

LONDONDERRY, NH PLANNING BOARD

MINUTES OF THE MEETING OF JANUARY 9, 2019 AT THE MOOSE HILL COUNCIL CHAMBERS

I. CALL TO ORDER

Members Present: Art Rugg, Chair; Mary Wing Soares, Vice Chair; Rick Brideau, Ex-Officio – Town Employee; Chris Davies, Secretary; Al Sypek, member; Giovanni Verani, Ex-Officio – Town Manager; Ted Combes, Town Council Ex-Officio; Jake Butler, member; Peter Commerford (alternate member) and Roger Fillio (alternate member)

Also Present: John R. Trottier, P.E., Assistant Director of Public Works and Engineering; Colleen Mailloux, Town Planner; Laura Gandia, Associate Planner and Beth Morrison, Recording Secretary

Chairman Rugg called the meeting to order at 7:00 PM, explained the exit and emergency procedures, and began with the Pledge of Allegiance. He explained the new changes to the Planning Board noting Scott Benson was reappointed as a full time member, Jake Butler is a new full time voting member, Leitha Reilly was appointed as an alternate member and Ted Combes is the Town Council Ex-Officio member. M. Soares voiced her appreciation of Ann Chiampa and all the work she did for the Planning Board. Chairman Rugg appointed P. Commerford to vote for S. Benson.

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES:

Member M. Soares made a motion to approve the minutes of December 5, 2018, as presented.

A. Sypek seconded the motion.

The motion was granted 6-0-3, with T. Combes, C. Davies and J. Butler abstaining. The Chair voted in the affirmative.

Member M. Soares made a motion to approve the minutes of December 12, 2018, as presented.

R. Brideau seconded the motion.

The motion was granted 6-0-3, with T. Combes, C. Davies and J. Butler abstaining. The Chair voted in the affirmative.

B. REGIONAL IMPACT DETERMINATIONS: Town Planner Mailloux informed the Board that she had one project for their consideration.

1. Application for design review of a subdivision plan to subdivide one lot into two, 55 Old Nashua Road, Map 3 Lot 168, Zoned AR-1, Amy T. & Maxwell J. Copper (Owners) and Maynard & Paquette Engineering Associates, LLC. (Applicant)

Town Planner Mailloux recommended that the Board find this project is not a development of regional impact as it does not meet the criteria set forth by the Southern New Hampshire Regional Planning Commission.

M. Soares made a motion to find that this project is not of regional impact.

R. Brideau seconded the motion.

The motion was granted, 9-0-0. The Chair voted in the affirmative.

C. DISCUSSIONS WITH TOWN STAFF: N/A

D. LOT MERGER REQUEST: 14 Page Road (Map 17 Lot 45-4) and 280 Rockingham Road (Map 17 Lot 45), Zoned IND-I, Evans Family Limited Partnership (Owner)

Town Planner Mailloux informed the Board that the original merger application has not been received by the Planning Department and requested that any action be deferred until February 6, 2019.

III. OLD BUSINESS - N/A

IV. Continued Plans

A. Application for formal review of a site plan for the redevelopment of a retail site to replace an existing bank with a 3,200 SF bank, 5,100 SF urgent care facility, 4,000 SF retail space, and associated site improvements 42 Nashua Road and Garden Lane, Map 7 Lot 68-1, Zoned C-I, NH Six Realty Trust (Owner & Applicant) – continued from December 12, 2018

Chairman Rugg read the case into record noting that this was continued from December 12, 2018 and will be continued until February 6, 2019.

M. Soares made a motion to continue the application for formal review of a site plan for the redevelopment of a retail site to replace an existing bank with a 3,200 SF bank, 5,100 SF urgent care facility, 4,000 SF retail space, and associated site improvements 42 Nashua Road and Garden Lane, Map 7 Lot 68-1, Zoned C-I, NH Six Realty Trust (Owner & Applicant) until February 6, 2019.

R. Brideau seconded the motion.

The motion was granted, 9-0-0. The Chair voted in the affirmative.

Chairman Rugg noted that the plan is continued until February 6, 2019, at 7 p.m. at the Town Hall and this would be the only formal public notice.

B. Application for formal review of a site plan for Phase 2 of the Cross Farm Development, an elderly housing development with 86 additional dwelling units, clubhouse and associated site improvements, 200 Nashua Road, Adams Road and Cross Road, Map 6, Lot 59-1, Zoned AR-1, Cross Farm Development, LLC (Owner & Applicant) – continued from December 12, 2018

Chairman Rugg read the case into record noting it was continued from December 12, 2018.

Joseph Maynard, from Benchmark engineering in Londonderry and Kim Hazarvartian traffic engineer with TEPP LLC out of Salem, NH addressed the Board. J. Maynard reviewed with Board that this phase is for 86 homes, the proposed clubhouse, the large off-site improvements on Route 102 and the Adams Road connection. He noted the off-site improvements to Route 102 are being reviewed by New Hampshire Department of Transportation (NHDOT) for a left turn lane heading eastbound into the site and a right turn decel lane going westbound into the site. He asked how the Board would like to proceed regarding the waiver requests and Conditional Use Permit (CUP) request.

Chairman Rugg opened it up to questions from the Board. J. Trottier reviewed the fifteen waiver requests with the Board noting that Staff supports granting all of the fifteen waivers. Town Planner Mailloux went over the zoning exemption requests with the Board. She said the first zoning exemption request is to the residential phasing requirements to allow 40 building permits to be issued per year provided that the owner of record certify that the project will be restricted and utilized to 100% elderly occupants. She stated that this agreement was in place already for Phase 1. She said the second zoning exemption request is for the buffer requirement in the Performance Overlay District. She noted that Staff supports granting both zoning exemption requests. She went over the CUP request with the Board noting this is to allow work within the Conservation Overlay District. She said the project includes a total buffer impact of 26,630 SF. She stated the applicant has applied a dredge and fill permit from the state for this project as well. She explained that the Conservation Commission reviewed this application several times and their recommendation was that they recognize that best efforts have been made to minimize encroachment into the buffer, but think the site is ill-suited for the intensive use that is proposed. She said they recommend reducing roof area which they believe would reduce the size of detention ponds ultimately leading to reduction in the buffer impact. She noted that the applicant is putting several areas of land under conservation easements working with both the Conservation Commission and New Hampshire Department of Environmental Services (NHDES). She said that Staff recommends granting approval of the CUP. C. Davies asked if the CUP was temporary just for construction and if the roof comment could be further explained. J. Maynard said that the Conservation

Commission has had a hard time understanding why they need all the Conservation Overlay (CO) impacts given the large size of the project. He noted that most CO impacts deal with road crossings in buffers. He said that the Conservation Commission told them to stay out of the buffers, and they have tried to, but if they have to impact the buffer then go no closer than 25 feet. He explained that through their dredge and fill permit with the state, it was found that there is a Blanding turtle habitat at the western end of the site, as well as vernal pools. He said that there is an area of 27 acres, which will be placed in a conservation restriction for Blanding turtle habitat, and another eight acres on the site that will be in a conservation restriction for New England Cottontail rabbit habitat. He added that there will also be a conservation restriction on what is called wetland one, which is throughout the whole site in a T-shape. He noted that about 50 acres on site will be in a conservation restriction as part of the wetlands permit.

Chairman Rugg opened it up to the public.

Mike Pettengill, 5 Apollo Road Ext, addressed the Board. M. Pettengill asked if the CUP was for a specific area or in general. J. Maynard said that the western side of the property, which abuts Acropolis, is one of the areas that will be in a conservation restriction. He said it is about 26 acres of conservation restriction and nothing will be built there. Town Planner Mailloux reviewed the CUP on the map with M. Pettengill.

Ray Breslin, Three Gary Drive, addressed the Board and asked if any of this site was in a flood plain. J. Maynard said that there is only one portion of the property in a flood plain located at Cross Road where Black Brook crosses Cross Road. He said this area will be under a conservation restriction for cottontail rabbits. R. Breslin asked how the site gets its storm water. J. Maynard said it is mostly internal and not from Black Brook. R. Breslin asked if the applicant had all the approvals for the wetland crossings from the state. J. Maynard said he was working with the state on that. R. Breslin asked if the project should wait until it receives the approval from the state. Town Planner Mailloux said that one of the town's standard condition of approval is that any permits that are required need to be in place before the Planning Board signs the plan. She said the Board cannot deny an application because of pending state approval, but can condition the approval upon receiving the appropriate permit. J. Maynard noted that he has been working on this for over a year now with Fish & Game, Army Corps., NHDES, and believes he will have the permit in the next 45 days or so.

Susan Malloman, Five Apollo Road Ext. addressed the Board and asked about the term "limit of withdrawable land" that is referenced on plans online. J. Maynard stated that this is a condominium term, as there was talk of trying to purchase some of the development rights to this property. J. Trottier said this might be on an old plan on the town website. S. Malloman clarified that withdrawable land and convertible land can be used interchangeably. J. Maynard said they could. S. Malloman asked if the term "open space" meant conservation restriction on the plans. J. Maynard said that means no buildings will be built in the open space, and what will remain green on the plan, and it is different from the conservation restrictions. Town Planner Mailloux explained that one requirement of the site plan is to put buffer placards every fifty

feet to mark off the area. She pointed out that the Conservation Commission has requested the buffer placards be put more frequently than just every fifty feet to clearly demarcate the buffer area for the residents. S. Malloman asked for potential timelines for construction. J. Maynard said he would like to start as soon as possible, but felt that April 1, 2019, would be a good guess when the conservation restriction language was finalized. S. Malloman asked about a drainage improvement project off Route 102 in the extreme southwestern corner. J. Maynard stated that he did not know anything regarding a drainage improvement project. A. Rugg suggested it might be a state project. J. Trottier asked S. Malloman specifically where she saw this project. S. Malloman said she found it when she searched Cross Farm online. J. Trottier asked S. Malloman to send him the project she found online.

Sandra Lagueux, Two Fiddler's Ridge, addressed the Board and asked if there were any waivers regarding the sight distance for the driveway out onto Adams Road. J. Maynard stated there was not. S. Lagueux asked how many waivers are being asked for or have been granted to allow more dwellings to fit on the property. J. Maynard stated none. S. Lagueux said she is here representing herself and her neighbors and is here to formally request that a gate be put up on the Adams Road exit for emergency vehicles only. She said that a precedent had been set at a Parish Hill property in Londonderry. She stated that she is requesting this because of the magnitude of the project which will change everything around it. She shared that Adams Road is the town's only scenic byway, is known in town as the apple way, and is worth protecting. She said that there are two sharp curves on Adams Road, no shoulders, and snow drifts between the two orchards making the road dangerous. She said that adding another 187 homes with access to this road will make it even more dangerous. She stated that the Adams Road and Mammoth Road intersection is dangerous now and the added traffic will only make this intersection worse. She asked the Board for their thoughts on putting a gate here.

Chairman Rugg said that at the prior meetings both the applicant's traffic engineer and the town's engineer spoke at great lengths about the traffic study. Kim Hazarvartian, TEPP, LLC traffic engineer, Salem, NH, addressed the Board and reviewed the traffic study from December 5, 2018, noting the a.m. peak hour is two to nine vehicles and the p.m. peak is three to ten vehicles being added to Adams Road. He said that these numbers would have no operational effect on Adams Road and the recommendation was to have full egress and exit onto Adams Road. He said that by reducing travel distances you reduce exposure to vehicle crashes. M. Soares asked for clarification on if the traffic count was for Phase 1, 2 and 3 or the build out. K. Hazarvartian stated the counts were for the build out, which was 200 units. S. Lagueux said she respected the science behind a traffic study, but noted that she did not care if this exit would be a matter of convenience for the new residents here. She wanted the Planning Board to take a pause and really examine the need for this exit onto Adams Road, as she did not think a matter of convenience should be a factor in the decision. A. Sypek asked if the gate was reviewed with the Fire and Police Department. Town Planner Mailloux said that at the beginning of the project it was reviewed and they both feel that from an emergency response there needs to be access from Adams Road. She mentioned that Staff, engineering, Fire Department and Police Department feel that having access into and out of Adams Road would be

necessary in this development to allow someone not comfortable going out onto Route 102 to have another exit for safety reasons. She explained that from her perspective based on Kim Hazarvartian and the third party review by Stantec, that a gate is not warranted by the traffic study. She stated that if the Board is concerned, the applicant will be back for other phases, and could recommend additional traffic monitoring to see what the actual counts are once the road is open. She said she would not recommend installing a gate at Adams Road in this phase and if the Board asked for additional monitoring to be done, a gate could always be installed in the future if needed. S. Lagueux said that she does not know where the statement of using Adams Road for an exit for safety came from. M. Soares said that she was for a gate on Adams Road early on, however, prior Board member Ann Chiampa said that it would not be fair to deny the residents who will live at Cross Farm the opportunity to drive on Adams Road, just as all the other tourists do. S. Lagueux said that the residents could drive on Route 102 and around to Adams Road. M. Soares asked why she would inconvenience these new tax paying residents in the town. S. Lagueux said that it would be exchanging inconveniences from one tax payer to another. David Dubaie, engineer from Stantec, addressed the Board. D. Dubaie said that he felt the word convenience was the wrong word to define this exit, as he feels the word is safety. He said that Route 102 is fast all the time versus Adams Road which is not. He pointed out that this development is for 55+ and older residents, who may be timid to pull out onto Route 102, and having another option, such as Adams Road, would be a safety issue for them. S. Lagueux asked if the traffic study warranted a traffic light. D. Dubaie stated it does not warrant a light. S. Lagueux asked how far off the numbers are for a traffic light. D. Dubaie said the numbers are very far off to warrant a traffic light. S. Lagueux asked if there would be signage allowed at Adams Road. J. Trottier said there is no signage intended. M. Soares said she liked Town Planner Mailloux's idea about having future traffic studies performed when more units are built to verify if the study was correct. C. Davies asked if the Board could request this. Town Planner Mailloux said that the Board could put it as a condition to perform traffic counts after the road is there and so many units are occupied. C. Davies said that he felt there would need to be some sort of margin and if the data exceeds this margin than it would be gated.

John Farrell, Four Hancock Drive, addressed the Board. J. Farrell said that when the Town Council became aware of this project they went and worked with the state to acquire the land adjacent to Route 102 for the sole purpose of keeping traffic off Adams Road. He added that the Town Council is actively pursuing the governor for a traffic light on Route 102, as the speed is too high.

Kathy Wagner, Seven Fiddlers Ridge addressed the Board. K. Wagner said that term convenience bothered her. She asked if the buffer is met for Adams Road. Chairman Rugg stated that there is no buffer for the scenic byway. K. Wagner asked how many letters the Board had received. Chairman Rugg said there is one letter for and one against Adams Road. K. Wagner said that she is concerned about the Adams Road exit. She stated that she wants conditions to the Adams Road exit on the plan and expects the Board to respect the people who live in the neighborhood.

Shelia Lavalley, resident of Windham, addressed the Board. S. Lavalley said that she is 67 years old and is waiting for a house in Cross Farm. She said that she has been to the site to look at the houses and getting out onto Route 102 is scary. She said that she would feel more comfortable safety-wise for an exit onto Adams Road. She said in her opinion, it is not merely convenience, however, more of a safety reason, to have the Adams Road exit.

Kathy Wagner, Seven Fiddlers Ridge, addressed the Board again. K. Wagner said that if this is a safety issue, why is the Town allowing such a large development? R. Fillio said that he agrees that Route 102 is dangerous and has asked the Safety Committee in town to try and change the speed limit. He said that the Board and other committees are trying to change it on Route 102 and are working with the state without much success. He stated that as long as the new residents of the development are following the rules and ordinances of the town, how can the Board restrict them on where they can and cannot drive? S. Lagueux stated that she wanted to reiterate that people have a right to develop their land and she does not think putting a gate would impact the developer or residents. P. Commerford said that he has been saying all along that Route 102 is dangerous and now the Board has heard testimony from a resident who will live in this development that she would rather exit onto Adams Road versus Route 102. C. Davies stated he would like to ask the Town Council to reduce the speed limit on Route 102 as well. G. Verani asked when Adams Road would be considered a failure. J. Trottier said that Adams Road can handle the volume on it now and would be able to accommodate the extra traffic from the development. M. Soares asked if a light were to be placed on Route 102, then a gate would be placed on the Adams Road exit. Town Planner Mailloux said that if a light were to be installed onto Route 102, then the Adams Road exit could be gated in the future, but would not recommend starting with a gate on Adams Road. Town Planner Mailloux said she hoped the Town Council could work with NHDOT on a light or reducing the speed on Route 102, as NHDOT has told them no and does not want to get everyone's hopes up that this would happen soon. G. Verani asked if the gate is not installed first and the project is completed, how will the town fund the gate? M. Soares said that the gate would be covered in a perpetuity bond. J. Maynard asked the Board if there could be a number of units sold before the traffic counts would need to be completed. Town Planner Mailloux stated that the numbers would have to be prorated.

M. Soares made a motion to grant the applicant's request for waivers 1-9 and 11-15 as outlined in the Staff Recommendation Memorandum dated January 9, 2019.

R. Brideau seconded the motion.

The motion was granted, 7-0-2, with T. Combes and J. Butler abstaining. The Chair voted in the affirmative.

M. Soares made a motion to grant the applicant's request for waiver 10 as outlined in the Staff Recommendation Memorandum dated

January 9, 2019.

R. Brideau seconded the motion.

The motion was granted, 6-1-2, with T. Combes and J. Butler abstaining. The Chair voted in the affirmative.

M. Soares made a motion to grant the exemption from the Phasing Requirements of Section 1.3.3 as permitted under Section 1.3.4 of the Zoning Ordinance as outlined in the Staff Recommendation memorandum dated January 9, 2019.

R. Brideau seconded the motion.

The motion was granted, 7-0-2, with T. Combes and J. Butler abstaining. The Chair voted in the affirmative.

M. Soares made a motion to grant the waiver from Section 2.6.1.7.D.4.d of the Zoning Ordinance as outlined in the Staff Recommendation memorandum dated January 9, 2019.

R. Brideau seconded the motion.

The motion was granted, 7-0-2, with T. Combes and J. Butler abstaining. The Chair voted in the affirmative.

M. Soares made a motion to grant the applicant's request for the Conditional Use Permit (CUP) as outlined in the Staff Recommendation Memorandum dated January 9, 2019.

R. Brideau seconded the motion.

The motion was granted, 7-0-2, with T. Combes and J. Butler abstaining. The Chair voted in the affirmative.

M. Soares made a motion to grant conditional approval of the Cross Farm Phase 2 and 3 Site Plan, Map 6 Lots 84 & 59-1, Cross Farm Development, LLC (Owner & Applicant) in accordance with plans prepared by Benchmark Engineering, Inc., dated January 23, 2018, last revised November 30, 2018 with the precedent conditions to be fulfilled within 120 days of the approval and prior to plan signature and general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memorandum, dated January 9, 2019, with the following conditions:

1. Precedent Condition/note of the plan: Should New Hampshire Department of Transportation (NH DOT) in the future approve a signalized intersection at the Harvest Moon Road and Route 102

intersection then at that time the Adams Road access will be limited to an Opticon emergency access gate only.

2. General and Subsequent Condition: Upon completion and opening of Adams Road roadway access, the applicant will provide additional traffic counts of the volumes on Adams Road to be worked out with Staff and engineers at 50% occupancy.

R. Brideau seconded the motion.

The motion was granted, 7-0-2, with T. Combes and J. Butler abstaining. The Chair voted in the affirmative.

“Applicant”, herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated January 9, 2019.
2. The septic system design for the clubhouse, for which a waiver was granted for acceptance purposes only, be provided.
3. If the waiver is granted, allowing COs to be issued prior to completion of the wearing course of pavement, the wearing course be complete prior to commencing future Phases of this project and appropriate financial guarantee be provided to meet the approval of the Department of Public Works to ensure the installation of the wearing course of pavement.
4. All condominium documents associated with the project shall be approved prior to signature of the plan.
5. The overall condominium site plan, showing the common area, limited common area and units, as described in the condominium documents be submitted to the Town for review and included in the final plan set for signature.
6. All required permits and approvals shall be obtained and noted on the plan, including NHDES Wetland Permits, NHDES Alteration of Terrain Permit, NHDES Subdivision Approval, NHDOT Driveway Permit and any others that may be required.

7. The Applicant shall note all waivers and exemptions granted on the plan.
8. The Applicant shall note approved Conditional Use Permit on the plan.
9. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
10. The Applicant shall note all general and subsequent conditions on the plans.
11. Third-party review fees shall be paid within 30 days of conditional site plan approval.
12. Financial guarantees be provided to the satisfaction of the Department of Public Works and Engineering.
13. Final engineering review.

PLEASE NOTE - Once these precedent conditions are met and the plans are certified, the approval is considered final. If these conditions are not met within **120 days** to the day of the meeting at which the Planning Board grants conditional approval the board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work for the subdivision may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the site-restoration financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.
2. All condominium documents and plans associated with the project shall be recorded prior to requesting a pre-construction meeting with the Town.
3. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
4. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

5. Fire department access roads shall be provided at the start of the project and maintained throughout construction. Fire department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with an all-weather driving surface.

6. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

7. All site improvements and off-site improvements must be completed in accordance with the approved plan prior to the issuance of a certificate of occupancy. In accordance with Section 6.01.d of the Site Plan Regulations, in circumstances that prevent landscaping to be completed (due to weather conditions or other unique circumstance), the Building Division may issue a certificate of occupancy prior to the completion of landscaping improvements, if agreed upon by the Planning Division & Public Works Department, when a financial guaranty (see forms available from the Public Works Department) and agreement to complete improvements are placed with the Town. The landscaping shall be completed within 6 months from the issuance of the certificate of occupancy, or the Town shall utilize the financial guaranty to contract out the work to complete the improvements as stipulated in the agreement to complete landscaping improvements. **No other improvements shall be permitted to use a financial guaranty for their completion for purposes of receiving a certificate of occupancy.**

8. As built site plans must to be submitted to the Public Works Department prior to the release of the applicant's financial guaranty.

V. Other Business -

A. General zoning discussion

Town Planner Mailloux informed the Board that some housekeeping issues were found when reviewing the zoning:

- Section 8.1.5.1.L – relative to special exceptions for Wireless Communications Facilities, refers to Section 9.5.8, should refer to the renumbered Section 5.10.6.
- Under town-wide regulations, district regulations, general, two items from the previous ordinance were inadvertently deleted, relating to restrictions on public and private solid waste disposal and storage, and the length of time for a collapsed or burned building to remain in such condition. These will be inserted in the re-organized ordinance.
- Section 1.5 – Rules of Construction – the ordinance distinguishes between “shall”, “will”, “may” and “may not” and how those phrases are interpreted in the ordinance. It has been recommended that “should”, which is also used

throughout the ordinance as a mandatory and not discretionary requirement, should be defined as such in this section.

- Section 5.10.3 – Wireless Communications Facilities, the Performance Criteria Table numbering will be corrected to match the current numbering sequence.

She stated an amendment addressing these changes will be posted for a Public Hearing by the Planning Board in February and presentation to the Town Council in March.

M. Soares said that she thinks the word should be shall for everything, as that is mandatory. Town Planner Mailloux said that she would post shall for the public hearing. She let the Board know that she is reaching out to the Southern New Hampshire Planning Commission (SNHPC) to request speakers to come before the Board to talk about 55+ housing density bonuses. G. Verani requested a speaker to talk about not having a variety of housing needs and how that will affect a town. M. Soares asked how much developable land was left in Londonderry. Town Planner Mailloux said that Amy Kizak, GIS manager, updated a map last year and she would bring that back in to discuss.

B. Commercial zoning review

Town Planner Mailloux stated that she had given the Board some handouts to review until the next meeting. She asked them to look over the documents and get back to her at the next meeting.

VI. ADJOURNMENT

Member M. Soares made a motion to adjourn the meeting at approximately 9:25 p.m. Seconded by R. Brideau

The motion was granted, 9-0-0.

The meeting adjourned at approximately 9:25 PM.

These minutes were prepared by Beth Morrison.

Respectfully Submitted,



Chris Davies, Secretary

These minutes were accepted and approved on February 6, 2019, by a motion made by M. Soares and seconded by A. Syrek.

STAFF RECOMMENDATION

To: Planning Board
From: Colleen P. Mailloux, AICP, Town Planner
John R. Trottier, PE, Assist. Dir. Of DPW

Date: January 9, 2019

Application: Public Hearing for formal review of a site plan for Phases 2 and 3 of a proposed Elderly Housing Development, Route 102, Adams Road and Cross Road; Map 6, Lots 84 & 59-1; Cross Farm Development LLC (Owner/Applicant)

- Completeness: The Board accepted this application as complete on November 7, 2018.
- Waivers: In addition to the checklist waiver granted for acceptance purposes only, the Applicant has requested the following waivers of the Site Plan Regulations:
 1. The Applicant has requested a waiver from Section 3.07.g.3 of the Site Plan Regulations to allow drainage pipes with less than 3' of cover in 5 locations. Staff **supports** granting the waiver as the plans provide reinforced concrete pipe where the pipe cover is not met, and because the elevations of downstream wetlands and detention pond design requirements limit the available depth for coverage.
 2. The Applicant has requested a waiver from Section 3.07.g.2 of the Site Plan Regulations to allow drainage pipe velocities greater than 10 feet per second in one location. Staff **supports** granting the waiver as lowering the headwall to reduce pipe velocity would result in draining the nearby wetland and lower pipe velocities are achieved down gradient of this pipe run and proper erosion control measures are provided at the discharge of this pipe network.
 3. The Applicant has requested a waiver from Sections 3.09.D and 3.09.R of the Roadway Design Standards which require a proper cul de sac terminus at the end of Falling Leaf Road. Staff **supports** granting the waiver as the Applicant has provided a temporary tee intersection which the Fire Department has found acceptable for this phase. The Planning Board previously approved a similar waiver for Phase 1.
 4. The Applicant has requested a waiver from Section 3.09.R of the Roadway Design Standards and Table 1 of the Subdivision Regulations to provide a minimum roadway design speed of 25 MPH where a roadway design speed of 35MPH is required. Staff **supports** granting this waiver as the streets are private and designed only for local use by the residents. The Planning Board previously approved a similar waiver for Phase 1.
 5. The Applicant has requested a waiver from Section 3.09.R.5 of the Roadway Design Standards and Exhibit D3 of the Subdivision Regulations, to provide a minimum sight distance of 280 feet where a minimum sight distance of 365 feet for the internal roadway intersection is required. This waiver request does not apply to the intersections at Route 102 and Adams Road. Staff **supports** granting

this waiver as the reduced sight distance for these private streets will meet AASHTO standards for a 25MPH design speed. The Planning Board previously approved a similar waiver for Phase 1.

6. The Applicant has requested a waiver from Section 3.09.F.2 of the Roadway Design Standards and Exhibit D2 of the Subdivision regulations, to provide a driveway sight distance of 175 feet where a minimum driveway sight distance of 250 feet is required. Staff **supports** granting this waiver as the reduced sight distance for these driveways located on private streets will meet AASHTO standards for the 25MPH design speed. The Planning Board previously approved a similar waiver for Phase 1.
7. The Applicant has requested a waiver from Section 3.09R of the Roadway Design Standards and Table 1 of the Subdivision Regulations, to provide a roadway right of way of 40 feet where 50 feet is required. Staff **supports** granting this waiver as the propose streets are private streets and the Applicant is providing a 5 foot utility easement on each side of the roadway right of way. The Planning Board previously approved a similar waiver for Phase 1.
8. The Applicant has requested a waiver from Section 3.09.F.3 of the Roadway Design Standards and the Town's driveway standards to allow residential driveways to be 22 feet wide for the entire length from the garage to the street. Staff **supports** granting this waiver because the streets within this development will be private. The Planning Board previously approved a similar waiver for Phase 1.
9. The Applicant has requested a waiver from Section 3.09.S of the Roadway Design Standards to allow a pavement radius larger than 36' at the intersection of Route 102. Staff **supports** this waiver as it is the intersection of a private drive with a State road and will need to meet NHDOT design requirements.
10. The Applicant has requested a waiver from Section 3.5.4.g.1 of the Zoning Ordinance to not provide paved sidewalks within the development. Staff **supports** granting this waiver as the Applicant has indicated that sidewalks are not used in similar developments and because the reduced speeds throughout the development are conducive to pedestrian access without dedicated sidewalks. The Planning Board previously approved a similar waiver for Phase 1.
11. The Applicant has requested a waiver from Section 4.01c to allow a plan scale greater than 1"=40' for the Existing Conditions Plan. Staff **supports** granting this waiver as the plans are legible at the scale presented and the scale at which the plans are provided allow for the entire existing conditions to be shown on one sheet.

12. The Applicant has requested a waiver from Section 4.01c to allow a plan scale greater than 1"=40' for the Overall Boundary Plan. Staff **supports** granting this waiver as the plans are legible at the scale presented and the scale at which the plans are provided allow for the entire boundary to be shown on one sheet.
13. The Applicant has requested a waiver from Section 4.01c to allow a plan scale greater than 1"=40' for the future development phasing plan. Staff **supports** granting this waiver as the plans are legible at the scale presented and the scale at which the plans are provided allow for the entire overall phasing plan to be shown on one sheet.
14. The Applicant has requested a waiver from Section 4.03 of the regulations for placement of the Planning Board signature Block. Staff **supports** granting the waiver for the limited sheets for which it is requested.
15. The Applicant has requested a waiver from Section 6.01C of the Site Plan Regulations to allow issuance of a certificate of occupancy prior to completion of the wearing course of pavement. Staff **supports** this waiver for the wearing course only, and has included a recommended condition of approval that the wearing course be complete prior to commencing future Phases of this project and appropriate financial guarantee is provided to meet the approval of the Department of Public Works to ensure the installation of the wearing course of pavement.

Board Action Required: Motion to approve the Applicant's request for the above waivers as outlined in the Staff recommendation memorandum dated January 9, 2019.

- **Zoning Exemption Request:** The Applicant has requested an exemption from Residential Phasing requirements to allow 40 building permits to be issued per year where 15 are allowed. Under Section 1.3.4, the Planning Board shall grant exemption to the phasing requirements of Section 1.3.3 where the proposed project is for Elderly Housing and the owner of record shall enter an agreement, to be recorded in the RCRD, certifying that the project will be utilized and restricted to 100% elderly occupants (age 55 and older).

Staff **supports** granting the exemption requested as it is consistent with the conditions of Section 1.3.4 of the Zoning Ordinance.

Board Action Required: Motion to grant the exemption from the Phasing Requirements of Section 1.3.3 as permitted under Section 1.3.4 of the Zoning Ordinance as outlined in the Staff Recommendation memorandum dated January 9, 2019.

- Zoning Waiver Request: The Applicant has requested a waiver from Section 2.6.1.7.D.4.d of the Performance Overlay Zoning District to provide a 75' buffer from the abutting AR-1 zoned property.

Staff **supports** granting the exemption requested as the project complies with the buffer and setback requirements of the Elderly Housing Ordinance, and because the spirit and intent of the Performance Overlay District was to apply to commercial properties adjacent to residential zoning districts.

Board Action Required: Motion to grant the waiver from Section 2.6.1.7.D.4.d of the Zoning Ordinance as outlined in the Staff Recommendation memorandum dated January 9, 2019.

- Conditional Use Permit: The Applicant has requested one (1) Conditional Use Permit:
 1. The Applicant has requested a Conditional Use Permit to allow work within the Conservation Overlay District. A total buffer impact of 26,630 square feet is proposed, along with a wetland impact of 4,050 square feet for which the Applicant must obtain a Standard Dredge and Fill Permit from NHDES. The Conservation Commission reviewed this Application on several occasions and at its meeting made a motion stating that:
 - best efforts have been made to minimize encroachment into the buffer, but that the site is ill-suited for the intensive use that is proposed and reducing the amount of roof area would reduce the size of detention ponds required, which could in turn likely reduce the impact to the buffer.

Subsequently, the Conservation Commission has continued to work with the Applicant as it relates to the Dredge and Fill Permit and proposed mitigation and conservation restrictions on the property.

The criteria for a Conditional Use Permit are outlined in Section 2.6.3.4 of the Zoning Ordinance:

- a. The proposed construction is essential to the productive use of land not within the CO District.
- b. Design and construction methods will be such as to minimize impact upon the wetlands and will include restoration of the site consistent with the permitted use.
- c. There is no feasible alternative route on land controlled by the applicant that does not cross the CO District nor has less detrimental impact on the wetlands. Nothing in this Section shall limit the applicant from exploring alternatives with abutting property owners.

d. Economic advantage is not the sole reason for the proposed location of the construction.

As the Applicant has demonstrated compliance with the criteria of Section 2.6.3.4 of the Zoning Ordinance, Staff recommends the Board approve the request for a CUP.

Board Action Required: Motion to approve the Applicant's request for a Conditional Use Permit as outlined in the Staff Recommendation Memorandum dated January 9, 2019.

- **Recommendation:** Based on the information available to date, Staff recommends that the Planning Board **CONDITIONALLY APPROVE** this application with the Notice of Decision to read substantially as follows:

Board Action Required: Motion to grant conditional approval of the Cross Farm Phase 2 and 3 Site Plan, Map 6 Lots 84 & 59-1, Cross Farm Development, LLC (Owner & Applicant) in accordance with plans prepared by Benchmark Engineering, Inc., dated January 23, 2018, last revised November 30, 2018 with the precedent conditions to be fulfilled within 120 days of the approval and prior to plan signature and general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memorandum, dated January 9, 2019.

“Applicant”, herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated January 9, 2019.
2. The septic system design for the clubhouse, for which a waiver was granted for acceptance purposes only, be provided.
3. If the waiver is granted, allowing COs to be issued prior to completion of the wearing course of pavement, the wearing course be complete prior to commencing future Phases of this project and appropriate financial guarantee be provided to meet the

approval of the Department of Public Works to ensure the installation of the wearing course of pavement.

4. All condominium documents associated with the project shall be approved prior to signature of the plan.
5. The overall condominium site plan, showing the common area, limited common area and units, as described in the condominium documents be submitted to the Town for review and included in the final plan set for signature.
6. All required permits and approvals shall be obtained and noted on the plan, including NHDES Wetland Permits, NHDES Alteration of Terrain Permit, NHDES Subdivision Approval, NHDOT Driveway Permit and any others that may be required.
7. The Applicant shall note all waivers and exemptions granted on the plan.
8. The Applicant shall note approved Conditional Use Permit on the plan.
9. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
10. The Applicant shall note all general and subsequent conditions on the plans.
11. Third-party review fees shall be paid within 30 days of conditional site plan approval.
12. Financial guarantees be provided to the satisfaction of the Department of Public Works and Engineering.
13. Final engineering review.

PLEASE NOTE - Once these precedent conditions are met and the plans are certified, the approval is considered final. If these conditions are not met within **120 days** to the day of the meeting at which the Planning Board grants conditional approval the board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work for the subdivision may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit**

(if required), and posting of the site-restoration financial guaranty with the Town.
Contact the Department of Public Works to arrange the pre-construction meeting.

2. All condominium documents and plans associated with the project shall be recorded prior to requesting a pre-construction meeting with the Town.
3. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
4. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
5. Fire department access roads shall be provided at the start of the project and maintained throughout construction. Fire department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with an all-weather driving surface.
6. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.
7. All site improvements and off-site improvements must be completed in accordance with the approved plan prior to the issuance of a certificate of occupancy. In accordance with Section 6.01.d of the Site Plan Regulations, in circumstances that prevent landscaping to be completed (due to weather conditions or other unique circumstance), the Building Division may issue a certificate of occupancy prior to the completion of landscaping improvements, if agreed upon by the Planning Division & Public Works Department, when a financial guaranty (see forms available from the Public Works Department) and agreement to complete improvements are placed with the Town. The landscaping shall be completed within 6 months from the issuance of the certificate of occupancy, or the Town shall utilize the financial guaranty to contract out the work to complete the improvements as stipulated in the agreement to complete landscaping improvements. **No other improvements shall be permitted to use a financial guaranty for their completion for purposes of receiving a certificate of occupancy.**
8. As built site plans must to be submitted to the Public Works Department prior to the release of the applicant's financial guaranty.