

January 20, 2021

Mr. Dylan Smith
Town of York
186 York St.
York, ME 03909

RE: Final Plan for Proposed Beach Side Cove Subdivision, 53 Rogers Road

Dear Dylan,

We have revised our site plan based on the CEO's determination of frontage in the shoreland zone. That determination allows for only 9 units to be located within the shoreland zone. Based on the previously approved yield plan, 12 units are allowed on the property. However, we have a limited amount of space that is both outside the shoreland zone and the 250 foot buffer around the significant vernal pool, which has previously been impacted by the power line easements and Short Sands Road. There is a limited area that could support a duplex unit, which we are proposing as Units 10 and 11.

The other outstanding issue on this project is the holder of the open space. The Applicant has reached out to nine land trusts and six other agencies. Of those 15 entities, five did not respond and ten declined to be involved in the project. The reasons given for declining involvement range from the property is outside their geographic area to the land does not meet the trust's criteria. See attached list.

Additionally, the Applicant has had numerous conversations with the York Conservation Commission regarding holding the open space easement. The reasons given for not taking the easement include not having the ability to manage the land and not being able to actually own it. The primary reason land trusts in the area did not want the easement is that the land is relatively small and low value with utility easements and invasive plants and does not meet the purposes for open space outlined in §1.3.12 of the ordinance. For these reasons, we are requesting a waiver from the requirements of §7.6.1.B. We would propose instead the arrangement discussed at the previous Planning Board meeting that the Homeowners Association own the land and the open space easement and that they hire a third party to inspect the property annually and report their findings to the York Conservation Commission.

Pending a favorable review of these two issues by the Planning Board, we will complete engineering design for the development for submittal prior to the next meeting. Please let us know if you need any additional information.

Respectfully,



Norman G. Chamberlain II, PE
Walsh Engineering Associates, Inc.

cc. Gary Rogers, Beach Side Cove, LLC

Enc. Land Trust Responses

LAND TRUST DENIAL RESPONSES

KITTERY LAND TRUST:

From: caroline <cnorden@maine.rr.com>
Sent: Tuesday, January 12, 2021 8:03 PM
To: gary@shorelineconstructionmaine.com
Subject: Re: Conservation Easement

Hi Gary:

I spoke briefly with a friend that is involved with the Kittery Land Trust. She doubts that they would take an easement that is not in Kittery. She also does not think they would accept this sort of open space easement. I am afraid that your best bet is to ask the town to take it. I really do not know of any other avenues that you haven't tried already. Can you get the town to hold a special meeting or ask them to move the date of their meeting up or grant some preliminary sort of approval? **I used to own a house in an open space development and in our case the HOA held and managed the open land. Perhaps the town would consider this as an option?**

I wish that I could be of more help but do not know what else I could do to assist you. I have never been a fan of these type of town ordinances because they put land trusts in a terrible bind. Every easement they take must have significant public value and generally these type of open space easements associated with development don't qualify. The land trust can look like the bad guy when they are just being true to their mission.

Sincerely,
Caroline Norden
Caroline Norden Consultant

YORK LAND TRUST:

From: dmacgillis@yorklandtrust.org <dmacgillis@yorklandtrust.org>
Sent: Thursday, October 15, 2020 2:03 PM
To: gary@shorelineconstructionmaine.com
Subject: RE: Consideration for land easement

Hi Gary,

Thanks for taking the time to speak with me on the phone today. As I mentioned, after careful review of the Beachside Cove project including a site walk of the property, York Land Trust must decline acceptance of the donation of a conservation easement or fee to the open space land associated with the cluster subdivision. As a nonprofit organization with limited resources, we are very selective about taking on new land conservation projects. We have rigorous criteria against which we review potential land projects and in doing so, this project did not meet the criteria.

The conservation commission has, in the past, played a role in holding and monitoring conservation easements associated with some cluster developments and I would like to suggest that they be considered for this role on this project. Should the members of the Conservation Commission want training on conservation easement monitoring, review, etc., York Land Trust would be happy to work with the Conservation Commission to provide some helpful training.

Thank you for thinking of YLT and good luck with your project.

Best,

Doreen

GREAT WORKS REGIONAL LAND TRUST:

From: Tom Gilmore <tom@tomgilmorephoto.com>

Sent: Thursday, January 7, 2021 11:36 AM

To: gary@shorelineconstructionmaine.com

Subject: Re: Consideration of land easement

Hi Gary,

We discussed your project at the Projects meeting last night. Again, it was a unanimous decision to decline the project as the reasons for our prior decision had not changed. To ensure a fair review, I provided the committee with a summary of our communications and committee meetings since your first email to us in August. Over the last several months you had provided information and explanations for how the easement would be managed and I talked to your information and shared, on screen, project maps/survey and the contract with Rick Jones. We did not take this lightly and I am confident that your project received a thorough review.

Tom Gilmore / Board President / Great Works Regional Landtrust

MOUSOM WAY LAND TRUST:

From: Bud Johnston <drbud1@metrocast.net>

Sent: Monday, January 11, 2021 12:20 PM

To: gary@shorelineconstructionmaine.com

Subject: proposal

Hi Gary,

I consulted our Board of Directors about your proposal. They were quick to point out a couple of problems. First our experience with a homeowners association control of conservation land has been very unsatisfactory. This stifles management activities, public access and the ability to respond to biotic challenges. We found that the land becomes a private playground of a few individuals. We recommend you talk with the Town Fathers to see if it is possible to change this provision. The second point was the distance we would have to travel to monitor and manage the property.

Therefore, I have to report that we are not receptive to this proposal and would thank you for thinking of us.

Sincerely,

Bud Johnston, President

Mousam Way Land Trust

SOUTHERN MAINE CONSERVATION COLLABORATIVE:

From: Jessica Burton <conservationcollaborative@gmail.com>

Sent: Wednesday, January 6, 2021 6:45 PM

To: gary@shorelineconstructionmaine.com

Subject: Re: Conservation Easement

Hi Gary -

Thank you for reaching out to me - sounds like you have a great project on your hands. Our organization is not actually a land trust - we work to support land trusts. For that reason we could not take the easement on your property. I believe that you are in the service area of the York Land Trust which is an excellent land trust. [Here is their website](#) - you will find their contact information on the website.

Best wishes,

Jessica

THREE RIVERS LANDTRUST:

From: Cheri Brunault <cheri@3rlt.org>

Sent: Tuesday, January 5, 2021 4:56 PM

To: gary@shorelineconstructionmaine.com

Cc: Jean Noon <info@3rlt.org>

Subject: Re: Conservation Easement

Hello Gary,

Thanks for reaching out. Since your proposed project is located in York, I'm afraid it is out of our service area (this email address is with the Three Rivers Land Trust, and we limit our activities to Sanford and the four towns immediately north and east). Most land trusts have a town or set of towns they cover, and your local land trust is the **York Land Trust**. If you haven't reached out to them, I would advise doing so first - they are the most likely to consider a project like this:

There are a couple of statewide or regional organizations that might consider the project, so if York Land Trust cannot take it on, you could ask the Maine Coast Heritage Trust or Maine

Audubon. I am not able to say if either of these organizations would be interested, but they are the other nonprofit "conservation holders" in your area.

I hope you are able to get the answers you need!

Cheri Brunault

Executive Director

Three Rivers Land Trust

FOREST SOCIETY OF MAINE:

From: karin@fsmaine.org <karin@fsmaine.org>

Sent: Wednesday, January 6, 2021 8:19 AM

To: gary@shorelineconstructionmaine.com

Subject: FW: Conservation Easement

Greetings Gary, Thanks for reaching out to the Forest Society of Maine regarding your Planned Unit development in York Beach. Your project looks very attractive and thoughtfully designed, but the Forest Society of Maine focuses on larger tracts of forestland, typically in the big North Woods. York Beach would be outside our jurisdiction and also would not meet our mission for conserving Maine's forests for their ecological, recreational, and economic values. I wish you success in your efforts and encourage you to look for a local or even regional land trust in that area.

Wishing you the very best, Karin

[Karin R. Tilberg](#)

[President/CEO](#)

[Forest Society of Maine](#)

LANDTRUSTS EMAILED WITH NO RESPONSE:

1. New England Forestry Foundation Inc. / emailed on 1/5/20
2. Northeast Wilderness Trust / emailed on 1/5/20

CONTACTS OFF MAINE LAND TRUST NETWORK:

1. Stantec / emailed on 1/5/20 / NO RESPONSE
2. Biodiversity Research Group / emailed on 1/5/20 / NO RESPONSE
3. Sebago Technics Inc. / emailed on 1/5/20 / NO RESPONSE
4. Creative Conservation LLC / emailed on 1/5/20 / DENIED IT
5. F B Environmental Associates, LLC / emailed on 1/5/20 / DENIED IT
6. King Fisher Conservation & Recreation LLC / emailed on 1/5/20 / DENIED IT