

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

Notice of Decision

Applicant/Owner: Samonas Realty Trust

Property: 1215 Ocean Blvd. Tax Map 17.3 Lot 6
General Residence, Business District, Coastal Overlay and SFHA

Case: Case #01-2019

Application: Major Site Development, Special Use Permit Application and Condominium Site Plan by Samonas Realty Trust for property owned and located at 1215 Ocean Blvd, Tax Map 17.3, Lot 6 to raze all of the existing structures, eliminate the parking and access encroachments, remove the existing septic systems, and other building infrastructure to allow land housing tourist accommodations to become obsolete and to be redeveloped in residential use densities per Section 304.6 of the Rye Land Development Regulations and replace them with 3 duplex style town homes with new septic, permeable driveways and tidal buffers. Property is in the General Residence, Business District and Coastal Overlay Districts and SFHA-Zone AO. Case #01-2019.

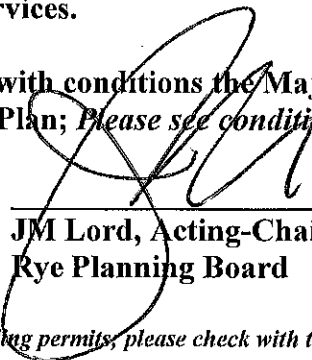
Date of Decision: Tuesday January 14, 2020

Decision: The Board voted to approve with conditions the Special Use Permit for the tourist accommodations per Section 304.6 of the LDR:

1. The Board voted unanimously that all requirements of Section 304.6 have been met. (
2. The Board voted unanimously that the granting of the Special Use Permit will not be detrimental to adjacent property or the neighborhood.
3. The Board voted unanimously that the granting of the Special Use Permit will not be detrimental to the public safety, health or welfare.
4. The Board voted unanimously that granting of the Special Use Permit will not be contrary to the public interest.
5. The Board voted 6 to 1 that the architecture of the proposed dwellings is compatible with the architecture of dwellings located within 300 feet of the site.
6. The Board voted unanimously that proposed redevelopment will not overburden municipal services.

The Board voted to approve with conditions the Major Site Development and Condominium Development Plan; *Please see conditions attached:*

1/15/20
Date


JM Lord, Acting-Chairman
Rye Planning Board

January 14, 2020

CONDITIONS OF APPROVAL
1215 OCEAN BOULEVARD MAJOR LAND DEVELOPMENT/S.U.P. APPROVALS

1. The plans shall be revised as follows:
 - a. Add stop bar on pavement at Wallis Rd. driveway.
 - b. Add "No Parking" signage at emergency drive.
 - c. Gate detail per Sebago 12/5/19 ltr.
 - d. Artificial turf to be deleted from plans and replaces with natural turf.
2. A condominium association shall be created for the development. Town counsel shall review and approve the *Declaration, Bylaws* and other condominium instruments and any other legal instruments required to form the association. Said review shall be limited to assuring that the instruments comply with these conditions of approval. The review shall not be considered a representation that the condominium instruments comply with the Condominium Act.
3. Certification from planning board engineers that all of their concerns have been addressed and that the proposal complies with the LDR's.
4. Certification of Fire Chief approval per LDR § 611.7.
5. Surety in the form of a self-calling letter of credit and/or cash escrow shall be posted to guarantee completion of all on-site improvements (except septic systems) including the private drive, all drainage facilities, water lines and landscaping. Amount of surety to be approved by planning board engineer. Surety to be approved by town counsel.
6. Sufficient funds shall be placed in escrow with the planning board to pay final statements of planning board engineer, town counsel and other consultants.
7. Applicant shall sign an Escrow Agreement and post escrow for planning board engineer's monitoring of site improvements. Amount to be determined by planning board engineer.
8. DES approval of septic systems shall be obtained.
9. Town driveway permit for the Wallis Road driveway shall be obtained.
10. NH DOT permit for the emergency drive on Route 1A shall be obtained.
11. Amendments to previously approved DES Shorelands, Wetlands and AoT permits shall be obtained.

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12. TRC to review and approve color of dwellings.
13. Technical standards of Nos. 3, 4 and 5 of Exhibit A are to be proposed by applicant's engineer; reviewed by Ms. DiFranco; and reviewed and approved by TRC.
14. Planning board chair may sign plans and Certification of Site Development Approval when foregoing conditions Nos. 1- 13 are met.
15. Plan Sheets No. C-3 to be recorded along with a Certification of Major Site Development Review Approval which shall list all other approved plan sheets which will be on file.
16. The site plans and floor plans required to be recorded by the Condominium Act shall be submitted to the planning board if materially different than the plans approved by the board in order to assure that any changes comply with the board's approval.
17. The *Declaration*, *Bylaws* and other condominium instruments and any other legal instruments required to form the association shall be recorded prior to the issuance of the first occupancy permit. Copies shall be provided to the planning board and town counsel.
18. Site development shall comply with the Demolition Review Ordinance.
19. Compliance with the Inspection and Maintenance Manual for Stormwater Management/BMP Facilities as set forth in the December 2018 AoT Application shall be the responsibility of the Association. Said responsibility to be set forth in the *Declaration*.
20. The build out of the development shall comply with the Growth Management Ordinance.
21. Water lines, hydrants and appurtenances thereto shall be constructed in accordance with Rye Water District requirements.
22. Sprinkler systems shall be installed in all dwelling units.
23. There shall be no conversion of any spaces in the 2BR units to a third bedroom so long as the property is served by septic systems. This restriction shall be included in the Declaration.
24. Patio areas and balconies shall not be enclosed in any manner. This restriction shall be included in the Declaration.
25. The number of bedrooms served by each septic system shall not exceed the maximum number of bedrooms set forth in the septic system plans, Shts. SS-1 to SS- 4, so long as the property is served by septic systems.
26. The condominium association shall be responsible for removing any snow windrows on Wallis Road within the sight distance triangles of the driveway so as not to restrict lines of sight.
27. There shall be no further height variances applied for in this land development.

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28. Dwelling units shall not be rented for periods less than 30 days.
29. Conditions relative to the septic systems are attached hereto as Exhibit A.
30. Monumentation shall be installed as required by the *Land Development Regulations* for the 2.25 acre parcel. A certificate of Monumentation shall be provided to the Planning Board and Building Inspector prior to the first occupancy permit being issued. Grading of lots shall not disturb installed monumentation. If development disturbs or covers monuments, the monuments shall be reestablished by a surveyor and a new Certificate of Monumentation provided.
31. For the purposes of RSA 674:39 "Active and Substantial Development or Building" shall be commencement of excavation for construction of the first dwelling.
32. As-built plans for all site improvements shall be submitted to the planning board (3 sets).
33. Per Section 303.7 of the *Land Development Regulations*, this conditional approval shall expire in 18 months if the chair has not signed the plan as the result of the applicant's failure to meet those conditions necessary to permit the chair to sign the plan.
34. Construction of the driveway, utilities and drainage infrastructure and pouring of building slabs shall be limited to 7 a.m. to 5 p.m. Monday to Friday.

EXHIBIT A
SEPTIC SYSTEM & ENVIRONMENTAL PROTECTION CONDITIONS
1215 OCEAN BOULEVARD MAJOR LAND DEVELOPMENT/S.U.P. APPROVALS

1. Three (3) Advanced Onsite Solutions (AOS) wastewater systems and associated leach fields shall be installed as portrayed on the approved plans. All three systems shall be owned by the Association.
2. Prior to the establishment of a condominium association the applicant shall designate a qualified entity to conduct inspections and maintenance of all AOS systems. After the establishment of a condominium association, the association shall be responsible for designating the qualified entity. The association shall have an inspection and maintenance agreement in place with the entity designated by the applicant or the successor association for the lives of the systems for all three (3) systems.
3. Within **[insert]**¹ days of an AOS system going on-line, an initial sample of effluent shall be collected for effluent testing to assess system performance. **[insert requirements relative to the frequency of follow-up testing]**. Testing results shall be provided to the Rye Planning Board, the Rye Building Inspector and other consultants designated by the planning board within 30 days of the sampling event.
4. As part of this, the effluent from each system should be sampled for **[insert standards for effluent]**. Tests which indicate these standards are not met will trigger confirmation sampling and may require septic system maintenance, repair or replacement if issues are not resolved.
5. Septic tanks and other chambers shall be pumped every **[insert frequency of pumping]**.
6. The development shall be designated a “no salt area” with signage placed along the proposed drives (to be depicted on the plans) identifying it as a “no salt area”.
7. Nitrogen based fertilizers are prohibited.
8. Prior to the establishment of the Condominium Association the applicant shall retain a qualified Designated Oversight Manager (DOM) who shall be approved by the TRC and who shall have the following responsibilities:

¹ Completion of the emboldened parts of Exhibit A are to be recommended by the applicant’s engineer; reviewed by consultant DiFranco; and approved by the TRC.

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- a. Collecting and keeping on file the required inspection and maintenance agreement for the septic systems. The DOM shall certify to the planning board and building inspector in January of each year that the required agreement is in place.
 - b. Collecting and keeping on file the required inspection reports and providing them within 15 days of receipt to the building inspector, the planning board and any planning board designated consultant.
 - c. Reviewing the inspection reports. If a report indicates that the standard of No. 4 herein has not been met, the DOM shall notify the association to have the system inspected again and a confirmatory sample collected.
 - d. Keeping records of the pumping of all tanks and chambers.
 - e. Providing a report to the planning board and the building inspector in January of each year. The report should summarize the inspections made, the pumping of tanks and chambers and any deficiencies that were identified and the corrective action taken.
 - f. Certify that the no-salt restriction has been complied with.
 - g. Certify that nitrogen based fertilizers are not being used on the site.
9. The applicant shall provide the name of the DOM and contact information to the building inspector, planning board. Upon the establishment of an association the responsibility of retaining an oversight manager shall transfer to the association. The DOM and any changes of the DOM shall be approved by the planning board's Technical Review Committee.
10. The Condominium Declaration shall be reviewed and approved by town counsel and shall include provisions allowing the association and the town to enforce. The restrictions and requirements shall include:
- a. No salt use.
 - b. No use of nitrogen based fertilizers.
 - c. Replacement septic systems shall be AOS systems or other systems providing equal or better treatment and de-nitrification.
 - d. No garbage disposals so long as the property is served by septic systems.
 - e. Storage or use of regulated substances as defined by 40 C.F.R. 302 is prohibited, including for home occupations.
 - f. Double walled oil storage tanks required if units have oil furnaces.

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11. The responsibilities of the association shall include:

- a. Assuring that the required inspection and maintenance agreements for the septic systems are in place.
- b. Assuring that the required inspections and sampling of the septic systems have been done.
- c. Assuring that any required maintenance, repair or replacement of septic systems has been done.
- d. Assuring that all required pumping of chambers has been done.
- e. Monitoring the use of snow removal substances and fertilizers.
- f. Maintenance, repair and replacement (if required) of all drainage facilities owned by the association.

12. The association shall certify annually in January of each year to the planning board with copies to the building inspector and any designated planning board consultant that:

- a. All required septic system inspection and maintenance agreements are in place.
- b. All required septic system inspections have been conducted and the reports provided to all required parties.
- c. Any required maintenance, repair or replacement of septic systems has been completed or will be completed by a time certain.
- d. All required pumping of chambers has been done.
- e. Nitrogen based fertilizers are not being used in the subdivision.
- f. Salt is not being used in the subdivision.
- g. There are no garbage disposals in the subdivision.

13. Condition No. 8 allows the association to assign the responsibilities set forth in Conditions Nos. 11 and 12 to a Designated Oversight Manager (DOM). Notwithstanding this, the association has the ultimate responsibility for complying with Conditions Nos. 13 and 14.

14. In December following the issuance of the first building permit the applicant shall pay the town a fee \$1500 (to be held in escrow) to be used to defray the expenses of its consultant and/or the building inspector in monitoring inspection reports on the septic systems and the annual certification of the association and such other work as may be necessary to effect compliance with these conditions. When the escrow is depleted the association shall be responsible for payment of the expenses of such work. Failure to pay such expenses shall constitute a lien on the condominium and the units.