



YARMOUTH MAINE

**Planning Board Report to Town Council
Request for Contract Zone Agreement
251 West Main Street, Map 46 Lot 86**

Julia Libby, Applicant

**Prepared by Erin Zwirko, Director of Planning and Development
January 23, 2024**

I. Planning Board Recommendation

On January 10, 2024, the Planning Board voted on the following motions:

Preliminary Plan Approval

On the basis of the application, plans, reports and other information submitted by the applicant, and the findings and recommendations contained in Planning Board Report dated January 4, 2024, for division of the lot at 251 West Main Street into three lots and subsequent residential home construction, Julia Libby, 251 West Main, LLC, applicant, Map 46 Lot 86, the Planning Board finds that the plan is acceptable for preliminary approval, subject to the following conditions of approval:

1. The applicant shall illustrate the required Landscape Standards of Chapter 703, Article 5.N on the final subdivision plan.
2. The applicant shall depict the required sight distances for driveways outlined in Chapter 604, Right of Way, on the final subdivision plan.
3. The applicant shall receive written approval from the Town Engineer regarding the proposed sewer connections prior to the submittal of the final subdivision plan. The proposed sewer connections shall be incorporated into the final subdivision plan.
4. The applicant shall continue to coordinate with the Yarmouth Water District regarding the proposed domestic and sprinkler services prior to the submittal of the final subdivision plan. The proposed water connections shall be incorporated into the final subdivision plan.
5. The applicant shall submit a full stormwater analysis that meets the requirements of the Town Engineer as outlined in his memorandum dated December 18, 2023, including development a strategy to limit impacts for stormwater runoff to the abutting lots to the north.
6. The applicant shall prepare an Erosion and Sedimentation Plan for submittal with the final subdivision plan.
7. The applicant shall submit a high intensity soils report with the final subdivision plan.
8. The applicant shall confirm whether the project is subject to Site Law requirements as well as the requirements of the Maine Construction General Permit (MCGP) during construction.
9. The applicant shall coordinate with the Department of Public Works and the Town Engineer to develop a plan for a sidewalk segment on Newell Road that meets Town standards.

Such motion moved by Janet Hansen, seconded by Jerry King, and voted 4 in favor, 3 opposed (Ginsburg, Schumacher, and Holden).

Contract or Conditional Zoning

On the basis of the application, plans, reports and other information submitted by the applicant, and the findings and recommendations contained in Planning Board Report dated January 4, 2024 for Contract Zone Agreement pertaining to 251 West Main Street Julia Libby, 251 West Main, LLC, applicant, Map 46 Lot 86, the Planning Board finds that the plan is in conformance with the Yarmouth Comprehensive Plan and advances the public good, and therefore recommends that the Town Council adopt the proposed contract zone amendment, subject to the following conditions of approval:

1. The applicant shall adopt the Historic Preservation Committee's preferred language for Exhibit 2 of the proposed Contract Zone Agreement (CZA).
2. The applicant shall complete Forest Management Plan and incorporate it into the Contract Zone Agreement (CZA) following consultation with the Tree Warden, Code Enforcement Officer, and Director of Planning & Development prior to the submittal of the CZA to the Town Council.
3. The applicant shall update Exhibit 1 of the proposed Contract Zone Agreement (CZA) to reference the Landscape Standards of Chapter 703, Article 5.N, as approved or amended by the Final Subdivision Plan.
4. The applicant shall update Exhibit 1 of the proposed CZA to prohibit any density increases under Chapter 701 Article II DD and EE and prohibit further subdivision.
5. The applicant shall update Exhibit 1 of the proposed CZA to prohibit ADUs on any of the lots.
6. The applicant shall update Exhibit 1 of the proposed CZA to indicate that each lot will comply with the residential parking requirements of Chapter 701.
7. The applicant shall update the proposed CZA to reference the Doughty Woods Subdivision Plan as provided in the application submitted on November 1, 2023 so that the building envelopes are restricted to the areas shown on that plan.

Such motion moved by Janet Hansen, seconded by Ian Cromarty, and voted 4 in favor, 3 opposed (Ginsburg, Schumacher, and Engel).

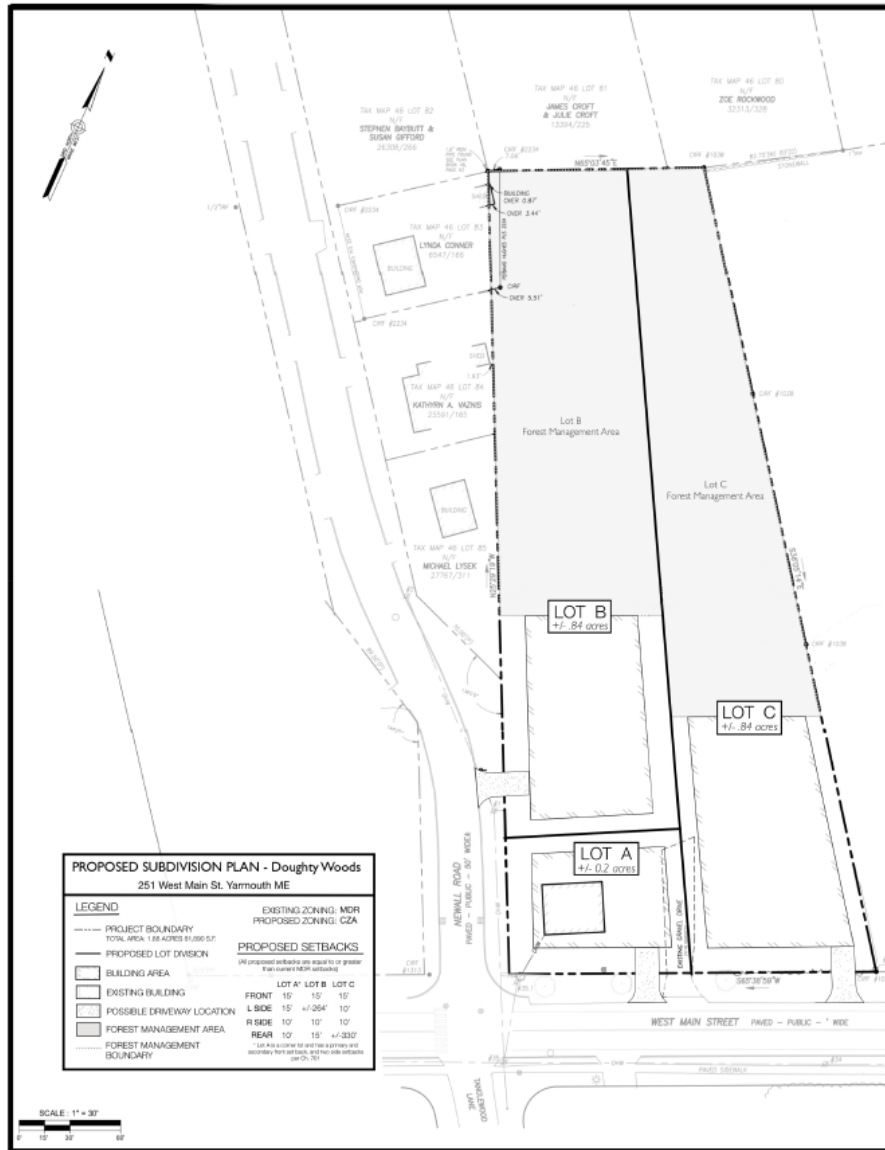
II. Project Description

Julia Libby, the owner of the property at 251 West Main Street, has applied for a Contract Zone Agreement (CZA) to enable the division of the lot which is approximately 1.88 acres. In the Medium Density Residential (MDR) zone where this property is located, the minimum lot size is one acre. The current proposal is to create 3 lots that vary in size but are all less than one acre (43,560 square feet). The applicant proposes to create one smaller lot (approximately 0.20 acres) to retain the existing structure on the property. The other two lots would be approximately 0.84 acres each. The applicant proposes to utilize a historic preservation restriction to protect the existing structure as well as a forest management plan to protect the wooded portion of the site.



Aerial Vicinity of 251 West Main Street

Below is the preliminary subdivision plan:



Preliminary Plan for 3-Lot Subdivision

The following photos were taken in 2021, but the property remains generally the same today:



251 West Main Street

III. Project History

The applicant previously appeared at the Planning Board regarding this property on multiple occasions as described in the following table.

Planning Board Meeting	Review Sought	Materials Submitted	Decision or Recommendation
December 9, 2020 Staff Report Minutes Public Comments	Chapter 701, Article IX, Historic Building Alterations and Demolitions (aka Demo Delay)	Request for a Determination of Building of Value for 251 West Main Street and Authorization to Demolish Existing Structure	The Planning Board determined that the structure is a Building of Value worthy of preservation and applied a 180-day demolition delay on the structure pursuant to Chapter 701, Article IX. During the delay period, an alternative to demolition is required to be sought, among other efforts to document the structure, although no alternatives were identified, and the structure still stands. The delay period expired on June 7, 2021, and the applicant may demolish the structure at any time with the receipt of a demolition permit.
May 26, 2021 Staff Report Minutes Public Comments Additional Public Comments	Concept Chapter 601, Major Subdivision, and Chapter 701, Article IV.V, Contract Zone Agreement	Concept Plan for an 8-lot Subdivision, including 5 Affordable Lots, 2 Market Rate Lots, and Preservation of the Existing Historic Structure	Prior to the expiration of the delay period, the applicant advanced an 8-lot subdivision concept as an alternative to the demolition of the structure, which was discussed at the Planning Board meeting on May 26, 2021. The Planning Board did not express support for the 8-lot concept as presented.
October 13, 2021 Staff Report Minutes Public Comments Additional Public Comments	Concept Chapter 601, Minor Subdivision, and Chapter 701, Article IV.V, Contract Zone Agreement	Concept Plan for a 3-lot Subdivision, including Preservation of the Existing Historic Structure and a Conservation Easement (Tree Plan)	The Planning Board appreciated the evolution of the project and the smaller scope, but still expressed concern with the proposal and recommended consideration of a two-lot subdivision.
March 22, 2023 Staff Report Minutes Public Comments Additional Public Comments	Concept Chapter 601, Minor Subdivision, and Chapter 701, Article IV.V, Contract Zone Agreement	Concept Plan for a 3-lot Subdivision, including Preservation of the Existing Historic Structure	The Planning Board indicated that there may be opportunities to achieve the applicant's goal through LD 2003, but since the local implementation was just kicking off, the Board was not certain of the application of LD 2003 to the subject property. Further the Board requested that additional engineering be completed as there was concern about driveway placement, building locations, and drainage. The Board did suggest that historic preservation could be a public benefit, but there was no consensus regarding the appropriate number of lots. Some members supported two lots and some members supported 3 lots.

Planning Board Meeting	Review Sought	Materials Submitted	Decision or Recommendation
September 13, 2023 Staff Report Minutes Public Comments	Preliminary Chapter 601, Minor Subdivision, and Chapter 701, Article IV.V, Contract Zone Agreement	Preliminary Plan for a 3-lot Subdivision, including Preservation of the Existing Historic Structure and a Forest Management Plan	The Planning Board discussed the repeated calls to consider stormwater (a requirement of the Town) and street safety, and that the Forest Management Plan requires further attention, especially if it's being considered as evidence of public benefit. The Planning Board requested an analysis of LD 2003 as it relates to the proposal.
October 16, 2023	Site Visit	Handout Received at Site Visit from Applicant	The Planning Board did not deliberate at the Site Visit.
January 10, 2024 Staff Report Draft Minutes Public Comments	Preliminary Chapter 601, Minor Subdivision, and Chapter 701, Article IV.V, Contract Zone Agreement	Supplemental Information to Support the Preliminary Plan Submittal Revised Exhibit	A majority of the Planning Board voted to approve the Preliminary Subdivision Plan with conditions and voted to recommend approval of the Contract Zone Agreement with conditions.

Having completed the preliminary subdivision review and making a recommendation on the CZA, the request is forwarded to the Town Council for consideration. Should the Town Council also support the proposal and vote affirmatively, the Planning Board would then complete the final subdivision review.

<i>Applicant's Proposal</i>	<i>Applicable Standards</i>
Three Lot Residential Subdivision on 1.88-acre MDR Lot	MDR Contract Zone – Recommendation to Town Council
Three Lots	Concept Subdivision Review Minor Subdivision, Preliminary and Final

Uses in Vicinity: The surrounding neighborhood consists primarily of single-family homes on West Main Street and Newell Road. With the exception of lots on West Main Street to the east of the subject property, the lot sizes on Newell Road, Deacon Road, Tanglewood Lane, and other streets in the vicinity range from 0.15 acres to 0.66 acres, less than the current minimum lot size for the MDR. The adjacent property at 233 West Main Street is zoned CD4.

Public Comment: Over the course of the review, the Planning Board received many comments in opposition to the project from neighbors to the project. To summarize many of the concerns, those who wrote to the Planning Board and/or spoke at the public hearings expressed concern about the following items (among others):

- Disinterest in the use of contract zone agreements without appropriate oversight and enforcement and the lack of details;
- The loss of trees on the property and building envelopes;
- Traffic and safety on Newell Road in particular;
- Impacts from development on stormwater management due to the topography of the property;
- Utility connections and coordinating it with the Landscape Standards of the CBDC;
- Parking; and
- How LD 2003 relates to the property.

This is just a brief summary of some of the concerns. A review of the comment letters received over the previous two and a half years on this matter and the linked Planning Board minutes will provide a more detailed understanding of all of the concerns.

IV. Conditional or Contract Zoning (Ordinance Provisions)

Chapter 701, Article IV.V: (Excerpt)

Authorization for conditional or contract zoning recognizes that circumstances existing when adherence to uniform design or performance criteria can preclude creative, safe and sensible land uses and development which would otherwise advance the goals of the Comprehensive Plan and the public health, safety and general welfare. Conditional or Contract Zoning is a discretionary legislative process reviewed on a case-by-case basis. As such, contract or conditional Zoning decisions are particular to the circumstance of each lot or structure applicable to review, does not establish nor rely upon precedence, and is available only when the Town Council determines it advances the public good.

1. *Conditional or Contract Zoning, as defined by this Ordinance, is authorized for zoning map changes when, in order to further the public health, safety and/or general welfare, the Town Council finds it necessary to impose certain conditions or restrictions upon the applicant's use of the land, which conditions or restriction are not imposed upon other similarly zoned properties.*
 - a. *Alternatively, the Town Council may find it necessary or desirable to waive or modify one or more standard conditions applicable to a particular lot, Building, or use of a parcel within a district, and impose special conditions or restrictions not imposed upon other properties within the zone.*

In such circumstances the provisions and authorities of contract or conditional zoning Article IV.V may apply even when the contract or conditional rezoning modifies applicable standards within a zone (as applies to the subject property only) and does not change the zoning district or designation itself. Such alternative application shall not be authorized:

- (1) *To create or authorize a use not permitted within the zoning district.*
 - (2) *Except when all other conditions, procedures, and requirements of this Section are met.*
 - (3) *Except when the general purposes and goals of the district, as defined by the Comprehensive Plan, are advanced by such conditional or contract zoning.*
 - (4) *To be applied in the Village I or Village II District unless the applicant submits, in addition to the requirements of Article IV.V.8., Building plans and profiles of sufficient detail to allow a determination as to appropriateness of exterior architectural design features, construction materials, landscaping and aesthetic visual impacts.*
2. *Rezoning under this subsection must be consistent with the Comprehensive Plan for the Town of Yarmouth and must establish rezoned areas which are consistent with the existing and permitted uses within the original zone. The term "consistent" as used in this subsection shall mean "not contradictory or incompatible with".*
 3. *All requests for Conditional or Contract Zoning must be accompanied by a site plan containing the information required by Article IV.V.7 of this Section. Requests for Conditional or Contract Zoning shall be filed initially with the Planning Board.*

V. Proposed Contract Zone Agreement

As described in Article IV.V of Chapter 701, the use of a CZA acknowledges that strict compliance with the Zoning Ordinance may preclude “*creative, safe and sensible land uses and development which would otherwise advance the goals of the Comprehensive Plan and the public health, safety and general welfare.*” The CZA will contain provisions to ensure that the development, if approved, will mitigate any project impacts, and improve the immediate area and its infrastructure and results in *public good*. To demonstrate *public good*, the Planning Board often considers whether positive impacts from the proposed development will accrue to the larger community.

The Planning Board discussed at length whether the proposed subdivision is in the public good. Some members of the Planning Board thought that the creation of three lots, at a size that is consistent with the surrounding neighborhood, is within the public good to support housing production in the community. Other Planning Board members acknowledged that there is an opportunity to control development on the site through the requirements of the CZA and Subdivision review, which would not be possible if the applicant demolished the existing structure and built a single-family home as allowed by the Zoning Ordinance or pursued development on the site through the local implementation of LD 2003.

Members of the Planning Board voting in favor of the proposed CZA believed that with the reasonable conditions attached to the recommendation would result in a project that would be in the public’s interest and addressed concerns heard at the numerous hearings over the past few years.

On the other hand, members of the Planning Board who did not support the proposed CZA believed that the project was not fully developed or fleshed out and wanted to see, in particular, the Forest Management Plan. Further, the members of the Planning Board who did not support the proposed CZA believed that the proposed project as a whole did not rise to the occasion of using this tool to alter the zoning requirements for this site.

Ultimately, the Planning Board has made a positive, but split recommendation to the Town Council on this proposal with the following conditions:

1. The applicant shall adopt the Historic Preservation Committee’s preferred language for Exhibit 2 of the proposed Contract Zone Agreement (CZA).
2. The applicant shall complete Forest Management Plan and incorporate it into the Contract Zone Agreement (CZA) following consultation with the Tree Warden, Code Enforcement Officer, and Director of Planning & Development prior to the submittal of the CZA to the Town Council.
3. The applicant shall update Exhibit 1 of the proposed Contract Zone Agreement (CZA) to reference the Landscape Standards of Chapter 703, Article 5.N, as approved or amended by the Final Subdivision Plan.
4. The applicant shall update Exhibit 1 of the proposed CZA to prohibit any density increases under Chapter 701 Article II.DD and II.EE and prohibit further subdivision.
5. The applicant shall update Exhibit 1 of the proposed CZA to prohibit ADUs on any of the lots.
6. The applicant shall update Exhibit 1 of the proposed CZA to indicate that each lot will comply with the residential parking requirements of Chapter 701.
7. The applicant shall update the proposed CZA to reference the Doughty Woods Subdivision Plan as provided in the application submitted on November 1, 2023 so that the building envelopes are restricted to the areas shown on that plan.

a. Public Benefit

As discussed below, a majority of the Planning Board members found that there is a public benefit to the proposal, including the historic preservation elements and the forest management plan.

Historic Preservation

The applicant discussed the property with the Historic Preservation Committee on three occasions: November 28, 2022, February 27, 2023, and December 18, 2023. In November 2022, the Committee and the applicant

discussed that the house retains its integrity, including a remarkable degree of surviving interior integrity, and is deemed worthy of preservation, reviewed the applicant's goals for the property, and the parties simply agreed to continue the conversation.

In February 2023, the Historic Preservation Committee forwarded a letter that describes the discussion with the applicant regarding the proposal. At the time, the Committee indicated support for the preservation of the existing structure but recommends that the lot on which the structure sits have more frontage on West Main Street and be slightly larger to accommodate additions to the home in order to make historic preservation possible and support more modern living arrangements. The Committee wrote at the time:

"Committee members suggested expanding Lot 1 (the historic Cape corner lot) by (1) increasing its frontage on West Main St., leaving frontage on West Main St for Lot 3 with room for an access road for a house to be built deeper into lot 3, and also (2) providing more depth to lot 1 by extending its rear line approximately 30 feet northerly into Lot 2... The support of the Committee is predicated upon appropriate historic preservation covenants being placed on Lot 1. The Committee felt that the historic preservation aspect of the proposal could supply the required public benefit for a Contract Zone Agreement, implementing the 2010 Comprehensive Plan re preservation and the provisions of our Historic Preservation Ordinance, Ch. 701, Art. X."

No changes were made to the configuration of Lot 1 as requested by the HPC.

On the other points made in the HPC's comment letter from February 2023, the applicant pointed to the Historic Preservation Committee and Planning Board's recent experience with the renovation of 100 Bates Street, which successfully addressed the historic preservation component of the Dunn Corner Subdivision and Contract Zone Agreement. As a result, the applicant used similar language to establish the draft CZA.

The HPC met again with the applicant at its December 18, 2023, meeting, where the HPC provided feedback on the Historic Preservation Agreement element of the CZA modeled after the Dunn Corner Subdivision and Contract Zone Agreement. In particular, the HPC requested that:

1. The HPC be the review authority outlined in Exhibit 2 (a)i of the CZA instead of a Third-Party Evaluator. In addition, although HPC review is advisory, the review completed by the HPC is required to be incorporated into any alterations, additions or changes to the existing structure prior to the issuance of any building permit.
2. The HPC or other Town representative shall be granted access to the interior prior to the beginning of any rehabilitation or any new owner(s) taking possession (Exhibit 2(a)ii) in order to document the interior features.
3. Exhibit 2 (c) and (d) require HPC approval for restoration and/or reconstruction in the event of a fire or other disaster.

The Planning Board conditioned the approval of the CZA on incorporating the preferred language of the HPC. As noted above, this section of the CZA is modeled after Dunn Corner Subdivision and CZA, which references a Third-Party Evaluator, as the HPC did not exist at the time. Replacing the Third-Party Evaluator with the HPC, now in existence, makes sense. It is noted that the applicant was uncomfortable with the requirement to allow access placed on a future owner; however, the applicant can satisfy that requirement at any time before the property is sold.

Forest Management Plan

The first version of the Forest Management Plan proposed standards pulled from the Shoreland standards found in the Zoning Ordinance, and the Planning Board agreed that those standards were developed for a much different purpose (i.e., maintaining the shoreland area), and may not be suitable for the upland forest seen at

the rear of the subject property.

As a result, the applicant has engaged Jones Associates to prepare the Forest Management Plan to include an inventory of existing conditions and the management details. The intention is that the Forest Management Plan would be referenced in each new deed and recorded in the Registry along with the CZA. The Tree Committee previously noted that a detailed survey of the existing tree canopy and plan to preserve that canopy should be included, and more recently noted that additional information about the proposed enforcement, tree protection during construction, and the impact on stormwater are important elements that should be included in addition to creating building envelopes that can accommodate both underground utilities and street trees to meet the required Landscape Standards.

The Planning Board recommends that the that Forest Management Plan be completed and incorporated into the CZA following consultation with the Tree Warden, Code Enforcement Officer, and Director of Planning & Development prior to the submittal to the Town Council. As of the writing of this report, the Department of Planning & Development has not received a draft of the Forest Management Plan.

b. Comprehensive Plan Analysis

The Comprehensive Plan, prepared in 2010, had a strong focus on historic preservation and recommended an educational and advisory approach to encouraging historic preservation. Ultimately in August 2021, the Town did adopt the Historic Preservation Advisory Ordinance as noted above in the introduction as well as amendments to the Historic Building Alterations and Demolitions Ordinance. These regulations were contemplated in the Comprehensive Plan and the Town has made strides in acting on the actions outlined in the Comprehensive Plan for historic preservation. However, the property in question would never be subject to the Advisory Ordinance due to its location outside of the Upper Village Historic District. In June 2021, any oversight that the Town had in regard to historic preservation ran out, when the demolition delay period expired.

Being that the structure was identified as a Building of Value, and as such, there is value in the preservation of the structure at 251 West Main Street, and the Comprehensive Plan indicates that CZAs are “[a] voluntary, non-regulatory tool shall continue to be an option for preservation.” (page 29) especially where no other protections are applicable. The Planning Board discussed how the preservation of the structure, previously determined to be a Building of Value, may be within the public interest. With the recommended condition of incorporating the HPC’s edits into the CZA, a process is established to document the structure and complete review of any alterations, additions, or changes to the structure.

The Planning Board acknowledged that an update to the Comprehensive Plan kicked off in January 2023, and it is planned to be adopted by summer 2024. The current Comprehensive Plan remains valid until such a time that the Town adopts a new Comprehensive Plan. The 2010 Comprehensive Plan notes on page 18 that the Town responded to changes in development patterns in the 1980s by gradually increasing minimum lots sizes rendering a majority of MDR lots nonconforming. The increase to 1 acre for a single-family home was discussed at the January 15, 1987, Town Council meeting where the Council adopted a resolution calling for a study of the MDR District due to the rapid development of the MDR District (likely due to the presence of the public sewer as acknowledged by the 1984 Long Range Planning Committee Report) and the resulting loss of open space and village atmosphere are inconsistent with the goals of open space preservation, traffic management, and the prevention of overcrowding. The Town Council directed the Planning Board to revise the MDR requirements in order to preserve the present quality of life for the residents of the Town, protect and preserve essential natural resources and to preserve and protect the public’s health, safety and welfare. Ultimately on March 12, 1987, the Town Council adopted the present 1-acre minimum lot size. The lot sizes surrounding 251 West Main Street reflect that history in that the older lots are typically less than an acre while more recent subdivisions comply with the current one acre minimum.

The 2010 Plan calls for reducing the MDR minimum lot size to allow for infill housing development and to return many of the previously conforming lots to conforming status. In 2018, the minimum lot area was revisited when zoning adjustments to the residential areas surrounding the Village were contemplated but were ultimately tabled by the Town Council. Significant engagement related to the updated Comprehensive Plan was completed in the fall of 2023, with a housing focused event held on September 11, 2023.¹ While opinions were mixed at the event and at other events during the fall, participants generally did not recommend abandoning the single-family housing type in Yarmouth. However, different types of single-family homes need to be available, such as cottages and smaller homes, and corresponding smaller lots, which in turn may be more affordable. Further, there appeared to be a strong focus on balancing priorities and preserving Yarmouth's built environment and open space when addressing housing issues. It appears that the proposal is consistent with goals of the Comprehensive Plan around housing while also achieving historic preservation goals, as well as the feedback received on the update to the Comprehensive Plan.

The materials from the applicant also note that there is consistency with an event held on the Climate Action Plan in October 2023. In general, feedback received at the October Climate Action Plan Community Action Workshop was consistent with the feedback received at the Comprehensive Plan events including preserving open space with a focus on wildlife corridors, aligning future development and building construction with climate goals, and supporting public transit and connectivity within Yarmouth, among others.

The Planning Board also acknowledges that there is a desire for the development of the site to be known, understanding that the applicant will simply divide the lot and leave any home construction up to another entity or the future homeowner. LD 2003 and any potential changes to the MDR District as a result of the Comprehensive Plan implementation could result in further development on the site, unless otherwise restricted. The Planning Board recommended that the language be incorporated into the CZA to prohibit any further subdivision, prohibit future ADUs on any of the created lots, and prohibit any density increases allowed by Chapter 701, Article II.DD and II.EE (i.e., local implementation of LD 2003).

VI. Preliminary Plan Approval

The Zoning Ordinance outlines eight items that are the minimum requirements for a preliminary plan submitted for contract zoning, which was reviewed by the Planning Board. Should the Town Council authorize the CZA, the applicant would need to return to the Planning Board to complete the Minor Subdivision review.

The Planning Board discussed the level of detail provided by the applicant, understanding that the applicant would need to return to the Planning Board if the CZA is approved. The development plan has been reviewed multiple times by the Department Heads and their comments are summarized below. As noted in the overview of the reviews conducted by the Planning Board, a number of issues were identified consistently by members of the public and Planning Board members, including, but not limited to:

- The loss of trees on the property and building envelopes;
- Traffic and safety on Newell Road in particular;
- Impacts from development on stormwater management due to the topography of the property;
- Utility connections and coordinating it with the Landscape Standards of the CBDC; and
- Parking.

As with the recommendation on the CZA, a majority of the Planning Board recommended approval of the preliminary subdivision plan. Members of the Planning Board voting in favor of the proposed project believed that attaching reasonable conditions would result in a final subdivision plan review that addresses the concerns discussed during the public hearings and the requirements of the Department Heads. The members of the Planning Board voting against the

¹ The Comprehensive Plan engagement reports can be viewed online at <https://www.planymouth.com/engagement-reports>.

project would not support the CZA and thus would not support the preliminary plan.

The following conditions were attached to the Preliminary Plan approval:

1. The applicant shall illustrate the required Landscape Standards of Chapter 703, Article 5.N on the final subdivision plan.
2. The applicant shall depict the required sight distances for driveways outlined in Chapter 604, Right of Way, on the final subdivision plan.
3. The applicant shall receive written approval from the Town Engineer regarding the proposed sewer connections prior to the submittal of the final subdivision plan. The proposed sewer connections shall be incorporated into the final subdivision plan.
4. The applicant shall continue to coordinate with the Yarmouth Water District regarding the proposed domestic and sprinkler services prior to the submittal of the final subdivision plan. The proposed water connections shall be incorporated into the final subdivision plan.
5. The applicant shall submit a full stormwater analysis that meets the requirements of the Town Engineer as outlined in his memorandum dated December 18, 2023, including development a strategy to limit impacts for stormwater runoff to the abutting lots to the north.
6. The applicant shall prepare an Erosion and Sedimentation Plan for submittal with the final subdivision plan.
7. The applicant shall submit a high intensity soils report with the final subdivision plan.
8. The applicant shall confirm whether the project is subject to Site Law requirements as well as the requirements of the Maine Construction General Permit (MCGP) during construction.
9. The applicant shall coordinate with the Department of Public Works and the Town Engineer to develop a plan for a sidewalk segment on Newell Road that meets Town standards.

VII. Recommendation

The use of contract zoning allows the Town to carefully evaluate the repercussions of the proposed change and make incremental adjustments to zoning where the situation warrants. Concerns with unintended consequences are minimized by the Board's scrutiny and public review process, and the Planning Board has attached reasonable conditions to limit any further development in the future. By its very terms, contract zoning does not set precedent for future rezoning requests, but it does allow the Town to observe and experience new patterns of development in a controlled manner.

The Planning Board was split on this project, although ultimately, a positive recommendation on the CZA was made to the Town Council and the preliminary plan was approved, setting the stage for the Town Council to consider whether this development should be subject to a CZA. The applicant has some work to do to address the requirements of the Planning Board, including fully developing the Forest Management Plan, which is incorporated into the CZA. The Planning Board felt strongly that if this is an element that justifies the public good on the site, it needs to be fully developed and considered by the Town Council as part of its deliberations. The Planning Board's 2020 action to deem the structure at 251 West Main Street a Building of Value suggests that there is value in historic preservation, and with oversight by the HPC and requiring their recommendations to be incorporated into the CZA, this can be achieved.

As noted in this staff report, some members of the Planning Board did not think that the proposed project was developed enough and/or significant enough where the Town should consider using contract zoning to allow the project to proceed, but that final decision lies with the Town Council.