

COMPLIANCE
REVIEW LETTER

May 20, 2022

York Planning Board
DeCarlo Brown, Land Use Planner
Town of York
186 York Street
York, Maine 03909

Application: Josiah Norton Rd 2-Lot Subdivision– Richard Moody & Sons Construction Co.
115 Josiah Norton Road
Tax Map 99 Lot 52A

Open Space Conservation Subdivision Plan

Review Status: Combined Preliminary/Final application.
Conceptual Design reviewed at the March 24, 2022 meeting.

Board members and Mr. Brown,

The following application information has been provided for review:

1. Application form dated 5/6/2022.
2. Application Submittal Info: *Preliminary/Final Submission for Open Space Conservation Subdivision, 115 Josiah Norton Road, York Maine, Map 99, Lot 52A...*Prepared by Altus Engineering, Inc. and Kimball Survey & Design, Inc. Dated May 9, 2022. [Includes checklist and narratives, deed, pertinent correspondence, soil survey and test pit information, and draft Findings of Fact]
3. Plans entitled: *Proposed Open Space Conservation Subdivision, Map 99, Lot 52A, 115 Josiah Norton Road, York Maine ...*Prepared by Kimball Survey & Design, Inc., Dated May 6, 2022. [Includes Boundary & Existing Conditions Survey, and Yield Plan]

With review of the above information and the Town’s Zoning ordinance and the Site Plan and Subdivision regulations, I offer the following comments on compliance with the Town’s ordinances.

PROJECT DESCRIPTION

The application aims to create to two residential lots with open space as permitted under the Open Space Conservation Subdivision standards (Sec. 7.6 under the Zoning Ordinance). The parcel 20± acre parcel is located in the General Development 1 (GEN-1) Zoning District with a portion located within the Limited Residential and Stream Protection subdistricts in the Shoreland Overlay Zoning District. The parcel is a result of a recent division of land in 2021, with the remaining portion located to the north at 121 Josiah Norton Road.

COMPLETENESS REVIEW

The application is before the Planning Board as required by the Site Plan and Subdivision Regulations.

As permitted by Sec. 5.3.1 the submitted application includes both Preliminary and Final Plan for the Planning Board's consideration. The applicant has included a checklist of required submittal items and requested waivers for those requirements that are not included. In consideration of the waivers and other than the following, the **application appears to be complete.**

1. 6.4.19 A copy of covenants and deed restrictions as are intended to cover all or part of the tract shall be submitted. The applicant states this is not applicable, however, the proposed lots are depicted with no-cut buffers. A draft of the deed for the proposed lots with the restriction contemplated would be appropriate for the application.

COMPLIANCE WITH THE TOWN'S ORDINANCES

The application appears to conform to the town's ordinances with the possible exception of the following:

Section 7.6 of the Zoning Ordinance intends (7.6.1.C and 7.6.3.B) for the open space design and management to be in concert with the conservation theme, which is wildlife habitat. With this in mind, habitat protection is best maximized when all resources are under single ownership, which is why it may make better sense to include the areas designated as *no-cut* areas behind the proposed lots within the open space to be conveyed to the land trust, rather than owned by the homeowner with a deeded restriction. The dimensional standards under Sec. 7.6 will allow for the smaller lot sizes.

The plans depict the Shoreland Overlay District boundary in a different location than what is officially mapped, corresponding with the updated wetland delineation on the property. The boundary has moved closer to Josiah Norton Road, requiring the proposed lots to conform to the dimensional standards of Article 8 in the Zoning Ordinance, including shore frontage (Minimum of 40k s.f. lot area and 200 ft. of shore frontage). When considering the logistics involved for the proposed lots to conform to the shore frontage requirements, perhaps the area proposed as restricted to no-cut should be provided to the land trust as a conservation easement, so all the resources and the maximum habitat area is managed and controlled by one entity.

The following are plan revisions and other comments for the applicant's and Board's consideration:

1. A leading plan note that explains the purpose of the plan and why it is subject to subdivision would help with clarity since there are only two lots proposed. For example: *The purpose of this plan is to create two residential lots and open space which is subject to subdivision since*

the original parcel (Tax Map 99, Lot 52F and Tax Map 99, Lot 52A) was first divided in 2021, resulting in 3 or more lots within a 5-year period when considering this division.

2. For clarity it is not recommended to record the Yield Plan. If it must be recorded, similar to above, there should be added a leading plan note that explains the purpose of the plan and clearly stating that it is not a subdivision plan.
3. *Net Density Calculations* shown on the plan should be revised to be more specific to the density requirements under the Site Plan and Subdivision Regulations, Sec. 3.1.10 *Net Developable Acreage* and Sec. 7.4 *Land not suitable for development*. When considering Sec. 7.6.4.B Density under the Zoning Ordinance, given that the majority of the property is within the Shoreland Overlay District, the calculation of density is likely higher than what is shown. The calculations should be revised to also reflect this section.
4. Code Enforcement/Shoreland officer should review the plan concerning the revised Shoreland Overlay District boundary, and determine conformance.
5. Pre-Construction Meeting is noted under the Town Plan Notes as being not applicable, however, it may still be pertinent to have Code Enforcement review clearing limits prior to earthmoving unless that will not take place until after a building permit is issued.

WAIVER REQUESTS

The following are requested waivers from the Site Plan and Subdivision Regulations:

1. Section 6.3.3.A.2 - Elevation contours at 2' intervals referenced to NGVD 1929. NAVD 1988 datum is used.
2. Section 6.3.3.A.5 - Ledge outcropping. Limit identification to the proposed lots and not the open space.
3. Section 6.3.3.A.4 - Vegetation in general, specifically noting any trees larger than 24" in diameter at breast height. Applicant states it is not necessary given the extent of the parcel being preserved as open space.
4. Section 6.3.7 - A grading and landscape design plan which meets the requirements of §7.3. Applicant states it is not necessary given the limited scope of construction.
5. Section 6.3.16 - Undeveloped Habitat Blocks, High Value Plant and Animal Habitats, and Focus Areas of Ecological Significance [Wildlife Biologist Report]. Applicant states that such a report will not result in any additional information that would change the current conclusions.
6. Section 6.3.27 - A sketch and narrative description prepared by a professional engineer, of the proposed stormwater drainage plan shall be submitted. Applicant states it is not necessary given the limited scope of construction.
7. Section 6.3.29 - Temporary markers adequate to enable staff or the Board to locate readily and appraise the basic layout in the field. Applicant states it is not necessary given the Board has determined a site walk is not necessary.

8. Section 6.3.32 - A high intensity soil survey signed and sealed by a Maine Certified Soil Scientist. Applicant states it is not necessary, given the passing test pits. Medium intensity soil survey information has been submitted.
9. Section 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... Applicant states it is not necessary.
10. 6.4.15 Soil Erosion and Sedimentation Control Plan... [and all subsections] Applicant states it is not necessary given the limited scope of construction.
11. Section 6.4.16 and related subsections - Stormwater Management Plan... [and all subsections] Applicant states it is not necessary given the limited scope of construction.
12. 6.4.18 A list of construction items with cost estimates for all public improvements proposed by the developer shall be submitted... Not included in the cover letter, however, given the context of the other waivers this was likely appropriate for inclusion. And since the Board interprets performance guarantee to include erosion and sedimentation control efforts, regardless of being *public improvements*, the Board for consistency may want to consider a waiver.
13. Section 6.4.20 - The Final Plan shall show 2 foot contour lines of both existing and proposed topography in relation to the NGVD of 1929. NAVD 1988 datum is used for existing contours, there are no proposed contours depicted.
14. Section 6.4.28 - Financial Capacity. The applicant shall provide documentation from a bank or other established financial institution acceptable to the Planning Board with an evaluation as to the applicant's financial capacity to successfully undertaken and complete the proposed project. Applicant states it is not necessary given the limited scope of the project.

CONCLUSION

The submitted application for a minor subdivision is modest in scale and relatively straightforward request. The Planning Board may want to consider conditional approval, a condition to ensure payment of all outstanding fees and suggested plan note revisions if concurred by the Board, prior to signing of the final plan.

Feel free to contact me with questions.

Best regards,



Christopher Di Matteo
Licensed Landscape Architect
cdimatteo@longmeadowpla.com
207.604.4245