

WARRANTY DEED

Joint Tenancy

David Trask and Rhonda Trask of Yarmouth, Maine for consideration paid, grant to

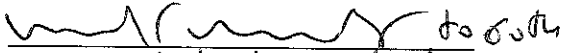
Eugene R. Miller III and Heidi M. Miller of Bath, County of Sagadahoc, State of Maine,
whose mailing address is 16 Seeking Drive, Bath, Maine 04530 as JOINT TENANTS

with WARRANTY COVENANTS

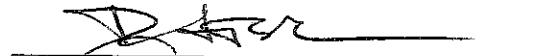

a certain lot or parcel of land, together with any buildings and improvements thereon, situated in
Yarmouth, County of Cumberland, State of Maine, bounded and described as follows:

(SEE EXHIBIT A ATTACHED HERETO)

IN WITNESS WHEREOF, the Grantor(s) have set their hand(s) and seal(s) this 31st day of May,
2005.


Witness Michael T. Melendy

Witness


David Trask

Rhonda Trask

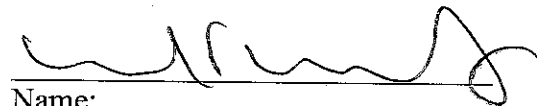
State of Maine
County of Sagadahoc, ss.

May 31, 2005

Then personally appeared the above-named David Trask and Rhonda Trask and
acknowledged the foregoing to be their free act and deed.

Before me,

SEAL


Name:
Notary Public/Attorney-at-Law
Commission expires: _____

MICHAEL J. MELENDY
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES MAY 14, 2012

MAINE REAL ESTATE TAX PAID

Exhibit A - Property Description

Closing date: **May 31, 2005**

Borrower(s): **Eugene R. Miller III and Heidi M. Miller**

Property Address: **59 Astilbe Lane, Yarmouth, Maine 04096**

A certain lot or parcel of land together with the buildings, thereon, situated on Astilbe Lane, so-called, in the Town of Yarmouth, Cumberland County, Maine, and being Lot 3 as shown and depicted on plan entitled "Astilbe Lane Subdivision, Yarmouth, Maine, for J/MAX, LLC" dated October 5, 2000 prepared by Land Use Consultants, and being recorded in Cumberland County Registry of Deeds in Plan Book 200, Page 468 to which Plan and the record thereof reference is hereby made for a more particular description of the within conveyed premises.

Except as may be modified by the terms and conditions herein, the above described premises are conveyed together with the right, in common with J/MAX, LLC, its successors and assigns, and all other lot owners as shown on said Plan in and to the use of the streets and ways as shown on said Plan and to the streets and ways as shown on said Plan, for the purpose of ingress and egress, by foot or in vehicles, and the use, introduction, placement, maintenance, repair and replacement of all utility services customarily placed over, on or under such streets or ways for service to the within conveyed premises.

The above described premises are conveyed subject to the terms, conditions, and restrictions set forth in herein and made apart hereof and all conditions, restrictions and reservations of Planning Board Approval or other items in the nature of restrictions, easements, or conditions, as shown on said Plan as "NOTES" or otherwise.

Each lot in the Astilbe Lane Subdivision is conveyed subject to the following conditions and restrictions which shall run with and bind the premises conveyed hereby and all other lots contained on the aforementioned Plan, shall be enforceable until December 31, 2020, and J/MAX, LLC, a Maine limited liability company, its successors and assigns, and all other lot owners on said plan shall have the right at any time or times to proceed at law or in equity against any person violating or attempting to violate any of the provisions hereof and to compel compliance with the terms hereof, but said J/MAX, LLC, its successors and assigns, shall be under no obligation to enforce any of said restrictions:

1. No structures, except single family residences and structures ordinarily appurtenant thereto shall be built or erected upon each numbered lot herein conveyed. The main living structure shall contain at least 1,750 square feet of living area. Living area shall not include basements, garages, porches, breezeways or decks and the areas must be suitable when finished for occupancy on a year round basis. The Grantees herein agree to complete all building construction and landscaping within 12 months from the beginning of constructions. Completion, as used herein, includes, but is not limited to porches, steps, decks, platforms, carports, and other outside living terraces. In addition, each residence shall have a garage which shall be completed within 1 year of the time the original construction of the residence.

2. No building or structure of any type shall be erected, placed or permitted to remain on the above described premises unless the exterior finish and design and placement of such building or structure on the lot shall be approved by J/MAX, LLC, its successors and assigns, or by its duly authorized agent. The approval required by this paragraph shall only apply until such time as J/MAX, LLC, Inc., or its successors or specific assigns shall cease to have any ownership interest in the real property as shown on said recorded Plan and this restriction does not necessitate the approval in any form of any other lot owner on said Plan.
3. No junk or abandoned vehicles or vehicles of a size larger than two (2) tons in size nor accumulations of trash or debris shall be allowed on said premises.
4. No animals other than ordinary household pets may be kept, boarded or otherwise maintained on the premises.
5. No mobile homes shall be placed on the property at any time; provided, however, that trailers used for camping or so-called recreational vehicles, boats, trailers, or similar vehicles may be stored upon the property provided they are suitably screened.
6. Each lot owner shall maintain a vegetate buffer zone in its present natural state within the sideline setback areas of their respective lot, unless otherwise approved by the homeowners association.
7. Each owner of a lot in Astilbe Lane Subdivision shall be a member of the Astilbe Lane Homeowner's Association, Inc., a Maine not-for-profit corporation upon its formation, if it shall be formed by J/MAX, LLC or its specific agent. Each lot owner shall have one vote in the Association for each lot owned. The Association shall be charged with the cost of maintenance, repair, replacement and snow plowing of the roadway in the subdivision, but not the initial installation cost thereof, in the event the road is not accepted by the Town of Yarmouth and shall also be responsible for the maintenance and landscaping of all entrance areas, esplanades and boulevards, buffer zones and the maintenance, repair and replacement of all common mailbox systems and any appurtenances thereto, and such other maintenance and repairs obligations as are set forth in the Bylaws of Astilbe Lane Homeowners' Association which are duly recorded in the Cumberland County Registry of Deeds.

In accordance with the requirements set forth in the approvals obtained from the Town of Yarmouth the following obligations are set forth herein:

Section 1. Maintenance Responsibility: Notwithstanding anything to the contrary contained herein, it shall be one of the responsibilities of the Astilbe Lane Homeowners Association to implement the Stormwater Maintenance Plan approved by the Towns of Yarmouth and Cumberland in accordance with the provisions set forth herein:

Owner: Astilbe Lane Homeowners, Association, c/o J/MAX, LLC, 10 Shenandoah Hill, North Yarmouth, Maine 04096 Telephone: (207)846-5230

Contact Person: Sandra P. Falsey, President, Astilbe Lane Homeowners Association, or such other address and telephone number of the contact person as the Homeowners Association may specify from time to time.

Section 2. Inspection of Drainage Structures

Detention Basin: Inspect the detention basin and the outlet structure at least three times a year, during the months of April, July and October. Owner may designate a responsible party, such as a manager, to perform inspections. Inspection shall include as a minimum:

- 1. Visual inspection of frames and covers.** Report any defective or damaged frames and covers and repair or replace such defects within 30 days.
- 2. Visual inspection of structures.** Report any loose, broken or defective bricks or risers. Report any cracked or leaking structures including top section, barrel sections, bottom section and seals. Repair or waterproof defects as needed to restore the integrity of the structure within 30 days.
- 3. Visual inspection of outlet control devised.** Inspect wire plate and control orifices to insure that they are firmly attached or connected as designed. Remove accumulated debris which may cause flow through orifices to be obstructed. Repair or replace leaking, defective or damaged wire plates within 30 days.
- 4. Visual inspection of pipe inlets and outlets.** Remove accumulated debris or sediment from pipe inverts to prevent obstruction of flow.
- 5. Upon completion of the fall inspection each October,** report all outstanding defects, damage or maintenance deficiencies to the Homeowners Association in writing, with a copy forwarded to the Town Engineer, identifying each location, defect or deficiency, and take corrective action to restore all components of the stormwater management system to proper condition within 30 days, and prior to significant snow and icing conditions.

Section 3. Catch Basins and Drain Manholes. Inspection, cleaning and maintenance of the catch basins, drain manholes and associated stormwater piping in Astilbe Lane shall be the responsibility of the Town of Yarmouth Public Works Department, subsequent to the Town's acceptance of the street.

Section 4. Culvert Inspection. Inspection and maintenance of the Astilbe culvert crossing of the perennial stream shall be the responsibility of the Town of Yarmouth Public Works Department, subsequent to the Town's acceptance of the street.

Section 5. Emergency Measures. The Homeowners Association or designated party shall report any problems in performance, damage or other defects which may significantly reduce the efficiency, or performance of the stormwater management system. Such problems shall be reported immediately to the Homeowners Association and the Town Engineer. The Association and/or the Town Engineer, as applicable, shall authorize the responsible party or parties to perform emergency repairs as required to insure proper observation of the system.

Section 6. Annual Maintenance. Prior to the summer inspection in July of each year, the Homeowners Association or its designated party shall perform or engage a contractor to perform cutting and mowing of grass and weeds within the bottom and inside slopes of the detention basin, use a minimum.

During or immediately following cutting and mowing, all cutting and chipping debris shall be collected and removed from the detention basin and properly disposed of so as not to result in possible clogging of the basin outlet structure and control orifices.

Section 7. General Maintenance. General maintenance shall include preventive measures related to the site which may help preserve and maintain the stormwater management system. Such measures should include, but not limited to:

1. Removal of trash, debris, leaves, broken or fallen twigs and branches, etc. from the site, especially in areas where such objects may be washed into the stormwater management system.
2. Removal of spills, broken glass, etc. which may have the potential to enter the stormwater management system.
3. Repairs to culverts, rip-rap, ditches, eroded areas, landscaping lawns, etc. of the site to reduce the potential for sedimentation and to improve the efficiency of the stormwater management system.

J/MAX, LLC, reserves for itself, its successors and its specific assigns, the right to use any easement areas shown on said Plan for purposes not inconsistent with the purpose of such easement such as for instance, for access to other land, and also reserves the right, subject to any necessary municipal approvals, to relocate and reconstruct any easement areas shown on said Plan which lie on land it owns or controls, provided that such relocation and reconstruction shall be done in such a manner and fashion that it shall not materially impair or adversely affect any existing use of the easement area by other owners on said Plan.

The above described premises are hereby conveyed: (1) subject to such utility service easement or other easements or rights-of-way on, over, under or across said property as may now have any legal existence, (2) together with the benefit of any appurtenant utility service easement or other easements or rights-of-way; and (3) subject to all federal, state and local land use statutes, ordinances and regulation. The above described premises are conveyed subject also to (a) an easement granted by J/MAX, LLC to the Yarmouth Water District dated October 15, 2001 and recorded in the Cumberland County Registry of Deeds in Book 16878, Page 12 and (b) a conservation easement granted by J/MAX, LLC to the Town of Yarmouth dated January 17, 2002 and recorded in the Cumberland County Registry of Deeds in Book 17261, Page 215.

Reserving to J/MAX, LLC, its successors and its specific assigns, to reconfigure any lots which remain in its ownership, subject, however, to any necessary municipal approvals and its use of any portion of any lot or lots which remain in its ownership for access to adjacent land. No lot may be reconfigured or subdivided without the consent of J/MAX, LLC, its successors and specific assigns.

Meaning and intending to convey the same premises conveyed in the deed from J/MAX, LLC to David Trask and Rhonda Trask dated March 8, 2002, recorded in the Cumberland County Registry of Deeds in Book 17426, Page 245.

Received
Recorded Register of Deeds
Jun 10 2005 03:22:33P
Cumberland County
John B O'Brien

C05-18679

WARRANTY DEED
Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS, That J/MAX, LLC, a Maine limited liability corporation, with a place of business at 10 Shenandoah Hill, North Yarmouth, Cumberland County, Maine for consideration paid, grants to **Peter D. Senger and Rhonda L. Senger** having a mailing address of 69 Rand Road, Yarmouth, ME 04096 with WARRANTY COVENANTS, the land in the Town of Yarmouth, Cumberland County, State of Maine, described as follows:

A certain lot or parcel of land together with the buildings thereon, situated on Astilbe Lane, so-called, in the Town of Yarmouth, Cumberland County, Maine, and being Lot 6 as shown and depicted on plan entitled "Astilbe Lane Subdivision, Yarmouth, Maine, for J/MAX, LLC" dated October 5, 2000, prepared by Land Use Consultants, and being recorded in Cumberland County Registry of Deeds in Plan Book 200, Page 468 to which Plan and the record thereof reference is hereby made for a more particular description of the within conveyed premises.

Except as may be modified by the terms and conditions of EXHIBIT A attached hereto, the above described premises are conveyed together with the right, in common with J/MAX, LLC, its successors and assigns, and all other lot owners as shown on said Plan in and to the use of the streets and ways as shown on said Plan and to the streets and ways shown on said Plan, for the purposes of ingress and egress, by foot or in vehicles, and the use, introduction, placement, maintenance, repair and replacement of all utility services customarily placed over, on or under such streets or ways for service to the within conveyed premises.

The above described premises are conveyed subject to the terms, conditions and restrictions set forth in EXHIBIT A attached hereto and made a part hereof and all conditions, restrictions and reservations of Planning Board Approval or other items in the nature of restrictions, easements, or conditions, as shown on said Plan as "NOTES" or otherwise.

The within Grantor reserves for itself, its successors and its specific assigns, the right to use any easement areas shown on said Plan for purposes not inconsistent with the purpose of such easement such as for instance, for access to other land, and also reserves the right, subject to any necessary municipal approvals, to relocate and reconstruct any easement areas shown on said Plan which lie on land it owns or controls, provided that such relocation and reconstruction shall be done in such a manner and fashion that it shall not materially impair or adversely affect any existing use of the easement area by other owners on said Plan.

The above described premises are hereby conveyed: (1) subject to such utility service easements or other easements or rights-of-way on, over, under or across said property as may now have any legal existence, (2) together with the benefit of any appurtenant utility service easements or other easements or rights-of-way; and (3) subject to all federal, state and local land use statutes, ordinances and regulations. The above described premises are conveyed subject also to (a) an easement granted by J/MAX, LLC to the Yarmouth Water District dated

MAINE REAL ESTATE TAX PAID

October 15, 2001 and recorded in the Cumberland County Registry of Deeds in Book 16878 Page 12 and (b) a conservation easement granted by J/MAX, LLC to the Town of Yarmouth dated January 17, 2002 and recorded in the Cumberland County Registry of Deeds in Book 17261 Book 215.

The within Grantor reserves for itself, its successors and its specific assigns, to reconfigure any lots which remain in its ownership, subject, however, to any necessary municipal approvals and its use of any portion of any lot or lots which remain in its ownership for access to adjacent land. No lot may be reconfigured or subdivided without the consent of the within Grantor, its successors and specific assigns.

The above described parcel being a portion of the premises conveyed to J/MAX LLC by George V. D'Alessandro by deed dated August 11, 2000 and recorded in the Cumberland County Registry of Deeds in Book 15662 Page 319.

IN WITNESS WHEREOF, the said J/MAX LLC has caused this instrument to be signed in its corporate name and behalf by Sandra P. Falsey, its Sole Member, duly authorized, all as of the 30 day of April, 2002.

SIGNED, SEALED AND DELIVERED
IN PRESENCE OF:

S. James Lewis Jr.

J/MAX, LLC

By: Sandra P. Falsey
Sandra P. Falsey, Its Sole Member

STATE OF MAINE
COUNTY OF York, SS.

April 30, 2002

Personally appeared the above named SANDRA P. FALSEY, Sole Member of J/MAX, 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 corporation.

Before me, S. James Lewis Jr.
Attorney-at-Law/Notary Public

Printed Name: S. James Lewis Jr.

EXHIBIT AASTILBE LANE SUBDIVISIONYARMOUTH, MAINE

Each lot in the Astilbe Lane Subdivision is conveyed subject to the following conditions and restrictions which shall run with and bind the premises conveyed hereby and all other lots contained on the aforementioned Plan, shall be enforceable until December 31, 2020, and J/Max, LLC, a Maine limited liability company, its successors and assigns, and all other lots owners on said plan shall have the right at any time or times to proceed at law or in equity against any person violating or attempting to violate any of the provisions hereof and to compel compliance with the terms hereof, but said J/Max, LLC, its successors and assigns, shall be under no obligation to enforce any of said restrictions:

1. No structures except single family residences and structures ordinarily appurtenant thereto shall be built or erected upon each numbered lot herein conveyed. The main living structure shall contain at least 1,750 square feet of living area. Living area shall not include basements, garages, porches, breezeways or decks and the areas must be suitable, when finished, for occupancy on a year round basis. The Grantees herein agree to complete all building construction and landscaping within twelve (12) months from the beginning of construction. Completion, as used herein, includes, but is not limited to, porches, steps, decks, platforms, carports and other outside living terraces. In addition, each residence shall have a garage which shall be completed within one (1) year of the time of the original construction of the residence.
2. No building or structure of any type shall be erected, placed or permitted to remain on the above described premises unless the exterior finish and design and placement of such building or structure on the lot shall be approved by J/Max, LLC., its successors or assigns, or by its duly authorized agent. The approval required by this paragraph shall only apply until such time as J/Max, LLC, Inc., or its successors or specific assigns shall cease to have any ownership interest in the real property as shown on said recorded Plan and this restriction does not necessitate the approval in any form of any other lot owner on said Plan.
3. No junk or abandoned vehicles or vehicles of a size larger than two (2) ton in size nor accumulations of trash or debris shall be allowed on said premises.
4. No animals other than ordinary household pets may be kept, boarded or otherwise maintained on the premises.
5. No mobile homes shall be placed on the property at anytime; provided, however, that trailers used for camping or so-called recreational vehicles, boats, trailers or similar vehicles may be stored upon the property provided they are suitably screened.
6. Each lot owner shall maintain a vegetated buffer zone in its present natural state

within the sideline setback areas of their respective lot, unless otherwise approved by the homeowners' association.

7. Each owner of a lot in Astilbe Lane Subdivision shall be a member of the Astilbe Lane Homeowners' Association, Inc., a Maine not-for-profit corporation upon its formation, if it shall be formed by J/Max, LLC or its specific assigns. Each lot owner shall have one vote in the Association for each lot owned. The Association shall be charged with the costs of maintenance, repair, replacement and snow plowing of the roadway in the subdivision, but not the initial installation cost thereof, in the event the road is not accepted by the Town of Yarmouth and shall also be responsible for the maintenance and landscaping of all entrance areas, esplanades and boulevards, buffer zones and the maintenance, repair and replacement of all common mailbox systems and any appurtenances thereto, and such other maintenance and repairs obligations as are set forth in the Bylaws of Astilbe Lane Homeowners' Association which are duly recorded in the Cumberland County Registry of Deeds.

In accordance with the requirements set forth in the approvals obtained from the Town of Yarmouth the following obligations are set forth herein:

Section 1. Maintenance Responsibility. Notwithstanding anything to the contrary contained herein, it shall be one of the responsibilities of the Astilbe Lane Homeowners Association to implement the Stormwater Maintenance Plan approved by the Towns of Yarmouth and Cumberland in accordance with the provisions set forth herein:

Owner: Astilbe Lane Homeowners Association
c/o J/MAX, LLC
10 Shenandoah Hill
North Yarmouth, Maine 04096

Telephone: (207) 846-5230

Contact Person: Sandra P. Falsey
President
Astilbe Lane Homeowners Association

Or such other address and telephone number of the contact person as the Homeowners Association may specify from time to time.

Section 2. Inspection of Drainage Structures.

Detention Basin: Inspect the detention basin and the outlet structure at least three times a year, during the months of April, July and October. Owner may designate a responsible party, such as a manager, to perform inspections. Inspection shall include as a minimum:

1. Visual inspection of frames and covers. Report any defective or damaged frames and covers and repair or replace such defects within 30 days.
2. Visual inspection of structures. Report any loose, broken or defective bricks or

risers. Report any cracked or leaking structures including top section, barrel sections, bottom section, and seals. Repair or waterproof defects as needed to restore the integrity of the structure within 30 days.

3. Visual inspection of outlet control devices. Inspect wire plate and control orifices to insure that they are firmly attached or connected as designed. Remove accumulated debris which may cause flow through orifices to be obstructed. Repair or replace leaking, defective or damaged wire plates within 30 days.
4. Visual inspection of pipe inlets and outlets. Remove accumulated debris or sediment from pipe inverts to prevent obstruction of flow.
5. Upon completion of the fall inspection each October, report all outstanding defects, damage or maintenance deficiencies to the Homeowners Association in writing, with a copy forwarded to the Town Engineer, identifying each location, defect or deficiency, and take corrective action to restore all components of the stormwater management system to proper condition within 30 days, and prior to significant snow and icing conditions.

Section 3. Catch Basins and Drain Manholes. Inspection, cleaning and maintenance of the catch basins, drain manholes and associated stormwater piping in Astilbe Lane shall be the responsibility of the Town of Yarmouth Public Works Department, subsequent to the Town's acceptance of the street.

Section 4. Culvert Inspection. Inspection and maintenance of the Astilbe culvert crossing of the perennial stream shall be the responsibility of the Town of Yarmouth Public Works Department, subsequent to the Town's acceptance of the street.

Section 5. Emergency Measures. The Homeowners Association or designated party shall report any problems in performance, damage or other defects which may significantly reduce the efficiency or performance of the stormwater management system. Such problems shall be reported immediately to the Homeowners Association and the Town Engineer. The Association and/or the Town Engineer, as applicable, shall authorize the responsible party or parties to perform emergency repairs as required, to insure proper operation of the system.

Section 6. Annual Maintenance. Prior to the summer inspection in July of each year, the Homeowners Association or its designated part shall perform, or engage a contractor to perform, cutting and mowing of grass and weeds within the bottom and inside slopes of the detention basin, as a minimum.

During or immediately following cutting and mowing, all cutting and chipping debris shall be collected and removed from the detention basin and properly disposed of, so as not to result in possible clogging of the basin outlet structure and control orifices.

Section 7. General Maintenance. General maintenance shall include preventive measured related to the site which may help preserve and maintain the stormwater management

system. Such measures should include, but not limited to:

1. Removal of trash, debris, leaves, broken or fallen twigs and branches, etc. from the site, especially in areas where such objects may be washed into the stormwater management system.
2. Removal of spills, broken glass, etc. which may have the potential to enter the stormwater management system.
3. Repairs to culverts, rip-rap, ditches, eroded areas, landscaping lawns, etc. of the site to reduce the potential for sedimentation and to improve the efficiency of the stormwater management system.

exa01/1156-030/zdir

RECEIVED
RECORDED REGISTRY OF DEED:

2002 MAY -1 AM 9: 39

CUMBERLAND COUNTY

John B O'Brien

STATUTORY WARRANTY DEED
(Maine Statutory Short Form)

CUSTOM BUILT HOMES OF MAINE, INC., a Maine Corporation, with a principal place of business in the Town of Windham, County of Cumberland and State of Maine.

For Consideration Paid, GRANTS with WARRANTY COVENANTS TO:

ANDREA J. PIZZO, with a mailing address of 88 Eastman Road, Cape Elizabeth, Maine 04107 and HAOYI GU, with a mailing address of 22 Waverly Street, Portland, Maine 04103, as Joint Tenants

A certain lot or parcel of land together with the buildings thereon, situated on Astilbe Lane, so-called, in the Town of Yarmouth, Cumberland County, Maine, and being Lot 5 as shown and depicted on plan entitled "Astilbe Lane Subdivision, Yarmouth, Maine, for J/MAX, LLC" dated October 5, 2000, prepared by Land Use Consultants, and being recorded in Cumberland County Registry of Deeds in Plan Book 200, Page 468 to which Plan and record thereof reference is hereby made for a more particular description of the within conveyed premises.

Except as may be modified by the terms and conditions of EXHIBIT A attached hereto, the above described premises are conveyed together with the right, in common with J/MAX, LLC, its successors and assigns, and all other lot owners as shown on said Plan in and to the use of the streets and ways as shown on said Plan and to the streets and ways shown on said Plan, for the purposes or ingress and egress, by foot or in vehicles, and in the use, introduction, placement, maintenance, repair and replacement of all utility services customarily placed over, on or under such streets or ways for service to the within conveyed premises.

The above described premises are conveyed subject to the terms, conditions and restrictions set forth in EXHIBIT A attached hereto and made a part hereof and all conditions, restrictions and reservations of Planning Board Approval or other items in the nature of restrictions, easements, or conditions, as shown on said Plan as "NOTES" or otherwise.

The above-described premises are conveyed subject to the reservation by J/MAX, LLC, for itself, its successors and its specific assigns, to use any easement areas shown on said Plan for purposes not inconsistent with the purpose of such easement such as for instance, for access to other land, and also reserves the right, subject to any necessary municipal approvals, to relocate and reconstruct any easement areas shown on said Plan which lie on land it owns or controls, provided that such relocation and reconstruction shall be done in such a manner and fashion that it shall not materially impair or adversely affect any existing use of the easement area by other owners on said Plan.

The above described premises are hereby conveyed: (1) subject to such utility service easements or other easements or rights-of-way on, over, under or across said property as may now have any legal existence, (2) together with the benefit of any appurtenant utility service easements or other easements or rights-of-way, and (3) subject

MAINE REAL ESTATE TAX PAID

to all federal, state and local land use statutes, ordinances and regulations. The above described premises are conveyed subject also to (a) an easement granted by J/MAX, LLC to the Yarmouth Water District dated October 15, 2001 and recorded in the Cumberland County Registry of Deeds in Book 16878 Page 12 and (b) a conservation easement granted by J/MAX, LLC to the Town of Yarmouth dated November __, 2001 and that has been or will be recorded in the Cumberland Country Registry of Deeds.

The above-described premises are conveyed subject to the reservation by J/MAX, LLC, for itself, its successors and its specific assigns, to reconfigure any lots which remain in its ownership, subject, however, to any necessary municipal approvals and its use of any portion of any lot or lots which remain in its ownership, subject, however, to any necessary municipal approvals and its use of any portion of any lot or lots which remain in its ownership for access to adjacent land. No lot may be reconfigured or subdivided without the consent of the within Grantor, its successors and specific assigns.

Meaning and intending to convey and hereby conveying the same premises conveyed to the Grantor herein by Deed of J/MAX, LLC, dated November 5, 2001 and recorded in the Cumberland County Registry of Deeds in Book 16935, Page 202.

Witness my hand this 7 day of February, 2002.

CUSTOM BUILT HOMES OF MAINE, INC.

R. S. Smith, Jr.

By:

R. S. Smith, Jr.
Its President

THE STATE OF MAINE

Cumberland, ss.

February 7, 2002

Then personally appeared the above-named Ronald S. Smith, Jr., of Custom Built Homes of Maine, Inc., and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

R. E. Wolf

Attorney at Law/Notary Public-

Alon E. Wolf

EXHIBIT A

ASTILBE LANE SUBDIVISION

YARMOUTH, MAINE

Each lot in the Astilbe Lane Subdivision is conveyed subject to the following conditions and restrictions which shall run with and bind the premises conveyed hereby and all other lots contained on the aforementioned Plan, shall be enforceable until December 31, 2020, and J/Max, LLC, a Maine limited liability company, its successors and assigns, and all other lots owners on said plan shall have the right at any time or times to proceed at law or in equity against any person violating or attempting to violate any of the provisions hereof and to compel compliance with the terms hereof, but said J/Max, LLC, its successors and assigns, shall be under no obligation to enforce any of said restrictions:

1. No structures except single family residences and structures ordinarily appurtenant thereto shall be built or erected upon each numbered lot herein conveyed. The main living structure shall contain at least 1,750 square feet of living area. Living area shall not include basements, garages, porches, breezeways or decks and the areas must be suitable, when finished, for occupancy on a year round basis. The Grantees herein agree to complete all building construction and landscaping within twelve (12) months from the beginning of construction. Completion, as used herein, includes, but is not limited to, porches, steps, decks, platforms, carports and other outside living terraces. In addition, each residence shall have a garage which shall be completed within one (1) year of the time of the original construction of the residence.
2. No building or structure of any type shall be erected, placed or permitted to remain on the above described premises unless the exterior finish and design and placement of such building or structure on the lot shall be approved by J/Max, LLC, its successors or assigns, or by its duly authorized agent. The approval required by this paragraph shall only apply until such time as J/Max, LLC, Inc., or its successors or specific assigns shall cease to have any ownership interest in the real property as shown on said recorded Plan and this restriction does not necessitate the approval in any form of any other lot owner on said Plan.
3. No junk or abandoned vehicles or vehicles of a size larger than two (2) ton in size nor accumulations of trash or debris shall be allowed on said premises.
4. No animals other than ordinary household pets may be kept, boarded or otherwise maintained on the premises.
5. No mobile homes shall be placed on the property at anytime; provided, however, that trailers used for camping or so-called recreational vehicles, boats, trailers or similar vehicles may be stored upon the property provided they are suitably screened.
6. Each lot owner shall maintain a vegetated buffer zone in its present natural state

within the sideline setback areas of their respective lot, unless otherwise approved by the homeowners' association.

7. Each owner of a lot in Astilbe Lane Subdivision shall be a member of the Astilbe Lane Homeowners' Association, Inc., a Maine not-for-profit corporation upon its formation, if it shall be formed by J/Max, LLC or its specific assigns. Each lot owner shall have one vote in the Association for each lot owned. The Association shall be charged with the costs of maintenance, repair, replacement and snow plowing of the roadway in the subdivision, but not the initial installation cost thereof, in the event the road is not accepted by the Town of Yarmouth and shall also be responsible for the maintenance and landscaping of all entrance areas, esplanades and boulevards, buffer zones and the maintenance, repair and replacement of all common mailbox systems and any appurtenances thereto, and such other maintenance and repairs obligations as are set forth in the Bylaws of Astilbe Lane Homeowners' Association which are duly recorded in the Cumberland County Registry of Deeds.

In accordance with the requirements set forth in the approvals obtained from the Town of Yarmouth the following obligations are set forth herein:

Section 1. Maintenance Responsibility. Notwithstanding anything to the contrary contained herein, it shall be one of the responsibilities of the Astilbe Lane Homeowners Association to implement the Stormwater Maintenance Plan approved by the Towns of Yarmouth and Cumberland in accordance with the provisions set forth herein:

Owner: Astilbe Lane Homeowners Association
c/o J/MAX, LLC
10 Shenandoah Hill
North Yarmouth, Maine 04096

Telephone: (207) 846-5230

Contact Person: Sandra P. Falsey
President
Astilbe Lane Homeowners Association

Or such other address and telephone number of the contact person as the Homeowners Association may specify from time to time.

Section 2. Inspection of Drainage Structures.

Detention Basin: Inspect the detention basin and the outlet structure at least three time a year, during the months of April, July and October. Owner may be designate a responsible party, such as a manager, to perform inspections. Inspection shall include as a minimum:

1. Visual inspection of frames and covers. Report any defective or damaged frames and covers and repair or replace such defects within 30 days.
2. Visual inspection of structures. Report any loose, broken or defective bricks or

risers. Report any cracked or leaking structures including top section, barrel sections, bottom section, and seals. Repair or waterproof defects as needed to restore the integrity of the structure within 30 days.

3. Visual inspection of outlet control devices. Inspect wire plate and control orifices to insure that they are firmly attached or connected as designed. Remove accumulated debris which may cause flow through orifices to be obstructed. Repair or replace leaking, defective or damaged wire plates within 30 days.
4. Visual inspection of pipe inlets and outlets. Remove accumulated debris or sediment from pipe inverts to prevent obstruction of flow.
5. Upon completion of the fall inspection each October, report all outstanding defects, damage or maintenance deficiencies to the Homeowners Association in writing, with a copy forwarded to the Town Engineer, identifying each location, defect or deficiency, and take corrective action to restore all components of the stormwater management system to proper condition within 30 days, and prior to significant snow and icing conditions.

Section 3. Catch Basins and Drain Manholes. Inspection, cleaning and maintenance of the catch basins, drain manholes and associated stormwater piping in Astilbe Lane shall be the responsibility of the Town of Yarmouth Public Works Department, subsequent to the Town's acceptance of the street.

Section 4. Culvert Inspection. Inspection and maintenance of the Astilbe culvert crossing of the perennial stream shall be the responsibility of the Town of Yarmouth Public Works Department, subsequent to the Town's acceptance of the street.

Section 5. Emergency Measures. The Homeowners Association or designated party shall report any problems in performance, damage or other defects which may significantly reduce the efficiency or performance of the stormwater management system. Such problems shall be reported immediately to the Homeowners Association and the Town Engineer. The Association and/or the Town Engineer, as applicable, shall authorize the responsible party or parties to perform emergency repairs as required, to insure proper operation of the system.

Section 6. Annual Maintenance. Prior to the summer inspection in July of each year, the Homeowners Association or its designated part shall perform, or engage a contractor to perform, cutting and mowing of grass and weeds within the bottom and inside slopes of the detention basin, as a minimum.

During or immediately following cutting and mowing, all cutting and chipping debris shall be collected and removed from the detention basin and properly disposed of, so as not to result in possible clogging of the basin outlet structure and control orifices.

Section 7. General Maintenance. General maintenance shall include preventive measures related to the site which may help preserve and maintain the stormwater management

system. Such measures should include, but not limited to:

1. Removal of trash, debris, leaves, broken or fallen twigs and branches, etc. from the site, especially in areas where such objects may be washed into the stormwater management system.
2. Removal of spills, broken glass, etc. which may have the potential to enter the stormwater management system.
3. Repairs to culverts, rip-rap, ditches, eroded areas, landscaping lawns, etc. of the site to reduce the potential for sedimentation and to improve the efficiency of the stormwater management system.

ex/1156-29/ndir

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CUMBERLAND COUNTY

John B. O'Brien

PLANNING BOARD REPORT YARMOUTH, MAINE

Request for Contract Zone Agreement – Final Review
Edward Libby, Two Towns Property, LLC, Applicant
538 Portland Street; Map 30, Lot 14

Prepared by: Alex Jaegerman, Director of Planning & Development
Report Date: February 18, 2021; Planning Board Meeting Date: February 24, 2021

I. Introduction and Project Description

Ed Libby, owner of a single-family home on property at 538 Portland Street, has applied for a Contract Zone Agreement (CZA) to enable the division of his lot to build a new affordable “workforce” single family home for sale or rent on the new lot. The lot size is approximately 23,500 sf (.54 acres) in the MDR zone where the minimum lot size is one acre (43,560 sf). The intent if the CZA is granted is to divide the lot evenly, at about .25 acre each. This was reviewed in concept on December 9, 2020. Following the concept review a Contract Zone Agreement was submitted with appropriate terms and conditions and the CZA and preliminary lot split and site plan received a second workshop review on January 27, 2021. This is a Planning Board public hearing with a scheduled vote on a recommendation to the Town Council on the proposed CZA. [New material and comments appear in this blue typeface in this report.](#)



Aerial Vicinity of 358 Portland Street



Revised Plan Showing New Lot Fronting on Portland Street

<i>Applicant's Proposal</i>	<i>Applicable Standards</i>
Zoning	MDR Contract Zone – Recommendation to Town Council
Single Family Home	Building Permit

Sixteen notices were sent to area residents. With the revised plan fronting on Portland Street, the development lot is in both Yarmouth and Cumberland. Previously the applicant reported that Cumberland officials will defer to Yarmouth for the review of this development. The plot plan shows a 30' side yard setback, in compliance with Cumberland zoning. We have not received comments from the Cumberland Town Planner or Town Manager.

Uses in Vicinity: The surrounding neighborhood consists primarily of single-family homes on

Portland Street, Astilbe Lane, and West Elm Street. Main Line Fence is located across Middle Road in Cumberland from the westerly lot line.

Public Comment: We have received comments from Ed Ashley of 20 Spartina Point, in support of the proposal. A letter of opposition was submitted by the 12 owners of the six homes on Astilbe Lane.

Revised Plan: We have received a letter from John R. Veilleux, owner (or prior owner) of the adjacent lot on Astilbe Lane withdrawing his opposition to the proposed CZA with the revised plan fronting on Portland Street instead of Astilbe Lane.

II. Conditional or Contract Zoning (Ordinance Provisions)

Chapter 701, Article IV.V: (Excerpt; full text of Ch. 701, Article IV.V is provided as Attachment 8)

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 particularly 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.

III. Comprehensive Plan Analysis

Applicant's Response:

Our Comprehensive Plan suggests multiple strategies to diversify housing options, but we have been remiss in translating those strategies into policies (p. 84 of Comp Plan). The lack of such policies is contributing to the current crisis. While this project is limited in its impact, it is a step in the right direction, and perhaps it will bring this crisis into focus for the Planning Board and Town Council. We have had efforts to preserve our buildings underway for years, perhaps the moment has come to shift some of that focus toward preserving our people, and our heritage, as a diverse and inclusive community. In the past 10 years, despite the boom in new home construction, we have not added a single affordable home to our housing stock. I ask, is our collective latchstring really out?

As noted above, the proposed contract zone is consistent with, and advances, the purposes and specific goals of the Comprehensive Plan. Affordable housing and diversity of population, along with allowing higher density, are all included in the Executive Summary (p.4-6). A key recommendation of the 2010 Comprehensive Plan is to allow higher density housing, including in the area of 538 Portland St. Policy C suggests providing "affordable" units as a trade-off for allowing higher density (p.23). "Diversity of Population" is a Core Concept of the Comp Plan as seen on page 46, and suggested policies and strategies specified on pages 25-28.

Ashley Comment (excerpt):

I am writing in support of Ed Libby's application for a Contract Zone Agreement for a lot split at 538 Portland Street. Mr. Libby's application fits squarely within the scope of Comprehensive Plan Strategy D.4.1, which is to "Utilize contract zoning to allow for the development of new affordable housing on a case-by-case basis."

Veilleux Comment (excerpt):

Here, the applicant's stated purpose for the contract zone is to add an additional rental dwelling structure. This rental use is not consistent with the single-family residential ownership in surrounding area, and such use and contract zone would benefit only him to the detriment of his neighbors not only on Astilbe Lane but the surrounding area at large.

Planning Director Comment:

The applicant has provided excerpts from the 2010 Comprehensive Plan in his application material (See Attachment 11) regarding policies to create affordable housing including use of contract zones and adjusting lot size to make homes more affordable. The applicant is proposing to restrict the rental rate or sale price to conform to established affordability criteria for this area. The CZA will need to contain enforceable long-term conditions to ensure that the home remains affordable. The applicant proposes to work with Yarmouth Senior housing to administer the

affordability restrictions. Evidence of such an arrangement or equivalent mechanism will need to be embodied in the CZA.

Planning Director Comment (Revised Plan): The applicant has submitted a draft CZA that incorporates proposed deed restrictions limiting the rent to 30% of 100% of Area Median Income (AMI) or sales price to be affordable to purchasers within 120% of AMI. We are reviewing the terms of the affordability restrictions for sufficiency. The provisions of line 2 of Attachment 1 of the CZA regarding the affordability of ownership should be revised to read: *“The mortgage payment, including housing expenses, shall not exceed 30% of gross monthly income for a household earning 120% AMI.”* The applicant is considering an alternative affordability strategy, reference in the CZA attachment, that utilizes the *Maine Housing First Home Loan Program* as the affordability mechanism. Mr. Libby will explain the two options at the workshop and seeks Board feedback.

Planning Director Comment (Final Plan): The final plan retains the rental income and price limits as previously indicated (renter income limited to 100% of AMI, and rent levels limited to 30% of renter income). The ownership restrictions rely on income and price limits of the Maine Housing First Home Loan Program. See letter from Craig Reynolds, Home Ownership Director, Maine State Housing Authority, Attachment 9, which states: *“...The First Home Loan program has ... provided home financing for tens of thousands of Mainers since 1972. The First Home Loan program is offered through a statewide network of over 40 lender partners, including well known community banks, mortgage companies and credit unions.”*

IV. Proposed Contract Zone Agreement and Concept Development Review

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*. The CZA process requires a preliminary review of the specific development proposal entitled by the proposed CZA and a finding by the Planning Board that the plan meets standards for preliminary approval if the development otherwise requires site plan or subdivision review. In this case a lot split and single-family home do not require formal subdivision or site plan review by the Planning Board, however in the context of a CZA we typically evaluate the project’s development impacts in a commensurate manner. The Board can require that the final single-family site plan be reviewed by the Planning Board if the CZA is approved by the Town Council and/or require site features to mitigate potential impacts. Such details might include fencing or landscaping to provide a visual screen from the neighbor on Astilbe. The revised plan with the lot fronting on Portland Street reduces the visual impact on the adjacent Astilbe Lane neighbor, and no Board review or special mitigation is recommended. *If the Board wishes to review the house plan or add any required site features, this can be added to the proposed conditions of approval of the recommendation on rezoning.*

Dan Ostrye, representing the Bicycle and Pedestrian Committee has recommended a sidewalk be required along the Portland Street frontage along with a handicap ramp meeting ADA specifications at the intersection with Astilbe Lane. *The applicant has asked that this not be a requirement of the CZA, to keep costs down to maintain the affordability of the new dwelling.*

The applicant is asking that no additional buffering restrictions be placed on the plan, given the proposed orientation of the house on Portland Street. He is also asking that there not be a requirement for Planning Board review of the house plans, which is not generally required by Town ordinance. The CZA as drafted does not include such a requirement. If the Board wishes to assert jurisdiction through the CZA, a provision to that effect can be added as a condition of the Board's recommendation to the Town Council.

V. Preliminary Plan Review

The applicant has not submitted a site plan for the proposed new home to be constructed on the new lot. Preliminary site plans or subdivisions are only required in CZA review of development that otherwise requires site plan or subdivision review, which this project does not. The Board can focus its preliminary review to the lot-split; however it has been recent practice to require a site plan of the proposed house development as part of the CZA recommendation process. The following are selected development review comments provided by the Town review staff.

Town Engineer Comments: The applicant is still proposing to split the existing half acre lot into two .25 acre lots to allow the construction of an additional single-family dwelling but will be served from Portland Street rather than Astilbe Lane. The site appears to be conducive for the proposed development, although there is an existing drainage swale crossing the lot from northeast to southwest. The applicant will be required to develop a drainage plan to ensure that stormwater runoff continues to be conveyed through the new lot.

The applicant has provided partial evidence of right, title and interest to the property and this submission did not include Exhibit A of the Warranty Deed as requested in my memo of November 23, 2020. Submission of this documentation shall be a condition of approval. [The applicant has since provided the full deed.](#)

- a. The project will be required to connect to the Town sewer system even under this alternate concept plan since the lot is within 200 feet of a public sewer. The new service shall be connected via the public ROW in Portland Street. It should be noted that this area is served by a low-pressure sewer system and will require a small, private sewer pump station for the new home. The system and main extension must meet Chapter 304 Sewerage Ordinance requirements as well as the Town's technical standards for sewer infrastructure. The Applicant will have to submit a plan to serve the new lot per the ordinance. There is adequate capacity in the Town sewer system for the project.
- b. In general, the sewer main is separated laterally from a water main by at least ten (10) feet. Additionally, a minimum of five (5) feet of separation (unless otherwise noted) shall be maintained between the sewer main and other utilities, including, but not limited to - storm drain, underdrain, natural gas and underground utility conduit such as electrical, telephone and cable utilities.
- c. A sewer connection permit and fee will be required before individual building permits are issued by the Town.

Public Works Director Comments:

Traffic / Parking: No Concerns with traffic. Driveway is shown in Cumberland so entrance and

road opening permits should be acquired through the Town of Cumberland.
Storm Drains: If a culvert is required for the new entrance, it should meet the Town of Cumberland standards.

Yarmouth Water District Comments: I do not see any changes that impact YWD. The new proposed lot has ownership/frontage of the existing water main on Astilbe which will allow for a water service if requested. [Note that the revises plan shows frontage on Portland Street. We advised Mr. Gagnon of that and he has no additional concerns.]

VI. Planning Director Recommendation

We support the proposed CZA to allow the smaller lots for affordable housing in the MDR zone. The orientation on Portland Street has responded to the neighbors' concerns on Astilbe Street. The applicant has demonstrated a good faith effort to meet a critical housing need in Yarmouth with two affordable dwellings.

VII. Proposed Motion

Preliminary Plan Approval – Please see the email from Mr. Libby, attachment 7, which makes a case that preliminary plan approval is not required under the provisions of Chapter 701, Article IV.V. We accept his points and are withdrawing the previously noted motion to approve the preliminary house plan. The comments of the Town Engineer are noted in the proposed CZA conditions to ensure that they are accounted for when the house plan goes forward for a building permit.

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 February 18, 2021 for Contract Zone Agreement pertaining to 358 Portland Street, Ed Libby, Two Towns Property, LLC, applicant, Map 30 Lot 14, the Planning Board finds that the plan **[is/is not]** in conformance with the Yarmouth Comprehensive Plan and advances the public good, and therefore **[recommends/does not recommend]** that the Town Council adopt the proposed contract zone amendment.

1. The CZA shall be revised to state clearly that access and road frontage of the lot split will be off Portland Street as depicted in the proposed plan.
2. The applicant shall develop a drainage plan to ensure that stormwater runoff continues to be conveyed through the new lot.
3. The project will be required to connect to the Town sewer system under this concept plan since the lot is within 200 feet of a public sewer. The new service shall be connected via the public ROW in Portland Street. It should be noted that this area is served by a low-pressure sewer system and will require a small, private sewer pump station for the new home. The system and main extension must meet Chapter 304 Sewerage Ordinance requirements as well as the Town's technical standards for sewer infrastructure. The Applicant shall submit a plan to serve the new lot per the ordinance.
- 4.

Such motion moved by _____, seconded by _____, and voted _____ in favor, _____ opposed, _____.

(note members voting in opposition, abstained, recused, or absent, if any).

Attachments

1. Memo from Steve Johnson, Town Engineer, February 9, 2021
2. Memo from Steve Johnson, Town Engineer, January 14, 2021
3. Memo from Erik Street, Director of Public Works, January 16, 2021
4. Memo from Eric Gagnon, Yarmouth Water District, January 13, 2021
5. Memos (2) from Mike Robitaille, Fire Chief, December 2, 2020
6. Comment from John Veilleux, December 11, 2020
7. Email from Ed Libby, January 28, 2021
8. Full Text of Contract Zoning Ordinance, Chapter 701, Article IV.V
9. Letter from Craig Reynolds, Director of Home Ownership, MSHA, January 22, 2021
10. Final Draft Contract Zone Agreement with Attachment, January 28, 2021
11. CZA Application from Ed Libby, 11/12/2020 (with revised plot plan & deed)

Memo

To: Alex Jaegerman, FAICP, Planning Director
From: Steven Johnson, P.E., Town Engineer
CC: Erik Street, Nick Ciarimboli, Wendy Simmons, Karen Stover, Tom Connolly
Date: February 9, 2021
Re: Contract Zone Application: Ed Libby, 538 Portland Street

Alex:

I have reviewed the subject application from Ed Libby for a Contract Zone application for the property located at 538 Portland Street dated January 28, 2021.

I have the following technical comments.

1. There are several outstanding items from my memorandums to you dated January 14, 2021 and November 23, 2020 that I assume will be addressed as part of Ed's final submission to the Planning Board following the approval of the Contract Zone by the Council.
2. Regarding the draft Contract Zone Agreement, I would respectfully request that the following item be added to Section 3. Special Conditions:
 - c. The proposed new dwelling shall be connected to public sewer per Chapter 304 Sewerage Ordinance.
3. Additionally, I do want to call your attention to Section 2 c of the draft agreement. This paragraph provides for a five (5) year window to perform the improvements with an opportunity to extend for a second five-year term.

If you have any questions, please do not hesitate to see me.

Memo

To: Alex Jaegerman, FAICP, Director of Planning and Development
From: Steven S. Johnson, P.E., Town Engineer
CC: Erik Street, Nick Ciarimboli, Tom Connolly, Karen Stover, Wendy Simmons
Date: January 14, 2021
Re: Contract Zone Application for 538 Portland Street

Alex:

I have reviewed the application from Ed Libby for the parcel located at 538 Street dated December 30, 2020. This memorandum augments my memo to you dated November 23, 2020.

I have the following updated technical comments on the application:

Conceptual Plan Review Items:

1. General Topography: The applicant is still proposing to split the existing half acre lot into two .25 acre lots to allow the construction of an additional single-family dwelling but will be served from Portland Street rather than Astilbe Lane. The site appears to be conducive for the proposed development, although there is an existing drainage swale crossing the lot from northeast to southwest. The applicant will be required to develop a drainage plan to ensure that stormwater runoff continues to be conveyed through the new lot.
2. General Street and lot layout: The proposed lot layout is generally acceptable from a technical perspective.
3. Location of flood plains: The project site is not located within the 100-year flood plain.
4. Location of zoning district boundaries: The project is located in the Medium Density Residential (MDR) district.
5. Rights, Title: The applicant has provided partial evidence of right, title and interest to the property and this submission did not include Exhibit A of the Warranty Deed as requested in my memo of November 23, 2020. Submission of this documentation shall be a condition of approval.
6. Solid Waste: The Applicant is proposing residential lots and as such each lot owner is eligible to use the Town's transfer station for solid waste disposal.
7. Water: The Applicant must provide evidence from the Yarmouth Water District (District) that the system has the capacity to serve the new lots for both domestic use as well as fire protection, if required. The District must review and approve the design and layout for conformance to its technical standards as well as Terms and Conditions.
8. Traffic/Parking: The applicant will not be required to provide a traffic impact analysis for the project.
9. Sewers:
 - a. The project will be required to connect to the Town sewer system even under this alternate concept plan since the lot is within 200 feet of a public sewer. The new service shall be connected via the public ROW in Portland Street. It should be noted that this area is served by a low-pressure sewer system and will require a small, private sewer pump station for the new home. The system and main extension must meet Chapter 304 Sewerage Ordinance requirements as well as the

Town's technical standards for sewer infrastructure. The Applicant will have to submit a plan to serve the new lot per the ordinance. There is adequate capacity in the Town sewer system for the project.

- b. In general, the sewer main is separated laterally from a water main by at least ten (10) feet. Additionally, a minimum of five (5) feet of separation (unless otherwise noted) shall be maintained between the sewer main and other utilities, including, but not limited to - storm drain, underdrain, natural gas and underground utility conduit such as electrical, telephone and cable utilities.
- c. A sewer connection permit and fee will be required before individual building permits are issued by the Town.

10. Storm Drains:

- a. All storm drainage shall meet the requirements of Yarmouth's design standards for storm drainage.

11. Drainage, Stormwater Management:

- a. Given the size of the project a full stormwater analysis will not be required. However, the Town urges the developer to incorporate Low Impact Development (LID) for stormwater management into this project.

12. Erosion and Sediment Control: During construction erosion and sedimentation control, Best Management Practices (BMP's) shall be installed prior to construction activities and shall be maintained by the contractor until the permanent vegetation is in place. It is also critical that the contractor performing construction inspect, maintain, and repair all ESC BMP's prior to and following rainstorms to ensure the effectiveness of the BMP's. All inspection work must be documented.

13. Soils: I have reviewed the US Department of Agriculture Soil Survey for Cumberland County and it appears that the soils in the project site are Windsor Loamy Sand and Scantic Silt Loam. I would anticipate that these soils would likely be adequate for support of a single-family home.

14. Aesthetic, Cultural, and natural area impacts: The applicant must show the project will not have an undue negative impact on habitat, historic sites, or other aesthetics of the site. A landscaping plan will be required.

15. Lighting: A separate lighting plan and photometric plan will not be required.

16. Waivers: The Applicant has requested the following waivers:

- a. The Applicant is pursuing a Contract Zone for this project and as such may require waivers to the MDR zone requirements.

17. Off-site Improvements:

- a. There are no off-site improvements proposed by the applicant at this time.


I would be pleased to review any other aspect of the application that you or the Planning Board may decide and as always, I reserve the right to make additional comments on future submissions.

Town of Yarmouth ME

Director of Public Works

MEMORANDUM

To: Alex Jaegerman, FAICP, Director of Planning and Development

From: Erik S. Street, Director of Public Works 

CC: Steve Johnson, PE, Town Engineer, Wendy Simmons, Karen Stover, Nick Ciarimboli

Date: 1/16/2021

Re: 538 Portland Street – Contract Zone Request -2nd review

-
1. **General:** Applicant has revised the site plan so that the entrance now comes off Portland Street.
 2. **Rights, Title:** No Concerns
 3. **Easements:** No Concerns
 4. **Home Owner Associations / Road Maintenance Agreements;** No Concerns
 5. **Financial Capacity:** No Concerns
 6. **Technical Ability:** No Concerns
 7. **Solid Waste:** Property is still residential so the resident can use the Yarmouth Transfer Station or subscribe to private collection.
 8. **Water:** No Concerns
 9. **Traffic / Parking:** No Concerns with traffic. Driveway is shown in Cumberland so entrance and road opening permits should be acquired through the Town of Cumberland.
 10. **Storm Drains:** If a culvert is required for the new entrance, it should meet the Town of Cumberland standards.
 11. **Drainage, Stormwater Management:** I support the Town Engineers comments regarding drainage and stormwater.

12. **Sewers:** I support the Town Engineers comments regarding sewer. Applicant should be aware that there is ledge in the Portland Street / Astilbe Lane intersection that may impact the sewer connection.
13. **Erosion and Sediment Control:** I support the Town Engineers comments regarding Erosion and Sediment controls.
14. **Soils:** No Concerns
15. **Site Plan / Ordinance Requirements:**
16. **Lighting:** N/A
17. **Waivers:** No Concern
18. **Off-Site Improvements:** None proposed at this time.
19. **Site Plan Drawing:** No Concerns

If you have any questions, please let me know.

Attachment 4

From: Eric Gagnon <egagnon@yarmouthwaterdistrict.org>

Sent: Wednesday, January 13, 2021 2:49 PM

To: Wendy Simmons <WSimmons@yarmouth.me.us>; Alex Jaegerman <AJaegerman@yarmouth.me.us>

Subject: Re: Request for Comment - 596 Gilman Rd, 538 Portland St., 216 East Main St., Ordinance - Float Size

Hi all,

Please see my responses for the projects:

- 538 Portland - I do not see any changes that impact YWD. The new proposed lot has ownership/frontage of the existing water main on Astible which will allow for a water service if requested.

From: Mike Robitaille <MRobitaille@Yarmouth.me.us>

Sent: Wednesday, December 2, 2020 7:55 AM

To: Wendy Simmons <WSimmons@yarmouth.me.us>; Andrew Dolloff <andrew_dolloff@yarmouthschools.org>; Dan Gallant <DGallant@Yarmouth.me.us>; dostrye@gmail.com; Eric Gagnon <egagnon@yarmouthwaterdistrict.org>; Erik Donohoe <edonohoe@yarmouth.me.us>; Karyn MacNeill <kmacneill@yarmouth.me.us>; Nat Tupper <ntupper@Yarmouth.me.us>; Scott LaFlamme <slaflamme@yarmouth.me.us>; Zachary Stoler <zstoler@yarmouth.me.us>

Subject: RE: Request for Comment - 251 West Main, Railroad Square, 538 Portland St.

Wendy,

In regards to 538 Portland Street:

If this is going to be two home accessed by the same driveway it will need to become a street according to Housing (E911) guidelines. I cannot determine how they plan to have access on the site based on the drawings (or is it a plat). Should it become an access road then it will need to meet the guidelines of NFPA 1, Chapter 18 for access roads which include 20' of road access and 13'-6" vertical clearance.

Thank you,

*Michael S. Robitaille
Chief of Department
Yarmouth Fire Rescue*

From: Mike Robitaille <MRobitaille@Yarmouth.me.us>
Sent: Wednesday, December 2, 2020 9:23 AM
To: Wendy Simmons <WSimmons@yarmouth.me.us>; Alex Jaegerman
<AJaegerman@yarmouth.me.us>; Nicholas Ciarimboli <NCiarimboli@yarmouth.me.us>; Eric Gagnon
<egagnon@yarmouthwaterdistrict.org>; Steven Johnson <SJohnson@yarmouth.me.us>
Subject: 538 Portland Street

To All,

I want to thank Eric Gagnon who provided me a nicely drawn sketch that shows the new driveway actually coming from Astilbe Lane thus it will not be a Portland Street address (or should not be – my recommendation).

Thank you,

*Michael S. Robitaille
Chief of Department
Yarmouth Fire Rescue*

On Dec 11, 2020, at 5:20 PM, John R. Veilleux <jveilleux@nhdlaw.com> wrote:

Hi Alex – Thanks for allowing us to communicate our concerns about the application. From our perspective, Lisa and I are comfortable with the alternative plan Ed showed at the end of his presentation. If there is frontage on Portland Street and not Astilbe Lane, and efforts are made for appropriate buffering along the Cumberland side, we would retract our strong objection if the Planning Board decides it meets its other requirements for a contract zone. I can't speak for our neighbors on their thoughts, but I know that the way the application depicted the lot division and the frontage on Astilbe were very significant concerns. I do believe all were much more comfortable with a small home going in near where the old garage was on Portland Street, if the PB believes it meets the criteria for contract zone. Feel free to share this feedback with the applicant and with the other PB members.

Take care,

John

John R. Veilleux, Esq.

<image001.png>

Norman, Hanson & DeTroy, LLC
Two Canal Plaza
PO Box 4600
Portland, ME 04112
Direct: (207) 553-4638
E-fax: (207) 274-5879
Fax: (207) 775-0806

From: [Edward F. Libby](#)
To: [Alex Jaegerman](#)
Subject: 538 Portland CZA
Date: Thursday, January 28, 2021 11:41:11 AM

Good morning Alex,

I would like to get on the February 24 Planning Board agenda if possible. I do notice that the application deadline was yesterday. (I thought there was a 21 day advance for submissions?) I am prepared to make the minor clean ups on my CZA today, which I believe would be substituting a revised deed covenant as Attachment 1 to reflect what was presented last night regarding workforce guidelines for rental and Maine Housing's First Home Loan Program for ownership. I plan on reaching out to Dan Ostrye to discuss sidewalks/ramps/crossings and possible other ways to address his comments, such as possible TIF money or some other funding. This project just does not have the budget to accomplish what he desires. If there is anything else you think needs to be updated from my side, please let me know.

I did look at the contract zoning language *again* and feel strongly that this project does not require site plan review. Instead, the ordinance indicates it should be treated more like a zoning amendment/map review. Therefore, I would request that the "Preliminary Plan Approval" motion contained on page 6 of the Planning Board Report be deleted and that the only motion be "to recommend (or not)" the Contract Zoning. Further, I would ask that within the Contract Zoning motion, that the word "plan" next to (is/is not) is changed to "Agreement". I believe it is important for both the applicant and the regulating authority to adhere to what the ordinance says, and in this case, Chapter 701 Article IV Section V Contract Zoning is a legislative process regarding a zoning change. IF the proposal triggers Site Plan Review or Subdivision review, then the Planning Board's role is augmented to include those reviews either concurrently or not, but absent the need for Site Plan review, the ordinance is quite clear in its language that it is a "rezoning". Here is what I am referring to for your review: Item #5 instructs the PB to conduct a hearing on the "zoning proposal" and make a recommendation to the TC regarding the proposed "rezoning". Item #6 then instructs the TC to hold a hearing on the "proposed zoning" and they will consider the "rezoning" request. Notice is given to abutters in accordance with procedures for amendment of a "zoning ordinance", which is distinct from site plan notice. Item # 7 starts with the word "When" a site plan is required, then preliminary site plan approval is needed prior to the TC taking final action on the "rezoning" request. So, I think the only conclusion is that my proposal does not require site plan review, and therefore a motion to approve a preliminary site plan is inappropriate. Of course, whatever site issues that have been brought up will be addressed at the time a building permit is requested.

Likewise, I would like to point out that in item #4, Notice, that mailing is only required for the meeting "at which the proposal first appears on the Planning Board agenda" (workshop or public hearing). There is no requirement for additional mailings at subsequent meetings. Paragraph c. only requires notice to be posted at Town Office and the newspaper prior to the public hearing. A similar situation arose during my request for a zone change on Route One when the ordinance required only abutters be noticed, but you felt it was important to notice beyond that. We agreed that I could not prevent you from noticing, nor was that my intent, but that I would not be charged for any notices beyond what the ordinance required. I would ask that the same principle be applied here. I

would point out that notice at the TC is to the abutters if I advance to that stage, not the 500 feet. So, I wanted to bring this up now. Again, my intent is not to restrain notice, but rather to ask that the regulating authority follow the ordinance, as well as being mindful of my money. I am sure you can appreciate that.

Thanks again for your time and assistance,

Ed.

Chapter 701, Zoning, Article IV.V, Conditional or Contract Zoning

V. CONDITIONAL OR CONTRACT ZONING

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 particularly 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, along with an application fee of \$250.00 as per Article X.IV. of the Fees and Permits Ordinance.
4. Notice
 - a. For all conditional and contract zoning proposals, the Planning Director will develop a notice, including a description of the nature of the proposal, the proposed conditions and restrictions, a map of all property to be subject to the conditional rezoning or contract zone agreement, and the time and place of the Planning Board meeting.
 - b. The Planning Department will mail the notice by first class postage to owners of all property which will be subject to the conditional rezoning or contract zone agreement and to owners of all properties within five hundred (500) feet of the property or area subject to the conditional rezoning or contract zone agreement. The notice will be mailed at least fourteen (14) days before the meeting (workshop or public hearing) at which the proposal first appears on the Planning Board agenda. The fee for the mailing will be as established by the Town Council in the Fees and Permits Ordinance.
 - c. The notice shall be posted in the Town Office at least 14 days prior to the Planning Board public hearing on the request. In addition, the notice must be published at least 2 times in a newspaper of general circulation in the Town of Yarmouth. The date of the first publication must be at least 14 days before the public hearing, and the date of the second publication must be at least 7 days before the public hearing. All posting, publishing, and mailing of notices shall conform with applicable State requirements.
5. The Planning Board shall conduct a public hearing on the proposed contract or conditional zoning proposal and then shall make a written recommendation to the Town Council regarding the proposed rezoning and any recommended conditions or restrictions.
6. The Town Council shall hold a public hearing on the proposed rezoning, at which time the Town Council shall consider the rezoning request, the Planning Board recommendation, and any proposed conditions and restrictions. Notice shall be

given to the owners of abutting property and published in accordance with the procedures for amendment of a zoning ordinance or zoning map.

7. When site plan or subdivision review is required for the use proposed, preliminary site plan review or preliminary subdivision review must be completed before the Town Council takes final action to approve or deny the rezoning request.
8. The preliminary subdivision plan or site plan shall include, at a minimum, the following items:
 - a. Existing and proposed lots, permitted Building areas of each lot, Roadways and easements;
 - b. Conceptual treatment of the scale and size of potential Buildings and the conceptual exterior or design thereof;
 - c. Conceptual treatment of stormwater, sanitary and solid waste management, utility services, vehicular/pedestrian access and circulation, parking, lighting, landscaping, screening, outdoor storage, and other on-site or off-site improvements;
 - d. Total land area;
 - e. Existing and proposed zoning districts; and
 - f. Any existing natural land features such as topography, soils classifications, mature Vegetation, waterways, Wetlands, and wildlife habitats;
 - g. A context map showing the entire area which will be affected by the proposal. A context map should include all streets, sidewalks, intersections, drainage paths, property lines, buildings, zoning districts, and natural features of the area.
 - h. A narrative describing the proposal, its common scheme of development and listing potential land uses and estimated impacts to Municipal facilities. Such estimates are to include, but are not limited to, the anticipated gallons per day of waste water to be generated by the proposal and the number of vehicles entering and leaving the site during the day, and at peak traffic hours.
9. The Planning Board may conduct the preliminary site plan or subdivision review concurrently with its review of the request for rezoning, and the public hearing required by Article IV.V of this Section may be substituted for a public hearing otherwise required for site plan or subdivision review. The Planning Board shall review the proposed site plan or subdivision under the Zoning Ordinance

provisions which would apply if the request for rezoning is granted, and may conditionally approve the preliminary site plan or the preliminary subdivision plan subject to the requested rezoning, such approval not to become effective until the rezoning becomes effective.

10. If the applicant does not file a completed application for final subdivision or site plan approval from the Planning Board within twelve months after the rezoning becoming effective, the property shall revert automatically to its former designation. The Planning Board may grant extensions of the period between the effective rezoning and the filing of the complete final application in increments of twelve months not to exceed a total of three years.
11. If the Town Council approves a request for Conditional or Contract Zoning, the Council must simultaneously approve an agreement or declaration setting forth the conditions and restrictions to apply to the property, including time limits for compliance with all conditions and restrictions where appropriate. In the case of a Contract rezoning, the rezoning shall not be effective until the agreement is executed, delivered to the Council and recorded by the applicant in the Cumberland County Registry of Deeds. In the case of a Conditional rezoning, the rezoning shall not be effective until the declaration is approved by the Town Council and recorded in the Cumberland County Registry of Deeds. The conditions and restrictions set forth in the agreement or declaration shall run with the land and bind all future owners of the land, or any other person who claims an interest in the property, and may be removed only by subsequent action of the Town Council expressly removing, relieving, or discharging one or more the specific conditions or restrictions after a public hearing and recommendations by the Planning Board. If the conditions and restrictions are not fulfilled or complied with within the specified time limits, if any, any, the Town Council may extend the time limits or may initiate a rezoning to the original zoning district classification. The Town Council may require a bond, escrow agreement, irrevocable letter of credit or other surety in such form as is approved by the Town Manager as being reasonably necessary to assure compliance with the conditions or restrictions required by the rezoning. Such bonds shall be posted before the agreement or declaration is recorded in the Registry of Deeds.
12. All development and use of the rezoned property must comply with the performance standards of this Ordinance and with the use standards, space standards and other standards for the zoning district in which the rezoned property is placed. Conditions imposed by the Town Council may be more restrictive, but not less restrictive, than the applicable requirements of this Ordinance. Conditions and restrictions imposed by the Town Council shall relate to the physical development or operation of the property and may include, but shall not be limited to, the following:
 - a. Limitations on the number and types of uses permitted.

- b. Restrictions on the scale and density of the development, including but not limited to height, lot coverage or setbacks.
 - c. Specifications for the design and layout of Buildings and other on or off-site improvements, including but no limited to parking lots, traffic control devices, sewer improvements, landscaping, lighting, or drainage control devices.
 - d. Schedules for commencement and completion of construction.
 - e. Performance guarantees securing completion and maintenance of improvements, and guarantees against defects.
 - f. Preservation of open space and buffers, and protection of natural areas and historic sites.
 - g. Contributions towards the provisions of Municipal services required by the development.
 - h. Provisions for enforcement and remedies for breach of any conditions or restriction.
 - i. Provisions for reservations or land dedications for public purposes.
13. All conditions and restrictions imposed as part of a rezoning pursuant to this Section are hereby incorporated by reference in this Zoning Ordinance as part of the applicable zone and shall be set out in full in an appendix to this Ordinance.

Ed_Libby@msn.com

From: Craig Reynolds <creynolds@mainehousing.org>
Sent: Friday, January 22, 2021 5:27 PM
To: 'Edward F. Libby'
Subject: RE: First Home Loan program

Dear Mr. Libby,

At your request I have provided a brief overview of the origin, purpose and importance of MaineHousing's First Home Loan program.

The Maine State Housing Authority (MaineHousing) was created by the state legislature in 1969 to act as the state's housing finance agency. Shortly after its creation (1972) the agency established the Home Mortgage Purchase program, which is funded through the sale of mortgage revenue bonds and administered by what is now the Homeownership Department. The program's mission is to promote and provide the means for first time, moderate income Maine homebuyers to acquire affordable and safe housing. The First Home Loan program has since provided home financing for tens of thousands of Mainers since 1972. The First Home Loan program is offered through a statewide network of over 40 lender partners, including well known community banks, mortgage companies and credit unions. MaineHousing does not originate the loans, instead our lender partners take the applications from eligible borrowers, then process and close the loans before submitting the mortgages to MaineHousing for program compliance review and subsequent purchase. The mortgages are held in portfolio by MaineHousing with the payment income they generate being used to support the majority of the agency's operating costs, making the program of crucial importance to sustain the agency's ability to administer its many other programs which benefit thousands of Maine citizens.

Please let me know if you need any additional information concerning our program.

Regards,

Craig Reynolds

Director of Homeownership

MaineHousing

26 Edison Drive

Augusta, ME 04330

www.mainehousing.org



**Division of Lot at 538 Portland Street
CONTRACT ZONE AGREEMENT**

This Agreement made this ____ day of _____, 2021, by and between the Town of Yarmouth, Maine, a municipal corporation with a place of business at 200 Main Street in Yarmouth, County of Cumberland, State of Maine (hereinafter the "TOWN") and Two Towns Property, LLC with a mailing address of 374 Route One, Yarmouth, Maine 04096 (hereinafter, the "OWNER").

WITNESSETH:

WHEREAS, Two Towns Property LLC is the OWNER of a certain parcel of land designated as Map 30 Lot 14 of the Assessor's tax maps of the Town of Yarmouth, Maine and Map R2 Lot 44 of the Assessor's tax maps of the Town of Cumberland comprising a total of 23,587 square feet of land with the buildings and improvements thereon at 538 Portland Street in Yarmouth, Maine, ("the Parcel") and OWNER proposes to divide the Parcel into two lots of approximately 12,000 square feet each for residential uses with their associated deeds restricted with affordable housing covenants ("the Project"), and

WHEREAS, pursuant to Title 30-A MRSA, Sections 4352(8) and 4314 (3.E), and Chapter 701, Article IV, Section V. of the Yarmouth Town Code, application was made for contract zoning authorization; and

WHEREAS, the Yarmouth Comprehensive Plan declares that because the community values population diversity and the vitality it brings to our town, the Town encourages the use of contract zoning to allow for the development of new housing that is affordable to moderate income households ("Workforce Housing").

WHEREAS, the Yarmouth Comprehensive Plan recognizes that diversity has been threatened by escalating real estate values and that providing a diversity of housing opportunities will require that the Town allow higher density/intensity of use in some areas especially within the area currently zoned MDR, and

WHEREAS, the Town has identified the area where this parcel is located as a GROWTH AREA being more suitable for growth because it can be conveniently served by public facilities and services, is physically suited for development, and promotes a compact rather than sprawling development pattern, and the Parcel lies within the targeted "Growth Area" described in the Comprehensive Plan, and

WHEREAS, the proposed use is currently permitted in the MDR zone, the proposed project is within the MDR zone, and there already exists on the Parcel one residential building, demonstrating that the proposed use is not inconsistent with existing and permitted uses in the MDR zone, and this Agreement contains conditions and restrictions that relate to the physical development of the property, namely the ability for a single-family dwelling to be developed on the proposed new lot; and

WHEREAS, the non-profit, Yarmouth Affordable Housing, Inc., was dissolved in 2012 and no replacement organization has come forth to address the affordable housing crisis that has existed since that time in Yarmouth, and that the crisis has recently become the most severe in history due to the spike in demand and prices created by the Covid-19 pandemic,

WHEREAS, the combined effect of the spike in prices resulting from the Covid 19 pandemic and no new affordable single-family houses being created in over 20 years, has resulted in no homes being offered for sale since July 26, 2020 at or under the maximum sale price limit being made part of this agreement; and

WHEREAS, the affordable covenants will be incorporated into the deed in perpetuity and will include maximum income limits, maximum rent limits, and maximum sale price limits that follow Federally determined guidelines for Workforce Housing(rental) or Maine Housing First Home Loan Program (ownership) restrictions for the Yarmouth area. Covenants are attached hereto as **Attachment 1**; and

WHEREAS, the proposed addition of two homes that are deed restricted for workforce housing presents such a tangible public benefit that is directly responsive to the specific strategy D.4.1 of Yarmouth's Comprehensive Plan, as well as the broader vision and goals of maintaining a diverse population living in a diverse housing stock, including housing that is affordable; and

WHEREAS, the applicant will provide additional public benefit by creating affordable housing within buildings that will be integrated within the established street fabric and will reflect the scale, form and disposition of the surrounding neighborhood of predominantly single-family homes; and

WHEREAS, the Planning Board, pursuant to Section IV(V)(5) of the Zoning Ordinance, and after notice and hearing and due deliberation thereon, recommend the rezoning of the Parcel as aforesaid, and

NOW, THEREFORE, in consideration of the authorization of the Yarmouth Town Council to modify and/or waive the general standards of development in the Medium Density Residential Zoning District, specifically to allow the creation of a new lot such that the resulting proposed new lots will not meet required minimum standards relative to minimum lot size and minimum lot width, the TOWN and OWNER agree as follows:

1. GENERAL CONDITIONS

The OWNER, for itself, its successors and assigns hereby covenant and agree that the use, occupancy and/or development of the subject premises will, in addition to other applicable provisions of law, ordinance or regulation, be subject to the following restrictions and conditions on the physical conditions on the development or operation of said premises.

a) The development shall be limited in use to uses now or in the future are permitted uses within the current zone and uses permitted accessory thereto. All structures and uses described in the approval shall be subject to the procedures and covenants of this Agreement as hereinafter described.

b) The Parcel may not be re-subdivided nor changed to another use not contemplated herein without the approval of the Yarmouth Planning Board.

c) The dimensional standards regulating this development are modified as follows: Minimum Lots Size-10,000 square feet. Minimum Lot Width-70 feet

g) The Owner shall place a deed restriction on the entire Parcel so that the affordable housing covenants attached hereto as **Attachment 1** apply to both the existing house at 538 Portland Street as well as the house on the newly created lot. The resulting defined public benefit being two houses deed restricted with the affordable housing covenants.

2. The term of this Agreement shall be from the date first named above until terminated or modified by the parties hereto, their successors or assigns, or until it expires subject to paragraph c) below.

a) Upon the termination of this Agreement, all lawfully existing development and activity on the premises may continue as an existing non-conforming use under the laws and regulations then in effect, but may not be enlarged, increased or extended except as provided generally for non-conforming uses at that time.

b) Nothing herein shall be construed to terminate or extinguish any terms, provisions, covenants, or warranties expressed or implied in any instrument of title, deed, or ownership involved in or arising out of this development project. All such terms, provisions, covenants or warranties, which are not inconsistent with the terms of this Agreement, shall survive the expiration of this Agreement, as applicable.

c) The provisions of Article IV, (V) (10) regarding time frame for filing of a complete application for final subdivision review apply. In the event that the OWNER or its successors and assigns do not commence construction of a home on the new lot within 5 years of the effective date of this Agreement, this Agreement will be deemed expired and the property shall revert to its former designation, unless prior to such expiration, this Agreement is extended for not more than one additional five-year period by vote of the Yarmouth Planning Board.

3. **SPECIAL CONDITIONS**

a) The existing boundary line between 538 Portland and 19 Astilbe Lane includes a row of white pine trees running perpendicular to Astilbe Lane and generally along the boundary for approximately 130 feet. In the event that any of these trees are substantially damaged or removed as a result of construction of the new home or driveway, installation of utilities, or installation of drainage, applicant shall replace said trees by planting new trees of a minimum 1.5-inch caliper and shall guarantee survival of said replacement trees for a period of not less than 3 years.

b) The new lot authorized under this Agreement may be developed, used and dedicated as a single-family residential structure and permissible accessory structures and uses thereunder, and shall not be used or occupied as a two-family residence whether attached or detached in the future. Notwithstanding any provisions of Chapter 701 to the contrary, no accessory dwelling unit shall be built, used or occupied on the premises.

4. **BREACHES AND ENFORCEMENT**

a) The OWNER hereby agrees that the above stated restrictions, provisions, conditions, covenants and agreements, including all conditions of approval and restrictions incorporated herein by attachment or reference, are made an essential part of this Agreement, shall run with the subject premises, shall bind the OWNER, its successors and assigns, to or of said property or any part thereof or any interest therein, and any party in possession or occupancy of said property or any part thereof, and shall inure to the benefit of, and be enforceable by, the TOWN, by and through its duly authorized representatives.

b) The OWNER hereby agrees that if it, or any person claiming under or through it, shall at any time violate or attempt to violate, or shall omit to perform or observe any one or more of the foregoing restrictions, provisions, conditions, covenants, and agreements, the TOWN shall have, without limitation, the following remedies, which may be exercised by the TOWN.

1. The Town of Yarmouth shall have the right to prosecute violations of this Agreement against the OWNER committing the violation in the same manner that it is authorized to prosecute violations under the Zoning Ordinance of the Town of Yarmouth in effect at the time of said violations. For the purposes herein, a violation of this Agreement shall be deemed a violation of said Zoning Ordinance and shall be subject to the penalty provisions of said Ordinance in effect at the time of violation. Each day that a violation is permitted to exist after notification of the same pursuant to said Ordinance shall constitute a separate offense.

2. The Town of Yarmouth shall have the right to institute any and all actions or proceedings, including the right to enforce all the terms and provisions of this Agreement by injunction, legal and equitable actions and all other lawful process for the enforcement of the same.

3. No penalties shall be assessed against the OWNER after the OWNER has transferred all right and interest in the subject property provided that all conditions which are construed to constitute a violation arose after the transfer or sale of the property to a successor. But, this shall not be deemed to waive and condition of approval or rights of enforcement against such subsequent OWNER (SUBSEQUENT OWNER), nor shall this be construed to relieve the OWNER of any obligation or term of this agreement regardless of when such default, omission, or breach is first discovered.

c) The TOWN further agrees that the failure of the Town of Yarmouth to object to any violation, however long continued, or to enforce any restrictions, provisions, conditions, covenant, or agreement contained in this Agreement shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or violation or as to any breach or violation occurring prior or subsequent thereto.

5. FUTURE EXERCISE OF LEGISLATIVE ACTION

The parties hereto hereby agree that nothing in this Agreement shall be

construed so as to preclude the future exercise of the Town of Yarmouth's legislative authority relative to the zoning of the subject premises. In the event that the zoning of said premises is changed by the Town Council, the contracted use outlined above, subject to the restrictions, provisions, conditions, covenants, and agreements contained in this Agreement, shall be allowed to continue as a nonconformity or nonconforming use, whichever the case may be, in accordance with the provisions of the Zoning Ordinances may be in effect at the time of said zone change governing the same.

6. WAIVER OF CHALLENGE

The parties hereto hereby agree, for themselves, their successors and assigns, to waive any and all rights to challenge the validity of Town Council Order No. ____-____/____, taken _____, 2021 authorizing this Agreement or the terms of this Agreement.

7. SEVERABILITY

The parties hereto hereby agree that if one of the restrictions, provisions, conditions, covenants, and agreements, or portions thereof, contained in this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portion hereof.

8. APPLICABILITY OF ORDINANCES

Except as expressly modified herein, the use and occupancy of the newly created single family home shall be governed by and comply with the provisions of the Zoning Ordinance of the Town of Yarmouth and any applicable amendments thereto or replacement thereof.

10. MODIFICATIONS OF PLANS AND AGREEMENT

This Agreement shall not be amended except with the written approval of the Town of Yarmouth, except that minor changes to the Subdivision Plans which have been approved by the Yarmouth Director of Planning and Development shall not be treated as an amendment hereof and shall not require further consent of the Town of Yarmouth.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the day and year first above written.

BY: Two Towns Property LLC
Edward Libby, Manager of Two Towns Property LLC

-

Witness

BY: TOWN OF YARMOUTH, MAINE
Nathaniel J. Tupper
Its Town Manager

Witness

Attachment 1

Affordable Deed Covenants

Workforce Rental Unit Restrictions:

1. The rental expense is affordable to a household earning up to 100% of HUD Area Median Income (AMI).
2. The percentage of income a household is charged in rent and other housing expenses cannot exceed 30% of a household's annual gross income.
3. Utilities paid for by the tenant are included in the rent calculation. Utilities include electricity, heat, hot water, cooking energy, sewer, water, and trash collection.
4. The household meets, and continues to meet, the income qualifications published by HUD for the Portland HMFA.
5. The workforce unit will be the household's primary residence.
6. The household may not own residential real estate.
7. The Unit may not be rented out for short or long-term periods to other households.
8. The rent payment is based on the minimum household size per bedroom count. For example, the minimum household size for a one-bedroom unit is one person; a two-bedroom unit is two people; a three-bedroom unit is three people; etc. The maximum household size for occupancy is 2 persons per bedroom.

Area Median Income, commonly referred to as AMI, is a measure of income set by the U.S. Department of Housing and Urban Development (HUD) for the Portland Metro Fair Market Area (Portland HMFA). AMI is the benchmark used for determining income eligibility for rental or purchase. AMI is adjusted by HUD.

Homeownership Unit Restriction:

1. The purchaser must be **income eligible**, and the home price must be **purchase price eligible**, for Maine Housing's First Home Loan Program based on the current guidelines at the time.



Edward Libby
Two Towns Property LLC
374 Route One
Yarmouth, ME 04096

November 12, 2020

VIA ELECTRONIC MAIL

Alex Jaegerman, FAICP
Director of Planning &
Development Town of Yarmouth
200 Main Street
Yarmouth, ME 04096

Re: Request for Contract Zone for Lot at 538 Portland Street

Dear Mr. Jaegerman:

Enclosed please find the following information provided in support of my request for a contract zone at my lot at 538 Portland Street in Yarmouth pursuant to Chapter 701, Article IV, Section V of the zoning ordinance:

1. GIS map showing the zoning and location of the existing lot at 538 Portland Street – Yarmouth Tax Map 30 Lot 14, and Cumberland Tax Map R2 Lot 44;
2. A Google Earth map showing the area in the immediate vicinity of the proposed contract zone;
3. Excerpts from the 2010 Comprehensive Plan indicating that the requested contract zone is not only compatible with the Comprehensive Plan, but specifically recommended as a way to accomplish affordable housing;
4. A site plan showing the proposed location of a house on the new lot created by dividing the existing lot at 538 Portland Street;
5. Deed establishing title to the property;
6. Information about workforce housing, income, and pricing guidelines; and
7. Copy of current zoning regulations pertaining to the property.

The principal purpose for requesting this contract zone is to provide much needed housing in Yarmouth that is affordable to regular working people, so called “workforce housing”. Yarmouth is in an affordability crisis. The recent spike in housing demand due the Covid-19 pandemic has only compounded the problem. The affordable restriction would be in the deed and follow Maine Housing and City of Portland “Workforce Housing” guidelines for income and pricing. I have been in discussion with Yarmouth Senior/Affordable Housing to assist in implementation and stewardship of the deed restriction.

I have lived and worked in Yarmouth since 1996. My children were raised here and attended Yarmouth schools. In that time, Yarmouth has become increasingly out of reach for many, even those making what would seem like a decent income. Price increases have far outpaced income gains, making Yarmouth one of the most unaffordable towns in Maine. I have personally adjusted rental rates down to allow Clipper alumni now teaching at their alma mater to live here rather than commuting from “more affordable towns”. Adding “workforce” priced housing options like this will allow kids that grew up here to return to live and work. It can provide older folks who live here and wish to stay, a way to downsize into something more affordable in their retirement years. Basically, it can provide an opportunity for a more diverse population of people to choose Yarmouth, and all it has to offer, as their home.

Our Comprehensive Plan suggests multiple strategies to diversify housing options, but we have been remiss in translating those strategies into policies (p. 84 of Comp Plan). The lack of such policies is contributing to the current crisis. While this project is limited in its impact, it is a step in the right direction, and perhaps it will bring this crisis into focus for the Planning Board and Town Council. We have had efforts to preserve our buildings underway for years, perhaps the moment has come to shift some of that focus toward preserving our people, and our heritage, as a diverse and inclusive community. In the past 10 years, despite the boom in new home construction, we have not added a single affordable home to our housing stock. I ask, is our collective latchstring really out?

As noted above, the proposed contract zone is consistent with, and advances, the purposes and specific goals of the Comprehensive Plan. Affordable housing and diversity of population, along with allowing higher density, are all included in the Executive Summary (p.4-6). A key recommendation of the 2010 Comprehensive Plan is to allow higher density housing, including in the area of 538 Portland St. Policy C suggests providing “affordable” units as a trade-off for allowing higher density (p.23). “Diversity of Population” is a Core Concept of the Comp Plan as seen on page 46, and suggested policies and strategies specified on pages 25-28.

Aside from the requisite lot size and road frontage in the current zone (MDR), the proposed house on the newly-created lot will meet all requirements of the zoning district including front, rear and side yard setbacks. The proposed use is consistent with existing and permitted uses within the MDR. The current lot at 538 Portland Street is approximately 0.54 acres. The proposed division of the lot will result in two lots of approximately 0.25 acres each. The existing lot contains no wetlands, significant wildlife habitat, or easements.

The proposed building will be compatible with the character of the existing neighborhood, which is a mix of period homes and post war construction on the edge of the MDR district, with the 6-lot Astilbe Lane subdivision being a modern addition. The lot actually straddles the Cumberland town line near the intersection of West Elm and Portland. By way of the embedded “workforce” pricing restraints, the house is anticipated to be in the range of 1000-1300 SF. The existing house on the lot is just under 1000 SF and serves as a rental. My initial thought is that the additional home would be rented as well. It is worth noting that the house location is visually screened by vegetation and somewhat distant from the three residential neighbors, so no negative impact on adjacent properties is anticipated. The adjacent use on

Portland Street is a garage used for storage by Maine Line Fence, whose commercial operations are located across the street. The proposed building will utilize existing public infrastructure available at the street.

A check in the amount of \$250 will be dropped off with hard copies at the Town Office.

In summary, this application is for a use that: (1) is permitted within the zoning district; (2) meets, with the exception of lot size and road frontage, all other conditions and requirements contained in the existing Zoning Ordinance; (3) achieves specific purposes and explicit policy goals of the Comprehensive Plan; and 4) thereby advances the Public Good.

Sincerely,

Ed Libby

Attachments

1. Workforce Housing summary
2. Workforce Rent Guideline
3. Workforce Purchase Guideline
4. Portland Area Income Guideline
5. 2019 Affordability Index
6. Excerpt from 2010 Comprehensive Plan
7. Excerpt from 2010 Comprehensive Plan
8. Excerpt from 2010 Comprehensive Plan
9. Excerpt from 2010 Comprehensive Plan
10. Excerpt from 2010 Comprehensive Plan
11. Deed
12. MDR Specifications
13. Cumberland Setbacks
14. Aerial Photo 2012
15. Site plan
16. Zoning Map

What Is Workforce Housing?

Workforce Rental Unit:

Is housing that is affordable to a household earning up to 100% of HUD Area Median Income (AMI). Annual rent increases for that unit are limited by deed restriction, or lease agreements.

Workforce Homeownership Unit:

Is housing for which the purchase price is affordable to a household earning up to 120% of Area Median Income (AMI). The resale price is limited by deed restriction for all future sales of the home.

Affordable:

Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including insurance, HOA fees, taxes, and utilities), does not exceed 30% of a household's gross income.

Area Median Income:

Commonly referred to as "AMI", the AMI is a measure of income set by the U.S. Department of Housing and Urban Development (HUD) for all cities across the country. It is the benchmark used for determining income eligibility.

Portland Area Maximum Rent for Workforce Housing

Utilities paid for by the tenant are included in the rent calculation. Utilities would include electricity, heat, hot water, cooking energy, sewer, water, and trash collection

AMI	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom	Five Bedroom
100%	\$1,766	\$2,018	\$2,270	\$2,523	\$2,724

Income & Purchase Price Limits

First Home Loan, Salute ME & Salute Home Again Programs

Most Maine homebuyers are income eligible. [See if you are income eligible.](#) | Most Maine homes are purchase price eligible. [See eligible home purchase prices in your area.](#)

Income Limits

Income limits vary depending on how many people live in your household and on the county where you'd like to buy your home. Limits are subject to change.

Effective Date: May 22, 2020

Area	Household Size	
	1-2 person	3 or more
Portland HMFA		
Cumberland County: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth York County: Buxton, Hollis, Limington, Old Orchard Beach	\$100,300	\$115,340
York/Kittery/So. Berwick HMFA		
Berwick, Eliot, Kittery, So. Berwick, York	\$100,700	\$115,805
Other Areas		
Cumberland County (excluding HMFA)	\$78,100	\$89,800
Sagadahoc County	\$78,500	\$90,275
York County (excluding HMFA)	\$79,000	\$90,850
All Other Counties	\$76,600	\$88,090

Purchase Price Limits

New and existing single-family homes, owner-occupied two to four unit apartment buildings, and condominiums are all eligible. So are mobile homes located on owned land and built within the last 20 years. See the chart below to find out if the price of the house you want meets MaineHousing guidelines.

Purchase Price Limits establish maximum eligibility guidelines, not the price of the home you can afford. Your individual financial situation will determine the mortgage amount you can actually borrow. For more information, contact a MaineHousing [Participating Lender](#). Purchase Price Limits are subject to change.

If you are using the Mobile Home Self-Insured Option, the Purchase Price Limit for a single-wide and double-wide mobile homes on owned or leased land is \$175,000 for all areas.

Effective Date: May 22, 2020

Area	Household Size			
	1-Unit	2-Unit	3-Unit	4-Unit
Portland HMFA				
Cumberland County: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth York County: Buxton, Hollis, Limington, Old Orchard Beach	\$325,760	\$417,000	\$504,060	\$626,470
York/Kittery/So. Berwick HMFA				
Berwick, Eliot, Kittery, So. Berwick, York	\$325,760	\$417,000	\$504,060	\$626,470
Other Areas				
Cumberland County (excluding HMFA)	\$325,760	\$417,000	\$504,060	\$626,470
Sagadahoc County	\$325,760	\$417,000	\$504,060	\$626,470
York County (excluding HMFA)	\$325,760	\$417,000	\$504,060	\$626,470

2020 INCOME LIMITS - PORTLAND HUD METRO FMR AREA

HOUSEHOLD SIZE

AMI	1	2	3	4	5	6
100%	\$70,630	\$80,720	\$90,810	\$100,900	108,972	\$117,044
120%	\$84,756	\$96,864	\$108,972	\$121,080	\$130,767	\$140,453



Housing Facts and Affordability Index

Cumberland County - 2019

Homeownership Affordability Index

	<u>Year</u>	<u>Index</u>	<u>Median Home Price¹</u>	<u>Median Income²</u>	<u>Income Needed to Afford Median Home Price</u>	<u>Home Price Affordable to Median Income</u>
Cumberland County	2015	0.89	\$241,000	\$60,474	\$67,919	\$214,584
	2016	0.81	\$256,000	\$59,748	\$73,365	\$208,484
	2017	0.82	\$282,000	\$66,656	\$81,616	\$230,310
	2018	0.77	\$303,000	\$70,437	\$91,909	\$232,211
	2019	0.79	\$322,500	\$75,285	\$94,943	\$255,728
Portland		0.56	\$326,000	\$56,103	\$100,901	\$181,262
Yarmouth		0.64	\$518,000	\$98,106	\$154,024	\$329,941
South Portland		0.72	\$315,000	\$68,297	\$94,608	\$227,396
Falmouth		0.73	\$550,000	\$116,959	\$160,514	\$400,759
Cape Elizabeth		0.73	\$535,000	\$116,614	\$159,996	\$389,938
Harpswell		0.74	\$435,000	\$83,796	\$112,721	\$323,375
Harrison		0.74	\$254,175	\$52,838	\$71,040	\$189,051
Westbrook		0.76	\$265,750	\$61,120	\$80,652	\$201,393
Scarborough		0.79	\$413,200	\$95,776	\$121,874	\$324,719
Cumberland County		0.79	\$322,500	\$75,285	\$94,943	\$255,728
Brunswick		0.80	\$289,000	\$69,772	\$87,181	\$231,290
Freeport		0.80	\$387,000	\$89,978	\$112,017	\$310,858
Casco		0.84	\$235,000	\$57,595	\$68,248	\$198,319
Gray		0.85	\$290,000	\$73,099	\$86,168	\$246,017
Pownal		0.89	\$350,000	\$92,568	\$104,183	\$310,980
Gorham		0.89	\$319,900	\$84,713	\$95,052	\$285,105
Raymond		0.90	\$319,000	\$80,270	\$89,316	\$286,692
Maine		0.90	\$225,000	\$59,575	\$66,044	\$202,959
Sebago		0.93	\$229,000	\$61,295	\$65,708	\$213,621
Naples		0.93	\$235,950	\$62,458	\$66,948	\$220,127
Bridgton		0.93	\$210,000	\$57,071	\$61,162	\$195,952
Cumberland		0.94	\$478,000	\$136,009	\$144,930	\$448,577
Windham		0.94	\$280,000	\$77,765	\$82,526	\$263,846
New Gloucester		0.98	\$260,000	\$74,651	\$75,861	\$255,854
North Yarmouth		1.04	\$369,900	\$113,136	\$108,812	\$384,600
Standish		1.06	\$255,000	\$76,588	\$72,262	\$270,267
Baldwin		1.13	\$183,650	\$59,524	\$52,603	\$207,813

The Homeownership Affordability Index is the ratio of Home Price Affordable at Median Income to Median Home Price. An index of less than 1 means the area is generally unaffordable - i.e., a household earning area median income could not cover the payment on a median priced home (30 year mortgage, taxes and insurance) using no more than 28% of gross income.

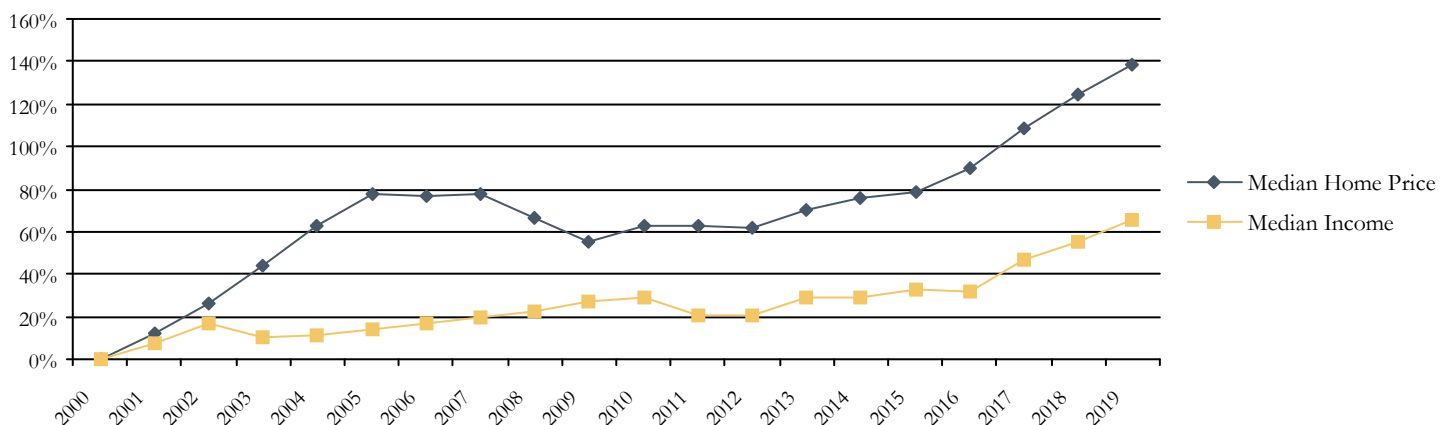
Households Unable to Afford Median Home

<u>Location</u>	<u>Households Unable to Afford Median Home</u>		<u>Total Households</u>	<u>Median Home Price</u> ¹	<u>Income Needed to Afford Median Home</u>	
	<u>Percent</u>	<u>Number</u>			<u>Annual</u>	<u>Hourly</u>
Portland	73.8%	23,457	31,800	\$326,000	\$100,901	\$48.51
South Portland	68.5%	7,844	11,447	\$315,000	\$94,608	\$45.48
Sebang	68.2%	576	845	\$229,000	\$65,708	\$31.59
Harrison	66.7%	812	1,218	\$254,175	\$71,040	\$34.15
Cumberland County	64.8%	80,855	124,872	\$322,500	\$94,943	\$45.65
Westbrook	62.8%	5,145	8,195	\$265,750	\$80,652	\$38.77
Maine	62.2%	354,985	570,917	\$225,000	\$66,044	\$31.75
Harpwell	60.4%	1,421	2,352	\$435,000	\$112,721	\$54.19
Brunswick	60.4%	5,410	8,960	\$289,000	\$87,181	\$41.91
Gorham	60.1%	3,771	6,275	\$319,900	\$95,052	\$45.70
Casco	60.0%	988	1,646	\$235,000	\$68,248	\$32.81
Naples	59.0%	970	1,644	\$235,950	\$66,948	\$32.19
Gray	58.9%	2,067	3,510	\$290,000	\$86,168	\$41.43
Raymond	55.6%	1,035	1,863	\$319,000	\$89,316	\$42.94
Pownal	55.5%	335	604	\$350,000	\$104,183	\$50.09
Freeport	55.3%	1,929	3,490	\$387,000	\$112,017	\$53.85
Windham	53.3%	3,665	6,871	\$280,000	\$82,526	\$39.68
Bridgton	53.3%	1,311	2,460	\$210,000	\$61,162	\$29.40
Scarborough	52.2%	4,293	8,220	\$413,200	\$121,874	\$58.59
Yarmouth	51.0%	1,860	3,650	\$518,000	\$154,024	\$74.05
New Gloucester	50.8%	1,127	2,217	\$260,000	\$75,861	\$36.47
Standish	49.1%	1,857	3,785	\$255,000	\$72,262	\$34.74
Baldwin	44.5%	282	634	\$183,650	\$52,603	\$25.29
North Yarmouth	43.3%	604	1,394	\$369,900	\$108,812	\$52.31
Falmouth	42.8%	2,016	4,709	\$550,000	\$160,514	\$77.17
Cape Elizabeth	41.5%	1,545	3,724	\$535,000	\$159,996	\$76.92
Cumberland	34.3%	1,044	3,044	\$478,000	\$144,930	\$69.68

Unattainable Homes as a Percentage of Homes Sold

<u>Location</u>	<u>Percentage of Unattainable Homes</u>	<u>Affordable Homes Sold</u>	<u>Unattainable Homes Sold</u>
Portland	98.3%	10	586
Westbrook	91.4%	18	191
South Portland	89.5%	31	263
Yarmouth	84.8%	20	112
Scarborough	75.6%	86	266
Falmouth	72.8%	46	123
Cumberland County	72.3%	1,145	2,995
Brunswick	71.7%	65	165
Harpswell	71.3%	39	97
Freeport	70.4%	32	76
Cape Elizabeth	67.1%	49	100
Harrison	66.7%	20	40
Gray	64.6%	40	73
Casco	63.5%	35	61
Pownal	63.2%	7	12
Gorham	61.5%	106	169
Sebago	61.4%	22	35
Windham	61.1%	119	187
New Gloucester	57.9%	24	33
Cumberland	57.7%	63	86
Bridgton	57.2%	68	91
Maine	56.3%	8,015	10,321
Naples	53.6%	51	59
Raymond	51.7%	43	46
North Yarmouth	50.0%	32	32
Standish	44.2%	91	72
Baldwin	30.0%	14	6

Relative Increases in Income and Home Price



Demographics

	% Change <u>1990-2019</u>	<u>1990</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Population	21.3%	243,135	287,512	290,422	292,877	294,757	294,955
Households	32.1%	94,512	120,809	122,266	123,551	124,520	124,872

Endnotes

¹This data is derived from Maine Real Estate Information System ("MREIS") and MREIS reserves all rights including all proprietary rights in the data set forth herein and any use or publication of this data or any portion thereof without the express written consent of MREIS is prohibited. Any reproduction, sale or exchange of this data, in whole or in part, is likewise prohibited. All rights to the data remain the exclusive property of MREIS to the extent owned by MREIS.

²Source: Claritas Current Year Household Income

³The Y axis is an index defined as the ratio of the annual value to the year 2000 value.

EXECUTIVE SUMMARY

The Town of Yarmouth, Maine is a wonderful coastal community, rich with historical architecture, walkable neighborhoods, a scenic coastline and river, and high quality municipal and educational services. The Town has historically played an active role in managing its growth and development. The Town’s 1993 Comprehensive Plan charted a course for the future of the community, and many of its recommendations have been addressed.

After four years of diligent volunteerism and community outreach, the Comprehensive Plan Steering Committee (CPSC) is proud to release the new 2010 Comprehensive Plan. The recommendations of the 2010 Plan build on many of the basic policy directions of the 1993 Plan, and in many cases address emerging issues and provides a fresh look at ongoing issues. Based upon the values expressed by Yarmouth’s citizens as gathered through a broad citizen participation process, the 2010 Plan focuses on five key interrelated topics facing Yarmouth over the next decade:

- Yarmouth Village
- Diversity of the Population
- Historic Character
- Route One
- Rural Character and Open Space.

An example of an emerging concept explored in the Plan is the recommendation that the Town explore the use of Form-Based Codes as an alternative to the Town’s traditional zoning approach. An abstract of this modern, sustainable regulatory tool is presented beginning on page 76.

The following sections provide an overview of the key recommendations of the 2010 Comprehensive Plan.

A. YARMOUTH VILLAGE

Yarmouth Village is a highly desirable, walkable New England village with a vibrant, mixed-use center along Main Street – a small-town environment and atmosphere highly valued by Yarmouth citizens. What makes the Village “the Village” is a pattern of development characterized by smaller lot sizes, buildings set closer to the street and each other, mixed residential and commercial uses, sidewalks and walkable access to services, and a

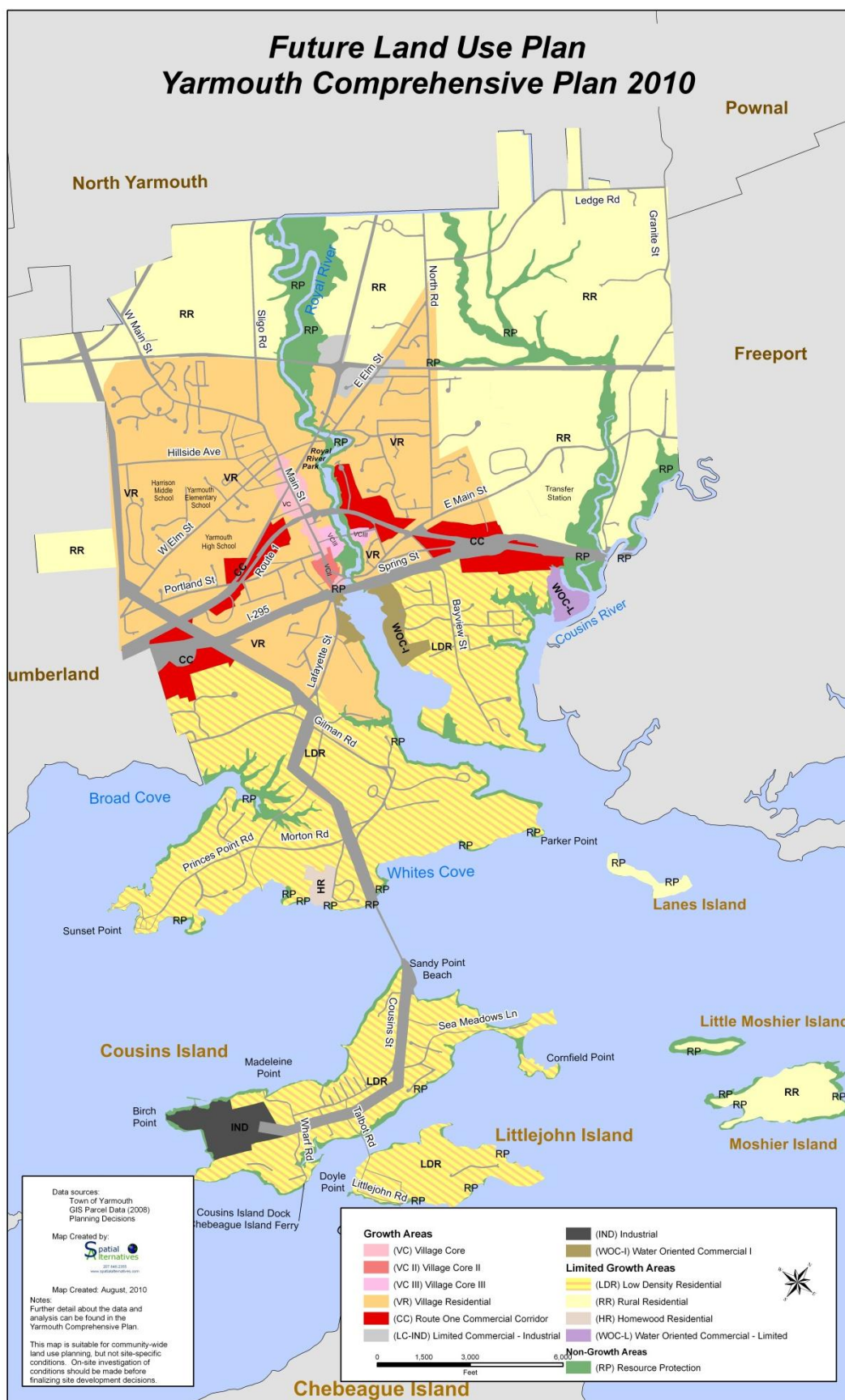
predominance of historic architectural styles. To preserve and encourage this desirable pattern of development, key recommendations include:

- Revising the zoning for the Village Center/Main Street to allow for more non-residential use of buildings while maintaining residential uses.
- Adopting a “renovation code” to allow modifications to older buildings that are appropriate to the age of the building.
- Consider creating an advisory review process for changes to the exterior appearance of designated historic buildings/structures.
- Creating a new Village Residential Zone and amending some or all of the Medium Density Residential Zone to allow higher density housing subject to development standards.
- Improving pedestrian and bicycle facilities.
- Improving the availability and management of parking in the Village Center.

B. DIVERSITY OF THE POPULATION

Historically, Yarmouth has been a town with a diverse population, both economically and demographically. Multiple generations of Yarmouth families live here, as do new residents attracted by our excellent schools and easy access to Portland. Occupations and household income have varied widely as well. But recently, high housing prices are making it difficult for those of medium income to move here, including young families with children. This has resulted in a more economically and demographically homogenous population (older in age, higher in income). Because the community values population diversity and the vitality it brings to our town, the following recommendations are aimed at encouraging the development of more moderately priced housing:

- Maintaining an active affordable housing program to ensure that existing affordable housing remains affordable.
- Creating a local funding mechanism to support both the retention of existing and the creation of new affordable housing including the creation of an “affordable housing fund.”
- Continuing to use contract zoning to allow for the development of new affordable housing on a case-by-case basis
- Actively encourage the development of new housing that is affordable to moderate and lower income households so that at least ten percent of new units are affordable.



This policy supports increasing the allowed density of residential use within the Village but with two important limitations:

- 1) New residential units within the Village (in either new buildings or modifications of existing buildings) be designed and built to be compatible with the character of the village (density, scale, form, and disposition) and minimize impacts on adjacent properties.
- 2) Property owners who take advantage of the opportunity for higher density pay an offset fee to be used by the Town to protect open space, make infrastructure improvements, enhance the village character such as with streetscape improvements, the upgrading of pedestrian and bicycle facilities, or adding pocket parks, or provide for affordable housing by either setting aside units as “affordable housing” or paying an affordable housing offset fee to the Town to be used for maintaining or creating affordable housing (see housing diversity section for additional details).

Strategy C.4.1– Create a new Village Residential (VR) zone out of part of the current Medium Density Residential District. The new VR District should include the older built-up areas of the Village. Figure 1-5 on the following page shows the possible boundaries of the proposed VR area. The final location of the boundaries will need to be determined when this proposal is implemented and will need to take into consideration the ongoing planning process of the Town including the Royal River Corridor Study and the updating of the Town’s Shoreland Zoning. The major objectives in creating this new zone are to reduce the number of existing lots/buildings that are nonconforming in terms of the Town’s zoning requirements and to allow residential uses (including infill development and more flexible use of existing properties) at higher densities than the current one acre per unit requirement of the MDR District. In return for allowing increased density in this area of the Village, the new VR District should include expanded development standards (excluding architectural design standards) to ensure that new buildings or modifications to existing buildings occur in a manner that is compatible with the village character and minimizes impacts on adjacent properties.

Strategy C.5.1 – Develop and implement a plan to provide appropriate pedestrian and bicycle facilities and link the various parts of the Village including the established residential areas in the existing MDR zone.

Strategy C.5.2 – Revise the Town’s development standards to require that new development in the Village be “pedestrian and bicycle friendly” in terms of site layout, pedestrian and bicycle facilities and circulation to/from/within the site.

Policy C.6. Improve the availability and management of parking in the Village Center in a manner that does not detract from the essential character of the surroundings to maintain an attractive, diverse, and vibrant mixed-use area.

Strategy C.6.1 – Conduct a parking study in the Village Center to determine the actual use of existing public and customer parking, identify deficiencies in the supply or management of parking, identify opportunities to encourage alternative transportation and explore ways to improve parking in the Village Center in a way that is compatible with the character of the area.

Strategy C.6.2 – Explore possible approaches for funding parking improvements in the Village Center including the creation of a parking district, the use of impact fees, and similar techniques.

Strategy C.6.3 – Establish reduced parking standards for development or redevelopment in the Village Center if the parking study determines that the actual demand for parking is less than that required by the current parking standards.

D. DIVERSITY OF THE POPULATION

1. BACKGROUND

Historically, Yarmouth was “home” to a wide range of people – young families and elderly residents; people who worked in the community and people who commuted elsewhere; people of relatively modest means and those who were more affluent. The population of Yarmouth is getting older. The number of residents over 45 years of age is projected to increase significantly while those under 45 are projected to decrease. The number of younger households has been decreasing and is projected to continue to decrease. The number of Yarmouth residents between 30 and 44 years old dropped by almost 15% during the 1990s and is projected to drop another 20% by 2015. Similarly, the number of school aged children is projected to drop over 5% between 2000 and 2015.

In 2000, about two-thirds of the housing units in Yarmouth were detached, single-family homes. The balance were in a wide range of multiunit housing types ranging from townhouse style condominium units to small buildings with 2-4 units to larger “apartment complexes.” About 30% of the housing available in 2000 was rental housing. While the number of rental units has remained relatively constant, the share of rental units has been decreasing as the Town grows. This housing stock has provided a diversity of housing options in Yarmouth allowing a range of people to live in our community. However, most new housing over the past 15 years has been more expensive, single-family homes on large lots. This trend coupled with escalating housing values threatens to limit the ability of younger households and households with modest incomes to be able to live in Yarmouth.

Our town has increasingly become a bedroom community in which people commute to work in other locations. In 2000, less than 23% of employed Yarmouth residents reported working in town, down from almost 30% in 1980. During the preparation of this revision of the Comprehensive Plan, the issue of economic and age diversity was raised in many different ways. There was concern about how the aging population would change the needs for community services. A potential decline in the number of children raised issues about maintaining the quality of the school system. The ability of younger families to “buy-in” to Yarmouth came up in many ways. Maintaining our community as a place where a variety of people can live emerged as a major issue in the face of escalating real estate values and housing costs.

2. VISION

Yarmouth will continue to be a community with a diverse population: young families with children, middle-aged couples, elderly residents, younger renters ranging from those with modest incomes to affluent households. To accommodate this population diversity, a wide range of housing choices will continue to be available in our community including housing that is affordable to households with modest income and a variety of rental housing. To help maintain an economically diverse population, at least 20% of newly created housing units will be units that are in housing other than single-family homes or that are affordable to households with

modest incomes. These new units include accessory dwelling units added to existing homes, small infill buildings in the Village, new



affordable housing projects, and other creative approaches.

3. POLICIES AND STRATEGIES

Maintaining a diverse population living in a diverse housing stock will require that the Town actively work to achieve this vision. This section lays out the Town's policies with respect to fostering a diverse community and identifies actions the Town will need to take to implement those policies.

Policy D.1. Maintain an active community program to ensure that existing affordable housing remains affordable and to expand the supply of affordable housing in the community.

Strategy D.1.1 – Continue to support community groups including Yarmouth Senior Housing, Inc. and the Yarmouth Affordable Housing Committee that are working to provide affordable housing to meet the needs of the community.

Policy D.2. Create a local funding mechanism to support both the retention of existing affordable housing and the creation of new affordable housing.

Strategy D.2.1 – Create an “Affordable Housing Fund” that would be used to maintain the affordability of existing affordable housing and to support efforts to create new affordable housing including the purchase of land and the provision of infrastructure to serve new projects that create affordable housing.

Strategy D.2.2 – Seek funding from state and federal programs, foundations, and other sources to provide additional funds to support the maintenance of existing affordable housing and the creation of new affordable housing.

Strategy D.2.3 – Encourage the use of affordable housing tax credit programs and affordable housing TIFs (Tax Increment Financing) to expand the supply of affordable housing available in Yarmouth.

Policy D.3. Expand the range of new housing that can be created in the community.

Strategy D.3.1 – Create a new Village Residential District (VR) that allows higher density development.

Strategy D.3.2 – Consider incorporating the Medium Density Residential District into the new “Village Residential” District.

Policy D.4. Actively encourage the development of new housing that is affordable to moderate and lower income households so that at least ten percent of new units are affordable.

Strategy D.4.1 – Utilize contract zoning to allow for the development of new affordable housing on a case-by-case basis.

Strategy D.4.2 – Assist community housing groups or private developers obtain grants or other outside funding to support the development of new affordable housing in the community.

Strategy D.4.3 – Change zoning regulations to provide incentives to encourage all new residential developments of ten or more units to include a minimum of 10% of the units affordable for moderate income persons/families. Alternatively, make other provisions for the creation of an equal amount of affordable housing in another location, or pay an affordable housing offset fee.

Policy D.5. Accommodate the possible development of mobile home parks in a manner that is consistent with state law.

Strategy D.5.1 – Review and revise the location and extent of the Mobile Home Park Overlay District to include the area around the existing mobile home park as well as additional areas that are suitable for this type of development.

Policy D.6. Encourage and support efforts to address affordable and workforce housing needs on a regional basis.

Strategy D.6.1 – Work with area towns and regional organizations in developing a regional plan for providing affordable housing in conjunction with the municipalities, housing organizations, and housing developers.

Policy D.7. Pursue a variety of strategies to assist residents of all ages, incomes, and abilities to be able to remain in their homes and enjoy the benefits of community life.

Strategy D.7.1 – Consider programs such as fuel/energy assistance, making provisions for rental income generating units within existing structures; providing social services and pricing town services that support existing populations with special needs; providing social and governmental services to persons of all incomes and abilities and designing such services to accommodate and help economic, health, disability, mobility, dependent care or other special needs.

C. CORE CONCEPTS OF THE FUTURE LAND USE PLAN

The Future Land Use Plan embodies the following overarching or core concepts with respect to the desired pattern of land use in Yarmouth:

1. Yarmouth has a well-defined, historic pattern of development with a compact, walkable village center surrounded by relatively dense older residential neighborhoods and a rural/coastal hinterland. While development on the fringe of the Village over the past thirty years has somewhat compromised this historic development pattern, future development must be guided and encouraged to emulate the historic pattern.
2. The focus of the Town's development regulations should include the appearance and form of new development as well as its use and impacts on the community. Where practical, the Town should move toward a Form-Based Codes approach that focuses on the design and placement of the building on the site with less emphasis on the specific use of the property (see end of Chapter 3 for an explanation of Form-Based Codes).
3. Yarmouth has traditionally offered a diversity of housing opportunities that resulted in a somewhat diverse population in terms of age and income. That diversity has been threatened by escalating real estate values and the recent pattern of residential development. Creating the opportunity for the development of a wide range of housing types and sizes is essential if Yarmouth is going to remain a community with a somewhat diverse population.
4. Returning to the historic pattern of development and providing a diversity of housing opportunities will require that the Town allow higher density/intensity of use in some areas especially within the Village area (see Figure 1-1, page 15) and area currently zoned MDR. This area must continue to be a vibrant, pedestrian friendly, visually attractive, mixed-use area. The Village Center must include both residential and non-residential uses. New development must reinforce the character of the Village, visually, economically, and culturally.
5. The Village Residential areas adjacent to the Village Center must be maintained as high quality, walkable neighborhoods. Infill development, redevelopment, and use of existing properties that maintain and reinforce the Village character and the historic density of development should be encouraged.
6. The areas immediately outside of the Village Residential area that experienced "lower-density" suburban style residential development should be reclaimed as part of the Village. Within these moderate density areas, more dense development should be allowed as long as it maintains and reinforces the Village character. Areas west of the

IMPLEMENTATION STRATEGY

Policy Reference	Description of Activity	Primary Responsibility	Primary Support Organization	Time to Implement	Form-Based Codes
Ch1-C.6.1	Village Center Parking Study	Planning Director	BPSC	Medium	
Ch1-C.6.2	Village Center Parking Improvements	Planning Director	Town Engineer	Medium	
Ch1-C.6.3	Zoning: Reduced Parking Standards (Village)	Planning Director	Planning Board	Short (Done)	X
Diversity of Population					
Ch1-D.1.1	Support Affordable Housing Advocates	Town Manager	YAHl	Ongoing	
Ch1-D.2.1	Create Affordable Housing Fund	Town Manager	YAHl	Short	
Ch1-D.2.2	Seek Funding for Affordable Housing	YAHl		Ongoing	
Ch1-D.2.3	Encourage Tax Credit and TIF Programs	Town Manager	YAHl	Medium	
Ch1-D.3.1	Zoning: New Village Residential (VR)	Planning Director	Planning Board	Short	X
Ch1-D.3.2	Zoning: MDR into New Village Residential (VR)	Planning Director	Planning Board	Short	X
Ch1-D.4.1	Contract Zoning: New Affordable Housing	Town Manager	Town Council	Ongoing	
Ch1-D.4.2	Assist/Support New Affordable Housing	Town Manager	Town Council	Ongoing	
Ch1-D.4.3	Zoning: Inclusionary Housing	Planning Director	Planning Board	Short	X
Ch1-D.5.1	Zoning: Mobile Home Park Overlay	Planning Director	Planning Board	Short	X
Ch1-D.6.1	Regional Affordable Housing Plan	Town Manager	Planning Director	Long	

WARRANTY DEED
Maine Statutory Short Form

KNOW ALL BY THESE PRESENTS, that we, **Thomas C. Gregor, Jr.** of Yarmouth, Maine, **Ronald Gregor** of North Yarmouth, Maine and **William E. Gregor**, of Eliot, Maine, for consideration paid, grant to:

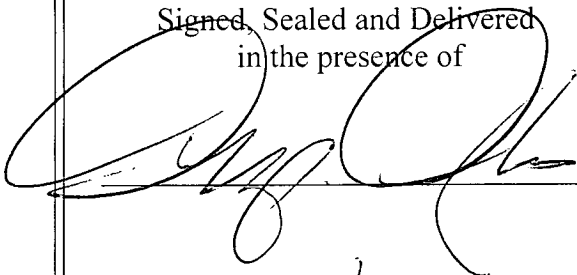
Two Towns Property, LLC

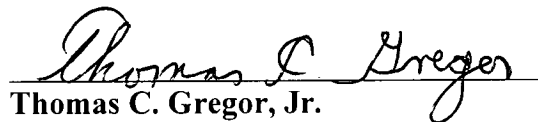
a limited liability company organized and existing under the laws of the State of, Maine and having a place of business at: 374 Route 1, Yarmouth, Maine 04096, with **warranty covenants**, the real estate situated in Yarmouth, County of Cumberland, and State of Maine, described as follows:

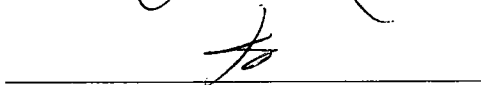
A certain lot or parcel of land, together with any buildings and improvements thereon, situated in the Town of Yarmouth, County of Cumberland, and State of Maine being more particularly described in Exhibit A attached hereto and made a part hereof.

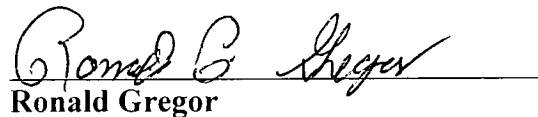
Witness our hands and seals this 15th day of July, 2016.

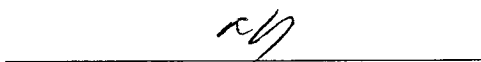
Signed, Sealed and Delivered
in the presence of

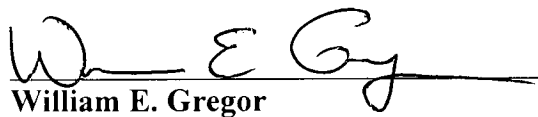



Thomas C. Gregor, Jr.




Ronald Gregor




William E. Gregor

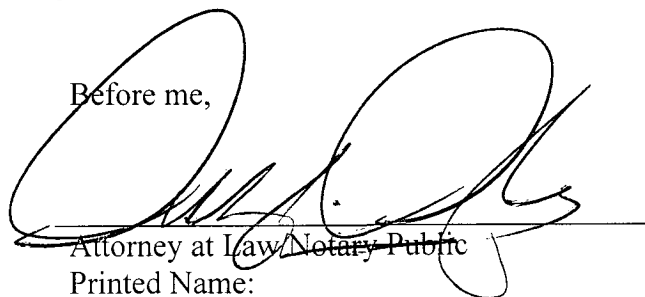
MAINE REAL ESTATE TAX PAID

State of Maine
County of Cumberland

July 15, 2016

Then personally appeared before me the above named Thomas C. Gregor, Jr., Ronald Gregor, and William E. Gregor and acknowledged the foregoing instrument to be their free act and deed.

Before me,

A large, stylized handwritten signature in black ink, appearing to read 'Donnelly S. Douglas', is written over a horizontal line. Below the line, the text 'Attorney at Law/Notary Public' and 'Printed Name:' are visible.

Attorney at Law/Notary Public
Printed Name:

DONNELLY S. DOUGLAS
Maine Attorney at Law
Maine Bar No. 147

EXHIBIT A

A certain lot or parcel of land, together with the buildings and improvements thereon, situated on the southeasterly side of Portland Street, so-called, in the Town of Yarmouth and the southeasterly side of Middle Road, so-called, in the Town of Cumberland, County of Cumberland, and the State of Maine, being more particularly bounded and described as follows;

Beginning at a point, being a found 5/8" iron rod & cap, marked "Palmiter PLS 1057", at the assumed southwesterly sideline of Astilbe Lane, so-called, and being at the northerly corner of land now or formerly of John R. Veilleux and Lisa J. Veilleux, as described in the deed recorded in the Cumberland County Registry of Deeds in Book 20822, Page 222, being Lot 1 as shown on the plan of "Astilbe Lane Subdivision Yarmouth, ME for J/Max, LLC", dated October 5, 2000, by John D. Palmiter, PLS 1057, and recorded in said Registry in Plan Book 200, Page 468;

Thence N 38°44'18" W, along said Astilbe Lane, 155.66 feet, to a set iron rod & cap, and the assumed southeasterly sideline of Portland Street, so-called;

Thence S 28°08'35" W, along said Portland Street, and then along Middle Road, so-called, after crossing the town line into Cumberland, 127.51 feet, to a solid iron rod as shown on the "Standard Boundary Survey of the George D'alessandro Sr. Family Farm", dated December 30, 1992 by Reginald Parker, PLS 1154, recorded in said Registry in Plan Book 193, Page 173;

Thence S 24°08'19" W, along said Middle Road, 40.00 feet, to a set iron rod & cap, and land now or formerly of Main Line Fence Company, as described in the deed recorded in said Registry in Book 4709, Page 226;

Thence S 38°43'28" E, along said Main Line Fence Company, 131.94 feet, to a set ¾" iron rod & cap, and said land of Veilleux;

Thence N 24°40'57" E, along said Veilleux, 39.69 feet, to a found 5/8" iron rod;

Thence S 39°39'30" E, along said Veilleux, 33.81 feet, to a set iron rod & cap above a found 1" solid iron pin, 1.9 feet below ground;

Thence N 23°50'25" E, along said Veilleux and crossing back into the Town of Yarmouth, 131.65 feet, to the point of beginning;

Containing 0.5415 acres, or 23,587 square feet, more or less.

All said "set iron rod & cap"(s) are 5/8" rebar with a 2" diameter aluminum cap marked "SET BY ROBERT A YARUMIAN PLS 1303 LAND SURVEY MONUMENT", unless noted as ¾".

The Basis of Bearing for this description is GRID NORTH based on the Maine State Coordinate System West Zone, NAD 83 (CORS96) Epoch 2002, determined by using GPS (Global Positioning System) observation using a Sokkia Stratus GPS receiver at a base point, being a standard disk stamped "TRUNK" set in a drill hole in ledge that is 1 foot below the ground on the southeasterly

side of Interstate 295 at a coordinate of NORTH 345,123.184, EAST 2,945,173.723. A tie line for mathematical purposes from the base point to the found 5/8" iron rod & cap at the at the point of beginning of the parcel described herein above, at a coordinate of NORTH 346,459.7313, EAST 2,944,631.3405, is N 22°05'15.9" W and 1,442.407 feet. The observed 2016 Magnetic Meridian, determined by hand compass, was found to be 15°30'± west of GRID NORTH.

This description is based on the "Boundary Survey Map for Two Towns Property LLC" dated July 7, 2016, by Robert A. Yarumian II, PLS 1303 of Maine Boundary Consultants, Moderation Center, 8 River Road, P.O. Box 67, Buxton, Maine, 04093, and conforms to the Maine Board of Licensure for Professional Land Surveyors, Rules, of April 2001, Chapter 90, Standards of Practice, to be recorded herewith.

Meaning and intending to describe the premises as described in the deed of John C. Gregor to Thomas C. Gregor, Jr., Sheila M. Gregor and Ronald Gregor, dated December 2, 1979, and recorded in the Cumberland County Registry of Deeds in Book 3947, Page 62.

The said Sheila M. Gregor deceased on July 3, 2003. Further reference is made to the Will of Sheila M. Leblanc, formerly known as Sheila M. Gregor, which Will has been admitted in the Cumberland County Probate Court under the provisions of Title 18-A Maine Revised Statutes Section 3-102 as evidence of the devise of the interest of the said Sheila M. Leblanc in the above-described premises to William E. Gregor. No court proceeding concerning the succession or administration of the Estate of Sheila M. Leblanc has occurred, and William E. Gregor, the devisee under her Will, has possessed the property devised in accordance with the provisions of the said Will as co-tenant with the said Thomas C. Gregor, Jr. and Ronald Gregor.

Received
Recorded Register of Deeds
Jul 20, 2016 10:31:04A
Cumberland County
Nancy A. Lane

H. "MDR" – MEDIUM DENSITY RESIDENTIAL

The medium density residential district is expected to provide public sewer and water in all areas of the district. The purpose of this District is to provide a wholesome living environment readily accessible to the Town center.

Permitted Uses:

Single Family Detached Dwelling	Multiplex
Two Family Detached Dwelling	Storage Buildings
Cluster Development (see Article II.M)	Churches
Accessory Uses and Buildings	Family Day Care Home
Farm Animals for Personal Use on lots of two Acres or more	
Manufactured Housing	Essential Services
Municipal Uses and Buildings	Home Occupations
Antenna array on Alternative Tower Structure, except no microwave dish antennas are permitted	
Wireless communication facility (see Article II.Z & Ch. 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted	
Accessory Dwelling Units	

Special Exception

Public Utilities	Funeral Homes
Hospitals	Schools
Private Clubs	Group Day Care Home
Day Care Facility within Churches and Community Buildings (require site plan review)	
Conversion of a residential Structure, in existence prior to March 12, 1973, to a Two-family Detached Dwelling. No conversion shall result in a total of more than two (2) dwelling units per lot.	
Farm Animals for Personal Use on Lots of less than two (2) Acres.	
Expansion of existing Commercial Greenhouse to no more than 30% of the floor area in existence at the date of this Ordinance	

Medium Density Residential Minimum Dimensional Requirements ^d (May be modified in accordance with the Ordinance)

	Single Family and other uses	Two Family Detached	Multiplex
Area	1 Acres	2 Acres	10
Acres/unit ^a			1
Lot Width ^c	130 feet	130 feet	
Front Yard	15 feet	15 feet	
Side Yard	10 feet	10 feet	
Rear Yard	15 feet	15 feet	

a- must be served by sewer

b- width must be maintained from the front lot line to the minimum front yard set back

Cumberland Zoning District Requirements

Note: Sheds & driveways have 15' setbacks for rear and side in RR1, RR2, MDR, LDR, VMDR, IR
Note: See Contract Zones on page 2 for setback requirements

Zoning District	District Description	Minimum Lot Size	Lot Size Per Unit	Lot Frontage	Front Setback	Rear Setback	Side Setback	Combined Setback
RR1	Rural Residential	4 Ac. **(2 Ac)	2.5 Ac **(1 Ac)	200'	50'	75'	30'	75'
RR2	Rural Residential	2 Ac	1.25 Ac **(1Ac)	200'	50'	75'	30'	75'
MDR *	Medium Density Residential	2 Ac **(1Ac)	.5 Ac (sewer)	150'	35'	50'	20'	50'
LDR *	Low Density Residential	2 Ac ** (1.5 Ac)	1.25 Ac **(.75 Ac)	150'	50'	65'	30'	65'
VMDR	Village Medium Density Residential	20,000 Sq. Ft.	20,000 Sq. Ft.	100'	25'	25'	15'	35'
IR	Island Residential	1.5 Ac	.94 Ac.	150'	55'	65'	30'	65'
HC	Highway Commercial	40,000 Sq. Ft.	N/A	150'	50'	65'	30'	65'
OC - N	Office Commercial	1 Ac.	20,000 Sq. Ft.	150'	25'	65'	20'	N/A
OC-S	Office Commercial	1 Ac.	N/A	150'	25'	65'	20'	N/A
VCC	Village Center Commercial	20,000 Sq. Ft.	N/A	75'	45'	50'	15'	N/A
VOCI	Village Office Commercial I	40,000 Sq. Ft.	N/A	75'	50'	50'	20'	N/A
VOCH	Village Office Commercial II	40,000 Sq. Ft.	N/A	75'	50'	65'	20'	N/A
MUZ	Mixed Use Zone	30,000 Sq. Ft.	N/A	100'	40'	25' *** 50' ***	25'	N/A
VMUZ	Village Mixed Use Zone	5,000 Sq. Ft.	2,500 Sq. Ft.	50'	15'	15'	10'	N/A
TCD	Town Center District	**10,000 Sq. Ft. 20,000 sq. ft.	**5,000 Sq. Ft.	No less than 80' Except U13/109	15'	15	10	N/A
I	Industrial	40,000 Sq. Ft.	N/A	100'	45'	50'	15'****	See Text
RI	Rural Industrial	60,000 Sq. Ft.	40,000 Sq. ft. **20,000 Sq. Ft.	150'	50' (R/H.O) 100' Com	65' 65'	30' 30'	75' 75'

* Setbacks may be reduced (See Overlay Map District 1 or 2) ***Additional buffering may be required
 ** Lot requirement with sewer **** If new non-residential, side setback is 75' – See Zoning Text
 *** Additional buffering may be required - See Zoning Ordinance Text

4/27/2012

538 Portland Aerial

Legend



Google Earth

62

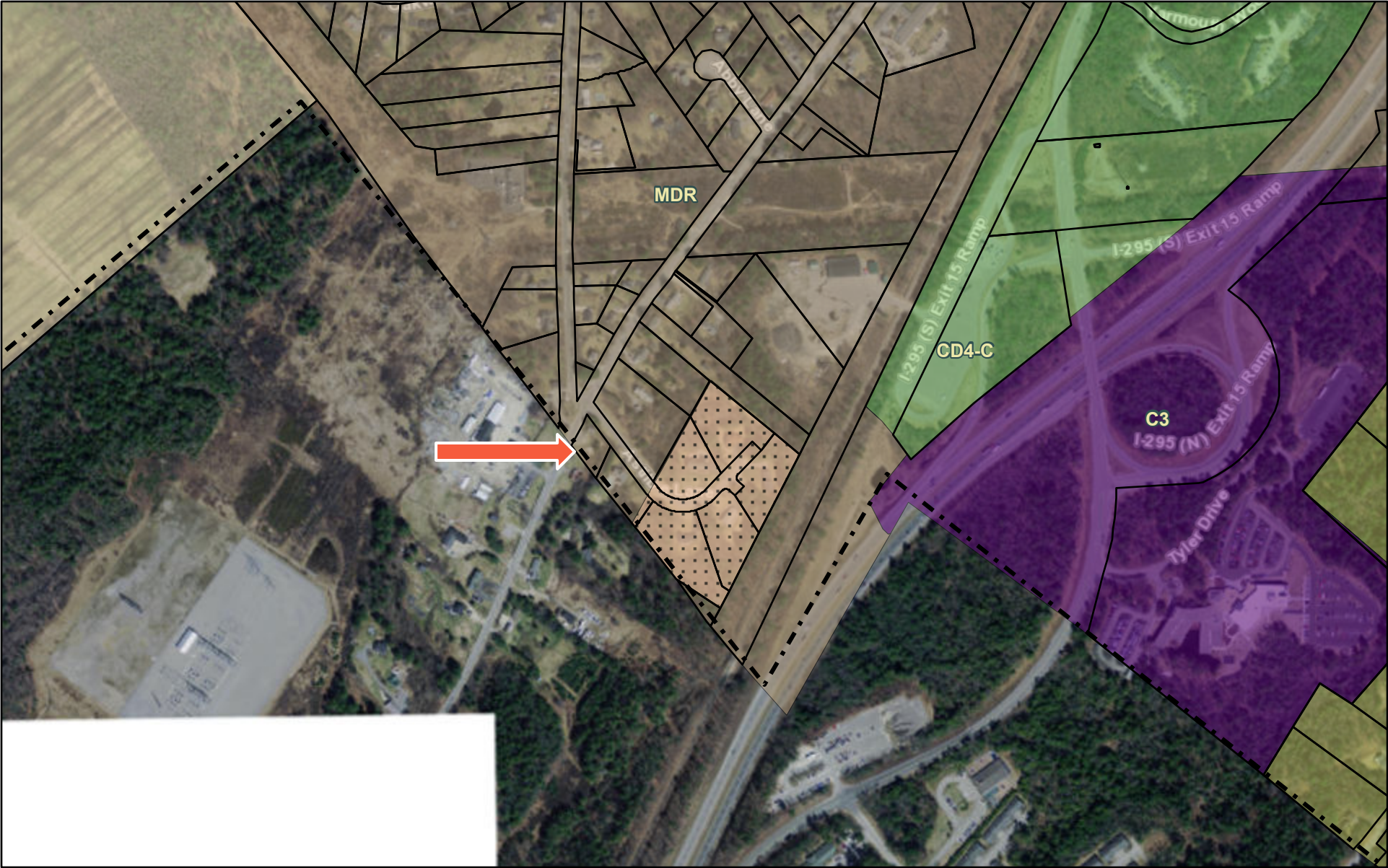
Image © 2018 Maine GeoLibrary



100 ft

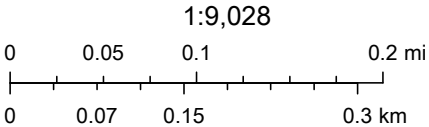


538 Portland St. MDR and Mobile Home Overlay



11/12/2020, 2:00:39 PM

- | | | |
|---------------------------------|-------------------------|----------------------------|
| --- Town Boundary (USGS, MEGIS) | Zoning | Medium Density Residential |
| Parcels | Route 1 Corridor | Rural Residential |
| Mobile Home Overlay District | Low Density Residential | Commercial 3 |



USDA FSA, GeoEye, Maxar, Town of Yarmouth

538 PORTLAND STREET

Location 538 PORTLAND STREET**Mblu** 030/ 014/ / /**Acct#** 002278**Owner** TWO TOWNS PROPERTY LLC**Assessment** \$177,700**Appraisal** \$177,700**PID** 2253**Building Count** 1

Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$58,300	\$119,400	\$177,700
Assessment			
Valuation Year	Improvements	Land	Total
2021	\$58,300	\$119,400	\$177,700

Owner of Record

Owner TWO TOWNS PROPERTY LLC**Sale Price** \$170,000**Co-Owner****Certificate****Address** 374 US ROUTE ONE STE 8
YARMOUTH, ME 04096**Book & Page** 33291/ 32**Sale Date** 07/15/2016**Instrument** 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
TWO TOWNS PROPERTY LLC	\$170,000		33291/ 32	00	07/15/2016
GREGOR THOMAS C JR & SHEILA M &	\$0		03947/ 062	1N	

Building Information

Building 1 : Section 1

Year Built:	1945
Living Area:	924
Replacement Cost:	\$97,247
Building Percent Good:	60
Replacement Cost Less Depreciation:	\$58,300

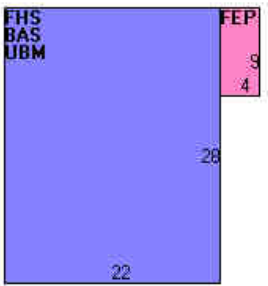
Building Attributes	
Field	Description
Style	Cape Cod
Model	Residential
Grade:	Below Average
Stories:	1.5
Occupancy	1
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Fir 1	Hardwood
Interior Fir 2	Carpet
Heat Fuel	Oil
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	2 Bedrooms
Total Bthrms:	1
Total Half Baths:	0
Total Xtra Fixtrs:	3
Total Rooms:	6
Bath Style:	Average
Kitchen Style:	Standard

Building Photo



(http://images.vgsi.com/photos/YarmouthMEPhotos/\00\00\15\18.jpg)

Building Layout



(http://images.vgsi.com/photos/YarmouthMEPhotos//Sketches/2253_22

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	616	616
FHS	Finished Half Story	616	308
FEP	Enclosed Porch	36	0
UBM	Unfinished Basement	616	0
		1,884	924

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land**Land Use**

Use Code 1010
Description Single Family
Zone 13
Neighborhood 21
Alt Land Appr Category No

Land Line Valuation

Size (Acres) 0.5
Frontage
Depth
Assessed Value \$119,400
Appraised Value \$119,400

Outbuildings**Outbuildings****Legend**

No Data for Outbuildings

Valuation History**Appraisal**

Valuation Year	Improvements	Land	Total
2020	\$58,300	\$119,400	\$177,700
2019	\$58,300	\$119,400	\$177,700
2018	\$58,300	\$119,400	\$177,700

Assessment

Valuation Year	Improvements	Land	Total
2020	\$58,300	\$119,400	\$177,700
2019	\$58,300	\$119,400	\$177,700
2018	\$58,300	\$119,400	\$177,700



**PLANNING DEPARTMENT REPORT
YARMOUTH, MAINE**

Minor Site Plan

Accessory Dwelling Unit, 538 Portland Street

Edward Libby, Applicant

Map 30, Lot 14

Prepared by: Erin Zwirko, Director of Planning & Development,
and Nicholas Ciarimboli, CEO/Planning Assistant

Date: August 16, 2021

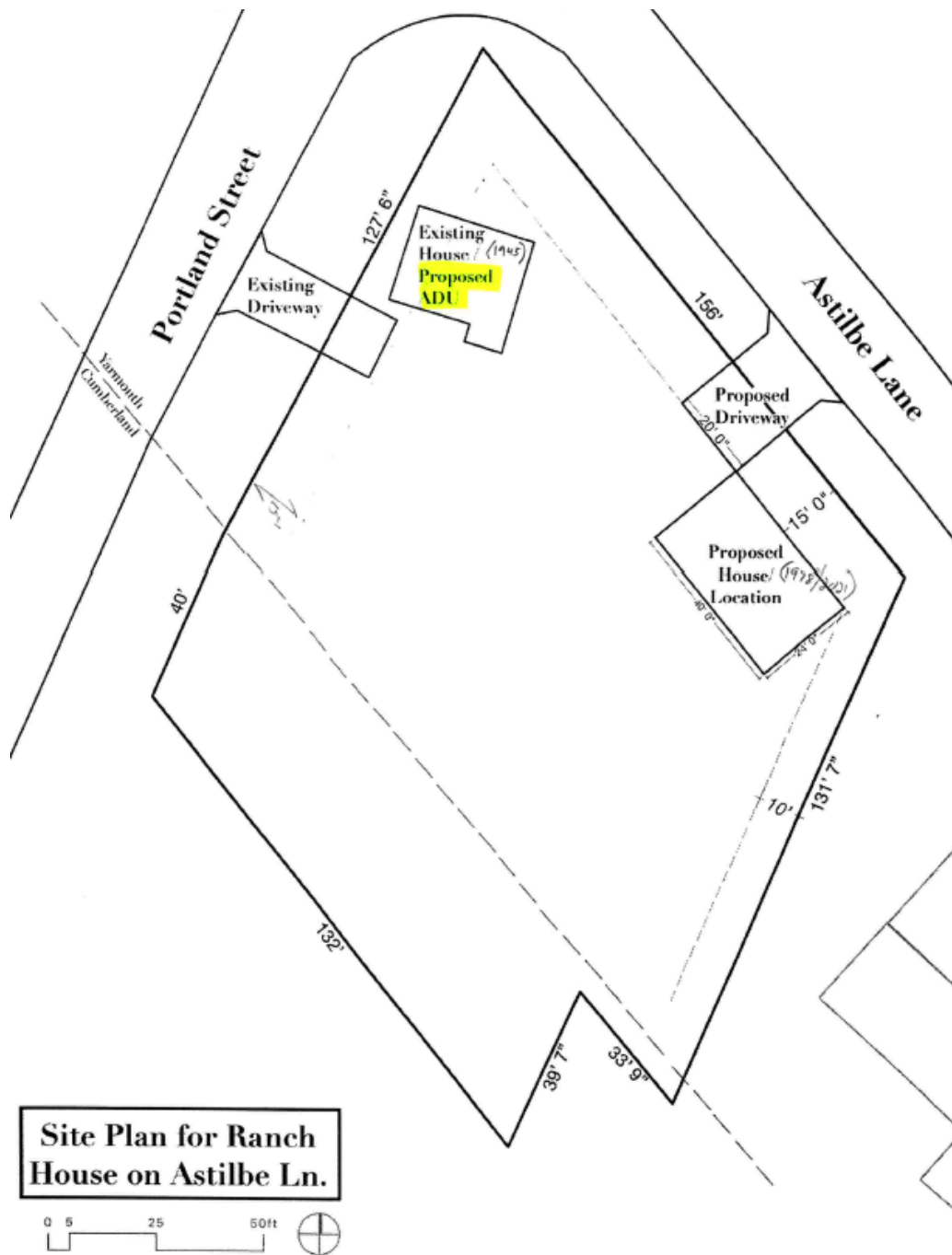
I. INTRODUCTION AND PROJECT DESCRIPTION

Ed Libby proposes to establish an accessory dwelling unit (ADU) on the property at 538 Portland Street per Chapter 702, Site Plan Ordinance. The applicant proposes to designate the existing structure on the site as an ADU and move an existing building located on Old County Road to a new foundation on Portland Street.



View of property and existing structure from Astilbe Lane

The applicant has also requested a building permit to move the structure from Old County Road to the subject property and set it on a foundation. The building permit is being considered concurrently with this request for minor site plan approval of the ADU. In the photo above, the primary dwelling unit will be located to the left of the existing structure.



Site Plan for 538 Portland Street

The existing structure on the site is a Cape Cod style home and the structure to be moved to the site is a ranch style home. The existing lot is approximately 0.50 acres. The dashed line in the image above represents the municipal boundary between Yarmouth and Cumberland. Access for the ADU will remain from Portland Street. The primary dwelling unit will have access from Astilbe Lane. The property is located at the corner of Portland Street and Astilbe Lane.



Structure to be Moved to 538 Portland Street



Existing Structure at 538 Portland Street

The ADU is reviewed as a Minor Site Plan Review per Chapter 702 Article 1.J.13 which outlines the requirements for ADUs.

II. PROJECT DATA

<i>SUBJECT</i>	<i>DATA</i>
Existing Zoning	Medium Density Residential
Existing Use	Single-family home
Proposed Use	Single-family home with detached ADU
Parcel Size	0.54 acres

Uses in Vicinity: The surrounding neighborhood consists primarily of single-family homes, but also includes a municipal sewer pump station, a CMP corridor, a MaineDOT Transportation Maintenance lot, and Main Line Fence located just over the town line in Cumberland on Middle Rd. The Cumberland/Yarmouth municipal boundary bisects the subject parcel.

III. PUBLIC COMMENT

Notices of this public hearing were sent to 15 property owners in the vicinity (within 500 feet) of the proposed development. Six abutters on Astilbe Lane expressed concern with the proposal. The abutters were concerned that this proposal is too similar to the contract zoning that was denied by the Town Council in May 2021 and that the proposal is not consistent with the ADU standards.

IV. DEVELOPMENT REVIEW

A. SITE PLAN STANDARDS (Chapter 702, Article 1.J.13, Accessory Dwelling Unit)

13. Accessory Dwelling Unit: any request shall include a plot/site plan showing the following:

- a. Lot boundaries and dimensions at scale.*
- b. Zoning district.*
- c. Date of plan.*
- d. Property owner with deed reference.*
- e. Lot area.*
- f. Location and setback of all buildings.*
- g. Date of construction of single-family dwelling.*
- h. Separate floor layout of all finished levels.*
- i. All plumbing facilities, kind and location.*
- j. Use of all rooms.*
- k. All entrances/exits.*
- l. All partitions, temporary or permanent.*
- m. Location and type of all appliances.*
- n. Rights of way, public and private*
- o. All easements*
- p. Street names*
- q. Sewerage facilities*
- r. Off-street parking spaces*

Town Comments: The applicant has provided a plan that illustrates these items.

In permitting an ADU, the Planning Director and/or CEO shall find that:

- a. Exterior design of the accessory unit is compatible with the existing residence on the lot through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.*

Town Comments: In this case, the applicant will be moving a structure to the site and designating it as the primary dwelling unit. The existing structure on the site will be designated as the ADU.

Although the two structures are of differing architectural styles and were built at different times, the two structures are not out of scale with each other, both of a modest mass and height, and both representative of traditional American vernacular styles. The two structures are compatible with each other and neither structure overpowers the site. The position of each structure on the property provides the required parking and open space, and begins to establish the 'rambling' development pattern commonly found throughout New England often referred to as 'big house, little house, back house, barn' style.

- b. The exterior design is in harmony with, and maintains the scale of the neighborhood.*

Town Comments: The Astilbe Lane subdivision was developed between 2001 and 2003 with typical two-story suburban style houses approximately 2,400+ SF with attached two-car garages. These homes are larger and are more modern than the majority of homes built on Portland Street and on West Elm Street within the vicinity. The lot sizes on Astilbe Road are larger as well averaging approximately 1.2 acres. Other lots within the vicinity range from .32 acres to almost 2 acres, but average around .77 acres. The existing structure on the subject property and the structure to be moved to the property are more modest in size and relate to the homes located between Portland Street and West Elm Street. The larger area near this intersection include homes that were built at many different times and on different size lots. Therefore, the proposal is in harmony with and maintains the scale of the neighborhood.

- c. The accessory unit does not result in excessive noise, traffic or parking congestion.*

Town Comments: The proposed ADU will not create excessive noise, traffic or parking congestion. The ADU will have dedicated parking off of the larger roadway, avoiding the Astilbe Lane cul-de-sac.

- d. The property fronts on a public water main and public sewer line each with the capacity to serve the additional accessory unit.*

Town Comments: The Yarmouth Water District Superintendent and the Town Engineer confirmed that the public water and public sewer, respectively, have capacity to serve the additional unit.

- e. Major access stairs, deck entry doors, and major windows will generally be limited to the walls facing the primary residence. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the accessory unit shall relate to the design of the primary residence and shall not visually dominate it or the surrounding properties.*

Town Comments: The ADU is an existing structure on the site, and the primary dwelling unit will be moved to the site. Although the two structures are of different style, the ADU is screened by existing vegetation on the site. The location of the ADU at the corner of Portland Street and Astilbe Lane ensures that the ADU does not visually dominate the surrounding properties and does not impact the privacy of the neighboring side or rear yard. When viewing the property from Portland Street, the existing structure to be designated as the ADU appears as the primary structure. When viewing the property from Astilbe Lane, the structure to be moved to the site appears as the

primary structure. Additionally, while the homes on Astilbe Lane are newer and larger, the primary dwelling unit and the ADU are in keeping with the scale of the existing homes on Portland Street and West Elm Street.

- f. The orientation and location of the buildings, structures, open spaces and other features of the site plan are such that they maintain natural resources including heritage or significant trees and shrubs to the extent feasible and minimize alteration of natural land forms.*

Town Comments: Although a number of trees were removed from the eastern property line, the ADU is screened by significant vegetation at the corner of Astilbe Lane and Portland Street. Maintaining this existing vegetation minimizes the amount of alteration that occurs on the site and also provides screening of the ADU from the corner. As a condition of approval, the applicant shall maintain this vegetative buffer.

- g. Building profiles, location and orientation relate to natural land forms.*

Town Comments: The property is flat and does not require the alteration of any natural land forms.

- h. One parking space shall be provided on-site for each a studio and or one bedroom accessory unit. Two parking spaces shall be provided on site for each a two bedroom accessory unit. Parking of the accessory unit is in addition to the required parking for the primary residence. Required parking spaces for the primary residence and the accessory dwelling unit may be provided in tandem on a driveway. A tandem arrangement consists of one car behind the other. No more than two cars in tandem may be counted towards meeting the parking requirement.*

Town Comments: The existing property has informal parking located off of Portland Street adjacent to the structure. In the application materials, the applicant indicates that parking for the ADU will be in the same general location off of Portland Street. Parking for the primary dwelling unit will be located off of Astilbe Lane via a new curb cut. As a two-bedroom ADU, two parking spaces are required. The site plan shows the parking area as 12 feet by 15 feet. Although this area appears to accomodate two parking spaces, the ordinance requires parking spaces to be 9 feet by 18 feet.

As a condition of approval, the ADU parking area shall be designed to be 18 feet by 18 feet or other acceptable configuration of two 9 feet by 18 feet spaces and be constructed so that the driveway entrance and parking area are formalized.

- i. A single-family dwelling exists on the lot or will be constructed in conjunction with the accessory unit. Only one ADU is permitted per lot.*

Town Comments: Only one accessory dwelling unit will be located on the property. A structure will be moved to the property and placed on a foundation. The structure to be moved will be designated as the primary dwelling unit, and the existing structure will be designated as the accessory dwelling unit. Although this standard references “construction”, the act of moving the structure to the property, placing it on a foundation, and connecting it to utilities is understood to be construction.

- j. *Accessory dwelling units are not eligible for variances to setbacks.*

Setback Town Comments: The structure to be designated as the accessory dwelling unit is pre-existing nonconforming in terms of setbacks and is not required to obtain any variances for the location. The standard is applicable to new structures which would require a variance for the proposed placement. Additionally, the structure to be moved to the site to be designated as the primary dwelling unit will conform to the required setbacks of the zoning district.

- k. *Before obtaining a building permit for an ADU the property owner shall file with the registry of deeds a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:*
- a. *The accessory unit shall not be sold separately.*
 - b. *The unit is restricted to the approved size.*
 - c. *The use permit for the accessory unit shall be in effect only so long as either the main residence, or the accessory unit, is occupied by the owner of record as the principal residence.*
 - d. *The above declarations are binding upon any successor in ownership of the property;*
 - e. *The deed restrictions shall lapse upon removal of the accessory unit.*

Town Comments: These requirements will be a condition of approval. The applicant shall produce the recorded restriction prior to the issuance of a building permit.

Occupancy In addition, the applicant shall provide documentation that one of the units will be owner occupied prior to occupancy of either dwelling unit. The fact that the property is owned by an LLC is not a concern as many properties are owned through different ownership arrangements. However, the owner shall produce information indicating they are a member of the LLC, state or federal identification in the owner's name showing the property address, and a utility bill in the owner's name for service at the property address.

- l. *Units within an Accessory Structure shall not exceed 900 square feet. If an ADU occupies an entire single floor, the Planning Department may allow for an increase in the allowed size of the ADU in order to efficiently use all of the floor area, so long as all other standards of this section are met.*

Maximum Square Footage Town Comments: The applicant has indicated the floor area of the unit to be 717 SF. This appears to be based on the interior livable area which the Planning Department has deemed to be an acceptable approach. Livable area does not include closets, stairwells, shafts, or other non-habitable spaces. In spaces with sloped ceilings, habitable space should only be calculated for the area having a ceiling height of five feet or greater in accordance with industry standards including 2015 International Residential Code (IRC)/ R304.3 *Height effect on room area*. The assessor's information indicates the Living Area as 924 SF, which is based on the exterior dimensions of the house and accounts for the discrepancy in the two numbers.

- m. *An ADU may have no more than two (2) bedrooms.*

Town Comments: The structure proposed to be designated as an accessory dwelling unit has two bedrooms.

- n. The water and sewage facilities shall meet all existing laws and codes.*

Town Comments: The existing house on site is currently served by Town Water and Sewer. The proposed new structure will be served separately by Town Water and Sewer and has been deemed by both the Yarmouth Water District and the Sewer Department to be acceptable to connect. These connections will be inspected by their respective departments. There are currently no known violations of this nature or any on the property.

The Town Engineer has reviewed the proposal and notes that the property is located along a low pressure sewer system and will require a small private sewer pump station. The system must meet Chapter 304 Sewerage Ordinance requirements as well as the Town's technical standards for sewer infrastructure. In addition, a minimum of five feet separation is required from other underground utilities.

These requirements will be conditions of approval.

- o. Approval of an accessory apartment shall be conditional on obtaining applicable building, plumbing, electrical and any other necessary municipal permits.*

Town Comments: The Town Engineer also requires the installation of erosion and sedimentation control measures. During construction erosion and sedimentation control, Best Management Practices (BMP's) shall be installed prior to construction activities and shall be maintained by the contractor until the permanent vegetation is in place. It is also critical that the contractor performing construction inspect, maintain, and repair all ESC BMP's prior to and following rainstorms to ensure the effectiveness of the BMP's. All inspection work must be documented. Maintaining the erosion and sedimentation control measures is a condition of approval. Obtaining all other permits is also a condition of approval.

- p. The Fire Chief must review and sign off on the application.*

Town Comments: The Fire Chief reviewed the application and has approved the unit with the following conditions:

- Interconnected smoke alarms and carbon monoxide alarms shall be required throughout the ADU in accordance with NFPA 101, NFPA 72 and State Statute, and
- The installation of a fire extinguisher is required, which is to be placed in proximity to the ADU's kitchen.

These requirements will be conditions of approval.

- q. Unless part of the design of an existing single family dwelling the dwelling(s) shall have only one (1) front entrance and all other entrances shall be on the side or in the rear of the dwelling. A front entrance leading to a foyer with entrances leading from the foyer to the two (2) dwelling units is permitted. Outside stairways (either open or enclosed), that service an Accessory Dwelling Units on upper stories are not permitted.*

Town Comments: The proposed ADU is a detached structure from the primary dwelling unit and as such no foyer is proposed. The detached ADU has one front entrance, and the secondary entrance is on the side of the dwelling.

- r. For an ADU located within an existing garage or other outbuilding, the structure is not required to approximate the exterior features of the existing single family dwelling, but any exterior modifications should be consistent with the architectural style of that structure unless the building is upgraded per the requirement of new structures or unless the new structure is designed in a traditional New England form such as a barn.*

Town Comments: The structure to be designated as the accessory dwelling unit is a Cape Code style structure. Although not an existing garage or other outbuilding, the proposal does not modify any of its existing exterior and thus will remain consistent in its architectural style.

- s. An existing single family dwelling that is nonconforming solely due to lot size, lot width, lot frontage, lot coverage, height or setback requirements may be expanded to incorporate an Accessory Apartment subject to the requirements of Chapter 701 of the Yarmouth Code Article III for the expansion of other non-conforming single family dwellings.*

Town Comments: The accessory dwelling unit is proposed to be located within a detached structure. This standard is not applicable.

- t. ADU's may be permitted on back lots.*

Town Comments: The property is not a back lot. This standard is not applicable.

- u. ADU's are not permitted on a lot with a non-conforming use.*

Town Comments: The existing single-family use is a conforming use for a lot within the medium density residential (MDR) district.

- v. ADU's are not permitted on a lot with mixed uses.*

Town Comments: The lot does not have mixed uses. This standard is not applicable.

- w. When an owner wishes to eliminate the accessory apartment proof of the removal of the second kitchen and the restoration of the apartment to its status before the conversion shall be submitted to the satisfaction of the Planning Department. The owner shall record a Release of the Declaration of Restrictions on the Land after inspection and confirmation by the Code Enforcement Officer.*

Town Comments: This standard will be included as a condition of approval.

V. ADMINISTRATIVE APPROVAL

Based on the record, the Planning and Development staff believe that the Minor Site Plan Approval for an ADU

at 538 Portland Street is consistent with the standards of approval subject to the following conditions:

1. Due to the property's location along a low pressure sewer system, the applicant shall install a small private sewer pump station. The system must meet Chapter 304 Sewerage Ordinance requirements as well as the Town's technical standards for sewer infrastructure. In addition, a minimum of five feet separation is required from other underground utilities and a sewer connection permit will be required before building permits are issued.
2. Interconnected smoke alarms and carbon monoxide alarms shall be required throughout the ADU in accordance with NFPA 101, NFPA 72 and State Statute.
3. The installation of a fire extinguisher shall be required, which is to be placed in proximity to the ADU's kitchen.
4. During construction erosion and sedimentation control, Best Management Practices (BMP's) shall be installed prior to construction activities and shall be maintained by the contractor until the permanent vegetation is in place. It is also critical that the contractor performing construction inspect, maintain, and repair all ESC BMP's prior to and following rainstorms to ensure the effectiveness of the BMP's. All inspection work must be documented. Maintaining the erosion and sedimentation control measures is a condition of approval.
5. Prior to the issuance of a building permit, the property owner shall file with the registry of deeds a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:
 - a. The accessory unit shall not be sold separately.
 - b. The unit is restricted to the approved size.
 - c. The use permit for the accessory unit shall be in effect only so long as either the main residence, or the accessory unit, is occupied by the owner of record as the principal residence.
 - d. The above declarations are binding upon any successor in ownership of the property;
 - e. The deed restrictions shall lapse upon removal of the accessory unit.
6. Prior to the issuance of an occupancy permit, the property owner shall provide suitable documentation that indicates that either the primary dwelling unit or the accessory dwelling unit is owner occupied.
7. Prior to the issuance of an occupancy permit, the accessory dwelling unit parking area shall be designed to accommodate two 9 feet by 18 feet parking spaces and be constructed so that the parking area and driveway entrance is formalized.
8. The applicant shall maintain the vegetated buffer at the corner of Portland Street and Astilbe Lane such that the accessory dwelling unit is screened.

Attachments

1. Staff Comment – Eric Gagnon, Yarmouth Water District – email 8/2/2021
2. Staff Comment – Steve Johnson, Town Engineer – memo 8/4/2021
3. Staff Comment – Michael Robitaille – memo 8/2/2021
4. Public Comment – Andrea Pizzo and Howie Gu, 68 Astilbe Ln. – email 7/27/2021
5. Public Comment – Gene and Heidi Miller, 59 Astilbe Ln. – email 7/27/2021
6. Public Comment – Jayshree Patel, 47 Astilbe Ln. – email 7/27/2021
7. Public Comment – Jefferson Oranellas, 71 Astilbe Ln. – email 7/27/2021
8. Public Comment – Peter Senger, 54 Astilbe Ln. – email 7/26/2021

Thank you, Madame Chair. As I said, my name is John Russell. I teach English and co-chair the ELA department at our local public high school, where I also coach the Debate Team. I grew up in Yarmouth and graduated from YHS myself in 2005. Although I left town for many years after high school, I was so happy to return three years ago when my alma mater hired me. Since that time, my family and I have lived in the house that currently stands on the property in question at 538 Portland St., where we are Ed Libby's tenants.

Our move to Yarmouth three years go came a bit by surprise, and so I imagine none of you will be shocked to learn that our hunt for housing was unpleasant at best and terrifying at worst. Due to the size of our family and our financial situation, residing in Yarmouth pretty quickly revealed itself to be a non-option. My mother first moved my sister and me to town back in 1996, and the economics were challenging even then, but, thanks to her hard work, we were able to eke it out. As my wife and I prepared for our move, I imagined that, if a single mother had been able to make it work just a couple decades prior, living here would be within the realm of possibility for us and our two children.

In the end, I was right — it was possible — but only thanks to the kindness of Ed Libby. On a whim, we toured the property in which we now reside back in that summer of 2018, but his asking rate, while reasonable by town standards, was out of our range. We liked the place and thanked him for the tour but confirmed a few days later that we could not afford it. Within a matter of hours, Ed got back in touch with us and told us he wanted to make it work. It didn't feel right to him that a teacher in the Yarmouth School District should be unable to live comfortably in the same community as his students, and he wanted to do his part to help. He knocked a significant amount off the rent, and we gladly and humbly accepted.

In the time that has passed since, Ed has only built on that initial positive impression. He is always ready to help us, he is clearly committed to this town and to making it a welcoming place for all, and he is just overall a solidly good guy.

A couple months ago, before bringing the proposal in question before you, Ed talked it through with us. After all, the new structure would be literally right next door and on land that has felt like ours for some time now. As someone who works closely with the youth of this town, someone whose children attend Yarmouth schools, someone who was raised here myself, I know firsthand the value and power of diversity. I see how much readier for the real world today's graduates are than I was thanks to the way this town has changed since 2005. More families from a greater variety of backgrounds means more learning and greater understanding for those of us already lucky enough to call Yarmouth home. I hear so many folks around here pay lip-service to this idea, but I appreciate that Ed, with this proposal here, is actually doing something about it. That day Ed ran the idea by us, we gave him our unequivocal support, and we hope you will too.

YARMOUTH PLANNING BOARD MINUTES

As of May 6, 2020, the Yarmouth Planning Board will be holding all board meetings via [GoToMeeting conferencing technology](#). We remain committed to full public access and participation in our meetings through remote access during the COVID-19 crisis. Remote meetings will be held in accordance with the requirements of [LD 2167, Public Law Chapter 618](#).

December 9, 2020

I. CALL TO ORDER

Judy Colby-George called the meeting to order at 7:00 PM.

II. ROLL CALL OF MEMBERS

PRESENT ABSENT

Judy Colby George, Chair	X	
Andrew Schaefer, Vice Chair	X	
Andrew Bertocci	X	
Wendi Holden	X	
Hildy Ginsberg	X	
Mary Lynn Engel	X	
Peter Thompson		X

OTHERS

Alex Jaegerman, Director of Planning & Development
 Wendy Simmons, Administrative Assistant, Recording Secretary
 Nicholas Ciarimboli, Code Enforcement Officer/Planning Assistant

III. APPROVAL OF MINUTES

Upon a motion duly made by Wendi Holden, seconded by Andrew Bertocci and carried by a roll call vote of 6-0, minutes of the November 18, 2020 meeting were approved.

IV. COMMUNICATION

None

V. PUBLIC HEARING ITEMS

There were 45+/- people from the public in attendance

A. OLD BUSINESS:

None

B. NEW BUSINESS:

1. Action Item: Demolition Determination of Building of Value; Chapter 701 Article IX, Building Demolition; Vicinity of 251 West Main St., Map 46 Lot 86, Julia Lewis, Applicant.

The applicant is requesting review of the existing building to determine if it is a Building of Value under Chapter 701, Article IX, defined as *a building that has*

architectural, cultural, historical, or archaeological significance, contribution to an overall setting or streetscape, or otherwise of a character defining a particular area, neighborhood or streetscape. If the Board determines it is a Building of Value other provisions of Article IX will apply, including a delay of 180 days to document the building and explore alternatives to demolition. If it is not a Building of Value, demolition may proceed after a 30-day appeal period. The Board is scheduled to vote on this item after public comment is heard.

Julia Lewis and Connor Watson are the new owners of this property and want to explore all options available for the property including demolition. They researched the historic value of the home and based on their online research at the Maine Historic Preservation website determined it was not considered a building of value. The historic value of the existing home is located on the inside of the building and not the outside. The demo delay ordinance pertains to the exterior of the building and they could have already gutted the interior; but have not.

Chair Colby-George opened to public comment

Ed Ashley, 20 Spartina Point

Concerned about where the homeowner found on the MHPC website the home was not eligible for listing in the National Register of Historic Places or a building of value and requested clarification. The Demolition Delay is not subject to MHPC determinations. Believes the home is a building of value and can be rehabilitated.

Ed Libby, 100 Bates St.

He is the broker who sold the house to Lewis and Watson. Shared the MEDOT – MHPC website where they found the information regarding the historic value of the home. Requested the comments in the application referencing Greg Paxton's comments regarding the value of the building be retracted.

Merry Chapin, 233 West Main St.

Opposes the demolition. The Doughty house is an integral part of the neighborhood and does not want to see it demolished. Requested more research and investigation on why it is not eligible for the Historic Registry.

Alex Jaegerman – The information the applicant found online was part of an initial reconnaissance survey of the Town and the MHPC finding of not eligible could change with more detailed information. There could be a more intensive survey and research to truly determine the eligibility with a formal request to MHPC regarding the value of the home.

Greg Paxton, Maine Preservation

The house appears to be from the late 18th century or early 19th century. Believes the house is a building of value and the 180-day demo delay is appropriate to determine if there are alternatives to demolition. Believes the house can be rehabilitated.

Suggested building the new house proposed on a separate part of the lot and keeping the existing house intact at its current location.

Public comment closed

The Board agreed the house meets the Demolition Delay criteria for a Building of Value.

The following motion was made:

A. Building of Value Subject to Delay Provisions

On the basis of the plans presented by the applicant, the testimony and public hearing, and the findings of Planning Memo dated December 2, 2020 regarding the application of Chapter 701 Article IX, Building Demolitions, for the demolition of the house at 251 West Main Street, Map 46 Lot 86, Julia Lewis, Applicant, Connor Watson, owner, the Planning Board finds that the structure is worthy of preservation, due to its architectural and historical significance, contribution to an overall setting and streetscape, and is of a character defining the particular area, neighborhood and streetscape, such that preservation is deemed important to the maintenance of the character of such area, neighborhood or streetscape and therefore is a Building of Value and is subject to the demolition delay provisions of Chapter 701 Article IX, that the demolition shall be delayed for 180 days from the date of this decision, and the Town shall proceed with the measures called for in Article IX.I.2.a ((1) through (4)) as appropriate.

Such motion moved by Andrew Schaefer, seconded by Hildy Ginsberg, and voted 6 in favor, 0 opposed, Thompson absent.

2. Workshop Item: Major Site Plan, Building and Lot Plan, Development Review and Subdivision, Pre-Application/Sketch Plan Review; Vicinity of 48 Railroad Square, Map 37 Lot 28 and Map 37 Lot 29A, Bickford Transportation, Applicant.

The applicant is proposing a 4.4-acre mixed-use neighborhood of residential, (comprised of a 55+ community), commercial and community uses. The commercial uses will involve a combination of new and restored buildings repurposed for community gatherings, fitness, and the arts. There are 2 proposed residential buildings of 24 units each, 3 stories in height averaging about 1400sf/unit with 2 bedrooms and underground parking. The proposed mixed use would include approximately 11,000 sf of office, retail, and commercial space plus an additional 10 residential units (not age restricted). The historic brick mill building will be restored and repurposed as a community center. The existing truck garage will be renovated and expanded to include art and wellness studios or other commercial uses. The Bickford Pavilion will be retained and enclosed, with mixed-use building additions housing the uses described above.

Tamson Bickford Hamrock gave a brief history of the property which has been in her family for 30 years. Irv Bickford collected antique trucks and wanted a place to share them with the community. The Pavilion was approved by Planning Board and built

as a community space. In the proposed design the Pavilion will remain a community space; but will be turned into a space to be used year-round.

The development team Matt Teare, Rick Licht, Matt Ahlberg and Keith Smith gave an overview of the project.

Many different types of housing were considered in the development of the space. 55+ housing was chosen because this type of housing is needed in this area for an active, aging community which also allows aging in place. The property has 2 existing buildings and established infrastructure, and all utilities will be run underground. The use of the Pavilion space is to be determined; but they are considering commercial space in the enclosed Pavilion and an addition at the back of the building with 10, 2nd story condominiums. The existing garage housing Strong Bodies will become a health/wellness and arts area. The existing brick building will be repurposed into a multi-use functional space. 2 new buildings of 24 units each with underground parking will be built in the rear of the property. The developer is working with MDOT to remove the railroad crossing arms. The intersection at Main St. will be reconfigured and a sidewalk is proposed on South St. They are proposing outdoor seating on the site and direct access to the rail-trail bordering the property. They are proposing reduced use of curbing and creating a flat surface with bollards like a plaza. The entire site will be landscaped including buffers between neighbors on South St. Based on traffic studies there will be no negative impact on traffic.

Chair Colby-George opened to public comment

Ed Ashley, 20 Spartina Point

Has concerns about the plaza area being mostly parking. Suggested removal of parking between building 3&5 and creating seating which would open sight lines to the Train Depot and create more pedestrian flow. Suggested the ability to access the open space in the back of the property.

Phillip & Tammy Nicholas, 111 Sligo Rd.

Concerned about soil disturbance because it is a former industrial site, suggested an environmental survey. Concerned about traffic impacts during and after construction, increased parking on Main St., number of units and how the intersection at Main St. will be redesigned for safety. Seems like an urban center is being dropped into a sleepy town. Questioned how they will control 55+ and can it be opened to other age groups under certain circumstances? Concerned about the impact on the schools and whether the rail to trail will be developed.

Meghan Casey, 1 South St.

Questioned who was paying to build the rail to trail, how many residents will really use it, and will it alleviate traffic? Requested evidence. How much parking is provided underground, and will there be overflow to ground level lots? Concerned about traffic and parking and access to South St. Developer should re-consider parking closer to retail shops and will it be enough and close enough to shops?

Dash Masland, 42 South St.

A lot of development in a small area with 74 units. Questioned what Down East thinks of the development, what is the Town looking for and how much housing does it need? Concerned about parking, traffic, speed on South St., construction traffic, soil quality, construction noise and the reconfiguration of the intersection at Main St.

Rebecca Rundquist, 55 West Elm St.

Concerned about lighting and light pollution. Questioned how the public space would be distinguished from the private space, what kind of buffering is proposed and how the connection to the Train Depot will be created? Requested the developer slow things down. Concerned that 55+ people are still working and helping to care for grandkids and will produce more traffic than anticipated during peak hours. Concerned about more traffic and congestion on Main St. and traffic flowing to and from outlying communities through the middle of town.

Dan Ostrye, 22 Spartina Point

Complimented the walkability and bike-ability of the plan. Concerned about traffic onto South St. and the cut through behind 298 Main St. Questioned the width of the sidewalks? Concerned about the road coming into the site from Main St. and encouraged curbing and raised sidewalks along the street by Down East. Requested adequate space for bike parking under cover.

Travis Fournier, 91 Bowdoin St.

Supportive of the thoughtful project and looks forward to seeing it develop.

Amanda Mitchell, 20 Center St.

Requested the town consider all the development going on in the area at the same time and the cumulative effect. Questioned easements on the property, what Down East thinks of the project, do dead end roads require a waiver, can they restrict to 55+, and who is paying for the rail to trail? According to the CBDC 10% of housing is required to be affordable. Concerned about traffic, safety, parking, and the parking study being conducted during a pandemic. Believes the project is too big.

Brit Vitalius, 48 South St.

Generally supportive of the project and its urban walkability and has concerns about the number of units. South St. has always been a traffic cut through and will continue to be. Concerned about the intersection at Main St., lighting, and light pollution.

Ed Libby, 100 Bates St.

Questioned if the developer has considered bringing a road around the rear of the property and out to Cleaves St.

Bob Zimmerman, 65 Center St.

Project is too massive for the space. Questioned why the age of 55 was chosen? Requested the Town conduct a traffic study of the area accounting for all the development.

Public comments closed

Chair Colby-George reiterated this application was intended to be a broad overview of the development to give the public an idea of what the developer is considering. There is no rush on approving this development.

Matt Teare – There are 64 parking spaces underground and 8 above ground. 298 Main St. and Railroad Square will participate in funding rail to trail. They will work with individual neighbors regarding buffering between properties. 55+ is a nationally recognized standard. The alley behind 298 Main St. will not be used as an outlet for traffic from Railroad Square. The connection between the Depot and Railroad Square will be at grade. They will consider a way to identify the private versus public areas.

The Board would like to hear more about the age restrictions and enforcement of them. What methods will be used for wayfinding for public and private space. In favor of reusing/repurposing the existing buildings on the lot.

There are concerns about the number of units and number of parking spaces available if the Pavillion is turned into commercial space, will there be enough parking?

Questioned access to South St.; the plan shows access to South St.? If a traffic study takes into consideration the cumulative effects of multiple projects in the area? A. Jaegerman – Each traffic study looks at everything happening and the cumulative effects. The Town has contracted a peer review of the traffic of all projects.

They appreciate the concerns of the public regarding all the development in that area including 298 Main St., 317 Main St. and the future development of the Mason's.

3. Workshop Item: Proposed Contract Zone to Modify Existing MDR Zone to Allow Existing .5 Acre Lot to be Subdivided into 2 Lots; Vicinity of 538 Portland St. and Astilbe Lane; Map 30 Lot 14, William Edward Libby, Applicant.

The applicant is proposing to split their existing .5-acre lot into 2 lots of approximately .25-acres each, one with an existing home and one that will be designated for a new affordable home with access on Astilbe Lane. The property is located in the MDR Zone which has a minimum lot size of 1 acre. The applicant requests consideration of a Contract Zone Agreement (CZA) to allow the smaller lot sizes. The Planning Board will review the CZA request in workshop, then in public hearing, and will make a recommendation on the CZA to the Town Council. This is a workshop review by the Board at which public comment

will be heard. No action or recommendation will be taken until the public hearing to be scheduled at a subsequent meeting.

Ed Libby, Developer gave an overview of the application. The split of the MDR lot reinforces the Comp Plan's mission of creating affordable housing. He presented a second lot configuration with the driveway entering onto Portland St. and not on Astilbe Lane. He requested guidance from the Town in how to ensure the work force housing stayed as affordable housing whenever it is sold.

Chair Colby-George opened to public comment

John Veilleux, 19 Astilbe Lane

Concerned about Contract Zoning in general. This lot is not a Village lot where higher density is common. Having 1 house does not solve the affordable housing problem in Yarmouth. The Comp Plan's intent was to create subdivisions of affordable housing; not by 1 lot at a time.

Ed Ashley, 20 Spartina Point

Supports the project since it supports the Comp Plan.

Tom Marjerison, 27 East Elm St.

Does not support Contract Zoning. They create a lack of predictability and creates conflict in zoning. Agrees one house does not create affordable housing in Yarmouth.

Gene Miller, 59 Astilbe Lane

Concerned about setting precedent through Contract Zoning. The proposal is out of character with the neighborhood and it is not reasonable to divide an already undersized lot.

Peter Senger, 54 Astilbe Lane

Concerned about Contract Zoning and how it will impact the Town long term.

Michael Devine – Attorney with Norman Hanson DeTroy

Contract zoning creates legal issues by making a non-conforming lot more non-conforming. The purpose of zoning is to abolish non-conforming issues. It is not consistent with the Comp Plan which is to advance goals and purposes of the district. With the 2 lots straddling Cumberland and Yarmouth may trigger State Subdivision Law.

Public comment closed

The Board is concerned about the location of the lot and whether a split of such a small lot outside the Village makes sense. All of Astilbe Lane is opposed to the application. One house lot does not sufficiently address affordable housing in Yarmouth. Affordable housing in Yarmouth was tried before on John Howland

Dr. and it didn't work. The Board questioned why? They requested more specifics about affordable housing in Yarmouth and to see the specific language of the proposed Contract Zone. Suggested a deed restriction on size of the house to ensure it stays affordable or prevent it from being demolished and replaced by a larger home. Requested additional information regarding the driveway entrance.

4. Action Item: Capital Improvement Plan; Consultation and Request for Endorsement of the 5-Year CIP, FY 22 – FY 26.Yarmouth Town Charter, Article V. Sec 10. Capital Program.

The planning board, in consultation with the town manager and designated member(s) of the town council, shall prepare and submit to the town council, annually, a five-year capital program at least 120 days prior to the beginning of each budget year. The capital program shall contain such information as the town council may, from time to time, designate by order. The Town Manager presented the CIP at the November 18, 2020 meeting. Public Comment will be taken and the Board will vote on a motion to endorse the CIP as submitted.

The Board had no concerns or questions about the Capital Improvement Plan.

The following motion was made:

The Planning Board recommends the Capital Improvement Plan to the Town Council.

Such motion moved by Andrew Schaefer, seconded by Wendi Holden, and voted 4 in favor, 0 opposed, Thompson, Bertocci, Engel absent.

ADJOURNMENT

With no objection, the meeting adjourned at 11:05 PM

Respectfully submitted:

Wendy Simmons, Administrative Assistant, Recording Secretary

**TOWN OF YARMOUTH
MINUTES OF THE TOWN COUNCIL MEETING**

Meeting: 15 -20/21
Date: May 20, 2021
Time: 7:00 PM
Place: Video Conference

***Coronavirus Note: Meeting was held by audio or video conference**

1st Order of Business: Roll Call of Members. All present via video meeting
Roll Call of Members P = Present A = Absent T= Tardy

P Meghan Casey 1 South Street
P April Humphrey, 277 East Main St
P Heather Abbott, c/o 200 Main St
P Michelle Cromarty 27 Summer Street
P Timothy Shannon, 47 West Elm St
P Randall Bates 30 Tannery Lane
P Robert Waeldner, 141 Oakwood Drive

2nd Order of Business: Approval of the Minutes of Meeting 13-20/21 held April 15, 2021 and April 29, 2021. **Approved by roll call: 7-0**

3rd Order of Business: To open the meeting to a Public comment period.
Leslie Hyde, Sarah Norsworthy & Carol Amoroso spoke.

Item No. 95A: To hear the reports of the Council Chair, committees, delegates, liaisons and the Town Manager.

Councilor Waeldner reported on Latchstring Park and Councilor Humphrey gave an update on Committee for Energy Efficiency and Sustainability.

Item No. 96A: To hold a public hearing and act upon issuance of a full-time malt, spirituous and vinous liquor licenses to Brickyard Hollow.

Be it Ordered that issuance of a full-time malt, spirituous and vinous liquor licenses to Brickyard Hollow is hereby approved.

Approved by roll call: 7-0

Item No. 97: To adopt a resolution naming the 2021 Latchstring Award Honoree(s).

Whereas, the Latchstring Award was established in 1980 to recognize citizens of the Town of Yarmouth whose service to the Town and community have demonstrated exemplary leadership and citizenship, and who embody the spirit of Yarmouth's Town motto: "Our Latchstring Always Out", and

Whereas, Sharon McDonnell and Roy Gibson (“Gib”) Parrish have provided just such outstanding and extraordinary service to the citizens and community of Yarmouth through their tireless work to help organize, inspire, guide, and support the Yarmouth Community Coronavirus Task Force (YCCTF), and

Whereas the YCCTF members and volunteers, donors and supporters, benefited by the leadership, vision, and commitment to action inspired and assisted by the work of Sharon McDonnell and Gib Parrish, have provided critically important support to the Yarmouth community to lift up community engagement, public health, neighbor to neighbor caring, and outstanding public education and understanding during the most challenging and anxious times of the COVID 19 pandemic.

Now Therefore be it Resolved by the Yarmouth Town Council in town council assembled that Sharon McDonnell and Gib Parrish are hereby declared the 2021 Latchstring Award co-recipients, and that all citizens are hereby invited to join with the Yarmouth Town Council in recognizing them, along with the entire group of volunteers and dedicated and caring citizens who comprise the Yarmouth Community Coronavirus Task Force for their selfless, caring, and community building service to the people of Yarmouth.

Approved by roll call: 7- 0

Item No. 98: To authorize the LED street light conversion project to proceed and to authorize a lease-purchase financing agreement, therefore.

Be it Ordered that a sum of \$360,110 is hereby appropriated to implement the street light acquisition and conversion to LED lighting project as detailed in a report from RealTerm Energy dated April 28, 2021, and

Be it further ordered that the Town Manager is hereby authorized to arrange and enter into lease-purchase financing to fund said LED conversion project.

Approved by roll call: 7- 0

Item No. 99: To act upon a proposed Memorandum of Understanding with the Sandy Point Road Association.

Be it Ordered that a Memorandum of Understanding by and between the Yarmouth Town Council and the Sandy Point Homeowners Association dated May [REDACTED], 2021 as presented at this meeting is hereby approved, a copy of which to be attached to the Minutes of this meeting.

Councilor Waeldner, 2nd Humphrey - Motion to Table to June 10. Approved by roll call: 7- 0

Item No. 100: To hold a public hearing and act upon proposed amendment to Chapter 308 of the Yarmouth Town Code (Harbor, Waterfront and Boat Ordinance).

Be it Ordained by the Yarmouth Town Council in town council assembled that Chapter 308 of the Yarmouth Town Code (Harbor, Waterfront and Boat Ordinance) is hereby amended in 3 parts as follows:

Part One: Article I.D. (Definitions) is amended to add:

Pier- A platform or structure leading out from the shore to a dock and any related or connected ramps or floats.

Part Two: Article V. A. (Public Facilities) is amended to insert a new Subsection 5 to read: (Councilor Shannon's version).

- 5 Town of Yarmouth piers, docks and floats may always be used for the purposes of tie-up of vessels and for loading and unloading from a boat. In the interest of safety for all, other recreational users shall clear way for of any vessels seeking to dock or disembark from a float or pier and shall provide safe and adequate space for such vessels to tie up and load or unload.

Other recreational uses including but not limited to swimming, sunbathing, fishing, photography, and viewing are also permitted at town-owned recreational piers and docks unless temporarily halted by direction of the Harbor Master or other law enforcement or public health or safety personnel due to particular health, safety, or environmental circumstances (including but not limited to a special event, the movement of a particular vessel, or other specific instance of overcrowding).

Part Three: Article V.C.4.ii is added to read:

- ii. On-shore dinghy storage racks provided by the Town of Yarmouth at Madeleine Point facility are for the exclusive use of permitted mooring holders for the Madeleine Point Special Anchorage area. No person may store any other dinghy, kayak, canoe, or other watercraft or thing on the dinghy rack without the written approval of the Harbor Master. Any mooring holders leaving a watercraft on the racks must have their name and mooring number displayed in three-inch letters on the outside of the watercraft. The racks are first come first serve. Once the racks are full no watercraft will be permitted to be left on the grounds outside the rack system, and maybe removed by the Harbor Master.

Councilor Shannon, 2nd Waeldner, move to approve Parts 1,2,3

Councilor Waeldner, 2nd Shannon, motion to divide question to deal with Part 2 separately Approved by roll call: 7- 0

Approval of Parts 1,3 by roll call: 7-0

Councilor Bates, 2nd Humphrey, motion to table part 2 until June 10 and refer back to committees. Approved by roll call: 7- 0

Item No. 101: To hold a public hearing and act upon amendments to Chapter 318 of the Yarmouth Town Code (Rental Dwelling Ordinance).

Be it Ordained by the Yarmouth Town Council in town council assembled that Chapter 318 of the Yarmouth Town Code (Rental Dwelling Ordinance) is hereby amended as per a set of recommendations from the Rental Dwelling Advisory Committee dated March 15, 2021, a copy of which to be attached to the Minutes of this meeting.

Approved by roll call: 7- 0

Item No. 102: To hold a public hearing and act upon the recommendations of the Planning Board regarding a contract zone agreement at 332 West Elm Street [Smith-Webber]. **APPLICANT HAS REQUESTED THIS ITEM BE POSTPONED**

Be it Ordained by the Yarmouth Town Council in town council assembled that Chapter 701 of the Yarmouth Town Code is hereby amended by approval of a Contract Zone Agreement with Mary Webber and Bertran Smith regarding Tax Map 36 Lot 3 at 332 West Elm Street, substantially consistent with a draft presented at this meeting, a copy of which to be attached to the minutes of this meeting.

Councilor Humphrey, 2nd Bates, Motion to table passed 5-2 by roll call with Waeldner and Shannon opposed.

Item No. 103: To hold a public hearing and act upon the recommendations of the Planning Board regarding a contract zone agreement at 538 Portland St. [Libby]

Be it Ordained by the Yarmouth Town Council in town council assembled that Chapter 701 of the Yarmouth Town Code is hereby amended by approval of a Contract Zone Agreement with Ed Libby dba Two Towns Property LLC regarding Tax Map 30 Lot 14 at 538 Portland Street, substantially consistent with a draft presented at this meeting, a copy of which to be attached to the minutes of this meeting.

Motion failed 0-7 by roll call.

Item No. 104: To hold a public hearing and act upon amendments to Chapter 701 of the Yarmouth Town Code (Zoning) regarding keeping of domesticated chickens.

Be it Ordained by the Yarmouth Town Council in town council assembled that Chapter 701 of the Yarmouth Town Code (Zoning) is hereby amended at Article II by adding Section DD to read as per a draft designated "Wheaton DRAFT -4/21/21" as

presented at this meeting, a copy of which to set forth in full in the Minutes of this meeting.

Chair Bates, 2nd Cromarty, motion to table to June 10: Approved by roll call: 7- 0

Item No. 105: To hold an Executive Session, if needed, including consideration of the recommendations of the Appointments Committee. **None**

Meeting Adjourned: 11:30PM

Respectfully Submitted

Nathaniel J. Tupper, Town Manager



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

Revised 7-1-2019

Edward Libby
Two Towns Property LLC
374 Route One
Yarmouth, ME 04096

November 12, 2020

VIA ELECTRONIC MAIL

Alex Jaegerman, FAICP
Director of Planning &
Development Town of Yarmouth
200 Main Street
Yarmouth, ME 04096

Re: Request for Contract Zone for Lot at 538 Portland Street

Dear Mr. Jaegerman:

Enclosed please find the following information provided in support of my request for a contract zone at my lot at 538 Portland Street in Yarmouth pursuant to Chapter 701, Article IV, Section V of the zoning ordinance:

1. GIS map showing the zoning and location of the existing lot at 538 Portland Street – Yarmouth Tax Map 30 Lot 14, and Cumberland Tax Map R2 Lot 44;
2. A Google Earth map showing the area in the immediate vicinity of the proposed contract zone;
3. Excerpts from the 2010 Comprehensive Plan indicating that the requested contract zone is not only compatible with the Comprehensive Plan, but specifically recommended as a way to accomplish affordable housing;
4. A site plan showing the proposed location of a house on the new lot created by dividing the existing lot at 538 Portland Street;
5. Deed establishing title to the property;
6. Information about workforce housing, income, and pricing guidelines; and
7. Copy of current zoning regulations pertaining to the property.

The principal purpose for requesting this contract zone is to provide much needed housing in Yarmouth that is affordable to regular working people, so called “workforce housing”. Yarmouth is in an affordability crisis. The recent spike in housing demand due the Covid-19 pandemic has only compounded the problem. The affordable restriction would be in the deed and follow Maine Housing and City of Portland “Workforce Housing” guidelines for income and pricing. I have been in discussion with Yarmouth Senior/Affordable Housing to assist in implementation and stewardship of the deed restriction.

I have lived and worked in Yarmouth since 1996. My children were raised here and attended Yarmouth schools. In that time, Yarmouth has become increasingly out of reach for many, even those making what would seem like a decent income. Price increases have far outpaced income gains, making Yarmouth one of the most unaffordable towns in Maine. I have personally adjusted rental rates down to allow Clipper alumni now teaching at their alma mater to live here rather than commuting from “more affordable towns”. Adding “workforce” priced housing options like this will allow kids that grew up here to return to live and work. It can provide older folks who live here and wish to stay, a way to downsize into something more affordable in their retirement years. Basically, it can provide an opportunity for a more diverse population of people to choose Yarmouth, and all it has to offer, as their home.

Our Comprehensive Plan suggests multiple strategies to diversify housing options, but we have been remiss in translating those strategies into policies (p. 84 of Comp Plan). The lack of such policies is contributing to the current crisis. While this project is limited in its impact, it is a step in the right direction, and perhaps it will bring this crisis into focus for the Planning Board and Town Council. We have had efforts to preserve our buildings underway for years, perhaps the moment has come to shift some of that focus toward preserving our people, and our heritage, as a diverse and inclusive community. In the past 10 years, despite the boom in new home construction, we have not added a single affordable home to our housing stock. I ask, is our collective latchstring really out?

As noted above, the proposed contract zone is consistent with, and advances, the purposes and specific goals of the Comprehensive Plan. Affordable housing and diversity of population, along with allowing higher density, are all included in the Executive Summary (p.4-6). A key recommendation of the 2010 Comprehensive Plan is to allow higher density housing, including in the area of 538 Portland St. Policy C suggests providing “affordable” units as a trade-off for allowing higher density (p.23). “Diversity of Population” is a Core Concept of the Comp Plan as seen on page 46, and suggested policies and strategies specified on pages 25-28.

Aside from the requisite lot size and road frontage in the current zone (MDR), the proposed house on the newly-created lot will meet all requirements of the zoning district including front, rear and side yard setbacks. The proposed use is consistent with existing and permitted uses within the MDR. The current lot at 538 Portland Street is approximately 0.54 acres. The proposed division of the lot will result in two lots of approximately 0.25 acres each. The existing lot contains no wetlands, significant wildlife habitat, or easements.

The proposed building will be compatible with the character of the existing neighborhood, which is a mix of period homes and post war construction on the edge of the MDR district, with the 6-lot Astilbe Lane subdivision being a modern addition. The lot actually straddles the Cumberland town line near the intersection of West Elm and Portland. By way of the embedded “workforce” pricing restraints, the house is anticipated to be in the range of 1000-1300 SF. The existing house on the lot is just under 1000 SF and serves as a rental. My initial thought is that the additional home would be rented as well. It is worth noting that the house location is visually screened by vegetation and somewhat distant from the three residential neighbors, so no negative impact on adjacent properties is anticipated. The adjacent use on

Portland Street is a garage used for storage by Maine Line Fence, whose commercial operations are located across the street. The proposed building will utilize existing public infrastructure available at the street.

A check in the amount of \$250 will be dropped off with hard copies at the Town Office.

In summary, this application is for a use that: (1) is permitted within the zoning district; (2) meets, with the exception of lot size and road frontage, all other conditions and requirements contained in the existing Zoning Ordinance; (3) achieves specific purposes and explicit policy goals of the Comprehensive Plan; and 4) thereby advances the Public Good.

Sincerely,

Ed Libby

Attachments

1. Workforce Housing summary
2. Workforce Rent Guideline
3. Workforce Purchase Guideline
4. Portland Area Income Guideline
5. 2019 Affordability Index
6. Excerpt from 2010 Comprehensive Plan
7. Excerpt from 2010 Comprehensive Plan
8. Excerpt from 2010 Comprehensive Plan
9. Excerpt from 2010 Comprehensive Plan
10. Excerpt from 2010 Comprehensive Plan
11. Deed
12. MDR Specifications
13. Cumberland Setbacks
14. Aerial Photo 2012
15. Site plan
16. Zoning Map

What Is Workforce Housing?

Workforce Rental Unit:

Is housing that is affordable to a household earning up to 100% of HUD Area Median Income (AMI). Annual rent increases for that unit are limited by deed restriction, or lease agreements.

Workforce Homeownership Unit:

Is housing for which the purchase price is affordable to a household earning up to 120% of Area Median Income (AMI). The resale price is limited by deed restriction for all future sales of the home.

Affordable:

Affordable means that the percentage of income a household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including insurance, HOA fees, taxes, and utilities), does not exceed 30% of a household's gross income.

Area Median Income:

Commonly referred to as "AMI", the AMI is a measure of income set by the U.S. Department of Housing and Urban Development (HUD) for all cities across the country. It is the benchmark used for determining income eligibility.

Portland Area Maximum Rent for Workforce Housing

Utilities paid for by the tenant are included in the rent calculation. Utilities would include electricity, heat, hot water, cooking energy, sewer, water, and trash collection

AMI	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom	Five Bedroom
100%	\$1,766	\$2,018	\$2,270	\$2,523	\$2,724

Income & Purchase Price Limits

First Home Loan, Salute ME & Salute Home Again Programs

Most Maine homebuyers are income eligible. [See if you are income eligible.](#) | Most Maine homes are purchase price eligible. [See eligible home purchase prices in your area.](#)

Income Limits

Income limits vary depending on how many people live in your household and on the county where you'd like to buy your home. Limits are subject to change.

Effective Date: May 22, 2020

Area	Household Size	
	1-2 person	3 or more
Portland HMFA		
Cumberland County: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth York County: Buxton, Hollis, Limington, Old Orchard Beach	\$100,300	\$115,340
York/Kittery/So. Berwick HMFA		
Berwick, Eliot, Kittery, So. Berwick, York	\$100,700	\$115,805
Other Areas		
Cumberland County (excluding HMFA)	\$78,100	\$89,800
Sagadahoc County	\$78,500	\$90,275
York County (excluding HMFA)	\$79,000	\$90,850
All Other Counties	\$76,600	\$88,090

Purchase Price Limits

New and existing single-family homes, owner-occupied two to four unit apartment buildings, and condominiums are all eligible. So are mobile homes located on owned land and built within the last 20 years. See the chart below to find out if the price of the house you want meets MaineHousing guidelines.

Purchase Price Limits establish maximum eligibility guidelines, not the price of the home you can afford. Your individual financial situation will determine the mortgage amount you can actually borrow. For more information, contact a MaineHousing [Participating Lender](#). Purchase Price Limits are subject to change.

If you are using the Mobile Home Self-Insured Option, the Purchase Price Limit for a single-wide and double-wide mobile homes on owned or leased land is \$175,000 for all areas.

Effective Date: May 22, 2020

Area	Household Size			
	1-Unit	2-Unit	3-Unit	4-Unit
Portland HMFA				
Cumberland County: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth York County: Buxton, Hollis, Limington, Old Orchard Beach	\$325,760	\$417,000	\$504,060	\$626,470
York/Kittery/So. Berwick HMFA				
Berwick, Eliot, Kittery, So. Berwick, York	\$325,760	\$417,000	\$504,060	\$626,470
Other Areas				
Cumberland County (excluding HMFA)	\$325,760	\$417,000	\$504,060	\$626,470
Sagadahoc County	\$325,760	\$417,000	\$504,060	\$626,470
York County (excluding HMFA)	\$325,760	\$417,000	\$504,060	\$626,470

All Other Counties	\$294,600	\$377,210	\$455,940	\$566,620
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2020 INCOME LIMITS - PORTLAND HUD METRO FMR AREA

HOUSEHOLD SIZE

AMI	1	2	3	4	5	6
100%	\$70,630	\$80,720	\$90,810	\$100,900	108,972	\$117,044
120%	\$84,756	\$96,864	\$108,972	\$121,080	\$130,767	\$140,453



Housing Facts and Affordability Index

Cumberland County - 2019

Homeownership Affordability Index

	<u>Year</u>	<u>Index</u>	<u>Median Home Price¹</u>	<u>Median Income²</u>	<u>Income Needed to Afford Median Home Price</u>	<u>Home Price Affordable to Median Income</u>
Cumberland County	2015	0.89	\$241,000	\$60,474	\$67,919	\$214,584
	2016	0.81	\$256,000	\$59,748	\$73,365	\$208,484
	2017	0.82	\$282,000	\$66,656	\$81,616	\$230,310
	2018	0.77	\$303,000	\$70,437	\$91,909	\$232,211
	2019	0.79	\$322,500	\$75,285	\$94,943	\$255,728
Portland		0.56	\$326,000	\$56,103	\$100,901	\$181,262
Yarmouth		0.64	\$518,000	\$98,106	\$154,024	\$329,941
South Portland		0.72	\$315,000	\$68,297	\$94,608	\$227,396
Falmouth		0.73	\$550,000	\$116,959	\$160,514	\$400,759
Cape Elizabeth		0.73	\$535,000	\$116,614	\$159,996	\$389,938
Harpswell		0.74	\$435,000	\$83,796	\$112,721	\$323,375
Harrison		0.74	\$254,175	\$52,838	\$71,040	\$189,051
Westbrook		0.76	\$265,750	\$61,120	\$80,652	\$201,393
Scarborough		0.79	\$413,200	\$95,776	\$121,874	\$324,719
Cumberland County		0.79	\$322,500	\$75,285	\$94,943	\$255,728
Brunswick		0.80	\$289,000	\$69,772	\$87,181	\$231,290
Freeport		0.80	\$387,000	\$89,978	\$112,017	\$310,858
Casco		0.84	\$235,000	\$57,595	\$68,248	\$198,319
Gray		0.85	\$290,000	\$73,099	\$86,168	\$246,017
Pownal		0.89	\$350,000	\$92,568	\$104,183	\$310,980
Gorham		0.89	\$319,900	\$84,713	\$95,052	\$285,105
Raymond		0.90	\$319,000	\$80,270	\$89,316	\$286,692
Maine		0.90	\$225,000	\$59,575	\$66,044	\$202,959
Sebago		0.93	\$229,000	\$61,295	\$65,708	\$213,621
Naples		0.93	\$235,950	\$62,458	\$66,948	\$220,127
Bridgton		0.93	\$210,000	\$57,071	\$61,162	\$195,952
Cumberland		0.94	\$478,000	\$136,009	\$144,930	\$448,577
Windham		0.94	\$280,000	\$77,765	\$82,526	\$263,846
New Gloucester		0.98	\$260,000	\$74,651	\$75,861	\$255,854
North Yarmouth		1.04	\$369,900	\$113,136	\$108,812	\$384,600
Standish		1.06	\$255,000	\$76,588	\$72,262	\$270,267
Baldwin		1.13	\$183,650	\$59,524	\$52,603	\$207,813

The Homeownership Affordability Index is the ratio of Home Price Affordable at Median Income to Median Home Price. An index of less than 1 means the area is generally unaffordable - i.e., a household earning area median income could not cover the payment on a median priced home (30 year mortgage, taxes and insurance) using no more than 28% of gross income.

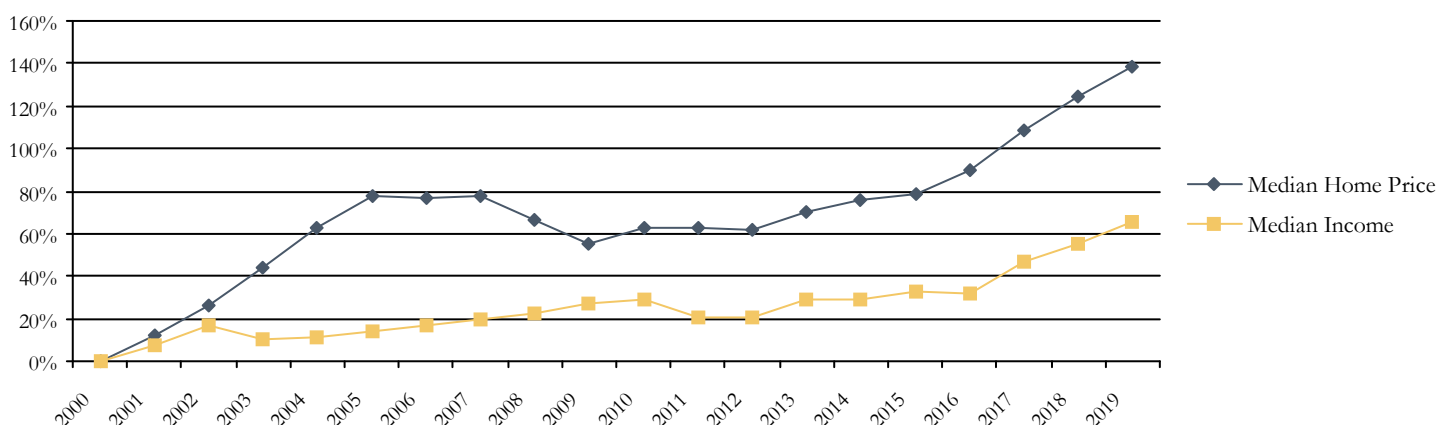
Households Unable to Afford Median Home

<u>Location</u>	<u>Households Unable to Afford Median Home</u>		<u>Total Households</u>	<u>Median Home Price</u> ¹	<u>Income Needed to Afford Median Home</u>	
	<u>Percent</u>	<u>Number</u>			<u>Annual</u>	<u>Hourly</u>
Portland	73.8%	23,457	31,800	\$326,000	\$100,901	\$48.51
South Portland	68.5%	7,844	11,447	\$315,000	\$94,608	\$45.48
Sebang	68.2%	576	845	\$229,000	\$65,708	\$31.59
Harrison	66.7%	812	1,218	\$254,175	\$71,040	\$34.15
Cumberland County	64.8%	80,855	124,872	\$322,500	\$94,943	\$45.65
Westbrook	62.8%	5,145	8,195	\$265,750	\$80,652	\$38.77
Maine	62.2%	354,985	570,917	\$225,000	\$66,044	\$31.75
Harpwell	60.4%	1,421	2,352	\$435,000	\$112,721	\$54.19
Brunswick	60.4%	5,410	8,960	\$289,000	\$87,181	\$41.91
Gorham	60.1%	3,771	6,275	\$319,900	\$95,052	\$45.70
Casco	60.0%	988	1,646	\$235,000	\$68,248	\$32.81
Naples	59.0%	970	1,644	\$235,950	\$66,948	\$32.19
Gray	58.9%	2,067	3,510	\$290,000	\$86,168	\$41.43
Raymond	55.6%	1,035	1,863	\$319,000	\$89,316	\$42.94
Pownal	55.5%	335	604	\$350,000	\$104,183	\$50.09
Freeport	55.3%	1,929	3,490	\$387,000	\$112,017	\$53.85
Windham	53.3%	3,665	6,871	\$280,000	\$82,526	\$39.68
Bridgton	53.3%	1,311	2,460	\$210,000	\$61,162	\$29.40
Scarborough	52.2%	4,293	8,220	\$413,200	\$121,874	\$58.59
Yarmouth	51.0%	1,860	3,650	\$518,000	\$154,024	\$74.05
New Gloucester	50.8%	1,127	2,217	\$260,000	\$75,861	\$36.47
Standish	49.1%	1,857	3,785	\$255,000	\$72,262	\$34.74
Baldwin	44.5%	282	634	\$183,650	\$52,603	\$25.29
North Yarmouth	43.3%	604	1,394	\$369,900	\$108,812	\$52.31
Falmouth	42.8%	2,016	4,709	\$550,000	\$160,514	\$77.17
Cape Elizabeth	41.5%	1,545	3,724	\$535,000	\$159,996	\$76.92
Cumberland	34.3%	1,044	3,044	\$478,000	\$144,930	\$69.68

Unattainable Homes as a Percentage of Homes Sold

<u>Location</u>	<u>Percentage of Unattainable Homes</u>	<u>Affordable Homes Sold</u>	<u>Unattainable Homes Sold</u>
Portland	98.3%	10	586
Westbrook	91.4%	18	191
South Portland	89.5%	31	263
Yarmouth	84.8%	20	112
Scarborough	75.6%	86	266
Falmouth	72.8%	46	123
Cumberland County	72.3%	1,145	2,995
Brunswick	71.7%	65	165
Harpswell	71.3%	39	97
Freeport	70.4%	32	76
Cape Elizabeth	67.1%	49	100
Harrison	66.7%	20	40
Gray	64.6%	40	73
Casco	63.5%	35	61
Pownal	63.2%	7	12
Gorham	61.5%	106	169
Sebago	61.4%	22	35
Windham	61.1%	119	187
New Gloucester	57.9%	24	33
Cumberland	57.7%	63	86
Bridgton	57.2%	68	91
Maine	56.3%	8,015	10,321
Naples	53.6%	51	59
Raymond	51.7%	43	46
North Yarmouth	50.0%	32	32
Standish	44.2%	91	72
Baldwin	30.0%	14	6

Relative Increases in Income and Home Price



Demographics

	% Change <u>1990-2019</u>	<u>1990</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Population	21.3%	243,135	287,512	290,422	292,877	294,757	294,955
Households	32.1%	94,512	120,809	122,266	123,551	124,520	124,872

Endnotes

¹This data is derived from Maine Real Estate Information System ("MREIS") and MREIS reserves all rights including all proprietary rights in the data set forth herein and any use or publication of this data or any portion thereof without the express written consent of MREIS is prohibited. Any reproduction, sale or exchange of this data, in whole or in part, is likewise prohibited. All rights to the data remain the exclusive property of MREIS to the extent owned by MREIS.

²Source: Claritas Current Year Household Income

³The Y axis is an index defined as the ratio of the annual value to the year 2000 value.

EXECUTIVE SUMMARY

The Town of Yarmouth, Maine is a wonderful coastal community, rich with historical architecture, walkable neighborhoods, a scenic coastline and river, and high quality municipal and educational services. The Town has historically played an active role in managing its growth and development. The Town's 1993 Comprehensive Plan charted a course for the future of the community, and many of its recommendations have been addressed.

After four years of diligent volunteerism and community outreach, the Comprehensive Plan Steering Committee (CPSC) is proud to release the new 2010 Comprehensive Plan. The recommendations of the 2010 Plan build on many of the basic policy directions of the 1993 Plan, and in many cases address emerging issues and provides a fresh look at ongoing issues. Based upon the values expressed by Yarmouth's citizens as gathered through a broad citizen participation process, the 2010 Plan focuses on five key interrelated topics facing Yarmouth over the next decade:

- Yarmouth Village
- Diversity of the Population
- Historic Character
- Route One
- Rural Character and Open Space.

An example of an emerging concept explored in the Plan is the recommendation that the Town explore the use of Form-Based Codes as an alternative to the Town's traditional zoning approach. An abstract of this modern, sustainable regulatory tool is presented beginning on page 76.

The following sections provide an overview of the key recommendations of the 2010 Comprehensive Plan.

A. YARMOUTH VILLAGE

Yarmouth Village is a highly desirable, walkable New England village with a vibrant, mixed-use center along Main Street – a small-town environment and atmosphere highly valued by Yarmouth citizens. What makes the Village “the Village” is a pattern of development characterized by smaller lot sizes, buildings set closer to the street and each other, mixed residential and commercial uses, sidewalks and walkable access to services, and a

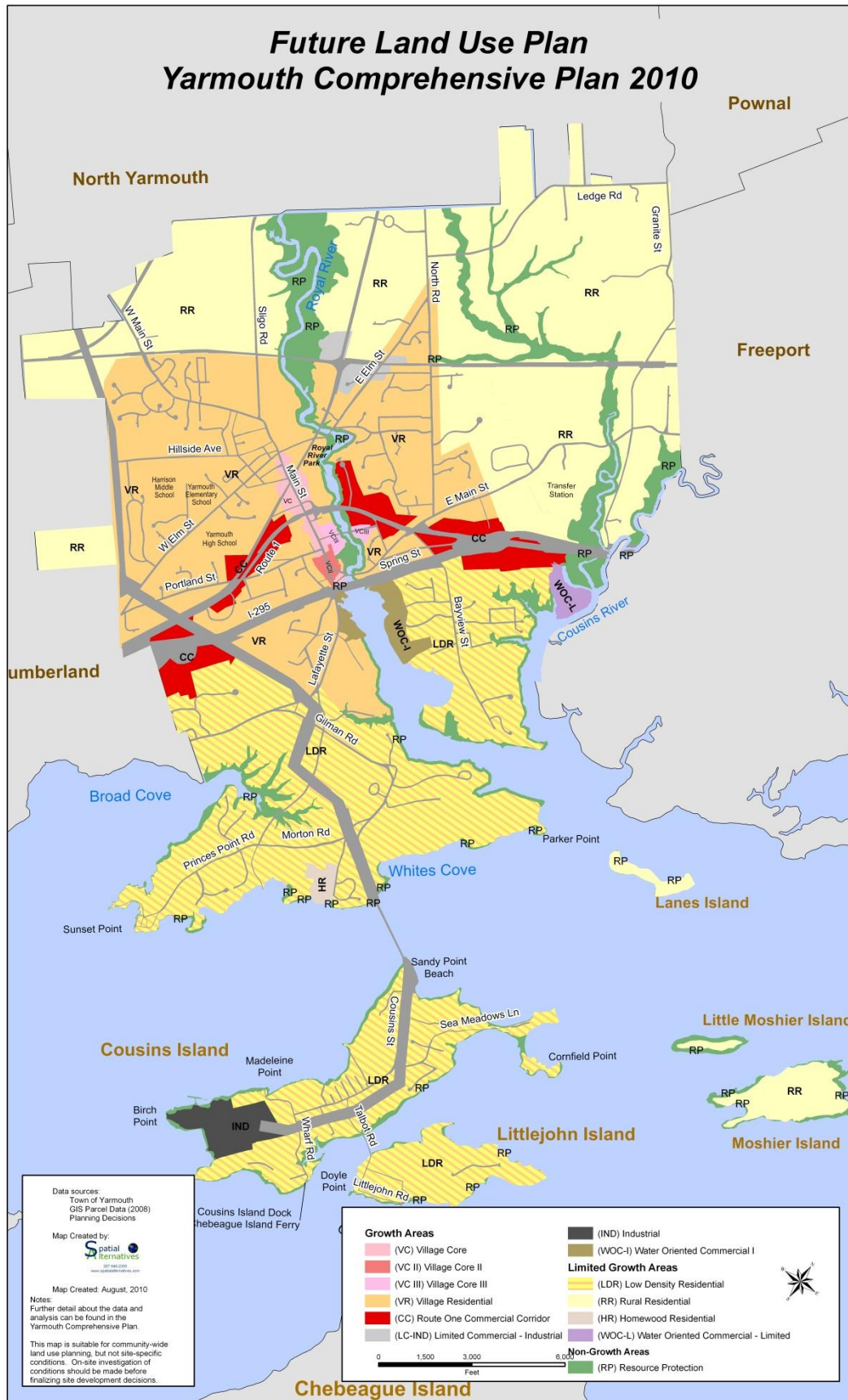
predominance of historic architectural styles. To preserve and encourage this desirable pattern of development, key recommendations include:

- Revising the zoning for the Village Center/Main Street to allow for more non-residential use of buildings while maintaining residential uses.
- Adopting a “renovation code” to allow modifications to older buildings that are appropriate to the age of the building.
- Consider creating an advisory review process for changes to the exterior appearance of designated historic buildings/structures.
- Creating a new Village Residential Zone and amending some or all of the Medium Density Residential Zone to allow higher density housing subject to development standards.
- Improving pedestrian and bicycle facilities.
- Improving the availability and management of parking in the Village Center.

B. DIVERSITY OF THE POPULATION

Historically, Yarmouth has been a town with a diverse population, both economically and demographically. Multiple generations of Yarmouth families live here, as do new residents attracted by our excellent schools and easy access to Portland. Occupations and household income have varied widely as well. But recently, high housing prices are making it difficult for those of medium income to move here, including young families with children. This has resulted in a more economically and demographically homogenous population (older in age, higher in income). Because the community values population diversity and the vitality it brings to our town, the following recommendations are aimed at encouraging the development of more moderately priced housing:

- Maintaining an active affordable housing program to ensure that existing affordable housing remains affordable.
- Creating a local funding mechanism to support both the retention of existing and the creation of new affordable housing including the creation of an “affordable housing fund.”
- Continuing to use contract zoning to allow for the development of new affordable housing on a case-by-case basis
- Actively encourage the development of new housing that is affordable to moderate and lower income households so that at least ten percent of new units are affordable.



This policy supports increasing the allowed density of residential use within the Village but with two important limitations:

- 1) New residential units within the Village (in either new buildings or modifications of existing buildings) be designed and built to be compatible with the character of the village (density, scale, form, and disposition) and minimize impacts on adjacent properties.
- 2) Property owners who take advantage of the opportunity for higher density pay an offset fee to be used by the Town to protect open space, make infrastructure improvements, enhance the village character such as with streetscape improvements, the upgrading of pedestrian and bicycle facilities, or adding pocket parks, or provide for affordable housing by either setting aside units as “affordable housing” or paying an affordable housing offset fee to the Town to be used for maintaining or creating affordable housing (see housing diversity section for additional details).

Strategy C.4.1– Create a new Village Residential (VR) zone out of part of the current Medium Density Residential District. The new VR District should include the older built-up areas of the Village. Figure 1-5 on the following page shows the possible boundaries of the proposed VR area. The final location of the boundaries will need to be determined when this proposal is implemented and will need to take into consideration the ongoing planning process of the Town including the Royal River Corridor Study and the updating of the Town’s Shoreland Zoning. The major objectives in creating this new zone are to reduce the number of existing lots/buildings that are nonconforming in terms of the Town’s zoning requirements and to allow residential uses (including infill development and more flexible use of existing properties) at higher densities than the current one acre per unit requirement of the MDR District. In return for allowing increased density in this area of the Village, the new VR District should include expanded development standards (excluding architectural design standards) to ensure that new buildings or modifications to existing buildings occur in a manner that is compatible with the village character and minimizes impacts on adjacent properties.

Strategy C.5.1 – Develop and implement a plan to provide appropriate pedestrian and bicycle facilities and link the various parts of the Village including the established residential areas in the existing MDR zone.

Strategy C.5.2 – Revise the Town’s development standards to require that new development in the Village be “pedestrian and bicycle friendly” in terms of site layout, pedestrian and bicycle facilities and circulation to/from/within the site.

Policy C.6. Improve the availability and management of parking in the Village Center in a manner that does not detract from the essential character of the surroundings to maintain an attractive, diverse, and vibrant mixed-use area.

Strategy C.6.1 – Conduct a parking study in the Village Center to determine the actual use of existing public and customer parking, identify deficiencies in the supply or management of parking, identify opportunities to encourage alternative transportation and explore ways to improve parking in the Village Center in a way that is compatible with the character of the area.

Strategy C.6.2 – Explore possible approaches for funding parking improvements in the Village Center including the creation of a parking district, the use of impact fees, and similar techniques.

Strategy C.6.3 – Establish reduced parking standards for development or redevelopment in the Village Center if the parking study determines that the actual demand for parking is less than that required by the current parking standards.

D. DIVERSITY OF THE POPULATION

1. BACKGROUND

Historically, Yarmouth was “home” to a wide range of people – young families and elderly residents; people who worked in the community and people who commuted elsewhere; people of relatively modest means and those who were more affluent. The population of Yarmouth is getting older. The number of residents over 45 years of age is projected to increase significantly while those under 45 are projected to decrease. The number of younger households has been decreasing and is projected to continue to decrease. The number of Yarmouth residents between 30 and 44 years old dropped by almost 15% during the 1990s and is projected to drop another 20% by 2015. Similarly, the number of school aged children is projected to drop over 5% between 2000 and 2015.

In 2000, about two-thirds of the housing units in Yarmouth were detached, single-family homes. The balance were in a wide range of multiunit housing types ranging from townhouse style condominium units to small buildings with 2-4 units to larger “apartment complexes.” About 30% of the housing available in 2000 was rental housing. While the number of rental units has remained relatively constant, the share of rental units has been decreasing as the Town grows. This housing stock has provided a diversity of housing options in Yarmouth allowing a range of people to live in our community. However, most new housing over the past 15 years has been more expensive, single-family homes on large lots. This trend coupled with escalating housing values threatens to limit the ability of younger households and households with modest incomes to be able to live in Yarmouth.

Our town has increasingly become a bedroom community in which people commute to work in other locations. In 2000, less than 23% of employed Yarmouth residents reported working in town, down from almost 30% in 1980. During the preparation of this revision of the Comprehensive Plan, the issue of economic and age diversity was raised in many different ways. There was concern about how the aging population would change the needs for community services. A potential decline in the number of children raised issues about maintaining the quality of the school system. The ability of younger families to “buy-in” to Yarmouth came up in many ways. Maintaining our community as a place where a variety of people can live emerged as a major issue in the face of escalating real estate values and housing costs.

2. VISION

Yarmouth will continue to be a community with a diverse population: young families with children, middle-aged couples, elderly residents, younger renters ranging from those with modest incomes to affluent households. To accommodate this population diversity, a wide range of housing choices will continue to be available in our community including housing that is affordable to households with modest income and a variety of rental housing. To help maintain an economically diverse population, at least 20% of newly created housing units will be units that are in housing other than single-family homes or that are affordable to households with

modest incomes. These new units include accessory dwelling units added to existing homes, small infill buildings in the Village, new



affordable housing projects, and other creative approaches.

3. POLICIES AND STRATEGIES

Maintaining a diverse population living in a diverse housing stock will require that the Town actively work to achieve this vision. This section lays out the Town's policies with respect to fostering a diverse community and identifies actions the Town will need to take to implement those policies.

Policy D.1. Maintain an active community program to ensure that existing affordable housing remains affordable and to expand the supply of affordable housing in the community.

Strategy D.1.1 – Continue to support community groups including Yarmouth Senior Housing, Inc. and the Yarmouth Affordable Housing Committee that are working to provide affordable housing to meet the needs of the community.

Policy D.2. Create a local funding mechanism to support both the retention of existing affordable housing and the creation of new affordable housing.

Strategy D.2.1 – Create an “Affordable Housing Fund” that would be used to maintain the affordability of existing affordable housing and to support efforts to create new affordable housing including the purchase of land and the provision of infrastructure to serve new projects that create affordable housing.

Strategy D.2.2 – Seek funding from state and federal programs, foundations, and other sources to provide additional funds to support the maintenance of existing affordable housing and the creation of new affordable housing.

Strategy D.2.3 – Encourage the use of affordable housing tax credit programs and affordable housing TIFs (Tax Increment Financing) to expand the supply of affordable housing available in Yarmouth.

Policy D.3. Expand the range of new housing that can be created in the community.

Strategy D.3.1 – Create a new Village Residential District (VR) that allows higher density development.

Strategy D.3.2 – Consider incorporating the Medium Density Residential District into the new “Village Residential” District.

Policy D.4. Actively encourage the development of new housing that is affordable to moderate and lower income households so that at least ten percent of new units are affordable.

Strategy D.4.1 – Utilize contract zoning to allow for the development of new affordable housing on a case-by-case basis.

Strategy D.4.2 – Assist community housing groups or private developers obtain grants or other outside funding to support the development of new affordable housing in the community.

Strategy D.4.3 – Change zoning regulations to provide incentives to encourage all new residential developments of ten or more units to include a minimum of 10% of the units affordable for moderate income persons/families. Alternatively, make other provisions for the creation of an equal amount of affordable housing in another location, or pay an affordable housing offset fee.

Policy D.5. Accommodate the possible development of mobile home parks in a manner that is consistent with state law.

Strategy D.5.1 – Review and revise the location and extent of the Mobile Home Park Overlay District to include the area around the existing mobile home park as well as additional areas that are suitable for this type of development.

Policy D.6. Encourage and support efforts to address affordable and workforce housing needs on a regional basis.

Strategy D.6.1 – Work with area towns and regional organizations in developing a regional plan for providing affordable housing in conjunction with the municipalities, housing organizations, and housing developers.

Policy D.7. Pursue a variety of strategies to assist residents of all ages, incomes, and abilities to be able to remain in their homes and enjoy the benefits of community life.

Strategy D.7.1 – Consider programs such as fuel/energy assistance, making provisions for rental income generating units within existing structures; providing social services and pricing town services that support existing populations with special needs; providing social and governmental services to persons of all incomes and abilities and designing such services to accommodate and help economic, health, disability, mobility, dependent care or other special needs.

C. CORE CONCEPTS OF THE FUTURE LAND USE PLAN

The Future Land Use Plan embodies the following overarching or core concepts with respect to the desired pattern of land use in Yarmouth:

1. Yarmouth has a well-defined, historic pattern of development with a compact, walkable village center surrounded by relatively dense older residential neighborhoods and a rural/coastal hinterland. While development on the fringe of the Village over the past thirty years has somewhat compromised this historic development pattern, future development must be guided and encouraged to emulate the historic pattern.
2. The focus of the Town's development regulations should include the appearance and form of new development as well as its use and impacts on the community. Where practical, the Town should move toward a Form-Based Codes approach that focuses on the design and placement of the building on the site with less emphasis on the specific use of the property (see end of Chapter 3 for an explanation of Form-Based Codes).
3. Yarmouth has traditionally offered a diversity of housing opportunities that resulted in a somewhat diverse population in terms of age and income. That diversity has been threatened by escalating real estate values and the recent pattern of residential development. Creating the opportunity for the development of a wide range of housing types and sizes is essential if Yarmouth is going to remain a community with a somewhat diverse population.
4. Returning to the historic pattern of development and providing a diversity of housing opportunities will require that the Town allow higher density/intensity of use in some areas especially within the Village area (see Figure 1-1, page 15) and area currently zoned MDR. This area must continue to be a vibrant, pedestrian friendly, visually attractive, mixed-use area. The Village Center must include both residential and non-residential uses. New development must reinforce the character of the Village, visually, economically, and culturally.
5. The Village Residential areas adjacent to the Village Center must be maintained as high quality, walkable neighborhoods. Infill development, redevelopment, and use of existing properties that maintain and reinforce the Village character and the historic density of development should be encouraged.
6. The areas immediately outside of the Village Residential area that experienced "lower-density" suburban style residential development should be reclaimed as part of the Village. Within these moderate density areas, more dense development should be allowed as long as it maintains and reinforces the Village character. Areas west of the

IMPLEMENTATION STRATEGY

Policy Reference	Description of Activity	Primary Responsibility	Primary Support Organization	Time to Implement	Form-Based Codes
Ch1-C.6.1	Village Center Parking Study	Planning Director	BPSC	Medium	
Ch1-C.6.2	Village Center Parking Improvements	Planning Director	Town Engineer	Medium	
Ch1-C.6.3	Zoning: Reduced Parking Standards (Village)	Planning Director	Planning Board	Short (Done)	X
Diversity of Population					
Ch1-D.1.1	Support Affordable Housing Advocates	Town Manager	YAHl	Ongoing	
Ch1-D.2.1	Create Affordable Housing Fund	Town Manager	YAHl	Short	
Ch1-D.2.2	Seek Funding for Affordable Housing	YAHl		Ongoing	
Ch1-D.2.3	Encourage Tax Credit and TIF Programs	Town Manager	YAHl	Medium	
Ch1-D.3.1	Zoning: New Village Residential (VR)	Planning Director	Planning Board	Short	X
Ch1-D.3.2	Zoning: MDR into New Village Residential (VR)	Planning Director	Planning Board	Short	X
Ch1-D.4.1	Contract Zoning: New Affordable Housing	Town Manager	Town Council	Ongoing	
Ch1-D.4.2	Assist/Support New Affordable Housing	Town Manager	Town Council	Ongoing	
Ch1-D.4.3	Zoning: Inclusionary Housing	Planning Director	Planning Board	Short	X
Ch1-D.5.1	Zoning: Mobile Home Park Overlay	Planning Director	Planning Board	Short	X
Ch1-D.6.1	Regional Affordable Housing Plan	Town Manager	Planning Director	Long	

WARRANTY DEED
Maine Statutory Short Form

KNOW ALL BY THESE PRESENTS, that we, **Thomas C. Gregor, Jr.** of Yarmouth, Maine, **Ronald Gregor** of North Yarmouth, Maine and **William E. Gregor**, of Eliot, Maine, for consideration paid, grant to:

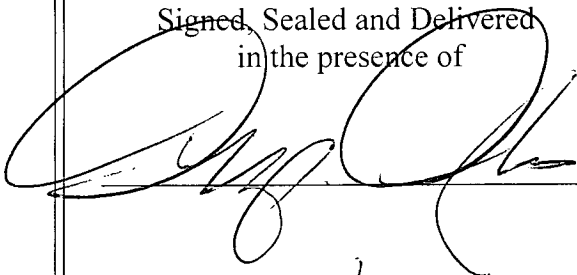
Two Towns Property, LLC

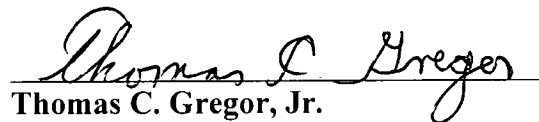
a limited liability company organized and existing under the laws of the State of, Maine and having a place of business at: 374 Route 1, Yarmouth, Maine 04096, with **warranty covenants**, the real estate situated in Yarmouth, County of Cumberland, and State of Maine, described as follows:

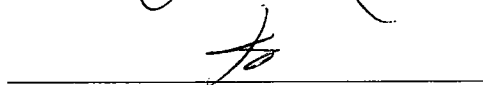
A certain lot or parcel of land, together with any buildings and improvements thereon, situated in the Town of Yarmouth, County of Cumberland, and State of Maine being more particularly described in Exhibit A attached hereto and made a part hereof.

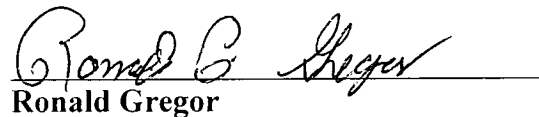
Witness our hands and seals this 15th day of July, 2016.

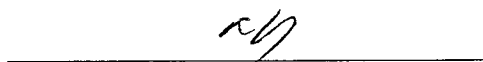
Signed, Sealed and Delivered
in the presence of




Thomas C. Gregor, Jr.




Ronald Gregor




William E. Gregor

MAINE REAL ESTATE TAX PAID

ARTICLE IV

H. “MDR” – MEDIUM DENSITY RESIDENTIAL

The medium density residential district is expected to provide public sewer and water in all areas of the district. The purpose of this District is to provide a wholesome living environment readily accessible to the Town center.

Permitted Uses:

Single Family Detached Dwelling	Multiplex
Two Family Detached Dwelling	Storage Buildings
Cluster Development (see Article II.M)	Churches
Accessory Uses and Buildings	Family Day Care Home
Farm Animals for Personal Use on lots of two Acres or more	
Manufactured Housing	Essential Services
Municipal Uses and Buildings	Home Occupations
Antenna array on Alternative Tower Structure, except no microwave dish antennas are permitted	
Wireless communication facility (see Article II.Z & Ch. 702, Site Plan Review Ordinance), except no microwave dish antennas are permitted	
Accessory Dwelling Units	

Special Exception

Public Utilities	Funeral Homes
Hospitals	Schools
Private Clubs	Group Day Care Home
Day Care Facility within Churches and Community Buildings (require site plan review)	
Conversion of a residential Structure, in existence prior to March 12, 1973, to a Two-family Detached Dwelling. No conversion shall result in a total of more than two (2) dwelling units per lot.	
Farm Animals for Personal Use on Lots of less than two (2) Acres.	
Expansion of existing Commercial Greenhouse to no more than 30% of the floor area in existence at the date of this Ordinance	

Medium Density Residential Minimum Dimensional Requirements ^d (May be modified in accordance with the Ordinance)

	Single Family and other uses	Two Family Detached	Multiplex
Area	1 Acres	2 Acres	10
Acres/unit ^a			1
Lot Width ^c	130 feet	130 feet	
Front Yard	15 feet	15 feet	
Side Yard	10 feet	10 feet	
Rear Yard	15 feet	15 feet	

a- must be served by sewer

b- width must be maintained from the front lot line to the minimum front yard set back

Cumberland Zoning District Requirements

Note: Sheds & driveways have 15' setbacks for rear and side in RR1, RR2, MDR, LDR, VMDR, IR
Note: See Contract Zones on page 2 for setback requirements

Zoning District	District Description	Minimum Lot Size	Lot Size Per Unit	Lot Frontage	Front Setback	Rear Setback	Side Setback	Combined Setback
RR1	Rural Residential	4 Ac. **(2 Ac)	2.5 Ac **(1 Ac)	200'	50'	75'	30'	75'
RR2	Rural Residential	2 Ac	1.25 Ac **(1Ac)	200'	50'	75'	30'	75'
MDR *	Medium Density Residential	2 Ac **(1Ac)	.5 Ac (sewer)	150'	35'	50'	20'	50'
LDR *	Low Density Residential	2 Ac ** (1.5 Ac)	1.25 Ac **(.75 Ac)	150'	50'	65'	30'	65'
VMDR	Village Medium Density Residential	20,000 Sq. Ft.	20,000 Sq. Ft.	100'	25'	25'	15'	35'
IR	Island Residential	1.5 Ac	.94 Ac.	150'	55'	65'	30'	65'
HC	Highway Commercial	40,000 Sq. Ft.	N/A	150'	50'	65'	30'	65'
OC - N	Office Commercial	1 Ac.	20,000 Sq. Ft.	150'	25'	65'	20'	N/A
OC-S	Office Commercial	1 Ac.	N/A	150'	25'	65'	20'	N/A
VCC	Village Center Commercial	20,000 Sq. Ft.	N/A	75'	45'	50'	15'	N/A
VOCI	Village Office Commercial I	40,000 Sq. Ft.	N/A	75'	50'	50'	20'	N/A
VOCH	Village Office Commercial II	40,000 Sq. Ft.	N/A	75'	50'	65'	20'	N/A
MUZ	Mixed Use Zone	30,000 Sq. Ft.	N/A	100'	40'	25' *** 50' ***	25'	N/A
VMUZ	Village Mixed Use Zone	5,000 Sq. Ft.	2,500 Sq. Ft.	50'	15'	15'	10'	N/A
TCD	Town Center District	**10,000 Sq. Ft. 20,000 sq. ft.	**5,000 Sq. Ft.	No less than 80' Except U13/109	15'	15	10	N/A
I	Industrial	40,000 Sq. Ft.	N/A	100'	45'	50'	15'****	See Text
RI	Rural Industrial	60,000 Sq. Ft.	40,000 Sq. ft. **20,000 Sq. Ft.	150'	50' (R/H.O) 100' Com	65' 65'	30' 30'	75' 75'

* Setbacks may be reduced (See Overlay Map District 1 or 2) ***Additional buffering may be required
 ** Lot requirement with sewer **** If new non-residential, side setback is 75' – See Zoning Text
 *** Additional buffering may be required - See Zoning Ordinance Text

4/27/2012

538 Portland Aerial

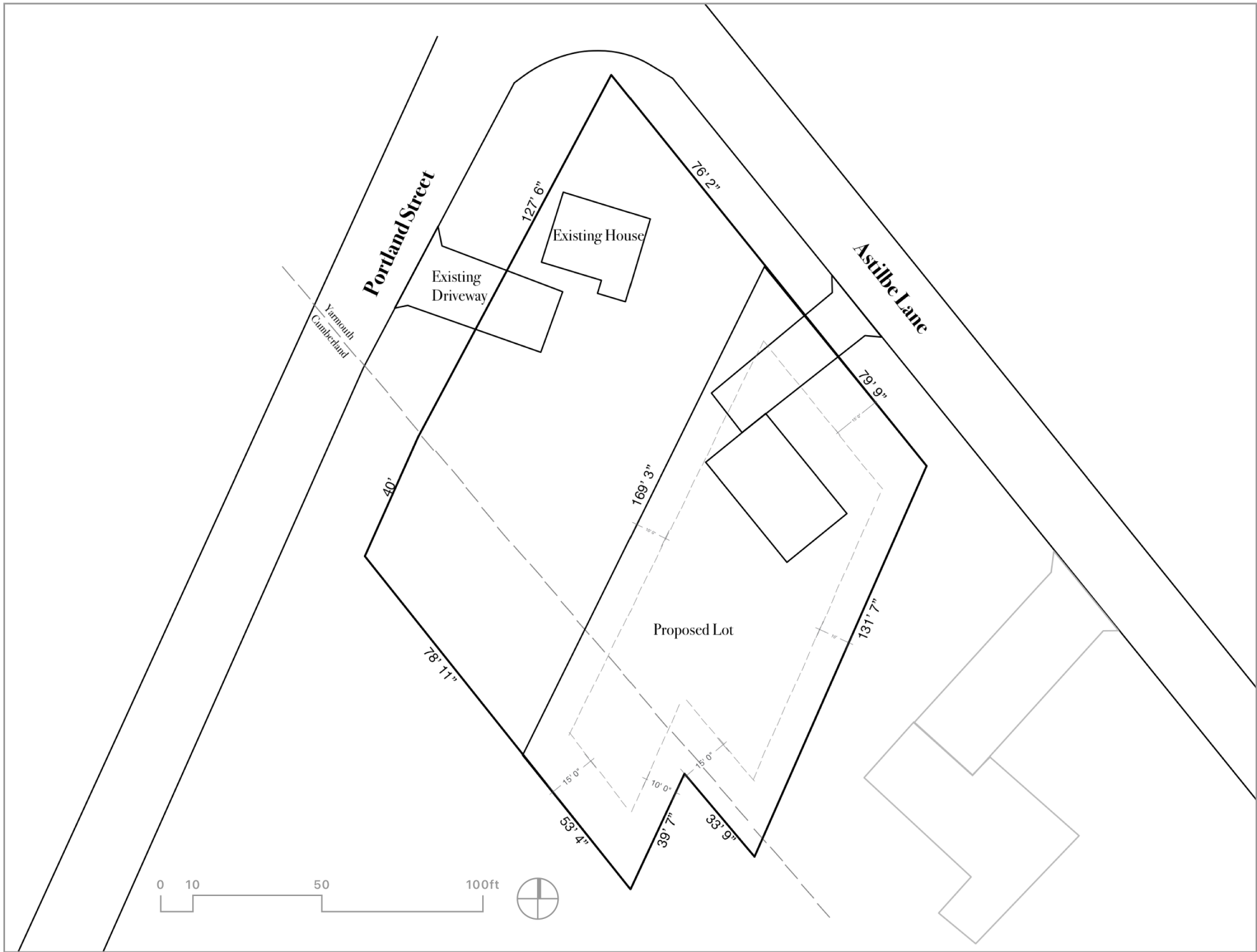
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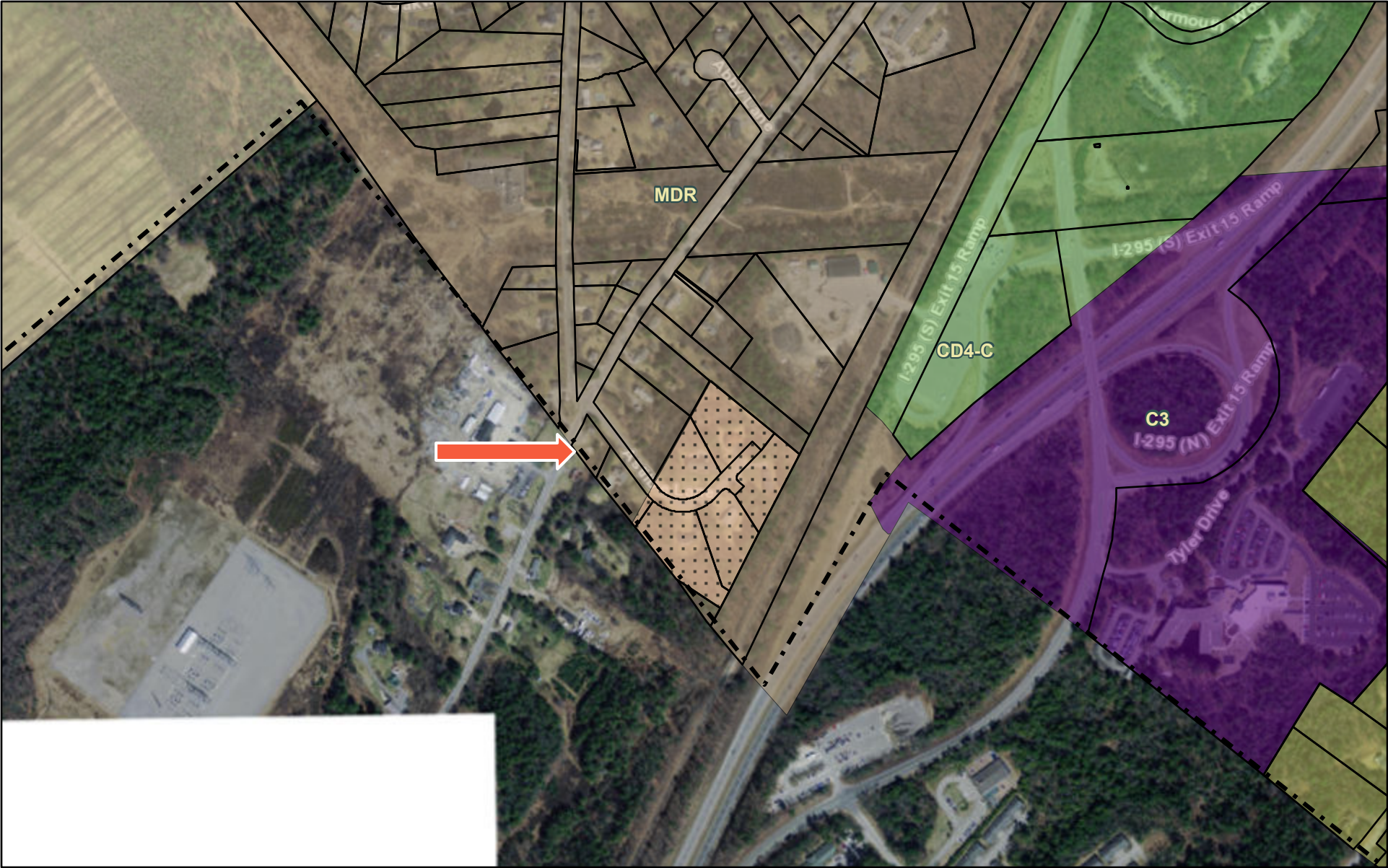
Google Earth

Image © 2018 Maine GeoLibrary

100 ft



538 Portland St. MDR and Mobile Home Overlay



11/12/2020, 2:00:39 PM

- Town Boundary (USGS, MEGIS)

Parcels

Mobile Home Overlay District

Medium Density Residential

Rural Residential

Commercial 3

Route 1 Corridor

Low Density Residential
- A scale bar with two units: miles (0 to 0.2) and kilometers (0 to 0.3). The scale is 1:9,028.

1:9,028

0 0.05 0.1 0.2 mi

0 0.07 0.15 0.3 km
- USDA FSA, GeoEye, Maxar, Town of Yarmouth
- Public User
Town of Yarmouth