

Stephen J. Puleo

From: Natalie L. Burns <nburns@jensenbaird.com>
Sent: Tuesday, June 11, 2024 4:24 PM
To: Stephen J. Puleo
Subject: RE: 24-12_MJR_SUB_FP_BettyLaneSubdivision

Steve,

The applicant has provided the draft Declaration of Covenants (etc.) and a draft lot deed that incorporates the Declaration. The deed itself is fine. The Declaration has several issues, which I'll discuss below. In addition to the Declaration, the applicant should submit the proposed bylaws for the Association.

Issues with the Declaration:

1. The first paragraph of the documents refers to RCI Development Group as the "Association." This is incorrect. The second paragraph is correct in its reference to RCI as the "Developer."
2. There are references to RCI in the first and second paragraphs as a "limited liability corporation." The correct term under Maine law is "limited liability company."
3. The second paragraph refers to the property as being located in "Cumberland County, Maine." At a minimum, "Town of Windham" should be added to this. The street location (Chute Road) of the subdivision could also be added.
4. There are some references to "platting" in the document. These should be revised as the subdivision law no longer refers to "plats" and instead refers to "plans." Some of the references probably should say that they are seeking subdivision approval rather than seeking to "plat" the land.
5. The "Now, therefor" clause on the first page references an Exhibit A, which was not provided. It should probably instead reference the approved subdivision plan and information (name, location), with its Registry Book and Page numbers, or at least an indication that the plan will be recorded around the same time as the recording of the Declaration.
6. Section I states that property owners are to exercise as much care as is possible to retain vegetation. Is the Town okay with this? There is no obligation to replace or replant anything. The same is true for the buffer on Lots 1, 2, and 3. It just says that they will be maintained. This doesn't appear to be consistent with Note 12 on the Plan, which is more restrictive about allowed cutting; the two should be consistent. The Town will enforce violations of the plan and so lot owners should be on notice of those requirements.
7. In Section II, there is a reference to "Common Elements," which I don't think is a defined term. In any event, it should specifically refer to the stormwater treatment areas, including the new soil filter basins. To the extent that that any specific maintenance is required or a schedule is established for maintenance, that should be set forth here or there should be a reference to an attachment with the requirements.
8. Section II.C needs to be revised. It says that the Association shall maintain the road **until it is accepted by the Town**. Plan Note 17 says that Betty Lane is to remain private and will not be accepted or maintained by the Town.
9. Section IV.G states that the Developer can modify, amend, repeal or change any of the terms of the Declaration prior to the actual organization or incorporation of the Association. Any changes to the document would need to be reviewed by the Town to ensure that it remains consistent with requirements of the subdivision approval. The documents are part of the approval and any changes have to be reviewed and approved.

Thanks,

Natalie

Natalie L. Burns, Esq.

Attorney



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From: Stephen J. Puleo <sjpuleo@windhammaine.us>
Sent: Monday, June 10, 2024 1:11 PM
To: Natalie L. Burns <nburns@jensenbaird.com>
Subject: FW: 24-12_MJR_SUB_FP_BettyLaneSubdivision

Hi Natalie,

Could you look at the attached final plan subdivision application HOA docs to see if they are in the correct form?

Thank you!

Have an amazing day!

Best regards,



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Wednesday 7:00-5:00; Thursday 7:00-4:00; Friday Closed