

## CIVIL CONSULTANTS MEMORANDUM

<b>TO:</b>	Town of York- DeCarlo Brown	<b>FROM:</b>	Geoffrey R. Aleva, PE	<b>DATE:</b>	6/27/2022
<b>SUBJECT:</b>	Site Plan Review – Amendment (Hotel Expansion)				
<b>PROJECT:</b>	Viewpoint Hotel Expansion– 229 Nubble Road, LLC (1715803)				

Following please find CIVIL CONSULTANTS’s responses to the memorandum from Chris DiMatteo dated May 20, 2022. PLEASE SEE ATTACHMENTS

COMMENT	RESPONSE
<b><u>COMPLIANCE WITH THE TOWN’S ORDINANCES</u></b>	
<b><u>ZONING ORDINANCE:</u></b>	
The plans have been revised to address many of the previous comments for preliminary review. The following are remaining and new comments.	
<p><b><u>Lot Coverage:</u></b></p> <p>1. <u>Eastside of Nubble Road:</u> <i>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 offset 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.</i></p> <p>The extent of the 2012 land survey has not been used as requested (previous comment above), thereby not depicting the entire lot that is appropriate in this case where demonstration of shoreland setbacks and area is required. The 2012 plan depicts a small area of wetland that is not shown on the current plans and is not reflected in the coverage calculations. In addition, past or present plan notes associated with the Site Plan is not appropriate for the Boundary and Existing Conditions Survey, especially when it is redundant information. Plan should be revised.</p>	<p><i>A revised boundary plan was prepared and included in the previous submission showing the full extent of the lot. The plan shows the location of the 250’ shoreland setback.</i></p> <p><i>The updated boundary and existing conditions plan depicts what is currently on site. It is unclear where the 2012 wetland delineation came from. There are no wetlands on the property.</i></p> <p><i>All previous plan notes have been removed from the boundary plan.</i></p>
<p>2. <u>Westside of Nubble Road:</u> <i>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....</i></p> <p><i>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</i></p>	<p><i>The applicant is working with Town Staff to determine the base lot coverage values. Please see the attached letter from the applicant’s attorney regarding the lot coverage discussion.</i></p> <p><i>The submission includes two plans for discussion with the Planning Board at the meeting.</i></p> <p><i>The two plans indicate site designs for lot coverages at 41% and 35%. It is the applicant’s intention that the 41% lot coverage is appropriate. The applicant it</i></p>



<p><i>should provide the permitting information associated with this impervious surface increase to support the stated 40% ratio for the existing impervious surface.</i></p> <p>The applicant has revised the plans to provide additional clarification as requested (previous comment above), however, there may be a need of additional information/clarification to understand fully all the calculations to determine conformance, Code Enforcement should review and identify any changes needed. In the interim, however, the issue concerning what time period accounts for existing condition has not been resolved to the satisfaction of Code Enforcement (see attached email dated 5/10/22). Without this being resolved it is difficult to see how the Planning Board can determine conformance to the coverage/impervious area standards. One possibility for moving ahead is for the applicant to determine the previous extent of coverage (between 2016 and 2018) area and determine if the program can be supported with this as a starting point.</p>	<p><i>ready to discuss the differences with the Planning Board.</i></p>
<p><b><u>Parking:</u></b></p> <p>3. <i>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. [Previous comment]</i></p> <p>The applicant states that it is not the intention to pave the ADA spaces. When considering this is a year-round facility, having ADA parking spaces on gravel surface and not located as close to an accessible entrance does not seem to be adequate. Section 302.1 Floor or Ground Surfaces (General) of the 2010 ADA Standards for Accessible Design states:  <i>Floor and ground surfaces shall be stable, firm, and slip resistant and shall comply with 302.</i>  <i>The advisory rule (not yet adopted) states:</i>  <i>A stable surface is one that remains unchanged by contaminants or applied force, so that when the contaminant or force is removed, the surface returns to its original condition. A firm surface resists deformation by either indentations or particles moving on its surface. A slip-resistant surface provides sufficient frictional counterforce to the forces exerted in walking to permit safe ambulation.</i></p> <p>It is not easy to maintain a gravel parking lot to achieve what is anticipated for an ADA surface and logistical issues that come with not being able to mark stalls and aisles often result in a lackluster accommodation, which is probably why most ADA parking is paved with bituminous asphalt.</p> <p>There has not been an accessible route from the parking to the existing building identified on the plan, and from the plans it does not appear to be one. The Code Enforcement Office should determine if the expansion of hotel units and renovations proposed, including a new lawn area, requires this. An accessible route from the parking to the new buildings is not identified either. The new walkway may be accessible; however, it is not clear</p>	<p><i>Proposed contours and additional spot grades have been added to the plan to provide 1:48 slopes at parking areas and 1:12 slopes at accessible paths. The area is now shown to be paved.</i></p> <p><i>There are signs used to indicate ADA parking. The ADA parking area will be paved.</i></p>



**CIVIL CONSULTANTS MEMORANDUM**

<p>without more details. In both of the cases above (access to proposed and existing facilities) the contours depicted on the plan does not demonstrate the required slope for the ADA accessible parking. No greater than 1:48 or 2% slope is required, per Section 304.2 Floor or Ground Surfaces and Section 502.4 Floor or Ground Surfaces of the 2010 ADA Standards for Accessible Design. The plan shows the slope to be closer to 8%. The applicant and Planning Board should give more consideration to this component of the site design.</p>	
<p><b><u>Accessory Use:</u></b> 4. Restaurant Use. The outdoor restaurant is proposed as an accessory use. The demonstration that it is subordinate to the principal use on the property has not been made. The Code Enforcement Office is requesting a condition of approval (suggestion below) to address compliance (see attached email dated 5/10/22): <i>Financial statements shall be submitted on a yearly basis to the Code Enforcement Office that demonstrates the restaurant use is accessory and subordinate to the hotel or primary use.</i></p>	<p><i>This item has been addressed to the satisfaction of the Code Enforcement Office.</i></p> <p><i>Financial statements are not required for the determination of the accessory restaurant use. The determination is based on the relative areas of the uses.</i></p> <p><i>The hotel has a footprint of approximately 11,000 SF of multilevel transient accommodations. The seasonal accessory restaurant is comprised of temporary seating on the resort grounds, with cooking and serving facilities located in seasonal trailers. The restaurant area encompasses a footprint of approximately 1,600 SF adjacent to Nubble Road and another 2,700 SF for temporary seating on the resort grounds. The restaurant is also not open during wedding events.</i></p> <p><i>We feel that this area determination along with the seasonal nature indicate that the restaurant is accessory to the hotel.</i></p>
<p><b><u>Shoreland Overlay District.</u></b> 5. <u>A revised survey</u> that depicts the full extent of the lot has not been 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. Some areas of vegetation that are apparent on the aerial is not included on the survey. The applicant has revised the existing conditions plan to address some of the previous comments, however, additional information is necessary. As to the vegetation, the Board may want to consider requiring the applicant to walk the site with the Town's Shoreland officer and mark up a plan to identify the extent of vegetation to be retained and protected so the final plan can be updated prior to approval.</p>	<p><i>A revised boundary survey which depicts the full extent of the lot was included in the previous submission. This item has been addressed to the satisfaction of the Code Enforcement Office.</i></p>
<p>6. Demonstration of compliance to Sec. 8.3.3.3 concerning clearing in excess of 25% of the lot area remains</p>	<p><i>This item has been addressed to the satisfaction of the Code Enforcement</i></p>



**CIVIL CONSULTANTS MEMORANDUM**

<p>outstanding. The proposed development appears to still be encroaching on existing vegetation. (the existing vegetation is depicted adjacent to the circular retaining walls on Sht. EC-E and is shown removed on Sht. L1). The expectation is 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. This is the understanding of the Code Enforcement Office (see attached email dated 5/10/22)</p>	<p><i>Office. The buildings have been relocated to maintain the existing landscaping along the property line. This change was made prior to the last presentation not the Planning Board.</i></p>
<p><b><u>Lighting:</u></b> 7. Details on proposed lighting have not been submitted nor vetted as to conformance to Article 10-H. The applicant has indicated there are no plans for pole mounted lights, only bollards. The Board indicated it would consider a waiver regarding requiring a photometrics plan.</p>	<p><i>The Planning Board was accepting of the previous provided information. All lights are to be low landscaping or bollard lights like the rest of the resort area.</i></p>
<p><b><u>SITE PLAN AND SUBDIVISION REGULATIONS:</u></b> 8. Gorrill Palmer provided peer-review comments that are attached.</p>	<p><i>See attached response memo to Gorill Palmer comments.</i></p>
<p>9. The crosswalk improvements approved as part of the prior amendment are depicted on the plan however, the revised plans remain unclear as to if it is to be constructed or not.</p>	<p><i>A note has been added indicating intent to construct crosswalk.</i></p>
<p><b><u>OTHER COMMENTS:</u></b> 10. The Planning Board should determine if a site visit is needed, and schedule one if required.</p>	<p><i>No response required; A site walk was conducted prior to this review memo.</i></p>
<p>11. It does not appear to be a parking lot paving detail is included in the plan set.</p>	<p><i>That detail has been added to the plans.</i></p>
<p>12. <u>Plan note #14 on Sheet L1 should be revised to state: Removal of trees and vegetation shall be limited to those areas designated on the plan and approved by the Code Enforcement Office after limits have been staked in the field prior to clearing and earthwork.</u></p>	<p><i>The note #14 has been revised.</i></p>
<p><b><u>WAIVER REQUESTS:</u></b> The following waivers are requested. The Board should review the application for the rationale provided for each request. Staff does not recommend waivers for 6.4.25 and 6.4.28.</p> <ol style="list-style-type: none"> <li>1. <u>Section 6.3.32 - A high intensity soil survey signed and sealed by a Maine Certified Soil Scientist.</u></li> <li>2. <u>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.</u></li> <li>3. <u>Section 6.4.25 - The identification of the type of the required performance guarantee.</u></li> <li>4. <u>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</u></li> </ol>	<p><i>A financial capacity letter has been received from Kennebunk Savings indicating Mr. Lipton's ability to fund the project. See provided letter. This waiver will no longer be requested.</i></p> <p><i>As for the performance guarantee, we noted in our waiver request that the project is located on private property and does not have any offsite improvements on public land that may require a financial guarantee. For this reason, waiver requests 1, 2 and 3 shall remain.</i></p>



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<p><u>project.</u></p>	
<p><b><u>CONCLUSION:</u></b> The application, with the exception of a letter from the Sewer District and consideration of requested waivers, is complete for final review. There have been some revisions made to address many previous preliminary plan comments, however, there appears to remain a couple of pertinent issues that need to be resolved prior to final approval. Determining logistics on how these issues are resolved should be discussed, along with determining if a site walk is warranted. The Board should review the application for conformance and determine if it concurs with the comments and if revisions will be required prior to approval.</p>	<p><i>Our responses in this memo should address all outstanding issues related to the project.</i></p>

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# THE 1871 GROUP

Kennebunk Savings PURPOSE DRIVEN.

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May 9, 2022

Town of York

186 York Street

York, Maine 03909

RE: 229 Nubble Road, LLC/ViewPoint/Joseph Lipton

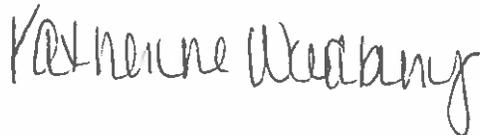
To Whom It May Concern:

Joseph Lipton has asked Kennebunk Savings to provide the Town of York with a Letter of Financial Capacity regarding the above referenced project.

Please be advised that Mr. Lipton has maintained a favorable Banking relationship with Kennebunk Savings with all accounts handled in a satisfactory manner. It is the opinion of the Bank that Mr. Lipton has the financial capacity to successfully undertake the above referenced project.

Please feel free to contact me with any questions or concerns at 603-334-1022.

Best Regards,



Katherine Woodbury

Vice President – Commercial Lending

Cc: Joseph Lipton