

# Town of Wells, Maine

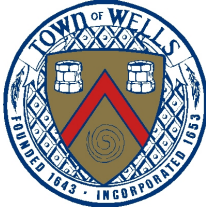
## Planning Board

**FINAL FINDINGS OF FACT & DECISIONS**  
**Final Subdivision Amendment Application for “Birch Farm Subdivision”**  
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### Chapter 202 Subdivision of Land

PROJECT INFORMATION		
<b>General:</b>	<b>Project Name:</b> Birch Farm Subdivision <b># Lots/ Dwellings Proposed:</b> 13 Lots/ 13 Dwelling Units <b>Applicant:</b> Richard & Moody & Sons Construction, LLC, 899 Post Road, Wells, ME 04090  <b>Landowner:</b> Richard & Moody & Sons Construction, LLC, 899 Post Road, Wells, ME 04090  <b>Location:</b> 1321 Meetinghouse Road, Wells, Maine <b>Existing Use:</b> A Major Residential Cluster Subdivision consisting of 13lots/dwelling units (single family dwellings) and roadway on 39.4 acres of which 22.5 acres shall be Open Space.  <b>Proposed Land Use:</b> A Major Residential Cluster Subdivision consisting of 13lots/dwelling units (single family dwellings) and roadway on 39.4 acres of which 22.5 acres shall be Open Space.  <b>Tax Parcel ID:</b> Tax Map 77, Lot 22 <b>Zoning District:</b> Rural District <b>Land Use, Art. VII Performance Standards:</b> §145-49.Residential Cluster <b>Design Engineer:</b> Lower Village Survey Co, 13 Western Ave, Kennebunk, ME 04046 <b>Final Plan Application Submission Date:</b> December 31, 2018 <b>Plan Submission Date:</b> December 31, 2018	
<b>Project Description:</b>	Richard Moody & Sons Construction has submitted a Final Subdivision Amendment Application to change the septic system locations for Lots 22-11 and 22-12. No other changes are proposed to the approved 13 lot/dwelling unit major residential cluster development subdivision off of 1321 Meetinghouse Road. The subdivision is served by a 50' wide private right of way with 22.5 acres of dedicated Open Space. The subdivision is located within the Rural District and is identified as Tax Map 77, Lot 22. Lots to be served by private septic systems and drilled wells.	
<b>Approval Dates:</b>	Preliminary Plan Approval: Not Applicable Final Plan Approval: <b><u>To be determined</u></b>	
<b>Public Hearings:</b>	Preliminary Public Hearing: Not Applicable Final Public Hearing: <b><u>To be determined</u></b>	

PROJECT HISTORY
<ol style="list-style-type: none"> <li>1. On 12/31/18 the applicant submitted a subdivision amendment application for the above described revisions.</li> <li>2. On 1/4/19 the Planning Office mailed notice to abutters of the Subdivision Amendment Application and of the</li> </ol>



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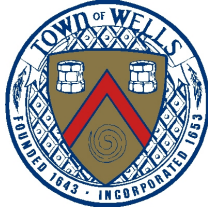
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<b>PROJECT HISTORY</b>
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- 1/14/19 Planning Board meeting.
3. On 1/7/19 the Planning Office prepared draft completeness and compliance review checklists for the amendment application.
  4. On 1/7/19 the Planning Office prepared recommended plan changes for the applicant to address.
  5. On 1/ /19 the Planning Office prepared a subdivision amendment application memo for the applicant and Planning Board.
  6. On 1/14/19 the Planning Board received the subdivision amendment application, waived a site walk, voted to find the application complete, waived a public hearing, voted to find the application compliant and voted to approve and sign the subdivision plan and Findings of Fact & Decisions at the end of the meeting.

<b>§ 202-12. General Standards</b>	<b>Findings &amp; Decisions</b>
<p>In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a final plan. In all instances the burden of proof shall be upon the applicant.</p>	
<p>A. Conformance with Comprehensive Plan. All proposed subdivisions shall be in conformity with the Comprehensive Plan of the municipality and with the provisions of all pertinent state and local codes and ordinances.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p> <p>By compliance with Chapter 202 and applicable sections of Chapter 145, the project is compliant.</p>
<p>B. Retention of open spaces and natural or historic features. [Amended 6-11-2013]</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p>
<p>(1) In any subdivision with no more than five lots or dwellings units, no dedicated open space is required. In any subdivision with at least six lots or dwelling units and no more than 10 lots or dwelling units, there shall be a minimum of 10% or 20,000 square feet, whichever is greater, of the total property net area dedicated as open space. Off site dedication of open space land may be approved by the Planning Board if excess land is provided and the land has a greater benefit to the public than land within the development. In any subdivision with more than 10 lots or dwelling units, there shall be a minimum of 35% of the total property net area dedicated as open space.</p>	<p>This subdivision consists of more than 10 lots/ dwelling units and is required to provide a minimum of 35% Open Space. This subdivision provides approximately 57% open space or 22.5 acres of the 39.4 acre parcel.</p>

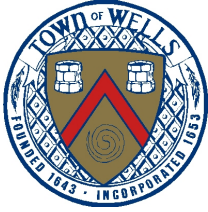


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<b>§ 202-12. General Standards</b>	<b>Findings &amp; Decisions</b>
<p>(2) Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Planning Board may deem suitable. The configuration of such sites shall be deemed adequate by the Planning Board with regard to scenic or historic attributes to be preserved, together with sufficient areas for trails, lookouts, etc., where necessary and appropriate.</p>	<p>See note 15 on sheet S1.1. The Open Space shall be owned/managed by the Birch Farm at Wells Homeowner’s Association and shall be used for passive recreation purposes. Note 15 states: A single accessory structure not exceeding 200 SF is permitted and requires a building permit. No more than 2% of the Open Space shall be impervious surface.</p>
<p>(3) Reserved open space land, acceptable to the Planning Board and subdivider, may be dedicated or conveyed to the municipality, a land trust, or other recognized conservation organization. Such reservation may also be accomplished by incorporation into homeowners’ association or condominium association documents or into restrictive deed covenants. (See § 145-49, residential cluster development standards.)</p>	<p>No such reservation proposed or incorporation in Birch Farm at Wells HOA.</p>
<p>(4) The Planning Board may require that the development plans include a landscape plan that will show the preservation of any existing trees larger than 24 inches in diameter at breast height, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.</p>	<p>A waiver of identifying trees larger than 24” inches in diameter at breast height (abh) was granted by the Planning Board on 7/11/16.</p> <p>See sheet C2.0 for trees to be preserved and note 28 on sheet S1.1.</p>
<p>C. Blocks. Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require an utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width. Maintenance obligations of the easement shall be included in the written description of the easement.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL NOT APPLY.</b></p>
<p>D. Lots.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p>
<p>(1) All lots shall meet the minimum requirements of Chapter 145, Land Use, for the zoning district in which they are located. The lot configuration should be designed to maximize the use of solar energy on building sites with suitable orientation.</p>	<p>§145-30. Rural District requirements apply to the 13 single family dwelling units. The 13 single family lots are also a Residential Cluster Development and are permitted by §145-49 to be 20,000 SF in size if not served by public sewer. All lots shall be at least 20,000 SF in size.</p> <p>See Site Data Table for Land Use dimensional requirements on sheet S1.1.</p> <p>The subdivision is not located within the Shoreland Overlay District.</p>

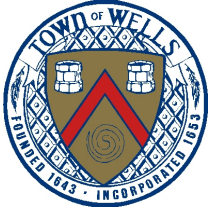


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<b>§ 202-12. General Standards</b>	<b>Findings &amp; Decisions</b>
(2) Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.	All driveways shall be designed to comply with Chapter 201 and must provide an on-site turnaround so vehicle are not backing out on to roadways. See note 22 on sheet S1.1 to reflect this.  See 22 on sheet S1.1 that states parking along Birch Farm Way is prohibited.
(3) Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan and deed restrictions shall indicate that vehicular access shall be located only on the less traveled way.	See note 22 which requires all driveways to be located off of Birch Farm Way with the exception of lot 13, which shall have a driveway off of Meetinghouse Road. Note 22 also states that lot 1 and 12’s vehicular access shall be deed restricted to access Birch Farm Way only.  Note 22 states that Lot 13’s driveway location may vary up to 10’ in location.
(4) Wherever possible, side lot lines shall be perpendicular to the street.	Side lot lines shall meet this standard.
(5) The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as to preclude future resubdivision.	Any such changes, erasures modifications or revisions to the subdivision plan require Planning Board approval.
(6) Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.	Extensions of such utilities in this area are not planned for the foreseeable future. Lots shall be served by private individual septic systems and private individual drilled wells.
(7) If a lot on one side of a river, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the river, tidal water or road to meet the minimum lot size.	No such lot proposed.
(8) Odd-shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than three to one.	No such lots proposed.
(9) Lots shall be numbered in accordance with Chapter 201, Article I, Street Naming and Numbering, of the Wells Municipal Code.	
(10) Where the Board finds that safety considerations so require, driveways of adjoining lots shall be combined or joined so as to minimize the number of driveway entrances and maximize the distance between entrance points.	On 9/26/16 the Planning Board determined shared driveways are not required.
(11) Proposed lots shall not be permitted to have driveway entrances onto existing arterial or collector streets unless the Planning Board determines that no reasonable alternate exists.	On 7/11/16 the Planning Board granted a waiver permitting the driveway for lot 13 to access off of Meetinghouse Road.  All other lots shall have driveways off of Birch Farm Way. See note 22.
E. Utilities.	<b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b>
(1) Utilities shall be installed underground except as otherwise approved by the Board.	Note 9 on sheet S1.1 requires utilities to be installed underground. See Sheet C2.0.



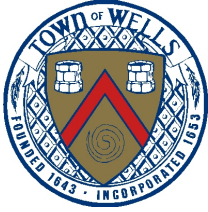
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§ 202-12. General Standards	Findings & Decisions
(2) Underground utilities shall be installed prior to the installation of the final gravel base of the road.	See note 9 on sheet S1.1
(3) The size, type and location of streetlights, electric and gas lines, telephone and other utilities shall be shown on the plan and approved by the Board.	Light pole details noted on sheet C2.0. Light pole base detail on sheet C5.1. Notation on sheet C2.0 states that the light poles shall be shielded and downward directional as to not produce glare onto abutting lots or Meetinghouse Road.
F. Required improvements. The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations.	
(1) Monuments.	<b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b>  Sheet S1.1 identifies all Monumentation proposed and monuments found.
(a) Stone or concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.	
(b) Stone or concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less. New monumentation shall not be required at corner or angle points where there is existing monumentation that complies with this section.	
(c) Stone monuments shall be a minimum of four inches square at the top and four feet in length and set in the ground at final grade level. After they are set, drill holes one-half-inch deep shall locate the point or points described above.	
(d) Concrete monuments shall be portland cement reinforced with half-inch reinforcement bar. Concrete monuments shall be either four inches square or four inches in diameter and four feet in length and set in the ground at final grade with their top flush to four inches above the final grade.	
(e) All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points, shall be marked by suitable monumentation.	On 9/26/16 the Planning Board determined that the Monumentation shown on sheet S1.1 to be acceptable.
(2) Water supply.	<b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b>
(a) When a subdivision is to be served by the Kennebunk, Kennebunkport and Wells Water District, the complete supply system, including fire hydrants, shall be installed at the expense of the subdivider.	Subdivision not served by the KKW Water District.
[1] The subdivider shall provide a written statement from the Water District that adequate water for both domestic and fire-fighting purposes can be provided without placing an undue burden on the source, treatment facilities or distribution system involved. The subdivider shall be responsible for paying the costs of system improvements necessary to serve the subdivision.	



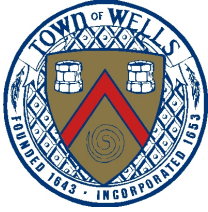


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[2] The size and location of mains, gate valves, hydrants and service connections shall be reviewed and approved in writing by the Water District and the Fire Chief.	
(b) When the location of a subdivision does not allow for a financially reasonable connection to the Kennebunk, Kennebunkport and Wells Water District, the Planning Board may allow the use of individual wells or a private community water system.	The subdivision lots shall be served by individual drilled wells.
[1] Dug wells shall be permitted only if it is demonstrated to be not economically feasible to develop other groundwater sources and shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.	See note 14 on sheet S1.1. Dug wells are prohibited.
[2] If a central water supply system is provided by the subdivider, the location and protection of the source and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144 A.C.M.R. 231).	Not applicable.
[3] Fire protection. <b>[Amended 3-11-2002]</b>	
[a] The subdivider shall construct dry hydrants connected to ponds or water storage tanks, provide fire hydrants connected to a public water source or implement an alternative program approved by the Fire Chief to provide for adequate water for fire-fighting purposes within the subdivision. An easement shall be granted to the municipality providing access to the hydrants or other improvements where necessary. If a subdivision has fewer than 10 lots or dwelling units or any combination of lots and dwelling units, the Board, may waive the requirement for an adequate on-site water supply only upon submittal of evidence that:	The subdivision shall construct all 13 single family dwellings with individual sprinkler systems for fire protection. See note 20 on sheet S.11.  A letter from the Wells Fire Chief dated 9-23-16 has been provided.
[i] There is a fire pond, fire hydrant connected to public water, or another water source within one mile of the subdivision that the subdivider has obtained the legal right to use for fire protection purposes; and	Not applicable.
[ii] The Fire Chief has determined that the proposed water source has sufficient capacity to serve the needs of the subdivision and any other subdivisions currently using or relying on the water source for fire protection.	A letter from the Wells Fire Chief dated 9-23-16 has been provided.
[b] For purposes of this section, the 1-mile distance is measured from the pond, water source or fire hydrant to the driveway of the subdivision residence located farthest from the water supply along routes that fire trucks can safely travel year round.	Not applicable.

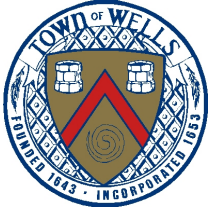


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[4] The results of the water quality test submitted shall indicate that the groundwater meets the primary drinking water standards of the Maine Rules Relating to Drinking Water for those categories tested. If the Board has reason to believe, due to previous uses of the property or due to previous or existing uses of neighboring property, that the existing water quality may be threatened by contaminants not tested for in the primary inorganic water analysis, it may require the water to be tested for those contaminants.	This is a condition of approval to be provided prior to the issuance of a building permit. See note 18 on sheet S1.1
(c) Prior to the issuance of a building permit for the construction of any principal structure in a subdivision, the applicant shall present evidence of suitable water supply to the Code Enforcement Officer. This evidence shall consist of:	This is a condition of approval. See note 18 on sheet S1.1
[1] A letter from the Kennebunk, Kennebunkport and Wells Water District indicating availability of service; or	Not applicable.
[2] The results of a primary inorganic water analysis performed upon the well to serve the structure indicating the groundwater meets the primary drinking water standards of the Maine Rules Relating to Drinking Water for those categories tested.	This is a condition of approval.
(3) Sewage disposal.	<b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b>
(a) Public system.	Subdivision not served by the Wells Sanitary District.
[1] A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1,000 feet of the proposed subdivision at its nearest point. The Wells Sanitary District shall certify that providing service to the proposed subdivision is within the capacity of the district's collection and treatment system.	
[2] The district shall review and approve in writing the construction drawings for the sewage system.	
(b) Private systems.	Subdivision shall be served by individual subsurface wastewater disposal systems. See note 13 on sheet S1.1. Minor deviations in subsurface system placement shall be approved by the Town Code Officer/Planner (± 10 feet).
[1] The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve areas shall be shown on the plan and restricted so as not to be built upon.	Test pits provided for all lots by Joel Noel, LSE #221, CSS#209 dated 5/18/2016. See note 8 on sheet S1.1  Revised test pits provided for lots 22-11 and 22-12 by Mark A. Truman, SE# 121 dated 10/30/18.



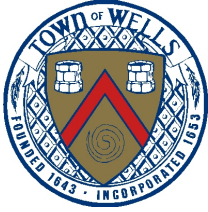
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§ 202-12. General Standards	Findings & Decisions
[2] In no instances shall a disposal area be permitted on soils or on a lot which requires a new system variance from the subsurface wastewater disposal rules.	No such variance permitted.
(4) Stormwater management. [Amended 4-27-2007]	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p> <p>Stormwater Management Report for Birch Farm prepared by Silas Canavan, PE of Walsh Engineering dated August 29, 2016.</p> <p>Town Engineer/Planner Michael Livingston, PE reviewed the stormwater management report; see memo dated 9-23-16.</p> <p>No changes proposed to stormwater management plan at this time. <u>An as-built plan for the subdivision is required and has not yet been submitted. The Town asks for the as-built plan prior to the issuance of the final COP. See Findings of Fact &amp; Decisions, Special Condition of Approval Notes #2, 3 and 4.</u></p> <p>Construction monitoring revealed discrepancies or changes made during construction than what was called in the approved plans/designs. These discrepancies have been resolved per an on-site meeting and associated 3<sup>rd</sup> party field report dated 10-16-18.</p>
(a) Where a subdivision is traversed by a stream, river or surface water drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a registered professional engineer.	Various easements are depicted on the plans. Stormwater system deisnged by a Professional Engineer.
(b) Drainage easements for existing watercourses or proposed drainageways shall be provided and indicated on the plan.	Easements depicted.
(c) The developer shall provide a statement from the designing engineer that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or in other properties. The engineer shall certify that peak runoff from the subdivision onto other properties shall not be increased either in volume or duration from the peak runoff characteristics existing prior to development.	Conclusion of Stormwater Management Report.

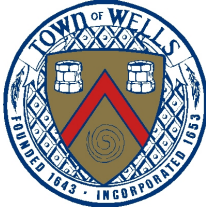




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<b>§ 202-12. General Standards</b>	<b>Findings &amp; Decisions</b>
(d) A stormwater management plan, meeting the standards of Chapter 201, Streets and Sidewalks, Articles II and III, Wells Municipal Code, shall be submitted.	Completed.
(e) For subdivisions that require MDEP review under 38 M.R.S.A. § 481 et seq. (Site Location of Development), a stormwater management plan shall be submitted which complies with the Site Location of Development permit and the requirements of MDEP Chapter 500 Stormwater Regulations.	Not applicable.
(f) For subdivisions that do not require a Site Location of Development permit, but that require a MDEP permit pursuant to 38 M.R.S.A. § 420-D, a stormwater management plan shall be submitted which complies with the requirements of MDEP Chapter 500 Stormwater Regulations.	Not applicable.
(g) For subdivisions outside of the watershed of a great pond that neither require a Site Location of Development permit, nor a MDEP permit pursuant to 38 M.R.S.A. § 420-D, a stormwater management plan shall be submitted which incorporates the low-impact development techniques set forth in Volume I, Chapter 3 of the Maine Stormwater Best Management Practices Manual, 2006 (LID Techniques) on each individual lot approved by the Planning Board when such LID Techniques are adopted by MDEP. At such time that the MDEP adopts the LID Techniques, the Planning Board shall adopt them for use in approving subdivisions for the Town of Wells.	Stormwater system designed to meet standards and includes LIDs (Buffers) in the plan.
(h) For subdivisions located within the watershed of a great pond containing: 1. five or more lots or dwelling units created within any five-year period; or 2. any combination of 800 linear feet of new or upgraded driveways and/or streets, a stormwater management plan shall be submitted that meets the phosphorus allocation across the entire subdivision in accordance with the methodology described in the MDEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006.	Not applicable.
(i) The Planning Board may require a hydrologic analysis for any site in areas with a history of flooding or in areas with a potential for future flooding, associated with cumulative impacts of development. This hydrologic analysis would be in the form of a “Downstream Analysis” under conditions of the ten-year, twenty-four-hour storm, the twenty-five-year, twenty-four-hour storm, and the one-hundred-year, twenty-four-hour storm, as described below:	Not applicable.

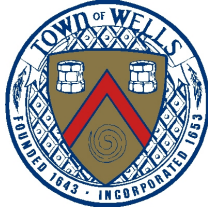


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<p>[1] Downstream Analysis Methodology: The criteria used for the downstream analysis is referred to as the “10% rule.” Under the 10% rule, a hydrologic and hydraulic analysis for the ten-year, twenty-four-hour storm, the twenty-five-year, twenty-four-hour storm, and the one-hundred-year, twenty-four-hour storm is extended downstream to the point where the site represents 10% of the total drainage area. For example, a ten-acre site would be analyzed to the point downstream with a drainage area of 100 acres. This analysis should compute flow rates and velocities downstream to the location of the 10% rule for present conditions and proposed conditions. If the flow rates and velocities increase by more than 5% and/or if any existing downstream structures are impacted, the designer should redesign and incorporate detention facilities.</p>	
<p>G. Streets.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p>
<p>(1) All streets in a subdivision shall meet Chapter 201, Streets and Sidewalks, Articles II and III, Wells Municipal Code.</p>	<p>The street shall comply with the requirements of Chapter 201. Birch Farm Way is a proposed private road that will not be considered for acceptance by the Town of Wells. See note 30 on sheet S1.1</p> <p>Planning Board reviewed the proposed road width of 22' per Chapter 201-10 on 9/26/16 and found it acceptable.</p>
<p>(2) Any subdivision expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public streets, streets shown on an Official Map or streets on an approved subdivision plan for which performance guaranties have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more shall have at least two street connections leading to existing public streets, streets shown on an Official Map or streets on an approved subdivision plan for which performance guaranties have been filed and accepted. Said two street connections' center lines shall be no closer than 400 linear feet apart. Traffic generation rates shall be based on the Traffic Generation Manual, 1988 Edition, Institute of Transportation Engineers. Some typical traffic generation rates are:</p>	<p>The subdivision is not expected to generate a daily traffic of 200 trips per day or more. Traffic generation is calculated to be 130 trips per day.</p>
<p>(a) Single-family house: 10.0 trips per day per unit.</p>	<p>13 x 10.0 = 130.00 trips per day for the subdivision</p>
<p>(b) Residential condominium: 5.9 trips per day per unit.</p>	
<p>(c) Motel: 10.2 trips per day per room.</p>	
<p>(d) Industrial: 7.0 trips per day per 1,000 square feet of floor space.</p>	
<p>(3) In any subdivisions located in the Residential A Zoning District or east of U.S. Route 1 provisions shall be made for the interconnection of proposed streets with other subdivisions or adjacent properties if it is determined to be practical and desirable by the Planning Board.</p>	<p>Subdivision not located in such areas.</p>

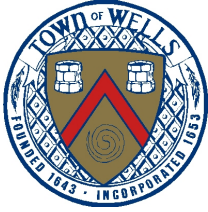


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<b>§ 202-12. General Standards</b>		<b>Findings &amp; Decisions</b>
H.	Land features.	<b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b>
	(1) Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas and building excavations. Topsoil shall not be removed from the site until completion of construction and inspection by the Town to assure four inches of topsoil has been spread over all areas to be grassed.	This is a condition of approval.
	(2) Except for normal thinning, landscaping and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Board shall require a developer to take the following measures to correct and prevent soil erosion in the proposed subdivision: <b>[Amended 4-27-2007]</b>	This is a condition of approval. See note 24 on sheet S1.1.
	(a) The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.	
	(b) The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.	
	(c) Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.	
	(d) Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.	
	(3) To prevent soil erosion of shoreline areas the cutting or removal of vegetation shall only be permitted as regulated in § 145-33 of Chapter 145, Land Use, of the Wells Municipal Code.	No Shoreline areas exist within or abutting this subdivision.
	(4) Dedication and maintenance of common open space and services.	Birch Farm at Wells Homeowner Association documents were reviewed by the Town Engineer/ Planner on 9-22-16 (see memo). Town Attorney review memo dated 9-26-16. Minor revisions to the HOA/ Deed to be addressed prior to pre-construction meeting.
	(a) All common land shall be owned jointly or in common by the owners of the dwelling units by means of a homeowners' association, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition or by the municipality.	See notes 15 and 30 on sheet S1.1.
	(b) Further subdivision of the common land or its use for other than noncommercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to noncommercial recreational or conservation uses may be erected on the common land.	See note 15 on sheet S1.1
	(c) The common open space shall be shown on the final plan with appropriate notation on the plan to indicate that:	
	[1] It shall not be used for future building lots; and	See note 15 on sheet S1.1

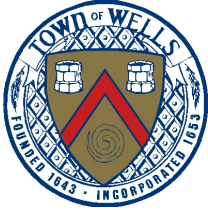


# Town of Wells, Maine

## Planning Board

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§ 202-12. General Standards	Findings & Decisions
[2] A part or all of the common open space may be dedicated for acceptance by the municipality.	See note 15 on sheet S1.1
(d) If any or all of the common open space and services are to be reserved for use by the residents, the bylaws of the proposed homeowners' association shall specify maintenance responsibilities and shall be submitted to the Board prior to final plan approval.	See notes 15 and 30 on sheet S1.1.HOA document address maintenance responsibilities.
(e) Covenants for mandatory membership in the homeowners' association setting forth the owners' rights, interests and privileges in the association and the common property shall be reviewed by the Board and included in the deed for each lot or dwelling.	See notes 15 and 30 on sheet S1.1.HOA document address maintenance responsibilities.
(f) The homeowners' association shall have the responsibility of maintaining the common property.	See notes 15 and 30 on sheet S1.1.HOA document address maintenance responsibilities.
(g) The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.	See notes 15 and 30 on sheet S1.1.HOA document address maintenance responsibilities.
(h) The developer or subdivider shall maintain control of the common property and be responsible for its maintenance until development sufficient to support the association has taken place.	See notes 15 and 30 on sheet S1.1.HOA document address maintenance responsibilities.
(5) Construction in flood hazard areas. When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall conform with Chapter 115, Floodplain Management, of the Wells Municipal Code.	No flood zone is present for the parcel per FEMA Map 2301580010D. See note 24 on sheet S1.1 and plan reference #5.
(6) Impact on groundwater.	
(a) When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:	A hydrogeologic assessment was not required as the subdivision is not located within a gravel aquifer and has an average density of greater than 100,000 SF per dwelling.
[1] A map showing the basic soils types.	
[2] The depth of the water table at representative points throughout the subdivision.	
[3] Drainage conditions throughout the subdivision.	
[4] Data on the existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties.	
[5] An analysis and evaluation of the effect of the subdivision on groundwater resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within the watershed of a pond, projections of the development's impact on groundwater phosphate concentrations shall also be provided.	



# Town of Wells, Maine

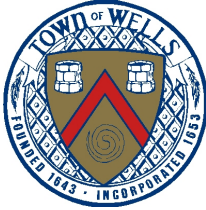
## Planning Board

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<b>§ 202-12. General Standards</b>	<b>Findings &amp; Decisions</b>
[6] A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.	
(b) Projections of groundwater quality shall be made at any wells within the subdivision and at the subdivision boundaries or at a distance of 500 feet from potential contamination sources, whichever is a shorter distance.	
(c) Projections of groundwater quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).	
(d) No subdivision shall increase any contaminant concentration in the groundwater to more than 1/2 of the primary drinking water standards. No subdivision shall increase any contaminant concentration in the groundwater to more than the secondary drinking water standards.	
(e) If groundwater contains contaminants in excess of the primary standards and the subdivision is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated.	
(f) If groundwater contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.	
(g) Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the final plan and as restrictions in the deeds to the affected lots.	See note 14 on sheet S1.1: Wells shall be a minimum of 100' from a subsurface wastewater disposal system.

<b>§ 202-13. Performance Guaranties. [Amended 4-12-1999]</b>	<b>Findings &amp; Decisions</b>
A. Types of guaranties.	<b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b>



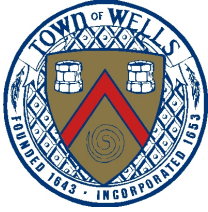


# Town of Wells, Maine

## Planning Board

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(1)	<p>With submittal of the application for final plan approval, the applicant shall provide any one or a combination of the following performance guaranties for an amount adequate to cover the total site preparation and construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs:</p>	<p>See note 31 on sheet S1.1: “A performance guarantee shall be established by the applicant/developer prior to construction of this subdivision. The performance guarantee shall be in a form and amount found acceptable by the Town Manager and the sale of lots or units or occupancy of any lot or unit within this subdivision shall be prohibited until and acceptable performance guarantee is established with the Town of Wells.</p> <p>A. A cash performance guarantee based on 2.58 acres of disturbed area at \$3500 per acre (\$9030) shall be provided to the Town prior to the start of construction.</p> <p>B. No sale of a lot or occupancy permit shall be granted until the road is completed to the level of base pavement and drainage systems and utilities are complete, except that one temporary occupancy permit may be granted limited to the use as a sales model unit/office.</p> <p>C. The performance guarantee may be reduced during construction commensurate with completed improvements for which the release is being requested as determined by the Town Engineer.</p> <p>D. A cash escrow deposit shall be provided by the developer/owner prior to the start of construction to cover the costs associated with the third party consturcition monitoring inspections.</p> <p>E. See Findings of Fact &amp; Decisions, Special Condition of Approval Notes #2, 3 and 4.</p>
	(a) Either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner for the establishment of an escrow account.	See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact & Decisions, Special Condition of Approval Notes #2, 3 and 4.
	(b) A performance bond payable to the municipality issued by a surety company approved by the municipal officers or Town Manager.	See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact & Decisions, Special Condition of Approval Notes #2, 3 and 4.
	(c) An irrevocable letter of credit (See Appendix B for a sample. Note: Appendix B, originally attached to the Subdivision Regulations, has not been reproduced in the Code. Consult the original Town records in the office of the Clerk. ) from a financial institution establishing funding for the construction of the subdivision from which the municipality may draw if construction is inadequate, approved by the municipal officers or Town Manager.	See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact & Decisions, Special Condition of Approval Notes #2, 3 and 4.
	(d) An offer of conditional approval prohibiting the sale of any units or lots until all required improvements serving those units or lots have been constructed to the satisfaction of the Town and in compliance with all ordinances, plans and specifications.	See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact & Decisions, Special Condition of Approval Notes #2, 3 and 4.

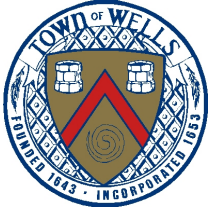


# Town of Wells, Maine

## Planning Board

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	<p>(2) The conditions and amount of the performance guaranty shall be determined by the Board with the advice of the Town Planner, Road Commissioner, municipal officers and/or Town Attorney. If an offer of conditional approval is made by the applicant, pursuant to Subsection A(1)(d), the applicant shall be required, in addition, to present a cash escrow, performance bond or irrevocable letter of credit, as described in Subsections A(1)(a) through (c) above, to cover the cost of restoring the site to a stable condition, should the applicant create erosion or sedimentation problems for an unreasonable duration during site preparation or during the construction of roads and/or utilities or other required improvements.</p>	<p>See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact &amp; Decisions, Special Condition of Approval Notes #2, 3 and 4.</p>
B.	<p><b>Contents of guaranty.</b> The performance guaranty shall contain a construction schedule, cost estimates for each major phase of construction, taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guaranty to the developer and a date after which the applicant will be in default, and the municipality shall have access to the funds to finish construction. The Board may require the services of a third party inspector, to be paid for at the expense of the applicant upon recommendation of the Town Manager.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p> <p>See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact &amp; Decisions, Special Condition of Approval Notes #2, 3 and 4.</p>
C.	<p><b>Escrow account.</b> If the applicant chooses to establish an escrow account, a cash contribution to the account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements. The Town Attorney and Town Treasurer shall review and have final authorization on the establishment of escrow accounts.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p> <p>See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact &amp; Decisions, Special Condition of Approval Notes #2, 3 and 4.</p>
D.	<p><b>Performance bond.</b> If the applicant chooses to submit a performance bond, the performance bond shall detail any special conditions, the method for release of the bond or portions of the bond to the applicant and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p> <p>See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact &amp; Decisions, Special Condition of Approval Notes #2, 3 and 4.</p>
E.	<p><b>Letter of credit.</b> If the applicant chooses to submit an irrevocable letter of credit from a bank or other lending institution, at a minimum the letter shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan. The Town Manager or Town Treasurer shall certify the bank or institution as acceptable to the Town. The Town Attorney shall review and, if found acceptable, approve the wording of all letters of credit.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p> <p>See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact &amp; Decisions, Special Condition of Approval Notes #2, 3 and 4.</p>

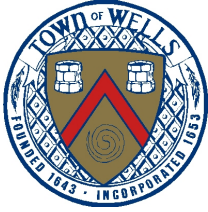


# Town of Wells, Maine

## Planning Board

**FINAL FINDINGS OF FACT & DECISIONS**  
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F.	<p><b>Standard condition of approval.</b> As a standard condition of approval for all applications for which a performance guaranty is required pursuant to Subsection <b>K</b>, the Board shall require the applicant to enter into a binding agreement with the municipality regarding the development of the required improvements and the sale of lots or units in the subdivision until such time as one or more of the allowable performance guaranties have been accepted by the municipality.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p> <p>See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact &amp; Decisions, Special Condition of Approval Notes #2, 3 and 4.</p>
	<p>(1) The agreement shall prohibit the sale or occupancy of any lot or unit in the subdivision for which the improvements to be covered by the guaranty are required for access to or intended use of the lot until either:</p>	<p>See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact &amp; Decisions, Special Condition of Approval Notes #2, 3 and 4.</p>
	<p>(a) It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or</p>	
	<p>(b) A performance guaranty, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.</p>	
	<p>(2) Notice of the agreement and any conditions shall be on the final plan that is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guaranties contained in Subsection <b>H</b>.</p>	
G.	<p><b>Phasing of development.</b> The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guaranty. When development is phased, road construction shall commence from an existing public way. The subdivision shall be divided in such a manner that each phase, when aggregated with the previous phase(s), shall meet the standards of these regulations. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p> <p>Phasing of the subdivision is not proposed.</p>
H.	<p><b>Release of guaranty.</b> Prior to the release of any part of the performance guaranty, the Board shall determine to its satisfaction, in part upon the report of the Town Manager and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p> <p>See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact &amp; Decisions, Special Condition of Approval Notes #2, 3 and 4.</p>
I.	<p><b>Default.</b> If upon inspection the third party inspector, Municipal Engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Code Enforcement Officer, the municipal officers, the Board and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p>
J.	<p><b>Private streets.</b> Where the subdivision streets are to remain private streets, the following words shall appear on the recorded plan: "All streets in this subdivision shall remain private roads to be maintained to Town standards by the developer or the lot owners and shall not be accepted or maintained by the Town."</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p> <p>See note 16 and 30.</p>



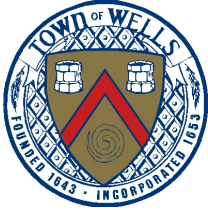
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K.	<p><b>Improvements guaranteed.</b> Performance guaranties shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the public or private streets, stormwater management facilities, public or private sewage collection or disposal facilities and water systems that are shared by multiple dwelling units and erosion and sedimentation control measures, as well as any other improvements required by the Board.</p>	<p><b>THE PLANNING BOARD FINDS THAT THIS STANDARD SHALL REMAIN MET.</b></p> <p>See note 31 on sheet S1.1 See note 31 on sheet S1.1 and Findings of Fact &amp; Decisions, Special Condition of Approval Notes #2, 3 and 4.</p>
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<b>§ 202-2. Purpose, criteria for approval.</b>		<b>Findings &amp; Decisions</b>
<p>The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Wells, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Wells, Maine, the Planning Board shall consider the following criteria and, before granting approval, shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of 30-A M.R.S.A. § 4404.</p>		
A.	The subdivision:	<b>The Planning Board finds that these standards shall be met.</b>
	(1) Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to the floodplains; the nature of soils and subsoils and their ability to adequately support waste disposal; and the slope of the land and its effect on effluents;	
	(2) Has sufficient water available for the reasonably foreseeable needs of the subdivision;	
	(3) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;	
	(4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;	
	(5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;	
	(6) Will provide for adequate solid and sewage waste disposal;	
	(7) Will not cause an unreasonable burden on the ability of the Town to dispose of solid waste and sewage if municipal services are to be utilized;	
	(8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;	
	(9) Is in conformance with this chapter, the Comprehensive Plan for the Town and Chapter 145, Land Use, of the Wells Municipal Code, as amended;	



# Town of Wells, Maine Planning Board

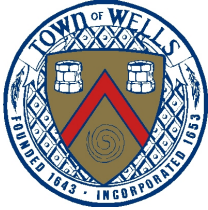
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	(10) Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water; and	
	(11) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;	
B.	The subdivider has adequate financial and technical capacity to meet the above-stated standards;	<b>The Planning Board finds that these standards shall be met.</b>
C.	If any part of a subdivision is located in a flood-prone area, as indicated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Maps, the subdivider shall determine the one-hundred-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan shall include a condition requiring that principal structures will be constructed with their lowest floor, including the basement, at least one foot above the one-hundred-year flood elevation; and	<b>Not applicable.</b>
D.	The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorous concentration during the construction phase and life of the proposed subdivision.	<b>Not applicable.</b>

**STANDARD CONDITIONS OF APPROVAL**

1. Any subdivision not recorded in the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall become null and void, unless an extension is granted by the Board in writing before the expiration of the ninety-day period. (§202-9C(2))
2. Prior to the issuance of a building permit for a principal structure in the subdivision, the applicant shall present evidence of suitable water supply to the Code Enforcement Officer. The evidence shall consist of the results of a primary inorganic water analysis performed upon the well to serve the structure, indicating the groundwater meets the primary drinking water standards of the Maine Rules Relating to Drinking Water for those categories tested. (§202-12F(2)(b)[4])
3. Prior to the issuance of a building permit in any approved subdivision, the subdivider shall provide the Code Enforcement Officer with a letter from a registered land surveyor stating that all monumentation shown on the plan for the lot receiving the building permit and for the approved subdivision perimeter boundaries or phase therein as approved by the Planning Board has been installed. (§202-11A(5))
4. No changes, erasures, modifications or revisions shall be made in any final plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with § 202-10A(3). (§202-9C(4))
5. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement or other area shown on such plan. (§202-9C(5))
6. Failure to commence substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. (§202-9C(6))





# Town of Wells, Maine

## Planning Board

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**SPECIAL CONDITIONS OF APPROVAL**

1. All previous Conditions of Approval will remain in effect unless specifically amended by this application. The approval of this Amended Subdivision Plan in no way negates the need for applicant compliance with all previously set Conditions of Approval.
2. An existing performance guarantee of \$9,030.00 in the form of a cash escrow exists. An additional \$12,670 deposit is required for the completion of the finish course of pavement and as-built survey plan. The additional cash escrow shall be provided prior to the Planning Office releasing the approved/ signed mylar plan to be taken to the YCRD for recording..
3. The as-built survey plan shall depict the pavement, drainage system, observable utilities and monumentation of the right-of-way.
4. The finish course of pavement shall be installed and the as-built survey plan provided to the Town prior to the issuance of the last Certificate of Occupancy in the subdivision.

Dated at Wells, Maine this \_\_\_\_\_ day of \_\_\_\_\_, 2019

Wells Planning Board

By: \_\_\_\_\_  
Charles Millian, Chairman