



YARMOUTH MAINE

January 23, 2025

Rick Licht
Licht Environmental Design, LLC
35 Fran Circle
Gray, ME 04039

Dear Mr. Licht:

On January 22, 2025, the Yarmouth Planning Board reviewed the Major Site Plan, Building & Lot Plan, and the amended Development Plan/Subdivision Plan for Phase 1 of the Railroad Square Master Plan. The Planning Board determined that the project is compliant with the applicable regulations and standards of Town of Yarmouth Ordinances Chapter 702, Site Plan Review, Chapter 703, Character Based Development Code, and Chapter 601, Subdivision, and approved the project subject to conditions.

Attached please find the Planning Board's Findings of Fact and Notice of Decision, dated January 22, 2025. Please review the conditions of approval and standard conditions of approval outlined in the Findings of Fact and Notice of Decision, especially the timeline required for filing the amended Subdivision Plan.

Please contact the Department of Planning & Development if you have any additional questions. We look forward to working with you on this project.

Sincerely,

Erin Zwirko, AICP, LEED AP
Director of Planning & Development

Enclosure: Findings of Fact and Notice of Decision dated January 22, 2025

cc: Patrick Ducas and Justin Loveitt
Chair and Members of the Yarmouth Planning Board
Scott LaFlamme, Town Manager
Steven S. Johnson, Town Engineer
Erik S. Street, Director of Public Works
Rob Sutherland, Assessor
Karyn MacNeill, Community Services Director
Daniel Gallant, Police Chief
Michael Robitaille, Fire Chief
Nicholas Ciarimboli, Code Enforcement Officer

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YARMOUTH MAINE

**Yarmouth Planning Board
Findings of Fact and Notice of Decision
Major Site Plan, Building & Lot Plan, and Subdivision Plan and Development Plan
Amendment
Railroad Square Phase 1, 1 & 48 Railroad Square, Map 37 Lots 28 & 29A
January 22, 2025**

The Yarmouth Planning Board issues the following Findings of Fact and Notice of Decision at its duly-noticed public hearing of January 22, 2025:

- I. The Planning Board considered the Project, the staff report dated January 9, 2025, and received and considered all written and oral public comments on the Project, which were submitted up to and at the time of the public hearing for the Project; and
- II. Public hearing notices were mailed on December 24, 2024, to 72 property owners within 500 feet of the project; and
- III. The public hearing notice was posted in Town Hall on December 24, 2024, and an ad appeared in the *Northern Forecaster* on January 2, January 9, and January 16, 2025; and
- IV. A Planning Board previously held workshops on the Project on June 12 and November 13, 2024; and
- V. The Planning Board continued the hearing from January 15 to January 22, 2025, without discussion; and
- VI. The Planning Board issued Development Plan and Subdivision Plan approval on September 14, 2022; and
- VII. The project description is as follows: Railroad Square of Yarmouth, LLC seeks approval of Phase 1 of the Railroad Square Master Plan including the construction of Buildings 1, 2, and 3 on Lots 4 and 5 consisting of 60 residential units and the construction of six townhomes on Lots 6 and 7, Civic Space F, Thoroughfares 1, 2, 3 and 4, and associated utilities and infrastructure; and
- VIII. The project is more fully described in a Final Application for Phase 1 Lot and Major Site Plan dated December 10, 2024; and
- IX. The project is subject to the requirements:
 - a. Major Site Plan per Chapter 702, Article I.B.1;
 - b. Building & Lot Plan per Chapter 703, Article I.M, which is processed as a site plan; and

- c. Subdivision Amendment per Chapter 601, Article III.D.2; and
- X. Based on its review of the entire record herein, the Planning Board has determined that the Project meets the applicable regulations and standards of review, and the Planning Board makes the following findings:

Character Based Development Code Waivers (Chapter 703, Article 1.N)

1. Waiver of Building Height

- a. The Planning Board found that granting the waiver of the building height (3 stories and 35 feet) is consistent with the purposes and intent of the CBDC. In particular, the Planning Board found that the granting the waiver is consistent with the policies identified in Chapter 703, Article 1.B, and will contribute to the creation of new housing opportunities and environmental benefits from better stormwater management in the highest priority Yarmouth watershed. In this particular context, the additional height does not take away from the historic qualities of Yarmouth Village.
- b. The Planning Board found that there are several conditions that are practical necessity and unique to the development site including the environmental cleanup regulated by the Maine Department of Environmental Protection and the resulting increased construction costs. Further, the Planning Board found that the development site is irregularly shaped.
- c. The Planning Board found that there the waiver results in a 28.6% increase over the 35-foot height and a 33.3% increase in the number of stories which are within the 35% allowance per Article 1.N.1.b.
- d. The Planning Board found that the full fourth story is the best architecturally and functionally feasible alternative.
- e. The Planning Board found that the position of the buildings on the development site and through implementation of the layered landscape plan, the visual impacts will be mitigated.
- f. The Planning Board found that granting the waiver is consistent with the goals of the CBDC by facilitating the redevelopment of site, offering new housing opportunities, and increased environmental protection from improved stormwater management.

2. Siding Exposure

- a. The Planning Board found that granting the waiver from the siding exposure (8-inch reveal) is consistent with the purposes and intent of the CBDC. Increasing the siding exposure to accommodate the increased scale of the structures is appropriate and consistent with the architectural value of the Yarmouth Village.
- b. The Planning Board found that the increased scale of the structures requires a greater reveal.

- c. The Planning Board found that there the waiver results in a 25% increase over the size of the siding reveal which is within the 35% allowance per Article 1.N.1.b.
- d. The Planning Board found that a greater reveal would not be appropriate for the scale of the structures.
- e. The Planning Board found that there would be no visual impacts as a result of granting the waiver.
- f. The Planning Board found that granting the waiver is consistent with the goals of the CBDC by facilitating the development of high-quality buildings.

Site Plan Review Standards (Chapter 702, Article I.H)

1. Conformance with Comprehensive Plan

The Planning Board found that the project is consistent with the 2024 Comprehensive Plan. Two of the local goals of the plan include: creating, expanding, and protecting housing options throughout Yarmouth, and enliven Yarmouth’s economic centers, through increased amenities, jobs, and local business opportunities. The Planning Board found that the creation of a new infill neighborhood, highlighting the Character Based Development Code, will contribute to a more sustainable community.

2. Traffic

The Planning Board found that the traffic study prepared for the project, covering both Phase 1 and Phase 2, is consistent with best practices and will not have a significant impact on the existing transportation network.

3. Parking and Vehicle Circulation

The Planning Board found that the 101 parking spaces included in Phase 1 exceed the requirements for the 66 residences. In addition, the Planning Board found that the 5 electric vehicle chargers, 7 ADA parking spaces, and 6 bike racks exceed the requirements for Phase 1. The Planning Board found that there are a number of conditions of approval that need to be met to be consistent with this standard including implementing traffic calming approaches, coordinating the intersection of Railroad Square Drive and Main Street with the Town’s Phase 2 Main Street Streetscape project, continuing to refine a buffer along the shared property line with Downeast Energy, and coordinating and financially contributing to the development of a trail along the St. Lawrence and Atlantic railroad corridor.

4. Sanitary Sewerage

The Planning Board found that Phase 1 is estimated to generate 18,072 gallons per day (GPD) of sewage from the new buildings. The Planning Board found that utilizing a gravity sewer main extension from Main Street is much simpler and has fewer requirements than a sewer pump station, which was originally envisioned; however, the sewer system internal to Railroad Square will remain private, a condition of approval is the submittal of an Operations and Maintenance Plan that is the responsibility of the future homeowners association (HOA), and will require regular maintenance generally consisting of flushing.

Further, the Planning Board found that the projected peak flow may require infrastructure improvements that are currently being studied by the town and the Applicant. Depending on the results of the analysis, the Planning Board expects that the town and the Applicant will mutually collaborate on any required improvements. Any on site improvements that may be necessary to support the flow would be the responsibility of the development team, and any offsite improvements that may be necessary would be subject to any agreement with the town that outlines the pro-rated fiscal responsibility and other legal considerations in order to equitably assign a cost share.

5. Water

The Planning Board found that there is adequate capacity in the water infrastructure and requires that a capacity to serve letter be obtained from the Yarmouth Water District.

6. Fire Safety

The Planning Board found that the Phase 1 buildings will require sprinklers and standpipe systems. There are also hydrants proposed within Phase 1.

7. Buffering

The Planning Board found that the site plan meets all of the buffer and setback requirements of the CBDC. In particular, the Townhouses located on Lots 6 and 7 are setback in compliance with the requirement from an abutting residential zoning district. A fence will be used at the rear of the properties to provide additional screening. The Planning Board found that the proposed layers of trees and vegetative buffers to soften the view of the Townhouses from the South Street properties as illustrated on the Landscape Plan mitigate any visual impacts.

8. Natural Areas

The Planning Board found that the development site is located within the highest priority watershed in Yarmouth, and by implementing a stormwater management system, there will be a wider beneficial impact on the community. The Planning Board found that the Applicant must secure approvals from the Maine Department of Environmental Protection (MaineDEP) and US Army Corps of Engineers prior to the start of any site work or the issuance of any building permit.

9. Lighting

The Planning Board found that the lighting levels depicted on the Photometric Plan meet the requirements for roadway and public spaces and around the buildings.

10. Storm Water Management

The Planning Board found that there is an anticipated increase of 0.34-acre of impervious surface area of the site to approximately 2.57 acres. As part of the MaineDEP permitting, the project will be required to provide treatment for 60% of the site's developed area. The Planning Board found that the project will provide treatment for 88.3% of the project's developed area. The Planning Board found that the stormwater best management practices (BMPs) have been designed to effectively capture, detain, and treat runoff from the new impervious area associated with the new development at the site, before allowing it to discharge in a non-erosive manner to downstream areas. Being in the highest priority

watershed in Yarmouth, the Planning Board found that the stormwater management system will be effective and have a wider benefit on the community.

11. Erosion and Sedimentation Control:

The Planning Board found that the required erosion and sedimentation control (ESC) Best Management Practices for the project meet MaineDEP standards, and that the Applicant must perform the required inspections and enforcement of the ESC plan per MaineDEP requirements. The Planning Board found that the Applicant shall submit an Environmental Media Management Plan/Soils Management Plan consistent with the requirements of the VRAP No Action Assurance Letter for review and approval to ensure that soil is managed properly on-site during construction.

12. Buildings

The Planning Board found that the bulk, location and height of the Phase 1 buildings and structures will not cause health or safety problems to existing uses in the neighborhood, including without limitation those resulting from any substantial reduction to light and air or any significant wind impact. The Planning Board found that the proposed layers of trees and vegetative buffers to soften the view of the Townhouses from the South Street properties as illustrated on the Landscape Plan mitigate any visual impacts.

13. Existing Landscape

The Planning Board found that the development site is generally devoid of existing vegetation. The Planning Board found that the Applicant has refined the Landscape Plan with input from relevant town committees, including the Yarmouth Tree Advisory Committee.

14. Infrastructure

The Planning Board found that the Applicant will need to coordinate with several agencies to ensure that the development site will be consistent with the existing infrastructure requirements. The Planning Board found that the Applicant will need to continue to coordinate with the Yarmouth Sewer Department to review wastewater infrastructure capacity and mutually collaborate on any requirement improvements as discussed under Sanitary Sewerage. The Planning Board found that the Applicant will need to coordinate with the Yarmouth Water District regarding the installation of new water infrastructure. The Planning Board found that the Applicant will need to continue to coordinate with the town on the Phase 2 Main Street Streetscape Plan, specifically the intersection of Railroad Square Drive and Main Street.

15. Advertising Features

The Planning Board found that specific tenant or building signage can be approved via a sign permit in the future.

16. Design Relationship to Site and Surrounding Properties

The Planning Board found that this standard is not applicable.

17. Scenic Vistas and Areas

The Planning Board found that this standard is not applicable.

18. Utilities

The Planning Board found that proposed utilities are planned to be underground.

19. Technical Standards

The Planning Board found that this standard is not applicable.

20. Route One Corridor Design Guidelines.

The Planning Board found that this standard is not applicable.

21. Right, Title and Interest

The Planning Board found that the Applicant has adequate evidence of right, title, and interest.

22. Technical and Financial Capacity

The Planning Board found that the Applicant has technical and financial capacity to complete the project.

23. Special Exception Standards

The Planning Board found that this standard is not applicable.

Subdivision Plan Revisions Standards (Chapter 601, Article III.D.2)

1. The Planning Board found that the rearrangement of lot lines will not increase the number of lots within a block or subdivision unit or area. The scope of amendments to the subdivision plan requires shifting the lot line between Lots 6 and 7 so that the lot line does not go through the structure. The lot line shift complies with lot frontage and lot width standards of Chapter 703.
2. The Planning Board found that the alterations to the Development Plan and Subdivision Plan will not substantially affect any street, alley, utility easement or drainage easement. The scope of the proposed amendments does not change the layout of any Thoroughfare or easements.
3. The Planning Board found that the alteration meets the minimum requirements of Chapter 601, Chapter 701 (as applicable), and Chapter 703. The lots and structures on the lots meet the requirements of the Development Plan as outlined in Chapter 703, which supersedes the requirements of Chapter 601.
4. The Planning Board found that there are reasonable conditions of approval that will ensure that the Development Plan and Subdivision Plan meet the requirements of the Public Works Director, Fire Chief, Town Engineer, and Planning Director.

Notice of Decision

Based on the application, plans, reports and other information submitted by the applicant, information from the public hearing, information and the findings and recommendations contained in Planning Board Report dated January 9, 2025, and by adopting the Findings of Fact and Notice of Decision dated January 22, 2025, regarding an application for Major Site Plan and

a Building & Lot Plan and Development Plan/Subdivision Plan Amendment by Railroad Square of Yarmouth, LLC, Applicant; Railroad Square, Map 37 Lots 28 and 29A, regarding the compliance with the applicable regulations and standards of Chapter 703, Character Based Development Code, the Planning Board hereby finds and concludes that allowing the fourth story is consistent with Chapter 703, Character Based Development Code, and is therefore approved.

Such motion moved by Wendi Holden, seconded by Ian Cromarty, and voted 5 in favor, 2 opposed (Cromarty, Ginsberg, Hansen, Holden, King in favor; Engel, Schumacher opposed).

Based on the application, plans, reports and other information submitted by the applicant, information from the public hearing, information and the findings and recommendations contained in Planning Board Report dated January 9, 2025, and by adopting the Findings of Fact and Notice of Decision dated January 22, 2025, regarding an application for Major Site Plan and a Building & Lot Plan and Development Plan/Subdivision Plan Amendment by Railroad Square of Yarmouth, LLC, Applicant; Railroad Square, Map 37 Lots 28 and 29A, regarding the compliance with the applicable regulations and standards of Chapter 702, Site Plan Review and the applicable regulations and standards of Chapter 703, Character Based Development Code, the Planning Board hereby finds and concludes that the Major Site Plan and Building & Lot Plan meets the required regulations and standards, and is therefore approved subject to the following conditions of approval.

Such motion moved by Wendi Holden, seconded by Jerry King, and voted 6 in favor, 1 opposed (Cromarty, Ginsberg, Hansen, Holden, King, Schumacher in favor; Engel opposed).

Based on the application, plans, reports and other information submitted by the applicant, information from the public hearing, information and the findings and recommendations contained in Planning Board Report dated January 9, 2025, and by adopting the Findings of Fact and Notice of Decision dated January 22, 2025, regarding an application for Major Site Plan and a Building & Lot Plan and Development Plan/Subdivision Plan Amendment by Railroad Square of Yarmouth, LLC, Applicant; Railroad Square, Map 37 Lots 28 and 29A, regarding the compliance with the applicable regulations and standards of Chapter 601, Subdivision and the applicable regulations and standards of Chapter 703, Character Based Development Code, the Planning Board hereby finds and concludes that the Development Plan/Subdivision Plan Amendment meets the required regulations and standards, and is therefore approved subject to the following conditions of approval.

Such motion moved by Wendi Holden, seconded by Ian Cromarty, and voted 6 in favor, 1 opposed (Cromarty, Ginsberg, Hansen, Holden, King, Schumacher in favor; Engel opposed).

Conditions of Approval

1. Compliance with all of the applicable conditions of approval from the Development Plan and Subdivision Plan approval dated September 14, 2022, unless amended by this approval as indicated herein.

2. Prior to the start of any site work, the applicant shall submit an Environmental Media Management Plan/Soils Management Plan for review and approval by the Town Engineer, or their designee, for consistency with the requirements of the No Action Assurance Letter issued by the Maine Department of Environmental Protection, dated July 8, 2022.
3. Prior to the issuance of any building permit, the applicant shall address the following plan review comments to the satisfaction of the Town Engineer:
 - a. The Town Engineer's plan review comments outlined in his memorandum dated December 24, 2024.
 - b. The Traffic Peer Reviewer's unresolved comments outlined in his memorandum dated December 31, 2024.
 - c. The Stormwater Peer Reviewer's unresolved comments outlined in her memorandum dated January 3, 2025.
 - d. The requirements of Condition 3 of the 2022 approval must be incorporated as applicable.
4. Prior to the issuance of any building permit, the applicant shall provide the Yarmouth Water District's written capacity to serve letter, including the requirement of the Fire Chief to install Fire Department Type 1 Standpipe systems in Buildings 1, 2, and 3, to the Town Engineer and the Director of Planning & Development. These requirements are in addition to Condition 1 of the 2022 approval.
5. Prior to the issuance of any building permit, the applicant shall work collaboratively with the Town to address both the technical and financial impacts of sewer capacity to ensure that the new development's wastewater is adequately conveyed and will not impact the receiving water or cause a public nuisance per Chapter 304, Sewerage Ordinance. Any improvements necessary on the development property shall be entirely the responsibility of the developer, its successors, or assigns. The cost of any improvements that are necessary to be located off-site to support the new development's wastewater flow shall be pro-rated to account for the Phase 1 development's share of the additional capacity estimated to be provided as a result of the improvements. The Town Engineer shall work cooperatively with the applicant to execute an agreement that outlines the financial share and other legal considerations. The Town Engineer shall determine whether there are alternatives to providing adequate sewer capacity for the development in the instance where the town and the developer, its successors, or assigns, cannot come to agreement on a pro-rated financial share.
6. Prior to the issuance of any building permit, the applicant shall provide an updated soils report that evaluates the in-situ soils and provides guidance for foundation design of the proposed four-story buildings to the Town Engineer and the Code Enforcement Officer for review and approval.
7. Prior to the issuance of any building permit, the applicant shall submit an updated plan for the intersection of Railroad Square Drive and Main Street that is consistent with the Town's Main Street Streetscape Phase II plans prepared by TY Lin for review and approval by the Town Engineer and the Director of Planning & Development. The improvements to the easterly entrance radius and sidewalk shall be constructed prior to the issuance of any Certificate of Occupancy. This condition amends Condition 19 of the 2022 approval.
8. Prior to the issuance of any building permit, the applicant shall submit a sewer system Operations and Maintenance Plan to the Town Engineer for review and approval. The sewer system Operations and Maintenance Plan shall be appropriately referenced in the

- Homeowner Association (HOA) documents. Evidence that the sewer system Operations and Maintenance Plan is recorded in the Cumberland County Registry of Deeds shall be provided to the Town Engineer and the Director of Planning & Development. This condition supersedes Condition 4 of the 2022 approval.
9. Prior to the issuance of any building permit, the applicant shall submit a final Stormwater Maintenance Agreement, including lot-specific post-construction stormwater BMP maintenance agreements and invasive species management, to the Town Engineer for review and approval. The Stormwater Maintenance Plan shall be appropriately referenced in the Homeowner Association (HOA) documents. Evidence that these documents are recorded in the Cumberland County Registry of Deeds shall be provided to the Town Engineer and the Director of Planning & Development.
 10. Prior to the issuance of any building permit, the applicant shall submit final Homeowners Association (HOA) documents to the Town Engineer and Director of Planning & Development for review and approval. Evidence that these documents are recorded in the Cumberland County Registry of Deeds shall be provided to the Town Engineer and the Director of Planning & Development. The requirements of Condition 5 of the 2022 approval must be incorporated as appropriate, as well as invasive species management within the development parcel.
 11. The applicant shall contact and coordinate with the Maine Department of Transportation (MaineDOT) to have the MaineDOT inspect and provide any necessary maintenance or repairs to the MaineDOT railroad culvert located approximately 75 feet south of Buildings 1 and 2. The applicant shall, if reasonable access to the culvert with appropriate construction equipment can be provided from the RRSQ property, clean the inlet to the culvert within the RRSQ property limits prior to the issuance of any Certificate of Occupancy. If necessary, the applicant, its successors, or assigns shall secure appropriate permits from the Maine Department of Environmental Protection and/or the US Army Corps of Engineers prior to completing such work on the development property. This condition supersedes Condition 11 of the 2022 approval.
 12. Prior to the issuance of any Certificate of Occupancy, the Applicant shall submit to the Town Engineer and Director of Planning & Development a locational plan for the EV charger infrastructure for review and approval. The EV chargers shall be installed prior to the issuance of any Certificate of Occupancy for the particular building(s) where the chargers are located.
 13. Prior to the issuance of any Certificate of Occupancy, the Applicant shall install appropriate traffic calming signage at the TF-2, TF-3 and TF-4 intersection.
 14. Prior to the issuance of any Certificate of Occupancy, the Applicant shall submit to the Town Engineer and Director of Planning & Development a refined plan for the shared street providing access to the underground garages under Buildings 1, 2, and 3 for review and approval. The elements of the shared street plan shall be implemented prior to the issuance of any Certificate of Occupancy.
 15. An irrevocable letter of credit or cash escrow and a non-refundable two percent (2%) inspection fee will be required for the estimated cost of the Phase 1 roads and utility infrastructure as well as the site drainage including curb and pavement, stormwater BMPs, Erosion and Sedimentation Control, lighting, public or common amenities, sewer upgrades, if any, and landscaping. Also, prior to issuance of building permits or the commencement of work, the applicant and their selected construction contractor shall attend a pre-construction conference with Town staff at a mutually agreeable date and time. Prior to issuance of building permits, the applicant shall satisfy all Town concerns

and provide updated drawings as required. All other permit applications and fees will be required prior to the release of a building permit. This condition amends Condition 21 of the 2022 approval.

16. Phase 1 shall include the pavilion on Lot 1 and the 11 trees to be planted along the railroad corridor between Main Street and Building 1.

Standard Conditions of Approval

1. Amended Recording Plat: This approval will be deemed to have expired unless the signed revised recording plat or other instrument is recorded in the Cumberland County Registry of Deeds within 30 days of this approval date.
2. Develop Site According to Plan: The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority.
3. Separate Building Permits Are Required: This approval does not constitute approval of building plans, which must be reviewed and approved by Yarmouth Code Enforcement Officer.
4. Site Plan Expiration: The site plan approval will be deemed to have expired unless work has commenced within one year of the approval or within a time period up to two years from the approval date if approved by the Planning Board or Planning Director as applicable. Requests to extend approvals must be received before the one-year expiration date.
5. Preconstruction Meeting: Prior to the release of a building permit or site construction, a preconstruction meeting shall be held at the project site, Town Hall or other mutually agreeable location. This meeting will be held with the contractor, Town Engineer, Code Enforcement Officer and Director of Public Works representative and owner to review the construction schedule and critical aspects of the site work. The site/building contractor shall provide three copies of a detailed construction schedule to the attending Town's representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
6. Town Record Copies: One mylar copy and three paper copies of the plat showing book and page and date of recording must be submitted to the Town Engineer as well as a plat submitted digitally to the Town Engineer, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
7. Landscaping: All required landscaping shall be guaranteed for a 2-year period.
8. Appeals: The Director of Planning and Development's decisions regarding minor site plans are appealable by an aggrieved party to the Planning Board within 30 days of the date of the issuance of the decision. Decisions of the Planning Board are appealed to the Cumberland County Superior Court.