

LONDONDERRY, NH PLANNING BOARD

MINUTES OF THE MEETING OF MAY 8, 2019 AT THE MOOSE HILL COUNCIL CHAMBERS

I. CALL TO ORDER

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

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES:

Member M. Soares made a motion to approve the minutes of April 3, 2019, as presented.

R. Brideau seconded the motion.

The motion was granted 8-0-1, with C. Davies abstaining. The Chair voted in the affirmative.

Member M. Soares made a motion to approve the minutes of April 10, 2019, as presented.

R. Brideau seconded the motion.

The motion was granted 7-0-2, with A. Sypek and G. Verani 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 site plan for a 5,000 square foot warehouse building, 600 square foot office, outdoor storage area and

associated parking and site improvements, 47 Rockingham Road, Map 13 Lot 64, Zoned C-II, Fred & Kathy Larson (Owners & Applicants).

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:

1. Capital Improvement Plan (CIP) Committee Representatives

Chairman Rugg informed the Board that they need to appoint two members for the CIP, as well as the liaison to the Heritage Commission. He said that members M. Soares and R. Brideau have been on the CIP and he has been the liaison to the Heritage Commission.

A. Sypek made a motion to approve R. Brideau and M. Soares as the CIP representatives and A. Rugg as the liaison to the Heritage Commission.

R. Brideau seconded the motion.

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

2. Request for extension of Conditional Approval, Cross Farm Phases 2-3

Town Planner Mailloux informed the Board that the conditional approval would have to be satisfied by tomorrow, May 9, 2019 and the applicant is requesting an additional 120 days to finalize the conditions of approval. She said that the applicant is working out the final permits with New Hampshire Department of Transportation (NHDOT) and addressing engineering review comments. She said that Staff recommends the Board grant an extension until September 8, 2019.

M. Soares made a motion to approve the applicant's request for an extension of the conditional approval of Cross Farm Phases 2-3, to September 9, 2019.

T. Combes seconded the motion.

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

3. Two Orchard View Drive, Map 7 Lot 40-13 – deed transfer

Michael Malaguti, Assistant Town Solicitor, addressed the Board. M. Malaguti said that this parcel was originally intended to be used as an extension of Orchard View Drive. He informed the Board that one problem with this is that no extension appears to be forthcoming and there is a house built there now between the parcel in question and Devonshire Lane. He said that this parcel has been owned by the Town since 1981 and was explicitly acquired to extend Orchard View Drive to connect with Devonshire Lane. He stated that the parcel was acquired from Shaw's Realty Company, when it owned the plaza and now it has no ownership interest in the parcel. He told the Board that when the Town acquired the parcel there was an easement permitting Shaw's to continue to use that parcel for any purpose as long as it was not being used as a public road. He said that the parcel was also subject to covenant to re deed the parcel to Shaw's Realty or its successors in the event that "the town of Londonderry at any time in the future determines that those premises are not to be used as a public roadway or that if they are improved as a public roadway and shall cease being used as such then the Londonderry covenants agrees to immediately re deed to Shaw's Realty Company or its successors." He informed the Board that in 1984 Shaw's conveyed the larger tract to Apple Tree Mall Associates where the easement was conveyed but did not make specific reference to the Town's covenant to re deed the property back to Shaw's. He said that late last year discussions ensued about the 1981 covenants. He said that Shaw's agreed to cure the title problem of the unreleased covenants. He said this is being proposed with a two part transaction noting the first step Shaw's will release to the Town any unreleased interest in the covenant that they might continue to hold. He said that the second step would be for the Town is proposing to quitclaim this tract to Vernco Apple, LLC, which is the current owner of the plaza. He said this will accomplish the curing of the title and will also discharge the Town's engagement under the original 1981 deed. He said this will also assist in the revitalization of the plaza and return the parcel to the tax base. He told the Board that he was here before them tonight pursuant to RSA 41:14-A stating "the selectman have the authority to acquire or sell land, buildings or both provided, however, that they shall first submit any set proposed acquisition or sale to the Planning Board and to the Conservation Commission for review and recommendation by those bodies where a Board or Commission or both exist." He said that the Planning Department has requested that if this transaction does get approved that the owner agree to merge it voluntarily with the larger parent tract, to which he stated the owner has agreed.

Chairman Rugg opened it up to questions from the Board. M. Soares asked if the owner has any plans to develop the land. M. Malaguti said he could not speak to that specifically, but did think the parcel could be used for additional parking.

R. Brideau made a motion to recommend to the Town Council that the Planning Board is in agreement that the parcel in question serves no planning purpose.

T. Combes seconded the motion.

The motion was granted, 8-1-0. The Chair voted in the affirmative.

III. Old Business/Continued Plans -

A. Application for formal review a lot line adjustment between 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner) and 55 Wilson Road, Map 18 Lot 24-5, Zoned AR-1, Douglas B. & Maria F. Jones (Owners) AND subdivision to create 9 residential lots, 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner and Applicant) **Continued from April 3, 2019**

Chairman Rugg read the case into the record noting it was continued from April 3, 2019. He informed the Board that the applicant has requested a continuance to June 12, 2019 meeting. J. Trottier told the Board that the applicant and engineer have met with Staff regarding the improvements required to improve the roadway to town standards. He said that the applicant's engineer met with Staff in the field on April 11, 2019 and he believes plans are currently being prepared for improvements to Wilson Road. M. Soares asked if Staff felt this would be ready in time for the June 12, 2019, meeting. Town Planner Mailloux said that Staff has had correspondence with the Town Attorney to discuss procedure and believes the applicant will come to the June 12, 2019, meeting with the additional information required. She said that she could also have the Town Attorney meet with the Board before the June 12, 2019, meeting to advise them.

A. Sypek made a motion to continue the application for formal review a lot line adjustment between 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner) and 55 Wilson Road, Map 18 Lot 24-5, Zoned AR-1, Douglas B. & Maria F. Jones (Owners) AND subdivision to create 9 residential lots, 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner and Applicant) to June 12, 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 June 12, 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 subdivision plan of one lot into 10 residential lots, 162 High Range Road, Map 9, Lot 5, Zoned AR-1, Belize Real Estate Holdings, LLC (Owner & Applicant) **Continued from April 3, 2019**

Chairman Rugg read the case into the record noting is was continued from April 3, 2019. G. Verani recused himself from this case. C. Mailloux informed the Board that

Staff has confirmed with the Town Attorney that this parcel is not located within the town's Airport Noise Overlay District and as the zoning ordinances and subdivision regulations have no provisions to existing noise, the Planning Board may not impose conditions of approval on a subdivision relating to noise.

Chairman Rugg opened it to questions from the Board. T. Combes said that some residents have expressed their concern to him about water issues. Eric Mitchell addressed the Board. E. Mitchell asked if T. Combes had a specific property of concern. T. Combes said the residents live on Sherwood Road. J. Trottier asked if it was water supply or storm water. T. Combes said he believes it is regarding storm water. E. Mitchell explained that they are required to take the storm water coming off the site, treat it and not have any increase in storm water run-off from pre-development to post-development.

Chairman Rugg opened it up to questions from the public.

Deborah Dunn, 21 Sherwood Road, addressed the Board. D. Dunn read a letter (Exhibit 1) that her husband Neil Dunn wrote as he could not be at the meeting tonight.

Martin Srugis, 17 Wimbledon Drive, addressed the Board. M. Srugis asked if the Town looked at well water and supplies for aquifer in this area. Town Planner Mailloux said that wells are regulated by New Hampshire Department of Environmental Services (NHDES) for approval. She said that the Conservation Commission is currently working on a Water Resources Management Plan looking at water quantity and water quality and there may be some new information on this coming to the Board in the near future.

Chairman Rugg brought the discussion back to the Board as there was no further public input. M. Soares asked Town Planner Mailloux for clarification on the authority of the Board to impose any noise restriction on this case. Town Planner Mailloux stated that under current regulations there is no authority for the Planning Board to deny this application that would be legally defensible per discussions with the Town Attorney.

M. Soares made a motion to grant conditional approval of the subdivision plan of one lot into 10 residential lots, 162 High Range Road, Map 9, Lot 5, Zoned AR-1, Belize Real Estate Holdings, LLC (Owner & Applicant) in accordance with plans prepared by Eric Mitchell & Associates, LLC dated September 14, 2018, last revised March 13, 2019 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated May 8, 2019.

R. Brideau seconded the motion.

The motion was granted, 8-0-0. 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 April 3, 2019.
2. The Applicant shall provide the Owner's signature(s) on the plans.
3. Required permits and permit approval numbers shall be noted on the plan.
4. The proposed road deed and easements shall be provided for review and approval by the Town and shall be recorded concurrently with the final plan.
5. 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.
6. The Applicant shall provide a check for \$25 (made payable to the Rockingham County Registry of Deeds) for LCHIP.
7. The Applicant shall note all general and subsequent conditions on the plans.
8. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
9. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
10. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants 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 appropriate financial guaranty with the Town. Contact the Department of Public Works to arrange the pre-construction meeting.

2. 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.

3. 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.

4. Prior to issuance of a certificate of occupancy, all site improvements and off-site improvements, if any, shall be completed.

5. 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.

IV. New Plans -

A. Application for formal review of a site plan amendment for modifications to Block 9 and extension of First Avenue to Pillsbury Road, Woodmont Commons Planned Unit Development, Garden Lane, Pillsbury Road & Michels Way, Map 10 Lots 41, 52, 54-1, Zoned C-I & PUD, Pillsbury Realty Development, LLC, Demoulas Super Markets, Inc., and Robert D. & Stephen R. Lievens (Owners) and Pillsbury Realty Development, LLC (Applicant).

G. Verani came back to the Board for this case. Chairman Rugg read the case into the record. J. Trottier stated there are no outstanding checklist items and Staff recommends the application be accepted as complete.

M. Soares made a motion to accept the application as complete per Staff's recommendation memorandum dated May 8, 2019.

R. Brideau seconded the motion.

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

Chairman Rugg noted that the 65-day time clock had started.

Jeff Kevan, Project Manager at TFMoran Inc., addressed the Board. J. Kevan stated

that the site plan amendment is regarding blocks 6 and 9 to reconfigure First Avenue from Main Street down to Pillsbury Road. He said they took some building out of block 6 to come around the existing pond and changed the building style for the residential component in block 9 to a duplex style. He told the Board there is no real significant change in the uses, rather just realignment for First Avenue.

Chairman Rugg opened it up to questions from the Board. P. Commerford asked for clarification as he was not on the Board when the site plan was approved. J. Kevan explained that First Ave was tighter to the street channel before this reconfiguration and now they are pulling away from the street channel. J. Trottier noted that First Ave did not originally connect all the way to Pillsbury Road in the previous site plan. P. Commerford asked if they were going to connect to the bus terminal. J. Kevan said that they are in negotiation with New Hampshire Department of Transportation (NHDOT) to do just that. P. Commerford said that he is worried this new change in traffic will change the dynamics of the traffic study that was originally done. J. Trottier noted that Staff is also concerned about this as they are now connecting to Pillsbury and will work with the applicant on this. J. Kevan explained that they were required to a traffic count update now that the brewery is going to open and will be required to do more as the project continues. He said that the connection to the bus terminal will hopefully make the traffic pattern easier. P. Commerford asked for clarification on specifically what the Board is acting on tonight. Town Planner Mailloux told the Board that there are several waivers that are being requested, a modification request to the Planned Unit Development (PUD), as well as outstanding engineering review items that Staff recommends ultimately to continue this application as some of these items have yet to be addressed. She said that the Conservation Commission reviewed the Dredge and Fill application and found there is not a Conditional Use Permit (CUP) required for this, as there is no buffer that applies to this wetland. M. Soares asked if there would be the same kind of roundabouts on this road. J. Kevan said they were not going to do the roundabouts. M. Soares said that this street in her opinion would be a speedway or cut through without the roundabouts. C. Davies agreed with M. Soares and said that roundabouts should be used here to cut down on speeding. J. Kevan told the Board that there is one modification to the PUD regarding a street type called a private commercial street. He said that with the ponds pressed up on two sides of the street they are asking not to put parallel parking on those sides. He then reviewed the seven waiver requests with the Board.

J. Trottier reviewed the seven waiver requests with the Board starting with the first waiver from Section 4.01.C to allow a plan scale greater than 1"=40' for the Existing Conditions plan and Stormwater Management plan. He said that Staff supports this request as the plans are legible at the scales shown and a similar waiver was previously granted for the Phase 1 Site Plan. He stated the second waiver request is from Section 4.12.C.13 to not provide SCS soils (shown or noted on the plan) on the existing conditions plan, which Staff supports this request as site specific soils have been provided and a similar waiver was previously granted for the Phase 1 site plan. He noted the third waiver request from Section 2.04.b. to

provide an Application Fee based on the Phase 1 development area rather than the total site area, which Staff supports because the applicant submitted a fee based on the current development area and it is consistent with past Board practice of allowing a reduced fee based on the area of disturbance for projects located on large parcels and a similar waiver was previously granted for the Phase 1 site plan. He stated the fourth waiver request is from Section 3.07.g.3 of the Site plan regulations to allow storm drain lines with less than the required minimum depth cover of 36 inches from the top of the pipe to the finished grade and Staff recommends that the Planning Board defer action on this waiver until additional documentation is provided. He said the fifth waiver request is from Section 3.07 to allow for a pipe slope of 0.5% and Staff recommends that the Planning Board defer action on this waiver until additional documentation is provided. He noted the sixth waiver request to be from Section 3.07.C.1 to permit four drainage pipes to be surcharged during the 25 year design storm, which Staff recommends that the Planning Board defer action on this waiver until additional documentation is provided. He said the seventh waiver request is from Section 3.07.G.2 to permit several pipes to provide pipe velocities less than 2 feet per second, which Staff recommends that the Planning Board defer action on this waiver until additional documentation is provided. Town Planner Mailloux reviewed the PUD modification request with the Board noting they are seeking to modify Section 2.3.3. Transportation Network – Street Type to allow parallel parking on only one side (west) of First Avenue from Main Street to Placeholder Avenue. She said that Staff supports this request along the section of First Avenue between Main Street and Placeholder Avenue as it is immediately adjacent to the drainage swale and pond, and the proposed Senior Living development parcel which is subject to separate review and approval. J. Trottier pointed out that Staff recommends the application be continued as there are some outstanding design review items that need to be worked out.

Chairman Rugg opened it up to the public.

Ray Breslin, Three Gary Drive, addressed the Board. R. Breslin asked about the roadway changes. J. Kevan noted that they are extending First Ave from Eighth Ave to Pillsbury Road. R. Breslin asked where the sewer would run for this. J. Kevan said the sewer is going to Derry.

Chairman Rugg brought the discussion back to the Board as there was no further public input.

M. Soares made a motion to approve the applicant's request for waivers 1-3 as noted in the Staff recommendation memorandum dated May 8, 2019.

R. Brideau seconded the motion.

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

M. Soares made a motion to approve the applicant's request for a modification to the PUD Master Plan as outlined in Staff's recommendation memorandum dated May 8, 2019.

T. Combes seconded the motion.

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

M. Soares made a motion to continue this application to the June 12, 2019 Planning Board meeting in order to allow the Applicant to address outstanding engineering review items.

R. Brideau seconded the motion.

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

The Chair announced that this plan is continued to June 12, 2019 at 7 PM in Town Hall, and that this is your only public notice.

B. Application for formal review of a lot line adjustment & consolidation plan, Woodmont Commons Planned Unit Development, Garden Lane, Pillsbury Road & Michels Way, Map 10 Lots 41, 41-1, 41-2, Zoned C-I & PUD, Pillsbury Realty Development, LLC (Owner & Applicant).

Chairman Rugg read the case into record. J. Trottier stated that there are no outstanding checklist items and Staff recommends the Board accept the application as complete.

M. Soares made a motion to accept the application as complete per Staff's recommendation memorandum dated May 8, 2019.

R. Brideau seconded the motion.

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

Chairman Rugg noted that the 65-day time clock had started.

Jeff Kevan, TFMoran Inc., addressed the Board. J. Kevan said the purpose of this application is to create a lot for the senior housing development. He explained that currently there are two lots, 41-1 and 41-2, and they are consolidating land from Lot 41-2 with Lot 41-1 to create a 15.4 acre lot for the senior housing development. He said there is a PUD modification with this regarding lot type and with working with Staff they feel the best fit is an Institutional Building Lot. He noted that the PUD limits the amount of frontage and depth of this type of lot, and they are larger than the minimum frontage and depth. He reviewed the two waivers for this

application with the Board.

Chairman Rugg opened it up to the Board for questions. J. Trottier reviewed the waiver requests with the Board. He said the first waiver request is from Section 4.01c to allow a plan scale greater than 1" = 40', and Staff supports granting this waiver as the plans are legible at the scale presented. He noted the second waiver request is from Section 4.17.A.23 and Checklist Item VI.24 to not show two-foot contours over the entirety of the subject parcel, which Staff supports granting this waiver as it is being requested only for the portions of the site which are currently under construction and grades are not final. Town Planner Mailloux reviewed the PUD modification with the Board stating that Staff does support granting the modification requested. G. Verani asked why there is a curve on this lot line adjustment as he thought the Planning Department only wanted straight lines. Town Planner Mailloux said that there is a curve there because it is a PUD, which is regulated by the PUD master plan where the perpendicular lot lines are not a requirement.

Chairman Rugg opened it up to the public and there was none.

M. Soares made a motion to approve the applicant's request for the above waivers 1 and 2 as outlined in Staff's recommendation memorandum dated May 8, 2019.

R. Brideau seconded the motion.

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

M. Soares made a motion to approve the applicant's request for modification to the PUD Master Plan as outlined in Staff's recommendation memorandum dated May 8, 2019.

R. Brideau seconded the motion.

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

M. Soares made a motion to grant conditional approval of the site plan for a lot line adjustment & consolidation plan, Woodmont Commons Planned Unit Development, Garden Lane, Pillsbury Road & Michels Way, Map 10 Lots 41, 41-1, 41-2, Zoned C-I & PUD, Pillsbury Realty Development, LLC (Owner & Applicant) in accordance with plans prepared by Hayner/Swanson, Inc., dated September 19, 2018, last revised April 11, 2019, with the precedent conditions to be fulfilled within two years 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 May 8, 2019.

R. Brideau seconded the motion.

The motion was granted, 9-0-0. 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 Phase 1 Amended Site Plan (extending First Avenue to Pillsbury Road and giving frontage to this parcel) shall be approved by the Planning Board.
2. The Applicant shall address all outstanding DRC comments.
3. Draft easements shall be provided to the Town for review and final executed easements be provided for recording concurrent with the plan.
4. If approved, the waivers and modification requested shall be noted as such on the plan.
5. The Applicant shall provide the Owner's signature(s) on the plans.
6. The discontinuance of Holmes Road with the appropriate Town Council reference Resolution #2019-04, A Resolution Relative to the Discontinuance of Highway (Holmes Road) reference shall be noted on the plan.
7. The typographical error in the spelling of Catesby Lane be corrected.
8. A note shall be added to Sheet 1 indicating that the required Open Space and Green space per Section 2.2.3 of the PUD Master Plan is shown on the reference plans.
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 provide a check for \$25 (made payable to the Rockingham County Registry of Deeds) for LCHIP.
11. The Applicant shall note all general and subsequent conditions on the plans.
12. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.

13. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.

14. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants 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. 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.

2. 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.

V. Other - N/A

VI. Adjournment

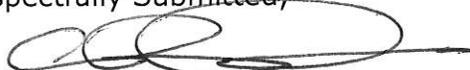
Member M. Soares made a motion to adjourn the meeting at approximately 8:25 p.m. Seconded by R. Brideau

The motion was granted, 9-0-0.

The meeting adjourned at approximately 8:25 PM.

These minutes were prepared by Beth Morrison.

Respectfully Submitted,



Name: C. P. DUMAS

Title: SECRETARY

These minutes were accepted and approved on June 5, 2019, by a motion made by M. Soares and seconded by A. Syrek.

May 4, 2019

Town of Londonderry

268B Mammoth Road, Londonderry, NH 03053

Attention: Town of Londonderry Planning Board

Re: May 8, 2019 Continuation of Belize Real Estate Holdings Case, Map 9, Lot 5.

Dear Chairman Rugg and Planning Board Members,

Thank you all for volunteering your time, knowledge and concern for the Town of Londonderry! I know what it takes in time, commitment and what a tough "job" volunteering can be on the resident's behalf.

Unfortunately I am unable to make the May 8, 2019 meeting due to conflicts with my work schedule and have asked my wife Debra Dunn to read this into the public record on my behalf.

Thank you for continuing this case from the April 3, 2019 meeting and your consideration and review of our concerns at that meeting. I am hoping your review of the information provided has raised enough questions about the suitability of this project, its impact on the current and future residents, **to deny this application.**

The Manchester Airport Authorities' (MAA) own projections estimates the airport passenger count is expected to grow by 27% from 3,336,000 in 2015 to 4,556,000 in 2030. The MAA proposes to add 6 commercial gates and double the capacity for freight staging and presumably capacity. This increase in arrivals and departures of aircraft and the elimination of the buffering capabilities of the applicant's lot will have the impact of raising the ambient and airport operational noise levels. Recent clearing of land on Harvey Road by MAA and others has also altered noise buffering and increased ambient levels in the neighborhood. The restrictions in the deed to Belize Real Estate Holdings is an admission by the MAA that these levels may or could be of concern.

At the October 3, 2018 Planning Board meeting, Application A, was approved for a subdivision into 3 lots. Lots at 313 High Range Road and 4 Harvey Road are currently being constructed without any record I could find of soundproofing and proper notice to future owners of possible "Noise" notification. The property at 303, south on High Range Road was soundproofed by the MAA back in the early 90's. It would seem that the 313 High Range and 4 Harvey would also be of concern. I bring this up because the MAA is required to keep records for the FAA on properties that were sound proofed as part of MAA noise abatement programs. The Town of Londonderry should request this list and use it as a guide to other properties that may be impacted by noise not specifically called out in the existing Londonderry Noise Overlay.

The Planning Board Purpose as stated in **NH RSA Chapter 672:1.III**. *Proper regulations enhance the public health, safety and general welfare and encourage the appropriate and wise use of land:*

Per the **NEW HAMPSHIRE PLANNING AND LAND USE REGULATION, 2018-2019**: Page 479, Note: 12. In the case of *Limited Editions Properties, Inc. vs Town of Hebron, NH*. “the trial court properly found that the board denied the application based on aesthetics, safety concerns, and environmental concerns”. (162 N.H. 488, 34 A.3d 688, 2011 N.H. Lexus 131 (N.H. 2011)).

The 2017, **115th U.S. Congress introduced Bill H.R. 2539** to reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency. This Act is also known as the “Quiet Communities Act of 2017”. This document speaks to the number of Americans exposed to noise from aircraft operations and other noise sources. The Act talks to health issues and states that the EPA remains legally responsible for enforcing regulations under the Noise Control Act of 1972. The legislation states that due to population growth and increased air and vehicle traffic the noise pollution is likely to become an even greater problem in the future, thus the EPA assumes the lead role in combating noise pollution. On **Page 6, line 3** “The study shall examine the selection of noise measurement methodologies by the FAA, the threshold of noise at which health impacts are felt and the effectiveness of noise abatement programs at airports around the nation.” This speaks to the increased concern and need for “Quiet Communities” for lots like 9-5.

The applicant, Belize Real Estate Holdings, LLC does have recourse to be made whole by the MAA. Per attachment E in our original submittal, page 3, **Legal Responsibilities of Airport Proprietors**, the U.S. Supreme Court’s decision in *Griggs v. Allegheny County* [369 U.S. 84 (1962)] proprietors are liable for aircraft noise damages. The case references the Airport did not acquire enough land for buffers etc.

The Londonderry Planning Board is the Authority Having Jurisdiction (AHJ) and like all AHJ’s are given authority to determine if something unique about a property or an application of the code needs more or additional enforcement or protection. I ask the Planning Board to exercise this authority, **deny this application**. Place the burden of proof and “buyer beware” restrictions on the applicant.

Thank you all again for your time and service on behalf of Deb and myself , residents of 38 years and all the residents of the Town of Londonderry.

Neil and Debra Dunn
21 Sherwood Rd, Londonderry, NH 03053

STAFF RECOMMENDATION

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

Date: May 8, 2019

Application: Application for formal review a lot line adjustment between 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner) and 55 Wilson Road, Map 18 Lot 24-5, Zoned AR-1, Douglas B. & Maria F. Jones (Owners) AND subdivision to create 9 residential lots, 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner and Applicant)

At its meeting of April 3, 2019, the Planning Board advised the Applicant to work with Staff regarding the improvements required to improve the roadway to town standard. Subsequently, the Applicant's engineer met with Staff in the field on April 11 and it is Staff's understanding that plans are currently being prepared for improvements to Wilson Road.

The Applicant has requested that this application be continued to the June 12, 2019 Planning Board meeting.

Board Action Required: Motion to continue the Application to June 12, 2019.

Colleen Mailloux

From: Giovanni Verani
Sent: Friday, April 05, 2019 4:38 PM
To: Arthur Rugg; PlanningBoard; Tony DeFrancesco
Cc: Kevin Smith
Subject: RE: Planning Board Meeting Wednesday, April 10, 2019
Attachments: VR - Important Consumer Disclosures (version 1).pdf

Greeting board members,

On April 3rd we discussed the Brayburn Road subdivision. I recused myself due a potential conflict of interst. It is possible that someone in my firm may market this property in the future. I have no other financial interest in this subdivision.

There was a lot of concern that night about "Buyer Beware", and disclosures made to future buyers of a home. I wanted to attach a copy of our "Important Disclosure to Real Estate Consumers". We use this form as a matter of practice with all of our buyers; regardless of city, town or state. It is not a State or Federal requirement, but we feel it is just good practice. The intent of the form is to make a buyer aware of what they should be concerned with about any property. You will notice on the form that we notify the buyer of Airports, Flood Zones, Asbestos, sex offenders, highway noise and construction, PFOA's, pipelines, brownfields, etc. We feel this adequately puts a buyer on notice that these items may exist and directs them where to go to find information before investing in that home.

There also concerns about construction to prevent the noise concerns Mr. Dunn is experiencing at his house. I think it's very important to note that Mr. Dunn's house was built in the 1980s, almost 40 years ago. I can assure you that construction standards and quality have come along way since then. Ultimately, I feel a lot of the concerns regarding construction are already being addressed.

Additionally, there was discussion pertaining to what's in a deed and a comment "that no one reads their deed". I understand this was probably said in jest, however, every closing has a title search which involves deed research. Maybe the problem is that people don't read in general; but at that point, why is it anyone's problem other than their own?

Attached, please find the disclosure.

Thanks,

Gianni Verani

From: Arthur Rugg
Sent: Thursday, April 4, 2019 7:09 PM
To: PlanningBoard; Tony DeFrancesco
Subject: Planning Board Meeting Wednesday, April 10, 2019

Hi All,

Our next Planning Board meeting is this coming Wednesday, April 10, 2019 at 7 PM. The agenda can be found here:

http://www.londonderrynh.org/pages/LondonderryNH_PlanningAgenda/r2019/8.%20%204.10.19%20PB%20agenda.pdf

We have a continued site plan (Londonderry Ford), a new site plan (Uni-Cast addition at 11 Industrial Drive), a public hearing on Adams Road (a Scenic Road) for Eversource's tree trimming and removal, a discussion on portable storage containers, a discussion on commercial zoning and a candidate interview for the vacant alternate position on the Southern New Hampshire Planning Commission.

Thanks,
Art

Important Disclosures to Real Estate Consumers

Notice of Airports in Vicinity -This property may be located in the vicinity of an airport. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, odors, construction and expansion). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

Flood Hazard Zones -Please note that flood zones may be reclassified from time to time, and may occur prior to or during ownership. It's always a good precaution to check the current status prior to purchasing. FEMA stores flood maps in local "Map Repositories" so that you can have easy access to them. Please call the FEMA Map Assistance Center toll free at 1-877-FEMA MAP (1-877-336-2627) or "Email a Map Specialist" for information on where the map repository for your community is located. Flood maps are also available through the Map Service Center found at <https://msc.fema.gov/> The lender may require Flood Hazard Insurance as a condition of the mortgage loan, if the lender determines that the premises is in a flood plain (flood hazard zone). In the event of such determinations, the buyer agrees to provide said insurance as required by the lender at the closing

Asbestos Disclosure Clause - The United States Consumer Product Safety Commission has maintained that asbestos materials are hazardous if they release separate fibers which can be inhaled. Asbestos is common insulation material on heating pipes, boilers and furnaces. It may also be present in certain types of floor and ceiling materials, shingles, plaster products, cements and other building material. The Buyer acknowledges that h/she may have the property professionally inspected for the presence of asbestos and that if repair or removal is desired, it should be accomplished in accordance with proper safety guidelines.

Megan's Law - Megan's Law was enacted to notify buyers and tenants about the proximity of registered sex offenders. Buyers and tenants may access a database containing information about registered sex offenders by contacting area police departments and/or the State along with the National Registry.

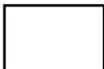
- **NH Registry:** www.egov.nh.gov/nsor/
- **ME Registry:** sor.informe.org/cgi-bin/sor/index.pl
- **National Registry:** www.nsopr.gov/
- **MA Registry:** www.mass.gov/eopss/agencies/sorb/
- **VT Registry:** vcic.vermont.gov/sor

Neighborhood Environmental Contamination - The potential for hazardous substance contaminated sites in the vicinity of residential property could be anything from a local gasoline station with a leaking underground fuel tank to an industrial site. These hazards may effect nearby as well as an entire surrounding area. Buyers with questions about environmental contamination issues are encouraged to contact the U.S Environmental Agency at Customer Call Center: New England States (888) 372-7341, Outside New England (617) 918-1111. US EPA, Region 1, 1 Congress St. Boston, MA 02114-2023 or their web site at <http://www.epa.gov/region1/>.

Highway or Road Construction and Expansion - Highway or road construction and expansion is an ongoing process throughout the State of NH. For information pertaining to a specific location, please contact the local town or city planning board or the State DOT.

- **NH DOT:** 603-271-3734, www.nh.gov/dot
- **ME DOT:** 207-624-3000 www.maine.gov/mdot
- **MA DOT:** 857-368-4636 , www.massdot.state.ma.us
- **VT AOT:** 802-477-2365, vtrans.vermont.gov

Lead Paint and Residences Built Prior to 1978 - Before 1978, paint containing lead may have been used in structures. The presence of flaking lead paint can present a serious health hazard, especially to young children and pregnant women. Tests are available to determine whether lead paint is present. If a structure was built before 1978, federal law requires contractors that disturb painted surfaces to be certified and to follow certain specific work practices to prevent lead contamination. The specific work practices are described in "The Lead Safe Certified Guide to Renovate Right" available from the United States Environmental Protection Agency at EPA's website, epa.gov/lead/pubs or by contacting the National Lead Information Center at 1-800-424-LEAD (5323). Those work practices may impact the costs of any renovation or the availability of contractors to complete the work in accordance with the law. You should review the available information before completing the purchase of a structure built before 1978.



Initials



Initials

Lead Paint Disclosure - Whenever a child under six years of age resides in any residential premises in which any paint, plaster or other accessible material contains dangerous levels of lead, the owner is required by law, to remove said paint, plaster or cover with appropriate materials so to make it inaccessible to a child under six years of age. Consumption of lead is poisonous and may cause serious personal injury. Whenever such residential premises containing dangerous levels of lead undergoes a change of ownership and a child under six year of age will be residing, the new owner is required by law to remove said paint, plaster or cover with appropriate materials so as to make it inaccessible to such child.

Hazardous Material Disclosure Clause - In certain circumstances Massachusetts law can hold an owner of real estate liable to pay for the cost of removing hazardous or toxic materials from real estate or damages resulting from the release of such materials, according to the Massachusetts Oil and Hazardous Material Release and Response Act, General Laws, Chapter 21E. The Buyer acknowledges that s/he may have the Property professionally inspected for the presence of, or the substantial likelihood of release of oil or hazardous material and such proof of inspection may be required as a prerequisite for financing the property.

Underground Oil Storage Tank (UST) - State regulations require that UST's which are not in use must be removed under the direction of the head of the local fire department. A permit is required, and the tank and its contents must be disposed of in accordance with regulations. For UST's in use, some towns issue permits at the time of installation and require renewal of permit every so many years, Buyer(s) and Seller (s) acknowledge they have been advised to check with appropriate state authorities and local town authorities on this matter.

Kinder Morgan Pipeline

Tennessee Gas Pipeline Company, L.L.C. (TGP), a subsidiary of Kinder Morgan, is developing the Northeast Energy Direct Project (NED) by upgrading infrastructure in Pennsylvania, New York, Massachusetts, New Hampshire and Connecticut to help meet increased demand for natural gas. For more information about where this pipeline is located and what impacts it may have visit:

http://www.kindermorgan.com/pages/business/gas_pipelines/east/neenergydirect/overview.aspx

PFOA - Recently, elevated levels of perfluorooctanoic acid, or PFOA, have been detected in certain drinking water monitoring wells in the vicinity of Saint Gobain Performance Plastics in Merrimack, New Hampshire. The State of New Hampshire Department of Environmental Services and the New Hampshire Department of Public Health are involved in the investigation which has received coverage in local media. You may contact the New Hampshire Department of Environmental Services, 29 Hazen Drive, P.O. Box 95, Concord, New Hampshire 03301, (603)271-3503 or the New Hampshire Department of Public Health, 129 Pleasant Street, Concord, New Hampshire 03301, (603)271-4427 for additional information as to the detection and presence of PFOA in drinking water in the state of New Hampshire.

Due Diligence - Even if an issue does not concern you today, you should have an understanding of future plans so that you can make an informed and intelligent choice before you decide to purchase real estate. Therefore, we urge you, as we do all parties interested in real estate, to research and investigate all matters related to the properties in which you are interested including but not limited to things like utility easements and expansion of electrical transmission lines.

- **NH PUC:** (603) 271-2431, www.puc.state.nh.us
- **MA DPU:** (617) 737-2836, www.mass.gov/eea
- **ME PUC:** (207) 287-3831, www.maine.gov/mpuc
- **VT DPS:** 802-828-2811, publicservice.vermont.gov

Vermont Act 250 - The law created nine District Environmental Commissions to review large-scale development projects using 10 criteria that are designed to safeguard the environment, community life, and aesthetic character of the state. They have the power to issue or deny a permit to real estate developers for any project that encompasses more than 10 acres (40,000 m²), or more than 1 acre (4,000 m²) for towns that do not have permanent zoning and subdivision bylaws. The law also applies to any development project with more than 10 housing units or housing lots; and may also apply for construction proposed above 2,500 feet (760 m) of elevation. Act 250 also created the Vermont Environmental Board to review appeals coming from District Commission rulings.

- **VT Natural Resource Board:** 802-828-3309, www.nrb.state.vt.us/lup

By signing below, we acknowledge that we have received a copy of this disclosure.

Signature _____ Date _____

Signature _____ Date _____

STAFF RECOMMENDATION

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

Date: May 8, 2019

Application: Application for formal review of a subdivision plan of one lot into 10 residential lots, 162 High Range Road, Map 9, Lot 5, Zoned AR-1, Belize Real Estate Holdings, LLC (Owner & Applicant)

- Completeness: The Board accepted this application as complete on April 3, 2019.
- Background: At the Public Hearing on April 3, 2019, several concerns were presented by an abutter to the project, relating to Airport noise concerns. Staff has confirmed with the Town Attorney that, as the subject parcel is not located within the Town's Airport Noise Overlay District, and as the Zoning Ordinance and Subdivision Regulations have no provisions relating to existing noise, the Planning Board may not impose conditions of approval on this subdivision relating to noise.
- 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 subdivision plan of one lot into 10 residential lots, 162 High Range Road, Map 9, Lot 5, Zoned AR-1, Belize Real Estate Holdings, LLC (Owner & Applicant) in accordance with plans prepared by Eric Mitchell & Associates, LLC dated September 14, 2018, last revised March 13, 2019 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated May 8, 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 April 3, 2019.
2. The Applicant shall provide the Owner's signature(s) on the plans.

3. Required permits and permit approval numbers shall be noted on the plan.
4. The proposed road deed and easements shall be provided for review and approval by the Town and shall be recorded concurrently with the final plan.
5. 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.
6. The Applicant shall provide a check for \$25 (made payable to the Rockingham County Registry of Deeds) for LCHIP.
7. The Applicant shall note all general and subsequent conditions on the plans.
8. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
9. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
10. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants 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 appropriate financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.
2. 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.
3. 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.

4. Prior to issuance of a certificate of occupancy, all site improvements and off-site improvements, if any, shall be completed.
5. 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.

MEMORANDUM

To: Planning Board

Date: April 3, 2019

From: Planning and Economic Development
Department of Public Works & Engineering
Stantec Consulting Services, Inc.

Re: Braeburn Drive Subdivision Plan
Map 9 Lot 5
High Range Road & Davis Drive
Londonderry, NH
Applicant: Belize Real Estate Holdings, LLC

Eric C. Mitchell & Associates, Inc. submitted plans and supporting information for the above-referenced project. DRC and the Town's engineering consultant, Stantec Consulting Services Inc. reviewed the submitted plans and information, and review comments were forwarded to the Applicant's engineer. The Applicant submitted revised plans and information and we offer the following comments:

Checklist Items:

1. There are no checklist items.

Design Review Items:

1. The Applicant proposes a roadway design that does not provide the minimum centerline radius for a 35 MPH roadway design for a crowned roadway (510 feet per table 3-13b of AASHTO) and in accordance with section 3.01.C.8 of the Subdivision Regulations. We recommend the roadway design be revised consistent with the AASHTO design standard noted in the regulations. The Applicant has submitted a written waiver request to this requirement for consideration by the Board.
2. The Applicant has indicated that the NHDES Subdivision Approval permit for the proposed project has been submitted on the application checklist. We recommend the Applicant obtain all project permits, update note 6 on sheet 1 to note the permit approval numbers and provide copies of the permit approvals for the Planning Department's files per sections 4.14 and 4.18 of the Subdivision Regulations.
3. We recommend the Applicant update the Topographical/Hiss Plan to provide the pipe invert out at the existing catch basin indicated along Davis Drive in accordance with the regulations. Please update all appropriate plans accordingly.
4. The revised project design proposes a detention basin upon lot 5-9 to achieve compliance with the Town's stormwater regulations, but the plans do not include notes or information relative to maintenance of the drainage system on the lot in perpetuity as typically requested by the Town. Please provide additional notes on the plans and copies of the proposed deed restrictions/covenants to be recorded acceptable to the Department of Public Works.
5. We recommend the Applicant review and update the roadway profile to provide the underdrain inverts at CB1 and CB3 consistently between the plan view and the profile.
6. We recommend the Applicant label the width of the indicated access drive the detention basins on the drainage plan and profiles.
7. The updated Sight Distance Plan and Profiles for lots 5, 5-2 and 5-9 do not properly indicate a low point 10 feet from the roadway pavement edge is provided. Please review and update acceptable to the Department of Public Works.

8. We recommend the Applicant address the following on the **Construction Details**:
 - A. The revised detention pond 2 outlet control detail on sheet 25 does not provide the proper elevation and dimension table consistent with exhibit D109 of the Town's standard detail. Please update the detail consistent with exhibit D109.
 - B. The revised detention pond 1 outlet control detail on sheet 25 does not provide all of the associated letter designations of elevation and dimension table to verify the proper elevations consistent with exhibit D108 of the Town's standard detail. Please update the detail consistent with exhibit D108.

9. We recommend that the Applicant address the following relative to the **Storm Water Drainage Analysis Report**:
 - A. Please update the swale summary table to include the proposed swales constructed adjacent to detention basin 1.
 - B. Please update the summary information in the report to list the abutting properties along High Range Road and Davis Lane as typically requested by the Town.
 - C. The updated summary table indicates two lots associated with subcatchment 5, but the plans indicates only one. Please update the table as necessary.

10. We recommend the Applicant verify the DRC comments for the project are adequately addressed as applicable:
 - A. Please verify the comments of the Planning Department have been adequately addressed with the Planning Department.
 - B. Please verify the comments of the Conservation Commission have been adequately addressed with the Conservation Commission.
 - C. Please verify the comments of the Fire Department have been adequately addressed with the Fire Department.

Board Action Items:

1. The Applicant is requesting one (1) waiver to the Subdivision Regulations as noted in his letter dated March 14, 2019. The Board will need to consider each waiver under this application.

Board Information Items:

1. The Applicant has provided draft easement deeds for review by the Town.

STAFF RECOMMENDATION

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

Date: May 8, 2019

Application: Application Acceptance and Public Hearing Application for formal review of a site plan amendment for modifications to Block 9 and extension of First Avenue to Pillsbury Road, Woodmont Commons Planned Unit Development, Garden Lane, Pillsbury Road & Michels Way, Map 10 Lots 41, 52, 54-1, Zoned C-I & PUD, Pillsbury Realty Development, LLC, Demoulas Super Markets, Inc., and Robert D. & Stephen R. Lievens (Owners) and Pillsbury Realty Development, LLC (Applicant)

- Completeness: There are no outstanding checklist items and Staff recommends the Application be accepted as complete.

Board Action Required: **Motion to Accept the Application as Complete.**

- Waivers: The applicant is requesting seven (7) waivers from the Site Plan Regulations as follows:
 1. The Applicant has requested a waiver from Section 4.01.C to allow a plan scale greater than 1"=40' for the Existing Conditions plan and Stormwater Management plan. This is requested to allow a plan sheet to be provided for the plans noted at a scale of 1"=50' and 100', which have sufficient detail at the scales provided. Staff **supports** this request as the plans are legible at the scales shown and a similar waiver was previously granted for the Phase 1 Site Plan.
 2. The Applicant has requested a waiver from Section 4.12.C.13 to not provide SCS soils (shown or noted on the plan) on the existing conditions plan. Staff **supports** this request as site specific soils have been provided and a similar waiver was previously granted for the Phase 1 site plan.
 3. The Applicant has requested a waiver from Section 2.04.b. to provide an Application Fee based on the Phase 1 development area rather than the total site area. Staff **supports** granting the waiver because the Applicant submitted a fee based on the current development area and it is consistent with past Board practice of allowing a reduced fee based on the area of disturbance for projects located on large parcels and a similar waiver was previously granted for the Phase 1 site plan.
 4. The Applicant has requested a waiver from Section 3.07.g.3 of the Site plan regulations to allow storm drain lines with less than the required minimum depth cover of 36 inches from the top of the pipe to he finished grade. Staff recommends that the Planning Board **defer action** on this waiver until additional documentation is provided.

5. The Applicant has requested a waiver from Section 3.07 to allow for a pipe slope of 0.5%. Staff recommends that the Planning Board **defer action** on this waiver until additional documentation is provided.
6. The Applicant has requested a waiver from Section 3.07.C.1 to permit four drainage pipes to be surcharged during the 25 year design storm. Staff recommends that the Planning Board **defer action** on this waiver until additional documentation is provided.
7. The Applicant has requested a waiver from Section 3.07.G.2 to permit several pipes to provide pipe velocities less than 2 feet per second. Staff recommends that the Planning Board **defer action** on this waiver until additional documentation is provided.

Board Action Required: Motion to approve the applicant's request for waivers 1-3 as noted in the Staff recommendation memorandum dated May 8, 2019.

- **PUD Modification Request:** Under Section 2.5.2 of the PUD Master Plan, the Planning Board may approve a minor modification and amendment to the PUD Master Plan for good cause shown and consistency with the spirit and intent of the PUD Master Plan and the Londonderry Zoning Ordinance. The Applicant has requested the following modification request:
 1. Modify Section 2.3.3. Transportation Network – Street Type to allow parallel parking on only on one side (west) of First Avenue from Main Street to Placeholder Avenue. The PUD requires that a Private Commercial Street type 2W-1 provide parallel parking on both sides of the street. Staff **supports** this request along the section of First Avenue between Main Street and Placeholder Avenue as it is immediately adjacent to the drainage swale and pond, and the proposed Senior Living development parcel which is subject to separate review and approval.

Board Action Required: Motion to approve the Applicant's request for a modification to the PUD Master Plan as outlined in Staff's recommendation memorandum dated May 8, 2019.

Staff recommends that the Planning Board continue this application to the June 12, 2019 Planning Board meeting in order to allow the Applicant to address outstanding engineering review items.

MEMORANDUM

To: Planning Board

Date: May 8, 2019

From: Planning and Economic Development
Department of Public Works & Engineering
Hoyle, Tanner & Associates, Inc.

Re: Site Plan – Woodmont Commons
Planned Unit Development
Amended Site Plan
Map 10, Lots 41, 52 & 54-1
Garden Lane & Pillsbury Road

Owner: Pillsbury Realty Development, LLC
Applicant: Pillsbury Realty Development, LLC

TFMoran, Inc. submitted plans and supporting information for the above-referenced project. DRC and the Town's engineering consultant, Hoyle, Tanner and Associates, Inc. reviewed the submitted plans and information, and review comments were forwarded to the Applicant's engineer. The Applicant submitted revised plans and information and we offer the following comments:

Checklist Items:

1. There are no Checklist items. (The Applicant has provided copies of previous utility clearance letters and has noted that updated letters required by Checklist XI.5. are pending. In addition, the Applicant has noted that the Londonderry sewer discharge permit required by Checklist item XII.8. is pending.)

Design Review Items:

1. The Applicant has not provided the full application fee from Section 2.04.b.4. of the Londonderry Site Plan Regulations (LSPR), and has included a **waiver request** letter to the requirement for consideration by the Board.
2. The Applicant has included storm drain pipes that have less than 36 inches of cover from the top of pipe to finished grade required per Section 3.07.g.3. of the LSPR. The Applicant has submitted a written **waiver request** letter to this requirement for consideration by the Board.
3. The Applicant has included a **waiver request** letter noting that their proposal does not meet LSPR Section 3.07.'s 1% slope requirement, however; the Regulations, do not control pipe slope. The slope controls are covered by 3.07.g.2., which controls velocity.
4. The Applicant has included four pipes that surcharge during the 25-year storm that does not meet LSPR Section 3.07.c.1.'s requirement for gravity flow. The Applicant has submitted a written **waiver request** letter to this requirement for consideration by the Board.
5. The Applicant has provided multiple drainage pipes with design velocities less than 2 feet/second in the 25-year storm that does not comply with LSPR Section 3.07.g.2. of the Site Plan Regulations. The Applicant has submitted a written **waiver request** letter to this requirement for consideration by the Board.
6. The current plan set includes plan sheets (*Existing Conditions Plan, Stormwater Management Plan, Fire Truck Turning, Garbage Truck Turning, and WB-40 Delivery Truck Turning*) at a scale greater than 1"=40' which does not comply with the minimum required per Section 4.01.c. of the Site Plan Regulations. The Applicant has submitted a written **waiver request** letter to this requirement for consideration by the Board.

7. The Existing Conditions Plan provided by the Applicant does not include the NRCS Soils information per Section 4.12.c.13. The Applicant has submitted a written **waiver request** letter to this requirement for consideration by the Board.
8. The current plan set does not include parking on both sides of First Avenue between Main Street and Placeholder Avenue. Based upon Woodmont PUD Section 2.3.3., this is a commercial street that requires parking on both sides of the street. The Applicant has included a Minor Modification and **Amendment request** letter to the Planned Unit Development Master Plan Regulations for consideration by the Board.
9. The Applicant did not provide an amendment to the Traffic Impact and Access Study (TIAS), including trip distribution and intersection capacity analysis, to document the anticipated operations at the First Avenue and Pillsbury Road intersection per Woodmont PUD 3.1.1. The Applicant has noted that the intersection is configured per the PUD layout at the location of the former Appletree Lane and that future monitoring counts and analysis will be performed. This is not consistent with the current TIAS that performed trip distribution and capacity analysis for intersections with offsite roadways which did not account for a connection from First Avenue to Pillsbury Road.
10. 181 parking spaces have been provided in the off-street parking lot and adjacent on-street parking areas to Block 6. An estimated 320 spaces (assuming that function space is not provided in the proposed hotel) are required per the Woodmont PUD 2.3.4. given the proposed land uses. Considering the approximate 25% reduction in parking need per the 9/17/18 ULI Shared Parking Analysis memo, approximately 240 can be assumed to be required for this block. The Applicant should provide documentation confirming that the overall site complies with the parking requirements and that parking is located within a reasonable distance of the block.
11. The Applicant has used an object height of 4.25' at the end of the Intersection Sight Distance triangle. While this matches LSPR Exhibit D3, a 3.5' object height is required by Woodmont PUD Section 2.3.3. Intersections. Relief from the Woodmont PUD requirement was not included in the documents received for review.
12. The Applicant has included a box for the Owner's signature, but has not included the signature.
13. The Applicant indicates in the notes on the Cover Sheet and the application that the project Permits are all approved and received. We recommend that the Applicant provide documentation that permitting entities not providing updated permit approvals have seen the current plan set and will not require updated approvals per Section 4.13. of the Site Plan Regulations and Item XII. of the Site Plan Application & Checklist.
14. We recommend that the Applicant clarify/address the following related to **Site Layout and Design**:
 - a. We recommend that the Applicant label the curb radii for the intersection of First Avenue and Placeholder Avenue on Sheet C1.4, Site Layout Plan.

- b. We recommend that the Applicant address the following on Sheet C1.8, *Site Layout Plan*:
- 1) The Applicant should provide layout for the full length of Placeholder Avenue on Site Layout Plans. Approximately 800 linear feet is not shown. The Applicant has indicated that complete layout information is provided on Sheet C2.6c, however; information is not provided for the last 500'. The Applicant should provide layout information (i.e. roadway width, radii, etc.) for the entire roadway.
 - 2) The Applicant should provide a detail as to how the sidewalk on First Avenue at Pillsbury Road will terminate at the edge of pavement. The Applicant should propose a sidewalk termination that will direct the pedestrians to utilize the roadway shoulder, unless a crosswalk to another pedestrian facility is provided.
 - 3) As designed, Eighth Avenue is a through street that has proposed a ninety degree turn near the midpoint of the road. The Applicant should consider providing stop control or curvature warning signage. The Applicant has indicated that modifications may be made to this corner as part of future development. In the interim, the Applicant should propose curve warning or intersection control signage.
- c. We recommend that the Applicant add the missing outlet elevation on the pipe leaving from CB 413 on Sheet C2.6a, **Plan & Profile, First Ave.**
- d. We recommend that the Applicant clarify/address the following on the **Plan & Profile sheets**:
- 1) The Applicant should clearly show and design an access path to the basins to allow for maintenance. The Applicant has indicated Pond 2 access road will be provided as part of that individual site design and that Filtration Basins 3 and 4 can be accessed from the roadway. We continue to recommend that basin access be designed as soon as the basin is put into use such that equipment is able to remove sediment from the bottom of the basins. (This may require including gates in proposed fencing and design of flatter basin sidewall slopes.) Given the distance of the basin bottom to the adjacent roadway, we do not think it is reasonable to expect equipment to reach the bottom of the basins from the adjacent roadways.
 - 2) The Applicant should add design information including size and invert elevations, for the underdrain pipes shown on the plans. The Applicant has indicated the underdrain will be installed per the detail and will follow road grades. At a minimum, a note should be added to either the profiles or the detail defining when the underdrain is planned to be used.
 - 3) The Applicant should provide a detail or note detailing how the ends of the underdrain are intended to be treated in areas that do not attach to a catch basin.
15. The Applicant should resolve text conflicts on Pump Station Gravel Access Drive typical section on Sheet C6.20.
16. We recommend that the Applicant address the following items related to the **Project Drainage Report**:
- a. The Applicant should clarify the "depth" of the spillway between the forebay and Pond 2. The plan (Sheet C6.7) indicates a weir elevation of 363.75' which is 3" below the berm elevation indicated on the detail on Sheet C6.8. The Rip-Rap Forebay Spillway detail on Sheet C6.8 indicates the "depth" is 6".

- b. Hydraulic Grade Line information is provided for the 50-year storm event. If this is the design storm for culverts, then the Applicant does not meet LSR 3.08.C.1. because the Pipe Summary Table indicates there is more than full pipe flow. If the design storm is less than the 50-year storm, then the Applicant should provide HGL elevations for that storm for the pipes.
 - c. The Applicant should correct the discrepancy between the HydroCAD model which models the emergency spillway as a 16' long weir, and the spillway, which is shown as 20' long in the Emergency Spillway at Filtration Basin #3 detail (Sheet C6.8).
 - d. The Applicant has included the modeling on the limits of the development, however; the edge of existing subcatchment 57 ends on the slope to the existing ditch line. The Applicant should review the drainage area and include the whole area (both sides of the ditch line) that is draining to the ditch line. Part was included with subcatchments 1000 and 1001, but some is still missing. The Applicant should also review the need for 1000R and 1002R as they appear to be the same as 3R and 59R.
17. We recommend that the Applicant clarify whether an infiltration basin is proposed to be used as noted on the **Grading & Drainage Plan** (Sheet C2.4) or if a Filtration Basin (Surface Sand Filter) is used per the details provided on Sheet C6.6. and the calculations provided for a 10 year storm. Additionally, per LSR 3.08.C.2., HGL elevations for the 50 year design storm needs to be provided for the basin.
18. We recommend that the Applicant clarify/address the following details related to the **stormwater/drainage details**:
- a. Wet Pond Section (Sheet C6.7) - The Applicant should show the HGL for the 50-year flood event for Stormwater Pond #2 per LSR 3.08.C.3. The Applicant has indicated that one foot of free board is provided, but has not shown the HGL as required.
 - b. Stormwater Pond #2 (Sheet C6.7): The Applicant should show existing contour elevations in this detail. The Applicant has indicated existing contours are shown, however; the Applicant should show the elevations of the contours.
 - c. Outlet Structure At Stormwater Pond #3 (OS 3.1) (Sheet C6.8) - The Applicant should coordinate the grate elevation shown as 371.5' on the detail with the HydroCAD report in section 3 of the Drainage Report, which shows the grate elevation as 370.70'.
 - d. The OS 3.1 and OS4.1 details should reference Filtration Basin #3 and #4, respectively instead of "Stormwater Pond".
 - e. Fabricated Trash Rack (Sheet C6.8) - The Applicant should provide the "L" dimension. Additionally, the Applicant should provide the riprap material and stone and area size the trash rack is buried in.
 - f. Emergency Spillway At Stormwater Pond #2 and Filtration Basin #3 (Sheet C6.8) - The Applicant should clarify/address the following:
 - 1) The Applicant should provide details demonstrating that stone from the spillway top into the pond and on the outside of the pond shall maintain a constant 18" depth to key into the bottom of the pond and existing ground outside the pond. The Applicant's current detail shows the stone depth tapering to zero inches thick next to the channel label, where the stone should be toed into the ground, maintaining a constant 18" thickness.

- 2) The Applicant should provide detail regarding the 6' (MIN. TYP.) dimension on the "loam and seed" area on the left of the detail, such as slope.
 - 3) The Applicant should specify how the portable concrete barriers will be joined to provide a water tight seal in the spillway.
 - 4) The Applicant has provided detail labels of A-A and B-B, but has not provided corresponding section locations on the plan view that references these sections. The Applicant has indicated that A-A and B-B are a typical detail to be used throughout the project and that the A-A and B-B views are not labeled at each location. We continue to recommend that at least one plan location be shown where the sections are intended to represent.
- g. Rip-Rap Forebay Spillway (Sheet C6.8) - The Applicant should clarify/address the following:
- 1) Note 1 refers the contractor to the plan for size of the spillway. The size of the spillway does not appear to be dimensioned on the plans. The Applicant should clearly specify the width of the forebay spillway for Filtration Basin #3.
 - 2) The Applicant should add dimensions to the width of stone at the bottom of the detention pond and bottom of spillway in the plan view.
 - 3) The Applicant should review Section A-A, as it does not appear to show the stone correctly. The Applicant has indicated the stone is shown, however; it appears not to be shown according to the plan view above this detail. The stone should come down the 3:1 slopes and not just cut across the top of the berm.
- h. Concrete Structure With Baffle: DMH319A is shown greater than 18 feet deep. Per LSR 3.08.h. drainage structures shall not exceed 18 feet in depth. Additionally, the sump depth is not shown, but the Applicant indicated this has already been built and the depth was revised. They will provide an as-built.
- i. Filtration Basin #3 (Sheet C6.6) - The Applicant should review/fix text conflicts on the updated detail.
19. We recommend that the Applicant clarify/address the following from the pump station design and TFM Memo regarding *Proposed Sewer Pump Station Serving Subarea WC-2 and Edgewood Site* documentation, dated February 6, 2019:
- a. The Applicant should update or clarify the calculations to coordinate the bullet 2 and 3 flow calculations. The hotel, commercial and office flows identified are not included in the overall flow summary.
 - b. The flotation calculations provided assumed that the groundwater elevation is 4' below ground. The Applicant has provided geotechnical reports, however; no test pit is provided in the direct vicinity of the pump station and states that other test pit groundwater levels are $\pm 4'$ of listed level. Due to the effort that would be needed to correct this assumption during construction should the assumptions not be representative of site conditions at the station location, either groundwater should be assumed at grade or an additional test pit should be conducted prior to final review and approval.
 - c. The Applicant should prepare and submit a site plan for the pump station site.

20. We recommend the Applicant verify the DRC comments for the project are adequately addressed as applicable:
 - a. Please verify the comments of Planning Department have been adequately addressed with the Planning Department.
 - b. Please verify the comments of Conservation Commission have been adequately addressed with the Conservation Commission.
 - c. Please verify the comments of Sewer Division have been adequately addressed with the Sewer Division.

Board Action Items:

1. The Applicant has submitted a written waiver request to seven (7) of the Site Plan Regulation's requirements as noted in the letter dated April 11, 2019. One request is not relevant, reducing the number of requests to act on to six (6). The Board will need to consider each waiver request as part of the project review.
2. The Applicant has submitted a written request to Amend two (2) elements from the Woodmont PUD Master Plan. The Board will need to consider each Amendment request as part of the project review.

Board Information Items:

1. This submission is for approval of an amended site plan originally approved by the Board on 6/21/18. The Amendments reviewed include an extension of First Avenue to Pillsbury Road and the pump station design for the proposed Edgemont Project.
2. The Applicant has previously obtained three waivers for the project relative to application fee, plan scale, and SCS soils data.

STAFF RECOMMENDATION

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

Date: May 8, 2019

Application: Application Acceptance and Public Hearing Application for formal review of a lot line adjustment & consolidation plan, Woodmont Commons Planned Unit Development, Garden Lane, Pillsbury Road & Michels Way, Map 10 Lots 41, 41-1, 41-2, Zoned C-I & PUD, Pillsbury Realty Development, LLC (Owner & Applicant)

- Completeness: There are no outstanding checklist items and Staff recommends the Application be accepted as complete.

Board Action Required: **Motion to accept the application complete as outlined in Staff's recommendation memorandum dated May 8, 2019.**

- Waivers: The applicant has requested the following waivers from the Subdivision Regulations:
 1. The Applicant has requested a waiver from Section 4.01c to allow a plan scale greater than 1" = 40'. Staff **supports** granting this waiver as the plans are legible at the scale presented.
 2. The Applicant has requested a waiver from Section 4.17.A.23 and Checklist Item VI.24 to not show two-foot contours over the entirety of the subject parcel. Staff **supports** granting this waiver as it is being requested only for the portions of the site which are currently under construction and grades are not final.

Board action required: **Motion to approve the Applicant's request for the above waivers 1 and 2 as outlined in Staff's recommendation memorandum dated May 8, 2019.**

- PUD Modification Request: Under Section 2.5.2 of the PUD Master Plan, the Planning Board may approve a minor modification and amendment to the PUD Master Plan for good cause shown and consistency with the spirit and intent of the PUD Master Plan and the Londonderry Zoning Ordinance. The Applicant has requested one (1) minor modification under this application:

1. Modify Section 2.4.3 Buildings and Lots – Lot Type: Institutional Building. A minor modification and amendment is requested for the proposed lot being created for the Edgewood Senior Living Development, which is classified as an Institutional type development; however, it does not fit within the lot standards defined in the PUD Regulations and Standards. The applicant is requested the following relief:

Lot Frontage: 100' maximum permitted
~69' provided on First Avenue
~315' provided on Placeholder Avenue

Lot Depth: 300' maximum permitted
over 700 +/-'provided.

Staff **supports** granting the modification requested as the lot configuration is appropriate for the proposed use, and a separate pending site plan application is currently under review in which the Senior Living development will demonstrate compliance with the building and site requirements of the PUD Master Plan.

Board Action Required: Motion to approve the Applicant's request for modification to the PUD Master Plan as outlined in Staff's recommendation memorandum dated May 8, 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 site plan for a lot line adjustment & consolidation plan, Woodmont Commons Planned Unit Development, Garden Lane, Pillsbury Road & Michels Way, Map 10 Lots 41, 41-1, 41-2, Zoned C-I & PUD, Pillsbury Realty Development, LLC (Owner & Applicant) in accordance with plans prepared by Hayner/Swanson, Inc., dated September 19, 2018, last revised April 11, 2019, with the precedent conditions to be fulfilled within two years 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 May 8, 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 Phase 1 Amended Site Plan (extending First Avenue to Pillsbury Road and giving frontage to this parcel) shall be approved by the Planning Board.
2. The Applicant shall address all outstanding DRC comments.
3. Draft easements shall be provided to the Town for review and final executed easements be provided for recording concurrent with the plan.

4. If approved, the waivers and modification requested shall be noted as such on the plan.
5. The Applicant shall provide the Owner's signature(s) on the plans.
6. The discontinuance of Holmes Road with the appropriate Town Council reference Resolution #2019-04, A Resolution Relative to the Discontinuance of Highway (Holmes Road) reference shall be noted on the plan.
7. The typographical error in the spelling of Catesby Lane be corrected.
8. A note shall be added to Sheet 1 indicating that the required Open Space and Green space per Section 2.2.3 of the PUD Master Plan is shown on the reference plans.
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 provide a check for \$25 (made payable to the Rockingham County Registry of Deeds) for LCHIP.
11. The Applicant shall note all general and subsequent conditions on the plans.
12. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
13. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
14. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants 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. 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.

2. 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.