



Planning & Development
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Memo

Date: March 30, 2021

To: Town Attorney, Richard A. Shinay
Sebago Engineering
Richard A. Hull, III, Hull Law Office

From: Michael G. Livingston, Town Engineer/Planner

Re: Ramsell Estates Subdivision–Document Review – Map 24, Lot 4A

Information Provided:

1. Sample Lot Deed provided
2. By-Laws of Ramsell Estates Homeowners Association provided
3. Proposed deed to the Town of Wells – Open Space provided
4. Deed Descriptions provided
5. Related Plans: Sht. 2 – Subdivision
Sht. 3 – Easements
Sht. 4 – Site Plan
Sht. 5 – Grading Plan

Review Comments: See documents markups

Sample Lot Deed

- Good format and reference to subdivision plan
- Typo on plan date
- Covenants are referenced and included as Exhibit A in the deed. Typically the covenants are included in the HOA Declaration.

Covenants/Exhibit A

- Covenants have an expiration date. The HOA must exist perpetually to own the street and manage the infrastructure
- Good reference to the approved subdivision plan
- Restrictions to be added:
 - *Parking on the pavement or shoulder of Audrey Circle shall be prohibited*
 - *Dug or driven point wells shall be prohibited*
- Paragraph 7:
 - Good requirement of lot owner membership in the HOA
 - A statement to be added, *Audrey Circle is a private street and shall remain private to be maintained to Town standards by the developer or the lot owners and shall not be accepted or maintained by the Town.*

- A statement to be added, *The fee interest in Audrey Circle shall be owned by the HOA. The HOA to have the benefit of several easements contained in the deed to the Town of Wells, YCRD Book _____, page _____.*
- Trash pickup is not a municipal service
- Other responsibilities to be added: Fire pond - hydrant, water monitoring and supply system and electrical service; Community garden
- Stormwater maintenance shall not be reviewed/reported to Public Works. The responsibility of the stormwater systems is the HOA and reference should be made to the approved maintenance plan per the MDEP Stormwater Permit and required 5 year certification.
- Reference is made to the By-Laws, can they be adopted without a Declaration?

By-Laws

- When does the HOA get formed and when does the street get conveyed to the HOA?
- Sect. 1 – add, The purpose of the Association shall be to *own Audrey Circle as a private street and* provide such services...
- Add other responsibilities such as the Fire pond systems and garden...
- Sect 2 through page 11 – no comments, good standard language
- Exhibit A – same comments as above

Deed to Town – Open Space

- Pg. 1 Paragraph 3 – beginning language is confusing. Should be clarified like, *The Grantor retains an easement described in Exhibit B for the purposes*
- Other language or similar to be added to Paragraph 3 and/or 4:
The Grantor, its heirs and assigns, or the Homeowners' Association shall be solely responsible for construction, maintenance, and repairs of the fire pond system, the dry hydrant itself, any and all associated piping, well, utilities and the fire pond. This Easement includes the right of the Town of Wells, or its designee, to enter upon the described premises with personnel and equipment to take water for all purposes related to fire protection for the public at large. If tests or inspections performed by the Wells Fire Department discover an issue or defect with the fire hydrant system or its operation which requires a repair, notification to the Grantor will be given within five (5) days of the discovery of said issue or defect, and Grantor shall make the necessary repairs within thirty (30) days of notification.
- Pg. 1-2 Paragraph 4 – to be updated throughout, use and easement to the existing well is no longer needed. A new well is to be installed and utilized
- Pg. 2 Paragraph 2 – The Grantor/Developer or HOA is responsible for the level spreader, Exhibit D-1. The easement area of D-2 is also the responsibility of the HOA but also typically to be conveyed to the State of Maine per the Stormwater permit requirements.
- Drainage Easement Exhibit C to be revised to just include the swale on the north side of the street
- Drainage easement D-1 to be revised to include the berm and swale
- Drainage easement needed south of Lot 11
- Drainage easement needed southeast of Lot 4

Exhibits

- To be updated and two additions