November 17, 2021

Staff Report

PB2021-24, off Orleans Rd., Preliminary (Open Space Residential) Subdivision Plan

Eastward MBT, LLC, Trustee, Eastward Homes Business Trust dba Eastward Companies

**Planning Comments:**

**Recommended Findings**

1. The subject property (Map 63 Parcel C3) is approximately 8.64 acres (7.09 ac+/- upland) located off the south side of Orleans Road near Little Lane and Hidden Pond Circle.
2. Applicant Eastward Companies (vendee under a Purchase and Sales Agreement with the property owner) has submitted a preliminary plan to subdivide the property. The subdivision would create five (5) single family residential building lots. Lot access would be from a new subdivision road, yet to be named.
3. The property is located in the RR zoning district and the DWRP (WR) zoning overlay district.
4. The proposed plan is a cluster/ open space residential development (OSRD) which use is permitted ‘by right’ in the DWRPD subject to the requirements set out in section 325-51E of the Harwich Code. No special permit is required.
5. There are freshwater inland wetlands and corresponding buffer zones on the property that influence the proposed development. The development program depicted on the preliminary plan is contingent on the accuracy of the delineation. Pond area was not soecifically identified, though one is believed to exist in the subject property.
6. More than 60% of the land area of the property, approximately 5.6 acres, is proposed to be set aside as permanent open space (comprised of three parcels). The proposed open space contains the wetlands and wetlands buffer zones on the property.
7. The proposed building lots, roadway and drainage areas are located entirely outside wetlands and wetland buffers. A small portion of the proposed drainage system is located within the 100’ wetlands buffer.
8. The Applicant has prepared and submitted a conventional, grid subdivision as a basis for establishing the number of proposed building lots in the OSRD. The grid plan complies, without the need for waivers or variances, with the applicable dimensional and design provisions of the Harwich Subdivision Rules and Regulations (Harwich Code Chapter 400, Article II, Sections 10A.& B, 11B) and Harwich Zoning Bylaw (Harwich Code, Chapter 325, Section 51E and Tables/ Attachments 1, 2 & 3).
9. The proposed OSRD, including the roadway, drainage facilities, open space parcels and building lots, are consistent with the applicable dimensional and design provisions of the Harwich Subdivision Rules and Regulations (Harwich Code Chapter 400, Article II, Sections 10A.& B, 11B) and Harwich Zoning Bylaw (Harwich Code, Chapter 325, Section 51E and Tables/ Attachments 1, 2 & 3). Of particular emphasis:
   1. Road length is approximately 850 LF, less than the maximum 1200 LF allowed;
   2. The proposed open space is adjacent and connected to abutting open space land, allows for access from the building lots and roadway, provides vegetated buffers along wetlands and contains the site’s wetland resource areas.
10. The property is not located in the Pleasant Bay Watershed, and the OSRD does not propose wastewater generation of 2000 gpd or greater.
11. The property does not appear to be mapped in special flood hazard zone.
12. The property is mapped in its entirety as Priority Habitat for rare and endangered species under MESA.
13. The OSRD shall require a Stormwater Permit under the town’s Local Stormwater and Illicit Discharge Regulations.
14. Plan sheets submitted in support of OSRD preliminary plan approval are as follow:

* “Preliminary Division Plan, Orleans- Harwich Rd. (Rte. 39), East Harwich, MA,” Prepared for Eastward Homes Business Trust, Applicant, by Clark Engineering LLC and Outermost Land Survey, Inc., Date 10/20/2021, stamped 11/2/2021;
* “Open Space Preliminary Division Plan, Orleans- Harwich Rd. (Rte. 39), East Harwich, MA,” Prepared for Eastward Homes Business Trust, Applicant, by Clark Engineering LLC and Outermost Land Survey, Inc., Date 10/20/2021, stamped 11/2/2021;

1. The plan application was accepted by the Town on 11/3/2021.
2. The Board held a public meeting on the plan November 30, 2021.
3. The OSRD preliminary plan has been prepared consistent with the applicable requirements of the Harwich Code and and is superior in design to a conventional subdivision with regard to protection of natural features and scenic resources on the site.

**Recommended Conditions of Approval**

1. The Applicant shall provide three proposed road names in the definitive OSRD plan application.
2. The Applicant shall have a formal wetlands delineation reviewed and approved by the conservation commission prior to filing the definitive OSRD plan; said plan shall reflect the approved delineation. The pond portion of the wetlands shall be specifically delineated.
3. The Applicant shall decide on and include in its definitive OSRD plan application the proposed method of ownership and permanent conservation restriction.
4. Without limitation, the Board of Health will a require a nitrogen loading report and nitrogen aggregation plan/s for the OSRD (the so-called “440” flow rule applies as the property is located in a Zone II/ Wellhead Protection Area).
5. The applicable flood zone shall be included on the definitive OSRD plan.
6. The Applicant shall file the OSRD with NHESP under MESA for Priority Habitat review prior to filing the definitive OSRD; the Applicant shall incorporate into the definitive OSRD plan mitigation requirements or conditions from NHESPs determination or permit.
7. The definitive OSRD plan shall specify thereon that the allowed use of the building lots is for ‘single family residential use’ only.
8. If the Applicant intends to pursue the maximum lot and building coverage allowances afforded in the DWRPD for the OSRD (20%/40%), then it shall evidence that its drainage system for the definitive plan is capable of recharging all stormwater within the property.
9. The Applicant shall list all subdivision waivers or incentives requested under Harwich Code Section 325-51E(8) in the definitive plan application.
10. The proposed drainage system shall conform to the Local Stormwater Permit requirements in addition to those drainage requirements set out in the Harwich Subdivision Rules and Regulations (Harwich Code Chapter 400, Article II).
11. Deed/s establishing record title to the subject property shall be provided in the definitive plan application materials.
12. To the extent environmental reviews for the OSRD reduce the number of building lots that would be developable in a conventional grid plan of land for the subject property, the Applicant shall so reduce the number of lots proposed in the definitive OSRD plan.
13. The Applicant shall stake the subject property for the Planning Board and staff’s viewing prior to definitive plan review, identifying its boundaries and other land features relevant to review like proposed roadway and wetlands resources.
14. Applicant shall incorporate/ address Town Health and Water department comments in definitive plan.

**Recommended Motion/ Determination**

1. In Case No. 2021-24, Motion to adopt the recommended findings set out herein and approve the preliminary subdivision plan for the proposed OSRD off Orleans Road for Eastward Companies, subject to the recommended conditions of approval set out herein.

***Staff Note:***

* Preliminary Plan Approval requires the affirmative vote of a majority of the Planning Board (regular members) (4 votes).