

## MEMORANDUM

TO: Cape Elizabeth Planning Board  
FROM: Maureen O'Meara, Town Planner  
DATE: July 19, 2016  
SUBJECT: Old Mill Rd Subdivision

### Introduction

Mark Jordy is requesting Minor Subdivision Review of a proposed 4-lot subdivision located at 41 Old Mill Rd. The application was deemed complete on June 21st and a public hearing has been schedule for this evening. The plan will be reviewed under Sec. 16-2-3 of the Subdivision Ordinance.

### Procedure

- The applicant will summarize any changes made to the plans since the last meeting.
- The Board should then open the public hearing.
- Once the public hearing is closed, the Board may begin discussion of the application.
- At the end of discussion, the Board has the option to approve, approve with conditions, table or deny the application.

### Subdivision Review (Sec. 16-3-1)

#### (a) Pollution

The subdivision will not result in undue pollution to the floodplain, soils, subsoils, and streams as further described in specific standards that are addressed in later sections.

#### (b) Sufficient Potable Water

The applicant will be installing an 8" public water line in Old Mill Rd, as well as a new hydrant located in the vicinity of station 650'. All lots will be served by public water.

#### (e) Erosion

The subdivision plan includes an Erosion and Sediment Control Plan.

#### (d) Traffic

1. Road congestion and safety. The applicant has submitted a traffic analysis for the proposed subdivision. No unreasonable congestion or safety impacts are anticipated with the addition of the traffic generated by the subdivision.
  2. Comprehensive Plan. The layout of Old Mill Rd is not inconsistent with the Comprehensive Plan.
  3. Connectivity. There are no abutting vacant properties that would reasonably need a projection of road from this property.
  4. Safety. Old Mill Rd will be upgraded to a 14' wide gravel surface with 2' wide grassed shoulder, which should be sufficient for emergency vehicle access. The Town Engineer is recommending that the amount of loam added to the gravel base of the shoulders be reduced from 5" to 2".
  5. Through traffic. No through traffic will occur with the subdivision.
  6. Topography. Old Mill Rd is an existing gravel road that will be upgraded with minimal change in topography. The applicant has asked for a waiver from placing the road in the middle of the right of way in order to avoid removing a ledge knoll.
  7. Block Length. The road is less than 1,000' in length, with a private driveway extending from the end of the road.
  8. Lot Access. All lots will have access to Old Mill Rd.
  9. Sidewalks/pedestrian connections. No sidewalks are proposed or required on a private road.
  10. Road Name. The name Old Mill Rd has previously been approved.
  11. Road Construction Standards. The Town Engineer, with advice from the Public Works Director, have reviewed the road design for compliance with the private road standards.
- (e) Sewage Disposal.

All lots will be served by private subsurface disposal systems. The Code Enforcement Officer has reviewed the initial test pit data and will review the final subsurface wastewater disposal design (HHE-200 form) prior to issuance of a building permit for each lot.

(f) Solid Waste Disposal.

Tree cutting during subdivision construction will be minimized. Tree and brush waste will be chipped onsite and used as erosion control. Solid waste generated by new homes will be the responsibility to homeowners.

(g) Aesthetic, cultural and natural values

1. Scenic. The site is not located in a vista or view corridor as identified in the Visual Impact Study conducted by the town.
2. Wildlife. The southern boundary of the subdivision is adjacent to Alewife Brook, which has been a focus as an alewife habitat. The applicant is proposing to preserve, in its current condition, the bulk of the land adjacent and upstream of Alewife Brook as open space for the benefit of the subdivision lot owners.

Most of the land adjacent to Alewife Brook is ungroomed, naturalized vegetation. There is also a 250' RP1 wetland buffer extending over both the naturalized vegetated area and the groomed area. In order to maximize protection of the habitat values of Alewife Brook, no expansion of the groomed vegetated area should occur. The Planning Board may want to consider adding clearly marked and enforceable delineation of the edge of the groomed area to the plans.

3. Natural features.

No individually significant natural features are located on the site, but rather natural areas adjacent to Alewife Brook are significant.

4. Farmland.

No farming is occurring on the subdivision.

(h) Conformity with local ordinances

1. Comprehensive Plan.

The proposed subdivision does not conflict with the Comprehensive Plan.

2. Zoning Ordinance.

The proposed lots are consistent with the minimum requirements for lots in the RA District.

3. Multiplex Housing.

No multiplex housing is proposed.

4. Addressing Ordinance.

The existing name "Old Mill Rd" will continue to be used.

(i) Financial and Technical Capability

The applicant has provided a letter from his bank and a list of professionals with experience in designing subdivisions.

(j) Surface Waters

The subdivision abuts Alewife Brook and is maintaining a 250' wide wetland buffer/setback from the brook. Staff is recommending that the existing naturally vegetated portion of that buffer be preserved rather than incrementally converted to groomed vegetation.

(k) Ground Water

No significant ground water resources are located in the area of the subdivision.

(l) Flood Areas

The subdivision includes areas of the 100 yr floodplain. The floodplain crosses Old Mill Rd immediately before the Old Mill Rd improvements are proposed. None of the residential lots include floodplain. All of the floodplain on the subdivision is located on the common land, lot 4.

(m) Wetlands

No wetland alteration is proposed. The subdivision includes RP1 wetland along the southern/western boundary abutting Alewife Brook. A 250' buffer extends from the RP1 wetland. Just east of lot 2, the buffer decreases to 100' wide due to a topographical divide (This reduction is allowed under Sec. 19-6-9 of the Zoning Ordinance.)

Within an RP1 buffer, removal of existing vegetation is strictly regulated, however maintenance of existing lawn area is allowed. It is the town's experience that, unless an existing vegetation line is clearly delineated, and measurable in the field, is it extremely difficult to control encroachment of the existing lawn into the natural vegetation.

The applicant has shown an existing tree/natural vegetation line on the plan. In the subdivision Declaration of Easements, Restrictions, Covenants and Conditions, Article 5, paragraph 10, the applicant has established restrictions on the common land. Note 23 on the plan also references grooming of vegetation and preservation of natural vegetation.

In order to preserve the current buffer of natural vegetation, however, a method to document the existing vegetation line so that it is enforceable is needed. One method is to create a metes and bounds survey line of the existing vegetation. This would be difficult for the code enforcement officer to locate in the field, but would clearly document the preservation line. Another method contemplated would establish a distance that could be measured from an obvious physical feature, such as the edge of the brook or the road. This method is easier to check in the field, but would require a buffer not customized to the meandering character of the existing natural buffer.

The Board may want to discuss if they would like the plans or approval enhanced with more specifics on the natural vegetation line. If you do, the applicant and staff may be directed to develop a method/revisions to the plans for Planning Board consideration at the next meeting.

(n) Stormwater

The Town Engineer has reviewed the stormwater plan and supports this approach, which includes construction of a rain garden to treat stormwater.

(o) Lake Phosphorus concentration

The subdivision is not included in the watershed of Great Pond.

(p) Impact on adjoining municipality

The subdivision does not abut an adjacent municipality.

(q) Land subject to Liquidation Harvesting

The subdivision has not been subject to liquidation harvesting.

(r) Access to Direct Sunlight

The new lots include building envelopes where the proposed homes will have direct access to sunlight.

(s) Buffering

Most of the subdivision land area is included in Lot 4, which will be preserved as common open space. Existing vegetation is located along the perimeter of the subdivision, which is not located in building envelopes.

(t) Open Space Impact Fee

The applicant is preserving 13.6 acres of land in lot 4 as common land with access provided for the lot owners in the subdivision.

(u) Utility Access.

All lots will have access to utilities.

(v) Phasing.

No phasing is proposed.

Motion for the Board to Consider

Findings of Fact

1. Mark Jordy is requesting Minor Subdivision Review of a proposed 4-lot subdivision located at 41 Old Mill Rd, which requires reviewed under Sec. 16-2-3 of the Subdivision Ordinance.
2. The subdivision (will/will not) result in undue water pollution. The subdivision (is/is not) located in the 100-year floodplain, however no alteration is proposed within the floodplain. Soils (will/will not) support the proposed uses. The slope of the land, proximity to streams, and state and local water resource rules and regulations (will/will not) be compromised by the project.
3. The subdivision lots (will/will not) have a sufficient quantity and quality of potable water through connection to a proposed public water line to be installed in Old Mill Rd.

4. The subdivision (will/will not) cause soil erosion, based on the erosion control plan provided.
5. The subdivision (will/will not) cause unreasonable road congestion or unsafe vehicular and pedestrian traffic. The subdivision (provides/does not provide) for road network connectivity while discouraging through traffic. Roads (are/are not) laid out to conform to existing topography as much as is feasible. A waiver from the road width and road alignment is granted to avoid a topographical change by removing a ledge knoll and minimize the removal of trees. All lots (are/are not) provided with vehicular access. Roads (are/are not) designed to meet town standards.
6. The subdivision (will/ will not) provide for adequate sewage disposal. Final HHE200 subsurface wastewater disposal forms will be reviewed by the Code Enforcement Officer prior to issuance of a building permit for the lots.
7. The subdivision (will/will not) provide for adequate solid waste disposal.
8. The subdivision (will/will not) have an undue adverse impact on scenic or natural areas, historic sites, significant wildlife habitat, rare natural areas, or public access to the shoreline. Greater specificity shall be provided on the location of the natural vegetation line adjacent to Alewife Brook to prevent encroachment of the groomed vegetation area.
9. The subdivision (is/is not) compatible with applicable provisions of the Comprehensive Plan and town ordinances.
10. The applicant (has/has not) demonstrated adequate technical and financial capability to complete the project.
11. The subdivision (will/will not) adversely impact surface water quality, with preservation of the naturally vegetated area adjacent to Alewife Brook.
12. The subdivision (will/will not) adversely impact the quality or quantity of ground water.
13. The subdivision (will/will not) comply with the Floodplain Regulations, Chapter 6.
14. The subdivision (is/is not) in compliance with the Town wetland regulations in the Zoning Ordinance, with the preservation of the naturally vegetated area adjacent to Alewife Brook.

15. The proposed subdivision (will/will not) provide for adequate stormwater management.
16. The subdivision is not located in the watershed of Great Pond.
17. The subdivision is not located in more than one municipality.
18. The subdivision (is/is not) located on land where liquidation harvesting was conducted.
19. The subdivision (does/does not) provide for access to direct sunlight.
20. The subdivision (does/does not) provide a vegetative buffer throughout and around the subdivision and screening as needed.
21. The subdivision (will/will not) comply with the open space impact fee with the preservation of lot 4, common land (13.6 acres).
22. The subdivision lots (will/will not) be provided with access to utilities.
23. The subdivision plan will not be phased.
24. The applicant has substantially addressed the standards of the Subdivision Ordinance, Sec. 16-3-1.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Mark Jordy for Minor Subdivision Review of a proposed 4-lot subdivision located at 41 Old Mill Rd be approved, subject to the following conditions:

1. That the plans be revised to address the recommendations in the Town Engineer's letter dated July 11, 2016;
2. That all lots shall be served with public water through connection to the water line to be installed in Old Mill Rd;
3. That the existing vegetation line shown on lot 4 be surveyed and up to 4 monuments be placed along the line. A note shall also be added to the plans that no removal of vegetation, including mowing, shall be allowed south of the surveyed line.
4. That the Declaration of Easements, Restrictions, Covenants, and conditions be reviewed and approved by the town attorney for adequacy of road maintenance,

access for lots in the subdivision for vehicular and utility access, and preservation of the common land.

5. The Planning Board grants waivers, as authorized in the Subdivision Ordinance Sec. 16-3-5, for road width and road alignment, as shown on the subdivision plans.
6. That the plans be revised and submitted to the Town Planner for review and approval prior to recording the subdivision plat.