

PEER REVIEW
LETTER

May 19, 2023

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

Application: Mixed Use Building — York Street 242, LLC.
242 York Street (Tax Map 50 Lot 114)

Site Plan and Subdivision Review

Review Status: Revised Preliminary/Final Plan Application
(new comments are in red below)

Board members and Mr. Brown,

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

1. Application form dated 1/23/2023.
2. Submittal Packet: *Change of Use Application, York Street 242 LLC, Tax Map 50 Lot 114, 242 York Street, York, Maine 03909, Dated: February 17, 2023.* Prepared by Tidewater Engineering & Surveying Inc. (Includes architectural floor plans (dated 1/3/2023), property deed; submittal checklist, traffic assessment, requested waivers, correspondence with districts and departments, existing photos, and plans, etc..)
3. Survey: *Boundary & Existing Conditions Survey of Land Located at 242 York Street (Tax Map 50 Lot 114) York, Maine 03909.* Dated: March 28, 2023. Prepared by Tidewater Engineering & Surveying Inc.
4. Engineering Plans: *Proposed Site Plan of Land Located at 242 York Street (Tax Map 50 Lot 114) York, Maine 03909.* REV Date: March 28, 2023. Prepared by Tidewater Engineering & Surveying Inc. REV Date: 5/11/23.
5. Response to Comments: Includes three memorandums dated 1/5/2023 responding to comments from Long Meadow Planning & Landscape Architecture, Gorrill Palmer and Integrated Environmental Engineering, Inc.
6. Email from York Code Enforcement Office: *RE: Updated Digital PB Application 242 York St.* dated March 28, 2023. Opinion regarding parking within a private ROW.
7. *Submittal #3: York Street 242 LLC, Site Plan/Subdivision Application; prepared by Tidewater Engineering & Surveying, dated 5/11/2023. (Includes revised plans, exterior lighting catalog cuts, correspondence from sewer and water districts and 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 peer-review engineer Gorrill Palmer, I offer the following comments on compliance with the Town’s ordinances.

PROJECT DESCRIPTION

The proposal consists of converting an existing historic mixed-use building located at the center of York Village from boarding house and commercial uses to hotel/inn and residential dwellings, while maintaining commercial at the street-front and basement levels. Proposed change of use results in a new hotel/inn use and four new residential dwellings. The site is located in the York Village Center-1 (YVC-1) zoning district, with access to public water and sewer and is burdened by an access easement between York Street and the Town Library parcel. No significant site development is proposed.

REVIEW SUMMARY/HIGHLIGHTS

The application is before the Planning Board as required by the Zoning Ordinance (Sec. 4.3 and Sec. 18.15) for review of non-residential development (site plan) and review of the creation of three or more dwelling units (subdivision). The following is a summary of the review comments:

1. The preliminary application appears to be complete. **With additional information submitted the final application appears to be complete as well.**
2. The proposed parking design has been revised to accommodate two ADA spaces, however, even with the allowed 50% reduction (Sec. 15.3.A) the number of spaces proposed does not support the required number of parking spaces. **The plan has been revised with a van accessible space and the Board voted to grant a reduction of required parking spaces for the site.**
3. The property is burdened by an access easement that includes parking within its limits. See email from Code Enforcement. **Parking spaces, though “existing”, still remain depicted on the proposed plan.**
4. **While an inn is permitted in the zoning district, the definition that includes an inn appears to require the rooms for rent are in a dwelling. The applicant should review with the Code Enforcement Officer to determine if the proposed development conforms to the ordinance.**

COMPLETENESS REVIEW

The applicant has submitted an application for Preliminary (6.3) and Final (6.4) review and appears to include all of the required submittal requirements, with the exception of those that are part of requested waivers and the following:

1. 6.4.3 The water supply system design contained in the Site Plan or Subdivision Plan shall be approved in writing by the appropriate agency or individual, and shall be submitted with the

- Final Plan. No approval has been submitted. Correspondence from the District's engineer has been submitted, however, no approval. **Approval has been provided.**
2. Section 6.4.4 The sewage disposal system design contained in the Site Plan or Subdivision Plan shall be properly endorsed and approved in writing by the appropriate agency. Although an email that expressed no concerns with capacity has been provided, no approval has been submitted. **Approval has been provided.**
 3. Section 6.4.27 Findings of Fact, Conclusions of Law, and Decisions. It is stated that this is 'to be submitted', however no draft FOF has been received. **A draft has been submitted.**

COMPLIANCE WITH THE TOWN'S ORDINANCES

ZONING ORDINANCE

1. Section 4.1.2 Business, Village and General Districts. The proposed new uses; Inn and multi-family dwelling are permitted in the base zone. The new dwellings are subject to having no greater than 50% of a residential use on the street level of a mixed-use building. The new dwellings are not proposed on the street level. The proposed development appears to conform. **While Inns are permitted in the YVC-1 district, the definition *LODGING HOME/TOURIST HOME/INN* requires the place where accommodations are provided is a dwelling. *HOTEL/MOTEL* does not have this restriction, however, a minimum of 15 rooms are required, the proposed development has 14. It is not clear if the proposed *Inn* use meets the ordinance. It is recommended that the Code Enforcement Officer reviews prior to final approval.**
2. Non-residential Performance Standards (Sec. 6.1). The applicant has not provided specific information as to the conformance to these standards, however, due to the limited site work, not all standards apply. The applicant and Board should review prior to a final decision, and may want to consider the following:
 - a. Sec. 6.1.12.1 requires the Board to consider how the proposed building alterations will maintain or enhance the best architectural character of the property. The Board may want the applicant to elaborate on:
 - i. How Maine Historic Preservation comments will be adhered to; and **The applicant stated at the last meeting that MHPC comments would be adhered to, however, there is nothing on the plan to support this. The Board may want to consider this a condition of approval.**
 - ii. Confirm that the following materials are not used: *vinyl siding, aluminum siding, Exterior Insulation and Finishing System ("EIFS"), foam or PVC materials.* **This has been confirmed by the applicant, however, a note on the plan should be provided.**

- b. **Sec. 6.1.14 Refuse and Recycling Facilities.** The proposed plan depicts a 6-foot-high fence around the dumpster. The applicant should confirm that both refuse and recycling will be accommodated in this area. A detail should be provided on the plans. **No details have been provided. Applicant should provide at the meeting a detail for the Board's consideration.**
3. **ADA Accessibility Requirements.** The existing storefront units do not have accessible entrances. The proposed renovations are changing the interior spaces of these units along with providing other changes to accommodate the proposed inn. This includes adding a new elevator to the building, however, it does not appear storefront units will have access. The applicant should consider providing access, and confirm with Code Enforcement that it is not required.
4. **ADA Parking Requirements.** The proposed development, per the parking calculations provided, requires a single ADA parking space. The plans depict a standard accessible space (5-foot-wide aisle) at the rear of the building when a van accessible space (8-foot-wide aisle) is required. In addition, the site plan does not show building entrances and of those, accessible building entrances. These should be depicted on the plan and demonstrate an accessible route to and from the parking and building. It is not clear from the architectural floor plans that the proposed ADA parking space is sited in the best location. **The plans have been revised to reflect an accessible building entrance (with the use of a lift) to gain access to the proposed elevator. This allows for an accessible route from the van accessible parking space into the building.**
5. **Parking Calculations.** The plan includes calculations that result in requiring 28 parking spaces after applying the 50% reduction as allowed under Sec. 15.3.A of the Zoning Ordinance. Only 20 parking spaces, however, are provided.
 - a. The Code Enforcement Office provided an email that states that while the parking spaces on the north side of the building, located within an existing access easement/ROW, are not permitted as proposed parking. Since they are preexisting, however, their general use can continue. The Board and applicant may want clarification on if the parking can be used for those existing uses that are not proposed to change. See comment #9 for more.
 - b. The Board needs to determine if there is sufficient parking provided and would then consider granting a reduction as permitted under Sec. 15.3.E. The applicant provides a rationale for this reduction in the submitted application (page 4). **The Board granted a reduction to 14 required parking spaces for the site at the last meeting.**

SITE PLAN AND SUBDIVISION REGULATIONS AND OTHER COMMENTS

6. Engineering-Peer Review. Gorrill Palmer reviewed the application and did not have any other general engineering comments as there is no apparent soil disturbance or exterior work. The following is the only outstanding comment:

- a. *Regardless of the requirement for additional traffic study, the applicant is required to demonstrate that adequate sight distance is available at the site driveways. The applicant should submit an evaluation of required and available sight distances. Although the driveways are existing (i.e. not new), the uses are changing, which requires an evaluation of the sight distance.*

Integrated Environmental Engineering reviewed the application for post-construction stormwater regulations and found that due to no site work or disturbance the development is exempt. **The Planning Board indicated that it was not necessary to have the sight distances depicted on the plan for this particular site.**

7. Lighting. The submittal states that existing building-mounted outdated lighting will be replaced and will be in compliance to Art. 10-H, but no details to review for compliance have been submitted. **Catalog cuts have been submitted.**
8. Traffic. The Public Works Director has concurred with the traffic impact/trips assessment prepared by the applicant and will not require a traffic study.
9. Easements. The existing easement/ROW that appears to have an issue with accommodating parking for the site appears no longer to be used for the original intent; getting from York Street to the rear of the property. It is recommended that the two parties involved discuss dissolving the easement since it doesn't appear to be needed.
10. Public Access from York Street to the Public Library and parking. The site is currently used by the general public to get from York Street to the public parking and library parcel. This access does not appear to be formalized, or at least, recorded in an easement.

It may be prudent and appropriate to discuss the logistics for the public access as part of this application review. If there is nothing formalized (e.g. recorded) there should be a discussion of how the public access continues (presumably benefiting both parties) in perpetuity. Perhaps there is information from the past application reviews for the development of the library. **The Planning Board indicated that this was outside the scope of its review.**

11. Standard Town Plan Notes. The final plans need to include standard plan notes that are applicable to the proposed development. In addition, plan note should reflect the minor subdivision that is created by the four new residential dwellings and Site Plan and Subdivision review required by Sec. 18.15.B (multi-family housing) of the Zoning Ordinance as the purpose of the application rather than a 'change of use' application. **The plans have been revised to include the notes.**

WAIVER REQUESTS

The applicant is requesting the following waivers: (see page 32 of submittal for more details)
(waiver requests 1 through 6 were granted at the last meeting)

1. Section 6.3.7 – Grading and Landscape Design Plan.
2. Section 6.3.32 – High Intensity Soil Survey.
3. Section 6.4.6 – Landscaping Plan.
4. Section 6.4.15– Soil Erosion and Sedimentation Control Plan
5. Section 6.4.16– Stormwater Management Plan
6. Section 6.4.25 – Performance Guarantee
7. Section 5.10- requires supplemental information to be submitted 17 days in advance of the next available meeting.

CONCLUSION

The application submitted, with the exception of written final approval by the water and sewer districts and proposed waivers, appears to be substantially complete. In addition to the comments above, there are a few of comments from Gorrill Palmer. The Board needs to determine if it wants to review the application as a combined Preliminary and Final review prior to accepting the application. There are several issues that the Board will need to discuss and determine if it wants an opportunity to see revised plans prior to considering an approval.

The revised application addresses the majority of the comments, and, if the Board concurs, the remaining ones may be accommodated by condition of approval. These include:

1. Removal of the existing parking spaces in the right-of-way/easement area;
2. A note on the plan that comments and recommendations by the Maine Historic Preservation Commission regarding the building will be adhered to;
3. A note on the plan that the following building materials will not be used: vinyl siding, aluminum siding, Exterior Insulation and Finishing System ("EIFS"), foam or PVC materials.
4. Construction details (as presented to the Board) for the proposed dumpster added to the plans;
5. The Code Enforcement Officer shall determine that the proposed Inn use conforms to the York Zoning Ordinance.

A revised draft Findings of Fact has been prepared and attached for the Board's consideration prior to final approval. The applicant may want to review this as well.

Feel free to contact me with questions.

Best regards,



Christopher Di Matteo

Subject: RE: 242 York Street Draft FOF

Date: Thursday, May 18, 2023 at 3:57:26 PM Eastern Daylight Time

From: ryan@tidewatercivil.com <ryan@tidewatercivil.com>

To: Christopher DiMatteo <cdimatteo@longmeadowpla.com>

CC: DeCarlo Brown <dbrown@yorkmaine.org>, 'Kirstin Stallkamp' <ks@seacoast-realty-partners.com>

Chris and DeCarlo –

I spoke with Kirstin Stallkamp (copied on email) regarding your question pertaining to the “inn” use. Kirstin and Amber spoke about this previously. Here’s a summary of that conversation from Kirstin and what was concluded.

From my conversations with Amber while she was the code officer, the way we understand a main difference between the definition of an Inn and a Hotel/Motel is the number of units each has. An Inn needs to be no more than 14 rooms and a Hotel/Motel is anything that has 15 or more rooms. Both are only for transient guests.

I think what can cause confusion is that the definition for Lodging Home/Tourist Home/Inn includes the word "dwelling" as the second word in the sentence. This word should probably be changed to something like "establishment". I pointed this out to Amber one of the times I met with her and she agreed that it created confusion.

Also, the definition of a "dwelling" specifically excludes Inns. Therefore the use of the word "dwelling" in the definition of an Inn seems to be incorrect. Inns do not have owner's quarters nor does the York definition of an Inn call out owner's quarters as being a requirement as opposed to a boarding house. Furthermore, an Inn cannot contain accommodations that have cooking facilities. Part of the definition of a dwelling is that it must contain cooking facilities.

What had been relayed to me from my meetings with Amber is that the first and second floors would contain the Inn and the 2 commercial units (currently the salon and the gallery) and the 3rd floor would be considered a multi-family.

The only reason I used the words “lodging home/tourist home/inn” is because that is the terminology used by the Ordinance in Article 2 and 4. If you want to change it to just say “inn” that works for me. Based on the above, it seems that perhaps the use “inn” should have its own definition and not be lumped together with “lodging home/tourist home” but we aren’t here to re-write the ordinance. Either way, I support that this use is most aligned with an “inn” and not a “hotel/motel” because of the number of units being offered for transient rental. When I think of motel/hotel, I think of a Holiday Inn, Microtel, or similar that is much larger in scale with lots of rooms and other amenities like a pool, gym and conference rooms. The proposed use is certainly does not align with a motel/hotel in that aspect.

Hope this is helpful. Thanks.

Ryan

Ryan M. McCarthy, P.E., P.L.S.

President

1021 Goodwin Rd Unit 1 | Eliot, ME 03903

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From: Christopher DiMatteo <cdimatteo@longmeadowpla.com>
Sent: Tuesday, May 16, 2023 3:15 PM
To: ryan@tidewatercivil.com
Cc: DeCarlo Brown <dbrown@yorkmaine.org>
Subject: Re: 242 York Street Draft FOF

Thanks Ryan.

Chris

Christopher Di Matteo
LONG MEADOW
PLANNING & LANDSCAPE ARCHITECTURE, LLC
cdimatteo@longmeadowpla.com
207.604.4245

From: "ryan@tidewatercivil.com" <ryan@tidewatercivil.com>
Date: Tuesday, May 16, 2023 at 3:09 PM
To: Christopher Di Matteo <cdimatteo@longmeadowpla.com>
Cc: DeCarlo Brown <dbrown@yorkmaine.org>
Subject: RE: 242 York Street Draft FOF

Hi Chris,

With regards to the number of dwelling units... It is my understanding the assessing and code records identify the existing uses to include 6 commercial units, a 10-room boarding house and a 2-bedroom manager's apartment. There are 2 commercial units on the bottom floor and 4 on the street level floor. The 10-rooms for the boarding house are on the 2nd floor and the manager's apartment is on the third floor. The third floor manager's apartment associated with the boarding house is considered an existing dwelling unit. This is further explained in the narrative starting on page 2 of the original submittal.

Let me reach out to the owners regarding your questions related to the proposed use of an "inn". I know they met with Amber prior to my involvement and this may have already been discussed with Town staff.

I'll be back in touch hopefully tomorrow. Thanks.

Ryan M. McCarthy, P.E., P.L.S.
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From: Christopher DiMatteo <cdimatteo@longmeadowpla.com>
Sent: Tuesday, May 16, 2023 2:18 PM
To: ryan@tidewatercivil.com
Cc: DeCarlo Brown <dbrown@yorkmaine.org>
Subject: 242 York Street Draft FOF

Hi Ryan,

I am reviewing the draft FOF you submitted and pulling together a draft FOF for the Board's consideration.

Typically it is done post final approval vote, but the Town is looking to have a draft ready for the Board's approval the same night.

In the draft under existing use there is reference to single family dwelling and it is used in the proposed to offset the number of new residential dwelling units (three rather than four total). I don't see any evidence of this, from the existing floor plans in the submittal or from the tax assessor's database. So I plan to pull it out and DeCarlo asked if I can reach out to you.

Also, there is language such as "home/tourist" and "home/inn" that prompted me to review the ordinance.

It's not clear to me how the proposal meets the Inn definition that appears to be tied to a *dwelling*. What is being proposed at it relates to the Inn is more aligned with *hotel/motel*, with the exception of not having 15 rooms.

Is there a compelling rationale as to how what is proposed meets the ordinance definition of *LODGING HOME/TOURIST HOME/INN*.

LODGING HOME/TOURIST HOME/INN: A dwelling in which sleeping accommodations are provided to transient guests for compensation and which dwelling contains less than 15 rooms regularly maintained and offered to the public for such use and which have no cooking facilities. Transient guests can stay for a maximum of 32 consecutive days. - AMENDED 11/08/1994

Any chance the program can be changed to add a 15th room?
Let me know if you would like to discuss.

Chris

Christopher Di Matteo

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cdimatteo@longmeadowpla.com

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