

Attached are two pages of the Baldwin land tax map, page #1 and page #4 (EXHIBIT "A")

The pages were photocopied from maps dated 1995 and compared with the current map dated 2019. The land plot reflected in yellow has not changed.

Page #1 shows lot #94 and page #4 shows lot #1. Both land plots are owned by one owner and the lot numbers differ because they are on separate pages.

The combined lots appear to form one (1) MOTHER LOT. For discussion clarity, the mother lot has been labeled A, B, C, D, & E. Sand Pond Road, a public paved road is located between lots A & B. Grant Road is located between lots C & D. Bryant Road is between lots D & E. Both Grant and Bryant roads are private ways that give access to Sand Pond having multi-plots of land with mostly seasonal cottages and that land divisions began back in the 1960'ies.

HISTORY: Lot A & B is owned by VanHertel and he is currently in review with the Planning Board for a sub-division approval, placed on hold. The sub-division has been presented in two phases, A & B, divided by Sand Pond Road. Lot C was formed off from lot B and sold (within the year) to "Rise & Shine LLC" and owner Lenny Tracy wants to develop the land but is currently on hold due to the land status. Lot E is owned by Ken Fuller and the purchase was completed about two years ago. Fuller lives on lot E and paid cash. Fuller is under a contract for land D (not final) for a purchase; assumed that VenHertel still has title.

Observation: It is recognized that all lots A, B, C, D, & E was under one ownership but currently 2 lots are sold. However, there are four (4) separate divided plots within the assumed "mother lot". Lot E stands by itself ending at Bryant Road. Lot D is sandwiched between roads Bryant and Grant and is a single lot. Lot A stands by itself ending at Sand Pond Road. Finally, both lots B & C combined is a single plot necking together with about 100 ft. of joining land making the plot connected.

The land being separated by public and private roads result in four (4) divided stand alone plots, therefore should be ruled in their divided integrity, not as all one mother lot conglomerate. Therefore, all lots A, B, D, & E are single lots. VanHertel created lot C, ending at the narrow neck, by selling the land. Therefore, lots B & C are the only two divisions within the stand alone lot (within the original one owner mother lot). Although VanHertel has applied for a sub-division approval with both lots A & B, it has not been concluded. It stands that lots B & C remain as a divided plot containing only those two (2) lots, not a three or more lot division.

FREE MONT § 107-SUB-D.

J. Wesley Sunderland: CEO

TOWN OF BALDWIN

April 2020

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QUESTION: Is the land originally purchased by VenHertel, both lots #94 & #1 (on 2 map pages), be ruled as *the "mother lot"*, or is that large track of land having three roads crossing the plots be ruled as *4 established "mother lots"* with roads creating separating land borders.

DISCUSSION: If the larger originally purchased land is "the mother lot", then the sale of lot "E" and "C" creates 4 sub-divided lots without implementing the roads as divisions of land. That is, 1-A&B, 2-C, 3-D, 4-E. However, when roads rule that land divisions exist therefore creating "*stand alone mother lots*" then D & E remain single mother lots, A is a mother lot, and only B & C create a mother lot between the 2 roads, Sand Pond & Grant, that currently contain the two formed lots.

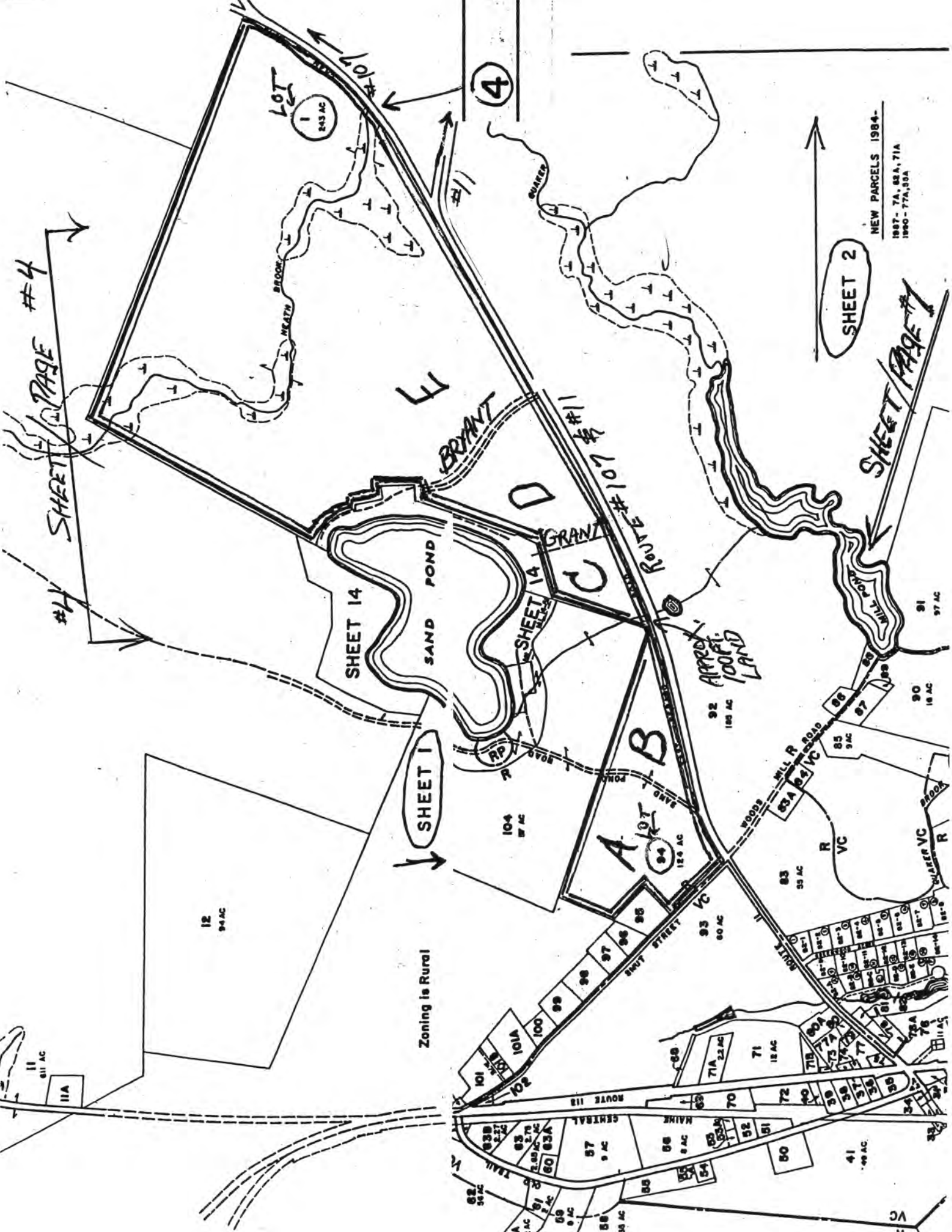
ORDINANCE: **Sub-division Ordinance, Article -- Definitions, Item -- Tract or Parcel of land:** All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road, shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

OPINION: The Town tax maps were examined in which the dated 1995 map (see photo copy) reflected the roads were in existence on the land being examined and the current owner, VanHertl, did not create these roads. Therefore, the ordinance definition for "tract or parcel of land" with the application of road divisions is valid to this land circumstance. The rule interpretation is: The tract of land purchased by VenHertel contains four (4) separate mother lots.

CONCLUSION: The sale of lot "E" to Fuller remains a separate mother lot, the sale of land to Rise & Shine creates on a stand-alone mother lot only the two (2) lots "B" & "C" on the plot between Sand Pond & Grant Roads NOT forming a 3-lot sub-division, and the other lots, "A" & "D" remain as single lots under the ownership of VanHertel, who remains sole owner of all lots "A, B, & D".

There has been NO 3 lots or more sub-divisions formed. The land divisions by roads is valid.

Wes Sunderland: CEO



#4 SHEET PAGE #4

SHEET 1

SHEET 2

SHEET PAGE #1

NEW PARCELS 1984-
1987- 7A, 82A, 71A
1986- 77A, 35A

Zoning is Rural

Approx. 1000' LAND

(4)

SHEET 14 SAND POND

SHEET 14

Lot A B

12 94 AC

104 27 AC

92 183 AC

83 33 AC

85 34 AC

90 18 AC

91 97 AC

11A 611 AC

101 101A 100 99 98 97 96 95

71A 2.2 AC

71 18 AC

71B 7.3 AC

72 7.7 AC

73 7.7 AC

74 7.7 AC

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LAND BELONGING TO FIRST OWNER FEB 11 1973

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Subdivision: The division of a tract or parcel of land into 3 or more lots within any 5-year period, that begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel shall be considered to create the first 2 lots and the next dividing of either of the first 2 lots, by whomever accomplished, unless otherwise exempt herein shall be considered to create a third lot, unless:

- a. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36 M.R.S.A., §1102 for a period of at least 5 years before the second dividing occurs; or
- b.) The division of the tract or parcel is otherwise exempt under this definition.

EXEMPT

A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of these regulations, unless the intent of the transferor in any transfer or gift is to avoid the objectives of these regulations. If real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this definition. The grant of bona fide security interest in an entire lot that has been exempted from the definition under this paragraph, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of these regulations.

In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.

- Subdivision, Major:** Any subdivision containing more than four lots or dwelling units, or any subdivision containing a proposed street.
- Subdivision, Minor:** Any subdivision containing four lots or dwelling units or less, and in which no street is proposed to be constructed.
- Tract or Parcel of Land:** All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.
- Usable Open Space:** That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

Definitions

TTING PROPERTY: Any lot which is physically contiguous with the lot in question even if only at it and any lot which is located directly across a public street or way from the lot in question.

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From: Danielle Taylor [mailto:dtaylorbaldwin@gmail.com]
Sent: Thursday, March 12, 2020 11:19 AM
To: Legal Services Department <legal@memun.org>
Subject: Baldwin - subdivision question

To MMA legal
From Selectmen Office

1ST GROUP of QUESTIONS from DANIELLE, Selectmen Office

the Planning Board has requested that the Selectmen office reach out to MMA legal to clarify a subdivision question.

1: If a landowner splits a large lot, to sell to another person - can the person that bought it split it again - or is that considered another split and possibly a subdivision? (Two divisions ("splits") from the same tract or parcel within any five-year period, by whomever made, creates a three-lot subdivision unless at least one lot is exempt for some reason.) **MMA ANSWER**

2. If a landowner splits a lot to sell to a family member - can the family member sell off a piece and split the lot, or is that considered another split and possibly a subdivision? (A gift to an immediate relative is an exempt division, but if the gift lot is divided and a lot is conveyed to a non-relative within five years, the gift exemption no longer applies, and both the first and second divisions create a three-lot subdivision unless at least one lot is exempt for some reason.) **MMA ANSWER**

3. If a lot that is owned by one owner and is split by a town right of way or road, and is distinguished as the same map and lot on both sides of road, is that considered two lots or one? is that considered as a split or not? (Unless the road was established by the owner of land on both sides of the road after Sept. 22, 1971, lands located on opposite sides of a public or private road are considered separate tracts or parcels, and each may be divided once every five years, resulting in two lots each, without creating a subdivision.) **MMA ANSWER**

Our subdivision ordinance is attached. An email response is preferred so I may share the information accurately. thank you in advance.

Fr: J. Wesley Sunderland: CEO
Baldwin.

March 16, 2020

To: Legal Services Dept.: MMA

A previous memo was sent on or about March 12th pertaining to land divisions forming a subdivision. The answers were understood, however an additional question is needed for an answer.

Situation: A mother lot was divided into two (2) lots by the owner. The second lot formed was sold to a new owner. This new owner divided his purchase once to form a second lot that was made for the purpose to sell to an abutter directly across the public road. Although this second lot created a third lot of the original mother lot, it is exempt from forming a "subdivision lot" (by definition) because it was formed for the purpose to sell to an abutter. (I believe my interpretation is correct) -----

Subdivision Ordinance

Definition: Subdivision

Part "b" - The division of a tract or parcel is otherwise exempt under this definition

A division accomplished by.....transfer of any interest in land to the owner of land abutting that land does not create a lot for the purpose of this regulation,

Definition: Abutting Property - Any lot which is physically contiguous with the lot in question even if only at a point and any lot which is located directly across a public street or way from the lot in question.

Further discussion: If the abutting lot was contiguous, side by side, the common boundary line may be removed to form a single larger lot. When the abutting lot is across the public road, it shall remain a separate lot.

Therefore, I rule the third lot as not forming a subdivision, and that it is as legally abutting lot to the new owner across the public way.

Thank you,

Wes Sunderland

ANSWER
FROM MMA
SEE E-MAIL Pg. 4
APPROVED

4

wsunderland@roadrunner.com

From: Danielle Taylor <dtaylorbaldwin@gmail.com>
Sent: Tuesday, March 17, 2020 2:52 PM
To: Wes Sunderland - ----- → E-MAIL APPROVAL
Cc: Dwight Warren; Jim Dolloff; Gerry Brown
Subject: Fwd: Baldwin - reply to Richard Flewelling

*

Wes, see below answers from MMA Legal in response to your letter. Also cc'ed is the Selectmen. should I share this response with planning board?

Thank you,

Danielle

Town of Baldwin
534 Pequawket Trail
West Baldwin, Maine 04091
(Ph) 207-625-9107

Far and away the best prize that life has to offer is the chance to work hard at work worth doing. ~ Theodore Roosevelt

----- Forwarded message -----
From: Legal Services Department <legal@memun.org>
Date: Tue, Mar 17, 2020 at 2:46 PM
Subject: RE: Baldwin - reply to Richard Flewelling
To: Danielle Taylor <dtaylorbaldwin@gmail.com>

Danielle,

I agree with your CEO on this one. Under the scenario he describes, the division by the "new owner" of his lot and the transfer of a lot to an abutter as defined "does not create a lot or lots for the purposes of [the definition of "subdivision"], unless the intent of the transferor is to avoid the objectives of [the municipal subdivision law]" (30-A M.R.S. Section 4401(4)(D-6)). Assuming the new owner's intent is not to avoid the objectives of the law, the three-lot threshold for a subdivision is not reached by this transfer.

As with my previous answers (see below), this answer is intended for the town and its officials only and should not be relied upon by any private party.