

**SOMERSWORTH PLANNING BOARD
MINUTES OF MEETING
January 19, 2022**

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

Excused Members: Paul Robidas,

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

The Meeting was called to order at 6:30 PM.

LeHoullier appointed Perkins as full voting member.

1. Approval of the minutes of the meetings of December 15, 2021

Motion: Rhodes MOVED to accept the minutes of December 15, 2021

The MOTION is SECONDED by Horton.

The MOTION CARRIED 8-0-1 (Guptill abstained).

2. COMMITTEE REPORTS

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

City Council Report: Witham stated the new Council was sworn in at the last meeting. He was appointed as the Planning Board representative with Vincent as the alternate.

Strafford Regional Planning Commission (SRPC) Update: Richardson stated no report, meeting is one Friday.

Other: none.

3. OLD BUSINESS

A) **Geoff Aleva on behalf of Craig Riotto is seeking an extension of the Planning Board approval to complete conditions prior to final approval for an athletic/fitness facility and infrastructure on a property located at 165 Route 108 in the Commercial Industrial (CI) District, Assessor's Map 63 Lot 10 SUB#01-2021, CUP#02-2021 & SITE#04-2021**

Mears stated the applicant is seeking an extension of conditional approval to meet the conditions prior to final approval, which includes plan revisions, submittal of final plans, cost of construction estimate and all Federal and State Permits. Noted the Alteration of Terrain permit was approved and the Board has received a copy of that approval.

Geoff Aleva of Civil Consultants was in attendance to represent the application.

Aleva stated they are waiting on the wetland and DOT permits at this point. Received the AOT permit and had no changes to the plan based on that review. Expect to receive the wetland permit soon but DOT is a slow process. Proceeded with work on site with geo-technical explorations. There is a contractor on board, but not ready to name, working on getting prices for sitework. Waiting for the response from DOT, that is the only one up in the air, the wetland permit has a defined time limit for response.

Witham stated he is fine with the extension it makes sense, asked for more information on the DOT permit, is it because of the modifications to Route 108.

Aleva stated the plan is re-work the pavement area from the intersection to their property line edge, have not had a response from DOT regarding the slip line reconstruction. Understand that Route 108 may be fast tracked with recent funds but trying to get an answer. Thinks they could proceed and start site work without DOT permit but want to get feedback.

Richardson stated he does not have an issue with the request, has heard local excitement about this project.

MOTION: Belmore stated, I move that the request of Geoff Aleva on behalf of Craig Riotto for a **120-day** extension of the Planning Board approvals of SUB#01-2021, CUP#02-2021 & SITE#04-2021 to complete conditions prior to final approval for an athletic/fitness facility and infrastructure be **APPROVED**. The MOTION is SECONDED by Witham. **The MOTION CARRIES 9-0.**

B) CONTINUED: MACK V Development, LLC is seeking site plan approval for a 19,097 SF retail building with outdoor and sidewalk display and infrastructure on a property located at 211 Route 108, in the Commercial Industrial (CI) District, Assessor's Map 44 Lot 10 and 24, SITE#13-2021 PUBLIC HEARING

Mears stated continued from the 12/15/2021 meeting, follow up items requested by the Board. The Planning Board recommended the following for the applicant:

1. For the applicant to provide updated elevations incorporating more detail to the Terrascape Parkway side of the building, consider extending the awning and faux-barn style windows;
 - a. Applicant should file a formal waiver request on City forms from the building design standards as applicable;
2. For the applicant to consider an off site exaction per RSA 674:21(j) off site improvements;
3. For the applicant to show fencing or landscape berm between the development site and residential neighborhood;
4. For the applicant to provide updated landscape island curbing to include rock features;
5. For the applicant to remove or additional justification for the bituminous curbing along the Terrascape Parkway side of development and entrances;
6. For the applicant to show screening to be installed around the dumpster.

Applicant has submitted updated plan. The applicant has submitted an additional waiver from the appearance standards, but withdrew the waiver from Section 17.a.iii.1.a regarding peak run off.

MOTION: Witham stated, I move that the application be removed from the table for further review and action.

The MOTION is SECONDED by Barry. The MOTION CARRIES 9-0.

Jim Cassidy of Hallisey, Pearson & Cassidy Engineering Assoc., **Steve Haight** of Civil Works NE and **Mark D'Addabbo** of MACK V Development were in attendance to represent the application.

Cassidy reviewed the changes to the plans based on the requests made by the Board at the previous hearing. #3. Fencing, plan revision to show a 400' long 6' high vinyl fence to be placed along the northerly property line by the residential properties. #4. Landscape Islands, noted they are seeking a waiver from requirements

for granite curbing, have updated the site for drainage purposes removed curbing from the site. One area is the landscape islands and front of site, concern of the run off through those islands, added a perimeter of landscape stones the plans have been updated to show those stones with detail. #5. Bituminous curbing, with the additional revisions especially for AOT, new section of Terrascape Parkway the runoff needed to be treated, slight redesign of the roadway grading with a cross pitch grading to allow sheet flow of the water to the bio-retention area. The long section of curbing along the roadway is no longer needed, still need at southerly side of Terrascape Parkway and turn radius areas into the site. Still requesting the waiver from requirement to install granite curbing. #6. Dumpster screening, added an enclosure that will match the fencing, will have steel post support and sturdy gates, fully enclosed. #1. Architectural and Terrascape Parkway elevation, proposed to faux barn windows on that side of the building, adding three (3) additional trees to add additional screening. #2. Exaction for off-site improvements, received estimate from City Engineer, understands requirement to install sidewalks along frontage though Route 108 is under consideration for reconstruction estimate is about \$12,000, still seeking waiver from requirement to install sidewalks, would appreciate no additional fees as the price of construction has gone up significantly for constructing the building.

Cassidy stated they have submitted an additional waiver from the requirements for NE Architecture, but also had a waiver for slight increase in run off post development. After further review and revisions to the drainage report in preparation for the AOT permit actually able to reduce the flow and withdrawn the waiver from Section 17.a.iii.1.a.

Belmore clarified the updated elevations were provided to the Board.

Cassidy stated yes they submitted updated plans.

LeHoullier opened the public hearing.

No comments received.

LeHoullier closed the public hearing.

Witham stated the trees do help, but as depicted it seems they are 20' tall trees.

Cassidy stated that is not the intent.

Witham stated as one Board member not inclined to grant the waiver from architectural standards, stated was envisioning something more robust. The exaction for the sidewalk is something they can work with, consistent with past procedures. Inquired if the proposed curbing of bituminous would impact sheet flow of the roadway.

Cassidy stated they have removed as much cubing as possible, would be designed similar to granite. It would interrupt flow.

Witham stated bituminous curbing does not stand up to ongoing plowing and maintenance concern. Lessening the quality of the roadway, lessons the quality of the development and roadway.

Richardson stated the bituminous curbing does not hold up and is a maintenance problem especially during the winter months. This project is not a typical use that would have pedestrians walking to nor the area, would be in favor of the waiver more than requiring installation of the sidewalks. Noted the issue of not knowing when the State is going to move forward with updating Route 108 is a hinderance to the Board.

Rhodes stated there is granite curbing on Terrascape Parkway today, if to use bituminous curbing know it will fail relatively quickly but attaching it to existing material that meets requirements and would not be in favor of that waiver. Appreciates they are improving the water on site. Unless overwhelming reason, which he does not see, does not support not using granite curbing. Agrees that the DOT's lack of communication is a detriment to developers and the Board. He stated he supports the waiver from the sidewalk installation requirement. In regards to the appearance, the faux windows and plantings help break up the appearance for the building, noted the trees are 3-3.5" caliper and they would grow rather quickly would provide good screening. Inquired if they could add additional trees to break up more of the building.

D'Addabbo stated they can put more trees. He stated they can install granite curbing. Goal is to get this site under construction in the spring.

Rhodes requested clarification on the size and number of trees.

Cassidy stated they can add 3 additional trees, have discussed but cannot commit, there is nursery stock on site, would like to try to use those existing trees, but cannot guarantee the trees would transplant and survive. Otherwise would use equal sized to the proposed.

D'Addabbo stated they would try to use the existing trees but they may not survive the move.

Rhodes stated it would be an amendment to include 3 additional trees as the type specified or sustainable trees from the existing onsite, understanding that they are required to maintain landscaping.

Horton stated he agrees with adding additional trees. No issue with the architectural appearance as long as concerns are addressed. For granite curbing it is appropriate as noted, matching and longevity. Feels sidewalks would not make sense and happy with the proposal.

Guptill asked for clarification on the mechanical units and if they would be shielded, noted he was not in attendance at the last meeting.

Mears stated yes they need to be screen and the applicant can address that.

Cassidy reviewed the site line demonstration that showed the RTU's would not be visible.

Witham stated the additional trees will help that long façade, key is the trees need to survive. Appreciates the granite curbing. Stated the discussion on the sidewalks is the same they had with Cumberland Farms, it makes no sense to build the sidewalks, but if they were to build them it would cost \$12,986, suggested taking the money to put into the sidewalk capital reserve fund for future maintenance of the sidewalk that will eventually be in front of this site. For consistency would be likely to approve the waiver for from sidewalks with the exaction.

Regional Impact:

MOTION: Horton I move that the request of MACK V Development, LLC for site plan approval for a 19,097 SF retail building with outdoor and sidewalk display and infrastructure on a property located at 211 Route 108 **DOES NOT HAVE POTENTIAL FOR REGIONAL IMPACT**

The MOTION is SECONDED by Belmore. The **MOTION CARRIES 9-0.**

Waiver Requests:

1. Section 12.5.c Sidewalks:

MOTION: Horton stated I move that the request of MACK V Development, LLC for a waiver from Section 12.5.c of the Site Plan Review Regulations requirement for sidewalks be APPROVED

Discussion: Barry inquired if this would be an appropriate place to put the exaction.

Witham stated if he was to make the motion, he would include a condition the developer provide an exaction of \$12,986.

Belmore requested to hear from the developer on a condition of approval to agree with the exaction, believes the exaction from Cumberland Farms was put into the capital reserve fund to make improvements throughout the City. He explained asking for more of a mutual agreement, with agreement from developer not directly attached to statute to specifically identify the use of the funds. The sidewalks here are under jurisdiction of the Statue and whenever installed would most likely not require maintenance within 6 years of this development. Mutually agree with the developer to place the funds in the capital reserve to use for sidewalks throughout the City.

The Board discussed offsite exactions or agreements with the applicant.

Rhodes noted the sidewalk requirement is to ensure there is pedestrian access to all development in the City, this project and most on Route 108 DOT is going to come through at some point a determine what they are going to do with the corridor, makes inclusion of sidewalks on Route 108 projects ridiculous at best or counter productive at worst. The logic of requesting the developers work with the City for an exaction that is not specifically tied to their project, acknowledges that if not for the project sidewalks would not be going in any where near that site, additional sidewalk load, acknowledgement from developer that the sidewalk load would be increased in the future and assisting in maintaining those sidewalks, beyond the strict language.

Belmore stated they are attempting to be consistent with developers, try to work with developers to make financial burden more bearable. Three options, tie it to the sidewalks on Route 108 not sure it is need because it would be exercise in futility, putting money in a capital reserve funds allows for them to use the money for sidewalk improvement but not specifically in this area, and not tied to the full amount, or a waiver with no condition.

Witham stated understands the cost of construction, clearly communicated to DOT to include sidewalks in this area, clear that once the State builds the sidewalk the upkeep of the sidewalks becomes the City's burden. Inquired what the developer wanted to contribute to the sidewalk burden.

D'Addabbo clarified the City takes care of the sidewalks, not the property owner.

Witham stated it is the City. In lieu of building a sidewalk would they be agreeable to contributing to the overall upkeep of the City's sidewalks.

D'Addabbo stated he does not want to build sidewalks that would be ripped up, happy to contribute to Somersworth and can contribute \$6,000.

Witham stated that is a reasonable compromise.

MOTION: Horton stated I move that the request of MACK V Development, LLC for a waiver from Section 12.5.c of the Site Plan Review Regulations requirement for sidewalks be APPROVED WITH THE FOLLOWING CONDITION:

1. Offsite donation of \$6,000 for the Sidewalk Capital Reserve Fund for upkeep/maintenance of sidewalks.

The MOTION is SECONDED by Witham. The **MOTION CARRIES 9-0.**

2. **Section 12.4.a.v. Exhibit A: Non-Residential Developments Required Parking Spaces:** to allow 84 parking spaces where 96 is required.

MOTION: Rhodes stated I move that the request of MACK V Development, LLC for a waiver from Section 12.4.a.v. Exhibit A of the Site Plan Review Regulations to allow less than the required 96 parking spaces be APPROVED.

The MOTION is SECONDED by Barry. The **MOTION CARRIES 9-0.**

3. **Section 12.4.b.iv: Parking Lot Design Standards- Granite Curbing:** to allow low profile bituminous curbing

MOTION: Rhodes I move that the request of MACK V Development, LLC for a waiver from Section 12.4.b.iv of the Site Plan Review Regulations to allow low profile bituminous curbing in place of granite curbing be DENIED.

The MOTION is SECONDED by Guptill.

Discussion: Belmore clarified if it was withdrawn.

Cassidy stated they agreed to do the granite curbing.

The **MOTION CARRIES 8-1.** (Belmore noted he would rather they have withdrawn)

4. Section 12.4.b.viii.4: Parking Design Lot Standards – Mitigation for impact of parking lots – curbing in landscaped areas: to have no curbs around landscaped areas.

MOTION: Rhodes stated I move that the request of MACK V Development, LLC for a waiver from Section 12.4.b.viii.4 of the Site Plan Review Regulations to allow no curbs around landscaped areas be APPROVED WITH THE FOLLOWING CONDITIONS:

1. Stone be installed surrounding landscaped areas as shown on the plan.

The MOTION is SECONDED by Barry. The **MOTION CARRIES 9-0.**

5. Section 12.7 Appearance Standards

MOTION: Rhodes stated I move that the request of MACK V Development, LLC for a waiver from Section 12.7 of the Site Plan Review Regulations appearance standards be APPROVED WITH THE FOLLOWING CONDITIONS:

1. Plantings as indicated on the plan be installed;
2. Three (3) additional trees shall be added for a total of six (6) on the south side of the building, of the same as shown on the plan or stock from onsite as approved by the Director of Planning and Community Development;
3. The faux barn windows as shown on plan shall remain;

The MOTION is SECONDED by Witham. The **MOTION CARRIES 9-0.**

Mears reviewed the proposed conditions of approval. She noted additional to her memo are the following conditions:

1b. Granite curbing shall be added;

1c. Three (3) additional trees shall be added for a total of six (6) on the south side of the building of the same as shown on the plan or stock from onsite as approved by the Director of Planning and Community Development;

Witham stated in regards to the \$6,000 should that be specified when it should be due, perhaps Certificate of Occupancy.

Developer agreed to prior to issuance of CO.

MOTION: Rhodes stated I move that the request of MACK V Development, LLC for site plan approval for a 19,097 SF retail building with outdoor and sidewalk display and infrastructure on a property located at 211 Route 108 be APPROVED WITH THE FOLLOWING CONDITIONS:

1. PLAN REVISIONS:

- a. Any outstanding comments from Horsley Witten review shall be addressed to the satisfaction of the Director of Planning and Community Development.
- b. Granite curbing shall be added;

- c. Three (3) additional trees shall be added for a total of six (6) on the south side of the building of the same as shown on the plan or stock from onsite as approved by the Director of Planning and Community Development;
 - d. Please include a note regarding about hydrants which includes the requirement for periodic flushing, snow removal to maintain access, periodic cap removal, and controlling vegetation so as not to obstruct the hydrant.
 - e. Add Fire Hydrant near rear entrance, show the current hydrant in that area plotted in relation to the rear exit in order to assess acceptability, to the satisfaction of the Fire Chief;
2. CONDITIONS THAT MUST BE MET PRIOR TO FINAL APPROVAL
- a. Construction Cost estimate for this project shall be submitted to the Department of Development Services.
 - b. 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.
 - c. 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.
 - d. Please provide updated Condominium Association documents as appropriate to be reviewed by legal. These documents shall address access, utilities, boundaries, and landscaping. Applicant shall supply draft condominium for the City for legal review and approval. An escrow shall be collected in the amount \$750 or determined by the Director of Planning and Community Development to cover the cost of the review and recording of the easement at the Strafford County Registry of Deeds prior to the issuance of a C/O.
 - e. Please provide access/utility easement documents for legal review and approval. An escrow shall be collected in the amount \$750 or determined by the Director of Planning and Community Development to cover the cost of the review and recording of the easement at the Strafford County Registry of Deeds prior to the issuance of a C/O.
3. CONDITIONS TO BE COMPLETED PRIOR TO THE START OF SITE WORK:
- a. Building Plans shall bear the stamp of a Certified Fire Protection Engineer licensed in New Hampshire to certify compliance with all egress, emergency lighting, smoke, heat, and CO detection systems, fire alarm monitoring and reporting systems, fire suppression systems, and any other fire protection or related life safety systems required by National and/or NH Code.
 - b. A preconstruction meeting is required prior to the start of work. Please contact the Department of Development Services to schedule this at least 1 week prior to breaking ground.
 - c. An escrow account, 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.
 - d. 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 and off-site improvements. If all site work is completed as proposed this account will be refunded.

- e. 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.
 - f. 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.
 - g. Wetland buffer areas shall not be impacted by any construction activities (other than those impacts permitted under the CUP and DES wetlands permit). Wetland buffers shall be marked with orange snow fence prior to any onsite activity, and such markers shall be maintained throughout construction.
 - h. 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. There shall be no wetlands degradation during construction.
 - b. Outdoor display is only allowed in the areas identified on the Site Plan.
 - 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, this shall include the three additional trees to be added to the plan, 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.
 - f. Offsite donation of \$6,000 for the Sidewalk Capital Reserve Fund for upkeep/maintenance of sidewalks. This shall be collected prior to the issuance of the Certificate of Occupancy.
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 a .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 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. The **MOTION CARRIES 9-0.**

C) Any old business that may come before the Board.

4. **NEW BUSINESS**

A) **Emanuel Engineering, Inc. on behalf of Joaquin German, is seeking site plan approval for a 4-unit apartment building and infrastructure on a property located at 247 Main Street, in the Business (B) District, Assessor's Map 09 Lot 228, SITE#15-2021 PUBLIC HEARING**

Mears stated the proposal to construct 3-story, 4-unit apartment building. 8 parking spaces on site. Site has received a variance to allow residential on the first floor. This project has been to SRTC October 13, 2021 and January 5, 2022. Historically the 6,059 square feet (sf) property was developed with a 3-story single-family residential building (approximately 1,650 sf). The lot has been vacant since the building's demolition in 2016. The Applicant is proposing a 4-unit, 3-story apartment building (1,765 sf) with an adjacent 2,150 sf paved parking lot.

Application Acceptance:

MOTION: Horton stated I move that the site plan application of Emanuel Engineering, Inc. on behalf of Joaquin German, for a 4-unit apartment building and infrastructure be **ACCEPTED AS COMPLETE FOR REVIEW.**

The MOTION is SECONDED by Barry. The **MOTION CARRIES 9-0.**

Bruce Scamman of Emanuel Engineering was in attendance to represent the application. Provided a copy of the most current the site plan to the Board.

Scamman stated the project is located at the corner of Main St. and Summer St. and proposing to construct a 3-story residential building with a parking lot in the rear of the lot. He stated there will be 8 onsite parking spaces, three in the 'garage' area and 5 in the lot. There is an existing retaining wall on the Main St side of the property and a narrow about 3' sidewalk along Summer St. Site generally tapers down towards Main Street and Summer St. is a one-way street. Proposing juniper bushes to be planted at the rear of the lot to assist in stabilization of the slope, noted they are seeking a waiver from landscape requirements for hiring a landscape architect. There will be landscaping in the front of the lot with a second retaining wall, roof infiltration system and the parking lot run off goes to a rear treatment area, water is being treated on site. Designed to have the water flow away from Main St. There is an existing stone wall, adding a second retaining wall, there will be a stone drip edge for infiltration.

Scamman reviewed the architectural plans, noted they plan to keep the existing staircases from Main Street. He addressed the outstanding comments from the SRTC review and Horsley Witten review. Stated they are proposing to add a sign to prevent snow from being plowed into the bio-retention area. The Public Works Director requested that the sewer clean out be moved out of the right of way and that has been pulled back onto the property. The Fire Department had discussed with them ensuring the driveway is large enough for apparatus to back in, due to the slope on Summer St they have a 12' driveway to ensure ADA compliance as well. Proposing to put rock to widen the driveway that would allow fire apparatus to drive over but discourage a regular car from driving on.

Mears noted there was an additional comment received from Public Works to Update sewer detail on sheet D2, remove detail provided by the City of Somersworth and replace with applicant's design/connection detail.

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Scamman stated the sight is very small, put an underdrain system to ensure water does not get into the treatment sections of the infiltration, treatment area not to be affected by groundwater. Seeking a waiver from requirements of test pits. Further reviewed the Horsley Witten outstanding comments.

LeHoullier opened the public hearing:

Michael Fischer 253/257 Main Street- stated his property at 253 Main Street comes right up to the property line and is on a dug foundation. Wants to ensure the building proposed has adequate setback, would like to see some fencing to protect his properties and for the Board to consider the potential for water to impact his property. The previous building here was a single story with basement. Concerned with water runoff.

No other comments received.

LeHoullier closed the public hearing.

Barry stated he likes the design and feels it is an improvement, especially considering there is an infiltration system being installed. Thinks the parking plan is a smart design. Noted his concern of the infiltration system being designed without a test pit, wants to ensure the perforated pipe is below freezing but above high water, wants to ensure the Board follows the HW recommendation to have at least one test pit completed with an engineer on site. Regarding the abutter concern the design for the drainage plan is graded away from the property line.

Scamman reviewed the roofline drainage and how the runoff is not directed towards 253 Main St.

Barry stated on the Main St side of the house there is a door, is there stairs or railing proposed. Scamman stated expect a stair located to drop into the stone infiltration area and be able to walk there. The retaining walls are less than 30" so that they do not require railings, allows for someone to traverse in an emergency.

Barry clarified the stairs would remain and be accessible.

Scamman stated yes, but not all the way up to the front door. Explained the evolution of the architecture plans.

Rhodes stated he is glad to see development on Main Street. Noted there is a waiver from the appearance standards, inquired for more information to why that is being requested.

Scamman stated the original design had a different window layout, did not hire architect and was unsure if they had met all standards, may be at a point that the Board does not feel it is required.

Rhodes stated the architectural standards are general NE and does not think it is required based on the submittals. This site does not have extensive landscaping, what is proposed makes sense and enhances appearance, noted there is a list of natives that they like to see, plantings proposed are not on that list would like to see substitutions from that list to be approved by City Staff.

Goodwin inquired what the gross SF for the building was and the average size of the units.

Scamman stated the units are 800 and 900 SF, 2-bedroom units.

Goodwin stated he appreciates that the existing concrete stairs are being retained, the second retaining wall seems to be driven by requirement for parking and grades. He stated it is unfortunate that they are 2' off from having a functional front door.

Scamman stated there is a possibility for the stairs, additionally there is ledge in the middle of the site and wanted to limit the amount of blasting in a close neighborhood.

Goodwin clarified there is ledge but they are going to recharge stormwater on site.

Scamman stated there are D soils on site, even on slow infiltration sites still get water into the ground, most is being taken care of the in rear of lot.

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Goodwin stated he would like to see the front door have access to the street and would like to see native species for the plantings used. Regarding the garage, is there a reason the sides have been left open.

Scamman stated combination of ventilation and because multifamily, did not want garage doors and wanted to keep it open, proposing to put bike racks in the underneath and trash storage area. For ventilation to allow trash to have air.

Goodwin stated from the street side would want to see the siding continued back, does not read as NE character to him having a car parked under a building.

Scamman explained for drainage and safety purposes have a roof over a walkway to allow access.

Richardson stated he does not have a clear understanding of the front door, feels a door to nowhere would be confusing to someone on the street. Noted there are at least 5 stairs on Main St, if there is no doorway where are people going to go from those stairs, thinks it could be an issue for First Responders. Stated he would like to see a railing on the stairs as well if they are going to stay.

Scamman inquired if the Board would prefer to have a window in that location in lieu of a door. Trying to make a more architectural to NE style with the door on the Main St. side. The main door into the site is located on Summer St.

There was a brief discussion on the address of the building.

Goodwin stated he would not be in favor of the door changing of a door to a window. Inquired if having only one door it would meet fire safety requirements.

Scamman stated the FPE would be required to review the site and his understanding is that windows of a certain size could be the second.

Belmore noted that the Fire Chief and Police representative are on the SRTC and E911 Committee and suspects they would have weighed in on egresses and layout.

Mears stated this was discussed at SRTC and discussion of the walkway to access the Main St door. Noted that it needs to be certified by a Fire Protection Engineer. The address would need to be assigned prior to building permit.

Rhodes asked for clarification to where the Main St. door accesses.

Scamman stated it accesses the singular 1st floor unit.

Rhodes clarified the 2nd and 3rd floor units access.

Scamman stated all units can access the door way that is from Summer St. Reviewed the interior floor plan.

Rhodes stated he thinks the door needs to stay and also should be accessible from the street.

Scamman suggested having a side stair that leads to the stone wrap around walkway.

Rhodes stated that explains it to his satisfaction.

Witham stated he agrees that this design has a general NE style architecture. Specific to the front door and egress, the Building and Code officials will have oversight of this during construction, a CO would not be issued unless egress issues have been addressed. For a design perspective does feel awkward that there are two stair sets that do not go anywhere. For the street address, the E-911 committee will determine the street address based on public safety. Overall good with the project. The small strip of sidewalk along Summer St was mentioned, would be in favor of that going away, as the sidewalk does not meet the required size for maintenance.

Scamman stated that is what they have proposed, remove sidewalk, keep curb and re-seed for grass.

Witham stated a waiver from the requirement to have on site park and recreation, there is no space on site to do that. But the Jules Bisson park is within this neighborhood, this would be a place for a reasonable exaction, as the tenants would be able to walk to this park and use, for improvements and maintenance to that park.

Belmore stated the Jules Bisson basketball court resurfacing is within the CIP and it could be dedicated to that.

Horton stated overall in support of the project and concern falls in line with the ongoing discussion. The two front stairs take away from the curb appeal to him. Feels the stone being proposed to widen the driveway would become an eye sore, wondered if it could be changed to match the stone being used in the drip edge.

Scamman stated they are fine with a smaller stone, but do not want people to be encouraged to drive over. A smaller stone would be peeled off faster than the proposed.

Richardson stated he misunderstood the door to no-where, egress this is a good project for this location.

Regional Impact:

MOTION: Belmore stated I move that the site plan application of Emanuel Engineering, Inc. on behalf of Joaquin German, for site plan approval for a 4-unit apartment building and infrastructure on a property located at 247 Main Street **DOES NOT HAVE POTENTIAL FOR REGIONAL IMPACT**
The MOTION is SECONDED by Guptill. The **MOTION CARRIES 9-0.**

Waiver Requests:

1. **Section 12.17.vi.4, Stormwater Requirements:** The applicant shall demonstrate the ability to infiltrate by providing a 1-foot separation between the bottom of the practice and the underlying ledge or seasonal high groundwater elevation. Test pits shall be performed to determine the depth to ledge and the seasonal high groundwater elevation in the area of the proposed infiltration practice. A plan showing the test pit locations and findings shall be provided for review.

Horsley Witten Comment: HW (01/11/22): The Applicant requested a waiver from Section 12.17.vi.4 – Test Pits in order to avoid the unnecessary hardship of hiring an excavator and performing test pits. HW defers to the Planning Board for the granting of this waiver. If the planning Board chooses to grant this waiver, HW recommends that the Applicant conducts a test pit prior to construction which is witnessed and documented by a Professional Engineer. Written confirmation should be provided to the City stating that the bioretention system is located above seasonal high groundwater and will function as designed.

Discussion: Witham stated test pits was discussed, understand they want the HW recommendation included, provided the test pits are done with engineer on site to verify, is fine with it since HW agreed the drainage calculations were good but had a suggested condition.

Belmore clarified HW was comfortable with test pits plural but at least one test pit completed to ensure the bioretention system is located above seasonal high groundwater and will function as designed.

Mears stated yes, one test pit for the back drainage feature.

MOTION: Witham stated I move that the request of Emanuel Engineering on the behalf of Joaquin German for a waiver from Section 12.17.vi.4 of the Site Plan Review Regulations requirement to provide test pits be **APPROVED WITH THE FOLLOWING CONDITION:**

1. **Applicant shall conduct a test pit prior to construction which is witnessed and documented by a Professional Engineer. Written confirmation shall be provided to the City stating that the bioretention system is located above seasonal high groundwater and will function as designed.**

The MOTION is SECONDED by Barry. The **MOTION CARRIES 9-0.**

2. **Section 12.8.b Site Lighting:** Illumination levels at property boundaries shall not exceed 0.2 footcandles for the receiving industrial or commercial properties and 0.1 footcandles for receiving

residential properties

Discussion: Scamman stated they are proposing no pole mounted light fixture. Proposing downward facing, wall mounted light fixtures. Where this is more of a residential site, there is the overhang roof lights could be in that overhang or attached to building downward facing. There are notes on the plan that all light fixtures must be dark sky compliant/downward facing. Anticipates lights on the garage to illuminate parking lot and possibly one on the front door. Does not need a lot of lighting on site, hoping to not hire electrical engineer for a few lights.

Witham stated the regulation is to ensure no light trespasses onto neighboring properties, not sure if it is a required motion.

MOTION: Witham stated I move that the request of Emanuel Engineering on the behalf of Joaquin German for a waiver from Section 12.8.b of the Site Plan Review Regulations requirement to provide illumination levels be **APPROVED**.

The MOTION is SECONDED by Horton.

Discussion: Rhodes requested a condition of approval be added that the lights shall be dark sky compliant/down lit and shielded. Witham and Horton accepted the amendment the motion.

MOTION to Approve with condition:

1. All outdoor lights shall be dark sky compliant/ down lit and shielded.

The **MOTION CARRIES 9-0**.

3. Section 12.7 Appearance Standards – WITHDRAWN

Discussion: Rhodes stated it seems to be a limbo if the waiver is required. Can the applicant have the opportunity to withdraw.

Scamman stated if the Board does not feel they need it, they would withdraw it. When first submitted did need it but if not required at this time, happy to withdraw.

Belmore stated his preference is for it to be withdrawn for clarity.

Scamman stated he would withdraw.

4. Section 12.6.e, Landscape Plan

MOTION: Rhodes stated I move that the request of Emanuel Engineering on the behalf of Joaquin German for a waiver from Section 12.6.e of the Site Plan Review Regulations requirement to provide a landscape plan stamped by a landscape architect be **APPROVED WITH THE FOLLOWING CONDITIONS**:

1. Submitted species shall be swapped with native plantings to be approved by the Director of Planning and Community Development.

The MOTION is SECONDED by Belmore.

Discussion: Richardson stated he would like to see a railing added to the stairs, those would be slippery in the winter time.

Belmore stated that would be more structural than landscaping issue, feels it would be addressed through the Code review of permits.

Rhodes stated doesn't disagree but would be addressed with Code.

The **MOTION CARRIES 9-0.**

5. **Section 12.11 School Availability:** Information relative to the schools' availability shall be supplied by the applicant using the appropriate method and data outlined in The new Practitioner's Guide to Fiscal Impact Analysis, by Robert W. Burchell, David Listokin, and William R. Dolphin (1985: Rutgers, The State University of New Jersey), as hereafter updated.

MOTION: Witham stated I move that the request of Emanuel Engineering on the behalf of Joaquin German for a waiver from Section 12.11 of the Site Plan Review Regulations requirement to provide information on school availability be APPROVED.

The MOTION is SECONDED by Belmore.

Discussion: Witham stated this would not have tremendous impact on the schools, de minimis and there is space availability.

The **MOTION CARRIES 9-0.**

6. Section 12.10 Park and Recreation Area:

MOTION: Witham stated I move that the request of Emanuel Engineering on the behalf of Joaquin German for a waiver from Section 12.10 of the Site Plan Review Regulations requirement to provide onsite park and recreation area be APPROVED WITH THE FOLLOWING CONDITIONS

1. Per RSA 674:21(j) off site improvements, the applicant shall pay \$1,000 prior to the issuances of the Certificate of Occupancy, to go towards the resurfacing of Jules Bisson Park;

The MOTION is SECONDED by Horton.

Discussion: Scamman stated applicant is agreeable.

Witham stated the exaction would go towards a specific project to be completed within six years.

The **MOTION CARRIES by 9-0.**

7. **Section 12.3.b Utilities:** All proposed utilities shall be placed underground and shall be located a minimum of seventeen (17) feet off the centerline of the roadway pavement. Utilities shall be located as not to conflict with roadside drainage systems or landscaping.

Discussion: Scamman stated overhead utilities coming from existing utility pole, proposing to run back to the building. There is existing retaining walls that cover the area in front of the utility pole, did not make a lot of sense to dig through that. Fire truck could not set up there due to over the street lines anyways, understand the lines need to be as high as possible to allow for appropriate fire access.

MOTION: Horton stated I move that the request of Emanuel Engineering on the behalf of Joaquin German for a waiver from Section 12.3.b of the Site Plan Review Regulations requirement to have all utilities be underground be APPROVED

The MOTION is SECONDED by Guptill. The **MOTION CARRIES 9-0.**

8. **Section 12.4.d: Traffic Impact -** All projects shall provide a report meeting the requirements outlined for a "short" traffic impact analysis.

MOTION: Belmore stated I move that the request of Emanuel Engineering on the behalf of Joaquin German for a waiver from Section 12.4.d of the Site Plan Review Regulations requirement to provide a traffic impact analysis be APPROVED.

The MOTION is SECONDED by Guptill. The **MOTION CARRIES 9-0.**

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Mears reviewed the proposed conditions of approval. She noted additional to her memo are the following conditions:

- 1e. Update sewer detail on sheet D2, remove detail provided by the City of Somersworth and replace with applicant's design/connection detail.
- 1f. The door Main St. door shall be Code Compliant
- 1g. Applicant shall update the plan to use native species and approved by the Director of Planning and Community Development.
- 4e. Prior to the issuance of the Certificate of Occupancy, a Recreation exaction shall be collected in the amount of \$1,000 to go towards improvement of Jules Bisson Park.

MOTION: Witham stated I move that the request of Emanuel Engineering, Inc. on behalf of Joaquin German, is seeking site plan approval for a 4-unit apartment building and infrastructure on a property located at 247 Main Street be APPROVED WITH THE FOLLOWING CONDITIONS:

1. PLAN REVISIONS:

- a. Any outstanding comments from Horsley Witten review shall be addressed to the satisfaction of the Director of Planning and Community Development.
- b. Please add signage, guardrail or split rail fence to edge of the parking lot to discourage plowed snow from being pushed into the bioretention basin.
- c. Please move the sewer cleanout onto private lot, outside of public right of way to the satisfaction of the Public Works Director;
- d. The material used to widen the driveway to ensure Fire apparatus can access the site shall be found acceptable by the Public Works Director and Fire Chief and shown on the plan;
- e. Update sewer detail on sheet D2, remove detail provided by the City of Somersworth and replace with applicant's design/connection detail.
- f. The door Main St. door and stairs shall be Code Compliant.
- g. Applicant shall update the plan to use native species and approved by the Director of Planning and Community Development.

2. CONDITIONS THAT MUST BE MET PRIOR TO FINAL APPROVAL

- a. Construction Cost estimate for this project shall be submitted to the Department of Development Services.
- b. 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.
- c. 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. Building Plans shall bear the stamp of a Certified Fire Protection Engineer licensed in New Hampshire to certify compliance with all egress, emergency lighting, smoke, heat, and CO detection systems, fire alarm monitoring and reporting systems, fire suppression systems, and any other fire protection or related life safety systems required by National and/or NH Code.

- b. A preconstruction meeting is required prior to the start of work. Please contact the Department of Development Services to schedule this at least 1 week prior to breaking ground.
 - c. An escrow account, 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.
 - d. 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 and off-site improvements. If all site work is completed as proposed this account will be refunded.
 - e. 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.
 - f. 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.
 - g. 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.
 - h. The development will require new addresses. 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 Building Permits.
 - i. Pursuant to Chapter 12 Streets and Sidewalks, required permits shall be issued by the Department of Public Works. Please coordinate with the Public Works Director for required permits.
4. CONDITIONS APPLICABLE DURING AND AFTER CONSTRUCTION:
- a. There shall be no wetlands degradation during construction.
 - b. 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.
 - c. 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.
 - d. All outdoor lighting (including security lights) shall be down lit and shielded so no direct light is visible from adjacent properties and roadways.
 - e. Prior to the issuance of the Certificate of Occupancy, a Recreation exaction shall be collected in the amount of \$1,000 to go towards improvement of Jules Bisson Park.
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 a .pdf and paper copy. Once approved by the Department of Development Services the applicant shall submit final

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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 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, or to the Housing Appeals Board pursuant to RSA 679:6, within 30 days of the final decision of the Board.

The MOTION is SECONDED by Horton.

Discussion: Witham stated there is the condition to ensure the surface used to widen the driveway is amendable to the City, rock is being proposed and discussion of the size, strategy suggested there are grids used for infiltration that can be driven over, might be an option.

The **MOTION CARRIES 9-0.**

LeHoullier called for a 5-minute recess to allow next applicant to set up.

The meeting was called back to order at 8:55 PM.

B) Carlton Spencer & Sherri Bolin are seeking a 7-lot conservation subdivision on a property located at 279 Green Street, in the Residential Single Family (R-1) District, Assessor's Map 18 Lot 45, SUB#10-2021 PUBLIC HEARING

Mears stated the applicant has been before the board before but this is a new application. The applicant must obtain a Conditional Use Permit Application to locate drainage within the wetlands Riparian Buffer per Section 13 Riparian and Wetland Buffer District. Applicant is submitting for CUP for the Conservation Commission to review at their February meeting. This was noted during the final review, the wetlands ordinance has been updated in the time between the first application submission and this submission. Staff recommends the Board continue the application to the February 16, 2022 Planning Board meeting to allow the Conservation Commission to review the CUP.

LeHoullier inquired since this is a new application, if the Attorney's opinion still negates the ZBA decision that the lot could not be further subdivided.

Mears stated yes.

Attorney Lanzetta of Bruton and Berube and Steve Haight of Civilworks NE and Carlton Spencer were in attendance to represent the application.

Lanzetta stated he wanted to thank the assistance from Staff getting this application before the Board. He stated they did have a subdivision application before the Board in 2021, after review and request of the Board withdrew that application and with those comments in consideration developed this plan. Noted this application substantially complies with all the rules and regulations by the City and Zoning Ordinance

with one exception. Seeking a wavier from the requirement for sidewalks. Reviewed the surrounding area, existing curb cut, and a virtual site walk. Pointed out there are different densities in this residential neighborhood and lots are all different sizes with no uniformity. Green St. is a State road, the road for the subdivision will be located where the existing driveway is, will meet the all-season safe sight distance required by DOT. The existing house will stay and become its own lot. Met with Planning Department for preliminary meeting, used formula approach outlined in the Zoning Ordinance to come to the conclusion that 7 lots are appropriate, confirmed the approach and math with Planning Department. Application was reviewed by the SRTC and incorporated those comments.

Haight reviewed the subdivision plan, existing conditions with test pits, subdivision plan is an open space plan. Noted the open space areas. The area asking for a conditional use permit is the detention pond area, ordinance requires anything within the 100' buffer to receive a CUP. Lots are sized per zoning with the required frontage. One of the comments from a previous meeting was to show how the houses could fit on the site and have done that along with the possible septic locations. Received comment from Department of Public Works requesting to have the center island returned to the cul-de-sac and they have added that to the plans. Provided in the packet is how fire apparatus can make the loop on the cul-de-sac. Plan has been submitted to DOT with driveway application. There was a recommendation to have a light added to the utility pole and they will work with Eversource to do that. HW had recommended adding another light up the road, proposing to have driveway lights on each lot. Reviewed the road profile and have sufficient sight distance. To manage stormwater, have an infiltration bio-retention basin, also have drip edges along houses and driveways to limit runoff coming off lots. Working through final comments from HW. Reviewed bio-retention basins and catch basins, retaining water on site and leaching into the ground. The lot grading plan has not changed from the previous application, everything goes into the road into catch basins to the bio-retention basin that has underdrains in it as well, any water that gets in there goes into the ground, any that doesn't it has an outlet can go through 6" fence and there is 50' of vegetated stays on site.

Haight reviewed the Conditional Use Permit plan, design has not changed, only request difference is for the CUP that will be reviewed by Conservation Commission. The pipe within the 50-75' is underground, asking for that impact during construction the rest is between 75-100' is the bio-retention berm. The extent is for the berm, nothing for the road or houses.

LeHoullier opened the public hearing:

Lorraine Beaudoin, 275 Green Street: stated has two issues, 1. she would not have purchased her property had she known she would be stone's throw from a development. 2. The water. As she knew it one residence was allowed at 279 Green, had to have been a reason for that and has not been given an answer to why it was originally stipulated and now changed. How did original reason for restriction evaporate? Regarding issue of exponentially increased water pooling on her property if the plan goes through as is. The latest plan increases the amount of water displacement, each revision has an additional home meaning another basement displacing water, even more water will flow down to her property. The subdivision elevation slopes down towards her property on North and East elevations. The applicant's house is at 196' of elevation hers is 156' of elevation, oddly the previous plans located the bio-retention pond almost in line between highest elevation and her house now moved with direct flow for water to her yard. The bottom of the water catchment is at 165' elevation and lowest of her property is 152', nothing to address subterranean flow all within the ground rather than surface flow, proposed plan will increase it, know of no underground impermeable leavy that is in between this development and her property. Increase waterflow and decrease the integrity of her property.

Taryn Chasse-Decken, representing Mother Monique Chasse homeowner of 281 Green Street: asking for clarification of the process that led to the administrative decision dated 6/7/2021 regarding this lot, is there documentation with Attorney Spencer-Morgan and her legal opinion. Only documentation is the administrative decision by Director Mears. Questions on which documents were supplied to Spencer-Morgan have been

brought up and dismissed by Belmore that the documents are in the packet, packet has documents supplied by Attorney Lanzetta. Is there documentation that the documents were received and reviewed by Attorney Spencer-Morgan. From the September meeting minutes, Lanzetta stated he researched the file in regards to this property and provided a letter to the City including every piece of information related to the property included rational behind request. Has tonight to provide to the Board, documents regarding a Superior Court Case regarding 279 Green St these were not included in the packet, would like to submit them now for review. Also not included in the packet were minutes from 3 meetings this case was discussed, Lanzetta's research was not very thorough which casts more concern of the administrative decision. Board members have repeatedly expressed concern over the decision and asking further discussion and consideration of the application be continued until adequate answers obtained. Decision is the sole reason the application is being discussed. Does not understand why the Attorney cannot submit opinion or attend meeting to state she had reviewed the documents. Regarding the proposed subdivision, disappointed to see knew conservation subdivision plans feels it was different than the September meeting, 7th house added right behind 281 Green. Concerned about water, lots 2 & 4 directly behind 281 Green, lot 2 has high water table of 14" and 22", new test pit for lot 4 has high water of 22" and that is a lot of water. Our property abuts this property by 900' and drop of 60' from one corner to another, water has always been an issue, does not understand how this won't make it worse. Past 5 years Mother has installed new septic, garage floor and driveway all previously damaged by water. HW had 3 items that are to be addressed and noticed at 9/15 meeting if there would be mitigation for water existing at 281 Green St. Hard to decipher the proposed tree line, understands a 50' ROW would have to be fully cleared, the existing driveway is 14' wide would cut into vegetation existing, if this plan gets approved would like COA for a privacy fencing along the roadway combo of live and stockade fence. Understanding to avoid AOT has to complete the road first, if there is privacy screening when will it be installed, would like it when road is completed, noticed the existing house lot has a long driveway can it have a shorter driveway. Believe applicant has three pending State and Federal permits pending want to see those approved prior to this approval. Hope that Director Mears clarified the calculations used are correct for the yield plan. Applicant has a history of illegally filling wetlands, hopes there is regularly scheduled inspections and the abutters will be watching him. Provided copies of court case documents to Board.

No other comments received.

LeHoullier closed the public hearing.

Application Acceptance:

MOTION: Guptill stated, I move that the application of Carlton Spencer Jr. & Sherri A. Bolin for a 7-lot conservation subdivision be ACCEPTED AS COMPLETE FOR REVIEW.

The MOTION was SECONDED by Witham. The MOTION CARRIES 9-0.

Lanzetta stated regarding the administrative decision 17 attachments were included with the letter requesting an administrative decision taken from the archives of the Planning Department that are public information. The letter was reviewed by the City and opinion issued by the City is what it is, these materials have been available to every resident in Somersworth since that letter was submitted, no legal appeal was filed and the appeal period has vanished. Regarding water on the property there is a stamped drainage report in the packet that has been reviewed by HW. For the road, showed the location of the road to show proximity of existing curb cut, the road bed may be 20-25' of pavement and a 50' right away but not the same thing as the paved area. For the Superior Court case, does not have a copy and has not read those acknowledge that there was a legal matter dispute between neighbors and assume it is completely irrelevant to this application and not the language the administrative decision addresses. Noted they have highlighted high density subdivision areas amongst a non-uniform property sizes neighborhood, arguments of I would not have bought my property if I had known about this development sounds like a not in my backyard. Applicant has brought a fully compliant application based on the regulations, ask for the Board to decision on application because of compliance, the CUP is a normal contingency that a contingent approval can be made on. Provided robust report dealing with water on this property.

Witham stated during the previous application had some questions regarding drainage along Green St, flows northerly and crosses proposed street, there is a swale referenced as 5% platform, concern of water traversing the street.

Haight explained DOT requirements for curb cuts, conversation with DOT if they want the water to flow over the roadway or have culvert, designed to keep the existing ditch line, common design with DOT, up to them for what they want as part of the application process.

Witham inquired if it would impede plowing or create a freeze area.

Haight stated no, common construction style.

Witham noted the right of way vs roadway clarification was good information. City has wider right of ways to allow for things such as plowing to keep snow on property.

Haight stated it is designed with a 50' ROW with 24' wide paved road.

LeHoullier inquired if the City Attorney could attend the next meeting to ask questions on how they came to negate the conditions of approval of the 1985 ZBA decision.

Belmore stated he provided copies of the opinion, it was in the packets and available to the public, will speak with the Attorney and report back.

LeHoullier stated it focused on frontage but there were other issues involved, go from having something specifically state no further subdivision of the property to 7 new housing units, does not get it. Would like the Attorney by the next meeting.

Belmore stated he would follow up and report back.

Rhodes stated he would not be in favor of making a decision on the application without the CUP being first reviewed by the Conservation Commission, wants the standard review process to be followed. There has been question of the City Attorney's decision would like to see additional explanation to put the questions to rest. The clarification of the ROW – 50' vs road – 24' is important, hope some contact with abutter on how much cutting is anticipated. If continued to maintain concerns statement from applicant about if they would install a fence or other barrier. The majority of the Board are not civil engineers, dependent on the engineers employed by City to provide opinion and with exception of few remaining comments being addressed have that opinion. Would be in favor of continuing the application to allow the applicant to go before the Conservation Commission for CUP review.

Belmore stated a legal opinion is a legal opinion the Board does not have to accept it. The additional information still may not satisfy all questions, they make an opinion based on best information they have, court case law and record. For the driveway lights, previously discussed an ornamental light at the cul-de-sac, what would those driveway lights look like.

Haight stated they would be at each driveway, owned by property owners.

Belmore stated he is not in favor of the driveway lights would prefer to see a light at the cul-de-sac.

Witham stated he likes the light at Green St. driveway lights are subject to maintenance, agrees would prefer to see a light at the cul-de-sac. The drainage has been a constant discussion, relies on the applicant's engineer presentation and then the review completed by the City's agent HW, they have said it would improve the drainage calculations and not necessarily make it worse. The legal opinion is an opinion, as City Councilor all resolutions and ordinances are reviewed by them and given opinion, very rarely do they sway against but if done there is a nexus of reason does not have that here. Applicant appears to have met the subdivision regulations, reviewed by City staff, 7 houses on small lots but not unlike other neighborhoods. Noted Sunningdale was originally approved for about 140 houses until some put into conservation, now over 90. A bit more information from the Attorney might be helpful. Agrees with the continuation, lean heavily on the recommendation of the Conservation Commission.

Haight stated this design was put together based on recommendation of the Board. Understands they are coming back in February.

Richardson stated he agrees that he would like to hear the reason for the 1985 decision, appreciate the packet of information received, a lot of additional information they had not seen, particularly from the 2007 garage incident, now hear there was a court hearing on that. A lot that has gone on that finds disturbing and was not brought up by the applicant before, if trying to sell the Board something need to be honest and tell them everything from the beginning, does not see that having happened. In regards to information received it was enlightening, still wants to get to bottom of 1985 decision.

Haight stated they as applicants and representatives of applicants provide the Board with all information they can and up and honest manner they can. Does not appreciate being told they are trying to hide anything from anyone. Try to give all information at all times, they are professionals. If the case being referenced has any bearing on the 1985 case is a decision between the City's attorney and the applicants, it was talking about an individual and another, not whether the property could be subdivided.

Belmore stated he does not have the same opinion as fellow Board member, does not feel the applicant is trying to hide anything from the City or Board, appreciates the work they do and presentation. He stated he would like clarification on the ownership of the drainage easement, there had been discussion with the previous application for the City and the HOA to take it over, feels that needs clarify.

Lanzetta stated there was discussion on that, drafted HOA documents conveys maintenance of the drainage when the road is conveyed, the way it is designed makes more sense for the City to maintain because it deals with the drainage from the road.

Belmore suggested staff work with the City Engineer and Public Works Director to see if it would be cleaner for the City to take over. He stated he would also be in favor of continuing to allow for review of the CUP by the Conservation Commission.

Horton inquired how the open space would be protected from equipment storage or similar.

Lanzetta stated proposal as it stands now is to create an HOA that would preserve and maintain the space, it is separate from the home lots and one homeowner could use the lot for storage.

Haight noted that during construction would use the area for laydown and clean up after.

Horton stated he agrees he would like to see the decorative light at the end of the street, agrees that sidewalks do not make sense here. What type of screening could be offered to the abutters to limit stress on abutters. He feels the water is being contained and controlled, gone through several reviews. The design meets the regulations.

Barry stated he likes the design and feels it is an improvement the grading is working out even better than previous revisions.

Regional Impact:

MOTION: Witham stated I move that the subdivision application of Carlton Spencer & Sherri Bolin for a 7-lot conservation subdivision **DOES NOT HAVE POTENTIAL FOR REGIONAL IMPACT.**

The MOTION is SECONDED by Belmore. The MOTION CARRIES 9-0.

MOTION: Belmore stated I move that the request of Carlton Spencer & Sherri A. Bolin for a 7-lot conservation subdivision be CONTINUED to the meeting of February 16 at 6:30 to allow the applicant to submit a Conditional Use Permit that shall be reviewed by the Conservation Commission for their recommendation.

The MOTION is SECONDED by Rhodes. The MOTION CARRIES 9-0.

5. WORKSHOP BUSINESS –

None

6. COMMUNICATIONS AND MISCELLANEOUS

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None.

MOTION: Belmore MOTION to ADJOURN.

Barry SECONDS the motion

The MOTION CARRIES by a 9-0 at 9:53pm.

Respectfully Submitted,

Dana Crossley, Planning Secretary