

MEMORANDUM

TO: North Yarmouth Planning Board

CC: Stephen Roberge P.E. SJR Engineering Inc.  
Laurie Bachelder, applicant

From: Kate Burch, Planner, North Star Planning

RE: Deacon Hayes Commons Site Plan and Subdivision Amendment

Date: December 7, 2022

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**Overview**

On September 13, 2022, the Planning Board voted to approve the final subdivision and site plan for Deacon Hayes Commons with the findings and conclusions in the planner memo dated 7/27/2022 and conditions of approval 1-5 voted on during the 9/13/2022 meeting.

The project is under appeal and the Zoning Board of Appeals held an appeal hearing was held on November 28, 2022. Proceedings will continue at the Zoning Board of Appeals meeting on December 14, 2022.

The applicant is proposing to amend the site plan and subdivision to address four concerns brought up in the appeal:

1. Engineered wastewater system.  
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.

2. Deed.

The applicant has submitted a copy of the release deed with a corrected description of the development area.

3. Open Space.

The applicant submitted an amended subdivision plan, updated 11/29/2022, to show the inclusion of open space as required by Section 10.23 of the Land Use Ordinance. The applicant has reserved 13% of the parcel for conservation.

4. Buffering.

The applicant requests in a letter dated November 29, 2022 to clarify that the final approved plan did not propose trees in line with the screening vinyl fence to remain. The applicant additionally requests to add a finding to the Site Plan Review Findings of Fact that buffering is required “where there is a transition from one use to another”, and both the proposed development and the abutters are residential uses.

On November 29, 2022 the applicant also submitted a declaration of condominium outlining units, common elements, and maintenance agreements.

The proposed amendment concerns administrative and submission requirements. No changes to buildings, parking, or utilities are proposed.

The additional findings from the proposed amendment have been added to the Findings and Conclusions from the September 13, 2022 Board approval, listed below. The new findings from the proposed amendment are underlined.

**Applicant:** Laurie Bachelder

**Owner:** same as the applicant

**Location:** 521 Walnut Hill Road

**Zoning:** Village Center and Groundwater Overlay

**Tax Map Number:** Map 7 Lot 62

**Proposed Land Use:** four 3-unit residential buildings and a 29-space parking lot

**Acreage:** 2.24 acres

***Suggested Motion:*** To **[approve/approve with conditions/deny]** the Amended Final Subdivision and Site Plan for Deacon Hayes Commons located at Tax Map 7, Lot 62, with the following findings of Fact and Conclusions in the planner memo dated December 7, 2022.

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### **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.
  - Tree clearing on the site will be minimal and limited to those trees that line Parsonage Road.
  
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 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 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.

### 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 copy of the release deed with a corrected description of the development area.

#### 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.
- As per Section 10.14 2(a), buffers are required “where there is a transition from one use to another”. Both the proposed development and the abutters are residential uses.

#### 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.

#### 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 4, 8, 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.
  - On November 29, 2022, the applicant submitted a declaration of condominium outlining units, common elements, and maintenance agreements.
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.

#### 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, updated 11/29/2022, to show the inclusion of open space as required by Section 10.23 of the Land Use Ordinance. The applicant has reserved 13% of the parcel for conservation.

#### 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.

#### 9. Water Quality

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

#### 10. Subdivision Street Connectivity

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

**Site Plan - Conclusions of Law:**

1. The development **will** reflect the natural capabilities of the site to support development.
2. Utilities serving developments in the Village Center District and Village Residential District **will** be installed underground.
3. The proposed development **will not** result in a negative impact to the environment or to the community facilities or services.
4. The development **will not** contribute emission of dust, ash, smoke or other particular matter.
5. The proposed development **will** have adequate exterior lighting to provide for its safe use during nighttime hours.
6. The applicant **will** have the financial capacity to complete the project.
7. The landscape **will** be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas.
8. The development **will** control noise levels such that it **will not** create a nuisance for neighboring properties.
- ~~9. The size, location, design, color, texture, lighting and materials of all exterior signs **will/will not** detract from the design of proposed buildings and structures. **(N/A)**~~
- ~~10. Exposed non-residential storage areas, exposed machinery, and areas used for storage **will/will not** have sufficient setbacks and screening. **(N/A)**~~
11. Adequate provisions **will** be made for the collection and disposal of all storm water that runs off proposed roads, parking areas, roofs and other surfaces.
12. Developments **will** be designed to protect and conserve important wildlife habitat to the greatest extent feasible.
13. The layout of the site **will** provide for the safe movement of passenger, service, and emergency vehicles throughout the site.
14. The site plan **will** provide for a system of pedestrian ways within the development appropriate to the type and scale of development.
15. Parking areas **will** be constructed to protect the natural environment and visual character of the community, improve pedestrian safety and accessibility, and promote the quality of life in developed areas.

**Subdivision - Conclusions of Law:**

1. The proposed subdivision **will not** result in undue water or air pollution.
2. The proposed subdivision **will** have sufficient water available for the reasonably foreseeable needs of the subdivision.
3. The proposed subdivision **will not** cause an unreasonable burden on an existing water supply.
4. The proposed subdivision **will not** cause unreasonable soil erosion or reduction in the capacity of the land to hold water.
5. The proposed subdivision **will not** cause unreasonable highway or public road congestion or unsafe conditions.
6. The proposed subdivision **will** provide for adequate solid and sewage waste disposal.
7. The proposed subdivision **will not** cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage.
8. The proposed subdivision **will not** place unreasonable burden on the ability of the local governments to provide municipal or governmental services.
9. The proposed subdivision **will not** have an undue adverse effect on the scenic or natural beauty of the area.
10. The proposed subdivision **will** be in conformance with a duly adopted subdivision regulation or ordinance.
11. The subdivider **will** have adequate financial and technical capacity to meet the standards.
- ~~12. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, the proposed subdivision **will/will not** adversely affect the quality of such body of water. (N/A)~~
- ~~13. The 100-year flood boundary **is/is not** shown on the plan. (N/A)~~
- ~~14. All freshwater wetlands **have/have not** been identified on maps submitted as part of the application. (N/A)~~
- ~~15. All farmland within the proposed subdivision **has/has not** been identified on maps submitted as part of the application. (N/A)~~
- ~~16. Any rivers, streams, or brooks within or abutting the proposed subdivision **have/have not** been identified on maps submitted as part of the application. (N/A)~~

17. The proposed subdivision **will** provide for adequate storm water management.
- ~~18. Any lots in the proposed subdivision with frontage on a river, stream, brook, or great pond **have/do not have** a lot depth to shore frontage ratio greater than 5 to 1. **(N/A)**~~
- ~~19. The long-term cumulative effects of the proposed subdivision **will/will not** unreasonably increase the great pond's phosphorus concentration during the construction phase and life of the proposed subdivision. **(N/A)**~~
- ~~20. If the subdivision crosses municipal boundaries, the proposed subdivision **will/will not** cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality. **(N/A)**~~
- ~~21. Timber on the parcel **has/has not** been harvested in violation of liquidation harvesting statutes and rules. **(N/A)**~~