

COMPLIANCE
REVIEW LETTER

April 8, 2022

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

Application: Viewpoint Hotel Expansion– 229 Nubble Road, LLC
229 and 226 – 238 Nubble Road and 24 – 28 Spring Street (Locus Tax Map 25 Lot 193A)

Site Plan Review – Amendment (Hotel Expansion)

Review Status: New Application (Reviewed as Sketch on 3/24/22).

(Responses in red indicate revised comments)

Board members and Mr. Smith,

The following application information has been provided for review:

1. Application form ,narrative and submittal information entitled: *Viewpoint Hotel Site Plan Amendment York, Maine*. Prepared by Civil Consultants and dated 2/24/2022. [includes deed, stormwater narrative, Request for comment/capacity letters to department heads and sewer/water, and architectural renderings]
2. Proposed Plans entitled: *Site Plan Amendment Plan - Viewpoint Hotel, 229 Nubble Road, LLC, Nubble Road/Spring Street, Tax Map 139 – Lot 477, York, York County, Maine Prepared for CJ Hospitality Group...* Prepared by Civil Consultants. **Dated 3/29/2022.**
3. Previously Approved Plan entitled: *Site Plan Amendment Plan - Viewpoint Hotel, 229 Nubble Road, LLC, Nubble Road/Spring Street, York, York County, Maine Prepared for CJ Hospitality Group...*REV. Date 1/7/2021. Prepared by Civil Consultants.
4. Previously approved Findings of Fact dated 2/20/2021
5. **Response to Comments dated 3/28/2022.**
6. **Previously Approved Plan entitled: *Amended Site Development Plan For "ViewPoint", 229 Nubble Road, LLC, Nubble Road, York, Maine, Surveyed for McGrath Realty Trust...*REV. Date 5/10/2012. Prepared by Civil Consultants.**
7. **Draft Findings of Fact**

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 the ViewPoint Hotel at 229 Nubble Road located in the Residential 5 (RES-5) District, with a portion of the property within the Shoreland Overlay Zone. The applicant owns property across the street (west side of Nubble Road) and is also included in the project site. The property received approval for a Site Plan Amendment in 2010 for the development of a new 15-unit motel and amended again in 2020 with the addition of a restaurant use (outdoor seating only with a food truck for food preparation and cooking) in lieu of constructing 6 of the previously approved motel units.

This amendment is to expand the current 9 hotel units to 15 within a renovated existing building, and the addition of 7 hotels units as part of two new buildings constructed within the portion of the property that lies within the Shoreland Overlay District.

REVIEW SUMMARY/HIGHLIGHTS

The application is before the Planning Board as required by sections 18.15.B.1.D of the Zoning Ordinance and 5.5.6 of the Site Plan and Subdivision Regulations as an amendment to an approved plan. In addition, the proposed development is also subject to Section 18.15.B.1 of the Zoning Ordinance since it results in 5,000 SF or more of building gross floor area. With this in mind, the Board may want to consider following a two-step process.

The following is a summary of the review comments:

1. The Planning Board reviewed and approved an amendment to add a restaurant use in early last year.
2. The application, though it includes a great deal of information, does not appear to be complete for preliminary or final plan review. **A revised application has been submitted and preliminary application appears to be complete.**
3. More information needed to demonstrate compliance to lot coverage/impervious surface ratios.
4. It does not appear this property can meet the dimensional standards in the Shoreland Overlay District to accommodate more than one non-residential principal use. Code Enforcement should be consulted for a determination prior to any decisions. **The applicant, proposing an accessory use, needs to demonstrate the restaurant use is subordinate to the principal hotel use.**

COMPLETENESS REVIEW

Since this is a plan amendment that has a larger scope as it relates to site work and use, and that the proposed development in its own rite triggers Site Plan Review, it may be appropriate to treat this as a new application with regard to submittal items. The applicant has provided checklists for both preliminary (6.5) and final (6.4) applications.

The following are submittal requirements that appear to be missing or are in need of information/clarification:

1. 6.3.7 A grading and landscape design plan which meets the requirements of §7.3. This has not been submitted, nor waiver requested. **Information has been submitted.**
2. 6.3.14 Regarding historic and archaeological resources... The 2018 letter from Maine Historic Preservation Commission should be updated to confirm that the 'project area' remains not sensitive for archeological resources. No letter from the Historic District Commission has been submitted. **An email to MHPC has been sent requesting an update.**
3. 6.3.26 A letter from the Fire Chief is required. Not submitted. **A letter has been submitted.**
4. 6.3.32 A high intensity soil survey signed and sealed by a Maine Certified Soil Scientist, indicting the suitability of soil conditions for the uses proposed shall be submitted. The applicant has stated the previous waiver is valid. **The Board should determine if the scope of this amendment warrants to revisit waivers in the same manner that a new site plan would be looked at.**
5. 6.4.3.1 Public Water Supply - The servicing Water District must approve in writing all specifications for water supply system that appear on the plan. The application states the owner has received approval, however, nothing in writing has been submitted. **No waiver requested. Applicant states written approval will be provide prior to final approval.**
6. 6.4.4.1 Public Sewage Disposal - The York Sewer District must approve all plans that will connect to the public sewer line and all sewer line extensions. This approval will cover issues of capacity as well as piping and pump station specifications. The application states the owner has received approval, however, nothing in writing has been submitted. **No waiver requested. Applicant states written approval will be provide prior to final approval.**
7. 6.4.6 A landscaping plan meeting the standards of Section 7.17 as well as all of the Ordinances of the Town of York shall be submitted. No plan submitted nor waiver requested. **Information has been submitted.**
8. **6.4.17.1 A high intensity soil survey map meeting the standards of Article 6.3.32. This item was granted a waiver in 2012. The Board should determine if this will suffice or should it consider another waiver.**
9. 6.4.27 Findings of Fact, Conclusions of Law, and Decisions. A draft has not been submitted. **A draft has been submitted.**

COMPLIANCE WITH THE TOWN'S ORDINANCES

ZONING ORDINANCE

Lot Coverage.

1. Eastside of Nubble Road: It is recommended that the applicant provide additional information to demonstrate compliance. A land survey that includes the full extent of the lot should be provided that depicts, along with the table already provided, enumerating the specific area values for the various impervious areas on the existing and proposed plans. This would aid in following along as to how the total coverages are arrived at, within and outside the shoreland overlay district. *As stated, an updated land survey, to the same extent as what was submitted in 2012, should be prepared and submitted and be used as the existing conditions plan. This plan would indicate the current HAT elevation and the 250-foot dimensional off-set to define the Shoreland Overlay Zone. It should include total lot area and total areas broken out by zone, that are the basis for the coverage calculations. The Existing Conditions Survey shouldn't include the same site plan specific notes as the Site Plan Amendment plan includes.*
2. Westside of Nubble Road: It is not clear that the lot coverage calculations is applied correctly if, as it appears from the plans, that there are more than one lot of record. The lots should be merged in order to take advantage of the economy of scale the aggregate of all lot area provides in maintaining the noncompliant 40% lot coverage/impervious surface ratio. At a minimum, it should be made clear, perhaps through a condition of approval and/or deed amendment that no lots of record can be transferred without ensuring the lot coverage is not increased. *As mentioned above, an Existing Conditions Survey should be provided for this portion of the proposed development. The actual coverage areas on the plan should be labeled with the square area so one can follow how the results are concluded. It is confusing to account for both proposed and existing coverages on the same plan. The Board may want to receive direction from Code Enforcement as to the proposal by the applicant of accounting for/conforming to the lot coverage/impervious surface ratio requirements of the Zoning Ordinance.*

Per definition, coverage is calculated for a lot, not development site. In addition, some of the lots of record that serve the parking lot are nonconforming in size and may be subject to consolidation per Section 17.3 Non-Conforming Lots of Record. At the end of the day, if the intent is to maintain current lot lines (those lots that are not subject to 17.3) a land survey should be prepared and submitted (that includes property lines that are clearly denoted) and the lot coverage should be calculated per lot of record (or combined lot per 17.3).

Reviewing the history of aerial imagery in this area, it appears the majority of the existing parking lot was constructed between 2016 and 2018. The applicant should provide the permitting information associated with this impervious surface increase to support the stated 40% ratio for the existing impervious surface.

3. Single-Family Residence: It would be helpful for more clarification on the new residence proposed on the westside of Nubble Road. Is this going to be maintained and part of the Viewpoint Hotel holdings? Or is this going to be a separate single-family building and lot? The latter would suggest that this is not part of the Planning Board's review and should be removed from the application. The coverage would be then addressed for its lot alone and not grouped together with the other parking area lots in calculating coverage. It is recommended that Code Enforcement provides some insight on this matter. **The applicant clarifies that this new building is to house the hotel's inn keeper, and as such, it is not really a single-family use, but a non-residential use. The plans should clearly reflect this.**

Parking

4. The gravel parking lot across the street from the current motel (*West Lot*) has been reconfigured to accommodate 60 parking spaces. Some limits of gravel paving that is no longer being utilized is being removed, however, there is still areas that remain, and should be considered for removal and revegetated. The boulders/rock that line the existing parking should be relocated to provide the same purpose. The above measures would aid in maintaining parking where it is intended and keep a property that exceeds its coverage/impervious surface ratio. **Existing boulders have been shown on the plan to be relocated. The extent of gravel pavement should be removed in those areas that lie within the 10-foot parking setback.**
5. The proposed 16 parking spaces adjacent to the new proposed residence (M 139/L 463) needs a 24-foot-wide aisle to have perpendicular parking stalls, what is provided is not adequate. **The plan has been revised to accommodate the required aisle width.**
6. The location of the proposed dumpster and enclosure, along with adjacent gravel pavement, is closer than 10 feet as permitted by Sec. 15.1.2.4 and Sec. 5.1.1 prohibits structures being located within the yard setbacks. Though not shown, the front yard setback along Spring Street is 20 feet. **The plan has been revised to reflect the comment.**
7. Accessible parking. In considering the amount of development being proposed in this amendment versus the previous one, formalizing the accessible parking spaces on the *East Lot* should be revisited. This should include considering relocating the spaces closer to the main entrance and ensuring there is an accessible route to the building from the designated parking. Perhaps the applicant can consult with Alpha One, or another qualified professional, to assist in developing a solution that works for the applicant and demonstrates

compliance to local and federal regulations. The applicant stated at the prior approval that this was an interim stage and ensured accessible parking would be paved at subsequent review. To reiterate, the applicant should consult with Alpha One to determine the best solution for accessible parking and route to the hotel. The current conditions do not appear to meet what is anticipated by ADA.

Shoreland Overlay District.

8. Compliance to dimensional standards. The proposed development, in excess of 5,500 SF on new buildings and associated walkways, is proposed within the Limited Residential Subdistrict, adjacent to the 100-foot setback from the protected resource. The current motel use is located outside of the shoreland zone. The 2020 amendment approved an out-door restaurant use in within the shoreland zone. Sec. 8.1.4 prohibits more than one principal non-residential use on a lot without each use conforming to all dimensional requirements for each use. The property does not appear to have sufficient lot area (40k SF req.) or shore frontage (200 LF req.) within the shoreland zone to meet the dimensional requirements (Sec. 8.1.1.C). The applicant has clarified that the restaurant use is to be accessory to the principal hotel use. It needs to be demonstrated through plan and calculations that the area designated for the restaurant use is subordinate to the hotel use in total area.
9. A revised survey that depicts the full extent of the lot should be submitted with details on establishing the shoreland zone, e.g. location of the Highest Annual Tide line and 100-foot dimension, and calculations for establishing lot size. This survey would also include a full account of vegetation that coincides with aerial images. The current plans appear to be lacking in depicting the full extent of existing vegetation. To reiterate, it is recommended that a revised survey be prepared and submitted.
10. Demonstration of all applicable land use standards (Sec. 8.3) should be made as part of the application, including Sec. 8.3.3.3 concerning clearing in excess of 25% of the lot area. The latter is important since the property currently doesn't meet the standard, which is permitted per Sec. 8.3.3.4, however, cannot be made larger. The proposed development appears to be replacing existing vegetation. The applicant does not concur. The clause, included below, appears to be clear on the expectation that clearings, regardless of the purpose, are not to be larger than 25% or 10k SF, whichever is greater. When there is an existing, legally non-conforming condition, as with the size of the clearing on the site, it is not permitted to increase the nonconformity.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, including land previously cleared. This provision shall not apply wherever lot coverage in excess of 25% is permitted.

Lighting

11. Details on proposed lighting should be submitted and vetted as to conformance to Article 10-H. **Is there any pole mounted lighting? The Site Plan should reflect the proposed lighting locations. A photometrics plan was not submitted as required nor waiver requested.**

SITE PLAN AND SUBDIVISION REGULATIONS

12. **Gorrill Palmer provided comments dated March 22, 2022 (attached) and the applicant has responded in writing which is included in the application. Due to time constraints Gorrill Palmer has not yet reviewed the responses and revised plans. Peer-review engineering comments will be provided to the applicant when completed and available to the Board with the next submission.**
13. There were crosswalk improvements approved as part of the prior amendment and it is not clear if all details were constructed. The applicant should clarify, and any unfinished items should be addressed in this application. **Since these improvements were not constructed, the current proposed plans should reflect this. The current plans do not appear to indicate the crosswalk is to be constructed.**
14. The Board and applicant may want to consider plantings for the associated parking on the west side of Nubble Road and along Spring Street to reinforce the new parking design and provide for more attractiveness of the lot. **The applicant does not concur.**

OTHER COMMENTS

15. The proposed building line depicted appears to be encroaching into the 100-foot setback. This should be evaluated and ensure the building location conforms to Article 5 and can be constructed without encroaching into the 100-foot setback. If such encroachment is necessary it should be made clear for staff's and the Board's consideration. **The applicant has clarified that the proposed building meets the setback.**
16. Zoning and setback information should be included on the L2 Site Plan sheet. **The plan has been revised to reflect the comment.**
17. Tax Map reference on plan reflects the Assessing ID information and not the Map and Lot of the property. For the locus property or eastside of Nubble that is *Map 25 Lot 193A* not the *139-477*. Sheet L2 should also be revised. **The plan has been revised to reflect the comment.**
18. Property owner, 229 Nubble Road, LLC does not appear on the application form. **Application has been revised to reflect the comment.**
19. The Planning Board should determine if a site visit is needed, and schedule one if required.

WAIVER REQUESTS

None requested. Considering the scope of the proposed development, previously granted waivers should be requested again for the Board’s consideration.

CONCLUSION

The submitted application for an amendment to a previously approved plan is more involved than the previous amendment. The Board should determine if waivers from 2012 are to be reconsidered or not. A site walk should also be discussed. The application, with the exception of two items (updating historic preservation feedback and past waiver for HISS) is complete for preliminary review. The Board should review the application for conformance and determine if it concurs with the comments and if revisions will be required prior to preliminary approval.

Feel free to contact me with questions.

Best regards,



Christopher Di Matteo
Licensed Landscape Architect
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207.604.4245

Subject: 3281.28 Viewpoint Hotel - Peer Review Comments
Date: Tuesday, March 22, 2022 at 7:27:02 AM Eastern Daylight Time
From: Will Haskell <whaskell@gorrillpalmer.com>
To: Dylan Smith <dsmith@yorkmaine.org>, DeCarlo Brown <dbrown@yorkmaine.org>, Christopher DiMatteo <cdimatteo@longmeadowpla.com>
Attachments: image001.png

Hello,

We reviewed the following materials that were downloaded from the Applicant.

- Viewpoint Amended Plan, prepared by Civil Consultants, dated 1/7/2021
- Viewpoint Site Plan Amendment – Site Plans, prepared by Civil Consultants, dated 2/24/2022
- Viewpoint Site Plan Amendment - Application, prepared by Civil Consultants, dated 2/24/2022
- Viewpoint Hotel _Signed Findings of Fact, prepared by Town of York, dated 2/20/2021

We have reviewed the materials for conformance with the technical engineering portions of the Town of York Ordinance and generally accepted civil engineering standards and offer the following comments:

1. It appears that stormwater control is not required for this project.
 - a. The project does not disturb over one acre, therefore, a MDEP Stormwater Permit is not required.
 - b. The Ordinance has a requirement for parking areas with more than 20 spaces that an oil/water separator device. The required parking count for the project is 65 spaces. The project is proposing 75 parking spaces, including 16 new parking spaces. All parking spaces appear to be located within existing grave/crushed stone areas that appear to already be used for parking. The Town should consider whether an oil/water separator device is required for this project.
 - c. The proposed development on the west side of Nubble Road is located over existing impervious area and therefore will not result in an increase in stormwater runoff from existing levels.
 - d. The proposed roof area on the east side of Nubble Road will be vegetated. The roof area is being considered impervious area for the stormwater analysis. Since the site is directly tributary to the Atlantic Ocean, the project will not result in an adverse impact to downstream areas.
2. An Erosion Control Plan for the west side of Nubble Road needs to be submitted.
3. The new 16 space parking area appears to be located within a larger existing crushed stone area, therefore, we assume no additional surface material will be added at this location.
4. The gravel drive that connects the proposed 16 parking space area to the larger parking area looks partially vegetated and very steep at the higher end and may require regrading to provide a safe connection between the two parking lots.
5. We assume that the sewer connection design and pump station for the new hotel buildings will be reviewed by the Sewer District.
6. Provide details on how excess water from the vegetated roofs of the new buildings (if any is anticipated) will be conveyed and released to the ground surface.
7. We have no comments on the traffic assessment that was submitted.

Thank you,

William C. Haskell | Principal



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