



**PLANNING BOARD REPORT
YARMOUTH, MAINE**

Request for Contract Zone Agreement and Preliminary Subdivision Review

Julia Libby, 251 West Main LLC, Applicant

251 West Main Street; Map 46, Lot 86

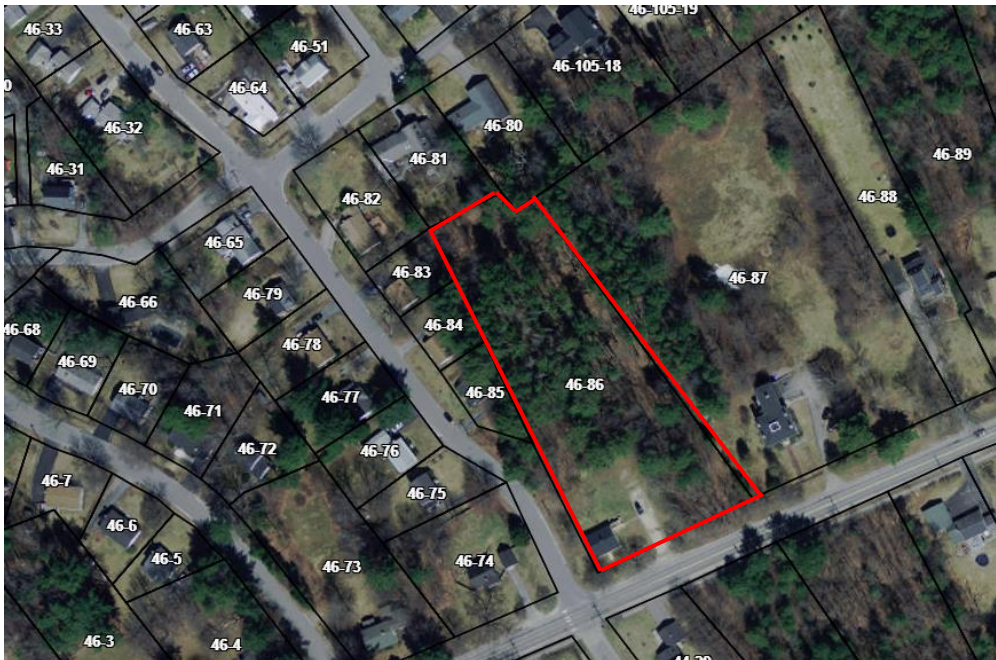
Prepared by: Erin Zwirko, Director of Planning & Development

Report Date: January 4, 2024; Planning Board Meeting Date: January 10, 2024

I. Introduction

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

The applicant returns to the Planning Board to request a recommendation to the Town Council on the CZA and approval of the preliminary 3-lot subdivision.



Aerial Vicinity of 251 West Main Street

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



251 West Main Street; Existing Structure was subject to a Demolition Delay per Chapter 701, Article IX



Rear of 251 West Main Street; Tree line indicates portion of property that is undeveloped and unmaintained

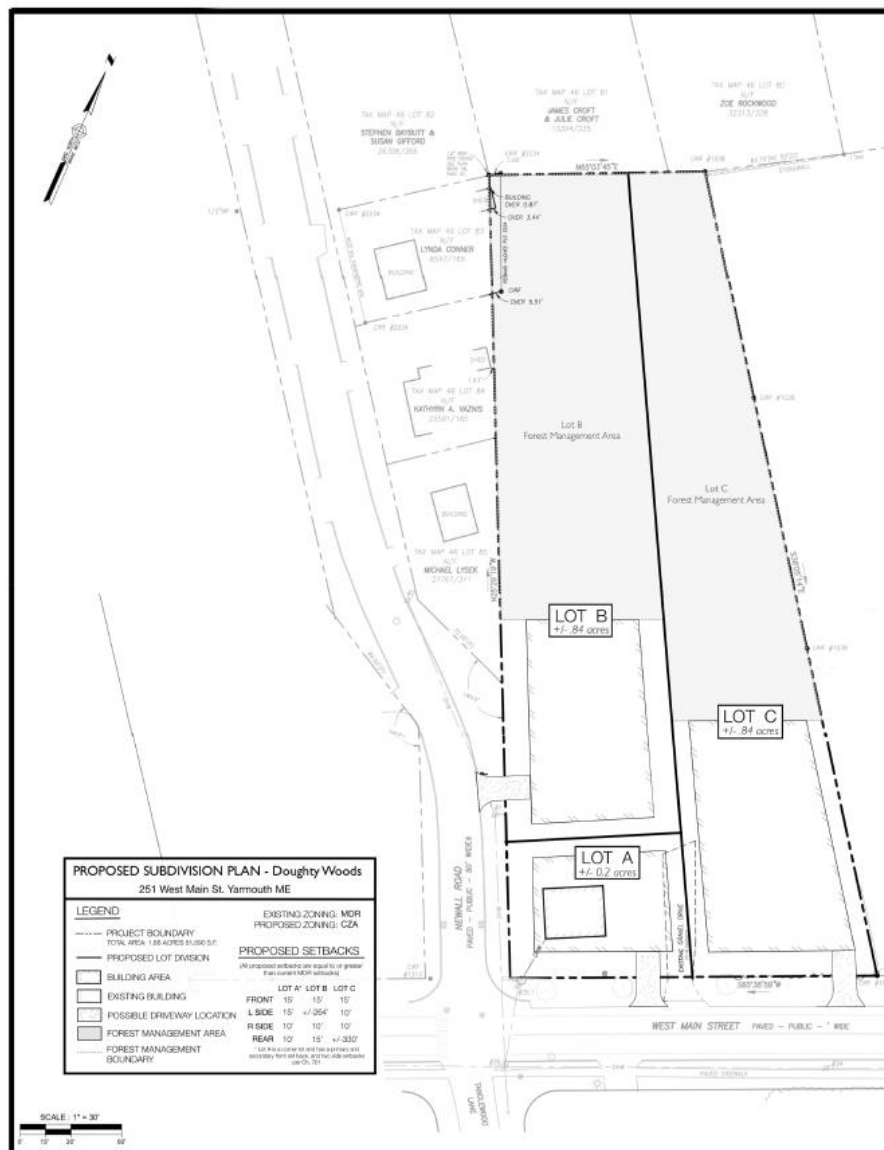
II. Project History

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

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

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

The applicant now returns with a refined preliminary review for a 3-lot subdivision where the existing structure is proposed for preservation and a forest management plan is proposed, substantially the same as was reviewed in March and September 2023.



Updated Preliminary Plan for 3-Lot Subdivision

Before the proposal receives final action on the CZA from Town Council, the Planning Board must complete the preliminary subdivision review per Chapter 601 of the Town Ordinances if the Board supports the CZA. At this time, the CZA and preliminary subdivision plan are scheduled for a public hearing on the preliminary plan and a recommendation to the Town Council on the proposed CZA. If the proposal is recommended to the Town Council, a legal agreement may be drafted with appropriate terms and conditions, and all materials would be forwarded to the Town Council. Should the Town Council also support the proposal and vote affirmatively, the Planning Board would then complete the final subdivision review.

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

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

Public Comment: 66 notices were sent to property owners within 500 feet of the project site. As of the writing of this report, we have received four letters indicating opposition.

III. Conditional or Contract Zoning (Ordinance Provisions)

Chapter 701, Article IV.V: (Excerpt)

Authorization for conditional or contract zoning recognizes that circumstances existing when adherence to uniform design or performance criteria can preclude creative, safe and sensible land uses and development which would otherwise advance the goals of the Comprehensive Plan and the public health, safety and general welfare.

Conditional or Contract Zoning is a discretionary legislative process reviewed on a case-by-case basis. As such, contract or conditional Zoning decisions are particular to the circumstance of each lot or structure applicable to review, does not establish nor rely upon precedence, and is available only when the Town Council determines it advances the public good.

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

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

- (1) *To create or authorize a use not permitted within the zoning district.*

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

IV. Proposed Contract Zone Agreement

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

a. Public Benefit

The preservation of the existing structure at 251 West Main Street and a forest management plan, if the appropriate deed restrictions and enforcement mechanisms are included, may have positive impacts on the larger community, and is within the public good.

Historic Preservation

The applicant discussed the property with the Historic Preservation Committee on three occasions: November 28, 2022, February 27, 2023, and December 18, 2023. In November 2022, the Committee and the applicant discussed that the house retains its integrity, including a remarkable degree of surviving interior integrity, and is deemed worthy of preservation, reviewed the applicant's goals for the property, and the parties simply agreed to continue the conversation.

In February 2023, the Historic Preservation Committee forwarded a letter that describes the discussion with the applicant regarding the proposal. The Committee supports the preservation of the existing structure but recommends that the lot on which the structure sits have more frontage on West Main Street and be slightly larger to accommodate additions to the home in order to make historic preservation possible and support more modern living arrangements. No discussion of the location of driveways occurred. The Committee wrote at the time:

"Committee members suggested expanding Lot 1 (the historic Cape corner lot) by (1) increasing its frontage on West Main St., leaving frontage on West Main St for Lot 3 with room for an access road for a house to be built deeper into lot 3, and also (2) providing more depth to lot 1 by extending its rear line approximately 30 feet northerly into Lot 2... The support of the Committee is predicated upon appropriate historic preservation

covenants being placed on Lot 1. The Committee felt that the historic preservation aspect of the proposal could supply the required public benefit for a Contract Zone Agreement, implementing the 2010 Comprehensive Plan re preservation and the provisions of our Historic Preservation Ordinance, Ch. 701, Art. X.”

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

The applicant previously provided a letter from the Executive Director of Maine Historic Preservation indicating that although they would not be the steward for the agreement due to the modern exterior alterations, they support pathways to preservation. However, the applicant indicates that recently the current homeowners at 100 Bates Street successfully addressed the historic preservation component of the Dunn Corner Subdivision and Contract Zone Agreement by working with a third-party specialist, Department staff, and the Historic Preservation Committee. From the Department’s point of view, the renovation at 100 Bates Street was successful due to the willingness from the new homeowner to develop a successful plan for the home and their family in coordination with the Department, the third-party specialist, and the HPC.

The HPC met again with the applicant at its December 18, 2023, meeting, where the HPC provided feedback on the Historic Preservation Agreement element of the CZA. In particular, the HPC requested that:

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

This section of the CZA is modeled after the 100 Bates CZA (Dunn Subdivision), which references a Third-Party Evaluator, as the HPC did not exist at the time. Replacing the Third-Party Evaluator with the HPC, now in existence, makes sense. It is noted that the applicant was uncomfortable with the requirement to allow access placed on a future owner; however, the applicant can satisfy that requirement at any time before the property is sold. It is recommended that the HPC’s recommendations for Exhibit 2 of the CZA be incorporated into the CZA prior to the submittal to the Town Council.

Forest Management Plan

Previously, the Forest Management Plan proposed standards pulled from the Shoreland standards found in the Zoning Ordinance, and as noted by the Code Enforcement Officer at the time, the town does not currently have a permit type to address tree removal activity outside of the Shoreland Overlay District. As written, this may be unenforceable. Furthermore, the standards quoted were developed for a much different purpose (i.e., maintaining the shoreland area), and may not be suitable for the upland forest seen at the rear of the subject property.

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

and street trees to meet the required Landscape Standards.

It is recommended that the that Forest Management Plan be completed and incorporated into the CZA following consultation with the Tree Warden, Code Enforcement Officer, and Director of Planning & Development prior to the submittal to the Town Council.

b. Comprehensive Plan Analysis

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

Being that the structure was identified as a Building of Value, and as such, there is value in the preservation of the structure at 251 West Main Street, and the Comprehensive Plan indicates that CZAs are “[a] voluntary, non-regulatory tool shall continue to be an option for preservation.” (page 29) especially where no other protections are applicable. The Planning Board may want to determine whether the historic preservation easement and the protection of a structure previously determined to be a Building of Value would provide the public benefit that is contemplated by the Zoning Ordinance. Evidence of an easement will need to be embodied in the CZA. Working with Maine Preservation, or another third party, might ensure that the easement is upheld. The Historic Preservation Committee would not be the appropriate entity to uphold the easement, although the Committee would have a role in ensuring that any preservation language in the easement is appropriate, alongside the Town Council and the Town staff.

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

The 2010 Plan calls for reducing the MDR minimum lot size to allow for infill housing development and to return many of the previously conforming lots to conforming status. In 2018, the minimum lot area was revisited when zoning adjustments to the residential areas surrounding the Village were contemplated but were ultimately tabled by the Town Council. Significant engagement related to the updated Comprehensive Plan was completed in the fall of 2023, with a housing focused event held on September 11, 2023.¹ While opinions were mixed at the event and at other events during the fall, participants generally did not recommend abandoning the single-

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

family housing type in Yarmouth. However, different types of single-family homes need to be available, such as cottages and smaller homes, and corresponding smaller lots, which in turn may be more affordable. Further, there appeared to be a strong focus on balancing priorities and preserving Yarmouth's built environment and open space when addressing housing issues. It appears that the proposal is consistent with goals of the Comprehensive Plan around housing while also achieving historic preservation goals, as well as the feedback received on the update to the Comprehensive Plan.

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

V. Minimum Requirements for a Preliminary Plan Submitted for Contract Zoning

The Zoning Ordinance outlines eight items that are the minimum requirements for a preliminary plan submitted for contract zoning:

1. Existing and proposed lots, permitted Building areas of each lot, Roadways and easements.

Applicant Comments from September Submittal: 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.

Staff Comments: A preliminary plan has been provided that includes the minimum information required. Further refinement is recommended elsewhere in this staff report.

2. Conceptual treatment of the scale and size of potential Buildings and the conceptual exterior or design thereof.

Applicant Comments from September Submittal: 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.

Staff Comments: The applicant previously provided examples of what *may be built* on the lots, but those examples are simply examples. The applicant has not indicated that they will be building the proposed homes on the lots, so the future buyer will dictate their preferred house style. The inclusion of the CBDC's architectural standards can support the style of structure desired for the Town.

Regarding the landscape standards, at this point, we may not be able to assess whether the CBDC's landscape standards can be met while also accommodating future utilities. To avoid any future reconciliation long after the review is completed, the Planning staff recommend that the Landscape Standards be incorporated onto the final subdivision plan for review in conjunction with utility locations, and that the CZA exhibit be updated to reference the Landscape Standards as approved or amended by the Final Subdivision Plan.

The applicant has proposed zoning standards for the two proposed lots and for the lot on which the existing structure will be retained. Previously, the Planning staff reviewed this exhibit with the Code Enforcement Officer and found that parking location standard for Lot A may not be able to be achieved due to the dimensions of the lot. It does not appear to have changed for the current submittal. Further, Lot A would be considered a corner lot and would have no rear

setback, which is has been updated in this submittal. Finally, the final standards will be critical to include on the subdivision recording plat for clarity in the future.

3. 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;

Applicant Comments for September Submittal: 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.

Updated Comments from Applicant: Driveway locations will be confirmed to meet Town of Yarmouth technical standards, included in submissions for Final Subdivision approval and be completed by a third party engineer (Hayley Ward, Inc.).

Multiple comments have been made about concern for general safety of the roads within the adjacent subdivision. A PB member pointed out at the last meeting that these existing conditions, not impacted by this proposal, should be considered separately from this proposal and should be brought to the Town to be addressed.

I have met with the Town Engineer, Steve Johnson, regarding stormwater management. Following our meeting, I have engaged Hayley Ward, Inc. to prepare a stormwater management plan that will meet the Town's requirements. Again, all of the requirements of Ch. 601 for Final Subdivision Approval will be submitted for final review once the Town Council has approved the CZA.

Staff Comments: As noted above, the Planning staff discussed the parking location standard for Lot A and found that it may not be achievable due to the lot dimensions. Additionally, a final subdivision plan should illustrate compliance with the CBDC's landscape standards and proposed utility corridors to ensure that the requirements can all be achieved to the satisfaction of Town officials, and it should be included on the subdivision recording plat for clarity in the future.

The Town Engineer will require the applicant to complete a stormwater analysis for the subdivision. The Town Engineer did not find that deferring this requirement to the future lot owners to be acceptable and the applicant has engaged an engineer to complete the stormwater analysis. The Town Engineer notes that the project design must address the pre- and post-construction stormwater runoff for all new impervious surfaces and performing this design work now is critical since the proposed lots will convey runoff to the adjacent property to the north. In addition to the applicant preparing the stormwater analysis for the subdivision, the applicant will also be required to prepare an Operations and

Maintenance Manual (O&M Manual) that outlines inspection, maintenance, and housekeeping in managing the permanent stormwater best management practices (BMPs) for each lot. Each lot deed must contain deed restrictions to ensure that those BMPs are operated and maintained in perpetuity by the private landowners.

The Yarmouth Water District previously commented that there is sufficient capacity in their system. An ability to serve letter from the Water District was provided and noted that future homes can be served by existing infrastructure in Newell Road and West Main Street.

The Town Engineer indicates that the new homes will need to convey sewage to either West Main Street or Newell Road via private force main services, unless an easement for gravity sewer services can be obtained from the abutters to the north.

The DPW Director noted that the 40-foot distance required for driveways from intersections is inconsistent with the requirements of Chapter 604 and the Driveway Entrance Permit, which requires 50 feet from the point of tangency. Although the dimensions were not provided in the application materials, the existing driveway at 251 West Main Street is approximately 74 feet from the point of tangency. Based on the dimensions shown on the plan, the proposed driveway on Newell Road would meet the location requirements for driveways. Finally, although the applicant indicates that the required sight distances can be met, that information must be provided with future submissions.

The roadway moratorium on West Main Street will not expire until 2025, so making connections to the public utilities in West Main Street may not be able to be accomplished until that time.

Additional information related to this requirement is provided throughout this staff report on the various categories outlined in the standard and recommended as conditions.

4. Total land area;

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

Staff Comments: No further comments.

5. Existing and proposed zoning districts;

Applicant Comments from September Submittal: The existing zoning district is Medium Density Residential (MDR). Proposed zoning is detailed within the 251 West Main St. Contract Zone Agreement.

Staff Comments: See the comments above under the second item.

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

Applicant Comments from September Submittal: 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.

Staff Comments: The applicant submitted a medium intensity soils report with the application materials. A high intensity soils report is required to be submitted per the ordinances, in particular the Subdivision Ordinance, which the applicant

has engaged a professional firm to provide that information. Additionally, the Tree Advisory Committee previously requested a tree inventory of the property, which has not been provided, although the applicant has indicated that Jones Associates has been engaged to complete the Forest Management Plan. It is recommended that the Forest Management Plan be completed prior to the Town Council considering the CZA.

- 7. 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.**

Applicant Comments from September Submittal: 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.

Staff Comments: Generally, this information was provided.

- 8. 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.**

Applicant Comments from September Submittal: 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.

Staff Comments: See comments elsewhere in this staff report.

VI. Subdivision Review (Chapter 601)

The proposed development has been reviewed by staff for conformance with the relevant review standards of Yarmouth's Subdivision Ordinance and applicable regulations. The Board is asked to approve the concept subdivision on a preliminary basis, while the full engineering for the subdivision will be deferred until a zoning decision is made by the Town Council.

The applicant did not provide a response to these items.

- 1. Will not result in undue water or air pollution. In making this determination it shall at least consider: The elevation of land above sea level and its relationship to the flood plains, the nature of soils and sub-soils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable State and local health and water resources regulations;**

Staff Comments: No undue water or air pollution impacts will result from the proposed development.

- 2. Has sufficient water available for the reasonably foreseeable needs of the subdivision;**

Staff Comments: The Yarmouth Water District previously commented that there is sufficient capacity. An ability to serve letter from the Water District was provided and noted that future homes can be served by existing infrastructure in Newell Road and West Main Street.

- 3. Will not cause unreasonable burden on an existing water supply, if one is to be utilized;**

Staff Comments: The Yarmouth Water District previously commented that there is sufficient capacity. An ability to serve letter from the Water District was provided and noted that future homes can be served by existing infrastructure in Newell Road and West Main Street.

- 4. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;**

Staff Comments: The Applicant shall meet all requirements of Chapter 500 Stormwater requirements and MDEP Erosion and Sedimentation Control (ESC) measures. During construction, ESC 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 BMPs. Additionally, the project *may* be subject to Site Law requirements as well as the requirements of the Maine Construction General Permit (MCGP) during construction.

Although the applicant is unlikely to develop the property or constructing the future homes, this requirement and any other conditions must be included in the final subdivision recording plat for clarity in the future.

- 5. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highway or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;**

Staff Comments: The applicant will not be required to provide a full traffic impact analysis for the project per comments from the Town Engineer. The DPW Director previously noted that the 40-foot distance required for driveways from intersections referenced in the application materials is inconsistent with the requirements of Chapter 604 and the Driveway Entrance Permit, which requires 50 feet from the point of tangency. Although the dimensions were not provided in the application materials, the existing driveway at 251 West Main Street is approximately 74 feet from the point of tangency. Based on the dimensions shown on the plan, the proposed driveway on Newall Road would meet the location requirements for driveways. Finally, although the applicant indicates that the required sight distances can be met, that information must be provided with future submissions.

- 6. Will provide for adequate sewage waste and disposal and will not cause an unreasonable burden on municipal services if they are utilized;**

Staff Comments: The Town Engineer indicates that the future homes will need to connect to the Town sewer system consistent with the ordinance requirements and the Town's technical standards. Unless the applicant can obtain an easement for gravity sewer services from the abutters to the north, the new homes will have to convey sewage to either West Main Street or Newell Street via private force main type services. The Town Engineer and the DPW Director note that West Main Street is under moratorium until 2025, and if disturbance is allowed, the road will require moratorium repair of full depth restoration curb to curb twenty feet on either side of the cut. Each sewer connection will require a sewer connection permit and fee prior to a building permit being issued.

Additionally, the sewer services must be separated laterally from a water service by at least 10 feet. By requiring each lot to also comply with the CBDC's landscape standards, the applicant should assess whether the proposed lots can accommodate all of the necessary utilities to the Town and the Water District's satisfaction as well as meet the requirements of the landscape standards.

- 7. Will not cause an unreasonable burden on the ability of the city to dispose of solid waste and sewage if municipal services are to be utilized;**

Staff Comments: The future owners of the residential lots are eligible to use the Town's Transfer Station for solid waste and recycling.

- 8. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;**

Staff Comments: The applicant is proposing a historic preservation restriction and a forest management plan to support the request for a CZA. Some refinements are necessary for those two elements of this project as noted elsewhere in the staff report.

- 9. It is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans;**

Staff Comments: If the CZA is approved by the Town Council, that will indicate that the project is consistent with the comprehensive plan. The project will be required to adhere to subdivision regulations. See also the analysis of the Comprehensive Plan elsewhere in this staff report.

10. The subdivider has adequate financial and technical capacity to meet these standards of this ordinance;

Staff Comments: The applicant has not submitted evidence of financial capacity, which will be required for final subdivision approval. The applicant has provided a list of consultants ready to support the development of a final subdivision plan.

11. Whenever situated, in whole or in part, within the watershed of any pond or lake or within two hundred fifty (250) feet of any wetland, great pond or river as defined in Title 38 M.R.S. §436-A, will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water;

Staff Comments: The subject property is not located within 250 feet of these resources.

12. Groundwater. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;

Staff Comments: No groundwater impacts are anticipated.

13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

Staff Comments: The project is not in a flood plain.

14. Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

Staff Comments: There are no freshwater wetlands on the site.

15. Farmland. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

Staff Comments: There is no farmland on the site.

16. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S. §480-B (9);

Staff Comments: There is no river stream or brook within or abutting the site.

17. Storm water. The proposed subdivision will provide for adequate storm water management, as per Chapter 601(IV) (L), and Chapters 320 and 330 of the Town Code.

Staff Comments: The Town Engineer will require the applicant to complete a stormwater analysis for the subdivision. The Town Engineer did not find that deferring this requirement to the future lot owners to be acceptable and the applicant has engaged an engineer to complete the stormwater analysis. The Town Engineer notes that the project design must address the pre- and post-construction stormwater runoff for all new impervious surfaces and performing this design work now is critical since the proposed lots will convey runoff to the adjacent property to the north. In addition to the applicant preparing the stormwater analysis for the subdivision, the applicant will also be required to prepare an Operations and Maintenance Manual (O&M Manual) that outlines inspection, maintenance, and housekeeping in managing the permanent stormwater best management practices (BMPs) for each lot. Each lot deed must contain deed restrictions to ensure that those BMPs are operated and maintained in perpetuity by the private landowners.

18. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in 38 M.R.S. §480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

Staff Comments: This standard is not applicable.

19. Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

Staff Comments: This standard is not applicable.

20. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and

Staff Comments: This project does not cross municipal boundaries.

21. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S. §8869(14). If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to 32 M.R.S. §5501 et seq. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester..

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in 12 M.R.S. §8868(6) and "parcel" means a contiguous area within one municipality, township or plantation owned by one person

or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to 12 M.R.S. §8869(14).

Staff Comments: This standard is not applicable.

VII. Analysis of LD 2003

At the previous meeting held on this matter, there was some discussion about the impact of LD 2003 on this property, as it appeared that it could result in the same development intensity. The Planning Board will note that a comment letter has been received on this topic. In October 2023, the Town Council adopted amendments to implement LD 2003, and those amendments become effective on January 1, 2024.

Right now, at the size of the lot (approximately 1.88 acres) and its location in the Growth Area, the applicant has four pathways:

1. Add an Accessory Dwelling Unit (ADU): An ADU could be added onto the existing structure, created within the existing structure, or constructed as a detached structure. Alternatively, the applicant could ask to designate the existing structure as the ADU, assuming it can meet the size requirements, and build one (1) single-family home on the property. This was a pathway even before the LD 2003 amendments were adopted.
2. Retain the Existing Dwelling Unit and Add up to 2 additional Dwelling Units: The two (2) additional dwelling units may be in a variety of configurations, but the end result cannot be more than two structures containing dwelling units. There is no size requirement for the additional two dwelling units.
3. Demolish the Existing Structure and Build up to 4 Dwelling Units: The applicant may elect to demolish the existing structure, and the locally adopted amendments would allow up to four (4) dwelling units to be constructed on the site in a variety of configurations.
4. Develop an Affordable Housing Development: As defined by the law and the locally adopted amendments, there is quite a bit of flexibility that is afforded to the applicant, so it is hard to pinpoint the development potential. However, the 2.5 times density bonus is calculated from the underlying zoning. The MDR allows 1 unit on the property, so the project that meets the definitions and standards of an Affordable Housing Development would result in a total of 3 units (the law requires rounding up) after the density bonus.

Please note that the applicant is prohibited at the local level from “double dipping” between ADUs and the Dwelling Unit Allowances. In example 3 above, the result would not be 4 dwelling units plus 4 ADUs due to this prohibition

Clearly, LD 2003 provides the applicant with some advantages now. The applicant could abandon the CZA and achieve a slightly greater development potential with a more streamlined review. Abandoning the CZA results in a development without the benefits of the historic preservation restrictions or the Forest Management Plan. On the other hand, the CZA and Subdivision approval would allow the applicant to sell the units individually on individual lots rather than in a condominium, which would likely be the result of the LD 2003 dwelling unit allowances.

It comes down to whether the Planning Board believes that the historic preservation restrictions and the Forest Management Plan are public benefits as the applicant could pursue a similar development potential now through LD 2003 without any public benefits.

VIII. Recommendation and Proposed Motions

It appears that the applicant is ready to receive a vote on the preliminary plan and the CZA, so the following motions are prepared. It would appear that the only reason to table the matter again is for the Planning Board to review the completed Forest Management Plan versus deferring it to a relevant staff review.

Preliminary Plan Approval

On the basis of the application, plans, reports and other information submitted by the applicant, and the findings and recommendations contained in Planning Board Report dated January 4, 2024, for division of the lot at 251 West Main

Street into three lots and subsequent residential home construction, Julia Libby, 251 West Main, LLC, applicant, Map 46 Lot 86, the Planning Board finds that the plan **[is/is not]** acceptable for preliminary approval, subject to the following conditions of approval:

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

Such motion moved by _____, seconded by _____, and voted
____ in favor, ____ opposed, _____.
(note members voting in opposition, abstained, recused, or absent, if any).

Contract or Conditional Zoning

On the basis of the application, plans, reports and other information submitted by the applicant, and the findings and recommendations contained in Planning Board Report dated January 4, 2024 for Contract Zone Agreement pertaining to 251 West Main Street Julia Libby, 251 West Main, LLC, applicant, Map 46 Lot 86, the Planning Board finds that the plan **[is/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, subject to the following conditions of approval:

1. The applicant shall adopt the Historic Preservation Committee's preferred language for Exhibit 2 of the proposed Contract Zone Agreement (CZA).
2. The applicant shall complete the Forest Management Plan and incorporate it into the Contract Zone Agreement (CZA) following consultation with the Tree Warden, Code Enforcement Officer, and Director of Planning & Development prior to the submittal of the CZA to the Town Council.
3. The applicant shall update Exhibit 1 of the proposed Contract Zone Agreement (CZA) to reference the Landscape Standards of Chapter 703, Article 5.N, as approved or amended by the Final Subdivision Plan.

Such motion moved by _____, seconded by _____, and voted
____ in favor, ____ opposed, _____.
(note members voting in opposition, abstained, recused, or absent, if any).

IX. Attachments

1. Steve Johnson, Town Engineer – Memo 12/18/2023
2. Mike Robitaille, Fire Chief – Memo 12/28/2023
3. Eric Gagnon, Yarmouth Water District – Email 12/28/2023
4. Tree Advisory Committee – Memo 12/29/2023
5. Public Comment – Nancy Gorden 1/2/2024
6. Public Comment – Merry Chapin 1/2/2024
7. Public Comment – Jim and Julie Crofts 1/3/2024
8. Public Comment – Susan Gifford 1/4/2024

Memo

To: Erin Zwirko, AICP, Director of Planning and Development
From: Steven S. Johnson, P.E., Town Engineer
CC: Erik Street, Nick Ciarimboli, Chris Cline, Karen Stover, Wendy Simmons
Date: December 18, 2023
Re: Conceptual Sketch Plan for Minor Subdivision Application and Contract Zone for 251 West Main Street

Erin:

I have reviewed the application from Julia Libby of 251 West Main LLC for the parcel located at 251 West Main Street dated November 15, 2023. The applicant is proposing to develop a three (3) lot residential subdivision accessed from both Newell Road and West Main Street.

I have the following technical comments on the application that append my memorandum to you dated August 29, 2023:

Conceptual Plan Review Items:

1. General Topography: The site has an existing residential unit fronting 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 (24" by 36") boundary survey that includes the required topographic information and indicated that a screenshot of the Town's GIS mapping with 2' contours is intended to meet this requirement. As you know, the Code requires a surveyed drawing at an appropriate scale with 1' contours, site topography, utilities, structures, significant trees, etc. per standard. The applicant has indicated that this information will be submitted as part of future submissions.
2. General Street and lot layout: The proposed lot layout allows access and frontage from existing public ways and 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 fully in the Medium Density Residential (MDR) district and will require a contract zone agreement as proposed.
5. Rights, Title: The applicant has submitted adequate evidence of right; title and interest for the project.
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 has provided evidence from the Yarmouth Water District (District) that the system has the capacity to serve the new subdivision for domestic water service.
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. In this latest submission the applicant has stated that the suggested driveway locations "would meet all sight distance requirements," however no dimensions or plan has been submitted to confirm this. This information should be included with future submissions.

9. Sewers:

- a. The project will be required to connect to the Town sewer system. The system must meet Chapter 304 Sewerage Ordinance requirements as well as the Town's technical standards for sewer infrastructure. Unless the applicant can obtain an easement for gravity sewer services from the abutters to the north, the new homes will have to convey sewage to either West Main Street or Newell Street via private force main type services. I would be happy to discuss the technical aspects of providing sewer with the two undeveloped lots with the developer.
 - i. Any new sewer services connected to the Town system shall connect per Yarmouth Standards;
 - ii. It should be noted that West Main Street is under moratorium for pavement cutting and pavement disturbance will require a moratorium repair which is full pavement restoration curb to curb twenty feet either side of the cut.
- b. In general, the sewer services are separated laterally from a water service by at least ten (10) feet.
- c. A sewer connection permit and fee will be required for each lot 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.
- b. The applicant shall provide a clear strategy to limit impacts for stormwater runoff to the abutting lots to the north.

11. Drainage, Stormwater Management:

- a. The applicant will be required to provide a full stormwater analysis for the project and as part of the Chapter 601 subdivision ordinance. The applicant has indicated that a full stormwater analysis will be provided as part of future submissions. As noted before, 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.

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 (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 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.

13. Soils: The Applicant has submitted a medium intensity soil report for the site. The Code of Ordinances requires a high intensity soils report.

14. Aesthetic, Cultural, and natural area impacts: The applicant has provided a narrative on how the project will not have an undue negative impact on habitat, historic sites, or other aesthetics of the site. Generally, I agree with most of the positions, except as noted above.

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

16. Waivers: No waivers have been requested at this time.

17. Off-site Improvements: No off-site improvements have been proposed by the applicant.

I would be pleased to review any other aspect of the application that you or the Planning Board may decide.



DATE: December 28, 2023
TO: Erin Zwirko, Town Planner
FROM: Michael Robitaille, Fire Chief
RE: 251 West Main Street

I have reviewed the plans submitted for 251 West Main Street, Yarmouth and make the following comments:

The developer will need to confirm with the Yarmouth Water District that there is an adequate water supply. The previous review was conducted prior to the Town of Yarmouth adopting a Sprinkler Ordinance.

All homes built are now required to have a sprinkler system in accordance with the Yarmouth Town Code.

All access roads will need to be a minimum of 20 feet in width and have a clear vertical height of 13' 6" as required by NFPA 1.

If more than two (2) structures are on a driveway then this will need to be reviewed by the Town Engineer for compliance with State E-911 road addressing.

This is the same as my review sent on August 22, 2023. Whereas the homes will be sprinklered the width of the road may be decreased after consultation with town staff. The vertical height of all obstructions will need to remain the same.

Attachment 3

From: [Eric Gagnon](#)
To: [Erin Zwirko](#)
Cc: [Wendy Simmons](#); [Tim Herrick](#)
Subject: Re: Request for Comment - 38 Yarmouth Junction, 37 South Street & 251 West Main St. - DUE 12/29/23
Date: Thursday, December 28, 2023 11:27:58 AM
Attachments: [image001.png](#)

Hi Erin,

Please see our responses below:

- 251 West Main Street
 - Our letter is included in the package they submitted.
- 38 Yarmouth Junction
 - This is a very unique situation. They currently have a 2" water service line, not a water main. We have been discussing options with their engineer on how to properly serve this lot as they will require a fire service line at a larger size. I need to discuss those options internally with Tim to ensure we are following PUC and doing what is best for the District long term. We have the capacity to serve we need to figure out the proper design.
- 37 South Street
 - There is an existing 3/4" domestic service to this lot. The developer will need to contact us to discuss domestic use requirements. They also need to know what the Town requires regarding fire service requirements and understand what their options are to accomplish those requirements with YWD.

Let me know if you have any questions.

Eric Gagnon
Superintendent
Yarmouth Water District

Our current work schedule is Monday through Thursday 7 am to 5 pm and I typically do not check my emails regularly outside of those hours.

207.846.5821 phone

207.846.1240 fax

<http://YarmouthWaterDistrict.org/>

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On Thu, Dec 14, 2023 at 3:57 PM Wendy Simmons <WSimmons@yarmouth.me.us> wrote:

For your review:

[Yarmouth Planning Board](#)

Thanks. Wendy

Wendy Simmons, SHRM-CP

Administrative Assistant

Planning, Code Enforcement & Economic Development

200 Main Street, Yarmouth ME 04096

207-846-2401

207-846-2438 - Fax

www.yarmouth.me.us



Tree Advisory Committee

TO: Planning Board Members
Erin Zwirko, Planning Director

COPY: Karyn MacNeill, Scott Couture, David Craig

DATE: December 29, 2023

FROM: Rebecca Rundquist, Chair; Michael Brandimarte, Aaron Kaufman,
Susan Prescott, Stephen Ryan, Lisa Small, Lisa Wilson

RE: Application for review: 251 West Main

251 West Main St.

We appreciate that a forest management plan (FMP) is now proposed for the property, but no detail is yet available. Before this application is approved by the Planning Board, we request the opportunity to review the draft FMP in consultation with the Tree Warden. Our interest is in ensuring that the Plan promotes the values of forest stewardship [see note].

In addition, information should be provided about proposed enforcement of the plan, protection of the retained trees during construction, and the impact on storm water, which will affect the trees in back. Placement of the building envelopes needs to allow for both underground utilities and street trees to meet the applicable landscape standards.

Note: According to the Forest Stewardship Council [[fsc.org](https://www.fsc.org)], "Forest management shall conserve biological diversity and its associated values, water resources, soils, and unique and fragile ecosystems and landscapes, and, by so doing, maintain the ecological functions and the integrity of the forest."

Erin Zwirko
Director of Planning and Development
200 Main Street
Yarmouth, ME. 04096

January 1, 2024

Dear Erin and Yarmouth Planning Board,

Thank you for allowing me to submit my thoughts regarding the CZA request for 251 West Main Street. I am once again writing in response to 251 West Main LLC and Julia Libby and their endeavor to have the 1.88+/- subdivided. I have found writing my responses to each iteration of proposals for this piece of property to be time consuming and at times daunting. So I will do my best to follow the proposal of November 1, 2023.

Driveway Location: There are days when getting out of my own driveway is difficult due to the traffic from North Yarmouth and towns beyond. Route 115 is a heavily travelled thoroughfare. That was quite evident when our site walk discussion needed to be stopped until the traffic abated and we could hear the speaker.

Roadway Safety: I disagree with Ms. Libby in her assessment that roadway safety is not impacted by this proposal. Yes it is. Adding another driveway onto Newell Road and another driveway (making it 2) onto West Main Street will definitely impact safety.

Stormwater: All of the stormwater plans, no matter who provides them, will not take away the fact that houses below this subdivision will be affected by runoff. There is no guarantee that runoff will not occur, and then it is left to each homeowner to find the resources to deal with the damage.

Forest Management Plan (TBD): First, what is TBD? Here I believe that the information is lacking specificity. Jones Associates will write up the plan, but what is the entity charged with making sure of compliance? Jones Associates? Is there a written contract in place for this? And how does “to safely and reasonably enjoy their property...” guarantee that trees are not removed? How and by whom is this property safeguarded? The proposal does recognize that the areas of trees to the north of the lots provide ecological and environmental benefits for the wildlife that live behind my house and other homes in the area, but the proposal does not mention the same conditions that exist today but that would all be removed if the CZA is approved. The old growth on the side of the

property is equally as valuable on many levels. More homes, more cars, more pollution and fewer trees...how does this fit into Yarmouth's plan for a carbon neutral town?

Historic Preservation Agreement: Exhibit 2 clearly states that "Owner shall consider input from the HPC and may elect to incorporate all, some or none of said input." In the next paragraph, the document states that "Owner shall engage with the Town regarding documentation of historic interior features that the town may wish to obtain." But then it states that "the owner does not need to give access." How does this insure compliance??

Exhibit 1: The current MDR building lot size in this area of Yarmouth is 1 acre. To cut up this property to 3 smaller building lots would be detrimental to the surrounding area. It is also interesting that this exhibit refers the reader to Exhibit A, which states that the lot is 1.86 acres, more or less. It is the "more or less" that is interesting here, as there have been at least 2 (if not 3) surveys done on the property in order to get this project approved using a CZA. And, with each survey the land size increases.

Advancing Public Good: What does "request by town to document historic features prior to demo" indicate? Does this mean that the next owner can demo the Doughty house? Although I do believe in preserving old homes in Yarmouth (I, too, lived for a number of years in a lovely antique home on West Elm Street), I fail to see how this fits CZA within the public good. I believe that the only public good is that the LLC did not demo it so that it could be used for a "feel good moment" when applying for the CZA. I don't see where the "Village" character will be preserved by adding 2 more homes on tiny lots, how this creates "property value retention" (for whom?), or that it is "environmentally responsible." Under the heading of Forest Management Plan, the Evidence of Value to Yarmouth delineates how this property is a benefit to the town as it stands now with forestation and 1 home. Those items listed under "Public Good" are diminished greatly or even negated by adding more homes, people, cars, traffic, etc. Under the Subdivision/Housing heading, one "Public Good" listed is "fewer vehicles, reduction of traffic, congestion, pollution...increases air quality and street safety." I believe that these all will be negatively impacted if more houses are built. And writing that there will be 1 parking space per home in no way limits how many cars will be in a household. Even a household of 2 adults and one teenager could have 3 cars!

Looking at the "Contract Zone Agreement" itself, I ask that the term "Village" be clearly defined. After attending and viewing the new Comp Plan meetings and after living in Yarmouth for over 50 years, the term of "Village" was always

defined as Main Street and its surrounding neighborhoods. Outer West Main Street does not fit into these criteria and yet it is mentioned repeatedly in the CZA document.

I respectfully request that the Planning Board turn down this CZA proposal as it does not enhance the historic nature of West Main Street, diminishes the ecological and environmental good that the standing trees and undergrowth provide, and that it does not address the Public Good of Yarmouth citizens as a whole.

Thank you for your consideration,

Sincerely
Nancy R. Gorden
240 West Main Street

Erin Zwirko

From: merry chapin
Sent: Tuesday, January 2, 2024 3:33 PM
To: Erin Zwirko
Subject: 251 West Main Street

To Erin Zwirko, Director of Planning & Development and Yarmouth Planning Board members:

I am an abutter to the property at 251 West Main Street and have the following comments and questions about the proposal for a CZA at 251. I hope that I have read the proposal accurately and have offered my comments as my understanding of what is presented in this proposal. If I have misunderstood any of the proposal statements, I expect to be corrected.

According to the submission, Ms Libby states that the Yarmouth Town Council and Yarmouth Comprehensive Plan have declared that returning to the historical pattern of development and providing a diversity of housing opportunities will require that the Town allow higher density/in use... I do not believe this proposal supports that declaration of the Town Council and Comprehensive Plan. This proposal supports high end housing and not a diversity of housing that is needed in Yarmouth which would include housing other than high end. At the beginning of the process for consideration of a CZA for 251 West Main, there was mention of affordable housing. This proposal does not "alleviate the housing crisis". Yes, it does provide for the possibility of adding 2 more housing units. But with the expected price tag on the 3 lots, this will be for high income owners, not for people who need affordable housing. There is no mention of affordable housing in this present proposal.

This proposal does not ensure that the proposed new housing will be compatible with the neighborhood which, for the most part is older style, even historic housing, although some of that housing is of newer construction methods but compatible with existing housing.

What is the "public benefit" stated in this proposal? Only one part of this proposal, that of the historic house, preserves the "historic character" of the area and can be considered "a notable historic landmark". I do not believe this project demonstrates an "environmentally responsible" plan. The proposal, although keeping some land as wild, limits wildlife access. Animals, such as deer, use this area to cross from one side of West Main to the other. There have been deer killed in this crossing because of the traffic in the area. Habitat is reduced in the proposal. This proposal does not preserve the existing "wildlife corridor". The proposal diminishes it. As for habitat, that is diminished, not protected, as suggested in the "public good" section. I do not agree that the proposal supports the Town's open space plan. Open space will be limited by the division of the land into 3 sections which will allow 2 more houses. How does this proposal "maintain the area's scenic and rural character"? Adding houses to this area does not support maintaining the area's scenic and rural character. How does this plan protect the water sources and water quality in the Royal River and Presumpscot River and Casco Bay?

I do not see "fewer vehicle" usage. Although this proposal has a "modified requirement" of 1 parking space per dwelling unit, does that mean that only one vehicle will be allowed for each house or does 1 parking space allow for more vehicles? Most families have more than one vehicle, some have more than the 2 parking spaces in this zone as is at present. Is this realistic and if only 1 space is allowed and 1 vehicle, who will monitor this? The traffic situation on West Main is not good. Many vehicles using this street from North Yarmouth and the surrounding West Main and its feeder streets make this a busy area. On the site walk, explanations had to stop, until there was less passing of vehicles which made for an inability to hear what was being said. I am not sure how many people walk this area. I don't believe this proposal supports the statement that fewer vehicles, reducing traffic, congestion pollution, increases air quality and street safety will happen. I believe the opposite is true – more vehicles, more congestion, more pollution, decrease in air quality, decrease in street safety for walkers as well as for auto drivers. Yes, you can walk to the village, but will most residents walk to the village? I don't believe that they will walk to the village for shopping, perhaps for a snack or visiting in the village.

I was disappointed to read the Forest Management Plan. I was hoping to see what the Forest Management Plan actually would look like in its action. I do not consider this to be a plan and in fact, the proposal says "FMP will be prepared by a professional forester". This makes me understand that this document is not really the FMP which I believed to be presented here by reading the opening letter to the Planning Board. I believe the Forest Management Plan, in its entirety, should be included, before this proposal is considered by the Planning Board. Another question I have about the Forest Management Plan is who will manage the plan and make certain that it is carried out according to what the plan will actually say? Is that the responsibility of Ms. Libby or current owner if not Ms. Libby, and will the future owner be required to sign the Forest Management Plan and be certain that such Forest Management Plan be carried out in its entirety? Again, who will do the monitoring?

I ask the Planning Board to require Ms. Libby provide the actual Higtensity Soil Survey to be completed by Longview partners, LLC, (is this a misspelling of High Intensity Soil Survey or something else?), the Final Subdivision Plan & 1' Contours by Owen Haskell, Inc. Land Surveyors, the Stormwater Management Plan & Traffic Safety by Haley Ward, Inc. Engineering, as well as the Forest Management Plan, before a vote is taken on this project proposal. I believe that we are missing information that we, the public, and abutters should have before the proposal is voted on by the Planning Board and considered by the Town Council.

I certainly applaud the owner's decision to preserve the historic structure, but I believe that the actual plan for the preservation and restoration of the historic structure should be a part of the submission of materials for consideration of this proposed plan before this proposal is considered by the Planning Board. There is no entity named in this document, including back up documents, as to who will be responsible for guaranteeing that oversight will be legally required and followed. I certainly support the opening statement for the Historic Preservation Agreement. I also support (a) i. I do have a problem with (a) ii in the statement "owner shall consider input from the HPC and may elect to incorporate all, some or none of said input. Ultimately, compliance with any HPC recommendations is strictly voluntary". This seems to contradict what is said in (a) i or do I misunderstand the wording or intent? I also question (a) iii. The "granting of access to the Town is strictly voluntary and at the sole discretion of the Owner". Does this go against the intent of (a) i ? It seems that the owner is given a lot of latitude in decisions after consultation with historic preservation professionals. I certainly respect individual owner decisions, but in this case, we are talking about saving a very historic house, one of the oldest still in existence in Yarmouth, a town of many historic homes. I would make certain that preservation is the important action here and not just owner discretion. It is unfortunate that "ultimately compliance with any HPC (Historic Comprehensive Committee) recommendations is strictly voluntary."

Again we are talking about an early historic house, important in the development and history of this community.

What buffering will be included? Will it be to protect neighbors' property or for some other purpose? I am concerned that the structure proposed for Lot C can be as close to my property as 10 feet. Will the owner (Ms. Libby) or future owners provide the buffering mentioned?

I would like the Planning Board and Town Council to reconsider the CZA statute for Yarmouth. As an abutter I own 3.5 acres of land with a long property line next to 251 West Main. I wished to put as much of my land as possible into conservation. According to Town of Yarmouth law, I was allowed to conserve 2.5 acres as I was required to have one acre with my structure. I do not understand the fairness of what I was allowed and what is proposed to be allowed for Ms. Libby if the Planning Board and Town Council approve the CZA for 251. I worry about the future of my property. As I look at Ms. Libby's proposal, I wonder if my property was sold, a new owner would try to get a CZA for my property on the one acre that goes with the structure and divide that property up. Is that to be the future of this historic town? Will others go to the Planning Board with a proposal similar to the Libby proposal and start dividing the properties up in Yarmouth to further change the character of this historic community? Will Yarmouth change from its small town atmosphere with a historic character to a much larger town with more infrastructure needed which will cause taxes to be increased to pay for this increase in infrastructure?

And one last concern. Who will monitor the Historic Preservation Agreement, the Forest Management Plan, the stormwater management plan? Will all of these plans be in place before the property (ies) goes on the market? Will the new owners be responsible that all are in place, or will the Libbys be required to have all of the pieces in place and then monitored to give assurance to the abutters and neighbors that all is actually in place. What recourse is there for any failure to follow through with proposed Forest Management Plan, Historic Preservation Agreement, and the storm water management plan? I hope the Planning Board will respond to these concerns and questions that I have.

Thank you for allowing me to comment on the proposed CZA for 251 West Main Street.

Sincerely,
Merrill (Merry) Chapin

January 3, 2024

Town of Yarmouth Planning Board

200 Main Street

Yarmouth, Maine 04096

Re: 251 West Main St

This letter is regarding 251 West Main's proposal to divide the lot into three lots and how Maine's LD 2003 would affect this subdivision. LD 2003 allows for up to 4 dwelling units in growth areas on an empty lot regardless of lot size and an additional bonus of 2.5 times that for affordable dwelling units for a total of 10 units per lot. 4 units would be market rate and 6 would have to meet the affordable housing guidelines. These units can be multiplexes, cluster developments etc. with no limit on square footage as long as they meet setback and height standards. LD 2003 also changes parking requirements for affordable housing dwellings to 2 spaces per 3 units. The applicant is asking for modification to parking space requirements from 2 per dwelling unit to 1. There is some ambiguity in this as 10 units would require either 8 or 10 parking spaces.

In the Historic Preservation Agreement, the applicant states no accessory structures to be erected on lot A. Chapter 701 page 7 differentiates between accessory structures and accessory dwellings. Lot A would be eligible for 2 accessory dwelling units under this proposal.

In summary there could be 23 dwelling units if this lot was to be divided and a whole lot of cars without parking.

We ask the Planning Board to wholeheartedly reject this proposal on its magnitude as the impact on the neighborhood would be immense.

Respectfully,

Jim & Julie Crofts

51 Deacon Rd

Yarmouth, Me

Abutters

January 3, 2024

Re: 251 West Main Street

Dear Members of the Planning Board and Ms. Zwirko,

I am writing in response to the latest submission from Julia Libby to the Planning Board regarding a “Preliminary Contract Zone Agreement and Minor Subdivision” for the property located at 251 West Main Street, which will be considered at the upcoming Planning Board meeting on January 10th, 2024. As you are well aware, this applicant has submitted numerous requests for a concept review of a Contract Zone Agreement (CZA) for the past few years, and quite frankly, it is growing tiresome for all of us, but perhaps that is the hope of the applicant: to wear down residents and the Planning Board. Nonetheless, we all continue to share our concerns, and despite my fatigue, I appreciate the opportunity to comment.

After attending a site walk of the property with other residents and members of the Planning Board in October 2023 and after reading through this latest proposal, I am not in support of this CZA. As a resident of Yarmouth and abutter to the above-referenced property, I have numerous concerns about this latest proposal, which I’ve outlined below. However, I also have concerns about the Town of Yarmouth’s use of CZAs. CZAs are problematic and many of the issues of CZAs have been voiced by numerous residents of this town, not only with respect to this proposal but others as well. One of the greatest concerns is who will continue to enforce the terms of the CZA? The town does not appear to have the capacity or a clear process for how to do this, which shifts the burden to residents and pits neighbor against neighbor. Current zoning laws should be followed and are there for a reason, and the town should not rush into individual agreements or bow to pressure from residents who want to circumvent or amend the current zoning rules with a CZA in order to merely maximize profit. If the Town insists on approving any CZAs, it should, at the very least, wait until the Comprehensive Plan is revised, since that process is currently underway and slated to be finalized in 2024.

The language for approving these CZAs specifies the “[a]uthorization 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” (Chapter 701 Zoning Ordinance, Article IV, V. Conditional or Contract Zoning). According to the Ordinance, CZAs are a way to allow an owner to request a zoning change in order to be able to enjoy “creative, safe, and sensible land uses and development” that would help “advance the goals of the Comprehensive Plan.” In other words, the allowance of CZAs seems to be for

situations in which an owner may be prevented from enjoying “creative, safe and sensible land uses and development” without the approval of a CZA. However, the application does not explain how the existing zoning rules in place somehow *prevent* the owner from pursuing creative, safe, and sensible land use. Nor does the application explain how the existing zoning rules *prevent* the owner from advancing the goals of the Comprehensive Plan or the health, safety, and general welfare of the town and its residents. Perhaps that is not a requirement of the application, but I would suggest to the Planning Board that they consider asking this question.

According to the Zoning Ordinance, a preliminary or Contract Zoning Agreement “is available only when the Town Council determines it advances the public good” (Zoning Ordinance, Article IV, V. Conditional or Contract Zoning). The application does not convincingly explain how it advances the public good. The last section of the application claims that the public good “would not occur were the property to be developed under current zoning,” but this is flawed logic and scare tactics because there is no reason the property needs to be developed at all for there to be a public benefit. What would actually advance the public good would be a CZA that preserves the existing wooded areas of the lot, so that they remain undeveloped and increase the buffer on all sides of the lot.

There is no reason that this CZA must be recommended for approval at this time. The Planning Board is under no obligation to do so and could simply table this request until a later date or recommend NOT approving it. In the meantime, there is already an existing house on the property that the current owners can enjoy, restore, or rebuild, or, if they insist, add onto with an accessory dwelling unit. They can also pursue an historic preservation agreement without having to also have a CZA approved. Including an historic preservation designation as part of the application appears to be a veiled attempt to give this proposal merit. As a result, it only distracts from the proposal itself, which should be scrutinized for the degree to which it meets the criteria for considering and approving a CZA.

The application claims the CZA will preserve a section of woods in the back lower part of the property with a Forest Management Plan (FMP), but there is no detail about this other than to state “Jones Associate, Inc. has been engaged to prepare the FMP” and references Exhibit 3 of the proposal. However, Exhibit 3 states the Forest Management Plan is “TBD.” In other words, the plan doesn’t exist, yet the applicant is seeking preliminary or provisional approval. How can the Planning Board recommend approving a CZA that doesn’t have any detail about what the CZA entails? This is like asking the Planning Board to write a blank check. And how can I, as a resident, comment on the plan when it doesn’t exist? The application says the plan will be forthcoming and “will

be incorporated into the CZA for approval by the Town Council,” but shouldn’t it be incorporated into the proposal, even if it is in a preliminary stage? This is essentially asking the Planning Board to recommend preliminary approval based on a promise. How does this pass the straight face test? Asking for approval of something that doesn’t exist appears to be an attempt to bypass the Planning Board process and go directly to the Town Council who will, presumably, be the ones to have the privilege of examining a detailed Forest Management Plan. Furthermore, the proposal includes developing the property by dividing it into three lots with two additional homes and the existing home. However, this will entail removing trees, plants, and disturbing the soil. I would argue that keeping the property as is and not removing trees, plants, or disturbing the soil is better for the public good and the health, safety, and general welfare of residents, including nearby residents in the Newell Road neighborhood. Keeping trees is better for the environment (humans, wildlife, plants) as it provides oxygen, shelter, food, soil stability, and a buffer. Moreover, preserving the environment and green spaces advances the goals of the existing Comprehensive Plan as well and reflects the wishes of many residents, as documented in current data gathering efforts as part of the process of developing a new Comprehensive Plan..

There are other parts of the proposal that do not advance the public good or the health, safety, general welfare of residents, or the goals of the Comprehensive Plan. For example, building a driveway off of Newell Road poses a safety risk. The proposed driveway is near a curve and the top of a hill with poor visibility. It is also near a busy intersection where pedestrians, vehicles, and a nearby bus stop exist on a road with no sidewalks. Residents or service vehicles regularly park in the street, which increases congestion. All of these issues pose a safety risk, so why add to this risk by putting in a driveway? This does NOT advance the public good, health safety, or general welfare, and most certainly decreases it. Yes, these unsafe conditions on Newell Road currently exist, so I appreciate the applicant’s acknowledgement that the Planning Board recognized these unsafe conditions currently exist on Newell Road. But even if these conditions were to be addressed and improved by the Town, the addition of a driveway on Newell Road does not improve or add to the safety or advance the public good.

The applicant’s claim that a Stormwater Plan will be forthcoming and part of the subdivision approval is similar to the application’s claim that a Forest Management Plan will be presented at some future point in time. More detail needs to be included for me to be able to comment on this plan other than to say that I don’t see how the Planning Board could recommend approval of something that doesn’t exist.

Slicing the property into three lots also reduces the existing historic home to a tiny postage stamp size lot. How does this preserve the historic nature of the property? If

anything, keeping the large lot as part of the existing home is more fitting with the other existing homes on West Main Street, which are on more sizable lots. And it would preserve the historic nature of the property, which originally had a barn attached to it. Why not restore the property by building a replica of the barn?

The application mentions that the survey that was done on the property matches those of some abutters, but there are other abutters whose survey(s) may not agree with the applicant's. There is also a discrepancy in the size of the lot that the applicants claim compared to the size of the lot that the town tax map lists. If the size of the lot is indeed larger than the town's tax map, should the owner need to pay a larger property tax to the town?

The last page of the proposal claims that the CZA gives value to Yarmouth and advances the public good by "alleviating [the] housing crisis," but the housing crisis is due not just to lack of housing but lack of *affordable* housing. The proposed home to be built we've seen advertised in the past by the applicant was listed at over \$2 million dollars, which is not affordable to most folks in Maine. Furthermore, the plans for the buildings are for sizable homes and would be unlikely to be affordable. The development of this property would improve the pocket book of the applicant and not the public good. In addition, the last page of the proposal claims "fewer vehicles," but how does building additional homes with parking spaces for cars reduce the number of vehicles? This makes no sense.

Overall, there is less information in this proposal than previous proposals, and what is included does not clearly address the benefit to the town and its residents or how it advances the public good or the health, the safety, and the general welfare of residents or how it advances the goals of the Comprehensive Plan, which is still in the process of revision. It appears as if the applicant is trying to rush this through the approval process before the Comprehensive Plan is revised. Even if this is a request for preliminary approval, it states it is for not only a CZA but also a subdivision, but there is no information of how it addresses the subdivision ordinance as well.

Thank you for your time and consideration of my comments.

Sincerely,

Susan Gifford
41 Newell Rd.