

From: [Phil Christiansen](#)
To: [Kathryn Newhall-Smith](#)
Cc: [Andrew Port](#)
Subject: RE: Evergreen Commons Preliminary Subdivision and Open Space Residential Development
Date: Tuesday, October 11, 2016 10:08:48 AM

Kate,

The fact that lots are in a buffer zone to wetlands is not an impediment to development. Homes can be built in a buffer zone. So the fact that there are 10 lots within 100 ft of a wetland does not reduce the number of lots in the subdivision.

Having a lot that contains ILSF does not preclude development. If compensatory storage is provided for filled ILSF the ILSF can be moved.

The lots as presented in the yield plan have the potential to be developed. It is not necessary in developing the yield plan to have Conservation approval of the plan. The yield plan is correct.

Any work on lots or the roadway in wetlands, the buffer zone or ILSF must be reviewed and approved by the Con Com before it can move forward.

Philip Christiansen P.E.

CHRISTIANSEN & SERGI, INC.
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

160 Summer Street
Haverhill, MA 01830
(978) 373-0310

From: Kathryn Newhall-Smith [mailto:KNewhallSmith@CityofNewburyport.com]
Sent: Friday, October 07, 2016 9:38 AM
To: Phil Christiansen <phil@csi-engr.com>
Cc: Andrew Port <APort@CityofNewburyport.com>
Subject: FW: Evergreen Commons Preliminary Subdivision and Open Space Residential Development
Importance: High

Hi Phil,

Can you please read through the emails below from an abutter to the proposed Evergreen Commons subdivision?

Do you believe that the yield plan should be reduced as Mr. Hatcher suggests, or do you believe it's dependent on the applicant obtaining an opinion from the Con Com as to whether the reduced setbacks would be allowed?

Thank you for your time.

Have a nice weekend,
Kate

From: peter.hatcher@teradyne.com [mailto:peter.hatcher@teradyne.com]
Sent: Thursday, October 06, 2016 1:55 PM
To: Kathryn Newhall-Smith
Cc: peterhatcher@comcast.net; pamhatcher@comcast.net
Subject: RE: Evergreen Commons Preliminary Subdivision and Open Space Residential Development

Please pass the following additional information regarding my email below to the Planning Board, the Conservation Commission, and Andy Port as well,

13 lots that cross the ILSF boundary:
9, 10, 13, 14, 15, 17, 18, 24, 25, 33, 41, 42, 43

10 lots that are within 100 feet of the wetlands:
9, 10, 11, 12, 13, 14, 17, 41, 42, 43

The combined total is 15 lots, which would reduce the "yield" from 43 to 28.

Christiansen & Sergi acknowledged that a waiver would be required for the lots that are within the 100 foot wetlands buffer in their "Review for Compliance with OSRD Special Permit Regulations" dated August 2, 2016. However, they did not address the lots that cross the ILSF boundary, which is listed in the ordinance.

Thanks and Regards,

Peter Hatcher
15 Boyd Drive
Newburyport, MA 01950
Phone: 978-255-1119
Cell: 978-270-3032
peterhatcher@comcast.net

From: peter.hatcher@teradyne.com [mailto:peter.hatcher@teradyne.com]
Sent: Monday, October 03, 2016 2:45 PM
To: Kathryn Newhall-Smith
Cc: peterhatcher@comcast.net; pamhatcher@comcast.net
Subject: Evergreen Commons Preliminary Subdivision and Open Space Residential Development

Dear Ms Newhall-Smith,

Andy Port requested that we email you in order to get information forwarded. Please forward the following to the Planning Board **and** the Conservation Commission. Thank you.

Regarding the Evergreen Commons Preliminary Subdivision, Preliminary Subdivision Plans:
http://www.cityofnewburyport.com/sites/newburyportma/files/file/evergreen_commons_prelim_subdivision_plans.pdf

Sheet C1 shows lot lines for a total of 43 lots. 13 of these lots cross the calculated boundary of the ILSF (Isolated Lands Subject to Flooding). A couple more are within 100 feet of the

wetlands. The roads also cross the ILSF boundary and wetlands buffer. According to Newburyport ordinances (see below), only the Conservation Commission can approve this waiver. Please let me know how this process will work. Does the Conservation Commission need to approve this waiver before the Planning Board can make a decision on the Evergreen Commons Preliminary Subdivision plan? Also, the number of lots in the Open Space Residential Development (OSRD) plan cannot exceed the number of lots in the Subdivision plan, so does the Subdivision plan need to be approved before the OSRD plan can be approved?

I urge the Planning Board and the Conservation Commission to reject these plans as submitted, as they violate the calculated ILSF boundary and most likely would result in flooded homes. I have lived across the street from the Evergreen Golf Course for the past 15 years and have frequently observed flooding beyond the calculated ILSF boundary.

Please see below for references from Newburyport's own ordinances:

CODE OF ORDINANCES CITY OF NEWBURYPORT, MASSACHUSETTS
Chapter 6.5 - ENVIRONMENT
ARTICLE II. - WETLANDS PROTECTION ORDINANCE
Sec. 6.5-27. - Jurisdiction and regulated activities.

https://www.municode.com/library/ma/newburyport/codes/code_of_ordinances?nodeId=PTIIICOR_CH6.5EN_ARTIIWEPROR_S6.5-27JUREAC

Sec. 6.5-27. - Jurisdiction and regulated activities.



- (a) *Approval required:* Except as permitted by the conservation commission pursuant to this article and regulations (not inconsistent with this article) promulgated pursuant to section 6.5-35., no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter (as further defined in section 6.5-27(c)) the resource areas, buffer zones or riverfront areas described in section 6.5-27(b).
- (b) *Areas of jurisdiction:* The areas subject to protection under the ordinance differ from those protected solely by the Massachusetts Wetlands Protection Act (WPA) in that additional wetland resource areas and uplands (buffer zones) are protected by the ordinance. The areas that are subject to protection under the ordinance and these regulations are as follows:
- (1) Rivers, perennial streams, brooks, creeks and lands adjoining these resource areas within two hundred (200) horizontal linear feet, known as the riverfront area;
 - (2) Vernal pool habitat, including vernal pools and lands adjoining vernal pools within two hundred (200) horizontal linear feet;
 - (3) Freshwater or coastal wetlands, marshes, wet meadows, bogs, swamps, rivers, perennial streams, springs, banks, flats, reservoirs, lakes, ponds of any size, beaches, dunes, estuaries, the ocean, and lands adjoining these resource areas within one hundred (100) horizontal linear feet, known as the buffer zone;
 - (4) Intermittent streams, brooks, creeks and lands adjoining these resource areas within one hundred (100) horizontal linear feet, known as the buffer zone;
 - (5) Lands subject to flooding or inundation by groundwater or surface water and lands subject to tidal action, coastal storm flowage, or flooding;
 - (6) Lands under water, beneath any of the water bodies listed above.

The above named resources are collectively known as the "resource areas protected by the ordinance" or "resource areas." Said resource areas shall be protected whether or not they border surface waters.

Thanks and Regards,

Peter Hatcher
15 Boyd Drive
Newburyport, MA 01950
Phone: 978-255-1119
Cell: 978-270-3032
peterhatcher@comcast.net