

PEER REVIEW
LETTER

January 21, 2021

York Planning Board
Dylan Smith, Planning Director
Town of York
186 York Street
York, Maine 03909

Application: Beach Side Cove, LLC — 53 Rogers Road
(Tax Map 94 Lot 83)

Subdivision Plan Review

Review Status: Received preliminary approval. Request to consider revised layout as a Conceptual Review

Board members and Mr. Smith,

The following information has been provided for this interim sketch of a revised layout of units:

1. Cover letter from Walsh Engineering, dated 1/20, 2021.
2. Plan exhibit entitled: Shoreland Zone Dimensional Requirements (Sheet SZ-1)
REV. Date 1/18/2021

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 project site is located between Rogers Road and Short Sands Road on a parcel that is approximately 23 acres in size and zoned predominately as Gen-3 District with a portion within the Route One-4 District. The site is primarily within the Shoreland Overlay District. The applicant has received preliminary approval for the creation of 12 dwelling units compactly sited along a new drive off Short Sands Road. The applicant, however, is unable to construct all the units within the Shoreland Overlay District and is seeking approval for a new layout before revising and finalizing engineering and design plans.

COMPLIANCE WITH THE TOWN'S ORDINANCES

ZONING ORDINANCE

Section 8.1.5.2 (demonstration of overall dimensional requirements for the Shoreland Overlay District).

The site is located in the Shoreland Overlay District and this portion of the property is where the majority of the proposed dwellings for the conservation subdivision lie.

1. **Minimum Land Area per dwelling unit:** Per Section 8.1.1 this is 40,000 sf. It can be discerned that the site can yield up to 12 dwelling units within the Shoreland Overlay District, by deducting areas that are occupied by wetlands and roadway (Section 8.1.4.B), however, the calculations need to be more clearly represented on the final plans. This calculation needs to be separated out of the current Net Developable Acreage table that is included on submitted plan.
2. **Minimum Shore Frontage per dwelling unit:** Per Section 8.1.1 this is 200 feet, and the applicant has shown, depicted on the submitted plan entitled *Shoreland Zone Dimensional Requirements Sheet no. SZ- 1*, how this is calculated. The wetlands considered for shore frontage have been revised to include only those that are eligible for shore frontage.

The total shore frontage calculated is 1,968 feet, yielding nine dwelling units. A tenth and eleventh dwelling unit is proposed outside of the Shoreland Overlay District boundary in the form of a duplex, located towards the entrance of the development. The applicant explains in the cover letter, that due to the current level of disturbance of the Vernal Pool habitat Maine DEP buffer area, that it would require compensation (along with a full NRPA permit) to add units here and not make financial sense.

3. **Section 7.6.3.C (Conservation Subdivision Open Space Standards – Requirements).** The applicant has provided information explaining their unsuccess in finding a suitable Holder for the proposed open space as envisioned. In the absence of a qualified conservation organization to hold the open space in fee or through a conservation easement, the applicant is requesting a waiver as outlined in 7.6.1.B. The applicant is proposing for the Homeowner's Association (HOA), with oversight by a third-party inspector, to be the holder as previously presented to the Board.

If the Planning Board is inclined to grant the waiver, thus releasing the application from adhering to Section 7.6, the Board should consider requiring that there is conservation aimed deed restrictions established on the property for the open space's establishment and maintenance. This would seem appropriate since the property, as limited as it is in size, still provides for important wildlife (vernal pool) habitat. It should be clear the third-party inspector is planned for and sufficient funds set aside by the HOA that covers their role and all other efforts related to certifying that best conservation management practices are met on an annual basis. It is my understanding that the York Land Trust is amenable to providing assistance in

determining what those management practices might be for the property. That applicant should consider contacting them prior to finalizing final plans and HOA documents.

4. In leu of a waiver the Board may want to consider with the applicant to condition the final subdivision approval on the Town holding a conservation easement for the open space, perhaps the Conservation Commission engaging with a third-party inspector. There have been discussions with the Town on placing the open space on the May ballot.

ADDITIONAL COMMENTS

5. Public Works Director comments on a sidewalk. The applicant should discuss they're position to the interest expressed by Dean Lessard in his 10/16/2020 email that recommends a sidewalk be provided along the new roadway to the intersection of Short Sands and Driftwood Lane. The Planning Board should determine if this recommendation will be required.

WAIVER REQUESTS

6.3.32 A high intensity soil survey (Site Plan and Subdivision Regulations). The applicant has submitted in writing a waiver request for this preliminary application submittal requirement. The Planning Board has granted this type of request before. The request for this section appears to be reasonable when considering the site is on public sewer and water and soil information provided as part of the Stormwater Management Report appears to be adequate.

7.6 Open Space Conservation Subdivision (Zoning Ordinance). The applicant has submitted in writing (attached cover letter) a waiver request for the open space conservation subdivision requirement as outlined under 7.6.1.B The Planning Board will need to discuss and determine if the request meets the intent of the provision. Below is the referenced section for your convenience.

B. The Planning Board may waive the open space conservation subdivision requirement if the applicant can demonstrate why the open space conservation subdivision is not a reasonable design option for the parcel to be subdivided. When making this determination the Board shall consider the following:

1. *Lot shape/configuration;*
2. *Protection of natural features such as slopes greater than 20%, wetlands, vernal pools, surface waters and stream location(s) on the lot would not benefit from an open space conservation design;*
3. *The open space conservation design would not meet the intended purposes specified in zoning §1.3.12 - Concerning Open Space Conservation Subdivision.*

CONCLUSION

The submitted revised development layout appears to conform to the Shoreland Overlay District's dimensional requirements (only 9 dwelling units located within the district) and to the density requirements for the overall property (not to exceed 12 units). The Board will need to determine the appropriateness of the applicant's waiver request from the requirement of 7.6 (Open Space Conservation Subdivision) and if the revised layout is amenable and if it should include a sidewalk.

Feel free to contact me with questions.

Best regards,



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