



**STAFF REPORT
YARMOUTH, MAINE**

Subdivision Amendment

Boston Post Road Development

Christopher and Jane Strobel, Brian and Laura McHugh, and Ben and Kate Redfield, Applicants

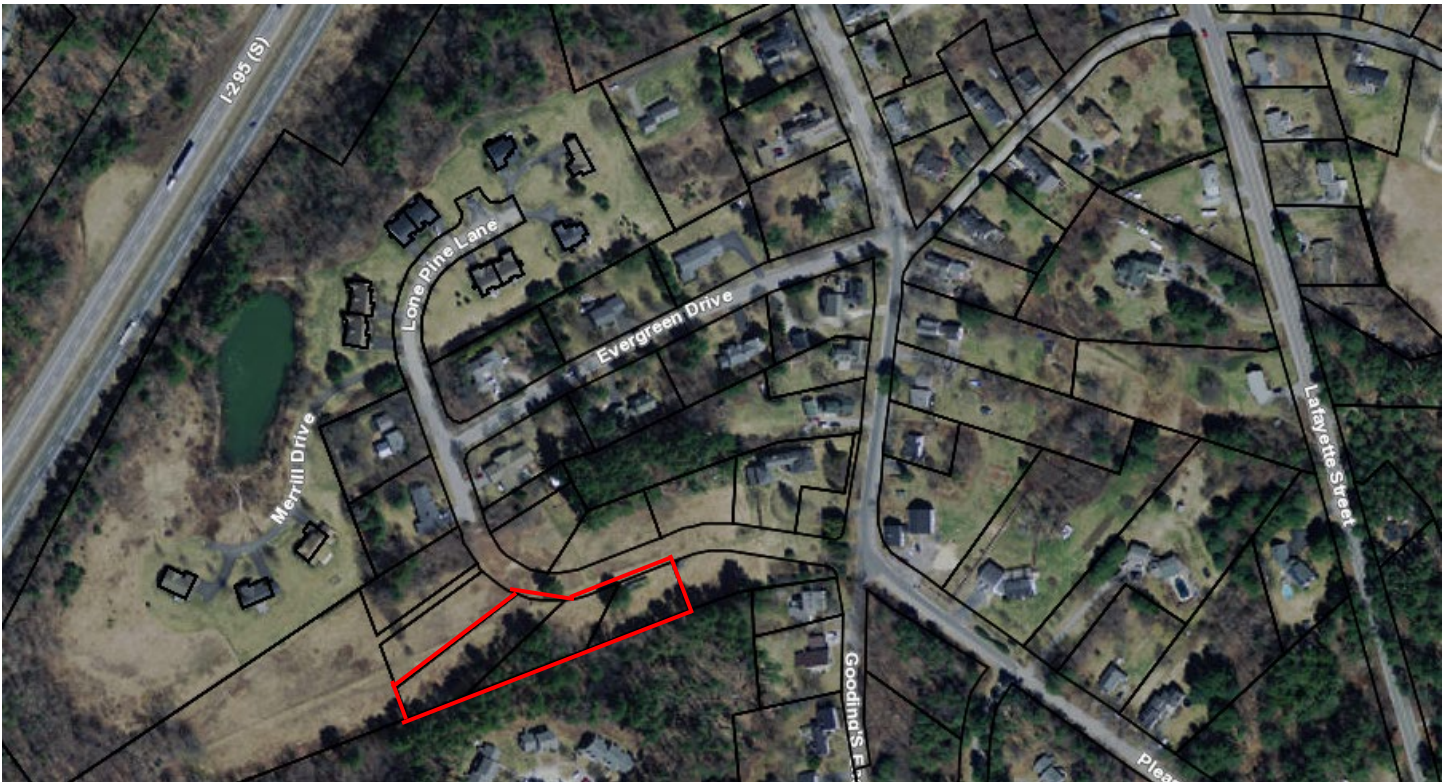
Map 28, Lots 4-2, 4-3, and 4-4

Prepared by: Erin Zwirko, Director of Planning & Development

Report Date: January 26, 2022

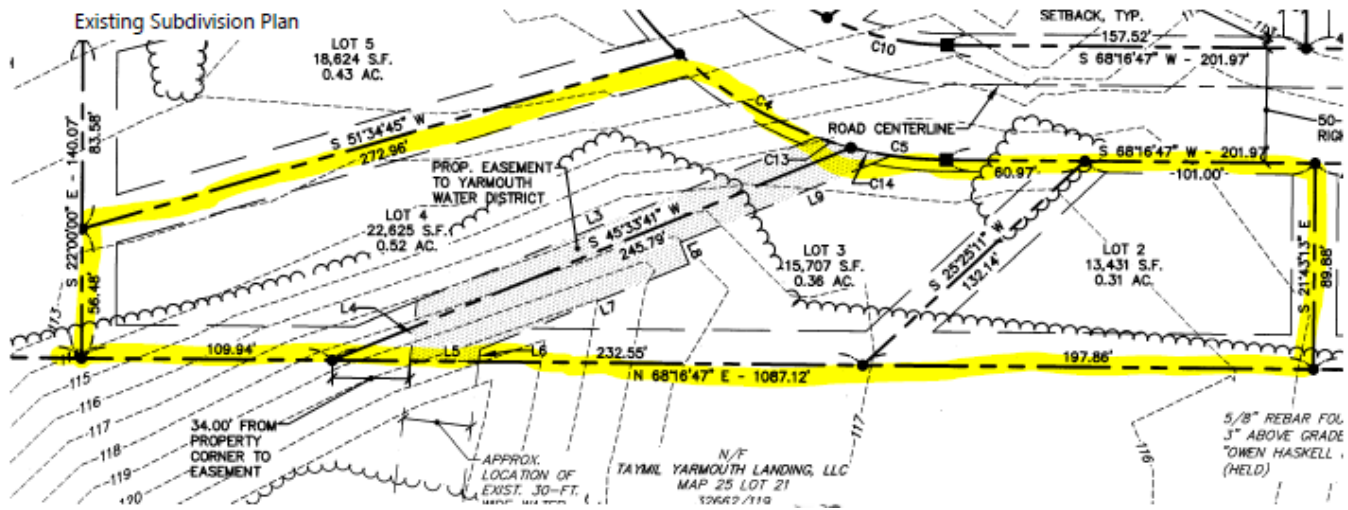
I. INTRODUCTION AND PROJECT DESCRIPTION

Christopher and Jane Strobel, Brian and Laura McHugh, and Ben and Kate Redfield, the owners of Lots 4-2, 4-3, and 4-4, have requested a lot line adjustment in order to realign their shared property lines. Specifically, the lot line adjustment will reduce the Road frontage of Lot 4 from approximately 86 feet to approximately 45 feet to move the property line to the side of the house located at Lot 3 and will alter the property line between Lot 2 and Lot 3 to better align the property line between the constructed houses. Each piece to be conveyed are similar in size and have been agreed upon by the owners of Lot 2, Lot 3, and Lot 4. The existing easement to Yarmouth Water District that exists between Lots 3 and 4 will remain un-altered.

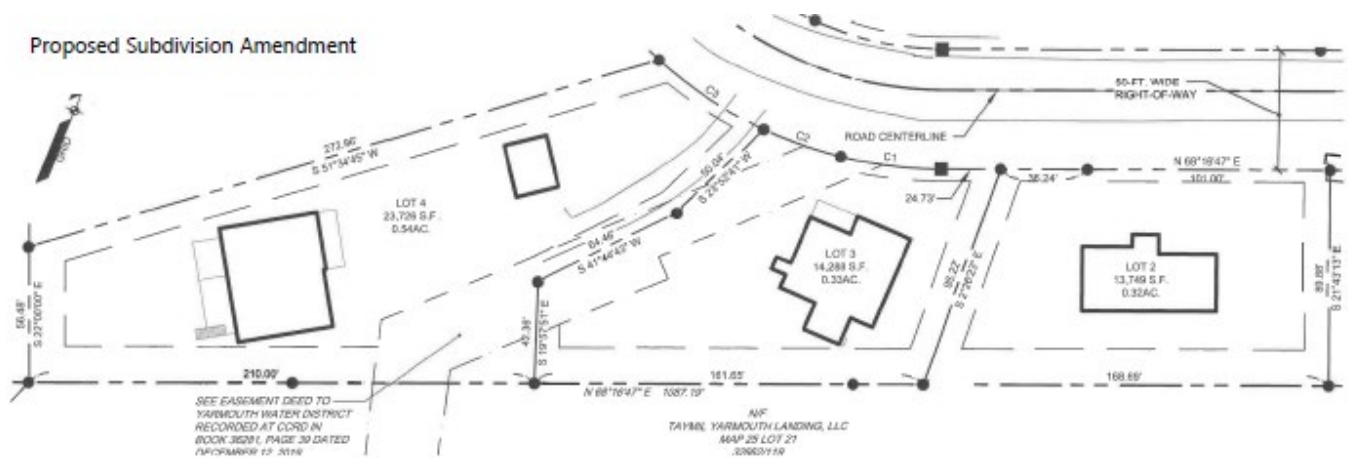


Aerial View of Subdivision Vicinity; Subject lots are outlined

The original subdivision was approved in September 2019. It appears that the lot line adjustment is consistent with the original approval.



2019 Boston Post Road Development Subdivision Plan



Proposed Subdivision Amendment of the Boston Post Road Development

Chapter 601, Article III.D.2 allows the Director of Planning & Development to administratively approve subdivision amendments:

2. Plan Revisions after Approval

- a. 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;
 2. The alteration will not substantially affect any street, alley, utility easement or drainage easement;
 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;
 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.

Uses in Vicinity: The surrounding area consists of single-family homes built as part of the Boston Post Road Development subdivision. While these are newer construction homes, the single-family homes located on Pleasant Street are significantly older and historic. Taymil Properties owns a complex of townhomes. Interstate 295 is also located nearby.

Notices were sent to 31 property owners within 500 feet of the subject parcel. As of the writing of this staff report, we have not received any comment letters.

DEVELOPMENT REVIEW – SUBDIVISION REVISIONS AFTER APPROVAL (Chapter 601)

1 The rearrangement of lot lines does not increase the number of lots within a block or subdivision unit or area;

The proposed lot line adjustment does not increase the number of lots within the subdivision. It is simply a land swap between the lots of Lots 2, 3, and 4.

2 The alteration will not substantially affect any street, alley, utility easement or drainage easement;

A Yarmouth Water District easement straddles the property line between Lot 3 and Lot 4. The Yarmouth Water District Superintendent reviewed the subdivision amendment and found that the subdivision alteration would not have an impact on the easement. The Superintendent reminds the property owners of Lots 3 and 4 that the Water District has permanent rights to the easement and that the property owners need to be aware of activities within the easement that require approval from the Water District. A copy of the easement is attached to this staff report with the Superintendent's comments.

The alteration will not substantially affect any street, alley, utility easement or drainage easement.

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;

The alteration continues to meet all of the minimum requirements of Chapter 601, Chapter 701, and all other applicable state and local codes.

4 The alteration is approved by the Public Works Director, the Fire Chief, Town Engineer and Planning Director.

The Public Works Director, Fire Chief, Town Engineer, and Planning Director reviewed the proposal and found that the subdivision alteration can be approved.

II. RECOMMENDATION

Due to being consistent with Chapter 601, Article III.D.2, the Planning Authority (the Department of Planning and Development) may approve the amendment subject to the standard conditions.

Although not a condition of approval, the Department of Planning and Development would also like to remind the property owners of Lot 4-3 and Lot 4-4 that a Yarmouth Water District easement straddles the shared property line and the owners should be aware of their responsibilities per that easement.

Attachments:

1. Memo from Steve Johnson, Town Engineer, January 18, 2022
2. No Comments from Erik Street, Director of Public Works, January 18, 2022
3. No Comments from Michael Robitaille, Fire Department Chief, January 18, 2022
4. Email from Eric Gagnon, Yarmouth Water District Superintendent, January 18, 2022
5. No Comments from Nick Ciarimboli, Code Enforcement Officer, January 21, 2022



TOWN OF YARMOUTH
INTERNAL MEMORANDUM

TO: Erin Zwirko, AICP, Director of Planning
FROM: Steven S. Johnson, P.E., Town Engineer
DATE: January 18, 2022
RE: Subdivision Alteration Application Boston Post Lots 2, 3 and 4

Erin:

I have reviewed the subject application from Daniel Danvers of Sebago Technics on behalf of Christopher & Jane Strobel (Lot 2), Brian & Laura McHugh (Lot 3) and Ben and Katie Redfield (Lot 4) dated January 10, 2022. I have the following technical comments.

I have no concerns with the lot line alteration as proposed from a technical perspective. However, the Yarmouth Water District (District) should have an opportunity to review and comment on the application since the lot line change between lots 3 and 4 alters the property line that likely establishes the layout for the existing waterline easement. Somehow, and this is a question for the licensed surveyors, the easement must have a relationship between the line change and the future new property pins such that the easement boundary can be established in the field. This may require, although I am not sure, drafting a new easement description. It should be noted that typically no structures can be constructed within a utility easement. The applicants should be made aware of this.

I am happy to review any other aspects of this application that you or the Planning Board may require. Please see me if you have any questions.

MAP 28 LOTS 4-2, 4-3 & 4-4**Submit Comments to Erin Zwirko by 1/21/22****TOWN OF YARMOUTH****200 Main Street****Yarmouth, Maine 04096****(207)846-2401****Fax: (207)846-2438****NOTICE OF PLANNING DEPARTMENT FILING & REQUEST FOR COMMENT**

Date Rec'd.: 1/10/22

Agenda Date: N/A - Staff Approved

Project Description: Subdivision Alteration

Project Location: 4, 6 & 8 Lone Pine Lane

Applicant: Christopher & Jane Strobel, Brian & Laura McHugh, Ben & Katie Redfield

Agent/Contact: Daniel Danvers - ddanvers@sebagotechnics.com**Project Description:**

Adjusting of lot lines between lots 2 and 3 and 3 and 4. No substantial changes to the originally approved subdivision.

- ☐ Review For Completeness/Checklist
- ☐ Respond To Applicant Re: Completeness
- ☐ Staff Input/Request Sent:

1. Director of Public Works (full size)
2. Town Engineer (full size)
3. Fire Chief (pdf)
4. Police Chief (pdf)
5. Director of Community Svcs (pdf)
6. Yarmouth Water District (pdf)
7. Code Enforcement Officer (full size)
8. Town Manager (pdf)
9. Harbormaster (pdf)
10. School District (pdf)
11. Tree Warden (pdf)
12. Economic Development Director (pdf)
13. Planning Director (full size)
14. Assessor - Subdivision Only (pdf)
15. Bike & Ped Committee (pdf)
16. Assistant CEO/Fire Inspector (pdf)
17. Traffic Peer Review - TYLin (pdf)

Date Completed:

1/11/221/11/221/11/22XXX X XX X

- ☐
- Notice Letters Created/Sent

- ☐
- Agenda To PB

- ☐
- Agenda Posting:

1. Forecaster

2. Website

3. Bulletin Board

- ☐
- Copy Of Findings And Decision In File

No comments or concerns
Erin
1-18-22

Attachment 3

From: [Mike Robitaille](#)
To: [Wendy Simmons](#)
Subject: RE: Request for Comment - 4, 6 and 8 Lone Pine Lane - DUE 1/21/22
Date: Tuesday, January 18, 2022 9:31:52 AM

I have no comments regarding the Administrative Alteration Application submitted for Lone Pine Lane

Michael S. Robitaille
Chief of Department
Yarmouth Fire Rescue

From: Wendy Simmons <WSimmons@yarmouth.me.us>
Sent: Tuesday, January 11, 2022 12:50 PM
To: Mike Robitaille <MRobitaille@Yarmouth.me.us>; Benjamin Thompson <bthompson@cumberlandcounty.org>
Subject: Request for Comment - 4, 6 and 8 Lone Pine Lane - DUE 1/21/22

For your review:

Thanks. W

Wendy L. Simmons, SHRM-CP (she, her, hers)
Administrative Assistant
Planning, Code Enforcement and Economic Development
Town of Yarmouth
200 Main St.
Yarmouth, ME 04096
Phone: 207.846.2401
Fax: 207.846.2438
www.yarmouth.me.us

Erin Zwirko

From: Eric Gagnon <egagnon@yarmouthwaterdistrict.org>
Sent: Tuesday, January 18, 2022 5:23 PM
To: Erin Zwirko
Cc: Steven Johnson
Subject: Re: FW: Planning Board Review: Lone Pine Lot Line Change
Attachments: 66261_12_20_2019.pdf

Hi Erin,

I do not have any issues with this change. The description of the easement is tied to the recorded plan set that has the easement defined on the drawing so the description does not need to be adjusted as it is geographic. As Steve mentions, they are not allowed to build structures, plant trees, etc, within the easement. I attached the recorded easement if you wanted to share that with the two homeowners (I imagine there is a reason for the lot line changes, maybe to gain distance for a setback for another structure?). I am happy to see that Sebago does reference the easement in their proposed lot change along with the book and pages numbers so it should not be a mystery to anyone. Let me know if you have any questions.

Steve - thanks for thinking of us as a lot of our easements are defined in a manner that this would require a rewrite, thankfully this one does not fit the bill.

Eric Gagnon
Superintendent
Yarmouth Water District
207.846.5821 phone
207.846.1240 fax
<http://YarmouthWaterDistrict.org/>

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On Tue, Jan 18, 2022 at 10:44 AM Erin Zwirko <EZwirko@yarmouth.me.us> wrote:

Hi Eric,

I just checked out Steve's comments attached, and while this type of subdivision amendment only requires review by myself, Steve, Erik, and the Fire Chief, Steve suggests that you take a look at the application:

https://yarmouth.me.us/index.asp?SEC=4AA035EC-DF91-4452-92E8-B6F629119AE0&DE=1EDEBC4C-EDFD-4EAE-841D-44871995B53C&Type=B_BASIC

In short, the lot lines between Lots 2 and 3 and 3 and 4 are requested to be adjusted, which overlap with a water district easement.

Please let me know if you have any comments to include in this review or if you have any questions about the application.

Thanks,

Erin

Erin Zwirko, AICP, LEED AP

Director of Planning & Development

Town of Yarmouth

Office: 207-846-2401

ezwirko@yarmouth.me.us

From: Steven Johnson <SJohnson@yarmouth.me.us>

Sent: Tuesday, January 18, 2022 9:23 AM

To: Erin Zwirko <EZwirko@yarmouth.me.us>

Cc: Erik Street <ESTreet@Yarmouth.me.us>; Christopher Cline <ccline@yarmouth.me.us>; Wendy Simmons <WSimmons@yarmouth.me.us>; Karen Stover <KStover@Yarmouth.me.us>; Eric Gagnon <egagnon@yarmouthwaterdistrict.org>

Subject: Planning Board Review: Lone Pine Lot Line Change

Good morning, Erin:

Please see my comments.

Thank you,

Steve

EASEMENT DEED (General)

KNOW ALL BY THESE PRESENTS, that YARMOUTH DEVELOPMENT Co. with a mailing address of 304 WILLEY POINT ROAD, OAKLAND, Yarmouth, Maine, ("Grantor(s)") for consideration paid, hereby grant(s) to the **YARMOUTH WATER DISTRICT**, a public quasi-municipal Maine corporation with a place of business at 181 Sligo Road, Yarmouth, Maine ("District"), a perpetual easement in gross for the transmission, distribution and supply of water and all uses and purposes incidental thereto as follows:

On, over, across, under, through, along and in a portion of Grantor(s)' lot or parcel situated in the Town of Yarmouth/North Yarmouth, County of Cumberland and State of Maine, [bounded and described more fully in Schedule A which is attached hereto and incorporated herein by reference or described as "BOSTON POST ROAD" on a subdivision plan/site plan entitled "BOSTON POST ROAD DEVELOPMENT," dated SEPT. 19, 2019, prepared by SRBAGOTECHNICS and recorded in the Cumberland County Registry of Deeds in Plan Book 219, Page 467(the "Easement Area").

The District shall have the following permanent easement rights in the Easement Area:

1. the right to lay, relay, locate, relocate, construct, reconstruct, install, maintain, repair, replace, remove, alter, operate and inspect conduits and pipelines for conveying water with all necessary fixtures and appurtenances incidental thereto, including but not limited to meters and electric or other energized control lines, and similar or replacement technology as it may change from time-to-time;
2. the right to make connections with conduits and pipelines on land owned by Grantor(s) or others adjacent to the Easement Area;
3. the right to trim, prune, cut down, and/or remove bushes, shrubbery, grass, crops, trees or any other vegetation growing in the Easement Area, to such extent as is necessary in the sole judgment of the District for the District's exercise of its easement rights hereunder for the purposes of this easement;
4. the right to change the existing surface grade of the Easement Area as is reasonably necessary in the sole judgment of the District for the District's exercise of its easement rights hereunder for the purposes of this easement; and
5. the right to enter on the Easement Area and on such portions of the Premises as is reasonably necessary to permit Grantee's access to and from the Easement Area, with people and machines at any and all times for the District's exercise of its easement rights hereunder for the purposes of this easement.

The District shall promptly repair, at its sole expense, any damage to the Easement Area and to the Premises caused by its exercise of its easement rights under this Easement Deed, and shall restore the Easement Area and the Premises to their condition prior to such exercise of the easement rights.

The Grantor(s) and its (their) successors and assigns reserve the use and enjoyment of the Easement Area for any purpose that does not interfere with the perpetual use by the District, its successors and assigns, of the Easement Area for the above stated purposes; provided that none of the following improvements may be constructed, expanded or installed and none of the following activities may be undertaken by the Grantor(s) in the Easement Area without the prior written permission of the District:

1. Buildings or any other permanent structures, except that utilities are permitted as provided herein.
2. Planting and growing of trees.
3. Earth removal, addition of fill or any other change to the surface grade of the Easement Area.
4. Conduits, pipelines or facilities installed within ten (10) feet of or above any conduit or pipeline installed by the District, except that pipelines and conduits may be so installed if they cross perpendicular to the District conduits and pipelines with a minimum vertical clearance of one foot.

If the District grants permission for any such work by the Grantor(s), then the Grantor(s) shall indemnify the District for any claims against the District or expenses of the District resulting from such work.

The easement herein granted is transferrable.

TO HAVE AND TO HOLD the said granted and bargained easement, privilege, right-of-way and appurtenance to the District and to its successors and assigns forever.

IN WITNESS WHEREOF, Grantor(s) has/have executed this instrument this 12TH day of December, 2019.

GRANTOR(S)

YARMOUTH DEVELOPMENT CO.

By: *Bryan J. Allen*

Bryan J. Allen
(Print Name)

By: _____

(Print Name)

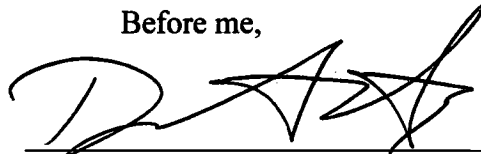
ACKNOWLEDGEMENT

State of Maine
Cumberland, ss

December 12th, 2019

Then personally appeared the above-named Bradley Moll, and
acknowledged that his/her signature on this document was his/her free act and deed.

Before me,



Notary Public/Attorney at Law

Daniel Erik Falkenberg
(Print Name)

Commission Expires: 06/08/2024

State of Maine
Cumberland, ss

_____, 201__

Then personally appeared the above-named _____, and
acknowledged that his/her signature on this document was his/her free act and deed.

Before me,

Notary Public/Attorney at Law

(Print Name)

Commission Expires: _____

Received
Recorded Register of Deeds
Dec 20, 2019 11:12:43A
Cumberland County
Nancy A. Lane

Nicholas Ciarimboli, LEED AP, Code Enforcement Officer

E-Mail: nciarimboli@yarmouth.me.us

Tel: 207-846-2401

Fax: 207-846-2438



TOWN OF YARMOUTH
INTERNAL MEMORANDUM

TO: Erin Zwirko, AICP, Director of Planning
FROM: Nicholas Ciarimboli, Code Enforcement Officer
DATE: January 21, 2022
RE: Subdivision Alteration Application – Lone Pine Ln. Lots 2, 3, & 4

Ms. Zwirko:

I have reviewed the subject application from Daniel Danvers on behalf of the owners of the respective lots on Lone Pine Ln. noted above dated December 20, 2021 and have no comments to add. Thank you.