

PEER REVIEW  
LETTER

February 17, 2022

York Planning Board  
Dylan Smith, Planning Director  
Town of York  
186 York Street  
York, Maine 03909

Application: Long Sands Village; James M. Paolini  
(Tax Map 44 Lot 38)

**Site Plan and Subdivision Review – Elderly Housing**

Review Status: Final Plan Application accepted, and review continued.

(Most recent comments are in red)

Board members and Mr. Smith,

The following application information has been provided for review:

1. Application Submission book entitled: *Final Site Plan Application, York Maine, Prepared for James Paolini, 40 Godfrey Cove Rd., York, Maine 03909, January 2022.* prepared by Civil Consultants.
2. Plan set entitled: *Site/Subdivision Plan, Long Sands Village Elderly Housing Development; 122 Long Sands Road (Map 120, Lot 139) York Maine. Prepared for James Paolini, 40 Godfrey Cove Rd., York, Maine 03909,* prepared by Civil Consultants. Date 11/30/2020. (REV. Date: 2/10/2022)
3. Revised Condo Docs entitled: *Declaration of Long Sands Village Condominium an Elderly Housing Development Declaration Pursuant to Title 33, Chapter 31, Section 1601-101, Et Seq. As Amended Known as The Maine Condominium Act...February 2022.*
4. Condo Plat entitled: *Long Sands Village Condominium, An Elderly Housing Development, 122 Long Sands Road York Maine. Prepared for James Paolini, 40 Godfrey Cove Rd., York, Maine 03909,* prepared by Civil Consultants. Preliminary Draft dated 2/10/2022.

With review of the above information and the Town's Zoning ordinance and the Site Plan and Subdivision regulations, and in collaboration with civil engineers Gorrill Palmer, I offer the following comments on compliance with the Town's ordinances.

## **PROJECT DESCRIPTION**

The project site is located at 122 Long Sands Road. The property lies within the Residential 1B Zoning District and has frontage and vehicular access to both Long Sands Road and Fernald Avenue. The site is currently developed with a single-family building and pool that abuts single family residences and is across the street from a commercial development at 127 Long Sands Road.

The proposal is to construct 10 Elderly Housing units with associated parking, with vehicular access to Fernald Avenue, with pedestrian access to Long Sands Road. The project includes new utilities for public water and sewer, and underground power.

## **REVIEW SUMMARY/HIGHLIGHTS**

The application is before the Planning Board as required by the Zoning Ordinance (Sec. 4.1.A and 4.3.C) for the establishment of an Elderly Housing use category and the construction of three or more dwelling units (Subdivision). The following is a summary of the review comments:

1. An appeal to denial of the preliminary plan application was granted by the Board of Appeals on 11/10/2021 and remanded to the Planning Board for consideration of Final Plan approval.
2. The applicant has resubmitted final plan application information and the application appears to be complete. **Application accepted.**
3. There are mostly minor comments concerning suggested revisions to plans and condo docs. **The majority of the comments have been addressed.**

## **COMPLETENESS REVIEW**

The applicant has submitted a checklist of information required under Section 6.4 Submissions for Final Plan (dated 1/20/2022) and has responded to review comments in the 8/19/21 LMP&LA letter. **The final plan application was accepted at the 1/27/2022 meeting.**

## **COMPLIANCE WITH THE TOWN'S ORDINANCES**

### **ZONING ORDINANCE**

The following are comments (previous in italic) on the current plans and application that describes the project's conformance to Section 7.8 Elderly Housing Standards:

*7.8.1.4 Density: Based on Sheet L1, plan notes 5 through 9, the proposed development is permitted 10 Elderly Housing 1- or 2-bedroom dwelling units within 5 two-unit buildings. The Code Enforcement Office considers the proposed structures, two units attached via a heated breezeway, a two-unit building. The net developable acreage (based on Sheet E1) is 50,079 SF and yields 10 dwelling units based on 5,000 SF/unit for two-unit Elderly Housing buildings. The peer-review engineer has reviewed the net developable acreage calculations and electronic plan information.*

1. *When considering the driveway encroachment to the west of the site, and in the event this portion of parcel is removed or encumbered by means of an easement, the result would be a nonconforming parcel having insufficient net developable acreage to support the proposed 10 units. The Planning Board may want to consider addressing this in the final approval, perhaps via a condition of approval that prohibits the issuance of a building permit for the final tenth dwelling unit prior to resolution of the encroachment.*

The applicant's attorney, Greg Orso, indicated at last August's Board meeting that such a condition of approval, considering the dispute of the encroachment possibly taking years to resolve, would be in opposition to the counsel from the Town Attorney on this matter, essentially that it is not for the Planning Board to weigh in on what is a private civil matter between the applicant and the abutter. Attorney Orso stated that there is a recognition for the development to be in compliance to the Town's ordinances, even in the aftermath of the dispute resolved in the benefit of the abutter.

Perhaps a condition of approval that emphasizes this recognition may be appropriate to underline the Planning Board's expectation. Such a condition might state: *As required by Section 18.15.B.1.D of the York Zoning Ordinance, the owner(s) of the development shall return to the Planning Board for its approval of any changes to the approved plan, including changes to the overall area of property that effects density and the total number of dwelling units permitted.*

**It was not clear at the last meeting if this was a condition the Board wanted to require. It should clarify for the applicant.**

#### 7.8.2.3 Buffers and Landscaping

2. The applicant has revised the landscape in an effort to address previous comments. It was not clear at the last meeting what landscape recommendations the Board concurred with. The Board should review the Landscape Plan and determine if it is satisfied. The Board should consider requiring the evergreen trees proposed at an installation height of 8'-10', rather than the proposed 5'-6' and 6'-7' heights. **At the last meeting the applicant agreed to increase the installation heights to 8'-10'. The installation heights of the arborvitaes proposed has been increased from 5'-6' to 6'-7' height. In lieu of increasing the height of the proposed white spruce (currently 6'-7' height) the plan includes two additional trees. The agent communicated that there is difficulty in obtaining plant material at the taller heights due to COVID. I could not confirm this with the local nurseries I contacted, Pierson's and O'Donals, especially when considering that the planting will likely happen next year.**

#### Engineering Peer-Review

3. The applicant addressed comments from Gorrill Palmer to date and has no further comments.

Condominium Declarations:

The following previous comments remain outstanding:

4. *The document references a 'plat and plan'. This should be more specific. Perhaps the approved Civil Consultant plan set or is this referencing a condo plat that will identify the specific common and limited common areas that hasn't been prepared yet? If so, does the Board want to review this prior to final approval?*

In the response-to-comments memo it is stated that the plan set prepared by Civil Consultants is referenced in the condo docs, however, this does not appear to be the case. What is referenced does not match the title of the plan set before the Board and it's my understanding it is a separate condominium plat. With further review of the declarations (see articles 3 and 4), it appears 'plat and plan' is actually referencing a condo plat the Board has not reviewed. Sec. 6.4.10 of the Site Plan and Subdivision Regulations has been interpreted by the Board in the past such documents or similar information is reviewed by the Board. The applicant has prepared a draft plan for review. **This comment has been addressed.**

In addition, it seems appropriate to reference the approved Site Plan and Subdivision Plan in the declarations, in addition to the Condo Plat, so the owners understand regulatory conditions and restrictions they are accountable to. (See comment #13 below)

5. *Sec. 12.1 should be subject to conditions and requirements of the approved site and subdivision plan.*

This is addressed in the response to comments but not in the declarations. And with further review it seems that the entire article (Amendments) should be made clear that this section is subject to conditions and requirements of the approved site and subdivision plan. **Article 12 has not been revised; however, Article 1 does include that the condominium development is subject to the approved Site Plan and Subdivision Plan, which should suffice. This comment has been addressed.**

6. *The Declarations do not address the maintenance of the landscape, specifically those areas along the property lines that are to be maintained as effective screening.*

The declarations have been revised to address this comment, however, with further review the following revision is recommended:

8.1.12 A Private companies will be contracted by the Association to provide the following: trash/recycle pickup; snow removal and maintaining clear access for emergency vehicles; and. A private company will be contracted to provide landscape upkeep and maintenance, including the areas along the property lines and plantings and fencing as depicted on the Landscape Plan approved by the York Planning Board, to maintain effective screening, including replacement of any dead plants.

This comment has been addressed.

7. *The Declarations do not address the contracting of a private hauler to remove solid waste and recycling in a manner that conforms to the Town's ordinances.*

This has been addressed in the Sec. 1.1.12, however, a note on the plan and/or in the condo docs that references adherence to the Town's trash and recycling ordinances was discussed at the last meeting and does not appear to be addressed in the recent submittal.

Section 8.1.12 has been revised. This comment has been addressed.

#### Additional Comments

8. *E911 Addressing: considering that the current address for the existing dwelling is 122 Long Sands Road and vehicular access is proposed from Fernald Avenue, the Town Assessor should review and approve the parcel for appropriate addressing.* Considering the final plans will be recorded it seems to make sense to have the Town Assessor review and confirm final map and lot information and addressing for the property and units as part of final approval.

The new address information, 49 Fernald Avenue, is included in the General Note #1 on the Title Sheet. Prior to signing the final plans, it is recommended that the word *Mailing* should be replaced with *Property* and this note should be added to Note #1 on Sheet L1, Site and Subdivision Plan.

9. The following general plan revisions should be made:

- a) *The Existing Conditions Plan should be stamped by the project Land Surveyor.*

The existing conditions of a site required for regulatory compliance is typically prepared and stamped by a Maine licensed professional surveyor. It's not clear why that wouldn't be the case here. This comment has been addressed.

- b) *Include the Town Standard Plan notes. Though there are some plan notes that reflect some Town Standard notes, all applicable notes are not reflected on the plans.*

The applicant included a list of those notes that they find not applicable. The revised plans reflect additional standard notes Staff thought to be pertinent. This comment has been addressed.

#### NEW COMMENTS

10. The application's final approval will need to reflect the Zoning Ordinance requirement of Section 18.16.3: *Where condominium ownership is proposed as part of an application being reviewed by the Planning Board, a Code Enforcement Officer's approval shall be required as a Condition Precedent to final approval by the Planning Board.* This comment was found by the Board to be not applicable.

11. At the meeting this past August there was discussion concerning parking and the adequacy Fernald Road for guests to park along who were unable to be accommodated by the on-site parking lot. The applicant's agent expressed that the plans and condo docs would provide restrictions from parking on the street. The revised plans or condo docs do not appear to reflect this. **It appears from the last meeting the applicant is no longer proposing this.**
12. The Town received concerns from the owner of the Long Sands Plaza. The applicant should address the owner's concerns of cars not accommodated by on-site parking of the proposed development parking at the Long Sands Plaza parking lot. **The applicant at the last meeting expressed that the development has more than the required number of parking spaces, that parking on Fernald Avenue is not prohibited and it is understood that there will be no parking at Long Sands Plaza. This comment has been addressed.**
13. Under Article I the following revision is recommended:

Long Sands Village Condominium is an Elderly Housing Development subject to Section 7.8 of the York Zoning Ordinance and to the Planning Board signed and approved Site Plan and Subdivision plan set entitled *Long Sands Village Elderly Housing Development 122 Long Sands Road (Map 120 Lots 138, 139 and 140) York, Maine, prepared by Civil Consultants.*

**This comment has been addressed.**

14. Chair signature block is not consistently depicted on all sheets that are not being signed by the full Board. Conditions of Approval and Town Standard Plan Notes should be depicted on a plan that is signed by the full Board, this may need to be more than Sheet L1.  
**This comment has been addressed.**
15. Plan note 4 on Sheet L1 needs to be revised to correct ordinance reference for Elderly Housing Standards; should reflect *Section 7.8*. **This comment has been addressed.**

#### COMMENTS FROM LAST MEETING

16. There was discussion/comment regarding moving vehicles during snow removal operations and the minutes reflect the applicant stating details will be added to the declarations. It is not apparent that condo documents have been revised in this manner.
17. There was discussion regarding Right of Survivorship and the implications with an age restricted development. The applicant stated that this would be clarified in the condo documents, though it is not apparent from the revised submission that this has been done.

**WAIVER REQUESTS**

None requested

**CONCLUSION**

The applicant has addressed the outstanding comments with the exception of minor housekeeping items. The Board should determine what public comments/summarized topics should be included in the ultimate Findings of Fact, and identify any conditions prior to considering final approval.

Feel free to contact me with questions.

Best regards,



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