Land Design Solutions

Land Planning, Site Planning and Landscape Architecture

August 16, 2022

Ms. Tracey Cox, Executive Administrator Town of North Yarmouth 10 Village Square Road North Yarmouth, ME 04097

RE: Perennial Crossing Subdivision Amendment Well Easement in the Open Space

Dear Tracey,

On behalf of Kim and Tuan Chu the owners of lot 1 (12 Long Hill Road) in the Perennial Crossing subdivision, Land Design Solutions (agent) respectfully submits the enclosed Town of North Yarmouth Subdivision Amendment Application and supporting documentation for a proposed well to be located in the open space owned by the Royal River Conservation Trust.

The applicant has been living in the residence on lot 1 since purchasing the property and newly constructed house in 2016, and have consistently had water shortage issues. The well was drilled to a depth of 505 feet and fracked by the original developer, and since then the Chu's have had the well depth extended to 1,305 feet and fracked. None of these well improvement measures has increased the water supply. The Chu's working with Goodwin Well & Water and Danial Locke, Professional Hydrologist with the State of Maine retained the services of geologist Aaron Martin of Ransom Consulting, LLC and Northeast Geophysical to perform a non-invasive electrical resistivity hydrogeologic investigation. The results showed water bearing fractures approximately 400 below ground in an area just behind the lots 1 & 2 in the Subdivision's Common Open Space owned by the Royal River Conservation Trust (RRCT). The RRCT has agreed to work with the Chu's and provide an easement for the proposed well. In addition to the easement from the RRCT the Chu's will need a variance from the Town of North Yarmouth because the proposed well is less than 100 feet from the lot 2 septic system (see "Proposed Well and Existing Septic System Location Sketch" included with this submission. The proposed well is shown in the sketch approximately 63.5' away from the corner of the septic system. The Chu's discussed this previously with Town Staff who appeared amenable to granting the variance given the water situation.



View of proposed well easement area in the open space and lot 1 house



Approximate well location with lot 1 house

Perennial Crossing Subdivision Amendment Subdivision Application Page 3 of 3

Submission Materials: The following materials (application & supporting documentation) are enclosed as part of this submission:

Documentation:

- Town of North Yarmouth Planning Board Request for Hearing
- Agent Authorization Letter (Kim & Tuan Chu)
- Fee Calculation Sheet
- North Yarmouth Tax Map
- Aerial Map town context
- Right, Title & Interest Letter from The Royal River Conservation Trust
- Applicant's lot 1 deed
- Well Easement Deed
- Proposed Well & Existing Septic System Sketch

Project Plans include:

Amended Subdivision Plan 1 of 2

Application Fee:

A check in the amount of \$350.00

We look forward to reviewing the proposed project with the Planning Board and request that this item be placed on the next available Planning Board agenda. Please do not hesitate to contact me with any questions or comments concerning the submitted plans or documentation.

Sincerely,

Peter B. Biegel, ASLA

Maine Licensed Landscape Architect

Otto B. Diegel



TOWN OF NORTH YARMOUTH

PLANNING BOARD REQUEST FOR HEARING

NAME OF APPLICANT:	Kim and Tuan Chu	PHONE #:	(207) 833-6562
EMAIL: stepdiva2000@gm	nail.com	ALT. PHONE#:	
FULL ADDRESS:	12 Long Hill Road, North Yarmouth, Ma	aine 04097	
PROPERTY ADDRESS:	Perennial Crossing Subdivision Open S	Space (Haskell & Long Hi	l Roads)
MAP: <u>14</u> LOT:	28 ZONE: Farm and Forest and	e subdivision parcel was a cor I Rural when originally approv	
AGENT/REPRESENTATIVE	(if other): Land Design Solutions (contact:	Peter Biegel) PHONE #:	(207) 939-1717
EMAIL: pbiegel@landdesig	gnsolutions.com		
FULL ADDRESS: 1 Faraday	Drive, Suite 7, Cumberland, ME 04021		·
The undersigned requests	the North Yarmouth Planning Bo	ard consider the follo	wing application for:
Pre-application S	Sketch Plan Review		Major Subdivision
Minor Subdivision			Site Plan Review
Contract Zoning			
	Subdivision Amendment (addition of a	well easement in the ope	n space)
cance (opcony).	U.		
NOTE TO APPLICANT:			
than (fourteen) 14 Applications shall k applicable ordinan 2. All applications sha requirements form	ropriate materials must be filed at days prior to the regular meeting be accompanied by all application ce(s), checklists and fee schedule. all include all materials and copies n. or shall be copied in color.	g of the Board (2 nd Tue s fee and materials re	esday monthly). Equired by the
Application Authorization	ı		
I hereby make application and the development as d accurate and is in accorda waivers are requested. Th authorized to enter the pr improvements as a result	to the Town of North Yarmouth following the Scribed. To the best of my known nee with the Zoning and Subdivisine Town of North Yarmouth Plann operty(ies) for purposes of review of an approval of this proposal. It is proposal. It is appear on my behalf, at all me the second of the s	vledge, the information Ordinances of the ing Board and/or tow ving this proposal and understand that I am	on provided herein is Town, except where on employees are I for inspecting responsible for lanning Board.
Please identify yourself (check one): Agent*: 7	Property Owner:	

10 VILLAGE SQUARE ROAD, NORTH YARMOUTH, MAINE 04097 PHONE: (207) 829-3705 * FAX: (207) 829-3743

August 4, 2022

RE: Letter of Agent Authorization

Perennial Crossing Subdivision Amendment (Well Easement on Conservation Land)

To whom it may concern:

Please consider this letter as authorization for Land Design Solutions to act as the agent relative to local permitting required for the referenced project.

Sincerely,

Kim Chu (Applicant)

Tuan Q. Chu (Applicant)

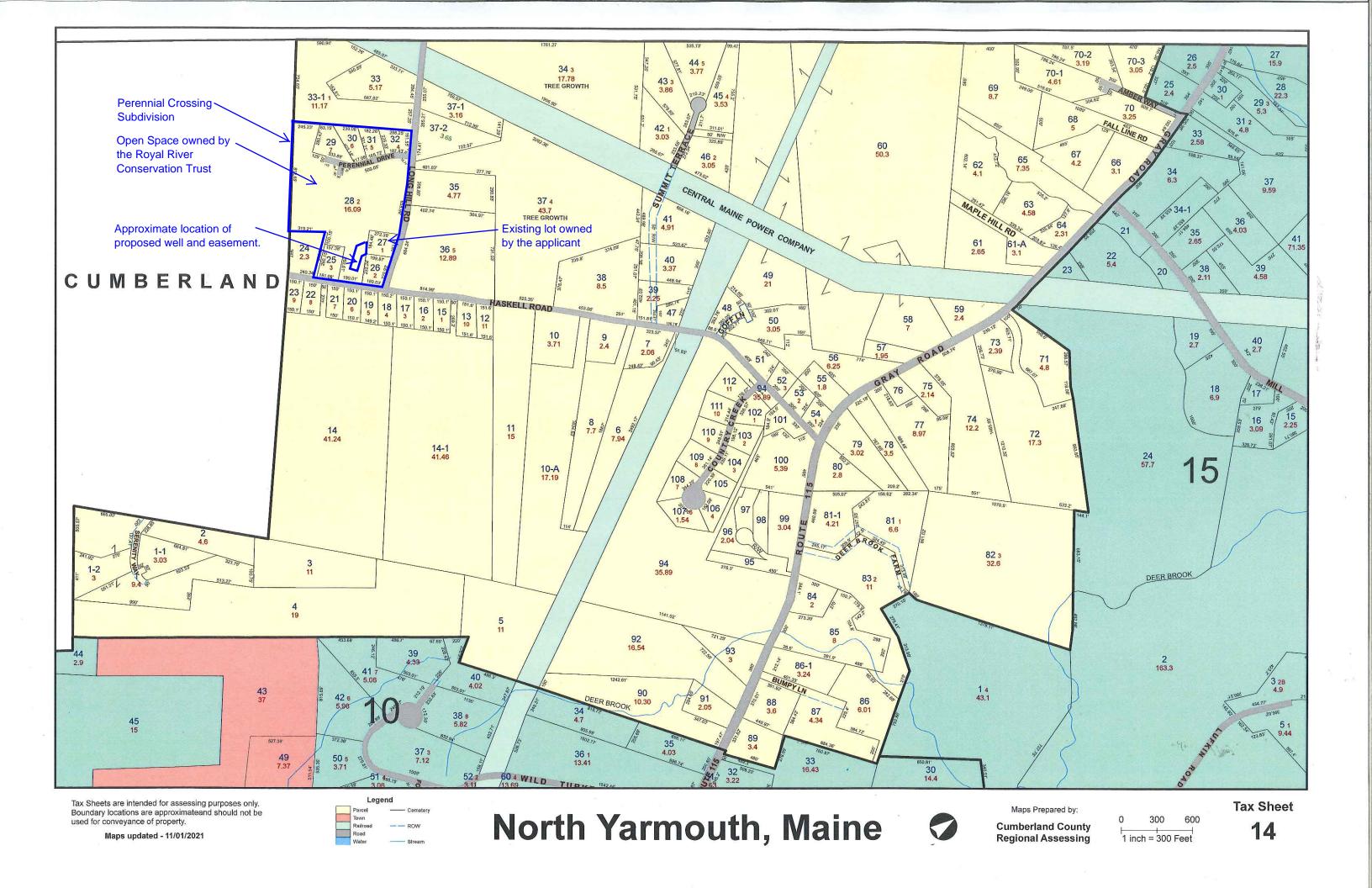


TOWN OF NORTH YARMOUTH

PLANNING BOARD FEE CALCULATION SHEET

NAME OF APPLICANT:		
PROPERTY ADDRESS:		
MAP: LOT:		
SITE PLAN FEES		
<u>Description</u>	<u>Fees</u>	<u>Total</u>
Preliminary Sketch Plan Review	\$0	
Site Plan Review Permit	\$250.00	
Amendment to Site Plan Review Permit	\$75.00	
SUBDIVISION APPROVAL FEES MINOR SUBDIVISION (4 lots or less)		
<u>Description</u>	<u>Fees</u>	<u>Total</u>
Non-refundable Application Fee	\$250.00	
Each Lot/Dwelling Unit	\$100.00	
Technical Review	Cost + \$25.00	
MAJOR SUBDIVISION (5 lots or more)		
<u>Description</u>	<u>Fees</u>	<u>Total</u>
Non-refundable Application Fee	\$350.00	
Each lot/Dwelling Unit No lots or dwelling units proposed	\$100.00	
Technical Review	Cost + \$25.00	
	TOTAL FEES REQUIRED	

NOTE: Certain Subdivisions will be required to complete a Site Plan Review Permit. Review fees are not typically refundable. If extenuating circumstances occur, the Board may consider a partial or full refund.



Google Maps 12 Long Hill Rd



12 Long Hill Rd North Yarmouth, ME 04097 Building

Imagery ©2022 CNES / Airbus, Maine GeoLibrary, Maxar Technologies, U.S. Geological Survey, USDA/FPAC/GEO, Map data ©2022 200 ft



Conserving the Royal River and its Hills, Ponds, Farms, Estuaries, and Bay

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<u>Staff</u>

Alan Stearns
Executive Director

Chad Fierros Stewardship Director

Adam Pereira Conservation Director To: North Yarmouth Planning Board via Chu family

Fr: Alan Stearns, Executive Director, RRCT (207)215-8315

Alan@RRCT.org

Date: August 4th, 2022

Re: Chu family request for a new well on RRCT land (Long Hill & Haskell Roads)

Mill

In 2021 the Chu family requested permission in the form of a permanent easement to build a drinking water well on RRCT land with frontage on Long Hill & Haskell Roads to benefit their adjacent private residence. To date, the request has been approved or recommended unanimously by RRCT staff, RRCT's Land Transactions Committee, and RRCT's Board of Directors. We relied upon pro bono review of the Chu's hydrogeology analysis by two different RRCT members, both qualified as engineers and geologists respectively, both concluding that a new well was justified. We consulted only with the most directly affected neighbors Guillaume Meillat g@meillat.com and family who responded in writing on August 19, 2021, that they support RRCT facilitation of Chu plans for a new well on RRCT land.

We believe these above actions are sufficient to prove "Right, Title, Interest" for Planning Board action. However we may not complete the planned transaction until two more steps are completed, in no particular order.

STEP #1 or #2: RRCT bylaws require that the disposition of RRCT conservation interests be approved by a supermajority of RRCT voting members following specific written notice to RRCT's membership. RRCT has scheduled its regular annual meeting of the membership on September 13, 2022. RRCT has commissioned a mailing and expects written notice to arrive at all 500+ members homes on or around August 18, 2022. The process is also described and posted for the general public here: https://rrct.org/events-programs/ though the general public will have no vote. We expect that the ballot will be routine, and that this step will be completed without controversy.

STEP #2 or #1: RRCT deeds are restricted by reference to recorded Planning Board plans and related surveys. We have concluded based on our reading of ordinances and deeds that the Planning Board must amend the plan, and that Code Officer action alone is not sufficient for RRCT deeds to be amended by a grant of a wellhead easement.

We have reviewed final survey (plan amendments) and are today working to draft a wellhead easement to RRCT standards. We see no obstacles for final drafting and final negotiation of terms; my organization has taken the position of helping the Chu family dig their way out of their unfortunate situation.

END.

DOC:51375 BK:33476 PG:109

Lot 1 Parcel Deed

Return to:

Tuan Chu 12 Long Hill Road North Yarmouth, ME 04097

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That **Long Pond LLC**, a Maine limited liability company, with a mailing address of 10 Summit Terrace Falmouth, ME 04105, for consideration paid, grants to **Tuan Chu and Kimberly Bernat**, of 146 Orchard Road, Cumberland, ME 04021, as joint tenants with rights of survivorship and with WARRANTY COVENANTS:

SEE ATTACHED EXHIBIT A.

MEANING and INTENDING to describe and convey the same premises conveyed to the grantor herein by deed of Dewolfe Development, LLC, dated 4/28/2006 and recorded at Book 24091, Page 48 in the Cumberland County Registry of Deeds.

Executed this 26th day of September, 2016.

LONG POND LLC

By: James Bown & CER Duly Authorized

State of Maine County of Cumberland

912612016

DLN: 1001640010096

Then personally appeared, Janus Dewolfe, My Member (title) duly authorized on behalf of Long Pond LLC, and acknowledged that he/she executed the same for the purposes contained therein.

Notary Public/Attorney at Law Attorney at Law

Commission expiration:

RO

DOC:51375 BK:33476 PG:110

RECEIVED - RECORDED, CUMBERLAND COUNTY REGISTER OF DEEDS 09/27/2016, 11:03:16A

Register of Deeds Nancy A. Lane E-RECORDED

EXHIBIT A

A certain lot or parcel of land located on the westerly side of Long Hill Road in the Town of North Yarmouth, County of Cumberland, State of Maine, shown as Lot 1 on the subdivision plan of Perennial Crossing prepared for DeWolfe Development, LLC by SYTDesign Consultants recorded in Plan Book 205, Page 793 on December 20, 2005 in the Cumberland County Registry of Deeds and being more particularly bounded and described as follows:

Beginning at a point on the westerly side of Long Hill Road, said point N 23°45'00" W 229.93 feet northerly from the point of intersection of the northerly right-of-way Haskell Road and westerly right-of-way Long Hill Road, said point also being the northeasterly corner of Lot 2 on aforementioned plan;

Thence S 61°17'31" W along northerly line of said Lot 2 199.87 feet to a point on the easterly side of the portion of the said subdivision deemed as "Open Space". Said point also being the northwesterly corner of lot 2;

Thence N 28°42'29" W along an easterly line of said "Open Space" 184.46 feet to a point;

Thence N 61°17'31' E continuing along a southerly line of said "Open Space" 272.36 feet to a point;

Thence S 10°40'00" E along said "Open Space" 5.00 feet to Long Hill Road;

Thence S 07°10'00" E along the westerly line of said Long Hill Road 193.20 feet to the point of beginning.

The basis of bearing for the above-described parcel is grid north.

Together with and subject to any and all easements or appurtenances of record, insofar as the same are in force and applicable.

Together with and subject to the terms and conditions contained in the Declaration, Protective Covenants and Common Easements for Perennial Crossing dated 4/28/2006 and recorded at Book 24091, Page 32 in the Cumberland County Registry of Deeds. Special note is made to the "Shared Driveway Entrance" language regarding Lots 1 and 2.

TC

AD-

WELL EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that ROYAL RIVER

CONSERVATION TRUST, a Maine nonprofit corporation in good standing with a mailing address at P.O. Box 90, Yarmouth, Maine 04096, for consideration paid, grants to TUAN CHU and KIMBERLY M.D. CHU, formerly known as KIMBERLY BERNAT, a married couple with a mailing address at 12 Long Hill Road, North Yarmouth ME 04097, as joint tenants, an easement interest in a portion of a certain lot or parcel of land, in the Town of North Yarmouth, County of Cumberland and State of Maine, in the location and with the scope as more particularly described as set forth in Exhibit A, attached hereto and incorporated herein.

September, 2022.	
	ROYAL RIVER CONSERVATION TRUST
	BY: Alan Stearns
	ITS: Executive Director
STATE OF MAINE COUNTY OF CUMBERLAND, ss.	September, 2022
Then personally appeared before	ore me the above named Alan Stearns, in his said capacity as
	r Conservation Trust, and acknowledged the foregoing instrument
-	e act and deed of Royal River Conservation Trust.
Notary Public/Attorne	y at Law
My commission expire	es/Maine Bar No.:

Printed name:

EXHIBIT A Well Easement, Long Hill Road, North Yarmouth

An easement for installation, use, repair and maintenance of a drinking water well, together with associated piping, for the benefit of Grantees' land on Long Hill Road, North Yarmouth (reference being had to deed recorded in Book 33476, Page 109 of the Cumberland County Registry of Deeds for a more particular description of the "Benefitted Land"), said easement being situated as follows:

A certain lot or parcel of land southwesterly of but not adjacent to Long Hill Road in the Town of North Yarmouth, County of Cumberland and State of Maine bounded and described as follows:

Beginning at the most southerly corner of Lot 1 as shown on a plan titled "Subdivision Plat
Plan, Perennial Crossing, Long Hill Road, North Yarmouth" dated September 2005 revised
11/30/05 and recorded in the Cumberland County Registry of Deeds Plan Book 205, Page 793
Reference is also made to "Amended Subdivision Plan, Perennial Crossing, Long Hill Road,
North Yarmouth" dated August 10, 2022 and recorded in the Cumberland County Registry of
Deeds in Plan Book, Page

Thence, the following courses and distances across land of Royal River Conservation Trust as described in deed book 24975, page 45, also identified as "Open Space Field-Common Land A" on said recorded plan:

S 47°37'58" W a distance of 25.45 feet;

S 20°24'52" E a distance of 93.06 feet;

S 69°35'08" W a distance of 20.00 feet;

N 20°24'52" W a distance of 158.34 feet;

N 47°37'58" E a distance of 36.13 feet to the southwesterly line of said Lot 1;

Thence, S 28°42'29" E along the southwesterly line of said Lot 1 a distance of 70.00 feet to the point of beginning, containing 4,608 square feet more or less.

This easement is subject to the following terms and conditions:

- 1. Grantor herein makes no representation whatsoever as to the adequacy of the premises or of the groundwater to serve or function as a drinking water well nor as to the quantity nor quality of the drinking water.
- 2. The said easement shall be used only to provide drinking water for no more than one (1) single-family residence on the Benefitted Land, and includes the right to take water from the well, and to locate, repair, replace, maintain and operate pipes from said well across said premises (but beneath the surface of said premises) to the Benefitted Land.
- 3. Grantees shall, at their sole cost and expense, install and maintain said well and associated piping, provided that any and all damage or disturbance to land of the Grantor resulting from such installation, maintenance or repair shall be restored and replaced in its original condition at the expense of the Grantees.

- 4. Grantees shall, at their sole cost and expense, immediately remedy any malfunction of said well and piping which results in any dangerous condition. Any installations shall be in accordance with all applicable state and local codes and ordinances.
- 5. Once constructed, the easement shall not be increased in size or capacity or relocated without consent of Grantor.
- 6. Grantees shall hold the Grantor harmless from any and all liability arising from Grantees' use of said easement, including without limitation any claims or damages arising from any contamination of any water source, failure of the well, or lack of water in the well.
- 7. Grantees shall obtain approval of the Town of North Yarmouth Planning Board and shall cause to be recorded in the Cumberland County Registry of Deeds the amendment to subdivision plan depicting the location of this easement.

Meaning to encumber a portion only of the premises conveyed to Grantor by deed of Dewolfe Development, LLC dated March 30, 2007 and recorded in the Cumberland County Registry of Deeds in Book 24975, Page 45.

