



## Planning & Code Enforcement

2 York Street  
Westbrook, Maine 04092  
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### PLANNING & CODE ENFORCEMENT

#### WESTBROOK PLANNING BOARD

Tuesday, July 18, 2023, 7:00 P.M.

Westbrook High School – Room 114

125 Stroudwater Street

**This meeting will be offered as a hybrid meeting, accommodating both in-person and remote participation.**

Where public comment is permitted, members of the public attending remotely will have the opportunity to provide remote oral testimony. If you wish to speak during a Public Hearing or Public Comment, use the “Raise Hand” function through Zoom (or dial \*9 on your phone) when instructed by the Planning Board chair.

**Zoom Link:** <https://us02web.zoom.us/j/81700741385>

**Dial-in (audio only):** 1-646-558-8656

**Webinar ID:** 817 0074 1385

#### AGENDA

1. **Call to Order**
2. **Approval of Minutes**

#### REGULAR BUSINESS

3. **2022.23 – Site Plan, Subdivision, Village Review – Maple Grove Subdivision – Maple Grover Elderly Housing Corporation & New Ventures, LLC:** The applicant is proposing a 125-unit multifamily residential complex with site access from Main Street and Seavey Street. Tax Map: 040 Lot: 135 Zone: City Center District – Downtown District, Village Review Overlay Zone Use: Dwelling, Multiple Family

#### NEW BUSINESS

4. **2023.17 – Subdivision Amendment – 75 Elmaple Drive - Smith Family Revocable Trust:** The applicant is requesting an amendment to the Elmaple Drive subdivision approved October 1, 2019 and amended May 5, 2020 to split lot 10, 75 Elmaple Drive, creating a new flag lot with frontage on the public street, Elmaple Drive. Tax Map: 004 Lot: 410 Zone: Residential Growth Area 2.
5. **Boardmanship and Planning Board Process**
  - a. Presentation and Training by City Solicitor



## Planning & Code Enforcement

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### PLANNING & CODE ENFORCEMENT

DATE: July 14, 2023

TO: Planning Board  
FROM: Jennie P. Franceschi, City Planner & Rebecca Spitella, Senior Planner  
Cc: Plan Review Team

RE: July 18, 2023, Planning Board Meeting

- 
1. **2022.23 – Site Plan, Subdivision, Village Review – Maple Grove Subdivision – Maple Grove Elderly Housing Corporation & New Ventures, LLC**
  2. **2023.17 –Subdivision Amendment – 75 Elmaple Drive – Smith Family Revocable Trust**
  3. **Planning Board Training**

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1. **2022.23 – Site Plan, Subdivision, Village Review – Maple Grove Subdivision – Maple Grove Elderly Housing Corporation & New Ventures, LLC**

#### **REGULAR BUSINESS**

Tax Map: 040 Lot: 135

Zone: City Center District – Downtown District, Village Review Overlay Zone

Use: Dwelling, Multiple-Family

#### **Project Description**

The applicant is proposing a 125-unit multifamily residential complex with site access from Main Street and Seavey Street.

Project is requesting a waiver of the following Village Review Overlay District Standards:

§335-7-1-G(1)(k) – *To maintain visual vibrancy, 70% of the facades facing streets shall be articulated with windows, transoms, signs, cornices, and other coordinated architectural features*

And

§335-7-1-G(1)(l) – *Buildings with flat roofs shall have a defined cornice at the roofline to offer architectural aesthetic borders*

#### **Project History**

June 23, 2022 – Neighborhood Meeting

July 5, 2022 – Planning Board Workshop

August 2, 2022 – Site Walk

January 10, 2023 – Village Review Committee

February 7, 2023 – Public Hearing (Final Approval Not Requested)

June 6, 2023 – Public Hearing

July 18, 2023 – Request for Final Approval

## Staff Comments

1. Noticing Fees: \$152.44
2. Sewer

The Ordinance requires sewer pretreatment for projects larger than 20 units due to concentrated issues in larger developments caused by rags/flushable wipe causing disturbance (clogs) within the public sewer system which is very costly to the City Sewer Dept and ultimately the rate payers. This is an issue seen on all major developments, however due to the concentrated density created by larger, multi-family complexes, the issue has become exacerbated, thus the need for the ordinance requirement. The “pretreatment” is meant for the private development to remove the rags/wipes from entering the public system. “Pretreatment” has been achieved in other projects with a grinder pump that chews up anything that is put into the system which then sends the processed flow into the public system in a state that should not cause interference in the public sewer mains. The main culprit that the Sewer department deals with are so called “flushable” wipes, that to be clear are not in fact flushable as they do not degrade. This is a major issue nationally and companies that state “flushable” on their packaging are causing confusion for the public that is lead to the belief that these wipes are fine to flush. *(As a public service announcement, please refrain from ever flushing “flushable” wipes. They should be thrown in the trash can instead. Toilet paper is all that should ever be flushed.)*

The plans that were provided in Board packets show the use of a FlowRake system as a means of meeting this requirement. This system has not previously been utilized in this manner in the City, so supporting documentation was requested by Public Services to verify the system, which is intended to be utilized within lift station wet wells, could function in the manner proposed. The applicant was not able to provide Public Services with the requested information and therefore Public Services did not find the FlowRake system acceptable to meet the pretreatment requirements.

The applicant has since changed the pretreatment devices to a grinder pump station for the Avesta 61-unit structure and a Halliday Products B1A Trash Basket (detail provided) for the 64-unit New Ventures structure. Public Services has accepted the Halliday product for New Ventures as it is more robust device and would provide a higher level of protection as compared to the FlowRake system. However, as this product was also designed specifically for use within a lift station wet well and given that this type of pretreatment has not been previously utilized within the City, Public Services accepts this system conditioned on the following:

- a. Following issuance of occupancy for the New Ventures building (Halliday Products Series B1A Trash Basket) documentation of maintenance is required to be provided to Wastewater Services on an annual basis. Documentation shall include but is not limited to the follow:
  - i. Dates of Service
  - ii. Name of individual performing services
  - iii. Condition of basket prior to cleaning (photograph and write up)
  - iv. Condition of manhole channel prior to cleaning (photograph and write up)
  - v. Condition of basket/manhole post cleaning (photograph and write up)
  - vi. Photograph of debris removed placed on the ground to see quantity and type of items removed from flow.
- b. Interference in the Seavey Street Sanitary Sewer main system caused by rags post occupancy of this project will constitute a violation of this approval. All costs borne by the City to fix an interference in the Seavey Street main system shall be the responsibility of the association, or property management company if no association exists. Chronic or continued violations could result in the loss of the project’s ability to be served by Public Sewer until a change in pretreatment device is provided.

With these conditions, the project can proceed with the pretreatment as proposed while also providing a level of protection for the public system.

- a. **As of the printing of this memo, the Ability to Serve letter has been requested for sewer and is pending final sign off from wastewater services. An update will be provided at the meeting.**
- b. C106 - Provide pretreatment system leaders and state features.
- 3. Drainage
  - a. C-106 - DMH-4 –Will rim be able to be located outside of curb line and curbing will not interfere with the structure?
- 4. Electrical
  - a. Final coordination of Street Poles needs to be reviewed and approved by City Engineer.
- 5. Overall Site Plan clean up comments.
  - a. C-702 - Post-Development Plan Pond labels – delete extra 7P label in New Ventures lot.
- 6. Pedestrian Connectivity
  - a. New Ventures Building
    - i. 2 Doors egressing into parking area can potentially have egress blocked by cars with door swing out. Please review your building plans or you may need to remove parking spaces in line with egresses.

**Motion**

That the Planning Board approves the Site Plan-Subdivision-Village Review application for Maple Grove Elderly Housing Corporation & New Ventures, LLC for a 125-unit multifamily Complex. Tax Map: 040 Lot: 135 Zone: City Center District – Downtown District, Village Review Overlay Zone Use: Dwelling, Multiple-Family. Approval includes the following findings of fact, conclusions, and conditions as stated on pages 3 through 8 of this Staff Memo dated July 14, 2023, which are adopted in support of this approval. Included with this approval is a waiver of Village Review Overlay Zone standards §335-7.1.G(1)(k) and §335-7.1.G(1)(l).

**Site Plan – Finding of Fact**

Standard	Finding
Utilization of the site	Site layout takes into consideration the parameters of the site and is compliant with the standards of the zone in which it is located.
Handicap Access	ADA parking is provided at locations close to the building entrances for both residential structures. ADA tipdowns are provided at intersections with the public streets and internal to the complex. Site is compliant with ADA standards
Appearance Assessment	<ul style="list-style-type: none"> <li>(a) Site ingress and egress area at locations that have been reviewed and approved by public services. Seavey Street site ingress is positioned to be in line with the existing Oak Street.</li> <li>(b) A fence is provided along the New Ventures parking lot to buffer the lot from existing residential properties.</li> <li>(c) A landscape plan is provided to mimic the public street standards of providing a treelined street as well as additional landscaping within parking areas for shade and site beautification.</li> <li>(d) The project is adequately lit for life-safety of residents. A photometrics plan has been provided to demonstrate site lighting that does not trespass onto abutting properties. All lights are dark sky compliant.</li> </ul>

	<p>(e) A stop sign and driveway sign (Clover Lane) is depicted on the site plan at both the Seavey Street and Main Street intersections.</p> <p>(f) Building elevations have been reviewed by the Village Review Overlay Committee and are consistent with the VROZ standards, with the exception of §335-7.1.G(1)(k) and §335-7.1.G(1)(l) which the Planning Board provided a waiver.</p>
Landscape Plan	A landscape plan is provided to mimic the public street standards of providing a treelined street as well as additional landscaping within parking areas for shade and site beautification.
Odors	Solid waste will be privately managed. Waste storage is internal to the residential structures. No outdoor storage of waste is proposed or permitted with this approval. No adverse impact is known or anticipated.
Noise	The residential use is consistent with the base zone and abutting properties. No adverse impact is known or anticipated.
Technical and Financial Capacity	The applicant has provided a letter from Norway Savings Bank dated May 2, 2023 to demonstrate financial capacity. The applicant has retained the services of St Germain which demonstrates technical capacity.
Solid Waste	Solid waste will be privately managed. Waste storage is internal to residential structures. No outdoor storage of waste is proposed or permitted with this approval.
Historic, Archaeological and Botanical Resources or Unique Features	No historic, archaeological/botanical resources have been identified on the site.
Hazardous Matter	Project does not propose the handling, storage, or use of hazardous materials. No adverse impact known or anticipated.
Vibrations	The residential use is consistent with the base zone and abutting properties. No adverse impact is known or anticipated.
Parking & Loading Design and Site Circulation	The project provides 138 off-site parking stalls, meeting the Ordinance requirement of 1 space/unit in the downtown district. A turning template has been provided as part of the application to demonstrate adequate access for fire apparatus. No parking is permitted within the vicinity of the intersections of Clover Lane and Main or Seavey Street.
Adequacy of Road System	Project provides two points of site ingress/egress to diversify traffic impacts. Main and Seavey Street have adequate capacity to accept the additional traffic generated by the project.
Vehicular Access	Project provides two points of site ingress/egress to diversify traffic impacts. Site ingress and egress area at locations that have been reviewed and approved by public services. Seavey Street site ingress is positioned to be in line with the existing Oak Street.
Pedestrian and Other Modes of Transportation	Pedestrian amenities are provided throughout the residential complex and connect with the existing infrastructure on Main and Seavey Street. A pedestrian path is shown to connect the project to the abutting commercial property. Bike racks are located adjacent to both residential facilities.
Utility Capacity	Utility services are available within the Main Street and Seavey Street rights of way.
Stormwater Management, Groundwater Pollution	Subsurface stormwater management is provided to manage stormwater. Project is subject to DEP permit L-30175-NJ-A-N

Erosion and sedimentation Control	Adequate erosion control measures are shown on the plan.
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**Conclusions**

1. The proposed site plan **will not** result in undue water or air pollution.
2. The proposed site plan **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed site plan **will not** cause an unreasonable burden on an existing water supply.
4. The proposed site plan **will not** cause unreasonable soil erosion or a reduction in the land’s capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed site plan **will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed site plan **will** provide for adequate sewage waste disposal.
7. The proposed site plan **will not** cause an unreasonable burden on the municipality’s ability to dispose of solid waste.
8. The proposed site plan **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.
9. The proposed site plan **conforms** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer **has** adequate financial and technical capacity to meet standards of this section.
11. The proposed site plan **is not** situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
12. The proposed site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed site **is not** situated entirely or partially within a floodplain.
14. All freshwater wetlands **have** been shown on the site plan.
15. Any river, stream, or brook within or abutting the site plan **has** been identified on any maps submitted as part of the application.
16. The proposed site plan **will** provide for adequate storm water management.
17. The proposed plan **will not** negatively impact the ability of the City to provide public safety services.

**Subdivision – Finding of Fact**

Standard	Finding
Pollution	Sewer services are available within Seavey Street right of way. The ability to serve letter from wastewater services has been provided as part of the application. Per Ordinance requirements, a pretreatment system is shown on the plan and has been approved by Public Services with conditions.
Sufficient Water	Water services are available within Seavey Street right of way. An ability to serve letter from Portland Water District has been provided as part of the application.
Municipal Water Supply	Water services are available within Seavey Street right of way. An ability to serve letter from Portland Water District has been provided as part of the application.
Erosion	Adequate erosion control measures are shown on the plan.
Traffic	Project provides two points of site ingress/egress to diversify traffic impacts. Main and Seavey Street have adequate capacity to accept the additional traffic generated by the project.
Sewage Disposal	Sewer services are available within Seavey Street right of way. The ability to serve letter from wastewater services has been provided as part of the application. Per Ordinance requirements, a pretreatment

	system is shown on the plan and has been approved by Public Services with conditions.
Municipal Solid Waste Disposal	Solid waste will be privately managed. Waste storage is internal to residential structures. No outdoor storage of waste is proposed or permitted with this approval.
Aesthetic, Cultural and Natural Values	The proposed development is located within a growth area as identified in the City's comprehensive plan and is not encumbered by any easements or restrictions on tree removal or development. The project meets the standards of the district in which it is located. The project does not have an undue adverse impact on the aesthetic, cultural and natural values of the site.
Conformity with City Ordinances and Plans	The proposed development conforms with City Ordinances and the Comprehensive Plan.
Financial and Technical Capacity	The applicant has provided a letter from Norway Savings Bank dated May 2, 2023 to demonstrate financial capacity. The applicant has retained the services of St Germain which demonstrates technical capacity.
Surface Waters; Outstanding River Segments	Not applicable
Ground Water	Groundwater will not be adversely impacted.
Flood Areas	The site is not located within a flood zone.
Freshwater Wetlands	No wetlands have been identified on the site.
Farmland	No farmlands have been identified on the site.
River, Stream or Brook	No waterways have been identified on the site.
Stormwater	Subsurface stormwater management is provided to manage stormwater. Project is subject to DEP permit L-30175-NJ-A-N
Spaghetti Lots Prohibited	The lot does not have shore frontage.
Lake Phosphorus Concentration	The subdivision is not located near or along a great pond.
Impact on Adjoining Municipality	The subdivision does not cross a municipal boundary.
Lands subject to Liquidation Harvesting	Not applicable.

**Conclusions:**

1. The proposed subdivision **will not** result in undue water or air pollution.
2. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the subdivision.
3. The proposed subdivision **will not** cause an unreasonable burden on an existing water supply.
4. The proposed subdivision **will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed subdivision **will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed subdivision **will** provide for adequate sewage waste disposal and **will not** cause an unreasonable burden on municipal services.
7. The proposed subdivision **will not** cause an unreasonable burden on the City's ability to dispose of solid waste.
8. The proposed subdivision **will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed subdivision **conforms** with a duly adopted subdivision regulation or Ordinance, comprehensive plan, development plan or land use plan.
10. The subdivider **has** adequate financial and technical capacity to meet the standards of this section.



11. The proposed subdivision **will not** adversely affect the quality of any pond, lake, wetland, great pond, or river, or unreasonably affect the shoreline of that body of water.
12. The proposed subdivision **will not**, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The subdivision **is not** located in a flood-prone area, as determined by the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps.
14. All freshwater wetlands within the proposed subdivision **have** been identified.
15. All farmland within the proposed subdivision **has not** been identified. – Not applicable
16. Any river, stream, or brook within or abutting the proposed subdivision **has** been identified.
17. The proposed subdivision **will** provide for adequate stormwater management.
18. Lots in the proposed subdivision **do not have** shore frontage on a river, stream, brook, great pond, or coastal wetland as defined in 38 M.R.S.A. Section 480-B.
19. 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.
20. 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.
21. Timber on the parcel being subdivided **has not** been harvested in violation of rules adopted pursuant to 12 M.R.S.A. Section 8869, subsection 14.

**Conditions:**

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application packet dated May 10, 2023 and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the City Planner or the Planning Board.
2. Consistent with §335-13.5.D, the Code Enforcement Officer shall not issue any permits until a site-subdivision plan has been approved by the Planning Board and a Mylar signed by the Planning Board. *The signed Subdivision Plan must be recorded within 90 days of Planning Board approval, or the approval shall be null and void.*
3. **Prior to any site disturbance or building permits being issued for the project:**
  - a. All Staff comments must be addressed.
  - b. Copy of Recorded subdivision plan must be provided to the Planning Office.
  - c. Provide a plan to show construction phasing for issuance of a certificate of occupancy and verify required site amenities.
  - d. Field Verification of building corner locations per plan by surveyor. Mark property perimeter to ensure contractors stay on project land. Mark/flag limits of disturbance around property to be in compliance with approved plan.
  - e. A pre-construction meeting must be held with City Staff and the site work contractor. Contact the Planning Office to coordinate. Additional Pre-construction meetings may be necessary if phased construction is not continuous.
  - f. The applicant shall provide the digital data as required by §335-13 – verification with GIS coordinator.
  - g. An inspection fee shall be made payable to the City of Westbrook for inspection of site improvements made by the Code Enforcement Officer and/or other appropriate City staff. Inspection fee shall be 2% of the total amount of the performance guarantee. **\$26,020.00**
  - h. The applicant shall file a performance guarantee with the City of Westbrook. The amount of the guarantee shall be agreed upon in advance with the City of Westbrook and shall be of an amount to ensure completion of all on- and off-site improvements necessary to support the proposed project. - **\$1,301,000.00**
4. **Prior to the issuance of a building permit**
  - a. Review of building elevations to be consistent with submitted documentation or testimony.
  - b. Coordinate with the E911 Coordinator on addressing the building/units.
  - c. Fire hydrant installed and documentation provided to demonstrate a flow rate of at least 1,000 gpm.



- d. Clover Lane constructed to a passable standard (base gravel)
- 5. **Prior to commencing any work in the City Right-of-Way**, the applicant must obtain a road-opening permit from the Public Services Department.
- 6. **Prior to the issuance of an Occupancy Permit:**
  - a. Copy of recorded association documents to Planning Department.
  - b. Copy of maintenance agreement/maintenance schedule for Pretreatment Device.
  - c. A site inspection of the required improvements by the City to ensure public health & safety is addressed and compliance with the approval (to include but not limited to all lighting within the area to receive occupancy and access ways through the site (installed & lit), striping, signage, stormwater features, etc.) USPS location established and approved by Post Office.
  - d. All Sewer & Water lines fully tested and approved.
  - e. Main Street bus shelter and associated signage installed and lit.
  - f. Clover Lane and associated parking areas are base paved. Final pavement of associated parking lots is required.
  - g. Documentation (signed contracts), for private trash removal & snow plowing provided to the Planning Department
  - h. All amenities shown on the approved open space plan shall be installed.
  - i. All other site improvements, as shown or stated on plans or in conditions, must be installed unless a performance guarantee amount is held for the full amount of any remaining improvements to be completed after issuance of an Occupancy Permit.
- 7. **Prior to release of the performance guarantee:**
  - a. Copy of Stormwater feature maintenance agreement (i.e., part of a landscaping contract)
  - b. The site will be inspected and deemed by City staff to be in compliance with the approved plans, monuments placed, and as-built plan provided in City approved format for the GIS system. Applicant to provide as-builts to City in paper copy, dwg file and pdf.
  - c. BDA testing may be required for all structures at the discretion of the FD.
  - d. All areas shown as pavement shall be final paved & striped, as necessary.
- 8. All catch basins shall be set to base pavement level.
- 9. Any conditions of the City Sewer's ability to serve letter are conditions of this approval.
  - a. Following issuance of occupancy for the New Ventures building (Halliday Products Series B1A Trash Basket) documentation of maintenance is required to be provided to Wastewater Services on an annual basis. Documentation shall include but is not limited to the follow:
    - i. Dates of Service
    - ii. Name of individual performing services
    - iii. Condition of basket prior to cleaning (photograph and write up)
    - iv. Condition of manhole channel prior to cleaning (photograph and write up)
    - v. Condition of basket/manhole post cleaning (photograph and write up)
    - vi. Photograph of debris removed placed on the ground to see quantity and type of items removed from flow.
  - b. Interference in the Seavey Street Sanitary Sewer main system caused by rags post occupancy of this project will constitute a violation of this approval. All costs borne by the City to fix an interference in the Seavey Street main system shall be the responsibility of the association, or property management company if no association exists. Chronic or continued violations could result in the loss of the project's ability to be served by Public Sewer until a change in pretreatment device is provided.
- 10. Best management practices shall be adhered to during all ground disturbance operations. All Street Catch basins in the vicinity of earthwork operations shall have silt sacks installed & maintained for the duration of the work. Additional BMPs may be required to address erosion and sediment control during construction. Determination of the need for additional measures is at the sole discretion of City Staff.
- 11. The applicant shall comply with the requirements of local and state authorities for life and safety requirements.
- 12. The applicant shall comply with Chapter 37, the local Post Construction Stormwater Management Ordinance and maintain the Maintenance Log for the stormwater feature on the premise.

## 2. 2023.17 - Subdivision Amendment – 75 Elmable Drive – Smith Family Revocable Trust

### **PUBLIC HEARING**

Tax Map: 004 Lot: 410  
Zone: Residential Growth Area 2

#### **Project Description**

The applicant is requesting an amendment to the Elmable Drive subdivision approved October 1, 2019 and amended May 5, 2020 to split lot 10, 75 Elmable Drive, creating a new flag lot with frontage on the public street, Elmable Drive.

#### **Project History**

March 26, 2019 – Neighborhood Meeting  
April 2, 2019 – Planning Board Workshop  
August 6, 2019 – Public Hearing  
September 19, 2019 – Recreation and Conservation Commission  
October 1, 2019 – Public Hearing  
May 5, 2020 – Public Hearing – Subdivision Amendment (merging of Smith land with Lot 10)  
July 18, 2023 – Public Hearing – Subdivision Amendment (Split of former Smith land and Lot 10)

#### **Staff Comments:**

In May 2020, the Board approved an amendment to the Elmable Drive subdivision to dissolve the rear boundary line of Lot 10 (as approved 10/1/2019) and merge the land of Lot #10 with the Smith land to the rear thus providing the Smith land with legal frontage on Elmable Drive. The Smith land then became “Lot #10” of the subdivision. It was always the intent of the Smiths to redivide the lot once Elmable was accepted as a public street to then create a flag lot for their home parcel. A flag lot can only be created off of a public street.

With the acceptance of Elmable Drive as a public street (Council Order 2022-176, Adopted 1/9/2023) and the conveyance to the Smith’s of a 50’ strip of project land adjacent to the Area 1 Common Space (50’ strip of common area and Smith lot are now shown on the second amended subdivision plan as ‘Lot 37’), the rear Smith land now conforms as a legal flag lot and the frontage provided by Lot 10 is no longer required.

Per the flag lot ordinance, §335-2.13, a lot may be legal/buildable when it has a minimum of 50’ of frontage on a public street. Flag lots are permitted to have one principal structure, regardless of the lot’s permitted density. Therefore, the rear Smith land, which currently holds a single-family residence, would not be permitted to construct another principal residential structure that is detached from the existing. In essence, the Smiths have what they have unless they wished to build a private or public road in the future into the parcel.

#### **Comments:**

1. Amended Subdivision plan to be recorded at the registry of deeds.
2. Contact E911 Coordinator in Codes office related to addressing of Lot #37 & #10.
3. Staff recommended condition of approval – no building permits issued on Lot 10 until a copy of the recorded subdivision plan is provided to the Planning Office for the file.
4. Deed description for both lots #10 & #37 – with full metes and bounds. Lot #37 needs to be inclusive of the 50’ strip of acquired by #37 to make it a flag lot.

#### **Motion:**

That the Planning Board approves the Amended Subdivision application for the Smith Family Revocable Trust to reconfigure lot lines for Lot #10 and create a new lot #37. Tax Map: 004 Lot: 410 Zone: RGA2. Approval includes the following findings of fact, conclusions, and conditions as stated on pages 10 through 11 of this Staff Memo dated July 14, 2023, which are adopted in support of this approval.

**Subdivision – Finding of Fact**

<b>Standard</b>	<b>Finding</b>
Pollution	The amendment does not impact sewer service for the subdivision. Sewer services are available within the Elmable Drive right of way
Sufficient Water	The amendment does not impact water services for the subdivision.
Municipal Water Supply	The amendment does not impact water services for the subdivision.
Erosion	No site changes are necessary with the subdivision.
Traffic	Elmable Drive had adequate capacity for the creation of a new single-family lot.
Sewage Disposal	The amendment does not impact sewer service for the subdivision. Sewer services are available within the Elmable Drive right of way
Municipal Solid Waste Disposal	New lot is located on a public street and can support a single-family dwelling unit. Any new unit developed on this lot would be eligible for public trash removal.
Aesthetic, Cultural and Natural Values	n/a
Conformity with City Ordinances and Plans	Conforms.
Financial and Technical Capacity	A stamped survey was provided with the application.
Surface Waters; Outstanding River Segments	Not applicable
Ground Water	Groundwater will not be adversely impacted.
Flood Areas	The site is not located within a flood zone.
Freshwater Wetlands	No wetlands have been identified on the site.
Farmland	No farmlands have been identified on the site.
River, Stream or Brook	No waterways have been identified on the site.
Stormwater	The amendment does not impact the stormwater facilities approved as part of the subdivision.
Spaghetti Lots Prohibited	The lot does not have shore frontage.
Lake Phosphorus Concentration	The subdivision is not located near or along a great pond.
Impact on Adjoining Municipality	The subdivision does not cross a municipal boundary.
Lands subject to Liquidation Harvesting	Not applicable.

**Conclusions:**

1. The proposed subdivision **will not** result in undue water or air pollution.
2. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the subdivision.
3. The proposed subdivision **will not** cause an unreasonable burden on an existing water supply.
4. The proposed subdivision **will not** cause unreasonable soil erosion or a reduction in the land’s capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed subdivision **will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed subdivision **will** provide for adequate sewage waste disposal and **will/will not** cause an unreasonable burden on municipal services.
7. The proposed subdivision **will not** cause an unreasonable burden on the City’s ability to dispose of solid waste.

8. The proposed subdivision **will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed subdivision **conforms** with a duly adopted subdivision regulation or Ordinance, comprehensive plan, development plan or land use plan.
10. The subdivider **has** adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision **will not** adversely affect the quality of any pond, lake, wetland, great pond, or river, or unreasonably affect the shoreline of that body of water.
12. The proposed subdivision **will not**, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The subdivision **is not** located in a flood-prone area, as determined by the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps.
14. All freshwater wetlands within the proposed subdivision **have** been identified.
15. All farmland within the proposed subdivision **has not** been identified. – Not applicable
16. Any river, stream, or brook within or abutting the proposed subdivision **has** been identified.
17. The proposed subdivision **will** provide for adequate stormwater management.
18. Lots in the proposed subdivision **do not have** shore frontage on a river, stream, brook, great pond, or coastal wetland as defined in 38 M.R.S.A. Section 480-B.
19. 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.
20. 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.
21. Timber on the parcel being subdivided **has not** been harvested in violation of rules adopted pursuant to 12 M.R.S.A. Section 8869, subsection 14.

**Conditions:**

1. All conditions of approval from the October 1, 2019 approval and subsequent May 5, 2020 amendment remain valid.
2. Prior to sale of either lot or issuance of any building permits on Lot 10:
  - a. Contact E911 Coordinator in Codes office related to addressing of Lot #37 (#75 Elmable) & #10 (73 Elmable).
  - b. The applicant shall provide the digital data as required by §335-13 – verification with GIS coordinator.
  - c. A copy of the recorded subdivision plan is provided to the Planning Office for the file.
  - d. A recorded deed description for both lots #10 & #37 – with full metes and bounds. Lot #37 needs to be inclusive of the 50' strip of acquired by #37 to make it a flag lot, provided to the Planning or Assessor Office.

**Item # 3: Planning Board Training – Workshop**

The City Solicitor Natalie Burns will be attending the meeting to provide an interactive discussion on Board process, procedures, and protocols. This will be in a workshop format to allow the Board to ask questions as Natalie provides this training.