

Index File

ZM-129-09

Seaford Scallop Co., Inc.

Assessor's Parcel No. 25-27B

Application No. ZM-129-10, Seaford Scallop Co., Inc: Request to amend the York County Zoning Map by reclassifying an approximately 1.75-acre portion of a 3.33-acre parcel of land located at 413 Shirley Road (Route 626), approximately 262 feet west of the intersection of Shirley Road and Ironmonger Lane (private), from conditional WCI (Water-oriented Commercial/Industrial) to RR (Rural Residential). The property is further identified as Assessor's Parcel No. 25-27B. The *Comprehensive Plan* designates this property for Limited Business.

Attachments:

- Staff Report
- Zoning Map
- Development Plan
- Proffer Statement
- Deed of Easement
- Proposed Resolution No. PC10-3

COUNTY OF YORK

MEMORANDUM

DATE: February 2, 2010 (PC Mtg. 2/10/10)
TO: York County Planning Commission
FROM: Earl W. Anderson, AICP, Planner
SUBJECT: Application No. ZM-129-10, Seaford Scallop Co., Inc.

ISSUE

This application seeks to amend the York County Zoning Map by reclassifying an approximately 1.75-acre portion of a 3.33-acre parcel of land located at 413 Shirley Road (Route 626), approximately 262 feet east of the intersection of Shirley Road and Ironmonger Lane (private road) and further identified as Assessor's Parcel No. 25-27B, from conditional WCI (Water-oriented Commercial/Industrial) to conditional RR (Rural Residential) subject to conditions voluntarily proffered by the property owner.

DESCRIPTION

- Property Owner: Seaford Scallop Company, Inc.
- Location: 413 Shirley Road (Route 626)
- Area: Approximately 1.75 acres of a 3.33-acre parcel
- Frontage: Approximately 178 feet along Shirley Road; total lot frontage is approximately 328 feet.
- Utilities: Public water and sewer
- Topography: Relatively flat
- 2025 Land Use Map Designation: Limited Business
- Zoning Classification: Conditional WCI (Water-oriented Commercial/Industrial)
- Existing Development: A single-family detached home is located on that portion of the parcel that is not subject to the rezoning request
- Surrounding Development:
 - North: Back Creek
 - East: Seaford Scallop and Wells Ice & Cold Storage
 - South: Single-family detached homes
 - West: Single-family detached homes

- Proposed Development: Subdivision of parcel into two lots for an existing single-family detached home and undeveloped parcel.

BACKGROUND

In 1994 this property was the subject of a rezoning application in which the property owner sought to rezone the entire 3.33-acre parcel from RR to WCI, possibly though not necessarily for the purpose of constructing a marina, which he had been trying to develop for several years without success. The Board denied the rezoning based on concerns that it would have generated significant commercial activity in a largely residential area and would have increased traffic on a substandard Shirley Road.

In 2004, the Board of Supervisors approved a request by the current property owner to reclassify the 1.75-acre portion of the property that is the subject of the current application from RR to conditional WCI. The applicant's main reason for requesting the change was the desire to expand docking facilities 190-feet to the west to provide additional mooring space at the existing Seaford Scallop and Wells Ice facilities (extension of a commercial pier along the frontage of a residentially-zoned parcel was not allowed). At that time, the property owner proffered a concept plan, in addition to limiting land uses, setting a maximum number of employees, establishing landscaping, and limiting outdoor lighting, signage, and loudspeakers.

CONSIDERATIONS/CONCLUSIONS

1. Established in 1979, Seaford Scallop Company, Inc. is located on Back Creek at the end of Shirley Road, occupying approximately 2.88 acres. A sister company under the same ownership, Wells Ice & Cold Storage, occupies approximately 1.43 acres between the scallop company and the subject property, and has been in operation since 1987. These properties are zoned WCI (Water-oriented Commercial/Industrial), where Seafood Receiving, Package, and Storage is permitted as a matter of right. There is a high degree of interdependence between the two businesses. Wells Ice & Cold Storage sells ice to Seaford Scallop and to other boats that land their scallops at the Seaford Scallop pier. In addition, Wells Ice & Cold Storage purchases scallops from Seaford Scallop, which it then sells fresh to local customers or freezes for sale to large national customers. Seaford Scallop also stores scallops in the Wells Ice freezers when market conditions are soft.
2. With the downturn in the economy, Seaford Scallop Co., Inc. has decided not to expand the docking area that was approved in the 2004 reclassification of the property and is requesting to rezone, subdivide, and sell the subject area so a single-family detached home can be constructed. The property owner is requesting that the 1.75-acre portion of the 3.33-acre parcel be rezoned to RR (Rural Residential). If approved the property owner plans to subdivide the 3.33-acre lot into two lots - one for the existing single-family detached home and one to be offered for sale for residential development. Additionally, a minor boundary line adjustment will be sought to align

the eastern property line down the center of the existing ditch area between the existing business developed property and the subject property

3. The Comprehensive Plan's 2025 Land Use map designates the area as Limited Business which is "intended to provide opportunities for commercial activities of low to moderate intensity...*and*...to recognize and continue to provide opportunities for various types of activities requiring access to the water." These types of activities have historically been conducted in such areas as Waterview, Seaford, Dandy, and Dare, and their locational requirements often dictate that they be within or in close proximity to established residential neighborhoods. Additionally, the Comprehensive Plan's sub-area descriptions state that the Seaford area has several water-dependent uses located on Shirley Road, which include Seaford Scallop. These uses provide support services for seafood landing and processing and are recognized as Limited Business because of the low intensity commercial use. Apart from these water-related uses, the surrounding area and 1.58-acre area to the west of the subject rezoning are designated for Low Density Residential development, primarily because of environmental constraints (wet soils, flood hazard areas, etc.), relatively poor road access, and proximity to Back Creek.
4. Under the RR zoning designation, the subject parcel has enough acreage to be subdivided into a maximum of three (3) single-family detached home lots; however, environmental constraints and the lack of sufficient road frontage effectively limit the potential lot yield to two lots. There is already a single-family detached home in the northwest portion of the parcel, so additional development of the parcel would be limited to one home, at most, under the RR zoning designation.
5. The Zoning Ordinance, Section 24.1-243. *Transitional Buffers*, requires that a landscaped buffer be created and maintained between WCI and RR uses and that the buffer be installed at such time as any development or site modification requiring a site plan occurs. The applicant, so as not to place the burden on a future single-family property owner, has proffered to install a Type 25 (25') landscaped transitional buffer along the eastern side of the subject property. Furthermore, the applicant proposes to establish a conservation easement to ensure that the Transitional Buffer maintained in perpetuity.
6. Located on Back Creek, much of the subject parcel lies within the 100-foot wide RPA – Resource Protection Area as established by the Chesapeake Bay Preservation Area regulations. The RPA does not preclude residential development but limits development activity within 100 feet of the seawall. All future development on the site must meet the requirements outlined in the York County Code, Chapter 23.2, *Chesapeake Bay Preservation Areas*.

RECOMMENDATION

The proposed rezoning would allow the applicant to subdivide the proposed RR lot into two lots - one for the existing single-family detached home and the second for a future single-family detached home. The rezoning will eliminate the opportunity for westward

extension of the docks associated with the seafood operations and will, with the installation of the Type 25 (25') transitional buffer, establish a more compatible boundary between the commercial and residential areas, thus protecting the residential properties from impacts associated with the existing WCI use. The addition of a single home will cause only a negligible increase in traffic on Shirley Road and will be compatible with the character of the surrounding area. Therefore, based on the considerations and conclusions as noted, staff recommends that the Commission forward this application to the Board of Supervisors with a recommendation of approval subject to the conditions voluntarily proffered by the applicant. This can be accomplished through the adoption of proposed Resolution No. PC10-3.

EWA

Attachments:

- Zoning Map
- Development Plan
- Proffer Statement
- Deed of Easement
- Proposed Resolution No. PC10-3

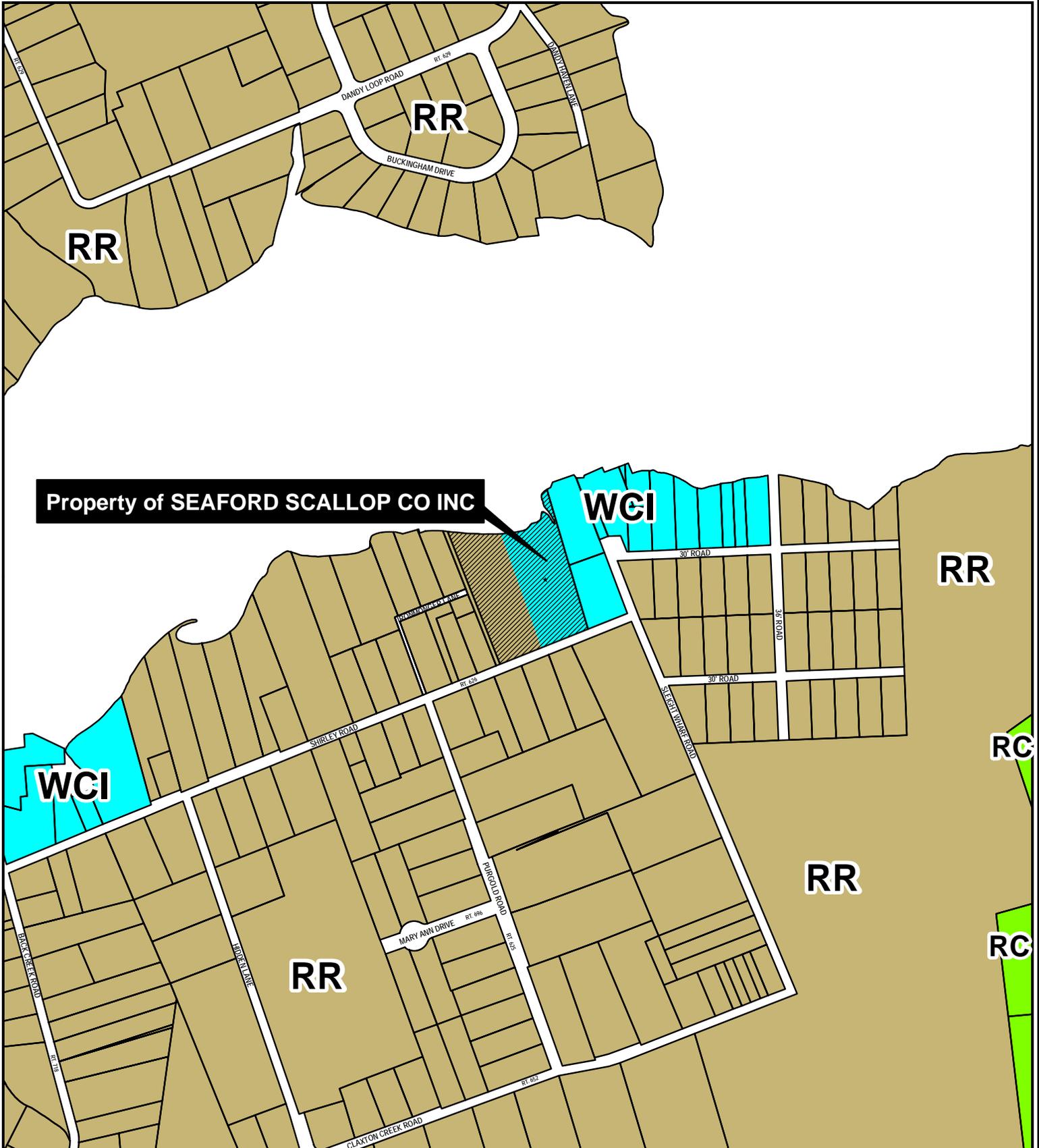
APPLICANT Seaford Scallop Co., Inc.

Reclassify zoning from WCI to RR

413 SHIRLEY RD

ZONING MAP

APPLICATION NUMBER: ZM-129-10



Property of SEAFORD SCALLOP CO INC

★ = Conditional Zoning



Printed on January 11, 2010

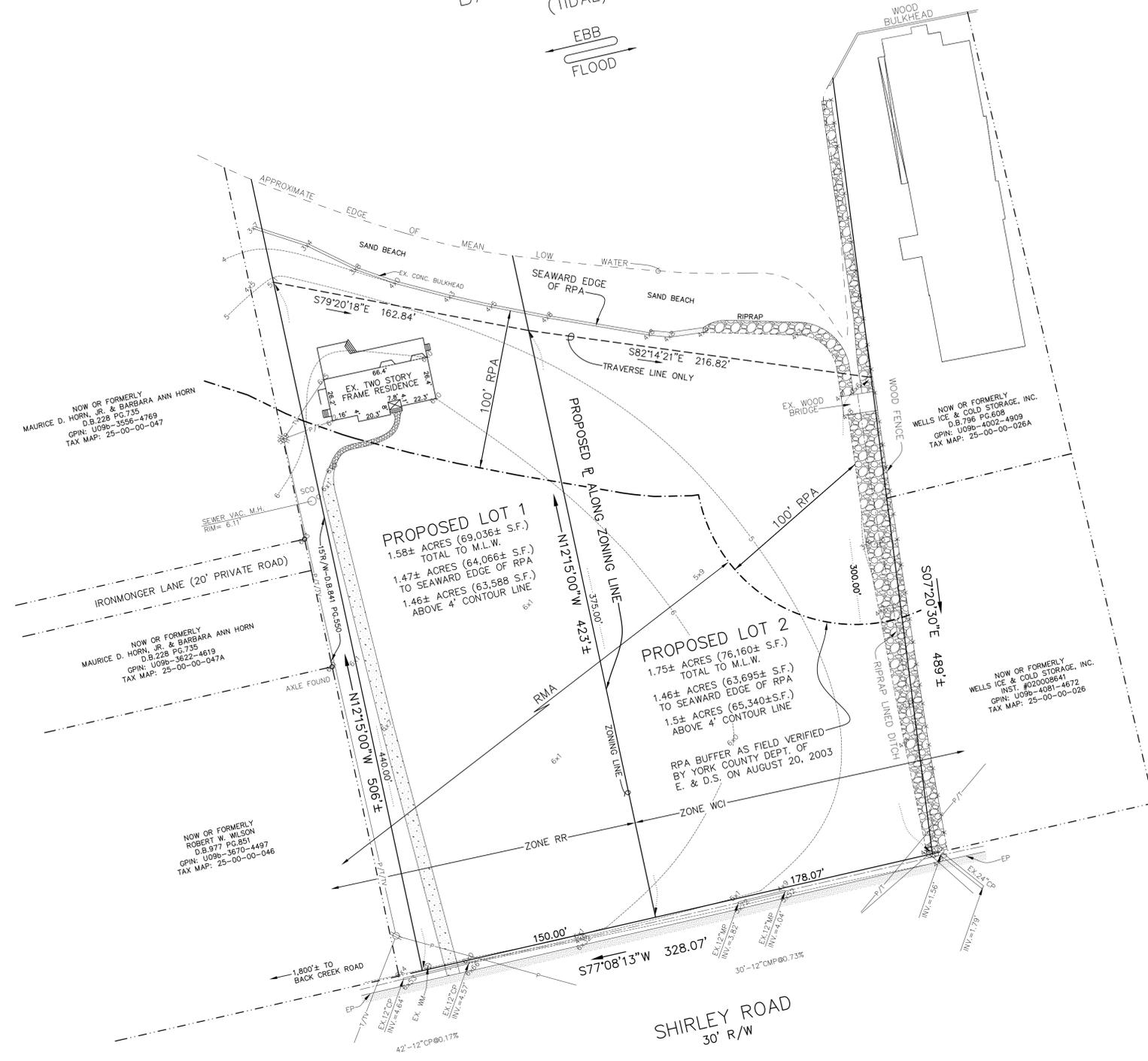


SOURCE: YORK COUNTY GIS PARCEL DATA and ZONING COVERAGE

THIS IS NOT A LEGAL PLAT. This map should be used for information purposes only. It is not suitable for detailed site planning.



BACK CREEK
(TIDAL)
EBB
FLOOD



AREA BREAKDOWN	
EXISTING PARCEL:	3.33± ACRES (TOTAL)
PROPOSED LOT 1:	1.58± ACRES (TOTAL TO M.L.W.) (69,036± S.F.)
	1.47± ACRES TO SEAWARD EDGE OF RPA (64,066± S.F.)
	1.46± ACRES ABOVE 4' CONTOUR (63,588± S.F.)
PROPOSED LOT 2:	1.75± ACRES (TOTAL TO M.L.W.) (76,160± S.F.)
	1.46± ACRES TO SEAWARD EDGE OF RPA (63,695± S.F.)
	1.5± ACRES ABOVE 4' CONTOUR (65,340± S.F.)

E. & S. SYMBOLS	
⊕	CONSTRUCTION ENTRANCE - VEC # 3.02
⊙	SILT FENCE - VEC # 3.05
⊗	MULCHING - VEC # 3.35
⊕	PERMANENT SEEDING - VEC # 3.32
⊙	TOPSOILING - VEC # 3.30

NOTE: ENCROACHMENTS INTO THE RESOURCE PROTECTION AREA (RPA) TO BE ALLOWED ONLY UPON WRITTEN APPROVAL BY YORK COUNTY. NO NEW ENCROACHMENTS ARE PROPOSED FOR THIS DEVELOPMENT.

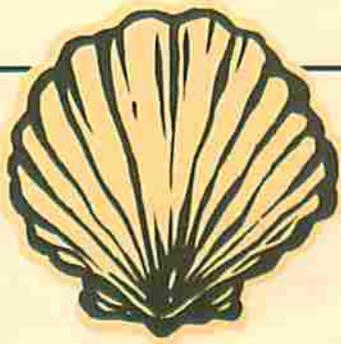


JOB LOCATION: #413 SHIRLEY ROAD
DEVELOPMENT PLAN
SUBDIVISION OF THE PROPERTY OF:
SEAFORD SCALLOP CO., INC.
COUNTY OF YORK, VIRGINIA
SCALE: 1"=40' DATE: SEPTEMBER 29, 2008
REVISED: DECEMBER 29, 2009

REVISIONS



DAVIS & ASSOCIATES, P.C.
SURVEYORS - PLANNERS
3630 GEORGE WASHINGTON
MEMORIAL HIGHWAY - SUITE G
YORKTOWN, VIRGINIA 23693
(757)867-8583



SEAFORD SCALLOP COMPANY, INC.

Post Office Box 178 • Seaford, Virginia 23696-0178

Phone (757) 898-8512
Fax (757) 898-7209

February 2, 2010

Conditions Voluntarily Proffered for the Reclassification of Property Identified as 413 Shirley Road (Assessor's Parcel No. 25-27B, GPIN U09b-3826-4688)

I, William S. Wells, Jr., President, Seaford Scallop Co., Inc., hereby voluntarily proffer that the development of the property owned by me proposed for reclassification under Application No. ZM-129-10 shall be in strict accordance with the conditions set forth below:

A Type 25 (25-foot) transitional buffer shall be installed and maintained along the eastern boundary of the referenced property in accordance with current requirements set forth in the York County Zoning Ordinance and as depicted on "Plat of Easement Dedication, From: Seaford Scallop Co., Inc., To: County of York, Virginia" dated January 29, 2010 and referenced "Deed of Easement". Installation or a guarantee for installation shall be completed prior to the recordation of the subdivision plat.

William S. Wells Jr.

for Seaford Scallop Co., Inc.
by William S. Wells, Jr., President

2/3/10
Date

STATE OF Virginia
CITY/COUNTY OF York, to-wit:

The foregoing proffer was acknowledged this the 28th day of January 2010, by William S. Wells, Jr., who is the President of Seaford Scallop Co., Inc.

Jessica H. Day
Notary Public

My Commission Expires: 11/30/10
Registration number: 7026173



FEB 1 2010

Planning Division

Prepared by:
Conway H. Sheild, III, Esq.
JONES, BLECHMAN, WOLTZ & KELLY, P.C.
701 Town Center Drive, Suite 800
Newport News, Virginia 23606
GPIN #U09b-3826-4688

DEED OF EASEMENT

THIS DEED OF EASEMENT, made this 1st day of February, 2010, by and between SEAFORD SCALLOP CO., INC., Grantor, a Virginia corporation (the "Landowner"), and the COUNTY OF YORK, VIRGINIA, Grantee (the "County").

WITNESSETH:

That for and in consideration of Ten Dollars (\$10.00) cash in hand paid the Landowner by the County, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Landowner does hereby grant and convey with General Warranty to the County and its successors and assigns forever a conservation easement designated as "25' WIDE CONSERVATION EASEMENT HEREBY DEDICATED TO THE COUNTY OF YORK, 8,632 +/- S.F.," as shown on a certain plat entitled "PLAT OF EASEMENT DEDICATION FROM SEAFORD SCALLOP CO., INC. TO COUNTY OF YORK, VIRGINIA," dated January 29, 2010, and made by Davis & Associates, P.C., which plat is attached hereto and is to be recorded simultaneously herewith in the Clerk's Office of the Circuit Court of the County of York, Virginia, and to which plat reference is hereby made for a more particular description of the easement hereby conveyed, which description is hereby fully incorporated in this deed of easement.

Within the easement area, Landowner agrees to preserve all trees, shrubs, and other vegetation existing at the time of this conveyance. Landowner shall further be obligated to install and forever maintain only appropriate landscaping as designated by the County in the easement area herein described and conveyed and nothing else. More specifically, but not limiting the generality in the foregoing sentence, Landowner shall not construct, erect, maintain, or allow any structure, building, fence, or other improvement to be built or maintained within the easement area herein conveyed except such appropriate landscaping as designated by the County. This conservation easement and the obligations described herein shall continue forever and in perpetuity to run with the land over which this conservation easement is granted.

(Signature Page Follows)

WITNESS the following signatures and seals:

SEAFORD SCALLOP CO., INC.

By: _____ (SEAL)

Its: _____

COMMONWEALTH OF VIRGINIA

City/County of _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of February, 2010 by _____, of Seaford Scallop Co., Inc., on behalf of the corporation.

Notary Public

My commission expires:

Approved as to form:

County Attorney
County of York, Virginia

PLANNING COMMISSION
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Planning Commission held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of _____, 2010:

Present

Vote

John R. Davis, Chair
Christopher A. Abel, Vice Chair
Alexander T. Hamilton
M. Sean Fisher
Nicholas F. Barba
Alfred E. Ptasznik, Jr.
Anne C. H. Conner

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A REQUEST TO RECLASSIFY AN APPROXIMATELY 1.75-ACRE PORTION OF A 3.33-ACRE PARCEL OF LAND LOCATED AT 413 SHIRLEY ROAD FROM CONDITIONAL WCI (WATER-ORIENTED COMMERCIAL/ INDUSTRIAL) TO CONDITIONAL RR (RURAL RESIDENTIAL)

WHEREAS, Seaford Scallop has submitted Application No. ZM-129-10 requesting to amend the York County Zoning Map by reclassifying from conditional WCI (Water-oriented Commercial/Industrial) to conditional RR (Rural Residential) an approximately 1.75-acre portion of a 3.33-acre parcel of land located at 413 Shirley Road (Route 626) and further identified as Assessor's Parcel No. 25-27B (GPIN U09b-3826-4688), subject to conditions voluntarily proffered by the property owner; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the ____ day of _____, 2008, that Application No. ZM-129-10 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying from conditional WCI (Water-oriented Commercial/Industrial) to conditional RR (Rural Residential) an approximately 1.75-acre portion of a 3.33-acre parcel of land located at 413 Shirley Road (Route 626) and further identified as Assessor's Parcel No. 25-27B (GPIN U09b-3826-4688), subject to conditions voluntarily proffered by the property owner and more fully described as the area designated "PROPOSED LOT 2" on the Development Plan showing "Subdivision of the property of Seaford Scallop Co., Inc." prepared by Davis & Associates, P.C. and dated December 29, 2009, a copy of which shall remain on file in the Planning Division.

BE IT FURTHER RESOLVED that the Planning Commission recommends that approval of the above-mentioned application be subject to the conditions set forth in the proffer statement titled "Conditions Voluntarily Proffered for the Reclassification of Property Identified as 413 Shirley Road (Assessor's Parcel No. 25-27B, GPIN U09b-3826-4688)" signed by William S. Wells, Jr., and dated January 29, 2010, a copy of which shall remain on file in the office of the Planning Division, and as set forth below:

I, William S. Wells, Jr., President, Seaford Scallop Co., Inc., hereby voluntarily proffer that the development of the property owned by me proposed for reclassification under Application No. ZM-129-10 shall be in strict accordance with the conditions set forth below:

A Type 25 (25-foot) transitional buffer shall be installed and maintained along the eastern boundary of the referenced property in accordance with current requirements set forth in the York County Zoning Ordinance and as depicted on "Plat of Easement Dedication, From: Seaford Scallop Co., Inc., To: County of York, Virginia" dated January 29, 2010 and referenced "Deed of Easement". Installation or a guarantee for installation shall be completed prior to the recordation of the subdivision plat.