

Erin Zwirko, Yarmouth Town Planner  
200 Main Street  
Yarmouth, ME 04096

August 14, 2023

Dear Erin,

Please find the required submissions per 701 Article IV.V.8, for my CZA request for consideration by the Planning Board at their meeting September 13, 2023 for conceptual preliminary subdivision approval and recommendation to the Town Council for approval of the CZA.

Attached are the following documents:

1. Chapter 701 Article IV Section V.8.a-h, Minimum Requirements & Exhibits
2. Contract Zone Agreement "Samuel True Subdivision" & Exhibits
3. Comprehensive Plan Excerpts
4. Email from Tara Kelly, Executive Director of Maine Preservation
5. Email from Yarmouth Water District

The fundamental concept for the subdivision has not significantly changed since it was last in front of the Planning Board at the March 22, 2023 meeting. The proposal will preserve the historic home, provide much needed supply to the housing market, and include provisions to sustainably manage the wooded area on the rear of the existing lot. These things will be accomplished by subdividing the current 1.88 acre lot to create three smaller lots, one with the historic home and two new building lots. The property is in a desirable, walkable area of Town, and is within the Growth Area defined in the 2010 Comp. Plan.

The Planning Board determined the 1792 home to be a Building of Value in December of 2020, and in late 2022, the Historic Preservation Committee expressed "that the historic preservation aspect of the proposal could supply the required public benefit for a Contract Zone Agreement, implementing the 2010 Comprehensive Plan re preservation and the provisions of our Historic Preservation Ordinance, Ch. 701, Art. X", and also felt the proposed lot division was within the context of the historic pattern of development of the surrounding neighborhoods.

There has been a suggestion from the Planning Department to seek out an entity to steward an historic preservation easement. I reached out to Maine Preservation and engaged in a long and educational discussion with three of the staff members, principally Tara Kelly, ED. They concluded that this project is not within the scope of the work of MP, and that the Town could be a suitable entity, if one was needed at all. In 2018 the Town entered into a CZA at 100 Bates St. that included an historic preservation component in which no third party was included, and five years later, the new owners of the home are in the process of restoring it beautifully, in full compliance with the preservation agreement. In 2012, a CZA for the property at 20 Cumberland St. was entered into, also with an historic component that did not include a third party steward. I have included an Historic Preservation Agreement as part of the CZA. If the CZA is approved, the Town will be a party to that agreement. I have attached an email from Tara Kelly, the Director of MP, below.

Finally, the public comments from both prior meetings for this proposed project more or less revolved around concerns of increased traffic, privacy, driveway location for the lot on Newell Rd., and the wooded area on the rear of the lot. Stormwater/runoff and minimum lot size adherence were also

mentioned multiple times. Traffic, driveway location and stormwater/runoff are all regulated by the Town and addressed in the Site Plan Review that will be required for final approval, and I intend to work closely with staff to ensure compliance. Privacy options are addressed in the proposed zoning within the architectural and landscape standards.

Regarding the wooded area - the setbacks included in the proposed zoning standards were chosen intentionally to greatly limit the area of the lot on which development is allowed. The resulting building area has two main purposes: first, it aligns with and promotes the historic village pattern of development, with development occurring towards the front of the lot, and second, it protects the rear wooded area from development, allowing all of the benefits those woods offer to continue while nature takes its course. While not a requirement, a Forest Management Plan to address the concerns regarding the wooded area on the property is included as part of the proposal. It limits the removal of vegetation in this specific area, allowing for the forest to evolve naturally, while still providing the owner the ability to safely enjoy their property. This document will be recorded in the Registry of Deeds as part of the CZA.

### **Response to Planning Board and Staff Comments:**

There were several comments from the Board about reducing the scope from two new lots to just one. While these comments were taken into consideration, ultimately they were not pursued for several reasons. First, any objective reasoning behind these comments was never provided, so there wasn't much to work with. Secondly, one of the primary objectives for this project is to provide an opportunity for more housing in Yarmouth, so reducing the number of additional houses by half is contrary to that goal: more feet to Main Street. Thirdly, compliance with LD 2003 is fast approaching. Adoption of the LD zoning changes will allow for the creation of the same number of additional dwelling units that I am proposing (2 additional) by right, if not more. However, under LD 2003, the development of the property is regulated by the underlying zoning of MDR. This means that the size, style, and location of buildings won't necessarily be consistent with the neighborhood or contribute to the historic village feel, and the entire property, including the woods, will be available to that development. Additionally, by subdividing the lot into three parcels, the Town will receive more tax revenue than if it was only divided into two (or leaving it intact and adding units under LD 2003). Ultimately I decided that, combined with historic preservation and consideration for the wooded area, the addition of two homes (instead of one) on separate lots better aligns with and furthers the goals of the Comprehensive plan, and is a better option for all parties involved and affected.

Comments from Steve Johnson, Town Engineer:

Conceptual Plan Review Items: 1. General Topography: The site has an existing residential unit fronting on West Main Street that has lawn area adjacent to the structure with the northerly portion of the lot being undeveloped and wooded. The wooded area slopes moderately from south to north. The applicant did not submit a full-sized boundary survey that includes the required topographic information, but it does appear the site can be reasonably developed as proposed although stormwater runoff and grading may require some forethought. **See Exhibit F for topographic information.**

7. Water: The Applicant must provide evidence from the Yarmouth Water District (District) that the system has the capacity to serve the new subdivision for domestic water service. **See attached email from YWD confirming capacity.**

8. Traffic\Parking: The applicant will not be required to provide a full traffic impact analysis for the project, however there may be sight distance issues with the proposed drive entrances that should be addressed as part of future submissions. **Suggested driveway locations shown on Exhibit A would meet all sight distance requirements.**

11. Drainage, Stormwater Management: a. The applicant will be required to provide a full stormwater analysis for the project. The proposed house lots will convey runoff to the adjacent properties on the north. As such, the applicant will be required to provide runoff detention to limit the runoff to the pre-development rate for the proposed new house lot impervious areas. It is strongly recommended that the applicant consider the implementation of Low Impact Development (LID) stormwater management for the house lots to mitigate runoff volume increases. In any event, the runoff from all portions of the development should be captured for the building roofs, driveways, and lawn areas. Additionally, each lot deed shall contain deed restrictions to ensure any LID BMPs are operated and maintained in perpetuity. b. The Applicant must develop and submit an acceptable inspection, maintenance, and housekeeping plan for use in managing the permanent stormwater BMPs for each new lot. **The applicant intends to sell the undeveloped lots. Applicant will include requirements for LID and BMP as part of the CZA. Future owners will work with Town staff for appropriate permitting for their specific development projects.**

12. Erosion and Sediment Control: The Applicant shall meet all requirements of Chapter 500 Stormwater requirements and MDEP Erosion and Sedimentation Control (ESC) measures. During construction erosion and sedimentation control, Best Management Practices (BMPs) 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 BMPs prior to and following rain storms to ensure the effectiveness of the BMP's. Additionally, the project may be subject to Site Law requirements as well as the requirements of the Maine Construction General Permit (MCGP) during construction. **The applicant intends to sell the undeveloped lots. Applicant will include requirements for erosion and sedimentation control BMP as part of the CZA. Future owners will work with Town staff for appropriate permitting for their specific development projects.**

13. Soils: The Applicant must submit evidence that the soils are suitable for the project as proposed. **See Exhibit D & E**

Erik Street's only comment was that there is a moratorium on West Main St. until 2025.

The Tree Advisory Committee suggested a full inventory of existing tree canopy be completed, as well as a plan to retain the canopy, and creation of building pockets to restrict where development can occur. While no inventory has been done, there is a forest management plan included in the CZA, and setbacks were used to create building pockets that restrict where development can occur.

If you have any questions, please don't hesitate to reach out.

Sincerely,

Julia Libby (251 West Main LLC)

## **Chapter 701 Article IV Section V.8. Minimum requirements.**

### **a. *Existing and proposed lots, permitted Building areas of each lot, Roadways and easements;***

The existing lot will be divided into 3 lots; One which will retain the existing historic home, and two additional lots (shown as "Lot A" and "Lot B" on all included materials). Exhibit A shows the existing home, the three proposed lots, the permitted building areas of each lot as well as all existing roadways. There are no easements being proposed.

### **b. *Conceptual treatment of the scale and size of potential Buildings and the conceptual exterior or design thereof;***

Exhibit 1 of the Contract Zone Agreement (CZA) refers to Architectural and Landscape Standards that have been determined by the Town as appropriate for Yarmouth Village. All new construction must adhere to these standards. Exhibit B provides images of houses that demonstrate scale, size and design similar to what will potentially be built on the lots.

### **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;***

A stormwater assessment will be conducted by the future owner and their contractors as required by the Town Engineer. Low Impact Development techniques and stormwater Best Management Practices will be implemented as recommended by the Town Engineer. All stormwater resulting from development will be captured and diverted in such a way that there will be no impact on abutting properties. See Chapter 320 Article II for a list of acceptable discharges. All Town standards for storm drain design will be followed. Localized flooding has been a persistent problem for abutters on the North property boundary, and has worsened with the development of the Village Run subdivision. It is expected that the future Owner and his engineer will continue to work closely with the Town Engineer to ensure that there is no impact on abutting properties during and after development.

There is Town sewer available at the site for sanitary waste, however, at least the lot fronting on Newell Rd. will likely require a private forced main. An existing sewer map is shown on Exhibit C. Solid waste can be taken to the Town Transfer Station. Utilities are available at the street. Vehicular access to all lots is by public street. Circulation and parking will be provided by private driveways and parking areas on the individual lots. 601.H. DRIVEWAYS: Driveways shall be located not less than 40 feet from the tangent point of the curb radius of any intersection. Per the sight distance requirements for driveways outlined in 604.D.4.c, a sight distance of 200' is exceeded for the proposed driveway locations on lots & B. Lighting, landscaping, screening, and outdoor storage are all addressed in the CZA by reference to Section 703 Article 5M and 5N of the Yarmouth Zoning Ordinance.

### **d. *Total land area;***

A boundary survey performed in 2021 by Owen Haskell shows a total land area of 1.88 acres (81,890 square feet).

### **e. *Existing and proposed zoning districts; and***

The existing zoning district is Medium Density Residential (MDR). Proposed zoning is detailed within the 251 West Main St. Contract Zone Agreement.



**f. *Any existing natural land features such as topography, soils classifications, mature Vegetation, waterways, Wetlands, and wildlife habitats;***

Exhibit D is a soils map showing the soil classification of the property, and Exhibit E contains a soil classification description.

Exhibit F is a topographic map of the site, with 2' intervals shown. The portion of the lot that faces West Main St. and contains the existing house is relatively flat and consists mostly of lawn. Approximately  $\frac{1}{3}$  of the way into the lot, the land begins to slope gently downward, from South to North. The sloped area is wooded with stands of mature trees and very little understory growth.

**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.***

The context of the area is displayed in Exhibits A-F. These show 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.***

**Proposal:** This subdivision proposes to divide an existing 1.88 lot located at the corner of W. Main St. and Newell Rd. into three lots: one .2 acre lot and two lots appx. 0.8 acres each. Lot A will retain the existing historic home built in 1795. This house was determined by the Planning Board to be a Building of Value to the Town, and will be preserved via a historic preservation agreement as a public benefit, as supported by the Historic Preservation Committee. Lots B & C will be building lots for residential use, consistent with the allowed uses of the current zoning. All proposed dimensional standards including setbacks, density, scale, use and form were determined with the intent to reflect and continue the existing pattern of development of the neighborhood. Architectural and landscape standards (Exhibit 1) are intended to further ensure that the historic Village aesthetic is honored.

An Historic Preservation Agreement (Exhibit 3) will be included as part of the CZA. This agreement includes that any future modifications will meet the Secretary of Interior Historic Preservation Standards.

All three lots contain a designated building area (Exhibit A) (dimensional requirements Exhibit 1 in CZA). Lots B & C will contain additional restrictions regarding the wooded areas *outside* of the designated building area. A Forest Management Plan (Exhibit 2) is included as part of the CZA. That plan allows for safe and sustainable management of the wooded areas in order to maintain the environmental benefits that this particular patch of woods provides.

**Common Scheme:** The scheme of this subdivision is rooted in the key values that were identified by the 2010 Comprehensive Plan. These values are still upheld today, reappearing in the current Comprehensive Plan update process. Historic preservation, village character, sense of community, inclusion, natural beauty and housing options were, and still are, community values. The design of this subdivision, including architectural and landscape standards, ensure that the scale and form will reflect the historic village feel and extend the surrounding pattern of development.

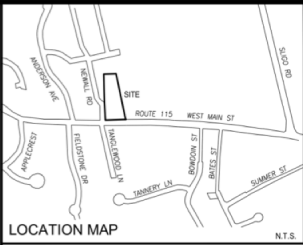
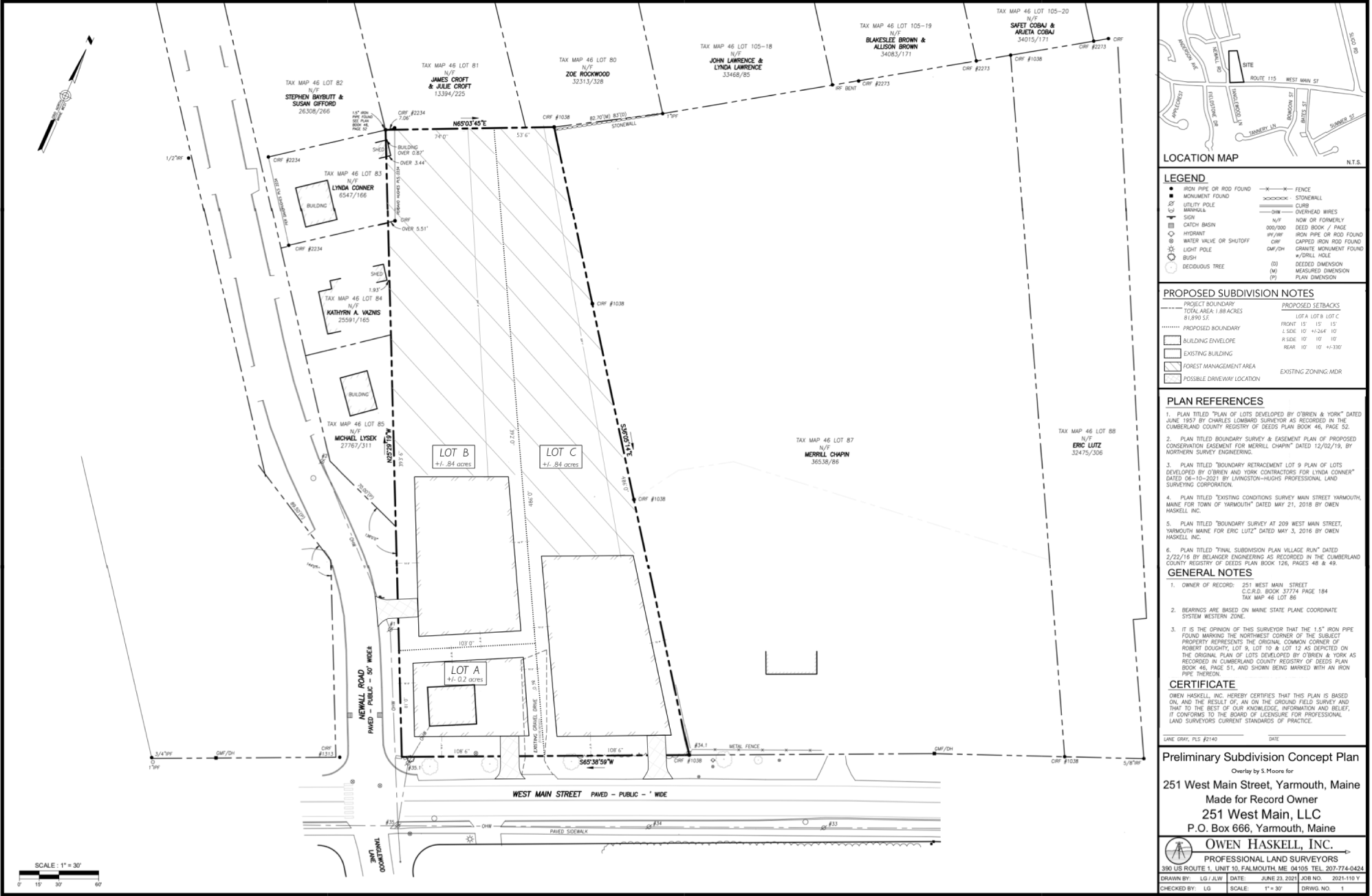
This project will provide two new residential building lots within walking distance of the beloved Yarmouth

village. The proximity to the village allows residents to reduce their dependence on vehicle transportation, which not only is better for the health of the people of Yarmouth, but for the environment as well. Walking and biking also promotes a stronger sense of community amongst neighbors and other community members.

Amidst a national, state and local housing crisis, this project will provide two desperately needed housing units to our Town, in one of the most sensible and desirable locations.

**Impacts:** The estimated impact to Municipal facilities is minimal with the addition of only two single family homes. Wastewater calculated at 80-100 gal/day/person, assuming an average of 3 people per home would create an additional 480-600 gallons/day. Traffic for a single family home is estimated at 10 trips per day, 1 per peak hour (ITE Trip Generation Report 10th Ed.). This number would likely be less when considering the proximity to many of the Town services and amenities and ability to walk or bike to many of these locations.

Exhibit A - Subdivision Plan



**LEGEND**

●	IRON PIPE OR ROD FOUND	---	FENCE
■	MONUMENT FOUND	----	STONEWALL
+	UTILITY POLE	---	CURB
W	WALL	---	OVERHEAD WIRES
+	CATCH BASIN	N/F	NOW OR FORMERLY
+	HYDRANT	000/000	DEED BOOK / PAGE
+	WATER VALVE OR SHUTOFF	W/F	IRON PIPE OR ROD FOUND
+	LIGHT POLE	CMF/CH	CAPPED IRON ROD FOUND
+	BUSH	W/DRILL HOLE	GRANITE MONUMENT FOUND
+	DECIDUOUS TREE	(D)	DEEDED DIMENSION
		(M)	MEASURED DIMENSION
		(P)	PLAN DIMENSION

**PROPOSED SUBDIVISION NOTES**

PROJECT BOUNDARY	PROPOSED SETBACKS
TOTAL AREA: 1.88 ACRES	LOT A LOT B LOT C
81,890 S.F.	FRONT 10' 15' 15'
PROPOSED BOUNDARY	L. SIDE 10' +/-244' 10'
BUILDING ENVELOPE	R. SIDE 10' 10' 10'
EXISTING BUILDING	REAR 10' 10' +/-330'
FOREST MANAGEMENT AREA	EXISTING ZONING: MDR
POSSIBLE DRIVEWAY LOCATION	

- PLAN REFERENCES**
- PLAN TITLED "PLAN OF LOTS DEVELOPED BY O'BRIEN & YORK" DATED JUNE 1957 BY CHARLES LOMBARD SURVEYOR AS RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS PLAN BOOK 46, PAGE 52.
  - PLAN TITLED "BOUNDARY SURVEY AND EASEMENT PLAN OF PROPOSED CONSERVATION EASEMENT FOR MERRILL CHAPIN" DATED 12/02/19, BY NORTHERN SURVEY ENGINEERING.
  - PLAN TITLED "BOUNDARY RETRACEMENT LOT 9 PLAN OF LOTS DEVELOPED BY O'BRIEN & YORK CONTRACTORS FOR LYNDIA CONNER" DATED 06-10-2021 BY LIVINGSTON-HUGHES PROFESSIONAL LAND SURVEYING CORPORATION.
  - PLAN TITLED "EXISTING CONDITIONS SURVEY MAIN STREET YARMOUTH, MAINE FOR TOWN OF YARMOUTH" DATED MAY 21, 2018 BY OWEN HASKELL, INC.
  - PLAN TITLED "BOUNDARY SURVEY AT 209 WEST MAIN STREET, YARMOUTH MAINE FOR ERIC LUTZ" DATED MAY 5, 2016 BY OWEN HASKELL, INC.
  - PLAN TITLED "FINAL SUBDIVISION PLAN VILLAGE RUN" DATED 2/22/16 BY BELANGER ENGINEERING AS RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS PLAN BOOK 126, PAGES 48 & 49.

- GENERAL NOTES**
- OWNER OF RECORD: 251 WEST MAIN STREET  
C.C.R.D. BOOK 37774 PAGE 184  
TAX MAP 46 LOT 66
  - BEARINGS ARE BASED ON MAINE STATE PLANE COORDINATE SYSTEM WESTERN ZONE.
  - IT IS THE OPINION OF THIS SURVEYOR THAT THE 1.5" IRON PIPE FOUND MARKING THE NORTHWEST CORNER OF THE SUBJECT PROPERTY REPRESENTS THE ORIGINAL COMMON CORNER OF ROBERT DOUGHTY, LOT 8, LOT 10 & LOT 12 AS DEPICTED ON THE ORIGINAL PLAN OF LOTS DEVELOPED BY O'BRIEN & YORK AS RECORDED IN CUMBERLAND COUNTY REGISTRY OF DEEDS PLAN BOOK 46, PAGE 51, AND SHOWN BEING MARKED WITH AN IRON PIPE THEREIN.

**CERTIFICATE**

OWEN HASKELL, INC. HEREBY CERTIFIES THAT THIS PLAN IS BASED ON, AND THE RESULT OF, AN ON THE GROUND FIELD SURVEY AND THAT TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF, IT CONFORMS TO THE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CURRENT STANDARDS OF PRACTICE.

LANE GRAY, PLS #2140 DATE

Preliminary Subdivision Concept Plan

Overlay by S. Moore for

251 West Main Street, Yarmouth, Maine

Made for Record Owner

251 West Main, LLC

P.O. Box 666, Yarmouth, Maine

**OWEN HASKELL, INC.**

PROFESSIONAL LAND SURVEYORS

390 US ROUTE 1, UNIT 10, FALMOUTH, ME 04105 TEL 207-774-0424

DRAWN BY: LG / JAW DATE: JUNE 23, 2021 JOB NO. 2021-110 Y

CHECKED BY: LG SCALE: 1" = 30' DRWG. NO. 1

Exhibit B - Conceptual Scale, Size, Design of Buildings





## Exhibit C - Sewer Locations

- ▼ ☒ Drainage Structures ...
  - ☐ Buried Manhole
  - ☒ Drain Catch Basin
  - ☒ Drain Manhole
  - ☒ Yard Drain
  - ☐ <all other values>
- ▶ ☐ Pump Stations ...
- ▼ ☒ Sewer Manholes ...
  - ☒ Manhole
  - ☒ Air Release
- ▼ ☒ Drainage Pipes ...
  - ☒ Force Main
  - ☒ Gravity
  - ☒ Low Pressure
  - ☒ Unknown



Exhibit D - Soils Map



Map of Soil Classifications for 251 West Main St

## Exhibit E - Soils Description

<p>Sn—Scantic silt loam, 0 to 3 percent slopes  Map Unit Setting  National map unit symbol: 2slv3  Elevation: 10 to 900 feet  Mean annual precipitation: 33 to 60 inches  Mean annual air temperature: 39 to 45 degrees F  Frost-free period: 90 to 160 days  Farmland classification: Not prime farmland</p> <p>Map Unit Composition  Scantic and similar soils: 85 percent  Estimates are based on observations, descriptions, and transects of the mapunit.</p> <p>Description of Scantic  Setting  Landform: Marine terraces, river valleys  Landform position (three-dimensional): Talf  Down-slope shape: Linear  Across-slope shape: Linear  Parent material: Glaciomarine deposits</p> <p>Typical profile  Ap - 0 to 9 inches: silt loam  Bg1 - 9 to 16 inches: silty clay loam  Bg2 - 16 to 29 inches: silty clay  Cg - 29 to 65 inches: silty clay</p> <p>Properties and qualities  Slope: 0 to 3 percent  Depth to restrictive feature: More than 80 inches  Drainage class: Poorly drained  Capacity of the most limiting layer to transmit water (Ksat): Very low to moderately low (0.00 to 0.06 in/hr)  Depth to water table: About 0 to 12 inches  Frequency of flooding: None  Frequency of ponding: None  Available water supply, 0 to 60 inches: Moderate (about 6.3 inches)</p> <p>Interpretive groups  Land capability classification (irrigated): None specified  Land capability classification (nonirrigated): 4w  Hydrologic Soil Group: D  Ecological site: F144BY304ME - Wet Clay Flat</p>	<p>HIB—Hinckley loamy sand, 3 to 8 percent slopes  Map Unit Setting  National map unit symbol: 2svm8  Elevation: 0 to 1,430 feet  Mean annual precipitation: 36 to 53 inches  Mean annual air temperature: 39 to 55 degrees F  Frost-free period: 140 to 240 days  Farmland classification: Farmland of statewide importance</p> <p>Map Unit Composition Hinckley and similar soils: 85 percent  Estimates are based on observations, descriptions, and transects of the mapunit.</p> <p>Description of Hinckley  Setting  Landform: Outwash plains, eskers, moraines, kame terraces, kames, outwash terraces, outwash deltas  Landform position (two-dimensional): Summit, shoulder, backslope, footslope  Landform position (three-dimensional): Nose slope, side slope, base slope, crest, riser, tread  Down-slope shape: Concave, convex, linear  Across-slope shape: Convex, linear, concave  Parent material: Sandy and gravelly glaciofluvial deposits derived from gneiss and/or granite and/or schist</p> <p>Typical profile  Oe - 0 to 1 inches: moderately decomposed plant material  A - 1 to 8 inches: loamy sand  Bw1 - 8 to 11 inches: gravelly loamy sand  Bw2 - 11 to 16 inches: gravelly loamy sand  BC - 16 to 19 inches: very gravelly loamy sand  C - 19 to 65 inches: very gravelly sand</p> <p>Properties and qualities  Slope: 3 to 8 percent  Depth to restrictive feature: More than 80 inches  Drainage class: Excessively drained  Runoff class: Very low  Capacity of the most limiting layer to transmit water (Ksat): Moderately high to very high (1.42 to 99.90 in/hr)  Depth to water table: More than 80 inches  Frequency of flooding: None  Frequency of ponding: None  Maximum salinity: Nonsaline (0.0 to 1.9 mmhos/cm)  Available water supply, 0 to 60 inches: Very low (about 3.0 inches)</p> <p>Interpretive groups  Land capability classification (irrigated): None specified  Land capability classification (nonirrigated): 3s  Hydrologic Soil Group: A  Ecological site: F144AY022MA - Dry Outwash  Hydric soil rating: No</p>
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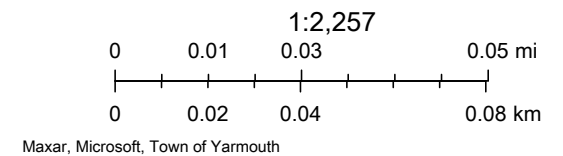


# Town of Yarmouth Public Map Viewer



8/16/2023, 8:10:06 AM

Parcel ID's    Contours (2 Foot)  
Parcels    Parcels Mailing Labels





**251 West Main Street  
CONTRACT ZONE AGREEMENT  
, 2023**

This Agreement made this \_\_\_\_ day of \_\_\_\_\_, 2023, 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 251 West Main LLC with a mailing address of P.O.Box 666, Yarmouth, Maine 04096 (hereinafter, the "OWNER").

**WITNESSETH:**

**WHEREAS**, 251 West Main LLC is the OWNER of a certain parcel of land designated as Map 46 Lot 86 of the Assessor's tax maps of the Town of Yarmouth, Maine comprising a total of 81,890 square feet of land with the buildings and improvements thereon at 251 West Main Street, Yarmouth, Maine, ("the Parcel") and OWNER proposes to divide the Parcel into three lots for residential uses, 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 application been submitted along with a subdivision plan pursuant to Chapter 601 of the Yarmouth Town Code, and

**WHEREAS**, the Town Council and the Yarmouth Comprehensive Plan have declared that 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, that infill development that reinforces the Village character and historic density of development should be encouraged, and that accommodating additional residential uses in the neighborhoods surrounding the Village Center are key to Yarmouth's identity as a livable, walkable, intact historic town, and that these are all valued objectives that offer public benefits and so should be actively encouraged by the Town to further the health, safety and welfare of the community, and

**WHEREAS**, the 2010 Comprehensive Plan of the Town of Yarmouth embraces goals and strategies to promote well-designed infill development to occur at density, scale, form and disposition that is compatible with the historic pattern of development, to allow property owners in these neighborhoods to have flexibility to use their properties creatively as long as the use is compatible with the neighborhood and new development standards are satisfied, and to utilize contract zoning to allow for the development of special projects on a limited basis that are consistent with the Future Land Use Plan, and

**WHEREAS**, the Town has identified this area 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 Town Council established an Economic Development Advisory Board (EDAB) to advise the Council and community on strategies to support appropriate economic development in Yarmouth, and the EDAB, through its Planning Decisions Report, has recommended increased residential development within a few blocks of Main Street as a top strategy to contribute toward a more vibrant downtown, and

**WHEREAS**, the proposed use is permitted in the MDR zone in which this project is proposed, 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 with specific dimensional lot standards, landscape standards, and architectural standards; and

**WHEREAS**, the proposed addition of 2 new house lots referred to herein as the Samuel True Subdivision presents such a potential public benefit consistent with the objectives of the Town Council and the purposes and goals of the Comprehensive Plan by providing well designed high-quality infill homes built within walking distance to the Village Center, and

**WHEREAS**, the project will advance the public good in the use of high quality, durable and historically appropriate materials and details in any rehabilitation, landscaping, and new construction to ensure that the historic quality and character of the existing building, all landscape treatments, and any new buildings reflect the scale, form and disposition of the surrounding neighborhood which will be enhanced by the proposed development; and

**WHEREAS**, the Town's 2010 Comprehensive Plan endorses the preservation of Historic Structures as a benefit for the common good, and the Planning Board and Historic Preservation Committee have stated the Historic Significance of the existing house on the Parcel (Samuel True house, c. 1792), and OWNER agrees to preserve said house as a public benefit via a Historic Preservation Agreement (Exhibit 3); 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

**WHEREAS**, the parties mutually agree to the terms and conditions of the development plan in the aforesaid Subdivision Plan.

**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 three lots comprising the Samuel True Subdivision such that the proposed development will not meet required minimum standards relative to minimum lot size, minimum lot width, and setback standards, as described in Exhibit 1 herein, the TOWN and OWNER agree as follows:

1. 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 of Samuel True Subdivision shall be limited to and controlled by all conditions, notations, restrictions, understandings voted or imposed by the Planning Board on its\_\_\_\_\_, 2023 vote for conditional approval of the Preliminary Subdivision Plan, and any amendments thereto that the Planning Board may, upon application, vote to authorize or establish, said approved Subdivision Application including all referenced and incorporated profiles, landscaping, buffering, lighting, building design and material plans, color schemes and other project specifications are hereby incorporated by reference and become a part of this Agreement and attached hereto as Exhibits 1-3.
  - b) The development shall be limited in use to those which now or in the future are permitted uses within the current zone (MDR) and uses permitted accessory thereto. All structures and uses described in the Subdivision Plan approval shall be subject to the procedures and covenants of this Agreement as hereinafter described.
  - c) All portions of the premises identified on the Subdivision Plan approval plats approved by the Planning Board as public facilities, easements and rights-of-way shall be dedicated and reserved as such in perpetuity.
  - d) The Parcel may not be re-subdivided nor changed to another use not contemplated herein

without the approval of the Yarmouth Planning Board.

- e) The zoning provisions regulating this development are as follows: See Exhibit 1.
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 the Samuel True Subdivision 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) Design features, architecture and landscaping: This Agreement is entered into and established to allow the residential development of each proposed new lot. All plat notations, requirements, policies, procedures, covenants, terms, and warranties for such features as shown on the Subdivision Plans as approved or established in the Planning Board's conditions of approval are of essence in this agreement, and failure to install, maintain, construct, or abide by such conditions in a timely, prudent, and workmanlike fashion shall be considered a breach of this agreement. Dimensional Standards are incorporated herein as Exhibit 1. Architectural and Landscape Standards are incorporated herein by reference in Exhibit 1. "Forest Management Plan" applicable to Lots B and C is outlined in Exhibit 2. Historic Preservation standards applicable to the Samuel True house are incorporated herein as Exhibit 3. The intent being that taken together, the Town is assured that in all cases the development will conform to these conditions.

### **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.

The OWNER acknowledges that the Town Council of the Town of Yarmouth is, at the time of execution of this agreement, considering, within its legislative capacity, a change in the Zoning regulatory scheme for the Village I Zoning District, including potential adoption of a Form-Based Code regulatory platform, and the OWNER agrees for itself, its successors and assigns, that the Parcel shall conform to the standards of this Agreement and the general standards of the District in any future modification, enlargement, expansion or renovation that may from time to time be considered.

## **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 \_\_\_\_, 2023 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 subject premises 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.

**9. 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: 251 West Main LLC (Julia Libby, Member)

-  
\_\_\_\_ Witness

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

\_\_\_\_ Witness

## Exhibit 1 - New Zoning Provisions

### MDR Dimensional Standards and Proposed CZA Standards

This is the sole zoning for the parcel and except as otherwise set forth in the following conditions, all other requirements of the surrounding MDR Zoning District will apply.

Zoning Provision	Existing Requirement Subject to Title 30-A MRSA 4314 (3.E)	Modified Requirement Lot A	Modified Requirement Lots B & C
Minimum Lot Width	130 feet	80 feet	80 feet
Minimum Lot size	1 acre	None	None
Building Height	35 feet	35 feet	35 feet
Front Setback Primary	15 feet	15 feet	15 feet
Front Setback Secondary	—	10 feet	N/A
Side Yard Setback*	10 feet	10 feet	See Exhibit A
Rear Yard Setback*	15 feet	10 feet	See Exhibit A
Location of Outbuildings	—	Front Setback + 20 feet	Front Setback + 20 feet
Frontage Buildout	—	30% min 75% max	30% min 75% max
Parking Location	—	Front Setback + 20 feet	Front Setback + 20 feet
Parking Spaces	2 per unit	1 per dwelling unit	1 per dwelling unit
Maximum Lot Coverage	—	Building Area	Building Area
Architectural Standards	—	See Ch. 703 Article 5.M. Yarmouth Zoning Ordinance	See Ch. 703 Article 5.M. Yarmouth Zoning Ordinance
Landscape Standards	—	See Ch. 703 Article 5.N. Yarmouth Zoning Ordinance **	See Ch. 703 Article 5.N. Yarmouth Zoning Ordinance **

\* To maintain development consistency, the side and rear setbacks are treated differently on each lot. Exhibit A indicates the side and rear setbacks (in addition to the front setback) for each lot. The setbacks on each lot create an allowed building area where development can occur. Exhibit A is the official reference document for the building area/setbacks for each lot within the Samuel True Subdivision.

\*\* **Replace Ch.703 Article 5.N.2.P.i. with the following:** Fertilizing of vegetation (including lawn) shall be kept to a minimum, occurring at planting/seeding/installation, or when plant health requires. Any fertilizer must be an OMRI listed product. Vegetation of any kind should be maintained in such a way as to maximize plant health, minimizing the need for chemical applications.

**Replace Ch.703 Article 5.N.2.P.iv. with the following:** New lawns shall be seeded with a blend of turfgrass varieties that are well suited for the Northeast. Lawns shall be mowed at a height of no lower than 3" during the growing season. These practices improve the overall health of the lawn, larger ecosystem function, drought, pest and disease tolerance, and reduce the need for additional input of fertilizer, water etc. All other landscaped vegetation and planting beds shall be maintained as appropriate. Groundcovers and low growing perennials serving as "living mulch", and mulch/compost blends are encouraged as alternatives to traditional bark mulch in planting beds.

## Exhibit 2 - Forest Management Plan

### Forest Management Plan

It is recognized that the large area of mature trees on this property provides ecological and environmental benefits, as well as direct benefits to many neighbors in the close vicinity. In an effort to balance the prolongation of these benefits with the right of the owner to safely and reasonably enjoy their property, the following provisions will apply to the portion of land that extends from the North setback to the North property line on Lots B and C, as depicted on Exhibit A. These provisions are *not* intended to require that these areas be maintained in their current state for eternity. Rather, they are meant to allow for proper stewardship of the forest as it naturally evolves over time. For instance, removal of vegetation does not necessarily require replacement with new vegetation, nor does the planting of a tree allow for the removal of another. In general, vegetation of any kind should not be removed, except when it is damaged, dead, diseased or hazardous, or in the case of invasive plant removal (refer to the Maine Department of Agriculture, Conservation and Forestry for an updated species list).

Except in the case of the removal of damaged, dead, diseased or hazardous trees/vegetation:

1. No cleared opening greater than 250' shall be created;
2. Selective cutting of trees is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. Refer to Yarmouth Zoning Ordinance Chapter 701 Article IV.R.7.k.1.(b.) for definitions and point system requirements. Replace IV.R.7.k.(b).iii. q]with the following: Vegetation may be removed from any plot not containing the required points, provided that revegetation occurs within the management area with a similar density and type to the vegetation that was removed, (tree, shrub etc.) (refer to IV.R.7.n.(4 thru 6)). NOTE: for all references to the above Zoning Ordinance sections, replace references to the Buffer Strip with Management Area (of Lots A and B) ;
3. Existing vegetation under three feet in height may be removed only to provide for safe pedestrian access (i.e. trail/pathways);
4. Cleared openings in existence at the time of this agreement may be maintained, and may be enlarged provided compliance with 1-3 above;
5. The removal of non-native, invasive species may be removed without the requirement of revegetation.

Additionally, any activities, including the removal of vegetation, that result in unstable soil conditions are subject to all applicable erosion control and stormwater mitigation regulationsChapter 701 Article IV.R.7.o.

## **HISTORIC PRESERVATION AGREEMENT**

251 West Main LLC (Owner), including his heirs, successors or assigns, hereby covenant and agree that the use, occupancy and/or development of 251 West Main St. Yarmouth (Lot A of Samuel True Subdivision) will, in addition to other applicable provisions of law, ordinance or regulation, be subject to the following restrictions and conditions on the use and maintenance of the historic structure:

- (a) Owner shall preserve the Samuel True House providing that the significant historic architectural features and details of the property shall be preserved and protected in conformance with The Secretary of the Interior's Standards for the Treatment of Historic Properties, maintained by the National Park Service, or such guidelines or documents which may succeed the aforementioned "Secretary's Standards," and prior to undertaking any alterations, additions or changes to the historic structure, shall engage through the Town a Third Party Evaluation by a qualified historic preservation organization, qualified historical architect or qualified historic preservation consultant who shall determine that these proposed alterations meet these Standards or make recommendations for modifications to the alterations so that they would meet the Standards, which recommendations shall be carried out.
- (b) Owner shall preserve and protect open views of the Samuel True House from the street, specifically not erecting accessory structures or continuous, solid fencing or hedges between the house and the street which would impede these views. Existing and similar compatible landscape materials (such as street trees and screening of side property lines) may be maintained or installed which do not impede enjoyment of the view from the public rights-of-way, and
- (c) In the event of fire or other disaster which destroys less than 50% by reproduction cost of the original structures, Owner shall restore the Samuel True House after engaging through the Town a Third Party Evaluation by a qualified historic preservation organization, qualified historical architect or qualified historic preservation consultant who determines this restoration to be in keeping with its prior architectural design, and
- (d) In the event of fire or other disaster which destroys more than 50% by reproduction cost of the original structures, Owner shall engage through the Town a Third Party Evaluation by a qualified historic preservation organization, qualified historical architect or qualified historic preservation consultant, who determines this reconstruction to be in keeping with its prior architectural design.



## **Comprehensive Plan Excerpts & Additional Supporting Comments**

### **Planning Director Comment, Report to PB (10/13/21):**

Being located within the Village Residential area, there are statements in the Comprehensive Plan that suggest concentrating infill development in the Village Center and Village Residential areas where the infrastructure supports it and that is consistent with previous patterns of development. The Comprehensive Plan notes on page 18 that the Town responded to changes in development patterns in the 1980s by gradually increasing minimum lot sizes, bringing the MDR zone from ¼ acre in the mid-1970s, to ½ acre from 1979 to 1985, to its current one acre minimum. The result has been that a majority of MDR lots have been rendered nonconforming. The Plan calls for reducing the MDR minimum lot size to allow for infill housing development and to return many of the previously conforming lots to conforming status. The lot sizes surrounding 251 West Main Street reflect that history in that the older lots are typically less than an acre.

### **Planning Director Comments, Report to PB (3/22/23):**

-Being that the structure was identified as a Building of Value, and as such, there is value in the preservation of the structure at 251 West Main Street, and the Comprehensive Plan indicates that CZAs are “[a] voluntary, non-regulatory tool shall continue to be an option for preservation.” (page 29) especially where no other protections are applicable.

-The lot sizes surrounding 251 West Main Street reflect that history in that the older lots are typically less than an acre while more recent subdivisions comply with the current one acre minimum. The 2010 Plan calls for reducing the MDR minimum lot size to allow for infill housing development and to return many of the previously conforming lots to conforming status. In 2018, the minimum lot area was revisited when zoning adjustments to the residential areas surrounding the Village were contemplated but were ultimately tabled by the Town Council. While not explicitly noted by the applicant, the proposal is consistent with other goals of the Comprehensive Plan around housing while also achieving historic preservation goals.

### **Planning Board recommendation to the Town Council regarding LD 2003 (6/22/23):**

“Consistency with the Comprehensive Plan - The 2010 Comprehensive Plan indicates that the Growth Area includes “those areas that are or can be conveniently served by public facilities and services, are physically suited for development, and promote a compact rather than sprawling pattern of development. From a policy standpoint, these are the areas in which much of the anticipated nonresidential and residential growth will be accommodated.” Further, three of the core concepts of the Future Land Use Plan include: • 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. • 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

## Comprehensive Plan Excerpts & Additional Supporting Comments

somewhat diverse population. • 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 and area currently zoned MDR... The Planning Board's recommendations for the lot size requirements in areas within the Growth Area are grounded in these core land use concepts, which are similar to the intent of LD 2003."

### Comprehensive Plan Excerpts:

The following excerpts from the 2010 Comprehensive plan demonstrate the consistency of the proposal with the Comprehensive Plan as it relates to the smaller lot sizes in the MDR, increased density, location/walkability of the property, historic aspects, Village characteristics, development pattern and form-based code.

- 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: 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. (p 4-5)
- ...the value that the citizens of Yarmouth place on preserving the rural character of the outlying areas of the community, and how this overall character is important to maintaining Yarmouth's sense of place. (p 7)
- 
- Form-Based Codes foster predictable built results and a high-quality public realm by using physical form...(p 8)
- For others, the Village is the older built-up area of the Town that includes Main Street and the residential areas developed before 1970 where the lots are small and people can easily walk around...This "Village" area encompasses the area that potentially is an integrated walkable community. (p 16)
- Historically the Village offered residents a full lifestyle. You could live in the Village, send your children to school in the Village, do much of your shopping on Main Street, work in the Village or nearby coastal areas, go to church in the Village, and do most of what you needed to do in the Village. In the 1970s, Yarmouth began to change and the Village changed with it...Vacant land on the fringe of the older village was transformed into housing developments, single-family subdivisions and apartments at first, and later condominium developments. (p 17)
- Recently, the Town has been working to address some of these concerns. Adjustments have been made in some of the zoning requirements to reduce the number of properties that are nonconforming. The provisions for home occupations and accessory dwelling units have been liberalized. The Town has used contract zoning to accommodate desirable development and expansion of nonresidential uses along Main Street...Ensuring that the

## Comprehensive Plan Excerpts & Additional Supporting Comments

historic homes along Main Street are not demolished or inappropriately modified to allow commercial development. Ensuring that new construction or the modification of buildings along Main Street is done in a way that is compatible with the visual character and development pattern of the Village. (p 18)

- Yarmouth Village will continue to be a highly desirable, walkable New England Village with a vibrant, mixed-use center along Main Street. The Village will continue to offer a wide variety of housing from large, historically significant single-family homes, to smaller, more modest homes for both older residents and young families, to apartments and condominiums, to small flats in mixed-use buildings or older homes. Main Street or the Village Center will be a vibrant, pedestrian friendly, mixed-use street where people can live, work, shop, and take care of their other daily needs. A balance between residential and nonresidential activities in the Village Center will be maintained. Historic properties will be well maintained and their historic character preserved while allowing for the creative use of these properties. New buildings or modifications of existing buildings shall be of similar scale, form, and disposition to the Village's historic buildings and development pattern, thereby maintaining the visual integrity, livability and walkability of Main Street. (p 19-20)
- Well-designed infill development will occur at density, scale, form and disposition that is compatible with the historic pattern of development. The types of housing and the availability of affordable housing may be expanded through creative use of existing buildings. Property owners in these neighborhoods will have flexibility to use their properties creatively as long as the use is compatible with the neighborhood and new development standards are satisfied. The Village Fringe areas that experienced lower-density suburban style development will become more integrated into the Village. Sidewalks, pedestrian paths, and bicycle facilities will be improved to allow universal accessibility and safe movement from these areas to the Village Center and community facilities such as the schools and recreation areas. Infill development will occur at higher densities than 1 unit per acre and property owners outside of the larger subdivisions will have flexibility to use their property creatively.” (p 20)
- Policy C.2. Maintain the architectural and visual character of the Village Center as a New England village and ensure that renovations/expansions of existing buildings as well as new buildings reflect this character both in the design of the building as well as the location of the building, parking, and other improvements on the lot.

Policy C.3. Work with property owners to maintain the exterior appearance of historically significant properties while allowing these owners the opportunity to improve and update the buildings in ways that respect their historical importance.

Policy C.4. Allow residential use of property within the Village in ways that are more similar to the historic pattern of development and intensity of use than is allowed by the current zoning requirements.

## Comprehensive Plan Excerpts & Additional Supporting Comments

Policy C.5. Ensure that the Village is “walkable” and “ADA compliant” so that all people can easily and safely travel within their neighborhood as well as being able to walk or bike to the Village Center and other key centers of activity such as schools and recreation areas. (p 21- 25)

- The ability of younger families to “buyin” 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. (p 26)
- Over the past twenty-five years, low-density residential development has occurred in the areas outside of the Village. Much of this development has been “suburban” in character and has impinged on the “rural character” of these outlying areas. (p 35)
- Growth Areas typically include those areas that are or can be conveniently served by public facilities and services, are physically suited for development, and promote a compact rather than sprawling pattern of development. From a policy standpoint, these are the areas in which much of the anticipated nonresidential and residential growth will be accommodated. (p 44)
- 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. (p 46)
- 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). (p 46)
- 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. (p 46)
- 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

## Comprehensive Plan Excerpts & Additional Supporting Comments

development must reinforce the character of the Village, visually, economically, and culturally. (p 46)

- 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. (p 46)
- 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. (p 46)
- 5. FBCs work well in established communities because they effectively define and codify a neighborhood's existing "DNA." Vernacular building types can be easily replicated, promoting infill that is compatible with surrounding structures. (p 76)
- See “Form Based Codes: An Abstract” p75-76



P.O. Box 488  
Yarmouth, ME  
04096

info@mainepreservation.org  
207.847.3577

May 25, 2023

Yarmouth Planning Board  
Yarmouth Town Hall  
200 Main Street  
Yarmouth, ME 04096

Dear Yarmouth Planning Board,

Founded in 1972, Maine Preservation is a statewide non-profit organization dedicated to promoting and preserving historic places, buildings, downtowns and neighborhoods—strengthening the cultural and economic vitality of Maine communities.

Through preservation easements held on 44 buildings across the state, we provide the security of perpetual protection for significant historic properties. This legal document runs with the land in perpetuity, binding future property owners to an agreement with us that ensures ongoing maintenance and manages appropriate change.

Typically, properties considered for protection through a preservation easement are structurally sound and exhibit a high degree of architectural integrity, meaning that their significant features are evident and fully intact. In rare instances, we pursue easement agreements for properties that must undergo stabilization and rehabilitation in order to restore these features. A separate rehabilitation agreement guides this work.

In the case of 251 West Main Street, which has been subject to modern exterior alterations, a rehabilitation agreement would need to be put in place and the work completed before a preservation easement could be negotiated or executed. We recognize the significance of the early cape house to Yarmouth's historic built environment and support pathways to its preservation.

Sincerely,

Tara Kelly, Executive Director  
Maine Preservation

**Erin Zwirko**

---

**From:** Eric Gagnon <egagnon@yarmouthwaterdistrict.org>  
**Sent:** Wednesday, September 22, 2021 3:32 PM  
**To:** Erin Zwirko  
**Cc:** Wendy Simmons  
**Subject:** Re: Request for Comment - 115 Portland St. & 251 West Main St. - DUE 9/29

Hi Erin,

Here are YWD's responses to the referenced projects:

- 115 Portland Street - This sounds like mostly a demo and the Developer should be aware that the meter needs to be kept in a warm, dry, accessible area and they are responsible for freezing or any damages that may happen to the meter, meter setting, and meter reading device.
- 251 West Main Street - YWD can serve the additional proposed lots if requested. Lot 3 has an existing service. Lot 1 would need to install a new service off of Newall Road. Lot 2 would need to install a new service off of West Main Street.

Feel free to reach out if you have any questions.

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

This message is intended for the use of the addressee only and may contain privileged and confidential information. If you are not the intended recipient of this message, be notified that any dissemination or use of this message is strictly prohibited. If you have received this message in error, please delete all copies of the message and its attachments and notify the sender immediately

On Thu, Sep 16, 2021 at 11:40 AM Wendy Simmons <[WSimmons@yarmouth.me.us](mailto:WSimmons@yarmouth.me.us)> wrote:

For your review:

[https://yarmouth.me.us/index.asp?SEC=629E1BD4-C041-417B-BBBD-FE8E3715114C&DE=B57D1FC0-0551-4850-A8BD-3C4595427E2E&Type=B\\_BASIC](https://yarmouth.me.us/index.asp?SEC=629E1BD4-C041-417B-BBBD-FE8E3715114C&DE=B57D1FC0-0551-4850-A8BD-3C4595427E2E&Type=B_BASIC)

Ben – 251 W. Main St. only.

Thanks. Wendy