

**DRAFT Findings of Fact
Major Development Review
Final Subdivision Plan
September 10, 2015**

Project Name: Meadow Rose Farm Subdivision
Case Number: 15-015
Tax Map: Map 17, Lot 126
Applicant: Two Clarks, LLC c/o Paul Clark
240 Main Street
Brunswick, Maine 04011

Authorized Representative: Kevin Clark, PLS
Sitelines, PA
8 Cumberland Street
Brunswick, Maine 04011

Staff reviewed the application and has made a determination of completeness.

PROJECT SUMMARY

Staff review is based on the Major Development Plan Application for the Meadow Rose Farm Subdivision prepared by Sitelines, P.A. and dated August 13, 2015. The application includes a set of site plans prepared by Sitelines P.A. and listed below:

- Sheet C1 entitled “Cover” dated July 2015 with a most recent revision date of August 24, 2015
- Sheet C2 entitled “Overall Subdivision Plan” dated July 2015 with a most recent revision date of August 24, 2015
- Sheet C3 entitled “Subdivision Plan Lot Boundary Details” dated July 2015 with a most recent revision date of August 24, 2015
- Sheet C4 entitled “Plan and Profile: Station 0+00 to 11+00” dated July 2015 with a most recent revision date of August 24, 2015
- Sheet C5 entitled “Plan and Profile: Station 11+00 to 23+50” dated July 2015 with a most recent revision date of August 24, 2015
- Sheet C6 entitled “Site Development Details” dated July 2015 with a most recent revision date of August 24, 2015
- Sheet C7 entitled “Erosion Control Details & Notes” dated July 2015 with a most recent revision date of August 24, 2015

The proposed Meadow Rose Farm Subdivision consists of twelve (12) lots to be developed for residential use with a new 2,200 linear foot private road to be constructed westerly from Church Road for access to the lots. The proposed road is proposed to be built in two phases. The first phase would provide access to lots 1–6 and lot 12. The second phase would see the road

completed to access lots 7-11. The property is in the Rural Brunswick Smart Growth Overlay District, within the Coastal Protection 2 (CP2) Zoning District.

The proposed development would be serviced by public water and private wastewater disposal systems.

The application packet, including a project narrative is attached hereto.

The Sketch Plan for the Meadow Rose Subdivision was approved by the Planning Board on April 28, 2015 with the following condition:

1. The 0.5 acre lot that abuts lot #4 is a legal lot and shall be numbered on the final subdivision plan.

The following waivers have been requested by the applicant:

1. Section 412.2.B.8: Profile, cross-section dimensions, curve radii of existing streets (i.e. Church Road)
2. Section 412.2.B.16: Class A Soil Survey
3. Section 412.2.B.17: Location of existing trees over 10-inches in diameter
4. Section 511.2: (i.e. Appendix A-II.1B), Maximum Length of Dead End Street

Staff recommends approval of the requested waivers in accordance with the provisions of Section 410.1(A-D) based on the following facts:

- 1. Section 412.2.B.8: No changes are proposed to Church Road.***
- 2. Section 412.2.B.16: Test pits observed by a professional site evaluator and geologist revealed soils that are suitable for the proposed residential development.***
- 3. Section 412.2.B.17: The applicant proposes to conserve a significant portion of forested land as part of the development. Individual lot clearing will be allowed at the discretion of individual lot owners.***
- 4. Section 511.2: The proposed 2,200-linear foot road length and associated three (3) fire hydrants were reviewed and found to be acceptable by the Deputy Fire Chief. Additionally, the applicant proposes an emergency access connection to the Phase II portion of the road at the nearest available location. The proposed road is designed to provide access to twelve (12) large, rural residential lots and is oriented to avoid and minimize wetland impacts; and minimize the proposed traversed area in an existing utility easement.***

Review Standards from Section 411 of the Town of Brunswick Zoning Ordinance

411.1 Ordinance Provisions

The property is located in the Rural Brunswick Smart Growth Overlay District, within the Coastal Protection 2 (CP2) Zoning District. The proposed subdivision meets dimensional, density and lot configuration requirements. The proposed development complies with all applicable standards for the Rural Brunswick Smart Growth Overlay District, within the Coastal

Protection 2 (CP2) Zoning District. *The Board finds that the provisions of Section 411.1 are satisfied.*

411.2 Preservation of Natural Features

The parcel of land proposed to be subdivided is not located in the Natural Resources Protection Zone as defined at Section 211. The parcel contains natural features as defined in Section 501.1 of the Zoning Ordinance, specifically, freshwater wetlands and a mapped Wildlife Habitat Block District (overlay district) as defined in Section 217.C.1. The applicant proposes to preserve 33.10 acres of the parcel as conservation land within the mapped Wildlife Habitat Block and in some areas that contain freshwater wetlands. Further, the applicant will preserve natural features to the extent practical and as approved by the pending Maine Department of Environmental Protection (DEP) pursuant to the Natural Resources Protection Act (NRPA) as required pursuant to 38 M.R.S. Section 480-C. The application states that the density of the proposed subdivision is less than the maximum lot density of one unit per 3.5 acres of Net Site Area as defined in Section 501.2. The property is within Zone C, “areas of minimal flooding” on the Flood Insurance Rate Map (FIRM) for the Town of Brunswick which is not considered a Special Flood Hazard Area as defined in Section 211.3. The site does not contain steep slopes and embankments as defined in Section 503. *The Board finds that the provisions of Section 411.2 are satisfied conditional upon the applicant revising the Final Subdivision Plan with any changes required by the DEP for the NRPA permit.*

411.3 Surface Waters, Wetlands and Marine Resources

Freshwater wetlands are identified on the site. The application indicates that the proposed road orientation serves to avoid and minimize wetland impacts to the greatest extent practical. The proposed wetland impacts are pending approval with the DEP under the NRPA. The development will not adversely affect the Mare Brook watershed or the water quality of Casco Bay or its estuaries. *The Board finds that the provisions of Section 411.3 are satisfied.*

411.4 Flood Hazard Areas

Based on the Flood Insurance Rate Map, community panel # 230042 0015 B, effective date, January 3, 1986, the project site is located within Zone C, described as areas of minimal flooding and outside the regulatory 100-year flood zone. The development activity does not occur within a FEMA flood hazard area and therefore minimizes any risk of flooding. *The Board finds that the provisions of Section 411.4 are satisfied.*

411.5 Stormwater Management

The applicant submitted a stormwater management plan prepared by Sitelines, P.A. The stormwater model used to predict post development peak runoff made assumptions of existing land cover being forest, light undergrowth of woodland for time-of-concentration calculations in wooded areas; the curve number for the existing and proposed residential lots were assumed as 12% impervious cover, 20% grass cover, and the remainder as wooded; and the minimum time of concentration used for runoff calculations is five minutes. The results of the model predict that any increase in peak runoff rate will not result in any adverse impacts to any existing drainage systems or cause flooding to adjacent properties. Since the proposed activity will result in more than one acre of disturbed area and over 20,000 square feet of impervious area in the watershed of an urban impaired stream, the “unnamed tributary to Androscoggin watershed”. As a result,

the project requires DEP approval pursuant to the Stormwater Management Law at 38 M.R.S. Section 420-D. *The Board finds that the provisions of Section 411.5 are satisfied conditional upon the applicant revising the Final Subdivision Plan with any changes required by the DEP for the Stormwater Management Law permit.*

411.6 Groundwater

The project will be served by a proposed 8-inch underground public water main and individual wastewater disposal systems. A minimum of two passing test pits were observed on each proposed lot by Mark Cenci, Licensed Site Evaluator and Certified Geologist. The proposed road stormwater ditches and buffers are designed to avoid adverse impacts to groundwater from the development. *The Board finds that the provisions of Section 411.6 are satisfied.*

411.7 Erosion and Sedimentation Control

The applicant's erosion and sedimentation control plan has been designed to incorporate Best Management Practices as outlined in the Maine Erosion and Sediment Control BMPs as published by the Maine DEP, current edition. Specific provisions for permanent and temporary erosion control features have been provided in the submitted plans. The proposed development will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy situation results. *The Board finds that the provisions of Section 411.7 are satisfied.*

411.8 Sewage Disposal

The project will be served by individual wastewater disposal. The applicant showed the required two passing test pit logs for each lot. Further investigations will be required to design a specific wastewater disposal system on each lot in accordance with the Maine Subsurface Wastewater Disposal Rules and the Maine State Plumbing Code. The test pit locations are shown on the site plans. The proposed densities on the parcel are below the threshold for a hydro-geological study of septic system impacts. Staff determined that lot 1, so-called, is within 200 feet of the District sewer and a new building may be required to connect to public sewer. *The Board finds that the provisions of Section 411.8 are satisfied conditional upon the approval of public sewer connection by the Superintendent of the Brunswick Sewer District in a statement of whether capacity is available for any proposed building that is accessible to a sewer or drain of the District as required pursuant to 38 M.R.S. Section 1160.*

411.9 Water Supply

A new 8-inch underground public water main is proposed to serve the new residential lots. The applicant proposes to install 1-inch water service stubs to serve each individual lot in conjunction with the construction of the road. Three fire hydrants are proposed along the proposed road. The applicant sent a letter to the Brunswick-Topsham Water District to request their ability to serve the proposed development. The applicant proposes to forward a copy of the Brunswick-Topsham Water District letter. *The Board finds that the provisions of Section 411.9 are satisfied conditional upon receipt of a statement from the Brunswick-Topsham Water District of conditions under which the District will supply water, and approval of the size and location of mains, valves and hydrants proposed.*

411.10 Aesthetic, Cultural and Natural Values

The proposed residential subdivision is a permitted use and will not have any undue adverse effect on the scenic or natural beauty of the area, historic sites, or significant wildlife habitat identified by the Maine Department of Environmental Protection and Inland Fisheries & Wildlife or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. The applicant submitted survey documentation regarding three (3) potential Significant Vernal Pools and a letter from the DEP stating that based on the surveys, the vernal pools are not considered Significant Vernal Pools in accordance with the Significant Wildlife Habitat rules at 06-096 CMR 335. The parcel contains 61.80 acres of mapped Wildlife Habitat Block District (overlay district) as defined in Section 217.C.1. The applicant proposes to preserve 33.10 acres of the parcel as conservation land within the mapped Wildlife Habitat Block. *The Board finds that the provisions of Section 411.10 are satisfied.*

411.11 Community Impact

The proposed project will be located on Church Road in the Rural Brunswick Smart Growth Overlay District, within the Coastal Protection 2 (CP2) Zoning District. The applicant performed a facilities impact analysis in accordance with Section 509.1(A-I). Based on the applicant's analysis, the proposed project is not likely to result in an unreasonable impact to community facilities. *The Board finds that the provisions of Section 411.11 are satisfied.*

411.12 Traffic

The proposed subdivision plan has been reviewed by the Town Engineer who indicated that the proposed development will not create or further contribute to unsafe traffic conditions. As requested by the Town Engineer, a note was added to the Final Subdivision Plan which states that, "the proposed subdivision road has not been designed to public road standards and will not be offered for acceptance as a public way. The roadway will be maintained as part of a homeowner's association agreement". The Final Subdivision Plan shows the development of Phase 1 and Phase 2 and a proposed temporary turnaround to be removed and replaced with a stormwater buffer upon the completion of the proposed Phase 2 portion of the road. The applicant provided a draft road maintenance agreement. **The proposed subdivision road has been reviewed by the Deputy Chief who indicated that the proposed 18-foot road must have an unobstructed width of not less than 20 feet (6.1 meters) in accordance with the NFPA Fire Code (2009 Edition) at Section 18.2.3.4.1.1. The applicant proposes 2-foot shoulders adjacent to the 18-foot road which yields a 20-foot unobstructed area.** The DEP is reviewing the proposed road and associated stormwater management plan pursuant to the Stormwater Management Law at 38 M.R.S. Section 420-D. *The Board finds that the provisions of Section 411.12 are satisfied conditional upon the applicant revising the Final Subdivision Plan with any changes required by the DEP's Stormwater Management Law permit.*

411.13 Pedestrian and Bicycle Access and Safety

The proposed development will accommodate bicyclists and addresses pedestrian access, safety and circulation both within the site and to points outside the site. *The Board finds that the provisions of Section 411.13 are satisfied.*

411.14 Development Patterns

The proposed development is residential and located on a road of residential uses in the Rural Area of town. The project is within a Wildlife Habitat Block District and subject to Rural

Brunswick Smart Growth (RBSG) standards. The applicant has met RBSG requirements by permanently protecting land through a conservation easement in accordance with Section 217.6 of the Zoning Ordinance. The Brunswick-Topsham Land Trust (BTLT) submitted a letter outlining the conceptual terms of the proposed conservation agreement and the intention of the BTLT to accept the possible donation pending a written proposal for the review and approval of the BTLT Board. The neighborhood is residential in a rural setting with large areas of undeveloped land surrounding it. As proposed, the development is respectful of Brunswick's historic development pattern and will have no adverse impact on adjacent residential areas. *The Board finds that the provisions of Section 411.14 are satisfied.*

411.15 Architectural Compatibility

While the architecture of the homes will be determined by individual lot owners, the applicant indicates that housing values are targeted at \$250,000 and up. The residential homes will be compatible with the surroundings in terms of size, scale, mass and design. *The Board finds that the provisions of Section 411.15 are satisfied.*

411.16 Municipal Solid Waste Disposal

The Solid Waste Impact Fee for each of the new housing units was calculated by the applicant to be \$258.56 per unit for a total of \$3,102.72. The applicant requests that the Solid Waste Impact Fee be paid separately for each lot prior to the issuance of building permits. *The Board finds that the provisions of Section 411.16 are satisfied conditional upon the payment of the Solid Waste Impact Fees for an individual lot prior to the issuance of a building permit for the associated lot.*

411.17 Recreation Needs

The applicant proposes to dedicate 33.10 acres to the Brunswick-Topsham Land Trust and reserve 3.92 acres for open space to be managed by the Homeowner's Association. The applicant stated that the proposed land contains potential recreational uses to be determined by the future easement or open space agreement. The application contains draft covenants which include recreation standards for the proposed open space land. **A Recreation Impact Fee has not been approved by the Director of Parks and Recreation or the Recreation Commission.** *The Board finds that the provisions of Section 411.17 are satisfied conditional upon filing the conservation agreement and proposed open space with the Cumberland County Registry of Deeds; and a Recreation Impact fee is approved by the Director of Parks and Recreation and/or the Recreation Commission, and proof of payment per unit is provided by the applicant.*

411.18 Access for Persons with Disabilities

The development shall comply with the Americans with Disabilities Act as applicable, which will be reviewed as part of the building permit application. *The Board finds that the provisions of Section 411.18 are satisfied.*

411.19 Financial Capacity and Maintenance

The application indicates that the applicant has completed numerous residential developments in the Midcoast area. The applicant proposes to prepare a performance guarantee for the utility improvements within the public right-of-way for approval by the Director of Public Works in accordance with Section 521 of the Zoning Ordinance. A letter dated June 25, 2015 from Bath Savings Institution confirming a commercial mortgage development loan of up to \$250,000 was provided as part of the applicant's final submission materials. *The Board finds that the provisions of Section 411.19 are satisfied conditional upon approval of the performance guarantee by the Director of Public Works.*

411.20 Noise and Dust

Best Management Practices (BMPs) as outlined in the Maine Erosion and Sediment Control BMPs, published by the DEP will be utilized to control dust during construction. Noise will be limited through the compliance of the site contractor with the standard hours of construction per Section 524.1 of the Zoning Ordinance. Upon construction completion, there are no anticipated impacts with regard to noise or dust. *The Board finds that the provisions of Section 411.20 are satisfied.*

411.21 Right, Title and Interest

The project applicant, Two Clarks, LLC, a Maine Limited Liability Corporation in Good Standing in the State of Maine, owns the subject parcel. A transmission line easement held by Central Maine Power (CMP) bisects a portion of the subject parcel. Based on the language in the easement, the applicant does not have sufficient right to construct the proposed road in the right of way. The applicant submitted correspondence with the real estate Department at CMP and a copy of the easement. The applicant intends to secure sufficient rights to construct the road as soon as possible. With the exception of the portion of the parcel contained in the CMP easement, the applicant has sufficient right, title and interest in the property. *The Board finds that the provisions of Section 411.21 are satisfied conditional upon review and approval by the Director of Planning and Development of a revised easement that provides sufficient rights for the proposed subdivision prior to the issuance of the entrance permit by the Brunswick Department of Public Works.*

411.22 Payment of Application Fees

The applicant has paid all applicable development review and application fees. *The Board finds that the provisions of Section 411.22 are satisfied.*

**DRAFT MOTIONS
MEADOW ROSE FARM SUBDIVISION
CASE NUMBER
15-015**

Motion 1: That the Board waives the following requirements:

1. Profile, cross-section dimensions, curve radii of existing streets
2. Class A Soil Survey
3. Location of existing trees over 10-inches in diameter
4. Maximum Length of Dead End Street

Motion 2: That the Final Subdivision Plan is deemed complete.

Motion 3: That the Final Subdivision Plan is approved with the following conditions:

1. That the Board's review and approval does hereby refer to these findings of fact, the plans and materials submitted by the applicant and the written and oral comments of the applicant, his representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require a review and approval in accordance with the Brunswick Zoning Ordinance.
2. That prior to issuance of the entrance permit the applicant shall revise the Final Subdivision Plan with any changes required by the DEP for the approved NRPA permit.
3. That prior to issuance of the entrance permit the applicant shall revise the Final Subdivision Plan with any changes required by the DEP for the approved Stormwater Management Law permit.
4. That prior to the issuance of a building permit for any proposed building that is accessible to a sewer or drain of the District as required pursuant to 38 M.R.S. Section 1160 the applicant obtain a statement that capacity is available for the sewer connection from the Superintendent of the Brunswick Sewer District.
5. That prior to the issuance of the entrance permit the applicant shall obtain a statement from the Brunswick-Topsham Water District of conditions under which the District will supply water, and approve the size and location of mains, valves and hydrants proposed.
6. That prior to issuance of a building permit for an individual lot the lot owner shall pay the Solid Waste Impact Fees in the amount of \$258.56.
7. That prior to issuance of a building permit for an individual lot a Recreation Impact fee shall be approved by the Director of Parks and Recreation and/or the Recreation Commission, and proof of payment per unit shall be provided by the applicant.

8. That prior to the issuance of an entrance permit the applicant shall record the proposed conservation easement in the Cumberland County Registry of Deeds and provide a copy of the recorded easement to the Director of Planning and Development.
9. That prior to the issuance of a building permit a performance guarantee approved by the Town Engineer shall be posted in accordance with Section 521 of the Zoning Ordinance.
10. That prior to the issuance of the entrance permit the applicant shall obtain a revised easement with sufficient rights to develop the proposed subdivision and provide a copy of the recorded easement to the Director of Planning and Development for review and approval.

* *All Subdivisions for which Final Plan approval has been granted, and any conditions that have been imposed by the Planning Board for the subdivision or final plan shall be filed in the Cumberland County Registry of Deeds by the applicant. If the applicant fails to record the subdivision plan within 60 days after Development Plan approval by the Planning Board, the approval shall expire. No building permits associated with a subdivision shall be issued unless evidence of all recording requirements is provided by the applicant to the Codes Enforcement Officer.*

If applicable, subdivision approvals by the Planning Board shall expire at the end of five years after the date of Final Plan approval unless all infrastructure work associated with the development is completed (Section 407.4.C of the Brunswick Zoning Ordinance).

Julie Erdman

From: Anna Breinich
Sent: Friday, August 28, 2015 2:47 PM
To: Julie Erdman; Jared Woolston
Subject: FW: Meadow Rose

Follow Up Flag: Follow up
Flag Status: Flagged

For packet and findings.

Anna Breinich, FAICP
Director of Planning and Development
Town of Brunswick
85 Union Street
Brunswick, ME 04011

(207) 725-6660, ext. 4020 (v)
(207) 725-6663 (f)
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abreinich@brunswickme.org
www.brunswickme.org

From: Jeff Emerson
Sent: Wednesday, August 19, 2015 1:09 PM
To: Anna Breinich
Cc: Ken Brilliant
Subject: RE: Meadow Rose

NFPA 1 "Fire Code" 2009 Edition 18.2.3.4.1.1

18.2.3.4.1.1 Fire department access roads shall have an unobstructed width of not less than 20 ft (6.1 m).

From: Anna Breinich
Sent: Wednesday, August 19, 2015 1:02 PM
To: Jeff Emerson
Cc: Ken Brilliant
Subject: RE: Meadow Rose

Thanks for checking Jeff. Could you also give me a citation from the fire code as I may need it for Planning Board.

Thanks!

Anna Breinich, FAICP
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From: Jeff Emerson

Sent: Wednesday, August 19, 2015 12:20 PM

To: Anna Breinich

Cc: Ken Brillant

Subject: Meadow Rose

Anna,

In looking at the issue of exceeding the dead end road distance allowed by the Town of Brunswick Ordinance, I do not know the intent of the Ordinance. I did review the fire code briefly and did not find anything significant regarding dead end road widths. Due to the installation of multiple hydrants, and the turnaround proposed at the end of the road, I do not have much concern for the additional length of road besides the fact that it does not meet the Ordinance.

I would, however, like to verify that the proposed two foot shoulders on the sides of the road will be drivable and maintained. The fire code calls for a minimum of a 20 foot lane of travel (so that one fire truck can pass another during operations). The current plan calls for 16 foot road with 2 foot shoulders on each side.

Thanks,

Jeff Emerson

Deputy Chief

Fire Prevention Division

Brunswick Fire Department

21 Town Hall Place

Brunswick, ME 04011

207-725-5541 Ext # 2

207-725-6638 Fax

jemerson@brunswickme.org

Julie Erdman

From: Anna Breinich
Sent: Friday, August 28, 2015 2:47 PM
To: Julie Erdman; Jared Woolston
Subject: FW: Meadow Rose Subdivision

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From: Tom Farrell
Sent: Tuesday, August 25, 2015 10:56 AM
To: Cathy Jamison
Cc: Kevin Clark (kclark@sitelinespa.com); Paul Clark; Anna Breinich
Subject: Meadow Rose Subdivision

Hi Cathy,

As per our phone conversation, please prepare an opinion of the per acre land value of an undeveloped acre for the Meadow Rose Farm Subdivision project. I met earlier this morning with Paul Clark and Kevin Clark and indicated that I would be requesting the value from you. Once you draft the letter please email a copy to Paul and Kevin as well.

Thanks very much,
Tom

Thomas M. Farrell, Director
Parks and Recreation
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Brunswick, Maine 04011
Tel# (207) 725-6656
Fax# (207) 725-0148