

COMPLIANCE  
REVIEW LETTER

March 17, 2023

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

Application: Bald Head Cliff Road Realignment; The Cliff House — RBDD Cliff House Acquisitions, LLC.  
591 Shore Road (Tax Map 156 Lot 15)

**Amended Site Plan Review**

Review Status: Revised Application

(new submittal information is listed in red)

Board members and Mr. Brown,

The following information has been provided for preliminary and final plan review:

1. Application form dated 10/20/2022
2. Cover letter dated November 1, 2022 from Doug Reynolds, Gorrill Palmer, includes submittal item checklist, correspondence to Police and Public Works, and a draft Findings of Fact.
3. Amended Plans: *3rd Amended Overall Site Plan, Site Plan, Grading, Drainage and Erosion Control Plan, Details and Erosion Control Notes*. Prepared by Gorrill Palmer, issue date 11/1/2022. **REV. date 2/3/2023.**
4. Previously Approved Plan Entitled: *2nd Amended Overall Site Plan, Cliff House Pergola and Balcony Expansion...* prepared by Gorrill Palmer, stamped date 1/5/2022.
5. **Response to Comment letter dated February 6, 2023 from Doug Reynolds, Gorrill Palmer.**
6. **Supplemental Plan: *Preliminary Easement Plan. Bald Hill Cliff Road Access Revisions.* Prepared by Gorrill Palmer, issue date 2/3/2023.**

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 land use and development provisions.

## **PROJECT DESCRIPTION**

The applicant is seeking approval to modify the alignment and reconstruct a portion of Bald Head Cliff Road which is a private road that provides access to both the hotel and residential properties. The proposed development requires an amendment to the previously approved Cliff House 2016 Site Plan. The Planning Board reviewed and approved an amendment for this site (*2<sup>nd</sup> Amendment*) in December of 2021 for a new gate house. The property is located in the RES-2 district.

## **REVIEW SUMMARY/HIGHLIGHTS**

The application is before the Planning Board as required by the Zoning Ordinance (Sec. 18.15.B.1.D) for review of any change that amends a site plan previously approved by the Planning Board. The following is a summary of the review comments:

1. The application appears to be substantially complete. **The application was accepted at the Board December 2022 meeting.**
2. Review by Pertinent Town Departments: The applicant has included correspondence to the Police and Public Works but nothing to or from the Fire Department. The Water District has not provided a final review. **Nothing in writing from the Fire Department, however, the Water District (KKWWD) provided comments.**
3. Street ROW. The proposed amendment places the road outside the current ROW/Easement limits. A revised survey with the revised ROW needs to be prepared and recorded. **A preliminary easement plan has been submitted for the Board's consideration.**
4. **A site walk was held.**
5. **Coverage requirements for the lot of record (#76) that is being partially developed with the proposed roadway appears to be an issue.**

## **COMPLETENESS REVIEW**

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, included below:

Since this is a plan amendment that has a narrow scope as it relates to site work, not all the submittal requirements are applicable, however, the Board may identify pertinent requirements that I have not listed below and can discuss with the applicant at the meeting. The applicant has submitted a checklist for 6.4 Submissions for Final Plan and has identified waiver requests as well. The applicant is intending to only submit a Final Plan application, as allowed under Sec. 5.6.1, which appears to be reasonable. **The application has been accepted.**

The checklist submitted appears to be in order with the following exceptions:

1. 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 applicant states that the York Water District has been contacted for review of the new hydrant connection and will

provide a...**Comments from the Kennebunk, Kennebunkport and Wells Water District has provided comments in writing, however, it doesn't appear to include approval.**

2. **6.4.5 Contact DPW, Police and Fire.** The applicant has included correspondence to the Police and Public Works but nothing to or from the Fire Department. **Nothing in writing from the Fire Chief has been provided.**

The application, with consideration of the waivers requested and the above comments, appears to be substantially complete.

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

The proposed amendment to modify the existing private roadway, Bald Head Cliff Road as shown on the amended plan appears to be in compliance with the applicable town zoning and site plan provisions, however, the final plans will require the following:

1. The change in road alignment will locate a portion of the private street outside of the existing Right-Of-Way (ROW) or easement. The ROW in these areas needs to be modified and reflected on the final plan, prepared and stamped by a Maine Professional Land Surveyor. The changes to the street ROW should be recorded in the York County Registry of Deeds. **A preliminary easement plan has been submitted for the Board's consideration. The final plan should be stamped and signed by a Maine Licensed Professional Land Surveyor.**
2. Proposed vegetation/tree line should be reflected on the final plans to identify proposed clearing limits. **The plan has been revised.**
3. Final plans need to include all signatory blocks per Sec. 4.8 Approval Sheets. **The plan has been revised.**
4. Considering the development is associated with a private street the Director of Public Works has communicated with Staff that he does not plan to provide any comments on the proposed amendment.
5. **Engineering and Stormwater Review.** Ransom Engineering has prepared a peer review and it will be forwarded under separate cover for the Board's consideration. Integrated Environmental Engineering's Review of Post Construction Stormwater Inspection & Maintenance Plan will also be forwarded under separate cover. **Integrated Environmental Engineering had no comments. It appears that Ransom Engineering's comments have been addressed and they have no further comments.**

### **NEW COMMENTS**

6. **Lot Coverage for the 76 Bald Head Road.** The applicant is suggesting that the coverage requirements under Article 5 are not required because footnote L states that "coverage requirement pertains to non-residential development only." The applicant should demonstrate that the lot of record is residential. Information as to how the current building

conforms to the definition of *Dwelling Unit* (Article 2 YZO) would be helpful. The residential use category, for single-family, is essentially defined to include dwellings, see Section 4.1.

7. It is not clear if the existing lot of record (#76) can be encumbered by the private road and maintain its legally nonconforming/lot-of-record status. Having a private road running through a small residential lot is atypical. Perhaps Code Enforcement and/or Town Attorney can verify. Perhaps the applicant should consider adding the lot (#76) to the larger RBDD Cliff House Lot.
8. Reviewing Article 4, it appears that *road and driveway construction* is listed as a separate use category, under *Miscellaneous Use Category*. Since this is the proposed development, and not residential, footnote *L* may be at odds to the applicant's rationale (comment #6) and lot #76 is subject to coverage requirements.
9. Site Plan and Subdivision Regulations require a 50-wide ROW for private roads, Sec. 9.5. The proposed ROW width is 40 feet. A written waiver request may be required for the Board's consideration.

## **WAIVER REQUESTS**

The applicant has identified waiver requests as part of their submitted checklist. I have assumed that if a submittal item is actually not applicable to this application, then a waiver is not required, even though the applicant has requested it. The following is a list of items that need waivers based on that rationale for the Board's consideration:

1. 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 applicant states that the required information will be provided to the Town when received, however, a waiver is required to have a complete application.
2. 6.4.6 A landscaping plan meeting the standards of section 7.17.... This does not appear to be applicable with the exception of the designation of cleared areas, which can be provided on the other plans.
3. 6.4.14.2 Public Cross sections every 50 feet along entire street proposed in the development. This appears to be reasonable given the narrow scope of utilities proposed within the new road construction.
4. 6.4.14.3 A longitudinal profile along the roadway center line. This appears to be reasonable given the narrow scope of utilities proposed within the new road construction.
5. 6.4.14.6 Type, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways. This appears to be reasonable given the narrow scope of utilities proposed within the new road construction.
6. 6.4.14.16 Stormwater Management Plan - The developer shall submit a plan and design for the collection and disposal of surface drainage waters prepared by a Registered Engineer,

and which meets all the requirements of Sections 9.8 and 9.9. This appears to be reasonable given the net decrease of impervious area.

7. 6.4.20 The Final Plan shall show 2 FT contour lines of both existing and proposed topography in relation to the NGVD of 1929. The drawings use NGVD 1988.
8. 6.4.25 Identification of the type and amount of the required performance guarantee. The Town in the past has required, at a minimum, a performance guarantee to cover restoration of the site and erosion control.
9. 6.4.28 Financial Capacity... Considering the applicant and the scope of work this seems to be a reasonable request.

## **CONCLUSION**

If the Board concurs with the waiver requests and with consideration of the comments above and other comments and questions from Board members and the applicant and public testimony, the Planning Board may want to consider granting conditional approval of the amended Site Plan. **The Board should review and determine if it concurs with the comments and direct the applicant with its expectations on plan revisions.**

Feel free to contact me with questions.

Best regards,



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