

**SOMERSWORTH PLANNING BOARD
MINUTES OF MEETING
October 21, 2020**

MEMBERS PRESENT: Ron LeHoullier, Chair, Jason Barry, Bob Belmore-City Manager, David Witham, City Council Representative and Mark Richardson, Alternate, Harold Gupitill- Vice Chair & Keith Perkins – Alternate, Jeremy Rhodes and Chris Horton

Excused Members: Paul Robidas

STAFF PRESENT: Michelle Mears, Director Development Services, Dana Crossley Planning Secretary

The Meeting was called to order at 6:33 PM.

Director Mears stated due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. The public has access to watch to this meeting through the Local Government Cable Access Ch. 22 (Comcast), and streamed live through the City's website at www.somersworth.com. Although this is a public meeting, the public is encouraged not to attend and instead to leave comments or concerns at the following phone number # 1-603-841-2936, by emailing planning@somersworth.com or by sending written comment to Planning Board, 1 Government Way, Somersworth NH 03878. Comments must be received no later than 4pm the day of the meeting. She stated all votes will be taken by roll call votes.

Roll call attendance was taken: Rhodes, Barry, Witham, Richardson, Gupitill, Belmore, Perkins and Horton were in attendance remotely and were alone. LeHoullier, Director Mears, and Planning Secretary Crossley were present in Council Chambers of City Hall.

LeHoullier appointed Richardson as a full voting member for the meeting.

1. **Approval of the minutes of the meeting of July 15, 2020.**
Motion: Witham MOVED to accept the minutes as presented.

Seconded by Richardson.

The MOTION CARRIED by a 6-0-2 roll call vote. (Gupitill and Barry abstained)

2. **COMMITTEE REPORTS**

Land Use Board Reports (ZBA, HDC, Conservation Commission, SRTC, Minor Field Reports):
No comments.

City Council Report: Witham informed the Board that the City Council is considering a Zoning Amendment to allow the keeping of bees in certain zoning districts. He stated bee keeping is currently only allowed in the Agriculture District. The amendment is under review by the Public Works and Environment Committee, who is working on parameters for the use. He will continue to update the Board as the ordinance progresses.

Witham stated the Waste Water Plant expansion is well under way. He stated construction is very visible from the road and suggested Board members drive by to see it. He stated the project is proceeding per plan. He noted there was additional work for the water line that goes around the facility and a water line upgrade was approved as a change to the plan.

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Witham stated the former Police Station at the corner of Station and Main has been vacant for at least 10 years. He stated one of the issues they've had with this property is a level of contamination in the building. He stated the City Manager is working with City Staff to pursue another Brownfields grant. He stated they are hopeful to be awarded a grant to abate the contamination at that site.

Witham stated several months ago the Council endorsed moving forward with constructing a dog park. He stated the park has been completed and it is located at Millennium Park off of Stackpole Road. He stated it has only been open a week but they have already seen high usage there.

Witham stated the Veteran's Park on Main St. is starting to progress. He stated part of the Veteran's Park project is reconstructing the portion of sidewalk located on Main Street. The goal is to have Veteran's Park completed by Veteran's Day.

Witham stated the City Council has moved forward with a contract with Port 1 to complete the construction documents phase of the Fire Station project. He stated this phase will allow them to bid and construct the project. He stated the plan is to use a construction management firm and there is a pile of interested parties to review. He stated the goal is still on track to break ground for the new station in spring 2021. He stated land surveyors are on site for site evaluations.

Guptill stated he wanted to ensure that on Election Day the sidewalk by Veteran's Park and the Museum will be passable for residents.

Belmore stated they are aware of the deadline and the company hopes to have it completed prior to that date.

Strafford Regional Planning Commission (SRPC) Update: No comments.

3. **OLD BUSINESS**

- A) Any old business that may come before the Board.
No other old business.

4. **NEW BUSINESS**

- A) **City of Somersworth and Anthony Kurlovich 2003 Revocable Trust, are seeking a subdivision of two (2) lots, to create two (2) new lots and one (1) Conservation lot on a property located at 93 Coles Pond Road, in the Residential Single Family (R-1) District, Assessor's Map 50 Lots 13 and 13-1, SUB#02-2020 and SUB#03-2020 PUBLIC HEARING**

Mears stated the City and the Conservation Commission are the lead in this application. She stated in 2019 the City of Somersworth was granted a NH Drinking Water and Groundwater Grant to acquire the land in protection of the City Well parcel. She stated the grant funds are being used to survey the parcel, provide assessment, creation of the stewardship plan, baseline documentation and creation of new deeds.

Mears stated this is a two part subdivision. She stated the request is to remove approximate 10.31 acres from lot 13-1, which will leave a 3 acre lot with the existing home on it. She stated the second part is to subdivide off approximately 38.7 acres from lot 13-A which will have a remaining 18 acres to remain in under the ownership of the Kurlovich Trust. She stated the two lots subdivided for conservation lots will then be merged to form one conservation lot. She stated it has received State approval from NHDES Water Division and Subsurface Disposal Systems.

MOTION: Witham stated, I MOVE to accept the application as complete for review.

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The MOTION is SECONDED by Guptill.

The MOTION CARRIES by an 8-0 roll call vote.

Shanna Saunders, of the City of Rochester (former Somersworth Director of Development Services) was in attendance remotely to represent the application.

Saunders stated this project is funded from both the DES Drinking Water Fund and Great Bay Resource Protection Fund. She stated in discussion with the property owner the best way to approach this was two separate subdivisions. She stated there are two existing lots (lot 13 and lot 13-1) and one of the lots has an existing house on it. She stated the Somersworth's Conservation Commission was most interested in the best conservation area, which are the streams, wetlands and pond frontage. She stated there is a subdivision application for lot 13, which leaves 3 acres with the house and a survey was done for septic reasons which was approved by NHDES, it also meets zoning requirements. She stated there is a second application for the lot 13-1. The conservation lots will need to be merged once the City owns them. She stated this property should be protected, it abuts the City's golf course land, and it protects natural resources and resources associated with the City's drinking water and aquifer.

LeHoullier opened the public hearing at 6:51PM.

Mears stated an email was received for public comment:

Terry Burk, 139 Lily Pond Road: Thank you for your recent mailing received yesterday. Based on Item A), I decided to take a short ride to Coles Pond Prov - my residence is on Lily Pond Road. It appears that several homes have been constructed on Coles Pond Prov very near the water with Septic Systems and may be leaching into the Pond. Having been a previous member of the Conservation Committee, my concern is were they properly reviewed and is this a hazard to Lily Pond. I suggest a Moratorium on any future construction until such time as a City connects the area to the City Sewer System. Also, I note that this is a unmaintained road by the city - but, there are signs indicating that it is a private driveway, and that prosecutors would be fined. In the past, this is the road that I took to visit Mr. Kurlovich prior to him and his wife passing. Thank you again for considering my objection to Business Item A).

No other comments were received by mail, email or phone.

LeHoullier closed public hearing.

Witham stated based upon his review there are no additional building lots being proposed. He stated in fact they are putting quite a bit of land into conservation protection. He stated they are not establishing any additional building lots.

Saunders stated that is correct. She stated the purpose of the subdivisions is to conserve the land. She stated that is not to say the property owner may not develop more in the future.

Witham stated as it currently stands it is proposing more protections. He stated in regards to Coles Pond Road, the beginning portion is owned by the City and a lot of it is a private road. He stated the City plows the first portion of it but there is nowhere to turn around so they have to go down the entire road and this gives it an appearance of a public road but it is largely private.

Motion Witham stated, I move that the request of City of Somersworth and Anthony Kurlovich 2003 Revocable Trust for a subdivision of two (2) lots, to create two (2) new lots and one (1) Conservation lot be APPROVED WITH THE FOLLOWING CONDITIONS:

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1. PLAN REVISIONS:

- a. None

2. CONDITIONS THAT MUST BE MET PRIOR TO FINAL APPROVAL

- a. The final plans shall bear the stamp and signature of the engineer, licensed land surveyor, and the landscape architect. Please submit five folded 24" x 36" paper copies of the full set of plans to the Office of Development Services for final endorsement.
- b. FEDERAL AND STATE PERMITS - All Federal and State permits shall be in place before plan signing and recording, including NHDES Alteration of Terrain, and NHDES Shoreland Permit, NHDES Wetlands permit and NHDOT driveway permit.

3. CONDITIONS TO BE COMPLETED PRIOR TO THE START OF SITE WORK:

- a. MONUMENTATION: Granite Bounds shall be installed at all intersections of lot lines and street right-of-way, as well as all property corners which do not abut the public right-of-way per Subdivision Regulation 22.7.C.10. A surveyor is to submit a signed letter to the Planning Department stating that the new lot corner monuments have been set prior to building permit.
- b. PLAN FILING AND RECORDING: The applicant shall provide a plan for recording, appropriate recording fees with separate fee for LCHIP, made payable to the Strafford County Registry of Deeds, and five (5) paper copies of the final plan as approved by the Board. The final plan shall reflect any and all changes required as part of the approval process. Please submit one copy of the revised plan for final Board approval before submitting the additional 4 copies.

4. CONDITIONS APPLICABLE DURING AND AFTER CONSTRUCTION:

- a. There shall be no wetlands degradation during construction;

5. AS-BUILT PLANS.

- a. Within thirty days of the completion of the project and prior to the issuance of an occupancy permit, an electronic As-Built Plan of the proposed development with details acceptable to the Department of Development Services shall be provided in either .pdf and paper copy. Once approved by the Department of Development Services the applicant shall submit final Asbuilts in both paper copy and on CD. This plan must be in a dwg or dxf file format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates;

DURATION OF APPROVAL: All conditional approvals shall be valid for a period of 120 days in which time all precedent conditions must be met or the approval shall be null and void. The applicant may request an extension no later than 14 days prior to expiration.

EXTENSIONS: All requests for extension must be submitted in writing to the Department of Development Services no later than 14 days prior to expiration with the appropriate fees. Failure to comply with the deadline dates without submission of a written request for extension will result in the approval being null and void.

APPEAL PROCESS: Pursuant to RSA 677:15, an aggrieved party may appeal this decision to the Strafford County Superior Court within 30 days of the date the Board voted to approve or disapprove the application, or to the ZBA pursuant to RSA 676:5, III within 30 days of the date the Board made its decision.

The MOTION is SECONDED by Rhodes.

The MOTION CARRIES by a 7-0-1 roll call vote. (Belmore abstained)

B) FFF Holdings, LLC on behalf of Jason & Teresa Cleary is seeking a 2 lot subdivision on a property located at 36 Laurel Lane, in the Residential Single Family (R-1) District, Assessor's Map 62 Lot 39 SUB#04-2020 PUBLIC HEARING

Mears stated this is a minor 2 lot subdivision request in the R1 Zoning District. She stated there is an existing home on the lot, there is municipal water, and lots will be serviced by private septic. There is no waiver requests submitted and no conditional use permit requested.

MOTION: Witham stated, I MOVE to accept the application as complete for review.

The MOTION is SECONDED by Guptill.

The MOTION CARRIES by an 8-0 roll call vote.

Bob Stowell, of Tritech Engineering, **Dave Francoeur, Colin Francoeur and Andrew Francoeur** of FFF Holdings, LLC were in attendance remotely to represent the application.

Stowell stated this is an application of minor subdivision. He stated the lot is on the corner of Laurel Lane and Blackwater Road and was part of the Blackwater Woods Subdivision in the mid 80's. He stated since that time the zoning has changed from Agriculture to R1, making this lot oversized.

Stowell stated the proposal is to create a lot where the existing house is, this will be 25,000 sf., serviced by City water and onsite septic system. He stated the second lot, new building lot, will be accessed from Laurel Lane, have a new water service from Laurel Lane, and onsite septic.

Stowell stated since they have submitted the application new information regarding the covenants from the Blackwater Woods Subdivision has come to light.

D. Francoeur stated he had a meeting on site with about 12 of the homeowners from Blackwater Woods. He stated after discussion with the homeowners they agreed to let him move forward with the application. He stated what was agreed upon is depicted in one of the letters submitted for public comment. He stated he has to obtain approval from the majority of the neighbors in the Blackwater Woods development to be complete the subdivision. He stated he feels confident that they can get that.

Stowell stated the essence of the matter is that the original covenants from the Blackwater Woods Development adopted at the time of subdivision, there was a provision to prevent further subdivision of the properties. He stated once it was discovered, Francoeur has started speaking with those residents. The legal advice they have received is that if the majority of the residents of Blackwater Woods sign off on the covenants it can be changed. He stated one of the public comments received implies that they are confident the change will be obtained.

D. Francoeur stated due to the current circumstances of COVID he did not go knock on every door but the residents have an active email chain. He stated they are aware of what is going on and now it is a matter of getting signatures. He stated they are in agreement with him moving forward with the condition that the covenants be changed.

LeHoullier opened the public hearing at 7:04 PM

Mears read into the record the three public comments received:

Richard L. Reublinger, 26 Laurel Lane: I am writing to you as a concerned citizen of Somersworth about New Business, item 2, of the upcoming October 21st meeting of the Planning Board. I have read all the

accompanying documentation for the proposal to subdivide a lot within Blackwater Woods, Somersworth. Of all the documentation, there is not one word referencing the protective covenants that pertain to residents residing in Blackwater Woods. There are currently about 40 citizen families that reside in the neighborhood. I have presented the City Manager with a copy of the protective covenants and asked him to forward a copy to you for review. Specifically, paragraph 2 of the protective covenants says... "No lot shall be subdivided or sold in portions by the lot owner except in such an instance where two lot owners may wish to divide an abutting lot between them or renegotiate a boundary line, but in no instance shall more than one dwelling unit be erected on any lot as shown on said plan." These protective covenants are still current and are on file with the Strafford County Registry of Deeds. I therefore request that this letter be entered for the record as part of your proceedings and that unless the proposal is rejected from further consideration at your meeting, that the proposal at least be tabled until such time as appropriate analysis can be developed.

Alan Mandigo and Cybelle Mandigo, 180 Blackwater Rd., We received notice of this hearing 9 days ago and were not informed a new land survey was performed, until yesterday, [20 Oct 2020], when we were able to review the said plans at the town hall. We reviewed the following records and have noticed several discrepancies from the survey reports/deeds of the current survey [performed on 9/25/2020 and referenced in NH Deeds Book 4810- page 606 – edoc 20000160530] and the previous surveys quoted below.

- Hiltunen- Cleary - Book 2191, Page 579
- Hiltunen-Forcucci- Book 2016, Page 783
- Mandigo -Book 4115, Page 643
- Kleczek-Devincent Book 1527, Page 631
- Ashline- Kleczek- Book 1405, Page 0221

The new land survey [referenced above] is being used to denote lot lines in the subdivision request. Until yesterday, we were unaware of the new land survey and have open questions regarding the survey. We request that the planning board extend the hearing on the new lot subdivision, for at least 90 days, so that we can have the survey report reviewed. We have contracted McEneaney Survey Associates of Dover, NH whom will review the new survey report and the boundary/ lot lines between our plot and that of the proposed subdivision to ensure accuracy. If discrepancies are found and/or cannot be resolved, we would further request an extension until Jan 2021, when McEneaney Survey Associates are able to perform a new land survey, due to their current schedule. If the board does not grant an extension, we request that no building permits be issued, until we are able to have the survey report reviewed. We would further like to make known that according to the "second amendment to protective covenants" dated 14 Apr 1986 [NH Deeds book 1220 page 352] That the property is subjected to a detention pond easement. We also have concerns with the following statements pulled from the September Meeting minutes 2020.

- Lot terrain- [see attached pictures] the petitioners existing structure sits on top of a hill, with uneven terrain directly below and to the side of the structure- with many low areas. This area is compromised of primarily trees and the earth is quite wet. Currently, our abutting land and house receives runoff from the petitioners existing structure, which runs directly to our outdoor pool and basement [which we must run a sump pump to remove].
- The petitioner have requested to use stump grinding as erosion control- We have concerns that this type of erosion control has not been commonly used in Somersworth and may not allow for the removal of storm water, to prevent flooding and erosion of our adjacent property. Creating less erosion control, increased tree die-off [soil displacement] which will compromise the integrity of our surrounding land and effect our house foundation.
- The petitioner has stated that a new septic system will be included for a new house (yet to be built). We have some concerns where the leach field will be located. If the new septic is put in the back of the house, it would drain into our yard and cause erosion.
- The new structure will be extremely close to our property line with very little buffer. Thus, we request the board consider requiring a 4ft fence or landscape separation, to mitigate adverse effects of noise, odor, foot traffic, drainage and utilities on our neighboring property.

Michael Hilliard, 7 Adams Court, I am writing to you at this time as a speaker for almost half the residents of Blackwater Woods neighborhood (Laurel Ln & Adams Ct) about New Business, item 2, of the upcoming October 21st meeting of the Planning board regarding subdivision of 36 Laurel Ln. The majority here have read all the accompanying documentation for the proposal to subdivide a lot within Blackwater Woods, Somersworth. We have also read Lee Reublinger's letter to yourself, dated Oct. 15, 2020 and also stress that our covenants be referenced in this meeting (included with this document) and for future reference of new projects. If at some point in the future these covenants change then we will update you. Twelve of the forty-two owners of Blackwater Woods met Monday night, Oct 19th, with Dave Francoeur at his property 36 Laurel to share concerns. It was a productive meeting as the less than majority representation of the development tentatively agreed to waive the no subdivision covenant in exchange for Dave essentially building a home that is representative of one of the styles of homes already in our neighborhood. While most here are not ecstatic with the subdivision, we realize the value of the opportunity Dave is providing us. Thank you Dave for being agreeable. The final Blackwater Woods No Subdivision Covenant Waiver Agreement is not complete but can we request that you approve his subdivision contingent upon his recording of our final agreement. We are still a couple of votes shy of the agreement but I suspect within the next week or two we should have even more signatures than the majority. I have presented a copy of this letter to several individuals including Ron LeHoullier, Michelle Mears, Bob Belmore and Dana Crossley. I therefore request that this letter be entered for the record and read tonight as part of your public proceedings.

No other comments were received via mail, email or phone.

LeHoullier closed the public hearing at 7:11 PM

Belmore stated the abutter Rueblinger did contact him directly in regards to his concerns with this application and the protective covenants. He stated he sought the opinion of the City Attorney in regards to the protective covenants. He stated the City Attorney advised that there is nothing wrong with the restriction being discussed at the public hearing, but the Planning Board has no roll in enforcing the private restriction, the question before the Board is if there is any impediment to the proposed subdivision contained in the City Regulations or prior approvals. He continued the Board should not be basing any decision on this restriction, if someone wishes to enforce the restriction they should do so in court directly against the present owner without the City. He stated with that advice from the City Attorney he would not support any approval conditional upon addressing the private covenants. He stated it should be either tabled or approved if it meets all City requirements.

Richardson inquired if the individual who wrote the letter attended the meeting with Francoeur.

Francoeur stated Reublinger did not attend but was involved with setting up the meeting with Hilliard who wrote the second letter from Blackwater Woods.

Rhodes stated taking into account with what Manager Belmore has stated, he agrees they should not have a roll in changing private covenants, but with only 12 of 41 home owners in the HOA attended a meeting, is not quite half of the residents. He stated there are two comments received in opposition to this subdivision. He stated part of the City not taking a side in the dispute would be to not take action. He stated if moving forward with this with a conditional approval would be taking a side before the private parties had a chance to hash out their sides. He stated he would advocate for tabling the application until the covenants issues has been resolved. He stated he is not inherently opposed to the subdivision.

Witham asked how they would know if the HOA covenant issue was rectified.

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Rhodes stated he would consider an amendment to the covenants confirmation. He stated minutes of an internal meeting with the intent to file a change or other confirmation from the HOA that they were in favor and moving forward with the change.

Witham clarified if the covenants are amended to allow for subdivision would it be for just this lot or all lots.

Francoeur stated it would be specific language that applies only to this lot. He stated furthermore the other lots do not meet the requirements of the City to be able to be subdivided. He stated the language agreed upon with the neighbors would be specific to this lot to protect for the future.

Belmore stated he appreciates Rhodes explanation and concern. He stated he does not want to police the vote of the HOA meetings and feels they have no business being involved. He stated they need to focus on the City's regulations.

Rhodes stated he does not wish to oppose this application would advocate to table.

Francoeur inquired if by tabling the application if it would be taking a side.

Rhodes stated no, by tabling it would be to recognize there is an internal debate going on and the City would not make a decision on the application until it was finalized.

Francoeur stated the merits of the case and how it meets the City requirements is what the Board is concerned with and he is willing to work with the Home Owner's Association for the other external issues. He is requesting the Board vote on the validity of the City requirements and the application.

Belmore stated one of the abutters sent a lengthy letter late this afternoon with concerns about drainage and putting up a fence. He would like that addressed.

Stowell stated he can address those concerns.

Witham stated he would like to hear how they would address those concerns as well. He stated he is not in favor of tabling the application at this time either.

Stowell stated on S-2 shows the topographic plan and shows the soil types. He stated this plan goes to the State of NH for subdivision approval and shows test pit locations along with areas suitable for septic systems. He stated the lot with the existing home has an existing septic system and they also dug a new test pit area (test pit 3) found water table below 50". He stated all three of the test pits were identified as having well drained soils. He stated test pit 2 ran to a depth of 72" and test pit 1 was down to 42" before hitting a water table. He stated he does not find the property to be wet and the buildable area has excessively well-draining soils. He stated they are comfortable with the soils and not expecting drainage issues.

Stowell stated in regards to the type of erosion control being used at the SRTC meeting it was discussed when the home construction is done there will be appropriate erosion control. He stated stump grindings were not specifically talked about for this project but it is an acceptable form of erosion control and being used up the street. He stated it works the same as silt fence or soxx. He stated they will install acceptable erosion control measure at the time of home construction.

Stowell stated for the concern about the septic system they have two viable test pit locations on the new proposed lot. He stated the house has not been designed or placed and is not sure which area will be utilized. He stated the septic system will drain into the ground and only in the instance of a failed system would they have surface run off. He stated he is not concerned with septic run off.

Stowell stated in response to the fourth concern about the close location and the buffer, there is an existing mature tree line. He stated he thinks if they keep a strip of 10' of the tree buffer would function better than a 4' high fence. He stated the vegetation would be better than a fence.

Horton stated when focusing on the regulations it appears the applicant has met those regulations. He stated he appreciates the idea of a vegetated buffer and thinks it should be added as a condition of approval. He stated at this time he is in favor of approving the application.

Richardson stated when reviewing the contour lines if the leach field is located at test pit 2 it will still be 10-12' higher than the neighboring lot. He stated there can still be some run off that goes towards the pool based on elevation.

Rhodes stated he appreciated seeing the location of the abutter.

Mears stated she reviewed the 1983 Subdivision approval and there was nothing in the approval that restricted subdivision and it was only in the protective covenants. She reviewed the proposed conditions of approval.

Motion Witham stated, I move that the request of FFF Holdings, LLC on behalf of Jason & Teresa Cleary for a 2 lot subdivision be APPROVED WITH THE FOLLOWING CONDITIONS:

1. PLAN REVISIONS:
 - a. Add a 10' vegetated undisturbed buffer to remain along the back property line.
2. CONDITIONS THAT MUST BE MET PRIOR TO FINAL APPROVAL
 - a. The final plans shall bear the stamp and signature of the engineer, licensed land surveyor, and the landscape architect. Please submit five folded 24" x 36" paper copies of the full set of plans to the Office of Development Services for final endorsement.
 - b. FEDERAL AND STATE PERMITS - All Federal and State permits shall be in place before plan signing and recording, including NHDES Alteration of Terrain, and NHDES Shoreland Permit, NHDES Wetlands permit and NHDOT driveway permit.
 - c. Existing shed on Map 62 Lot 39 must be removed or placed out of the 15 foot setback.
3. CONDITIONS TO BE COMPLETED PRIOR TO THE START OF SITE WORK:
 - a. The existing driveway shall be abandoned; hot top shall be removed, re graded and re-seeded;
 - b. MONUMENTATION: Granite Bounds shall be installed at all intersections of lot lines and street right-of-way, as well as all property corners which do not abut the public right-of-way per Subdivision Regulation 22.7.C.10. A surveyor is to submit a signed letter to the Planning Department stating that the new lot corner monuments have been set prior to building permit.
 - c. PLAN FILING AND RECORDING: The applicant shall provide a plan for recording, appropriate recording fees with separate fee for LCHIP, made payable to the Strafford County Registry of Deeds, and five (5) paper copies of the final plan as approved by the Board. The final plan shall reflect any and all changes required as part of the approval process. Please submit one copy of the revised plan for final Board approval before submitting the additional 4 copies.

- d. LANDSCAPING SURVIVAL SECURITY: Ten percent (10%) of the total cost of landscaping or a minimum of five hundred (\$500) dollars, whichever is greater, shall be held for a period of 2 growing seasons to guarantee the survival of the landscaping installation.
 - e. These lots require new driveway permits. A driveway permit for each lot must be applied for with the Public Works Department prior to construction or modification.
 - f. The new lot (39-1) requires a new address. Please submit a request for a new address to the City Engineer. If a hearing before the E-911 Committee is required, this hearing must occur prior to the issuance of a Building Permit
 - g. The applicant shall apply for a new Water and Sewer Connection Permit; The applicant will be required to pay standard water and sewer connection fees assessed on new properties connecting to the water and sewer system. Water fees will be based on the size of water meter needed and the sewer connection fees will be based on estimate of water used and equivalent number of bedrooms; and,
4. CONDITIONS APPLICABLE DURING AND AFTER CONSTRUCTION:
- a. 10' vegetated undisturbed buffer to remain along the back property line;
 - b. There shall be no wetlands degradation during construction;
5. AS-BUILT PLANS.
- a. Within thirty days of the completion of the project and prior to the issuance of an occupancy permit, an electronic As-Built Plan of the proposed development with details acceptable to the Department of Development Services shall be provided in either .pdf and paper copy. Once approved by the Department of Development Services the applicant shall submit final As-builts in both paper copy and on CD. This plan must be in a dwg or dxf file format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates;

DURATION OF APPROVAL: All conditional approvals shall be valid for a period of 120 days in which time all precedent conditions must be met or the approval shall be null and void. The applicant may request an extension no later than 14 days prior to expiration.

EXTENSIONS: All requests for extension must be submitted in writing to the Department of Development Services no later 14 days prior to expiration with the appropriate fees. Failure to comply with the deadline dates without submission of a written request for extension will result in the approval being null and void.

APPEAL PROCESS: Pursuant to RSA 677:15, an aggrieved party may appeal this decision to the Strafford County Superior Court within 30 days of the date the Board voted to approve or disapprove the application, or to the ZBA pursuant to RSA 676:5, III within 30 days of the date the Board made its decision.

The MOTION is SECONDED by Guptill.

Discussion: Guptill inquired if the water/sewer connection permit should be corrected to just water connection permit since they only have City Water.

Mears stated yes.

Guptill stated he felt that should be amended.

Witham stated yes that is acceptable.

The MOTION CARRIES by an 8-0 roll call vote.

C) Forget Management LLC, is seeking site plan approval and conditional use permit to expand an existing automobile sales and service facility with infrastructure on a property located at 285 Route 108, in the Commercial/Industrial (C/I) District, Assessor's Map 47 Lot 08, SITE#09-2020 & CUP#4-2020 PUBLIC HEARING

Mears stated Somersworth Nissan is proposing to expand their existing dealership. She stated the proposal is to increase the existing building by 5,400 SF and add another express lane. She stated they are going to expand the existing parking area by 5,000 SF of non-impervious and 4,150 SF of impervious surfaces. She stated no waivers are being requested at this time.

Mears stated the applicant is seeking a conditional use permit as well, which was reviewed by the Conservation Commission. She stated they have proposed one condition.

MOTION: Guptill stated, I MOVE to accept the application as complete for review.

The MOTION is SECONDED by Barry.

Discussion: Witham stated he does not feel the application is complete for review because there were no building elevations or architectures submitted.

Rhodes stated the landscape plans that were requested as a condition of the Conservation Commission's recommendation to the Planning Board were not completed. He stated all of the landscaping called out on the plan is non-native and invasive. He stated to him it has not been revised as requested.

Stowell stated he feels the plans are complete, the plantings are in place and the species can be changed. He apologized for them not being correct, it was put together by their landscape architect and it can be corrected. He stated he did provide the elevations.

There was a brief discussion on the elevations submitted by Whitcher Builders.

The MOTION CARRIES by an 8-0 roll call vote.

Bob Stowell of Tritech Engineering was in attendance remotely to represent Forget Management and the application.

Stowell stated building elevations depict that the expansion will look like what is there. He stated there is not a lot of fluff for presentation, they are more construction elevations. He stated they do represent an extension of the existing appearance. He stated there are 2 drive through lanes presently and they are proposing to add one more with the same siding and look.

Stowell reviewed the CUP plan that was presented to the Conservation Commission. He stated they received two comments from the Con.Com. and that was they were to follow through with all of the intricacies of the drainage that was discussed and the 6 shade trees in the existing island will be replaced. He stated the Con.Com was very specific that those trees be native non-invasive. He stated they did follow through with all of the discussion held in regards to the drainage.

Stowell stated the new drainage being proposed will bring the entire site up to the current standards. He stated the original development was approved in 2003 and they received alteration of terrain approval from the State at that time. He stated at this time things have progressed dramatically in stormwater management and treatment methods. He stated they have brought everything up to standard as well as the proposed improvements. He stated all of the car washing that had been taking place outside the

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building at this time, it will now strictly be taking place inside the building and going through the City sewer system.

Stowell stated the CUP sheet shows the impacts to the riparian buffer. He stated it shows the previously approved impacts from the 2003 CUP. He stated they are proposing to add a third express lane and extend the existing building for additional service bays inside. He stated they are proposing to add more car display areas.

Stowell stated they have been through Conservation review, 2 SRTC meetings and 2 rounds of third party reviews. He stated there are only two outstanding items from the Horsley Witten review relative to a note that will dictate that any stockpile during construction will be 100' feet from any wetland areas and will be added to the plan set. He stated there was also a comment about the stormwater pond design, they were looking for more details on the construction and they will add those additional details. He stated the one outstanding comment from the SRTC meetings was relative to lighting. They were asked to add a standard note to when the lights are shut off and it can be added. He stated there was an additional comment from the Fire Chief in regards to the location of the fire hydrant. He stated there is one located just off of the plan view, but he has asked a new hydrant be installed at the entrance to bring the hydrant closer to the development. He stated that is something they will add to the plans.

LeHoullier opened the public hearing at 7:53 PM.

Director Mears read into the record a comment received:

Jason Gilpatrick, 23 Pinewood, I'm just curious about the site plan that Forget Management LLC has submitted for approval to expand their facility at 285 Route 108, in Somersworth. I am the property owner at 23 Pinewood Drive. My property abuts the backside of their property, so I have some concerns and questions about their future expansions. My concern is: the backside of my property (that abuts their property) is considered wetland. How far back towards my property do they plan on expanding? And, if they intend to push that "wetland" further towards my property, I'm going to have an issue with that (for obvious reasons!) I'm just a concerned property owner and have no current conflicts with Forget Management LLC. I'm not sure I'll be able to attend or listen to the public meeting on Wednesday, October 21, 2020, so I wanted to express the concerns I have as the neighboring property owner. If you have any questions or feedback, feel free to email me or call my number listed below. Thank you!

No other comments were received via mail, email or phone.

LeHoullier closed the public hearing at 7:54PM

Stowell stated the area between this site and the concerned abutter is a wetland. He stated one of the things discussed at length with the Con.Com, was with the new drainage standards they are implementing for the existing site and new construction, addresses something that does have an impact on that abutter. He stated in 2003 when the designs were done the main concern was the rate of stormwater runoff. He stated what it did not address was the volume of water, the current standards that are followed addresses that volume of run off cannot be increased. He stated they will maintain the volume of runoff now. He stated it was absent before and will now address the abutters concern. He stated there is no wetland impact and no construction that would disturb storm surge, not increasing rate or volume of runoff from the site.

Rhodes stated the work being done will likely improve the stormwater runoff; the improvements channel the water away from the concerned abutter and should improve the situation. He stated in terms of drainage it is a significant improvement. He stated the proposed trees are non-native invasive species and the City does provide a list of native species, it is on the website and in the Planning Office. He stated

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he would support a condition for a plan change that all plantings be native plantings and come from the list provided by the City and all non-natives be removed.

Rhodes stated in regards to the elevations that have been submitted, there is a note that it will match appearance in place. Will that include the block foundation and the EIFS siding will require a waiver from the standards.

Witham stated he thinks there is a waiver required for the proposed building materials. He stated he would not have an issue with the waiver because the property is well maintained and it would fit with the nature of that corridor. He does support the relocation of the fire hydrant.

Perkins stated for the new fire hydrant it appears the water line is in the middle of the road. He noted that the State just recently repaved Route 108 in this area. He inquired how they are going to connect the hydrant.

Stowell stated they have reached out to DOT but have not gotten far there. He stated they may come off the branch from the existing hydrant and bring it up parallel with Route 108. He stated they will pursue DOT if they can get a waiver.

Mears reviewed the proposed conditions of approval.

MOTION: Witham stated I move that the request for a waiver from Section 7.b.vii of the Site Plan Review Regulations to allow what is consistent with the existing building be APPROVED with the following condition:

1. Applicant shall submit a formal waiver request prior to the pre-construction meeting.

The MOTION is SECONDED by Guptill.

Discussion: Belmore clarified there is a condition.

Witham stated yes the applicant needs to submit the formal waiver request prior to the pre-construction meeting.

The MOTION CARRIES by an 8-0 roll call vote.

Guptill asked if the applicant still need to apply for the water/sewer permit if they already have one.

Belmore stated he felt it should remain since they are increasing their water usage. He stated it becomes a moot point if it is not needed, it will not harm them to fill out the application.

Stowell stated that is fine to keep that.

Motion: Guptil stated I move that the request of Forget Management LLC for a conditional use permit for new disturbance to the woodland buffer be APPROVED.

The MOTION is SECONDED by Witham.

Discussion: Belmore clarified they were only voting on the CUP at this time.

Witham stated yes.

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Belmore questioned if there should be conditions to the approval as suggested by the Conservation Commission.

Guptill stated it was mentioned in the plan revision for the site plan approval motion.

Rhodes stated he wants to ensure the planting requirement is listed as conditions of approval.

Witham stated he felt it was well articulated by Rhodes and the applicant's engineer that the site drainage will be significantly approved so he does not see why they cannot approve the CUP request.

The MOTION CARRIES by an 8-0 roll call vote.

Motion: Witham stated I move that the request of Forget Management LLC for site plan approval to expand an existing automobile sales and service facility with infrastructure be APPROVED WITH THE FOLLOWING CONDITIONS

1. PLAN REVISIONS:

- a. All non-native landscape species shall be removed from the plan and replaced with native landscaping from the approved list provided by the City, Exhibit B of the Site Plan Review Regulations.
- b. A fire hydrant is required at the entrance of the dealership due to the excessive distance from the closest existing fire hydrant to the proposed expanded portion of the building. This new fire hydrant shall be on the south side of the entrance driveway. The location to be finalized by the applicant and the Department of Public Works
- c. Add a note on the plan that site lighting shall be compliant with Section 8.c of the Site Plan Review Regulations.
- d. Horsely Whitten recommends that the applicant specify that the stockpile be located a minimum of 100 feet outside any resource area on Erosion and Sediment Control Notes on Sheet SP-6.
- e. Horsely Whitten recommends that the applicant include the depth of stone and size of stone to be installed for the weir as a part of the construction documents on Sheet SP-4 Detail #1 & Detail #9.

2. CONDITIONS THAT MUST BE MET PRIOR TO FINAL APPROVAL:

- a. Easements from the prior approval shall be recorded with Strafford County Registry of Deeds;
- b. Applicant is advised that they will need to coordinate the installation of the fire hydrant with NH DOT District 6. Route 108 was recently overlaid and staff understands that section of Route 108 is subject to a pavement moratorium.
- c. Construction Cost estimate for this project shall be submitted to the Department of Development Services
- d. The final plans shall bear the stamp and signature of the engineer, licensed land surveyor, and the landscape architect. Please submit five folded 24" x 36" paper copies of the full set of plans to the Office of Development Services for final endorsement.

- e. FEDERAL AND STATE PERMITS - All Federal and State permits shall be in place before plan signing and recording, including NHDES Alteration of Terrain, and NHDES Shoreland Permit, NHDES Wetlands permit and NHDOT driveway permit.

3. CONDITIONS TO BE COMPLETED PRIOR TO THE START OF SITE WORK:

- a. A preconstruction meeting is required prior to the start of work. Please contact the Department of Development Services to schedule this at least 2 weeks prior to breaking ground;
- b. An inspection escrow, in an amount set by the City's contract Engineer and agreeable to the Department of Development Services, will be established for site construction inspections prior to any site work;
- c. A performance surety, in an amount agreeable to the Department of Development Services, but no less than 25% of the cost of site construction determined by the engineer's estimate of construction value, will be established for on-site erosion control and site restoration prior to any site work. If all site work is completed as proposed this account will be refunded;
- d. The applicant shall apply for a new Water and Sewer Connection Permit; The applicant will be required to pay standard water and sewer connection fees assessed on new properties connecting to the water and sewer system. Water fees will be based on the size of water meter needed and the sewer connection fees will be based on estimate of water used and equivalent number of bedrooms; and,
- e. Erosion control shall be properly installed on site PRIOR to any construction. Erosion control shall be properly maintained throughout construction; any breaks or breeches shall be repaired within 48 hours of the storm event.
- f. LANDSCAPING SURVIVAL SECURITY: Ten percent (10%) of the total cost of landscaping or a minimum of five hundred (\$500) dollars, whichever is greater, shall be held for a period of 2 growing seasons to guarantee the survival of the landscaping installation.

4. CONDITIONS APPLICABLE DURING AND AFTER CONSTRUCTION:

- a. All washing of vehicles will take place inside the building to allow for discharge into the municipal sanitary sewer.
- b. There shall be no wetlands degradation during construction;
- c. A copy of the completed Stormwater Inspection & Maintenance Log shall be provided to the Development Services Department annually on or before January 1st. This requirement shall be an ongoing condition of approval and noted on the final plans;
- d. All landscaping shown on plans shall be maintained and any dead or dying vegetation shall be replaced in a timely manner as long as this site plan remains valid;
- e. All outdoor lighting (including security lights) shall be down lit and shielded so no direct light is visible from adjacent properties and roadways and all parking area lighting shall be equipped with a timer and shall shut off no later than 10 p.m. each day and remain off until the following evening;

5. AS-BUILT PLANS.

- a. Within thirty days of the completion of the project and prior to the issuance of an occupancy permit, an electronic As-Built Plan of the proposed development with details acceptable to the Department of Development Services shall be provided in either .pdf and paper copy. Once approved by the Department of Development Services the applicant shall

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submit final As-builts in both paper copy and on CD. This plan must be in a dwg or dxf file format and in NAD 1983 State Plane New Hampshire FIPS 2800 Feet coordinates;

DURATION OF APPROVAL: All conditional approvals shall be valid for a period of 120 days in which time all precedent conditions must be met or the approval shall be null and void. The applicant may request an extension no later than 14 days prior to expiration.

EXTENSIONS: All requests for extension must be submitted in writing to the Department of Development Services no later 14 days prior to expiration with the appropriate fees. Failure to comply with the deadline dates without submission of a written request for extension will result in the approval being null and void.

APPEAL PROCESS: Pursuant to RSA 677:15, an aggrieved party may appeal this decision to the Strafford County Superior Court within 30 days of the date the Board voted to approve or disapprove the application, or to the ZBA pursuant to RSA 676:5, III within 30 days of the date the Board made its decision.

The MOTION is SECONDED by Guptill.

Discussion: Horton clarified the condition of approval should include the revision for the plantings.

Witham stated yes, it was described by the Director.

The MOTION CARRIES by an 8-0 roll call vote.

D) Any new business that may come before the Board.

5. WORKSHOP BUSINESS

Mears stated the 2022-2027 CIP books are ready for the Board to pick up. She stated they are looking to schedule a workshop prior to the November Planning Board meeting.

Horton inquired if it will be via zoom.

Belmore stated yes, and noted if someone would prefer an electronic copy those arrangements can be made.

6. COMMUNICATIONS AND MISCELLANEOUS

Witham stated last year there were a lot of complaints that the City was not plowing the sidewalk on Tri City Road and would like to encourage the Flatley Company to get the request for the acceptance of that sidewalk before winter sets in. He stated the City will not plow it until the City has accepted it.

Belmore stated he had a discussion with the Public Works Director today about that. He stated he is hoping it will go to the November Council meeting but it would not come back before the Planning Board.

Horton stated he saw the notice the Flatley is seeking to expand the development on Tri City Road. He stated he is curious about the traffic increase. He stated he thinks the sidewalk has an alignment issue with the curbing and it looks like they tried to go back and fix the tip downs with additional pavement but looks terrible. He stated he thinks if it was not built per spec or plan there is an issue there.

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Witham stated based on his visual observation he would not be in favor of accepting it. If they tore it all up and re-did it, it would appease him.

Belmore noted that included in the Board's packet is a public notice from Rollinsford. He stated the Flatley Company is seeking 5 variances in order to put additional apartment buildings on the Rollinsford portion of their site. He stated they will likely be seeking access from Tri City Road onto High Street. He inquired if the Board is interested in requesting this item be considered a matter of Regional Impact. He stated he is concerned about this large expansion.

Witham stated it seems to him they have taken a vote as a body here for the neighboring Board to take the item as a matter of Regional Impact.

LeHoullier clarified this is in addition to what is done in Somersworth.

Belmore stated yes, it is in Rollinsford, if they get approval from the ZBA in Rollinsford it would go to the Rollinsford Planning Board for review.

Guptill stated he would share the concern and would want this considered as a matter of regional impact. He stated if the outlet is Somersworth there is already a lot going on there.

Horton stated he would agree too.

MOTION: Witham moved, that the City of Somersworth communicate with the Town of Rollinsford Zoning Board of Adjustment and Rollinsford Planning Board that the proposed Flatley expansion on Tri City Road in Rollinsford be declared a project of Regional Impact.

The MOTION is SECONDED by Guptill.

The MOTION CARRIES by an 8-0 roll call vote.

Mears noted that she is a resident of Rollinsford and they do plan to declare this a project of Regional Impact but it is good to have Somersworth weigh in.

Barry stated the pavement work by Cumberland Farms has been completed and it looks very nice. He stated the dog park is great, he recently went with his two dogs and they had a great time, City Staff did a great job.

MOTION: Guptill MOTION to ADJOURN.

Belmore SECONDS the motion.

The MOTION CARRIES by a 7-1 roll call vote at 8:23 PM. Horton in the negative

Respectfully Submitted,

Dana Crossley, Planning Secretary