

MEMORANDUM

TO: North Yarmouth Planning Board
Through Ben Scipione, Code Enforcement Officer

CC: Laurie Bachelder, 527 LLC

From: Kate Burch, Planner, North Star Planning

RE: Deacon Hayes Commons Subdivision Amendment

Date: November 6, 2023

Affordable Unit Designation

On October 31, 2023, the Applicant submitted a letter to request a minor correct to the Subdivision Findings of Fact #1 and #11 to clarify that the designated affordable units are #s 5, 7, 8, 9, and 11. This change does not impact the subdivision performance standards. The project still conforms to LUO Section 11.2, Affordable Housing.

Proposed Motion: to amend the Deacon Hayes Commons April 26, 2022 Approval Subdivision Finding of Fact #1 and #11 to designate units #s 5, 7, 8, 9, and 11 as affordable housing.

Amended Findings of Fact

On September 12, 2023, the Board voted to amend Site Plan Finding of Fact #1 to include additional detail regarding trees and landscaping. This change has already been voted on and is included in the updated Findings below.

The following Findings of Fact from the April 26, 2022 approval of Deacon Hayes Commons have been amended to reflect the changes voted on

September 12, 2023 and the proposed changes to the affordable unit numbering. Amended Findings are underlined.

Site Plan Review - Findings of Fact:

1. Utilization of the Site

- The existing site is flat and the development is surrounded by residential homes, an auto shop, a preschool, North Yarmouth Town Hall, and Memorial Park.
- The proposed impervious area will be approximately 25,418 square feet.
- No wetlands, vernal pools, or significant wildlife habitat were identified within the project area.
- Toddy Brook stream is located east of the development and stream buffers are shown on the plan. See Sheet 1 Site & Demolition Plan dated February, 2022.
- Existing trees that are depicted on the Site & Demolition plan submitted by the applicant will not be removed, with the exception of those trees that line Parsonage Road.
- Additional findings of fact that support the Planning Board’s Site Plan Conclusion of Law 15 and its determination that landscaping, screening, and buffering are consistent with LUO Sections 10.34.C(2) & (4) and LUO Section 10.14.B.2(b) & (c), are included in Site Plan Review Findings of Fact 8, 14, and 16.

2. Utilities

- The residential units will utilize underground electricity, cable communications, telephone and water supply.
- The 12” water main is shown on the Grading & Erosion Control Plan revised June 28, 2022 under Walnut Hill and Parsonage Road.
- The 1” domestic water lines will connect to each of the units.
- Each unit will connect to a septic sewer system. See Sheet 2 Grading & Erosion Control Plan dated February, 2022.
- The applicant has provided updated groundwater impact analysis from Mark Cenci Geologic Inc. The single septic system exceeds 2,000 gallons per day and is regulated as an Engineered System by the Division of Environmental Health.
- More than 7 days prior to the March 14, 2023, meeting of the Planning Board, the applicant provided a letter from Alexander Pugh, Sr. Environmental Hydrologist with the Maine Department of Health and Human Services dated November 29, 2022, subject: Approval, Minimum Lot Size Waiver. This letter states that the subsurface wastewater system proposed by the project “is not considered to be likely to lower the quality of, or otherwise pose a threat to any lake, pond, stream, river, or tidal waters, any underground water supply, or to the public health, safety, and general welfare.”
- More than 7 days prior to the March 14, 2023, meeting of the Planning Board, the applicant provided a letter from Alexander Pugh, Sr. Environmental Hydrologist with the Maine Department of Health and Human Services dated November 29, 2022, subject:

Approval, Deacon Hayes Commons Engineered SSWW system. This letter issued an approval of the wastewater system design.

- More than 7 days prior to the March 14, 2023, meeting of the Planning Board, The Yarmouth Water District has provided a letter in February 2023 stating that the proposed wastewater septic system will provide adequate protection to the aquifer.
- In light of applicant's submission of the November 29, 2022 DHHS approvals, the February 2023 YWD letter, and the amended final plan at least 7 days prior to the March 14, 2023, meeting, the ZBA's February 1, 2023 decision identifying timeliness and waiver issues related to LUO Section 5.7(A)(3)(c) and LUO Section 5.4(A) (Sections 3 and 4 of the ZBA decision) have been addressed and are now moot.
- More than 7 days prior to the March 14, 2023, meeting of the Planning Board, the applicant provided a memo regarding additional hydrogeological and location data by Mark Cenci Geologic, Inc. that states the nitrogen plume analysis meets the subsurface wastewater disposal rules and the minimum lot size law.

3. Building Standards

- The applicant has submitted exterior building plans that comply with the building standards outlined in Section 10.4 of the Zoning Ordinance.

4. Impact on Community Facilities

- No adverse impact on community facilities will result from the development.

5. Hazardous Materials and Emissions

- No hazardous materials and emissions will result from the development.

6. Exterior Lighting

- All residential units will include porch lights and entrance lights.
- The applicant is proposing full cutoff dark sky lighting for the units.

7. Financial and Technical Capacity

- The applicant has provided a letter of financial capacity from GenX Lending dated May 25, 2022.
- The applicant has submitted a revised irrevocable letter of credit in the amount of \$100,000, which covers the anticipated cost of \$87,700 for public infrastructure including 12 water main taps, 4 inch water main service for fire suppression, catch basin with grate and sidewalks. The amount of this performance guarantee allows for 14% inflation, which adequately addresses potential cost increases in light of the short construction schedule.

8. Landscaping, Buffers and Screening

- An 8-foot-tall vinyl stockade fence is shown on the Site & Demolition plan revised June 28, 2022 along the northwestern property line to screen from abutting properties.
- One of the landscaped islands has been relocated to be further away from the disposal area shown on the updated Site & Demolition Plan.
- New trees and shrubs are shown on the site plan between the units and surrounding the parking area. The applicant has provided a list of trees and shrubs to be used on the amended site plan dated May 26, 2022.
- A 5 (five) foot wide grassed esplanade will be added between the sidewalk and Walnut Hill Road.

9. Noise

- The proposed development will not result in noise levels that will be objectionable to surrounding uses.

10. Signs

- No new signs will be included for the project.

11. Storage of Materials

- The project will not include any exposed hazardous outdoor storage material.
- The project will not include any garbage disposal units (see Subsurface Wastewater Disposal System application dated March 9, 2022).

12. Stormwater Control

- Drainage flows southwest towards the manmade stormwater pond. See Sheet WS-1 Watershed Plan dated April 18, 2022.
- A 4-foot-wide drip edge has been provided around the homes to infiltrate stormwater runoff. See WS-1 Watershed Plan dated April 18, 2022.
- The applicant has provided both pre and post development stormwater calculations and the project is anticipated to mitigate peak flows to the stormwater pond.
- A new catch basin will be located over the existing 24” diameter culvert to capture the stormwater runoff from Walnut Hill Road. Details for the catch basin are shown on Sheet 3 Construction Drawings.
- The project will comply with DEP and Soil and Water Conservation District Best Management Practices for stormwater and erosion control.
- The project will add less than an acre of impervious area and therefore will not require a DEP permit under Chapter 500.
- Stormwater from the parking lot will not be channeled into bodies of water. Vegetated areas will be installed and maintained.

13. Protection of Significant Wildlife Habitat

- No significant wildlife habitat is located within the project area.

14. Access Management, Parking and Vehicular Circulation

- Access to the units will come from the paved driveway off Parsonage Road.
- The applicant requested a waiver from estimated peak hour traffic (Section 4.4f.13). Vehicular traffic to the site will be minimal.
- A turnaround space and “no parking” sign is marked on the site plan revised June 28, 2022 for emergency vehicle access.

15. Pedestrian Ways and Bicycle Access

- A new 5-foot-wide paved sidewalk will be added along Parsonage Road, Walnut Hill Road, and on the southern side of the parking lot.
- The sidewalk located along Walnut Hill Road has been moved further away from the street for safety and construction purposes shown on the Subdivision Plan dated June 28, 2022.
- A 5-foot-wide path is shown connecting from the parking area to the manmade pond.
- Each residential unit will have direct access to the public sidewalk and the sidewalk from the parking area.

16. Off-Street Parking and Loading

- The development includes a 29-space parking lot with ADA accessible parking spaces. See Sheet 1, Site & Demolition Plan and Sheet 4 Construction Details updated March, 2022.
- Parking is adequate to accommodate users during the week.
- The locations of snow removal areas are shown surrounding the easterly side of the parking area on the Site & Demolition Plan revised June 28, 2022.

Subdivision Review – Findings of Fact

1. General Layout: Lots, Blocks, Utilities, Monuments, and Back Lots
 - Each of the buildings are on their own individual lots and meet all dimensional requirements from the Ordinance.
 - Units 5, 7, 8, 9, and 11 will be reserved for affordable housing.
 - Iron pipe monuments are shown at the corners of development boundaries on the Boundary Survey dated May 18, 2021.
 - See #2 Site Plan Review for information about utilities.
2. Erosion and Sedimentation Control
 - See #12 Site Plan Review for information about erosion and stormwater management.
3. Floodplain Management
 - The development is not located in a 100-year floodplain.
4. Historic and Archaeological Sites
 - The development does not contain historic or archaeological resources.
5. Sewage and Solid Waste Disposal
 - The applicant has submitted a Subsurface Wastewater Disposal System application in compliance with the State of Maine Subsurface Wastewater Disposal Rules.
 - The applicant has provided an updated hydrogeologic assessment from Mark Cenci Geologic Inc. dated August 26, 2022. The original hydrogeologic assessment dated May 24, 2022 assumed groundwater flow direction towards the manmade pond from four wastewater disposal areas located 100 feet apart. The plan has since been revised to include a single combined wastewater disposal area to be used by all residential units (see Grading & Erosion Control Plan).
 - The applicant provided a letter from Alexander Pugh, Sr. Environmental Hydrologist with the Maine Department of Health and Human Services dated November 29, 2022, subject: Approval, Minimum Lot Size Waiver. This letter states that the subsurface wastewater system proposed by the project “is not considered to be likely to lower the quality of, or otherwise pose a threat to any lake, pond, stream, river, or tidal waters, any underground water supply, or to the public health, safety, and general welfare.”
 - The applicant provided a letter from Alexander Pugh, Sr. Environmental Hydrologist with the Maine Department of Health and Human Services dated November 29, 2022, subject: Approval, Deacon Hayes Commons Engineered SSWW system. This letter issued an approval of the wastewater system design.
 - More than 7 days prior to the March 14, 2023, meeting of the Planning Board, the applicant provided a memo regarding additional hydrogeological and location data by

Mark Cenci Geologic, Inc. that states the nitrogen plume analysis meets the subsurface wastewater disposal rules and the minimum lot size law.

6. Soil Suitability

- The soils are adequate to support the development. See Subsurface Wastewater Disposal System application, “Soil Profile Description and Classification” dated March 9, 2022.

7. Recreation and Open Space Land Development

- The applicant submitted an amended subdivision plan, dated February 28, 2023, that depicts four separate buildings with contiguous area round each depicted as a separate defined lot. Each unit will be conveyed with rights to the defined building lot, shared in common with the two other unit owners within the building. All unit owners within the development will have access to the remaining “common area” on the plan, which includes all areas outside of defined building lots.
- In February 2023, the applicant submitted a draft Declaration of Condominium that establishes the right of owners to the individual building lot as well as to the other common areas of the plan.
- The Declaration of Condominium provides that all land denoted as “Common Open Space and Recreation Land” on the amended subdivision plan from February 2023 will be reserved for open space and recreation to benefit all unit owners, occupants, and their guests, and that structural development shall not be permitted on this area except to serve such open space and recreation purposes. The Declaration provides the Town of North Yarmouth as well as unit owners the right to enforce the covenant.

8. Water Supply

- The development will utilize public water.
- The applicant has attached a letter from Yarmouth Water District dated June 29, 2022 regarding capacity to serve the project.
- More than 7 days before the March 14, 2023 Planning Board meeting, Applicant submitted a final amended site plan to the Town, a copy of which was provided to the Yarmouth Water District.
- The applicant has provided a letter from the Yarmouth Water District from February 2023 stating the District is satisfied that the proposed wastewater septic system will provide adequate protection to the aquifer.
- In light of applicant’s submission of the amended final plan at least 7 days prior to the March 14, 2023, meeting, the ZBA’s February 1, 2023 decision identifying timeliness and waiver issues related to LUO Section 5.7(B) (Sections 7 of the ZBA decision) have been addressed and are now moot.

9. Water Quality

- The development will not diminish or adversely impact water quality.

- The applicant has provided an updated groundwater impact analysis from Mark Cenci Geologic Inc. dated August 26, 2022. The single septic system exceeds 2,000 gallons per day and is regulated as an Engineered System by the Division of Environmental Health. The calculations provided shown that the wastewater plume does not exceed 5 mg/liter and is directed east.
- The Yarmouth Water District has provided a letter in February 2023 stating that the proposed wastewater septic system will provide adequate protection to the aquifer.

10. Subdivision Street Connectivity

- See #14 Site Plan Review access management and vehicular circulation standards.

11. Affordable Housing

- Units #5, 7, 8, 9, and 11 are designated as affordable, with covenants to be incorporated in the deeds for the affordable units which limit the sale or rental of those units in accordance with the Town's affordability provisions, for a period of 25 years.



**TOWN OF NORTH YARMOUTH
PLANNING BOARD
REQUEST FOR HEARING**

NAME OF APPLICANT: _____ PHONE #: _____
EMAIL: _____ ALT. PHONE#: _____
FULL ADDRESS: _____
PROPERTY ADDRESS: _____
MAP: _____ LOT: _____ ZONE: _____

AGENT/REPRESENTATIVE (if other): _____ PHONE #: _____
EMAIL: _____
FULL ADDRESS: _____

The undersigned requests the North Yarmouth Planning Board consider the following application for:

_____ Pre-application Sketch Plan Review _____ Major Subdivision
_____ Minor Subdivision _____ Site Plan Review
_____ Contract Zoning
_____ Other (Specify): _____

NOTE TO APPLICANT:

1. This form and appropriate materials must be filed at the Code Enforcement Office no later than (fourteen) 14 days prior to the regular meeting of the Board (2nd Tuesday monthly). Applications shall be accompanied by all applications fee and materials required by the applicable ordinance(s), checklists and fee schedule.
2. All applications shall include all materials and copies as specified on the submittal requirements form.
3. All materials in color shall be copied in color.

Application Authorization

I hereby make application to the Town of North Yarmouth for the above-referenced property(ies) and the development as described. To the best of my knowledge, the information provided herein is accurate and is in accordance with the Zoning and Subdivision Ordinances of the Town, except where waivers are requested. The Town of North Yarmouth Planning Board and/or town employees are authorized to enter the property(ies) for purposes of reviewing this proposal and for inspecting improvements as a result of an approval of this proposal. I understand that I am responsible for appearing, or having someone appear on my behalf, at all meetings before the Planning Board.

Signature: *Laurie Bacheldee* Date: _____
Printed Name: _____

Please identify yourself (check one): Agent*: Property Owner:

10/31/2023

Dear North Yarmouth Planning Board

I am requesting an amendment to Subdivision Approval dated April 26th, 2023, for Deacon Hayes Commons, located at 521 Walnut Hill Rd.

Subdivision approval states in Section 11 of the Subdivision Review- Finding of Facts, units 2,5,7,8,9,11 are designated as affordable, with covenants to be incorporated in the deeds for the affordable units which limit the sale or rental of those units in accordance w the towns affordability provisions, for a period of 25 years.

Subdivision approval states in Section 24.6 of the Subdivision Review- Finding of Facts, the designated affordable units exceed the standard of 20% of the total number of residential dwelling units in the proposed development.

Furthermore, LUO SECTION 11.2.6 AFFORDABLE HOUSING states, Residential Growth Limitation Waiver: The Planning Board shall waive the requirements of Section 3-3.E. Residential Growth Limitation, for the affordable housing units, if the developer can assure to the Planning Board's satisfaction that at least twenty percent (20%) of the total number of residential dwelling units in the proposed development will remain affordable to low and/or moderate income families for the next twenty-five (25) years, and that preference will be given to individuals and families as described in A.1 and A.2 above.

Deacon Hayes Commons consists of 12 units requiring 2.4 units to be designated as affordable, rounding up requires 3 units to be designated affordable.

At this time Deacon Hayes Commons has 6 units designated as affordable. We are requesting that unit 2 be removed from the finding of facts as affordable therefore designating units 5,7,8,9,11 as affordable and still conforming to LUO SECTION 11.2.6 AFFORDABLE HOUSING.

Sincerely,



Laurie Bachelder

527 LLC