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TOWN OF YARMOUTH
Department of Planning and Development
200 Main Street Yarmouth, Maine 04096

(207)846-2401

WWW.YARMOUTH.ME.US

Fax: (207)846-2438

SUBDIVISION ADMINISTRATIVE ALTERATION APPLICATION FORM

Date: 9/1/2021 **Zoning District** LDR **Map** 23 **Lot** 11 **Ext** **Fee Paid** 100⁰⁰

Fee: \$100 per amended or revised lot; Department Noticing: \$5.00 per addressee.

Property Owner Christa Kelley

Applicant, if other

Mailing Address 317 Foreside Road, Falmouth, Maine 04105

E-mail Address AJS@Maine.rr.com

Phone (207) 632-7120

Fax

Name of Subdivision Seaborne of Yarmouth Association

Street Address 118 Seaborne Drive, Yarmouth, Maine

Existing Use/# Lots Low Density Residential - 29 Lots

Proposed Use/# Lots Low Density Residential - 28 Lots

Recording Book & Page Plan Book 76, Page 27

The Town will correspond with only one contact person/agent for this project. Please provide the requested information regarding the contact person/agent.

Contact person/agent Horace Horton, Esq.

Mailing Address One Monument Way, Portland, Maine 04101

E-mail Address HHorton@ddlaw.com

Phone(s) (207) 775-7341

Fax (207) 761-4690

I certify that, to the best of my knowledge, all information provided in this application form and accompanying materials is true and accurate.

Richard Greene
Signature of Owner/Applicant

SEPT. 3, 2021

Date

(If signed by Owner's agent, provide written documentation of authority to act on behalf of applicant.)

"I authorize appropriate staff within the Yarmouth Planning Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to collect facts pertaining to my application."

Richard Greene, President of Seaborne of Yarmouth Association
Print or type name and title of signer

1. PROJECT DESCRIPTION

A. On a separate sheet describe the overall project objectives and proposed uses of property, including quantity and type of residential units (if any) and the nature and purpose of the proposed subdivision alteration.

B. Project details

1. Assessor's Map number(s) 2; 23 Lot number(s) 31; 1-19, 21-27

2. Existing zone(s) of the site
Low Density Residential

Shoreland Overlay District Yes X No

Mobile Home Park Overlay Yes X No

3. Total land area of site (all contiguous land in same ownership)
Unknown

4. Proposed number of lots. 26

C. Attach as Exhibit #1 a map such as the Maine Atlas and Gazetteer map (clean photocopies are acceptable). Indicate the location of your project on map.

D. Construction sequence, as applicable

1. Estimated time of start of project N/A
Estimated time of completion of project N/A

2. Is this to be a phased project? Yes No

3. Attach as Exhibit #2, if applicable, a construction schedule outlining the anticipated sequence of construction (beginning and completion) for the major aspects of the proposed project, including roads, erosion control and drainage measures, structures, sewer and water lines, other utilities, paving, landscaping.

2. ELIGIBILITY FOR ADMINISTRATIVE APPROVAL

Under Ch.601, Article III.D.2, the planning authority may approve alterations to an approved recording plat when all of the following conditions are met; otherwise, a new subdivision plat must be submitted to the Planning Board:

1. The rearrangement of lot lines does not increase the number of lots within a block or subdivision unit or area; Yes X No
2. The alteration will not substantially affect any street, alley, utility easement or drainage easement; Yes X No
3. The alteration meets all of the minimum requirements of this Chapter, Chapter 701 (Zoning) of this code and other applicable state and local

codes; Yes X No

4. The alteration is approved by the Public Works Director, the Fire Chief, Town Engineer and Planning Director. Such approved alterations shall be properly recorded in the registry within thirty (30) days thereof or they shall be null and void. Recording of approved alterations also shall be in accordance with the requirements of 30-A M.R.S.A. Section 4407. **Plat shall provide a signature block for approval by Town of Yarmouth, Director of Planning & Development with date.**

3. RIGHT, TITLE, OR INTEREST

- A. Name and mailing address of record owner of the site

Phone Fax

- B. Attach as Exhibit #3 evidence of corporate or partnership status, if applicant is not an individual.
- C. Attach as Exhibit #4 evidence of applicant's right, title, or interest in the site. A complete copy of the document must be provided; (financial information may be redacted).
- D. Attach as Exhibit #5 a copy of the current owner's existing deed for the site.
- E. Attach as Exhibit #6 summary lists of all existing and all proposed easements or other burdens for this property. More detailed information may be required, depending on the particular circumstances of the site.
- F. If a condominium, homeowners, or property owners association is or will be established, attach as Exhibit #7 the articles of incorporation, the Declaration of Covenants and Responsibilities, and the existing/proposed by-laws of the organization. If existing association, evidence of approval of proposed alteration by association.
- G. Attach as Exhibit #8 a copy of the most recent approved and recorded subdivision plat, showing date of recording, book, and page.

4. FINANCIAL CAPACITY

- A. Estimated cost of the project (including land purchase and development costs)

- B. Attach as Exhibit #9 evidence of your financial capacity to complete the proposed

development. Submit one or more of the following (please check as appropriate):

- _____ 1. A written statement from the applicant's bank or a certified public accountant who recently has audited the applicant's finances stating that the applicant has cash reserves in the amount of the estimated cost of the project and can devote those reserves to the project.
- _____ 2. When the applicant will personally finance the development, provide evidence of availability of funds and evidence that the applicant can devote these funds to the project.
- _____ 3. The most recent corporate annual report showing availability of sufficient funds to finance the development, together with a statement from the applicant that the funds are available and will be used for the proposed project.
- _____ 4. A letter from a financial institution, governmental agency, or other funding agency which indicates a timely commitment to provide a specified amount of funds and the uses for which the funds may be utilized.
- _____ 5. In cases where outside funding is required, but there can be no commitment of money until regulatory approvals are received, a formal letter of "intent to fund upon approval" from a funding institution.

5. TECHNICAL ABILITY

- A. List all projects undertaken by the applicant within the last five years, beginning with the most recent project:
- B. Have done no prior projects _____
- C. Attach as Exhibit #9 a list of all consultants retained for this proposed project, such as engineers, architects, landscape architects, environmental consultants; and those firms or personnel who will be responsible for constructing, operating and maintaining the project.

6. SUBDIVISION ALTERATION DRAWINGS, MAPS:

- A. Drawings
 - a. paper no larger than 24" x 36", with all drawings in a set the same size
 - b. bound and folded no larger than 9" x 12", with project name shown on front face of folded plan
 - c. number and date drawings, with space for revision dates
 - d. scale of the drawings shall be between 1"=20' and 1"=50'
 - e. show the entire parcel in single ownership, plus off-site easements
- B. Title block shall include:
 - a. identification of plan as "Alteration of Approved Subdivision Plan"
 - b. name and address of project



- c. name(s) and address (es) of site owner and of applicant
 - d. name and address of plan designer(s)
 - e. name/description of most recent subdivision subject to alteration, with book and page of recording in Cumberland County Registry of Deeds
 - f. Signature Block for approval by Town of Yarmouth, Planning Board (7 signature lines) with date
- C. Location map shall include:
- a. abutting property within one thousand feet of project boundaries
 - b. outline of proposed project
 - c. zoning district(s) of abutting properties
 - d. at least one street intersection
- D. North arrow and scale.
- E. General plan notes shall include:
- a. zoning district and list of applicable dimensional regulations comparing the required and proposed
 - b. net residential acreage calculation
 - c. all requested waivers
- F. Name, location, width of existing and proposed streets.
- G. A Boundary Survey, Category 1, Condition 2, showing site boundaries, exact boundaries, dimensions and acreage of all lots, and a minimum of 3 granite monuments at outside corners of the parcel.
- H. Setbacks as required by zoning ordinance; zone line if site is transected by a zone line or if zone line is within 30 feet of the boundaries of the site.
- I. Existing and proposed contours at 2' intervals. Show 1' contours and/or spot elevations if sufficient detail cannot be shown with 2' contours.
- J. Location, dimensions, and total square-footage of existing and proposed buildings (existing buildings should be identified as such).
- K. Names of abutting property owners and locations of buildings and curb cuts on abutting properties.
- L. Locations and dimensions of parking areas, loading and unloading facilities, driveways, fire lanes, access points.
- M. Location of all existing and proposed easements and rights-of-way, including identification of who has or will receive the easement.
- N. Location, dimensions, materials of existing and proposed pedestrian access ways.
- O. Location and size of existing and proposed utilities, both on-site and in adjoining public ways. Location of nearest existing hydrant. Include installation details for



proposed utilities, if applicable.

- P. Construction drawings showing plans, profiles, cross-sections, and details of appurtenances for sanitary sewer and storm drainage systems, if applicable.
- Q. Location and description of existing natural features, such as wetlands, water courses, marshes, rock outcroppings, stands of trees. Natural features to be preserved must be identified on plan.
- R. Grades, street profiles, typical cross-section, and specifications of proposed streets and sidewalks, if applicable. These must meet the standards of Ch. 601, Article IV.
- S. A description of any right-of-way, street, sidewalk, open space, or other area the applicant proposes to designate as public.
- T. Name, registration number, seal, and signature of all registered professionals (engineer, land surveyor, architect, landscape architect, etc.) who prepared the plan.
- U. First floor finished floor elevation(s) for all proposed buildings.
- V. If project is within the RP district, extent of floodway and floodway fringe.
- W. If project is within Shoreland Overlay District, show required setbacks.

The following submissions are required unless waived by the Director of Planning & Development:

6. WATER (if Alteration involves development)

Attach as Exhibit #10 written confirmation from the Yarmouth Water District that it can supply the proposed development and that the proposed plan has been approved by the District. If the applicant proposes a private supply, provide evidence that a sufficient and healthful water supply is available for the proposed development.

7. TRAFFIC (if Alteration involves development)

Attach as Exhibit #11 a written evaluation and demonstration of the adequacy and availability of adjacent streets to serve the proposed project. If you must submit a full traffic study to DEP, provide two (2) copies with this application.

8. SANITARY SEWERS AND STORM DRAINS (if Alteration involves development)

A. Estimated sewage gallons per day for the completed project

B. Will this project generate industrial or non-sanitary waste that will enter the public sewer or drains? No ____ Yes ____
If yes, please describe proposed types and amounts

C. If a subsurface wastewater disposal system is proposed, provide evidence that it conforms to the requirements of the State Plumbing Code.

9. SURFACE DRAINAGE AND-RUNOFF, STORMWATER MANAGEMENT (if Alteration



involves development)

- A. Attach as Exhibit #12 a description of any problems of drainage or topography, or a representation that, in the opinion of the applicant, there are none.
- B. Attach as Exhibit #13 a complete stormwater management plan, including drainage calculations for pre- and post-development for 2 yr. and 25 yr. storm events, a drainage plan, and an assessment of any pollutants in the stormwater runoff, that meets the requirements of Chapter 601, Design Standards.

10. EROSION AND SEDIMENTATION CONTROL (if Alteration involves development)

- A. Attach as Exhibit #14 a written description of erosion and sedimentation control measures to be used during and after construction of the proposed project.
- B. Show on a plan the proposed location, type, and detail of erosion control devices, unless this information is included on a subdivision drawing.

11. SOILS (if Alteration involves development)

- A. Attach as Exhibit #15 a medium intensity soils classification report, including description of soils and interpretation of engineering properties. Include geotechnical report, if applicable.
- B. Show on a plan the existing soil conditions on the site, unless this information is included on a subdivision drawing. Include wetlands delineation and report, if applicable.

PROJECT DESCRIPTION

The Seaborne of Yarmouth Association (the "Association") is proposing an Amendment (the "Amendment") to the subdivision plan entitled "Plan of Seaborne of Yarmouth for Drinkwater Shores, Yarmouth, Maine" by C.R. Storer, Inc., dated November 7, 1967 and recorded in the Cumberland County Registry of Deeds in Plan Book 76, Page 27 (the "Plan"). The Amendment seeks to remove Lot 1, which is currently owned by Christa Kelley ("Kelley") by virtue of a deed from Apex Luxury Rentals, LLC dated April 20, 2020 and recorded at the Cumberland County Registry of Deeds in Book 36639, Page 145, from the subdivision depicted on the Plan. The Association and Kelley have both agreed to remove Lot 1 from the subdivision and have entered into an agreement to that effect dated July 6, 2021 and recorded in the Cumberland County Registry of Deeds in Book 38546, Page 309.

July 1, 2021

AGREEMENT CONCERNING REAL ESTATE

This AGREEMENT ("Agreement"), made and entered into as of July 6, 2021, by and between **Seaborne of Yarmouth Association**, a Maine Nonprofit Corporation with a mailing address of 118 Seaborne Dr., Yarmouth, ME (the "Association") and **Christa Kelley**, a Maine resident with a mailing address of 317 Foreside Rd ("Kelley").

Falmouth, Me 09105
WITNESSETH: *ME 04096

WHEREAS, The Association serves as a homeowners association restricting certain property rights by virtue of those original deed restrictions set forth in a Deed from Drinkwater Shores, Inc. to Seaborne of Yarmouth Association dated July 5, 1968 and recorded in the Cumberland County Registry of Deeds in Book 3047, Page 701 (the "Restrictions");

WHEREAS, Kelley owns real property subject to the Restrictions by virtue of a Deed from Apex Luxury Rentals, LLC to Christa L. Kelley dated April 20, 2020 and recorded in the Cumberland County Registry of Deeds in Book 36639, Page 145 (the "Kelley Lot");

WHEREAS, the Association and Kelley wish to release the Kelley Lot from the Restrictions under certain terms and conditions; and

WHEREAS, this Agreement shall serve to outline the arrangement between the Association and Kelley.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned covenant and agree as follows:

1. Timing: It is understood by the Parties that all of the actions required of both parties and contemplated by or set forth in the provisions hereto shall be completed by September 30, 2021. The within agreement and the provisions thereof are conditioned upon the vote of the membership of the Association.

2. Access: Until September 30, 2021, the Association will continue to allow access from Channel Point Road to the Kelley Lot except the parking will not block or impede access by other residents. Guests will access the Kelley Lot by virtue of Spinnaker Lane after September 30, 2021. The stone stairs may stay in place, but Kelley agrees to add plantings (shrubs, plants, etc.) for beautification and bank stabilization, as necessary, and boulders to block off ingress and egress to and from Channel Point Road, all in a professional and appealing manner.

In the event that Kelley does not complete said work in a professional and appealing manner, the Association may send a written notice of complaint to Kelley at her above address, or to such other address provided by her, by certified mail, return receipt requested and prepaid postage, outlining any such complaint. If Kelley fails to remedy the complaint of the

July 1, 2021

Association, within thirty (30) days from receipt of said notice, the Association will then have the right to add boulders over a strip of land ten (10) feet in width on a portion of Kelley's Lot extending from the terminus of Channel Point Road, at its discretion, to discourage parking and access, and have the right to make changes for that purpose, as necessary, in the future, to help guaranty Kelley's privacy and to deny ingress and egress to the Kelley Lot from Channel Point Road.

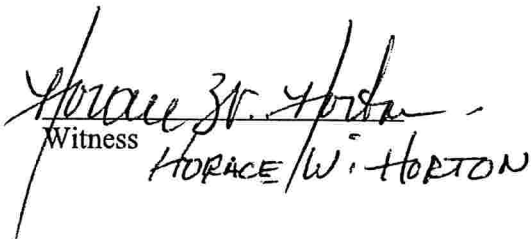
3. Association: Kelley will relinquish all rights and benefits conferred to her by the Seaborne of Yarmouth Association, all of which will become a matter of written agreement for presentation to the planning department and planning board, if necessary, and for recording in the registry of deeds.

4. Private Arrangements: Not part of Kelley's agreement with the Association will be any private arrangement with any neighbors of Kelley regarding their common interests, such as repair/replacement of the fence, view easements, etc., which would benefit those properties. Such agreement will not impact, modify, or extinguish any private rights involving neighbors of Kelley.


5. Subsequent Agreement: This Agreement shall serve to outline the agreement between the Association and Kelley with the intent that the subsequent agreement will be signed and recorded in the Cumberland County Registry of Deeds by September 30, 2021.

6. Costs and Expenses: The Association and Kelley shall each bear its own respective costs and expenses, including attorneys' fees, for all activities relating to this Agreement and any subsequent agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and sealed as of the day and year first above written.


Witness
HORACE W. HORTON

Seaborne of Yarmouth Association

By: 
Name: Richard E. Greene
Its: President

STATE OF MAINE
Cumberland County

July 8, 2021

Personally appeared the above-named Richard E. Greene, duly authorized PRESIDENT of Seaborne of Yarmouth Association and acknowledged the foregoing instrument to be his/her/its free act and deed in his/her/its said capacity and the free act and deed of Seaborne of Yarmouth Association.

July 1, 2021

Before me,

Alm f

Notary Public/Attorney at Law

Chris Kelley

Printed Name

Christa Kelley

Christa Kelley

Libby Wells

Witness

STATE OF MAINE
Cumberland County

July 10, 2021

Personally appeared the above-named Christa Kelley and acknowledged the foregoing instrument to be her free act and deed.

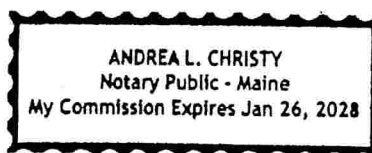
Before me,

Alm f

Notary Public/Attorney at Law

Andrea Christy

Printed Name



(SPACE ABOVE RESERVED FOR RECORDING INFORMATION)

DLN#1002040093530

WARRANTY DEED
(Corporate Grantor)

Apex Luxury Rentals, LLC, a Maine Limited Liability Company with a mailing address of 317 Foreside Road, Falmouth, Maine, 04105 for consideration paid, grants to **Christa L. Kelley**, of Falmouth, Maine, **with Warranty Covenants**, the land and interest in land, together with all buildings and improvements now located thereon, situated in Yarmouth, County of Cumberland and State of Maine, described as follows:

A certain lot or parcel of land, with the buildings and improvements thereon, situated in the Town of Yarmouth, County of Cumberland, and State of Maine, being Lot No. 1 as shown on "Plan of Seaborne of Yarmouth for Drinkwater Shores, Inc., Yarmouth, Maine" dated November 7, 1967 by C.R. Storer, Inc. and recorded in Cumberland County Registry of Deeds in Plan Book 76, Page 27, and as revised by a plan entitled "Plan of Revision to Plan of Seaborne of Yarmouth for Drinkwater Shores, Inc., Yarmouth, Maine" recorded in said Registry of Deeds in Plan Book 76, Page 26.

Also, the right to use in common with Drinkwater Shores, Inc., its successors and assigns, Lots No. 17 A, B and D as shown on the aforesaid "Plan of Seaborne of Yarmouth for Drinkwater Shores, Inc., Yarmouth, Maine" recorded in said Registry of Deeds in Plan Book 76, Page 27, in the manner and subject to the restrictions and covenants set forth in a deed from Drinkwater Shores, Inc. to Seaborne of Yarmouth Association dated July 5, 1968 and recorded in said Registry of Deeds in Book 3047, Page 701.

This conveyance is subject to the restrictions and covenants as set forth in deed from Drinkwater Shores, Inc. to Leslie R. Fenderson, Sr. and Helen T. Fenderson dated July 5, 1968, and recorded in said Registry of Deeds in Book 3047, Page 705.

Also, the right to use, in common with others, such portions of the premises set forth in deed from Seaborne of Yarmouth Association to All American Real Estate, Inc. et als. dated December 15, 1976, and recorded at said Registry in Book 3951, Page 334.

Together with certain rights and obligations set forth in a certain Road Use Agreement between the Grantors and Central Maine Power Company, dated

December 13th, 2018 and recorded in Cumberland County Registry of Deeds in Plan Book 35357, Page 134.

The above-described premises are conveyed subject to such matters as shown on said "Plan of Seaborne of Yarmouth for Drinkwater Shores, Inc., Yarmouth, Maine" recorded in said Registry of Deeds in Plan Book 76, Page 27, including, but not limited to, the "8' Right of Way of Owner of Lot 2" as shown thereon.

Also conveying, with quitclaim covenant only, an easement or right of way for purposes of ingress and egress over and along the existing private way as currently travelled known as Spinnaker Lane, extending from the southwesterly side of Gilman Road in a generally southerly direction to the above-described premises.

Being the same premises as conveyed to Apex Luxury Rentals, LLC by Warranty Deed from Janice C. Anderson and Lewis G. Anderson dated February 15, 2019 and recorded in the Cumberland County Registry of Deeds in Book 35470, Page 144.

IN WITNESS WHEREOF, Apex Luxury Rentals, LLC has caused this instrument to be signed in its name and behalf by Christa L. Kelley, its Sole Member, thereunto duly authorized, this 20 day of April, 2020.

Witness

Pamela Walker

Apex Luxury Rentals, LLC

Christa Kelley

By: Christa L. Kelley

Its: Sole Member

STATE OF MAINE
COUNTY OF CUMBERLAND

April 20, 2020

Personally appeared the above named Christa L. Kelley, the Sole Member of Apex Luxury Rentals, LLC and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of said Apex Luxury Rentals, LLC.

Printed Name: Pamela L. Walker Before me,

My comm expires: 06/06/21

Pamela Walker

Notary Public/State of Maine

TITLE NOT SEARCHED, DESCRIPTION NOT VERIFIED, BY PREPARER OF THIS DEED

After recording return to:

Christa L. Kelley
317 Foreside Rd
Falmouth, ME 04105