



TOWN OF NEW SHOREHAM  
OFFICE OF THE PLANNING BOARD

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To: Town Council

From: Planning Board *JNB*

Date: February 13, 2020

Re: Application by Block Island Land Trust, Block Island Conservancy and The Nature Conservancy for proposed amendments to Section 202 of the Zoning Ordinance.

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The Planning Board considered the application by the Block Island Land Trust, Block Island Conservancy and The Nature Conservancy to amend the definition of developable land in the Zoning Ordinance during our February 12, 2020 meeting. The Planning Board voted 5-0-1 (Grele recused; Heinz absent) to send a **favorable** recommendation to the Town Council to amend the definition consistent with what has been proposed by the applicants.

The Block Island Conservancy, The Block Island Land Trust, and The Nature Conservancy have proposed amending the definition of developable land within the Zoning Ordinance and Subdivision Regulations to ensure that land held under conservation easements are excluded in the calculation of development density (unless those rights have been specifically enumerated and reserved).

This is consistent with the Planning Board's proposal and adoption of similar amendment language in 2018. The Planning Board continues to support that land held in existing conservation and open space easements should not be considered "developable land."

As part of their application, the applicant has provided estimates as to the potential amount of unintended additional developments that could occur if the language were to remain as is in the Zoning Ordinance. Given the locations (abutting conservation lands), ecological and viewshed impacts are likely of greater significance.

If the Town Council is inclined to proceed with an amendment to the definition of developable land in the Zoning Ordinance, it is also recommended, by the Planning Board, that the existing language in 52.c. in regards to "sewage disposal systems" be updated to reflect the more current terminology of "onsite wastewater treatment systems."

The Planning Board finds that the draft amendment is consistent with the 2016 New Shoreham Comprehensive Plan. Land conservation efforts are addressed in several elements of the Comprehensive Plan including the Natural Resources Element, Land Use Element and the Recreation and Conservation Areas Element. Exercising responsible stewardship of the island's natural resources and supporting land conservation efforts is arguable a strong theme

of the Plan. For specific language in support of this amendment see pages 11-15, 1-3, 3-6, 4-3 and the Town's vision for natural resources.

Importantly, adoption of this amendment moves the Town closer to rectifying the current inconsistency between the Zoning Ordinance and Subdivision Regulations. Providing this recommendation to the Town Council is an effort by the Planning Board to bring desired consistency to our regulations. Following the Town Council's action, the Planning Board will take up the amendment to the Subdivision Regulation.

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#### **CURRENT DEFINITION OF DEVELOPABLE LAND IN THE SUBDIVISION REGULATIONS**

*Developable Land.* For the purpose of calculating the maximum permitted development density for a parcel, is the total gross land area of a parcel proposed for development LESS the total of the following:

- a. Freshwater wetlands as defined by R.I General Laws Title 2, Chapter 1, as amended, and in any rules and regulations adopted pursuant thereto. Provided, however, that any setback requirement from the edge of a wetland, as so defined in R.I. General Laws Title 2, Chapter 1, shall not be included in the calculation of wetland area.
- b. Shoreline features, such as beaches, bluffs, coastal wetlands, and dunes, as classified in Section 210 of the Coastal Resources Management Program as undevelopable, as amended December 2012, or subsequent amendments thereto.
- c. Easement areas serving other lots for sewage disposal systems or wells.
- d. Land area subject to existing conservation and open space easements.

#### **CURRENT DEFINITION OF DEVELOPABLE LAND IN THE ZONING REGULATIONS**

*Developable Land.* For the purpose of calculating the maximum permitted development density for a parcel, is the total gross land area of a parcel proposed for development LESS the total of the following:

- a. Freshwater wetlands as defined by R.I General Laws Title 2, Chapter 1, as amended, and in any rules and regulations adopted pursuant thereto. Provided, however, that any setback requirement from the edge of a wetland, as so defined in R.I. General Laws Title 2, Chapter 1, shall not be included in the calculation of wetland area.
- b. Shoreline features, such as beaches, bluffs, coastal wetlands, and dunes, as classified in Section 210 of the Coastal Resources Management Program as undevelopable, as amended December 2012, or subsequent amendments thereto.
- c. All land area within easements serving other lots, including but not limited to sewage disposal systems, or wells, but not including scenic and conservation easements, or easements for access.

#### **Definition of Developable Land - Proposed Amendment by Applicant**

*Developable Land.* For the purpose of calculating the maximum permitted development density for a parcel, is the total gross land area of a parcel proposed for development LESS the total of the following:

- a. Freshwater wetlands as defined by R.I General Laws Title 2, Chapter 1, as amended, and in any rules and regulations adopted pursuant thereto. Provided, however, that any setback requirement from the edge of a wetland, as so defined in R.I. General Laws Title 2, Chapter 1, shall not be included in the calculation of wetland area.

- b. Shoreline features, such as beaches, bluffs, coastal wetlands, and dunes, as classified in Section 210 of the Coastal Resources Management Program as undevelopable, as amended December 2012, or subsequent amendments thereto.
- c. All land area within easements serving other lots, including but not limited to sewage disposal systems, or wells, but not including ~~scenic and conservation easements, or easements for access.~~
- d. All land area of land subject to a Conservation Easement, unless the Grantor in the Conservation Easement specifically reserves the right to include the land subject to the Conservation Easement in the calculation of development density.