity with the criteria specified in Section 18.9.4.~~

~~18.9.3.2 — Construction, site development and landscaping shall be carried out in substantial accord with the plans, drawings, sketches and other documents approved by the Board, unless altered with Board approval. Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and replacement of any part of the building or landscaping which does not involve a substantial change from the goals and objectives of Section 18.9.1. Where a building permit is required, it shall be the responsibility of the Code Enforcement Officer to determine whether a "substantial change" would result from the proposed action.~~

~~18.9.3.3 — The Board may authorize variances from the site development requirements, off street parking and loading and supplemental provisions of this ordinance which are subject to the jurisdiction of the Board, where it can be shown that by reason of exceptional size, shape or topographic conditions, or other special or unusual circumstances, the literal enforcement of such requirements would not allow reasonable development to take place. Variances shall be considered in conjunction with the site design review process and subject to procedural and appellate provisions applicable to such process.~~

#### ~~18.9.4 — Criteria and Standards~~

~~———— The following standards shall be utilized by the Board in reviewing the plans, drawings, sketches and other documents required under Section 18.9.5. These standards are intended to provide a frame of reference for the applicant in the development of the site and building plans as well as a method of review for the Board. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation.~~

~~18.9.4.1 — Preservation of Landscape: The landscape shall be preserved in its natural state, insofar as practicable by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.~~

~~18.9.4.2 — Relation of Proposed Buildings to Environment: Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings.~~

~~18.9.4.3 — Drives, Parking and Circulation: With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the design of proposed buildings and structures and the neighboring properties.~~

~~18.9.4.4 — Surface Water Drainage: Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system.~~

~~18.9.4.5 — Utility Service: Whenever feasible, electric, telephone and other utility lines shall be underground. Any utility installations remaining above ground shall be located so as ——— to have a harmonious relation to neighboring properties and the site. The proposed method of sanitary sewage disposal from all buildings shall be indicated.~~

~~18.9.4.6 — Advertising Features: The size, location, design, color texture, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties. Individual off premises signs shall not exceed three (3) square feet in area; on premises signs shall, in aggregate, not total over one hundred (100) square feet in area, with no single sign~~

~~exceeding fifty (50) square feet in area. No sign shall exceed ten (10) feet in any dimension. Illuminated signs shall be indirectly lit.~~

~~18.9.4.7 — Special Features: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding areas.~~

~~18.9.4.8 — Application of Design Standards: The standards of review outlined in Sections 18.9.4.1 through 18.9.4.7 above also apply to all accessory buildings, structures, exterior signs and other site features, however related to the major buildings or structures.~~

~~a. — The Board shall also be guided by the objectives of Section 18.9.1, and such objectives shall serve as additional criteria and standards.~~

~~b. — Unless otherwise authorized under this ordinance, the Board shall not have the authority to waive or modify the site development requirements of this ordinance, the requirements of the Zoning Ordinance or the requirements of any other applicable ordinance.~~

#### **18.9.5 — Procedure**

~~A prospective applicant for a building or other permit who is subject to site design review shall submit the following to the Board of Design Review:~~

~~a. — A site plan, drawn to scale, showing the proposed layout of all structures and other improvements including, where appropriate, driveways, pedestrian walks, landscaped areas, fences, walls, off street parking and loading areas. The site plan shall indicate the location of entrances and exits and the direction of traffic flow into and out of off street parking and loading areas, the location of each parking space and each loading berth and areas of turning and maneuvering vehicles. The site plan shall indicate how utility services and drainage are to be provided.~~

~~b. — A landscape plan, drawn to scale, showing the location of existing trees proposed to be removed or to be retained on the site, the location and design of landscaped areas, the varieties and sizes of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain trees and plant materials.~~

~~c. — Architectural drawings or sketches, drawn to scale, including floor plans, in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures and other improvements as they will appear on completion of construction.~~

~~d. — Specifications as to type, color and texture of exterior surfaces of proposed structures.~~

~~e. — A sign plan, drawn to scale, showing the location, size, design, material, color and methods of illumination of all exterior signs.~~

**Amendment:** Amend Article 6- Supplemental Use Requirements, specifically section 6.1 Non-Residential Performance Standards, 6.1.8 Setbacks and Screening, and 6.1.15 Drives, Parking, and Circulation with the following.

6.1 Non-Residential Performance Standards -- Applicable to RES-1, RES-2, RES-3, *RES-4*, *BUS-1*, *BUS-2*, YBVC, YVC-1, YVC-2, GEN-1, GEN-2, and GEN-3 Districts

Any non-residential development and use shall meet or exceed the Performance Standards listed below ~~to the greatest extent practical.~~

**6.1.8 Setbacks and Screening**

6.1.8.7 *Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be screened from streets and pedestrian walkways.*

**6.1.15 Drives, Parking, and Circulation.**

*With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that provide for the safe transportation of pedestrian traffic. Safe pedestrian traffic ways, with adequate separation from vehicular traffic, shall be provided within and between sites for customer and employee access.*

**Amendment:** Amend Article 16- Sign Standards, specifically section 16.9.6 Prohibited Signs and Displays with the following.

16.9.6 No signs shall be erected in Districts BUS-1, BUS-2, and RES-4 without written permission of the ~~Board of Design Review, the procedures for which are outlined in Zoning §18.9~~ Code Enforcement Officer and shall be in accordance with the following standards:

- a. *The size, location, design, color texture, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties;*
- b. *Individual off-premises signs shall not exceed three (3) square feet in area;*
- c. *on-premises signs shall, in aggregate, not total over one hundred (100) square feet in area, with no single sign exceeding fifty (50) square feet in area;*
- d. *No sign shall exceed ten (10) feet in any dimension; and*
- e. *Illuminated signs shall be indirectly lit.*

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**York Planning Board Meeting**  
**Thursday, May 11, 2023; 7:00 P.M.**  
**York Public Library**

**1. Call to Order; Roll Call; Determination of Quorum; Appointment of Alternates**

Chair Wayne Boardman called the meeting to order at 7:00 P.M. A quorum was determined with five members voting: Chair Wayne Boardman, Vice Chair David Woods II, Board Secretary Pete Smith, Brian Trafton, and Meredith Goodwin. Planning Director Dylan Smith and Land Use Planner DeCarlo Brown represented Town Hall staff. Patience Horton was the recording secretary working remotely from Town Hall Streams. Votes were taken via roll call. Pete Smith left the meeting at 8:50.

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**2. Field Changes**

There were no Field Changes.

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**3. Public Forum**

No one came forward to speak. Without objection, Wayne Boardman closed the Public Forum.

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**4. Discussion**

**A. Application Outside Technical Review Billing**

Sometimes, the Planning Board relies on outside partners for technical reviews. At those times, the Planning Board authorizes Planning Staff to hire experts. Review agents might cost between \$100 and \$500 an hour for their expertise. A contentious project might have a technical review bill as high as \$20,000. The Town pays upfront.

Sometimes, applicants who are denied approval or have withdrawn their application are not “paying their bills,” as DeCarlo Brown put it. Applicants have also bypassed paying up by coming in under a different name. This evening, the Board discussed possible solutions.

**B. Fall 2023 Potential Ordinance Amendments**

**a. Open Space Conservation Subdivision**

The Open Space Conservation Subdivision Development Ordinance, §7.6 of the Zoning Ordinance, calls for attention to immediate action items located in the Comprehensive Plan and the Climate Action Plan. The Planning Board discussed tweaks, major changes, and additions and subtractions to §7.6, for which there will be a Public Hearing on June 11, 2023.

**b. Board of Design Review**

The dissolution of the Harbor Board of Design Review will involve putting ordinance sections that are particular to the Harbor into other areas of the Code. The Board asked Dylan and DeCarlo to write the amendment, which will go to the November referendum unless the Board feels the changes are not correct.

39 **c. LD2003**

40 This legislation was passed by the State to increase the number of housing units in Maine.  
41 York is already aligned with all of the provisions that the State created. The Board proceeded  
42 to review and edit the LD2003 document.

43 **d. ADU**

44 The Board discussed ADUs and Short-term Rentals. They reviewed and edited the amendment.

45 **C. Potential Site Plan and Subdivision Regulations Amendments**

46 **a. Datum 1923**

47 In science, Datum has to do with the shape of the Earth. Datum 1923 calculates the Earth  
48 differently than Datum 1988. York is converting to Datum 1988 to assure that engineering  
49 measurements are accurate and are in keeping with the times.

50 **D. Committee Creation**

51 **a. GEROD Design Charettes Committee**

52 This will be a fast-paced project once the contract with TPUDC (Town Planning and Urban  
53 Design Collaborative) is signed. A subcommittee of two or three Planning Board members and  
54 some other residents of York, including Al Cotton, will be formed to work with TPUDC on  
55 Charrettes.

56 **b. Land Use Committee**

57 **c. Comprehensive Plan Implementation Committee**

58 The Comp Plan calls for a Land Use Committee and an Implementation Committee for which  
59 meetings will start in June or July, once passed by the Selectboard. Meetings will be held  
60 during the day, and Minutes will be taken.

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62 **5. Minutes**

- 63 • Motion: David Woods moved to approve the Minutes of April 18, 2023, as amended.  
64 Brian Trafton seconded the motion. Without further discussion, the motion carried 4-0-  
65 1 with Meredith Goodwin abstaining (absent).
- 66 • Motion: Brian Trafton moved to approve the Minutes of Thursday, April 27, 2023, as  
67 amended. David Woods seconded the motion. Without further discussion, the motion  
68 carried 5-0.

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70 **6. Other Business**

71 There was no other business.

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73 **7. Adjourn**

74 10:10

75 Respectfully submitted,



76 Patience G. Horton

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**York Planning Board Meeting**  
**Thursday, May 25, 2023; 7:00 P.M.**  
**York Public Library**

**1. Call to Order; Roll Call; Determination of Quorum; Appointment of Alternates**

Chair Wayne Boardman called the meeting to order at 7:00 P.M. A quorum was determined with four members voting: Chair Wayne Boardman, Vice Chair David Woods II, Board Secretary Pete Smith and Meredith Goodwin. Brian Trafton was absent. Land Use Planner DeCarlo Brown represented Town Hall staff. Chris Di Matteo served as peer reviewer. Patience Horton was the recording secretary working remotely from Town Hall Streams. Votes were taken via roll call.

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**2. Field Changes**

**Workforce Hosing Development, 5 Hannaford Drive  
Tax Map 53, Lot 24. Applicant JRH Development**

For the applicant: Bryan Sutherlin, Beals Associates

The field change was for the stormwater management plan into the Hannaford supermarket. The only difference from the original design is the device type.

- Motion: Pete Smith moved to approve the field change from Workforce Housing, 5 Hannaford Drive, York, Maine, with the conditions that the applicant obtains a permit from DEP and full payment of all fees are paid to the Town of York before final occupancy. With David Woods seconding, there was no further discussion. The motion carried 4-0.

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**3. Public Forum**

No one came forward to speak. Without objection, Wayne Boardman closed the public hearing.

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**4. Application Reviews**

**A. Bristol Pointe 2, 294 York St**

**Map/Lot: 0050-0122; Owner: Dave Lauze—Jefferson Homes Inc.**

**(Site Plan/Subdivision—Final) This application is for the demolition of an existing residence/office building and construction of a new mixed-use, two-story building that has a basement parking level, commercial space, office space above, and eight (8) two-bedroom condo units.**

For the applicant: Chris Duplantis, Project Manager, Weger Architects  
Geoff Aleva, Civil Consultants, Project Engineer

The compliance review letter, as well as all the other plans, are available in the Planning Office or on the Town website.

39 Chris Di Matteo went over his compliance review letter with the applicant and the Board.

40 Chris Duplantis asked for additional time to discuss PVC vinyl trim with the Code Officer.

41 • Motion: Pete Smith moved to waive the 17-day rule regarding submission of the  
42 application materials for the application from Bristol Pointe 2. David Woods seconded  
43 the motion. Without further discussion, the motion carried 4-0.

44 • Motion: Pete Smith moved to grant a wetland permit for Bristol Point 2. Seconded by  
45 David Woods, without discussion, the motion carried 4-0.

46 • Motion: David Woods moved to grant final approval for Bristol Point 2, Jefferson  
47 Homes, 294 York St., Tax Map 50, Lot 122, with the following conditions.

48 1. That there is a written agreement prior to permitting and deeded easements prior  
49 to occupancy, to share utilities between Bristol Pointe 1 and Bristol Pointe 2.

50 2. That language is added to the condo documents with regard to trash and  
51 recycling along with snow removal in Section 3.2.

52 3. That all outstanding fees due to the Town of York will be paid prior to the  
53 issuance of the building permit,

54 With Merredith Goodwin seconding the motion, there was no further discussion. The  
55 motion carried 4-0.

56 **Findings of Fact, Conclusions of Law and Decisions**

57 **Planning Board, Town of York, Maine**

58 **Regarding the application for demolition of an existing residence/office building and**  
59 **construction of a new mixed-use building**

60 **Tax Map 50, Lot 122**

61 **Applicant, Dave Lauze—Jefferson Homes Inc.**

62 • Motion: Pete Smith moved to authorize the Chair to sign the Findings of Fact as  
63 amended, tonight, as needed. Meredith Goodwin seconded the motion. The motion  
64 passed 4-0.

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65 **B. 242 York St LLC, 242 York St**

66 **Map/Lot 0050-0114, owned by 242 York Street LLC**

67 **(Site Plan/Subdivision—Preliminary) This application is for a subdivision and**  
68 **change of use to convert the existing boarding house into an inn on the first and**  
69 **second floors and to install four dwelling units on the third floor. The application**  
70 **also includes other improvements to the building as described in the narrative.**  
71

72 For the applicant: Ryan McCarthy, Tidewater Engineering  
73 Jay Prewitt, Owner

74 Chris Di Matteo went over the compliance review letter with the Board and applicant.

75 Ryan McCarthy presented a proposed parking plan that the Board accepted.

76 A construction schedule will be made available during the preconstruction meeting.

77 • Motion: Meredith Goodwin moved to waive the 17-day requirement. David Woods  
78 seconded the motion. Without further discussion, the motion passed 4-0.

79 • Motion: David Woods moved to grant final approval for 242 York St LLC, Tax Map  
80 50, Lot 114 with the following conditions:

- 81 1. That the six parking spaces that are indicated in gray on the plan are  
82 removed from the plan prior to the signing of the final plan;
- 83 2. That a note stipulating the addition of parking for construction vehicles will  
84 be discussed during the preconstruction meeting; and
- 85 3. That all outstanding fees will be paid to the Town prior to issuance of the  
86 building permit.

87 Seconded by Pete Smith, there was no further discussion. The motion passed 4-0.

88 **Findings of Fact, Conclusions of Law and Decisions**  
89 **Planning Board, Town of York, Maine**  
90 **Regarding an application for a mixed-use building**  
91 **Map/Lot 0050-0114**  
92 **Applicant Jay Prewitt**

- 93 • Motion: Pete Smith authorized the Chair to sign the Findings of Fact for a mixed-use  
94 building, Tax Map 50, Lot 114, at 242 York Street, as amended. Meredith Goodwin  
95 seconded. Without further discussion, the motion carried 4-0.

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97 **C. Jewett Farms, 55 Witchtrot**  
98 **RoadMap/Lot 0089-0043-A, owned by Witchtrot holdings, LLC**  
99 **(Site Plan Plan—Preliminary/Final) This application is for a site plan to expand**  
100 **the existing wood-working use in order to include one new building and an**  
101 **addition to the existing building. The expansion includes related infrastructure.**

102 Represented by: Wyatt Page, Wyatt Engineering

103 Being proposed: an 8,000 square foot building to supplement the current use of woodworking  
104 and the manufacturing of cabinets. Also desired: a 4,500 square foot addition on the rear of the  
105 existing building. Also noted: there will be improved parking, as well as improvements to  
106 stormwater and grading.

107 With key documents missing, the application was deemed incomplete. Therefore, the  
108 application was treated as a sketch plan.

- 109 • Motion: Pete Smith moved not to accept this plan for preliminary or final review, as it  
110 needs a landscaping plan and a response letter from the Maine Historic Preservation  
111 Commission. Meredith Goodwin seconded the motion. There was no further  
112 discussion. The motion passed 4-0.

113 The Board members made suggestions and recommendations for the sketch plan.

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115 **D. Pine Ledge Subdivision Amendment, Turner Drive**  
116 **Map 0099 Lots 0122, 0115, 0103, 0121, 0199, owned by York Housing Authority**  
117 **(Amendment) This application is for and amendment to a previously-approved**  
118 **plan to remove the requirement of workforce housings from the subdivision.**

119 This item was removed from the agenda at the applicant's request.

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121 5. Minutes

122 There were no Minutes to review.

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124 6. Other Business

125 Extra meetings might be held during months when there are five Thursdays—June, August,  
126 September, and November.

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128 7. Adjourn

129 10:10 P.M.

130 Respectfully submitted,

131 Patience G. Horton

132 The next meeting is to be held June 8, 2023