

LONDONDERRY, NH PLANNING BOARD

MINUTES OF THE MEETING OF JULY 10, 2019 AT THE MOOSE HILL COUNCIL CHAMBERS

I. CALL TO ORDER

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

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

Chairman Rugg called the meeting to order at 7:00 PM, explained the exit and emergency procedures, and began with the Pledge of Allegiance. He appointed A. Chiampa to vote for C. Davies and P. Commerford to vote for J. Butler until he arrives. J. Butler arrived at 7:25 p.m.

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES:

Member M. Soares made a motion to approve the minutes of June 5, 2019, as presented.

R. Brideau seconded the motion.

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

Member M. Soares made a motion to approve the minutes of June 12, 2019, as presented.

R. Brideau seconded the motion.

The motion was granted 4-0-5, with R. Brideau, M. Soares, G. Verani, A. Sypek and S. Benson abstaining. The Chair voted in the affirmative.

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

1. Application for design review for a subdivision of one lot into two, 17 Bancroft road, Map 12 Lot 48, Jillian S. Natale & Randolph M. Allaire (Owners & Applicants)

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

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

R. Brideau seconded the motion.

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

C. DISCUSSIONS WITH TOWN STAFF:

Town Planner Mailloux informed the Board that they received a request for a temporary office trailer for Orange Theory Fitness, whom will be a tenant in the Woodmont Commons Main St. She said they have requested to have an 8 x 20 mobile office trailer on site prior to opening. She said that this does not fall under site plan review, but wanted to inform the Board about this request. She said it will be similar in size and use of a construction trailer and can be there up to four months maximum. She said the trailer will need to be moved before certificate of occupancy can be issued. M Soares asked what color the trailer would be. Town Planner Mailloux said that they did not indicate what color it would be, but thought a standard office-type trailer. A Chiampa asked if there were any other request for trailers at this time. Town Planner Mailloux said that there were not and that if it seemed to be rising in the intensity of use, she would bring it back to the Board. Chairman Rugg stated that the Capital Improvement Planning (CIP) meeting would be held on July 22, 2019 at 6:30.

III. Old Business/Continued Plans -

A. Application for formal review of a site plan amendment for modifications to Block 9 and extension of First Avenue to Pillsbury Road, Woodmont Commons Planned Unit Development, Garden Lane, Pillsbury Road & Michels Way, Map 10 Lots 41, 52, 54-1, Zoned C-I & PUD, Pillsbury Realty Development, LLC, Demoulas Super Markets, Inc., and Robert D. & Stephen R. Lievens (Owners) and Pillsbury Realty Development, LLC (Applicant) – continued from May 8, 2019 & June 12, 2019

Chairman Rugg read the case into the record noting it was continued from May 9, 2019 and June 12, 2019. J. Trottier told the Board that the application was accepted as complete on May 8, 2019 and three of the seven waivers were acted on at that time as well. He noted that the applicant has requested an additional three waivers, which he reviewed with the Board. Ari Pollack, Gallagher, Callahan & Gartell, 214 North Main St, Concord, NH and Bob Duval, TF Moran, Inc., 48 Constitution Drive, Bedford, NH, addressed the Board. A. Pollack said that they submitted a traffic analysis and have had discussion with staff about the sewer

pump station, as new items to the application.

Chairman Rugg opened it up to questions from the Board. J. Trottier reviewed the traffic analysis with the Board noting that there is an acceptable level of service until 2027. He reviewed some design review items with the Board. He reviewed the parking for the Planned Unit Development (PUD) and said that Staff would look at each block to confirm the parking. Town Planner Mailloux said that the overall calculations were based on site plan and recognizes that every block does not meet the required parking, but would continue to review parking for every block. P. Commerford asked if the traffic study takes into account Woodmont Ave, as it is developed now. Town Planner Mailloux said that the traffic analysis does. P. Commerford asked if the traffic study compensates for the bus terminal. Town Planner Mailloux said that there is no proposed connection to the bus terminal and might be considered in the future. She said that the intent of Woodmont Ave was for fire access. P. Commerford said that he is concerned about this and would like to address it now. A. Pollack said if that ever happened in the future, the Board would have another traffic study performed. J. Butler arrived to the meeting at this point. M. Soares asked if the cross streets would have stop signs. A. Pollack said that Woodmont Ave would not have stop signs. M. Soares said her concern is that Woodmont Ave would be a speedway. A. Pollack said they addressed this issue with the shape of the road, parallel parking on the street and pedestrian crossings. M. Soares asked if the pedestrian crosswalks are raised. A. Pollack said that they are not raised, just painted.

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

M. Soares made a motion to approve the applicant's request for the waivers as noted in the Staff recommendation memorandum dated July 10, 2019.

R. Brideau seconded the motion.

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

M. Soares made a motion to grant conditional approval site plan amendment for modifications to Block 9 and extension of First Avenue to Pillsbury Road, Woodmont Commons Planned Unit Development, Garden Lane, Pillsbury Road, Michels Way, Map 10 Lots 52, 54-1 and 41, Pillsbury Realty Development, LLC, Demoulas Supermarkets, Inc. and Robert D. & Stephen R. Lievens (Owners), Pillsbury Realty Development, LLC (Applicant), in accordance with plans prepared by TF Moran, Inc., dated July 15, 2016, last revised June 3, 2019, with the precedent conditions to be fulfilled within 120 days of the approval and prior to plan signature and general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memorandum, dated July 10, 2019.

R. Brideau seconded the motion.

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

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Hoyle, Tanner & Associates, Inc review memo dated July 10, 2019.
2. All required permits and approvals shall be obtained and noted on the plan.
3. The Applicant shall note all waivers and modifications granted on the plan.
4. The Owner's signature shall be provided on the plans.
5. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
6. The Applicant shall note all general and subsequent conditions on the plans.
7. Third-party review fees shall be paid within 30 days of conditional site plan approval.
8. Financial guarantees be provided to the satisfaction of the Department of Public Works and Engineering.
9. Final engineering review.

PLEASE NOTE – If these conditions are not met within 120 days of the meeting at which the Planning Board grants approval, the Board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. No construction or site work for the subdivision may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the site-restoration financial guaranty with the Town. Contact the Department of Public Works to arrange the pre-construction meeting.

2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.

3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

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

5. Prior to issuance of a certificate of occupancy, all site improvements and off-site improvements shall be completed in accordance with the phasing plan approved by the Planning Board.

6. In accordance with the 2016 approval of the Phase 1 Site Plan, future monitoring shall be conducted at the Garden Lane, Michels Way, and Londonderry Commons intersection to determine the actual operations of the unsignalized intersection with the improvements implemented and the accuracy of the redistribution assumptions along Garden Lane. Depending on the results of the monitoring study, if deemed necessary by the Planning Board, additional improvement measures may need to be implemented to improve intersection operations and safety.

7. In accordance with the 2016 approval of the Phase 1 Site Plan, future monitoring shall be conducted at the Pillsbury Road and Gilcrest Road intersection to determine the actual operations of the unsignalized intersection with the improvements implemented and whether additional interim measures, if deemed necessary by the Planning Board, should be implemented to improve intersection operations and safety.

8. If warranted, future monitoring shall be conducted on Pillsbury Road at its intersections with Woodmont Avenue and Michels Way to determine whether improvement measures may need to be implemented to improve intersection operations and safety.

9. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that

were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

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

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

B. Application for formal review of conditional use permit to allow the use of a motor vehicle station, limited service (gas station), a retail sales establishment (convenience store) and a financial institution with a drive thru as an accessory use at 174 & 178 Rockingham Road, Map 15 Lots 61 and 61-7, Zoned C-II and RTE 28 POD, 2V Londonderry, LLC (Applicant) and The Reagan Family Trust (Owner) – continued from June 5, 2019

Chairman Rugg read the case into the record noting it was continued from June 5, 2019. Bob Duval, TF Moran Inc., 48 Constitution Drive, Bedford NH addressed the Board. B. Duval noted that they are back before the Board as at the last meeting the plan did not conform to all the setbacks, but this time it does. He said they have prepared a new plan that conforms to all the requirements and setbacks. Chairman Rugg asked if there were any waivers. B. Duval said that there were not. He said that the plan illustrates these uses can be done here to grant a Conditional Use Permit (CUP). He reviewed some changes that were made to the plan with the Board. He noted that a loading space had been taken away and a connection was removed, both done per the abutters request. He said that a traffic evaluation was performed and revealed these uses to have minimum impact on the traffic.

Chairman Rugg opened it to questions from the Board. J. Trottier said that Staff was present during the scoping meeting with New Hampshire Department of Transportation (NH DOT) and asked if any new information was learned. B. Duval said that they are going to continue to gather data while waiting for the outcome of this meeting. J. Trottier said that he had questions regarding the curb cut locations. Town Planner Mailloux explained that the information they have submitted is for the CUP and if this were to go before the Board for a site plan, more information would

be required. S. Benson said he was okay for the CUP, but was concerned about traffic. P. Commerford said he was concerned about traffic and curb cuts.

Chairman Rugg opened it up to questions from the public.

Mark Bodin, Esq. representing Coca-Cola Bottling Company and Russell Bruner, Plant Manager at Coca-Cola Bottling Company of Northern New England, addressed the Board. M. Bodin said he submitted a letter to the Board from Coca-Cola Bottling Company of Northern New England in opposition of the CUP. He said that the company has been there for 31 years and during the peak hours there already is traffic congestion, so with these new uses, he feels that the left turn into Symmes Drive would be impractical. He asked how the Board would deal with the traffic issue. Chairman Rugg said that the applicant would need a full-fledged traffic study for a site plan, but not for granting the CUP. M. Bodin said he would prefer to see the traffic study done now.

Russell Bruner, Plant Manager at Coca-Cola Bottling Company of Northern New England, addressed the Board. R. Bruner said he has major concerns about traffic on Symmes Drive as there is already congestion there now. He said that they have 150 people who leave at 2:30 p.m. and Harvey Industries has people leaving at 3:30 p.m. M. Soares said that the CUP does not guarantee they can build here, just that they could with these uses.

Mark Cooper, Reliable Equipment, addressed the Board. M. Cooper said he was here last time and thanked the applicant for working with him on his issues. He said he still believes that traffic is going to be a problem and that safety is a concern.

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

M. Soares made a motion to approve the applicant's request for a Conditional Use Permit to allow the use of a motor vehicle station, limited service (gas station), a retail sales establishment (convenience store) and a financial institution with a drive thru as an accessory use at 174 & 178 Rockingham Road, Map 15 Lots 61 and 61-7, Zoned C-II and RTE 28 POD, 2V Londonderry, LLC (Applicant) and The Reagan Family Trust (Owner) in accordance with the CUP request prepared by TFMoran, Inc. dated March 20, 2019 and last revised on June 24, 2019.

R. Brideau seconded the motion.

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

C. Portable storage discussion - continued from June 5, 2019

Chairman Rugg noted that the discussion was continued from June 5, 2019. Richard Canuel, Chief Building Inspector, Health Officer, Zoning Administrator & Code Enforcement Officer, addressed the Board. R. Canuel said that he collaborated with

Town Planner Mailloux and redrafted the portable storage ordinance that the Board has. A. Chiampa said she is concerned about the forty foot size instead of the twenty feet. P. Commerford said he did not understand why the Town would try and restrict something just because they did not like what it looks like. He said residents have sheds and fences that can be unsightly. M. Soares said she believes the Town needs a regulation and then exceptions to the regulation can be made. Town Planner Mailloux said that she was looking to see if the Board wanted additional information or if they were ready to go to a public hearing. L. Gandia noted that at the last meeting the Board continued the discussion to get more information on what location a portable storage container could be stored, if the size of the lot mattered and what the discretion of the code enforcement officer would be. R. Canuel said he did not look at lot size, but kept a basic ordinance where the code enforcement officer could use his or her judgement. G. Verani said that church that presented at the last meeting has a portable container because of safety concerns and did not know if they would have to remove it now. Town Planner Mailloux noted that it is in AR-1, but it is a non-residential use, and could be handled with an administrative review of the site plan. She said for residential use, the container must meet the requirements or go to the Zoning Board of Adjustment (ZBA) to get a variance. T. Combes asked what the traditional size of a portable container was. Marc Fortin, Remi Property, addressed the Board. M. Fortin said that the containers are either 20 feet or 40 feet with 20 feet being the most common. He said that he does not believe that a blanket ordinance should apply. He said that there were six complaints last year for these containers and does not think that correlates to a problem. Town Planner Mailloux said that she does not think it is appropriate for there to be a size requirement for a lot in the ordinance and thinks that is what the ZBA process is for. She noted that she has more Board members in favor of 40 feet than 20 feet. Chairman Rugg informed the public that this issue would be placed on the August 14, 2019 agenda for a public hearing.

IV. New Plans/Public Hearings-

A. Proposed changes to the Londonderry Zoning Ordinance, Section 9.1 Building Code as it relates to provisions requiring the installation of proper safety controls to limit the maximum water temperature supplied by potable water heating systems for the purpose of preventing scalding (mixing valve amendment).

Richard Canuel, Chief Building Inspector, Health Officer, Zoning Administrator & Code Enforcement Officer, explained that the Building Department have been enforcing mixing valves on water heaters, but there is no specific language in the zoning ordinance and would like to add this language. He said that he wishes to amend the current ordinance language to include this enforcement.

Chairman Rugg opened it up to questions from the Board. T. Combes said he had a call regarding this from a local plumbing company and asked if this would be retroactive. R. Canuel said this would not be retroactive, they are only looking to go forward.

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

M. Soares made a motion to recommend to the Town Council to adopt the changes to the Londonderry Zoning Ordinance, Section 9.1 Building Codes as it relates to provisions requiring the installation of proper safety controls to limit the maximum water temperature supplied by potable water heating systems for the purpose of preventing scalding (mixing valve amendment).

R. Brideau seconded the motion.

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

B. Application for formal review of a subdivision plan to subdivide one lot into two, 55 Old Nashua Road, Map 3 Lot 168, Zoned AR-1, Amy T. & Maxwell J. Cooper (Owners & Applicants)

Chairman Rugg read the case into record. He appointed R. Fillio to vote for G. Verani until he returns. J. Trottier stated there are three outstanding checklist items for which the applicant has requested a waiver. He said Staff supports granting the waivers for acceptance purposes only and the submission of the above checklist items are noted as conditions of approval.

M. Soares made a motion to waive the three checklist items for acceptance purposes only as outlined in Staff's recommendation memorandum dated July 10, 2019.

R. Brideau seconded the motion.

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

M. Soares made a motion to accept the application as complete per Staff's recommendation memorandum dated July 10, 2019.

R. Brideau seconded the motion.

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

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

Richard Maynard, engineer at Maynard/Paquette Engineering Associates, 23 E Pearl St, Nashua, NH addressed the Board. R. Maynard said that the proposed property is 55 Old Nashua Road that is 4.92 acres in size. He said the proposal is to subdivide the property into two lots, where there is a 1.79 acre lot with an existing house and 2.47 acre lot with a future house. He said the proposed lot is to be serviced by private well and septic. He noted that access to the future home would be through an extension of the current driveway. He said the existing pond on site can handle a fifty year storm event and would not allow any run-off to the street.

Chairman Rugg opened it up to the Board for questions. J. Trottier reviewed the

design review items with the Board. T. Combes asked about the shared driveway. R. Maynard said that there would be a shared easement deed.

Chairman Rugg opened it up to the public.

Michelle Lamont, representing Rolling Meadows Condominium Association, addressed the Board. M. Lamont said that she is concerned about the septic system being so close to the property line. R. Maynard said that it has to be at least 10 feet from a property line and there is a down gradient from house, so it will not affect the condos.

Melissa Peterson, 3 Blueberry Lane, addressed the Board. M. Peterson asked if there was a survey done to make sure the boundaries are correct. R. Maynard said a full survey was done for boundary determination.

Chairman Rugg brought it back to the Board as there was no more public comment.

M. Soares made a motion to grant conditional approval of a subdivision plan to subdivide one lot into two, 55 Old Nashua Road, Map 3 Lot 168, Zoned AR-1, Amy T. & Maxwell J. Cooper (Owners & Applicants) in accordance with plans prepared by Maynard & Paquette, Inc. dated December 20, 2018, last revised May 20, 2019 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated July 10, 2019.

R. Brideau seconded the motion.

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

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

PRECEDENT CONDITIONS

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

1. The Applicant shall satisfactorily address all checklist items as noted in the Staff Recommendation memorandum dated July 10, 2019.
2. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated July 10, 2019.
3. The Applicant shall provide the Owner's signature(s) on the plans.

4. Required permits and permit approval numbers shall be noted on the plan.
5. The proposed access easement for the driveway shall be reviewed for approval by the Town and shall be recorded concurrently with the final plan.
6. There is an existing shed located within the front yard setback. The shed shall either be removed, a variance obtained from the ZBA to allow the structure to remain, or documentation be provided to confirm that the structure is a lawfully pre-existing non-conforming structure and appropriate notes be provide on the plan.
7. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
8. The Applicant shall provide a check for \$25 (made payable to the Rockingham County Registry of Deeds) for LCHIP.
9. The Applicant shall note all general and subsequent conditions on the plans.
10. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
11. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
12. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work for the subdivision may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the appropriate financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.

2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.

3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

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

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

C. Application for formal review of a conditional use permit to allow a multifamily use in the C-II district, 112 Rockingham Road, Map 16 Lot 90, Zoned CII, Hsiang-Hwa W. Pan and Steve S. Pan (Owners) and Hsiang-Hwa W. Pan (Applicant)

Chairman Rugg read the case into the record. J. Trottier said that there are no outstanding checklist items and Staff recommends the application be accepted as complete.

M. Soares made a motion to accept the application as complete per Staff's recommendation memorandum dated July 10, 2019.

R. Brideau seconded the motion.

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

Chairman Rugg noted that the 65-day time clock had started. Hsiang-Hwa Pan, owner of 112 Rockingham Road, addressed the Board. H. Pan said she is requesting the CUP as she would like to add another residential unit to her property that currently has 2 units. Town Planner Mailloux told the Board that there is an existing residential home in a Commercial District that had been grandfathered in. She said that with the addition of a third unit, this would now be considered a multi-family, which is only allowed in the C-II District by a CUP. She said that there would also need to be work done with the Building Department to make sure the units are up to all current safety building codes, as well as NHDOT to make sure the driveway has the proper approvals, as it is a state road.

Chairman Rugg opened it up to questions from the Board. A. Chiampa asked if the applicant wanted an additional building. H. Pan said she was going to split one of the current units, not add another building. T. Combes asked if the septic was properly sized. Town Planner Mailloux said that the applicant would have to confirm that. M. Soares asked how many bedrooms in total. H. Pan said that there would be 5 bedrooms in total and that this is affordable housing.

Chairman Rugg opened it up to the public.

Debbie Murphy, 110 Rockingham Road, addressed the Board. D. Murphy said that she has concerns, as the units are not owner occupied, that there can be issues. She is also concerned about the septic.

Bob Kerry, Esq. out of Concord representing Ramp Holdings, LLC, 114 Rockingham Road, addressed the Board. B. Kerry said the biggest concern for his client is regarding safety for their property and the tenants in the home. He said that when a third unit is added, this property becomes an apartment building and needs a sprinkler system. He said he spoke to Brian Johnson from the Fire Department and found out that this building does not have a sprinkler system. He said that the walls in the apartment building would also need fire barriers installed in them as well. He said that he believes the application should be denied specifically for fire safety reasons. He passed out a letter in opposition from Ramp Holdings, LLC to the Board.

Chairman Rugg brought it back to the Board as there was no more public input.

M. Soares made a motion to approve the Applicant's request for a Conditional Use Permit to allow a multi-family use in the C-II district, 112 Rockingham Road, Map 16 Lot 90, Zoned C-II, Hsiang-Hwa W. Pan and Steve S. Pan (Owners) and Hsiang-Hwa W. Pan (Applicant) in accordance with the CUP request prepared by Hsiang Haw Pan dated May 22, 2019 with the following conditions:

- 1. The Applicant obtain appropriate approvals from NHDOT for the expansion of the use of the existing driveway.**
- 2. Per letter from the Building, Health & Zoning Enforcement Department dated April 24, 2019, the Applicant shall obtain appropriate building permits from the Building Department for the work done within the house.**
- 3. Per letter from the Building, Health & Zoning Enforcement Department dated April 24, 2019, the Applicant shall obtain appropriate septic approvals from the NH Department of Environmental Services.**

R. Brideau seconded the motion.

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

D. Application for formal review of a lot line adjustment to adjust the lot line between Six Innovation Way, Map 28 Lot 17, Zoned GB, and 44 Rear Pettengill Road, Map 14 Lot 45, Zoned GB AND to subdivide the newly formed Map 14 Lot 45 into two lots, Ballinger Properties, LLC and Five N Associates, LLC (Owners) and Nazdrowie, LLC (Applicant)

Chairman Rugg read the case into the record. J. Trottier said that there are no outstanding checklist items and Staff recommends the application be accepted as complete.

M. Soares made a motion to accept the application as complete per Staff's recommendation memorandum dated July 10, 2019.

R. Brideau seconded the motion.

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

Chairman Rugg noted that the 65-day time clock had started. Jim Petropoulos, Engineer at Hayner Swanson Inc., 3 Congress St, Nashua, NH and Joe Bellavance, President Bellavance Beverages addressed the Board. J. Petropoulos said that the proposal is to shift the lot line of Lot 45 to create a 10.3 acre lot to the north and a 30 acre lot to the south, which would be further subdivided into a 26 acre parcel for the Bellavance property. He said that there is an isolated, poorly drained area on the land, but it was not big enough to have any buffer impact. He reviewed the four waiver requests with the Board.

Chairman Rugg opened it up to questions from the Board. J. Trottier told the Board that Staff supports granting the waiver requests.

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

M. Soares made a motion to approve the Applicant's request for the above waivers 1-4 as outlined in Staff's recommendation memorandum dated July 10, 2019.

R. Brideau seconded the motion.

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

M. Soares made a motion to grant conditional approval of a lot line adjustment and subdivision plan, 6 Innovation Way and 44 Rear Pettengill Road, Map 28, Lot 17 and Map 14, Lot 45, Zoned Gateway Business, Ballinger Properties, LLC and Five N Associates, LLC (Owners) and Nazdrowie, LLC (Applicant) in accordance with plans prepared by Hayner-Swanson, Inc., dated March 28, 2019, last revised June 14, 2019, with the precedent conditions to be fulfilled within 2 years of the approval and prior to plan signature and general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memorandum, dated July 10, 2019.

R. Brideau seconded the motion.

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

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated July 10, 2019.
2. If approved, the waivers requested shall be noted as such on the plan.
3. The Applicant shall provide the Owner's signature(s) on the plans.
4. Appropriate legal documents for easements to be extinguished or amended be provided to the Town for review and shall be recorded concurrently with the final plan.
5. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
6. The Applicant shall provide a check for \$25 (made payable to the Rockingham County Registry of Deeds) for LCHIP.
7. The Applicant shall note all general and subsequent conditions on the plans.
8. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
9. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
10. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

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

E. Application for formal review of a site plan to construct a one story 141,765 SF warehouse/ distribution facility and associated site improvements, 44 Rear Pettengill Road, Map 14 Lot 45, Zoned GB, Ballinger Properties, LLC and Five N Associates General Partnership (Owners) and Nazdrowie, LLC (Applicant)

Chairman Rugg read the case into the record. J. Trottier said that there are no outstanding checklist items and Staff recommends the application be accepted as complete.

M. Soares made a motion to accept the application as complete per Staff's recommendation memorandum dated July 10, 2019.

R. Brideau seconded the motion.

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

Chairman Rugg noted that the 65-day time clock had started. Jim Petropoulos, Engineer Hayner Swanson Inc., 3 Congress St, Nashua, NH and Joe Bellavance, President Bellavance Beverages addressed the Board. J. Petropoulos told the Board that they are proposing to construct a 141,765 SF distribution warehouse for the new home of Bellavance Beverages. He said that Bellavance currently operates out of two locations and is looking to relocate into one location in Londonderry. He said that the access will be off Webb Drive. He told the Board that they appeared before the Conservation Commission and received their approval. He said that they are still working with the Heritage Commission about color. He reviewed the seven waivers he is requesting with the Board.

Chairman Rugg opened it up to questions from the Board. J. Trottier told the Board that Staff supports granting all seven waivers. P. Commerford said that he felt traffic would be a problem at this site.

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

M. Soares made a motion to approve the Applicant's request for the above waivers 1-7 as outlined in Staff's recommendation memorandum dated July 10, 2019.

R. Brideau seconded the motion.

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

M. Soares made a motion to grant conditional approval of a site plan to construct a one-story 141,765 square foot warehouse/distribution facility and associated site improvements, 44 Rear Pettengill Road, d Map 14, Lot 45, Zoned Gateway Business, Ballinger Properties, LLC and Five N Associates, LLC (Owners) and Nazdrowie, LLC (Applicant) in accordance with plans prepared by Hayner-Swanson, Inc., dated March 28, 2019, last revised June 14, 2019, with the precedent conditions to be fulfilled within 120 days of the approval and prior to plan signature and general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memorandum, dated July 10, 2019.

R. Brideau seconded the motion.

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

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated July 10, 2019.
2. The landscaping plan shall be updated, to the satisfaction of the Town Planner, to provide the interior parking lot shade trees and perimeter parking lot shade trees elsewhere on the site in accordance with the requested waivers.
3. If approved, the waivers requested shall be noted as such on the plan.
4. The Applicant shall provide the Owner's signature(s) on the plans.

5. All required permits and approvals shall be obtained and noted on the plan. The Applicant shall indicate the permit approval numbers on the cover sheet and provide copies of all permits for the Planning Division files.

6. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.

7. The Applicant shall note all general and subsequent conditions on the plans.

8. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.

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

10. Final engineering review.

PLEASE NOTE – If these conditions are not met within 120 days of the meeting at which the Planning Board grants approval, the Board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. No construction or site work for the subdivision may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the site-restoration financial guaranty with the Town. Contact the Department of Public Works to arrange the pre-construction meeting.

2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.

3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

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

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

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

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

F. Application for formal review of a condominium conversion at 39 Mammoth Road, Map 1 Lot 52-2, Zoned AR-1, Jigsaw Builders, LLC (Owner & Applicant)

Chairman Rugg read the case into the record. T. Combes stepped out of the meeting at this point. J. Trottier said that there are no outstanding checklist items and recommends the application be accepted as complete.

M. Soares made a motion to accept the application as complete per Staff's recommendation memorandum dated July 10, 2019.

R. Brideau seconded the motion.

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

Chairman Rugg noted that the 65-day time clock had started. Eric Mitchell, surveyor from Eric C. Mitchell & Associates, 106 S River Road, Bedford, NH addressed the Board. E. Mitchell said the subdivision to create this lot was approved at the beginning of this year and now Jigsaw is converting it to condominiums. He said that the building will be serviced by private septic and well. He told the Board that each unit will have three bedrooms, be about 2000 SF in size and have a garage underneath.

Chairman Rugg opened it up to questions from the Board and there were none.

Chairman Rugg opened it up to the public and there were none. T. Combes returned to the Board at this point.

M. Soares made a motion to grant conditional approval of the condominium conversion plan at 39 Mammoth Road, Map 1 Lot 52-2, Zoned AR-1, Jigsaw Builders, LLC (Owner & Applicant) in accordance with plans prepared by Eric C. Mitchell & Associates, Inc. dated May 24, 2019, last revised June 19, 2019 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated July 10, 2019.

R. Brideau seconded the motion.

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

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address any outstanding DRC comments.
2. The Owners' signature shall be provided on the plans.
3. A final copy of the condominium declaration shall be provided for review and approval by the Town for recording at the Rockingham County Registry of Deeds, concurrent with the recording of the plans.
4. All project permit and approval numbers shall be noted on the plan.
5. Exhibit A is included but Exhibit A is not referenced in the body of the documents. Please provide an appropriate reference.
6. In the declaration, the unit descriptions, limited common area and common area descriptions shall be updated to reference the square footage areas per the condominium plan.
7. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
8. The Applicant shall provide checks for LCHIP and recording fees, made payable to the Rockingham County Registry of Deeds.

9. The Applicant shall note all general and subsequent conditions on the plans (must be on a sheet to be recorded, or a separate document to be recorded with the subdivision plans).

10. Final planning review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

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

V. Other - N/A

VI. Adjournment

Member M. Soares made a motion to adjourn the meeting at approximately 10:11 p.m. Seconded by R. Brideau

The motion was granted, 9-0-0.

The meeting adjourned at approximately 10:11 PM.

These minutes were prepared by Beth Morrison.

Respectfully Submitted,

Name: *Maryding Soares*
Title: *vice chair - Vice Chair*

These minutes were accepted and approved on August ~~14~~⁷, 2019, by a motion made by *R. Brideau* and seconded by *A. Syrek*.

STAFF RECOMMENDATION

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

Date: July 10, 2019

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

- Completeness: The Planning Board accepted this application as complete on May 8, 2019.
- Waivers: On May 8, 2019, the Planning Board approved the following waivers to the Site Plan Regulations:
 - Section 4.01.C to allow a plan scale greater than 1"=40' for the Existing Conditions plan and Stormwater Management plan.
 - Section 4.12.C.13 to not provide SCS soils (shown or noted on the plan) on the existing conditions plan.
 - Section 2.04.b. to provide an Application Fee based on the Phase 1 development area rather than the total site area.

The Applicant is requesting three additional waivers to the Site Plan Regulations which require action by the Planning Board:

1. The Applicant has requested a waiver from Section 3.07.g.3 of the Site plan regulations to allow a storm drain line with less than the required minimum depth cover of 36 inches from the top of the pipe to the finished grade in one location between CB 415 – CB 414. Staff **supports** this waiver due to site constraints with the road design and because the Applicant is proposing to use reinforced concrete pipe in this location.
2. The Applicant has requested a waiver from Section 3.07.C.1 to permit four drainage pipes (between CB 414 – HW, CB415 – CB 414, CB 416 – DMH 418 and DMH 418- DMH 419) to be surcharged during the 25 year design storm. Though the design is unconventional and would not be accepted if the system were to be public, Staff **supports** this waiver because the surcharging of pipes is due to the proposed infiltration basin being set at its lowest elevation. The design will achieve cleansing velocities in these pipes.
3. The Applicant has requested a waiver from Section 3.07.G.2 to permit two pipes (between CB 317 – CB334 and CB 336 – CB 335) to provide pipe velocities less than 2 feet per second. Staff **supports** this waiver because the velocity isn't

achieved in these two locations due to minimal runoff to create sufficient flow to meet the minimum velocity, and because of the required upsizing of the drainage pipes to prevent surcharging.

Board Action Required: Motion to approve the applicant's request for the above waivers as noted in the Staff recommendation memorandum dated July 10, 2019.

- **PUD Modification Request:** On May 8, 2019, the Planning Board approved a PUD modification from Section 2.3.3. Transportation Network – Street Type to allow parallel parking on only one side (west) of First Avenue from Main Street to Placeholder Avenue.
- **Recommendation:** Based on the information available to date, Staff recommends that the Planning Board **CONDITIONALLY APPROVE** this application with the Notice of Decision to read substantially as follows:

Board Action Required: Motion to grant conditional approval site plan amendment for modifications to Block 9 and extension of First Avenue to Pillsbury Road, Woodmont Commons Planned Unit Development, Garden Lane, Pillsbury Road ^ Michels Way, Map 10 Lots 52, 54-1 and 41, Pillsbury Realty Development, LLC, Demoulas Supermarkets, Inc. and Robert D. & Stephen R. Lievens (Owners), Pillsbury Realty Development, LLC (Applicant), in accordance with plans prepared by TF Moran, Inc., dated July 15, 2016, last revised June 3, 2019, with the precedent conditions to be fulfilled within 120 days of the approval and prior to plan signature and general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memorandum, dated July 10, 2019.

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Hoyle, Tanner & Associates, Inc review memo dated July 10, 2019.
2. All required permits and approvals shall be obtained and noted on the plan.

3. The Applicant shall note all waivers and modifications granted on the plan.
4. The Owner's signature shall be provided on the plans.
5. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
6. The Applicant shall note all general and subsequent conditions on the plans.
7. Third-party review fees shall be paid within 30 days of conditional site plan approval.
8. Financial guarantees be provided to the satisfaction of the Department of Public Works and Engineering.
9. Final engineering review.

PLEASE NOTE – If these conditions are not met within 120 days of the meeting at which the Planning Board grants approval, the Board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

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

and maintained to support the imposed loads of fire apparatus and shall be provided with an all-weather driving surface.

5. Prior to issuance of a certificate of occupancy, all site improvements and off-site improvements shall be completed in accordance with the phasing plan approved by the Planning Board.
6. In accordance with the 2016 approval of the Phase 1 Site Plan, future monitoring shall be conducted at the Garden Lane, Michels Way, and Londonderry Commons intersection to determine the actual operations of the unsignalized intersection with the improvements implemented and the accuracy of the redistribution assumptions along Garden Lane. Depending on the results of the monitoring study, if deemed necessary by the Planning Board, additional improvement measures may need to be implemented to improve intersection operations and safety.
7. In accordance with the 2016 approval of the Phase 1 Site Plan, future monitoring shall be conducted at the Pillsbury Road and Gilcreast Road intersection to determine the actual operations of the unsignalized intersection with the improvements implemented and whether additional interim measures, if deemed necessary by the Planning Board, should be implemented to improve intersection operations and safety.
8. If warranted, future monitoring shall be conducted on Pillsbury Road at its intersections with Woodmont Avenue and Michels Way to determine whether improvement measures may need to be implemented to improve intersection operations and safety.
9. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.
10. Site improvements must be completed in accordance with the approved phasing plan prior to the issuance of a certificate of occupancy. In accordance with Section 6.01.d of the Site Plan Regulations, in circumstances that prevent landscaping to be completed (due to weather conditions or other unique circumstance), the Building Division may issue a certificate of occupancy prior to the completion of landscaping improvements, if agreed upon by the Planning Division & Public Works Department, when a financial guaranty (see forms available from the Public Works Department) and agreement to complete improvements are placed with the Town. The landscaping shall be completed within 6 months from the issuance of the certificate of occupancy, or the Town shall utilize the financial guaranty to contract out the work to complete the improvements as stipulated in the agreement to complete landscaping improvements. **No other improvements shall be permitted to use a financial guaranty for their completion for purposes of receiving a certificate of occupancy.**

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

MEMORANDUM

To: Planning Board

Date: July 10, 2019

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

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

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

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

Design Review Items:

1. The Applicant has included a storm drain pipe that has less than 36 inches of cover from the top of pipe to finished grade required per Section 3.07.g.3. of the LSPR. The Applicant has submitted a written **waiver request** letter to this requirement for consideration by the Board. The waiver approval is for the pipe from CB415 to CB414 which has approximately 2.4 to 3 feet of cover and is located at the low point in First Avenue (Woodmont Avenue) and controlled by the stream and infiltration basin elevation.
2. The Applicant has included four pipes that surcharge (CB414-HW, CB415-CB414, CB416-CMW 418, and CMH418-DMH419) during the 25-year storm that does not meet LSPR Section 3.07.c.1.'s requirement for gravity flow. The Applicant has submitted a written **waiver request** letter to this requirement for consideration by the Board.
3. The Applicant has provided multiple drainage pipes (CB317-CB334 and CB336-CB335) with design velocities less than 2 feet/second in the 25-year storm that does not comply with LSPR Section 3.07.g.2. of the Site Plan Regulations. The Applicant has submitted a written **waiver request** letter to this requirement for consideration by the Board.
4. The Applicant has performed trip distribution and intersection analysis for the Pillsbury Road at Woodmont Avenue (formerly First Avenue) intersection. The Applicant has documented that the intersection will function with an acceptable Level of Service (LOS) out to the 2027 future year, and that auxiliary turn lanes on Pillsbury Road and Woodmont Avenue are not required for capacity. However; in accordance with the 2018 AAHSTO Policy for Geometric Design of Highways and Streets, a left turn lane is suggested for the anticipated left turning and major road volumes on Pillsbury Road to reduce crash frequencies. The Applicant should demonstrate why a left turn lane for westbound traffic on Pillsbury Road is not provided.
5. The Applicant has included a box for the Owner's signature, but has not included the signature.
6. The Applicant has provided copies of updated permits (except that documentation is not provided for the approvals required by Env-Wq 700).

7. We recommend that the Applicant clarify/address the following related to **Site Layout and Design**:
 - a. We recommend that the Applicant add the missing outlet elevation on the pipe leaving from CB 413 on Sheet C2.6a, **Plan & Profile, Woodmont Ave.** at the Dunmore Way end of the pipe.
 - b. We recommend that the Applicant clarify/address the following on the **Plan & Profile sheets**:
 - 1) The Applicant has included maintenance paths to the top of the proposed basins. In one case, the Applicant's path crosses down a 3:1 slope across property not controlled by the project. If this is the chosen path location, an easement should be provided demonstrating that permission by the landowner has been granted for construction of the path and use of the path. (Additionally, details for construction of the maintenance path should be provided.)
8. The Applicant has indicated that a Final Drainage Report will be provided that includes the current changes as condition of approval.
9. We recommend that the Applicant clarify whether an infiltration basin is proposed to be used as noted on the **Grading & Drainage Plan** (Sheet C2.4) or if a Filtration Basin (#3) (Surface Sand Filter) is used per the details provided on Sheet C6.6. and the calculations provided are for a 10 year storm.
10. We recommend that the Applicant clarify/address the following details related to the **stormwater/drainage details**:
 - a. The OS 3.1 and OS4.1 details should reference Filtration Basin #3 (or Infiltration Basin #3) and Filtration Basin #4, respectively instead of "Stormwater Pond".
 - b. Emergency Spillway At Stormwater Pond #2 and Filtration Basin #3 (Sheet C6.8) - The Applicant should clarify/address the following:
 - 1) The Applicant should provide detail regarding the 6' (MIN. TYP.) dimension on the "loam and seed" area on the left of the detail, such as slope. (The Applicant has referenced sheet C6.15, but that sheet was not included with the current submittal.)
 - c. Rip-Rap Forebay Spillway (Sheet C6.8) - The Applicant should clarify/address the following:
 - 1) Note 1 refers the contractor to the plan for size of the spillway. The size of the spillway does not appear to be dimensioned on the plans. The Applicant should clearly specify the width of the forebay spillway for Filtration Basin #3.
 - 2) The Applicant should add dimensions to the width of stone at the bottom of the detention pond and bottom of spillway in the plan view.
 - d. Concrete Structure With Baffle: DMH319A is shown greater than 18 feet deep. Per LSR 3.08.h. drainage structures shall not exceed 18 feet in depth. Additionally, the sump depth is not shown, but the Applicant indicated this has already been built and the depth was revised and that they will provide an as-built.

11. We recommend that the Applicant clarify/address the following from the pump station design and TFM Memo regarding *Proposed Sewer Pump Station Serving Subarea WC-2 and Edgewood Site* documentation:
 - a. The Applicant has provided a Pump Station Yard Detail, but the detail does not include details demonstrating that there is room for a vehicle to park and turn around. Additionally, construction details related to items such as water piping's relationship to other utility crossings, fencing, and ground surfacing should be provided.
 - b. The Pump Station Yard Detail and Dunmore Way profile each graphically show a water line that leads from Woodmont Avenue to the pump station without sizing or material details. If this is a service connection designed to only service the pump station, pipe sizing and material details should be noted on the plan. If this is a water main that will have a service to the pump station, additional details related to the water main should be provided including how the service connection will be made to the building and the means to flush the water line at the end of the run should be detailed.
 - c. Force Main Connection Detail – The Applicant has shown a 3" force main inlet line that contradicts other pump station documents. The Applicant should coordinate the documents and provide additional labels as appropriate to clarify the design intent.
 - e. Pump Station Operational Instructions – The Applicant should review the regulatory references provided in the Pump Station Design Notes and calculations sections to clarify that design elements will meet the requirements. For example, the plan cites Env-Wq 705.05, related to instruction, however; Env-Wq 705.05 discusses the requirements for continuous flow recording and totalizer equipment. Additionally, the plan cites Env-Wq 705.06 and discusses Emergency Operation, yet Env-Wq 705.06 discusses potable water protection. The Applicant should update all of the notes with references that do not match the standard and provide documentation that relevant design requirements specified by Env-Wq 700 are included in the design.
 - e. The Applicant should relocate the missing switch elevation and purpose information notation (currently shown on the page above the invert in pipe) to the empty leader adjacent to the switch symbol on the Pump Station / Valve Manhole detail on Sheet C6.9.
 - f. Page C 3.6, Profile – Governor Bell Dr. – At STA. 3+00 the plan indicates that the gravity pipe downsizes from 10" PVC to 8" PVC. The Applicant should demonstrate why downsizing of the pipe is proposed.
 - g. Pump Station/Valve Manhole Detail – The pump Information, Wastewater Flow Information, and Notes do not match the revised calculations and specified pump information from the TFM Memo regarding Proposed Sewer Pump Station Serving Subarea WC-2 and Edgewood Site revised June 3, 2019. Callouts denote a Meyers transfer switch and Flygt pumps. Additionally, conflicting notes should be coordinated to clarify whether pumps will be Flygt or Meyers.
12. The Applicant should verify that all design review comments for the project are adequately addressed as applicable:
 - a. Please verify the comments of Planning Department have been adequately addressed with the Planning Department.

- b. Please verify that any comments of Sewer Division have been adequately addressed with the Sewer Division

Board Action Items:

1. The Applicant initially submitted a written waiver request to seven (7) of the Site Plan Regulation's requirements as noted in the letter dated April 11, 2019. One request has been withdrawn due to relevancy, three were approved on May 8, 2019, resulting in three (3) remaining requests to act on. The Board will need to consider each waiver request as part of the project review.

Board Information Items:

1. This submission is for approval of an amended site plan originally approved by the Board on 6/21/18. The Amendments reviewed include an extension of First Avenue to Pillsbury Road and the pump station design for the proposed Edgemont Project.
2. The Applicant has previously obtained three waivers for the project relative to application fee, plan scale, and SCS soils data.
3. 181 parking spaces have been provided in the off-street parking lot and adjacent on-street parking areas to Block 6. An estimated 320 spaces (assuming that function space is not provided in the proposed hotel) are required per the Woodmont PUD 2.3.4. given the proposed land uses. Considering the approximate 25% reduction in parking need per the 9/17/18 ULI Shared Parking Analysis memo, approximately 240 can be assumed to be required for this block. The Applicant provided calculations demonstrating overall compliance with the ULI parking, but note that, on its own, block 6 does not meet the reduced ULI standard.

STAFF RECOMMENDATION

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

Date: July 10, 2019

Application: Application for formal review of conditional use permit to allow the use of a motor vehicle station, limited service (gas station), a retail sales establishment (convenience store) and a financial institution with a drive thru as an accessory use at 174 & 178 Rockingham Road, Map 15 Lots 61 and 61-7, Zoned C-II and RTE 28 POD, 2V Londonderry, LLC (Applicant) and The Reagan Family Trust (Owner)

- Completeness: The application was accepted as complete on June 5, 2019.
- Conditional Use Permit: The Applicant is requesting a Conditional Use Permit to allow the use of a motor vehicle station, limited service (gas station), a retail sales establishment (convenience store) and a financial institution with a drive thru as an accessory use in the Route 28 Performance Overlay Zone. These uses are permitted in the underlying C-II Zone, however they are only permitted by Conditional Use Permit in the Performance Overlay District.

At the request of the Board following the June 5 meeting, the Applicant has provided an updated conceptual site plan demonstrating that the site can accommodate the proposed uses without requiring waivers of the dimensional criteria of the Performance Overlay District.

In order for the Planning Board to grant a conditional use permit in the Performance Overlay District, the Applicant must demonstrate compliance with Sections 6.2 and 6.3.11 of the Zoning Ordinance.

The relevant sections of the Zoning Ordinance are attached.

- Recommendation: Should the Planning Board determine that the application has demonstrated compliance with Sections 6.2 and 6.3.11.E of the Zoning Ordinance, the following motion for approval can be used:

Board Action Required: Motion to approve the Applicant's request for a Conditional Use Permit to allow the use of a motor vehicle station, limited service (gas station), a retail sales establishment (convenience store) and a financial institution with a drive thru as an accessory use at 174 & 178 Rockingham Road, Map 15 Lots 61 and 61-7, Zoned C-II and RTE 28 POD, 2V Londonderry, LLC (Applicant) and The Reagan Family Trust (Owner) in accordance with the CUP request prepared by TFMoran, Inc. dated March 20, 2019 and last revised on June 24, 2019.



6 CONDITIONAL USE PERMITS

6.1 Authority

As provided for in RSA 674:21, Innovative Land Use Control, this Section of the Zoning Ordinance shall provide for the granting of conditional use permits, by the Planning Board, as follows:

- A. The Planning Board shall then vote either to approve a conditional use permit as presented, approve it with conditions, or deny it.
- B. Prior to the granting of any conditional use permit, the applicant may be required to submit a performance security in a form acceptable to the Planning Board, depending on the scale of the proposed use. The security shall be submitted in a form and amount with surety and conditions satisfactory to the Planning Board to ensure that the construction will be carried out in accordance with the approved design. The security shall be submitted and approved prior to the issuance of any permit authorizing construction.
- C. The applicant may also be assessed reasonable fees to cover the cost of other special investigative studies and for the review of documents required by particular applications, reviews by the Town's legal counsel, and any third party consultant as may be required by the Planning Board per Section 2.01 d of the Site Plan Regulations.

6.2 General Criteria

The following criteria must be satisfied in order for the Planning Board to grant a conditional use permit:

- A. Granting of the application would meet some public need or convenience.
- B. Granting of the application is in the public interest.
- C. The property in question is reasonably suited for the use requested.
- D. The use requested would not have a substantial adverse effect on the rights of the owners of surrounding properties.
- E. The traffic generated by the proposed use is consistent with the identified function, capacity, and level of service of transportation facilities serving the community
- F. There must be appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks, so as to assure public safety and to avoid traffic congestion.

Additional Conditional Use Permit procedures and requirements may be found within the specific criteria of Section 6.3.

6.3 Specific Criteria

6.3.1 Inclusionary (Workforce) Housing

(Also refer to Section 5.7 Inclusionary (Workforce) Housing)

In addition to the general criteria of Section 6.2, the following criteria shall be used by the Planning Board in the evaluation of Conditional Use Permits for Inclusionary Housing, including Workforce Housing projects:

- A. General:



- ii. Identify the impacts to historic properties, districts, or areas on the property or in the vicinity of the project.
- g. **Fiscal impact** - evaluate the projected costs and benefits to Londonderry resulting from the project including:
 - i. Value of improvements to public infrastructure to be provided by the project
 - ii. Projected tax revenues to be generated by the project.
 - iii. Projected impact of the project on surrounding land values and any potential loss or increase in tax revenues to the Town
 - iv. Estimate of the number and types of jobs to be created by the project.

D. **Review Standards for Impact Assessments**

- 1. The Planning Board shall consider the standards included in **Section 4.6.6.7** as well as the other standards set forth in this ordinance and in the site plan and subdivision regulations when reviewing development impacts assessments

4.6.6.9 Pre-Existing (Non-Conforming) Uses, Lots, and Structures

- A. Notwithstanding other provisions of **Section 4.6.6**, the construction of additions and expansions to pre-existing structures and uses shall be permitted within the pod, governed by the standards of the underlying zoning district, provided that:
 - 1. The use or structure lawfully existed prior to the adoption of the POD by the Town Council;
 - 2. The proposed construction conforms to all other applicable ordinances and regulations of the Town of Londonderry; and
 - 3. The structure or use continues in its present use, and does not constitute a change of use.
- B. Notwithstanding other provisions of **Section 4.6.6**, lots of less than 3 acres in size within the POD shall be governed by the standards of the underlying zoning district, provided that:
 - 1. The lot lawfully existed prior to the adoption of the POD by the Town Council; and
 - 2. Any proposed construction conforms to all other applicable ordinances and regulations of the Town of Londonderry.

4.6.7 Performance Overlay District - Route 28 Corridor

4.6.7.1 Authority

The Section is enacted in pursuant to [RSA 674:21](#), innovative land use controls, which provides the statutory authority for the Town of Londonderry to provide intensity and use incentives, impact zoning, performance standards, and the ability for the Planning Board to grant conditional use permits. The Planning Board shall be solely responsible for the interpretation and administration of this ordinance, including the granting of all conditional use permits relative thereto. Any decision made by the Planning Board under this performance overlay district ordinance may be appealed directly to superior court in the same manner provided by [RSA 677:15](#).

4.6.7.2 Purpose and Intent - Route 28 Corridor

- A. Because the Town of Londonderry has experienced an increase in development along the Town's main traffic corridors and anticipates such growth will likely continue, (including the

widening of Interstate 93, and industrial development south of the Manchester Airport), because said development will generate growth related impacts (increased traffic congestion, infrastructure requirements, demand for public services, reduced aesthetics, etc.) Utilizing the corridors, because traditional zoning techniques may not produce the type of development envisioned by the community through recent surveys and public outreach:

1. Guide the form of business development to occur in keeping with community objectives for compatible, appropriate development;
2. Tune regulatory systems to encourage businesses to more efficiently use the circulation system;
3. Regulating development to ensure that it can be supported by planned infrastructure, taking into consideration that required infrastructure must be appropriate to the context and must be supportive of environmental and community character concerns; and
4. Include consideration of impact upon natural and cultural resources in review of development proposals

The Town hereby adopts this overlay district to guide the development of land through the use of performance standards, incentives for quality development, and impact assessments to ensure the desired development pattern along the major traffic corridors of Londonderry.

B. The purpose of the Route 28 Performance Overlay District is:

1. To minimize adverse traffic impacts on the corridors and surrounding local roadways;
2. To promote and attract high quality, diverse, and sustainable economic development within the district by utilizing performance standards and flexibility and providing for development that preserves appropriate open space and builds upon the landscaping design, and visual character standards of the Town's Site Plan Regulations;
3. To minimize negative impacts to the environment such as water quality, air quality, prevention of noise pollution, light pollution, and to other important natural and cultural resources.
4. To protect the remaining aquifers within the Town of Londonderry.
5. To provide an appropriate mix of uses for the areas abutting the natural complex formed by areas such as the Musquash Conservation Area, Kendall Pond area, Scobie Pond area, the Litchfield State Forest, etc.

4.6.7.3 District Defined – Route 28 Corridor

A. The performance overlay district shall be described as including the lots identified on the “Performance Overlay Zone” Map and specifically as follows:

1. **On Tax Map 15:** 21, 21-1, 22, 22-1, 23, 23-1, 23-2, 25, 25-1, 26, 27, 28, 60-2, 60-2, 61, 61-2, 61-4, 61-5, 61-7, 61-8, 63, 65-2, 66, 66-1, 67, 68, 69, 70-1, 70, 71, 124, 125, 126, 127, 128, 133, 134, 136, 137, 146, 147, 148, 149, 150, 153, 154, 155, 156, 157

B. The term “overlay district” means a zoning district superimposed on one or more established zoning districts to impose supplemental requirements, restrictions, and performance standards on uses in the district.

4.6.7.4 Conflicts with underlying zoning standards

See [Section 4.6.6.4](#).

4.6.7.5 Uses Permitted

See [Section 4.6.6.5](#).

4.6.7.6 Conditional Use Permits

All uses permitted by conditional use permit in the performance overlay district are subject to site plan review by the Planning Board. Prior to Planning Board approval of a conditional use permit, the applicant must demonstrate that it meets the general criteria for a Conditional Use Permit of [Section 6.2](#), and the Specific Criteria of [Section 6.3.11](#), Route 28 Performance Overlay District.

4.6.7.7 Performance standards

A. Dimensional performance standards

1. Table of dimensional performance standards: in order to accomplish the goals of this ordinance, development within the Table 4-10, below.

Table 4-10 Route 28 Performance Overlay District Dimensional Standards						
Property located on:	Min. Lot Size	Min. Lot Frontage	Max. Structure Height	Max. Building Footprint (3)	Building Setbacks (4)	Max. Impervious Cover
Arterial Road (as defined by appendix A), with public water and sewer	3 Acres	300 feet (1)(2)	45 feet	75,000 Sq. Ft.	See Section 4.1.3(C)(3)	55% (5)
Non-Arterial Roads OR Arterial Road when "Shared access" is used, and with public water and sewer	1 Acre	100 feet (1)(2)	45 feet	75,000 Sq. Ft.	See Section 4.1.3(C)(3)	66% (5)

Table 2 Footnotes:
 (1) Lots with Frontage along both an arterial road and a local road shall be accessed from the local road whenever possible. The Planning Board shall have the authority to allow access on an arterial road in such situations where access from the local road is deemed inappropriate or not feasible, and the NHDOT has issued appropriate permits.
 (2) Minimum frontage requirement must be satisfied from the road providing access to the lot.
 (3) At no point shall the total usable floor area exceed 75,000 square feet.
 (4) At no time shall the minimum front setback be less than 60 feet along an arterial road and 30 feet along a local Road.
 (5) May be increased by an amount equal to the area of easement dedicated for future widening of the arterial road (See [section 4.6.5.2](#) on Incentive Bonuses)
 (6) On lots with frontage on both an arterial and local road (double frontage), the front setback shall be measured from the property line adjacent to the arterial road.
 (7) As an incentive for use of steep roofs or other architectural elements (clock towers, cupolas, etc.) the Planning Board may, with recommendation from the Heritage Commission, allow for a height bonus not to exceed sixty (60) feet from grade.

B. Dimensional incentive bonus standards

1. These incentive bonus standards are designed to reward projects that choose to voluntarily develop their properties in a way that is most compatible with the stated goals and objectives of this district and the master plan
2. Widening easement deeds: those lots that voluntarily agree to provide easement deeds over the portion of their land within 25 feet of the state right-of-way, thereby reserving this easement area for future widening of the corridor or similar improvements within the corridor, may be compensated for this action by being allowed an impervious surface



bonus, to develop their property to an extent greater than otherwise permitted in the performance overlay district. The amount of extra impervious coverage shall be equal to the actual computed area of the easement area provided for future improvements. The provision of a widening easement may also qualify for credits to impact fees as outlined in **Section 1.2**.

C. Building setbacks for POD lots located on NH Route 28

1. Front setbacks for lots located along NH Route 28 shall be based on the following performance standards:
 - a. Building footprint of 0 - 10,000 square feet: 60 feet
 - b. Building footprint of 10,001 - 25,000 square feet: 100 feet
 - c. Building footprint of 25,001 - 40,000 square feet: 125 feet
 - d. Building footprint of 40,001 - 60,000 square feet: 150 feet
 - e. Building footprint of 60,001 - 75,000 square feet: 200 feet
2. Side setbacks for lots located along Rt. 28 shall be one-half ($\frac{1}{2}$) the front setback.
3. Rear setbacks for lots located along Rt. 28 shall be one-third ($\frac{1}{3}$) the front setback, but not less than 30 feet.

D. Landscape Performance Standards - landscape performance standards shall be the same as **Section 4.6.6.7(D)**, with the following exceptions:

1. *Front Buffer Area*

- a. The front buffer area shall be a strip of variable width (minimum 40 feet wide) between the street tree area and the closest point of a building or impervious surface facing a public right of way. (on lots where there is a widening easement provided, the street tree area may encroach and overlap the front buffer area)
- b. The front buffer area shall be planted with a minimum of 2 trees for every 30 feet of horizontal building facing a public right of way. Trees planted in this area shall have a height equal to $\frac{1}{2}$ the maximum proposed height of a building (but not less than 12 feet from grade or greater than 30 feet from grade) at time of planting.
- c. **Incentive bonus:** every healthy native tree with a caliper of 4 inches or greater, which is preserved in the front buffer area may be substituted for 1 required new front buffer tree planting. Every healthy native tree with a caliper of 6 inches or greater, which is preserved in the front buffer area may be substituted for 2 required new front buffer tree plantings.

2. *Side and Rear Buffer Areas*

- a. Required side and rear buffer areas shall begin at the inner limits of the front buffer area and run parallel to the side and rear property lines. The minimum width of these side and rear buffers shall equal to $\frac{1}{2}$ the proposed maximum building height, but not less than 20 feet wide. In the event the property abuts a parcel zoned AR-1, the buffer shall be no less than 75 feet wide.
- b. The side and rear buffers shall be constructed to provide a dense 4 season visual screen in accordance with Section 3.09.e of the Site Plan Regulations.

E. Off-street parking - see **Section 4.6.6.7(C)**

F. Signage - signage performance standards shall be the same as **Section 4.6.6.7(D)**, with the following exceptions:



1. Building mounted signs
 - a. Wall signs may be as large as 1 sq. Ft. Per 3 linear ft. Of building frontage or a maximum of 50 square feet, whichever is less.
 - b. One wall sign is permitted per tenant in a multi-tenant structure, however the total sign square footage on any wall or facade shall not exceed 100 square feet.

G. **Lighting** - see **Section 4.6.6.7(E)**

H. **Environmental performance standards** - see **Section 4.6.6.7(F)**.

4.6.7.8 Impact Assessment Requirements

See **Section 4.6.6.8**.

4.6.7.9 Pre-existing (non-conforming) uses, lots, and structures

See **Section 4.6.6.9**.



reviews by the Town's legal counsel, and any third party consultant as may be required by the Planning Board per Section 2.01d of the Site Plan Regulations.

- E. The following criteria must be satisfied in order for the Planning Board to grant a conditional use permit in the performance overlay district. The applicant shall demonstrate that:
1. All performance criteria outlined in **Section 4.6.6.7**, as applicable to the application have been met;
 2. The proposed use is consistent with the purpose and intent of the performance overlay district, **Section 4.6.6.2**;
 3. Granting of the application would meet some public need or convenience;
 4. Granting of the application is in the public interest;
 5. The property in question is reasonably suited for the use requested, and the design of the site represents to the extent practicable preservation of natural resources, open space, and does not create a hazard to surface or underground water resources.

6.3.11 Route 28 Performance Overlay District

- A. All uses permitted by conditional use permit in the performance overlay district are subject to site plan review by the Planning Board. Prior to Planning Board approval of a conditional use permit, the applicant must demonstrate, through the impact assessment requirements of **Section 4.6.7.8**, that the proposal will meet all of the appropriate performance standards of **Section 4.6.7.7**, the Site Plan Regulations, the subdivision regulations, as applicable, and shall be consistent with the purpose and intent of the route 28 performance overlay district in **Section 4.6.7.2**.
- B. Prior to Planning Board action on any site plan or subdivision for a use requiring a conditional use permit, the Board must have already granted the conditional use permit. The conditional use permit may be sought either separately or concurrently with site plan/subdivision approval.
- C. **Uses permitted by conditional use permit**
1. Any use permitted in the underlying zoning district, which is not a permitted use in the performance overlay district;
 2. Warehouses and storage of non-explosive materials;
 3. Daycare facilities
- D. **Administration of conditional use permits** - as provided for in [RSA 674:21](#), innovative land use control, this Section of the Zoning Ordinance shall provide for the granting of conditional use permits, by the Planning Board, as follows:
1. The Planning Board shall then vote either to approve a conditional use permit as presented, approve it with conditions, or deny it.
 2. Prior to construction commencing on any use that is granted a conditional use permit, the applicant shall be required to submit a financial surety in accordance with Section 5.01 of the subdivision regulations or Section 6.01 of the Site Plan Regulations, whichever is applicable.
 3. The applicant may also be assessed reasonable fees to cover the cost of other special investigative studies and for the review of documents required by particular applications, reviews by the Town's legal counsel, and any third party consultant as may be required by the Planning Board per Section 2.01d of the Site Plan Regulations.



- E. The following criteria must be satisfied in order for the Planning Board to grant a conditional use permit in the performance overlay district. The applicant shall demonstrate that:
1. All performance criteria outlined in **Section 4.6.7.7**, as applicable to the application have been met;
 2. The proposed use is consistent with the purpose and intent of the performance overlay district, **Section 4.6.7.2**.
 3. Granting of the application would meet some public need or convenience;
 4. Granting of the application is in the public interest;
 5. The property in question is reasonably suited for the use requested, and the design of the site represents to the extent practicable preservation of natural resources, open space, and does not create a hazard to surface or underground water resources.

6.4 Conditional Use Permit Procedure

- A. Prior to issuance of a Building Permit, the applicant shall acquire a Conditional Use Permit as well as any other necessary Planning Board approvals. A Conditional Use Permit shall be issued only if the development complies with all of the requirements of Section 5.7.4. The Planning Board may also condition its approval on additional reasonable conditions necessary to accomplish the objectives of this section or of the most recently adopted Master Plan, Zoning Ordinance, or any other federal, state, Town resolution, regulation, or law.
- B. Where Site Plan or Subdivision approval is required, applications for Conditional Use Permits (CUP) shall be submitted as part of the Site Plan application in accordance with the following procedures:
1. It is recommended that all projects requiring a CUP conduct a preliminary meeting with staff prior to review by the Design Review Committee and the Town's Review Consultant. The purpose of the preliminary meeting shall be to provide guidance on the design of the proposed plan.
 2. The applicant will then develop the proposed plan to a point at which the plan is eligible for Design Review.
 3. The application will then begin Pre-Application Design Review, which will include the Conditional Use Permit Review outlined in this section, and in accordance with the other applicable procedures adopted by the Planning Board.
 4. Unless otherwise addressed in this ordinance, all applications shall meet those requirements set forth in the relevant sections of the Subdivision & Site Plan Regulations of the Town of Londonderry.
- C. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.



- ii. Not more than 25% of a steep slope area shall be cleared of healthy existing vegetation and shall be re-vegetated upon completion of the construction allowed in paragraph b, above.
- iii. Portions of steep slope areas affected by construction activity shall be given special attention with regard to erosion control.
- iv. No portion of a steep slope area shall be subject to the discharge of any stormwater management system.

4.6.6.8 Impact Assessment Requirements

- A. The purpose of impact assessments within the performance overlay district is to provide the Planning Board with sufficient information to conduct a detailed review of uses that have the potential for significant impact within the overlay, and the Town as a whole. The impact review process is intended to promote and protect the natural resources and aesthetic qualities of the Town and to prevent or mitigate any adverse impact to the Town services, traffic patterns, abutting properties, the economy of the Town, the character of the Town, or the public health, safety, and welfare of Town residents.
- B. **Applicability and procedure**
 1. This Section is applicable to all residential and non-residential site development within the performance overlay district. All development proposals within the overlay district shall submit impact assessment reports in accordance with this section, and all other applicable local, state, and federal regulations. Single family residential or duplex construction (on a single lot not involving subdivision) is exempt from the requirements of an impact assessment report.
 2. Three (3) copies of the impact assessment report shall be submitted along with all other forms, plans and information required for applications under the site plan and subdivision regulations.
 3. The impact statement shall be prepared by an interdisciplinary team of professionals qualified to evaluate all facets of the proposed project which may include but is not limited to engineers, architects, landscape architects, economic analysts, environmental scientists, and planners.
 4. All impact statements shall be reviewed by the Town, and any third party review costs shall be included in the review escrow as outlined in the site plan and subdivision regulations.
 5. The Planning Board shall have the authority to waive or modify all or part of the requirements of the impact assessment report (with the exception of **Section 4.6.6.8(C)(2)(f)** environmental impact) for site development after reviewing the nature, scope, and size of a proposed development.
- C. **Impact Assessment Report**
 1. The impact statement shall include the following elements:
 - a. A detailed description of the proposed project and its design features, including existing conditions on the site and in the vicinity of the project.
 - b. Identification and assessment of the impacts of proposed project, including positive, negative, and indirect impacts. Proposed measures to prevent or mitigate adverse impacts and/or maximize positive impact including design modifications and provision of infrastructure improvements sufficient to support the project. Any



adverse impacts that cannot be mitigated shall be identified. Mitigation measures to be implemented by the applicant shall be identified.

- c. An evaluation of how the project will meet the standards required in this ordinance.
2. The impact statement shall assess the following areas of potential impact:
 - a. Traffic impact: traffic impacts shall be addressed according to the procedure outlined in Section 3.14 of the Site Plan Regulations.
 - b. Solid waste disposal: describe the quantity and composition of projected solid wastes to be generated by the project including average weekly volume in cubic yards of refuse generated; recycling potential; method of on-site storage and collection. Evaluate the impact to the Town's recycling facility and waste disposal capability (for single family or multi-family residential projects).
 - c. Emergency services: describe the anticipated fire and police protection needs including time and demand on municipal personnel; provision for alarms or warning devices; on-site fire fighting and security capabilities; need for increased municipal personnel or equipment. Estimate the cost and discuss the responsibility for providing emergency protection to the project. Consultation with the police and fire department is required.
 - d. Schools (only applicable for single-family or multi-family residential projects that are granted a conditional use permit to be located in the POD): describe the projected impact to the public school system including kindergarten, primary, and secondary levels. Identify the schools and school districts to be affected; projected number of students by housing type (i.e. single- family, apartments, Townhouses) and number of bedrooms (i.e. one-bedroom two-bedroom etc.); the ability of the specific school(s) to absorb the additional enrollment including impact on classroom size, school bus routing changes, and the annual cost per student to the school system based on publicly available information such as the capital improvement plan. Projected number of students shall be based on relevant data included in the Town's impact fee methodology.
 - e. **Environmental impact**
 - i. Identify and evaluate the potential impacts of the project on wildlife and wildlife habitat, or endangered plant or animal species or species of concern (see NH RSA 212-A:6), public or private water supply wells, water supply lands and aquifers, groundwater recharge areas and public water supply reservoirs.
 - ii. Describe the types, quantities, shelf life, use and storage methods for hazardous materials and wastes to be used or generated by the project. Include copies of material safety data sheets (MSDS) for all identified materials. Specify measures that will be taken to prevent a release into the environment.
 - iii. Identify and describe any vibration, noise, odor, glare and heat, or harmful interference that the proposed use will generate, proposed measures to mitigate these effects, and how these measures will ensure compliance with the requirements of **Section 5.16**.
 - f. **Cultural impacts**
 - i. Describe the surrounding neighborhood and any scenic, unique geological, historical, or archeological features and recreational areas on the site or in the vicinity of the site which could be affected by the project.



- ii. Identify the impacts to historic properties, districts, or areas on the property or in the vicinity of the project.
- g. **Fiscal impact** - evaluate the projected costs and benefits to Londonderry resulting from the project including:
 - i. Value of improvements to public infrastructure to be provided by the project
 - ii. Projected tax revenues to be generated by the project.
 - iii. Projected impact of the project on surrounding land values and any potential loss or increase in tax revenues to the Town
 - iv. Estimate of the number and types of jobs to be created by the project.

D. **Review Standards for Impact Assessments**

- 1. The Planning Board shall consider the standards included in **Section 4.6.6.7** as well as the other standards set forth in this ordinance and in the site plan and subdivision regulations when reviewing development impacts assessments

4.6.6.9 Pre-Existing (Non-Conforming) Uses, Lots, and Structures

- A. Notwithstanding other provisions of **Section 4.6.6**, the construction of additions and expansions to pre-existing structures and uses shall be permitted within the pod, governed by the standards of the underlying zoning district, provided that:
 - 1. The use or structure lawfully existed prior to the adoption of the POD by the Town Council;
 - 2. The proposed construction conforms to all other applicable ordinances and regulations of the Town of Londonderry; and
 - 3. The structure or use continues in its present use, and does not constitute a change of use.
- B. Notwithstanding other provisions of **Section 4.6.6**, lots of less than 3 acres in size within the POD shall be governed by the standards of the underlying zoning district, provided that:
 - 1. The lot lawfully existed prior to the adoption of the POD by the Town Council; and
 - 2. Any proposed construction conforms to all other applicable ordinances and regulations of the Town of Londonderry.

4.6.7 Performance Overlay District - Route 28 Corridor

4.6.7.1 Authority

The Section is enacted in pursuant to [RSA 674:21](#), innovative land use controls, which provides the statutory authority for the Town of Londonderry to provide intensity and use incentives, impact zoning, performance standards, and the ability for the Planning Board to grant conditional use permits. The Planning Board shall be solely responsible for the interpretation and administration of this ordinance, including the granting of all conditional use permits relative thereto. Any decision made by the Planning Board under this performance overlay district ordinance may be appealed directly to superior court in the same manner provided by [RSA 677:15](#).

4.6.7.2 Purpose and Intent - Route 28 Corridor

- A. Because the Town of Londonderry has experienced an increase in development along the Town's main traffic corridors and anticipates such growth will likely continue, (including the



July 9, 2019

VIA ELECTRONIC MAIL
(cmailloux@londonderrynh.org)

Arthur Rugg, Chairman
c/o Colleen Mailloux
Town Planner
Town of Londonderry
268B Mammoth Road
Londonderry, NH 03053

RE: Applicant: 2V Londonderry LLC
Property: Tax Map 15 Lot 61 and 61-7 – Conditional Use Permit Request

Dear Chairman Rugg:

The Coca-Cola Bottling Company of Northern New England, Inc. ("CCNNE") owns property and operates a large bottling facility located at 7 Symmes Drive, Londonderry, New Hampshire, in close proximity to the above-referenced Property. We have reviewed the pending Conditional Use Permit ("CUP") application and related materials submitted by the Applicant in connection with the Property and have significant concerns regarding the proposed new development of a gas/convenience store and drive-thru bank (the "Proposed Development"). Based upon our experience—as a long-time resident of Symmes Drive—the proposed access from Symmes Drive to the Proposed Development would create public health and safety concerns given that it would dramatically exacerbate existing traffic congestion on Symmes Drive, as well as, Route 28.

The Applicant's CUP application fails to address the impact that increased traffic congestion would have on this particular area. Given that the Applicant did not provide a final or "full" traffic impact analysis for the Planning Board's consideration, it is our belief that the Planning Board cannot reasonably determine the nature and extent of the impacts the proposed use will have on the traffic congestion on Symmes Drive and Route 28. To be clear, without the submission of a traffic impact analysis as required under Section 2.6.6.8(C)(2)(a) of the Town of Londonderry Zoning Ordinance, the Applicant has not (and cannot) demonstrate that it can meet the criteria necessary for the Planning Board to grant the requested CUP.

By way of background, in addition to heavy commercial truck traffic, an estimated 350-450 employees of Harvey Building Products, Reliable Equipment, Penski Truck Rental and CCNNE (as well as other employers located to the north of the Proposed Development), must use Symmes Drive during peak hours traveling to and from work. As currently proposed by the Applicant, given the current heavy

use of Symmes Drive, the further increase of hundreds of additional motor vehicles entering and exiting the Proposed Development from Symmes Drive would dangerously aggravate traffic congestion and further extend existing 15-20 minute “backups” on Symmes Drive, which would, in turn, result in new traffic congestion on Route 28. (See Exhibit A depicting exiting traffic congestion heading south on Symmes Drive towards Route 28 during the afternoon of June 17, 2019.) Further, in order to turn left into the Proposed Development from Symmes Drive, motor vehicles would be required to cross two (2) lanes of heavy traffic, which, in addition to increasing traffic congestion, would likely be the cause of increased motor vehicle accidents as drivers (faced with the inconvenience of extended delays waiting to turn into the Proposed Development) will be tempted to “dart” left in front of oncoming commercial truck traffic. For these reasons, contrary to Section 6.2 of Londonderry’s Zoning Ordinance, the Proposed Development would not be in the public interest as (i) due to the traffic issues, the Property is not suited for this type of use, (ii) the traffic to be generated by the Proposed Development is inconsistent with the capacity of roadways serving the area, and (iii) the Proposed Development would have a substantial adverse effect on surrounding property owners of the Proposed Development.

For the foregoing reasons, we urge the Planning Board to either (a) deny the CUP (as recommended by the Town of Londonderry Conservation Commission), or (b) require that the Applicant submit a “full” traffic impact analysis—as required by the Town of Londonderry Zoning—Ordinance, for the Planning Board’s consideration as part of the Applicant’s CUP application.

Thank you for your consideration in connection with this matter. Please feel free to contact me with any questions.

Sincerely,

**THE COCA-COLA BOTTLING COMPANY OF
NORTHERN NEW ENGLAND, INC.**



David Dumont, Vice President of Operations

Enclosures

cc: Russell Bruner, CCNNE, General Manager

EXHIBIT A

<See attached>



Orr&Reno

Robert S. Carey
rcarey@orr-reno.com
Direct Dial 603.223.9110
Direct Fax 603.223.9010

July 10, 2019

Londonderry Planning Board
268B Mammoth Road
Londonderry, NH 03053

Re: Conditional Use Permit application
112 Rockingham Road
Hsiang-Hwa W. Pan, Applicant

Dear Chairman Rugg and Planning Board Members:

This office represents Ramp Holdings, LLC, owner of 114 Rockingham Road.

Ms. Pan proposes to convert the two-family house at 112 Rockingham Road into a three dwelling unit structure. The application must be denied because it fails to meet Londonderry's Conditional Use requirements. The application fails in three ways.

First, the structure does not have an automatic sprinkler system. The State Fire Marshall and the Town of Londonderry adopted the 2015 NFPA 101 Life Safety Code 101. A building with three dwelling units, like Ms. Pan's, is considered an apartment building, and must have an automatic sprinkler system.

Second, the walls and floors of the proposed dwelling units do not have fire barriers, as required by the Life Safety Code.

Third, if the dwelling units are for workforce housing, as claimed, there can be no parking between the front of the structure and the street. Zoning Ord. 6.3.1.B.12.

Very truly yours,



Robert S. Carey

Enclosures
2479507_1



STATE OF NEW HAMPSHIRE DEPARTMENT OF SAFETY

John J. Barthelmes, Commissioner

Division of Fire Safety
Office of the State Fire Marshal
Paul J. Parisi, State Fire Marshal



Office: 110 Smokey Bear Blvd., Concord, NH
Mailing Address: 33 Hazen Drive, Concord, NH 03305
PHONE 603-223-4289, FAX 603-223-4294 or 603-223-4295
TDD Access: Relay NH 1-800-735-2964 ARSON HOTLINE 1-800-400-3526

State of New Hampshire List of Adopted Building and Fire Codes

All Occupancies (except one and two family dwellings):

- 2009 NFPA 1 Fire Code as amended by Saf-C 6000
- 2015 NFPA 101 Life Safety Code as amended by Saf-C 6000 and applicable referenced publications in Chapter 2
- Fuel Gas Code – 2015 NFPA 54 as amended by Saf-C 6000
- LP Gas Code – 2014 NFPA 58 as amended by Saf-C 6000
- Fire Alarm Code – 2013 NFPA 72
- Fire Protection of Historic Structures – 2010 NFPA 914
- Sprinkler Code – 2013 NFPA 13/13R
- Motor Fuel Dispensing Facilities and Repair Garages – NFPA 30A as amended by Saf-C 6000
- Compressed Natural Gas (CNG) – 2010 NFPA 52
- Oil Burning Equipment – 2011 NFPA 31 as amended by Saf-C 6000
- Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances 2013 NFPA 211
- Carbon Monoxide Detection – 2009 NFPA 720 as amended by Saf-C 6000
- Commercial Cooking Operations – 2014 NFPA 96
- 2009 International Building Code (IBC) with NH Amendments
- 2009 International Energy Conservation Code (IEC) with NH Amendments
- 2009 International Existing Building Codes (IEBC) with NH Amendments
- 2009 International Mechanical Code (IMC) with NH Amendments
- 2009 International Plumbing Code (IPC) with NH Amendments
- 2017 National Electrical Code (NEC) with NH Amendments
- Accessibility – 2009 IBC Chapters 11 and 34 with NH Amendments, 2003 ANSI A117.1 and FHA/UFAS as applicable

One and Two Family Dwellings:

- 2015 NFPA 101 Life Safety Code Chapter 24 as amended by Saf-C 6000 and applicable referenced publications in Chapter 2
- Fuel Gas Code – 2015 NFPA 54 as amended by Saf-C 6000
- LP Gas Code – 2014 NFPA 58 as amended by Saf-C 6000
- Oil Burning Equipment – 2011 NFPA 31 as amended by Saf-C 6000
- Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances 2013 NFPA 211
- Carbon Monoxide Detection – 2009 NFPA 720 as amended by Saf-C 6000
- 2009 International Residential Code (IRC) with NH Amendments
- 2009 International Energy Conservation Code (IEC) with NH Amendments
- 2017 National Electrical Code (NEC) with NH Amendments

2015
EDITION

NFPA 101[®]

LIFE SAFETY CODE[®]

See ALERT



by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.

3.2.5* Listed. Equipment, materials, or services included in a list published by an organization that is acceptable to the authority having jurisdiction and concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

3.2.6 Shall. Indicates a mandatory requirement.

3.2.7 Should. Indicates a recommendation or that which is advised but not required.

3.3 General Definitions.

3.3.1 Accessible Area of Refuge. See 3.3.22.1.

3.3.2 Accessible Means of Egress. See 3.3.172.1.

3.3.3 Accessible Route. A continuous unobstructed path that complies with this *Code* and ICC/ANSI A117.1, *American National Standard for Accessible and Usable Buildings and Facilities* (SAF-MEA).

3.3.4* Actuating Member or Bar. The activating mechanism of a panic hardware or fire exit hardware device located on the egress side of a door. (SAF-MEA)

3.3.5 Addition. An increase in building area, aggregate floor area, building height, or number of stories of a structure. (SAF-FUN)

3.3.6 Air Traffic Control Tower. See 3.3.281.1.

3.3.7 Aircraft Loading Walkway. An aboveground device through which passengers move between a point in an airport terminal building and an aircraft. Included in this category are walkways that are essentially fixed and permanently placed, or walkways that are essentially mobile in nature and that fold, telescope, or pivot from a fixed point at the airport terminal building. [415, 2013] (SAF-AXM)

3.3.8 Air-Inflated Structure. See 3.3.272.1.

3.3.9 Airport Terminal Building. See 3.3.36.1.

3.3.10 Air-Supported Structure. See 3.3.272.2.

3.3.11* Aisle Accessway. The initial portion of an exit access that leads to an aisle. (SAF-AXM)

3.3.12 Aisle Ramp. See 3.3.221.1.

3.3.13 Aisle Stair. See 3.3.265.1.

3.3.14 Alarm.

3.3.14.1 Single Station Alarm. A detector comprising an assembly that incorporates a sensor, control components, and an alarm notification appliance in one unit operated from a power source either located in the unit or obtained at the point of installation. [72, 2013] (SAF-BSF)

3.3.14.2 Smoke Alarm. A single or multiple-station alarm responsive to smoke. [72, 2013] (SAF-BSF)

3.3.15 Alternative Calculation Procedure. A calculation procedure that differs from the procedure originally employed by the design team but that provides predictions for the same variables of interest. (SAF-FUN)

3.3.16 Ambulatory Health Care Occupancy. See 3.3.190.1.

3.3.17 Analysis.

3.3.17.1 Sensitivity Analysis. An analysis performed to determine the degree to which a predicted output will vary given a specified change in an input parameter, usually in relation to models. (SAF-FUN)

3.3.17.2 Uncertainty Analysis. An analysis performed to determine the degree to which a predicted value will vary. (SAF-FUN)

3.3.18 Anchor Building. See 3.3.36.2.

3.3.19 Apartment Building. See 3.3.36.3. ✓

3.3.20 Approved Existing. See 3.3.81.1.

3.3.21 Area.

3.3.21.1 Detention and Correctional Residential Housing Area. Sleeping areas and any contiguous day room, group activity space, or other common space for customary access of residents. (SAF-DET)

3.3.21.2 Floor Area.

3.3.21.2.1* Gross Floor Area. The floor area within the inside perimeter of the outside walls of the building under consideration with no deductions for hallways, stairs, closets, thickness of interior walls, columns, elevator and building services shafts, or other features, but excluding floor openings associated with atriums and communicating spaces. (SAF-MEA)

3.3.21.2.2 Net Floor Area. The floor area within the inside perimeter of the outside walls, or the outside walls and fire walls of a building, or outside and/or inside walls that bound an occupancy or incidental use area requiring the occupant load to be calculated using net floor area under consideration with deductions for hallways, stairs, closets, thickness of interior walls, columns, or other features. (SAF-MEA)

3.3.21.3 Gross Leasable Area. Fifty percent of major tenant areas, and 100 percent of all other floor areas designated for tenant occupancy and exclusive use, including storage areas. The area of tenant occupancy is measured from the centerlines of joint partitions to the outside of the tenant walls. (SAF-MER)

3.3.21.4* Hazardous Area. An area of a structure or building that poses a degree of hazard greater than that normal to the general occupancy of the building or structure. (SAF-FIR)

3.3.21.5 Living Area. Any normally occupiable space in a residential occupancy, other than sleeping rooms or rooms that are intended for combination sleeping/living, bathrooms, toilet compartments, kitchens, closets, halls, storage or utility spaces, and similar areas. (SAF-RES)

3.3.21.6* Normally Unoccupied Building Service Equipment Support Area. A building service equipment support area in which people are not expected to be present on a regular basis. (SAF-MEA)

3.3.21.7 Occupiable Area. An area of a facility occupied by people on a regular basis. (SAF-FUN)

3.3.21.8 Rehabilitation Work Area. That portion of a building affected by any renovation, modification, or reconstruction work as initially intended by the owner, and indicated as such in the permit, but excluding other portions of the building where incidental work entailed by

the intended work must be performed, and excluding portions of the building where work not initially intended by the owner is specifically required. (SAF-FUN)

3.3.22* Area of Refuge. An area that is either (1) a story in a building where the building is protected throughout by an approved, supervised automatic sprinkler system and has not less than two accessible rooms or spaces separated from each other by smoke-resisting partitions; or (2) a space located in a path of travel leading to a public way that is protected from the effects of fire, either by means of separation from other spaces in the same building or by virtue of location, thereby permitting a delay in egress travel from any level. (SAF-MEA)

3.3.22.1 Accessible Area of Refuge. An area of refuge that complies with the accessible route requirements of ICC/ANSI A117.1, *American National Standard for Accessible and Usable Buildings and Facilities* (SAF-MEA).

3.3.23 Assembly.

3.3.23.1 Door Assembly. Any combination of a door, frame, hardware, and other accessories that is placed in an opening in a wall that is intended primarily for access or for human entrance or exit. [252, 2012] (SAF-MEA)

3.3.23.1.1 Fire Door Assembly. Any combination of a fire door, a frame, hardware, and other accessories that together provide a specific degree of fire protection to the opening. [80, 2013] (SAF-FIR)

3.3.23.1.1.1 Horizontal Fire Door Assembly. A combination of a fire door, a frame, hardware, and other accessories installed in a horizontal plane, which together provide a specific degree of fire protection to a through-opening in a fire resistance-rated floor or roof. [288, 2012] (SAF-FIR)

3.3.23.2 Fire Window Assembly. A window or glass block assembly having a fire protection rating. [80, 2013] (SAF-FIR)

3.3.24 Assembly Occupancy. See 3.3.190.2.

3.3.25 Assisted Mechanical Type Parking Structure. See 3.3.272.7.1.

3.3.26 Atmosphere.

3.3.26.1 Common Atmosphere. The atmosphere that exists between rooms, spaces, or areas within a building that are not separated by an approved smoke barrier. (SAF-END)

3.3.26.2 Separate Atmosphere. The atmosphere that exists between rooms, spaces, or areas that are separated by an approved smoke barrier. (SAF-END)

3.3.27* Atrium. A large-volume space created by a floor opening or series of floor openings connecting two or more stories that is covered at the top of the series of openings and is used for purposes other than an enclosed stairway; an elevator hoistway; an escalator opening; or as a utility shaft used for plumbing, electrical, air-conditioning, or communications facilities. (SAF-FIR)

3.3.28* Attic. The space located between the ceiling of a story and the roof directly above that habitable story. (SAF-FUN)

3.3.29 Automated Type Parking Structure. See 3.3.272.7.2.

3.3.30 Automatic. Capable of performing a function without the necessity of human intervention. (SAF-FUN)

3.3.31 Barrier.

3.3.31.1* Fire Barrier. A continuous membrane or a membrane with discontinuities created by protected openings

with a specified fire protection rating, where such membrane is designed and constructed with a specified fire resistance rating to limit the spread of fire. (SAF-FIR)

3.3.31.2* Smoke Barrier. A continuous membrane, or a membrane with discontinuities created by protected openings, where such membrane is designed and constructed to restrict the movement of smoke. (SAF-FIR)

3.3.31.3* Thermal Barrier. A material that limits the average temperature rise of an unexposed surface to not more than 250°F (139°C) for a specified fire exposure complying with the standard time-temperature curve of ASTM E 119, *Standard Test Methods for Fire Tests of Building Construction and Materials*, or ANSI/UL 263, *Standard for Fire Tests of Building Construction and Materials*. (SAF-BCF)

3.3.32 Basement. Any story of a building wholly or partly below grade plane that is not considered the first story above grade plane. (See also 3.3.126.1, *First Story Above Grade Plane*.) (SAF-FUN)

3.3.33* Birth Center. A facility in which low-risk births are expected following normal, uncomplicated pregnancies, and in which professional midwifery care is provided to women during pregnancy, birth, and postpartum. (SAF-MER)

3.3.34 Bleachers. A grandstand in which the seats are not provided with backrests. (SAF-AXM)

3.3.35 Board and Care. See 3.3.190.12, Residential Board and Care Occupancy.

3.3.36* Building. Any structure used or intended for supporting or sheltering any use or occupancy. (SAF-FUN)

3.3.36.1 Airport Terminal Building. A structure used primarily for air passenger enplaning or deplaning, including ticket sales, flight information, baggage handling, and other necessary functions in connection with air transport operations. This term includes any extensions and satellite buildings used for passenger handling or aircraft flight service functions. Aircraft loading walkways and "mobile lounges" are excluded. [415, 2013] (SAF-AXM)

3.3.36.2 Anchor Building. A building housing any occupancy having low or ordinary hazard contents and having direct access to a mall building, but having all required means of egress independent of the mall. (SAF-MER)

3.3.36.3* Apartment Building. A building or portion thereof containing three or more dwelling units with independent cooking and bathroom facilities. (SAF-RES)

3.3.36.4 Bulk Merchandising Retail Building. A building in which the sales area includes the storage of combustible materials on pallets, in solid piles, or in racks in excess of 12 ft (3660 mm) in storage height. (SAF-MER)

3.3.36.5* Existing Building. A building erected or officially authorized prior to the effective date of the adoption of this edition of the *Code* by the agency or jurisdiction. (SAF-FUN)

3.3.36.6* Flexible Plan and Open Plan Educational or Day-Care Building. A building or portion of a building designed for multiple teaching stations. (SAF-END)

3.3.36.7* High-Rise Building. A building where the floor of an occupiable story is greater than 75 ft (23 m) above the lowest level of fire department vehicle access. (SAF-FUN)

3.3.36.8* Historic Building. A building or facility deemed to have historical, architectural, or cultural significance by a local, regional, or national jurisdiction. (SAF-FUN)

3.3.65 Draft Stop. A continuous membrane used to subdivide a concealed space to resist the passage of smoke and heat. (SAF-FIR)

3.3.66* Dwelling Unit. One or more rooms arranged for complete, independent housekeeping purposes with space for eating, living, and sleeping; facilities for cooking; and provisions for sanitation. (SAF-RES)

3.3.66.1* One- and Two-Family Dwelling Unit. A building that contains not more than two dwelling units with independent cooking and bathroom facilities. (SAF-RES)

3.3.66.2 One-Family Dwelling Unit. A building that consists solely of one dwelling unit with independent cooking and bathroom facilities. (SAF-RES)

3.3.66.3 Two-Family Dwelling Unit. A building that consists solely of two dwelling units with independent cooking and bathroom facilities. (SAF-RES)

3.3.67 Educational Occupancy. See 3.3.190.6.

3.3.68* Electroluminescent. Refers to a light-emitting capacitor in which alternating current excites phosphor atoms placed between electrically conductive surfaces and produces light. (SAF-MEA)

3.3.69 Elevator Evacuation System. See 3.3.274.1.

3.3.70 Elevator Lobby. A landing from which occupants directly enter an elevator car(s) and into which occupants directly enter upon leaving an elevator car(s). (SAF-MEA)

3.3.71 Elevator Lobby Door. See 3.3.62.1.

3.3.72 Emergency Stair Travel Device. See 3.3.61.1.

3.3.73 Enclosed Court. See 3.3.50.1.

3.3.74 Enclosed Parking Structure. See 3.3.272.7.3.

3.3.75 Equipment or Fixture. Any plumbing, heating, electrical, ventilating, air-conditioning, refrigerating, and fire protection equipment; and elevators, dumbwaiters, escalators, boilers, pressure vessels, or other mechanical facilities or installations that are related to building services. (SAF-FUN)

3.3.76 Equivalency. An alternative means of providing an equal or greater degree of safety than that afforded by strict conformance to prescribed codes and standards. (SAF-FUN)

3.3.77 Evacuation. The withdrawal of occupants from a building. [72, 2013] (SAF-BSF)

3.3.78* Evacuation Capability. The ability of occupants, residents, and staff as a group either to evacuate a building or to relocate from the point of occupancy to a point of safety.

3.3.78.1 Impractical Evacuation Capability. The inability of a group to reliably move to a point of safety in a timely manner. (SAF-BCF)

3.3.78.2 Prompt Evacuation Capability. The ability of a group to move reliably to a point of safety in a timely manner that is equivalent to the capacity of a household in the general population. (SAF-BCF)

3.3.78.3 Slow Evacuation Capability. The ability of a group to move reliably to a point of safety in a timely manner, but not as rapidly as members of a household in the general population. (SAF-BCF)

3.3.79 Exhibit. A space or portable structure used for the display of products or services. (SAF-AXM)

3.3.80 Exhibitor. An individual or entity engaged in the display of the products or services offered. (SAF-AXM)

3.3.81* Existing. That which is already in existence on the date this edition of the *Code* goes into effect. (SAF-FUN)

3.3.81.1 Approved Existing. That which is already in existence on the date this edition of the *Code* goes into effect and is acceptable to the authority having jurisdiction. (SAF-FUN)

3.3.82 Existing Building. See 3.3.36.5.

3.3.83* Exit. That portion of a means of egress that is separated from all other spaces of the building or structure by construction, location, or equipment as required to provide a protected way of travel to the exit discharge. (SAF-MEA)

3.3.83.1* Horizontal Exit. A way of passage from one building to an area of refuge in another building on approximately the same level, or a way of passage through or around a fire barrier to an area of refuge on approximately the same level in the same building that affords safety from fire and smoke originating from the area of incidence and areas communicating therewith. (SAF-MEA)

3.3.84 Exit Access. That portion of a means of egress that leads to an exit. (SAF-MEA)

3.3.85 Exit Discharge. That portion of a means of egress between the termination of an exit and a public way. (SAF-MEA)

3.3.85.1* Level of Exit Discharge. The story that is either (1) the lowest story from which not less than 50 percent of the required number of exits and not less than 50 percent of the required egress capacity from such a story discharge directly outside at the finished ground level; or (2) where no story meets the conditions of item (1), the story that is provided with one or more exits that discharge directly to the outside to the finished ground level via the smallest elevation change. (SAF-MEA)

3.3.86 Exposition. An event in which the display of products or services is organized to bring together the provider and user of the products or services. (SAF-AXM)

3.3.87 Exposition Facility. See 3.3.90.1.

3.3.88* Exposure Fire. A fire that starts at a location that is remote from the area being protected and grows to expose that which is being protected. (SAF-FUN)

3.3.89 Externally Illuminated. See 3.3.146.1.

3.3.90 Facility.

3.3.90.1 Exposition Facility. A convention center, hotel, or other building at which exposition events are held. (SAF-AXM)

3.3.90.2* Limited Care Facility. A building or portion of a building used on a 24-hour basis for the housing of four or more persons who are incapable of self-preservation because of age; physical limitations due to accident or illness; or limitations such as mental retardation/developmental disability, mental illness, or chemical dependency. (SAF-HEA)

3.3.91 Festival Seating. See 3.3.239.1.

3.3.92 Finish.

3.3.92.1 Interior Ceiling Finish. The interior finish of ceilings. (SAF-INT)

29.7.4 Emergency Instructions for Residents or Guests.

29.7.4.1* A floor diagram reflecting the actual floor arrangement, exit locations, and room identification shall be posted in a location and manner acceptable to the authority having jurisdiction on, or immediately adjacent to, every guest room door in hotels and in every resident room in dormitories.

29.7.4.2* Fire safety information shall be provided to allow guests to make the decision to evacuate to the outside, to evacuate to an area of refuge, to remain in place, or to employ any combination of the three options.

29.7.5 Emergency Action Plans. Emergency action plans in accordance with Section 4.8 shall be provided.

29.7.6 Contents and Furnishings.

29.7.6.1 New draperies, curtains, and other similar loosely hanging furnishings and decorations shall meet the flame propagation performance criteria contained in Test Method 1 or Test Method 2, as appropriate, of NFPA 701, *Standard Methods of Fire Tests for Flame Propagation of Textiles and Films*.

29.7.6.2 Upholstered Furniture and Mattresses.

29.7.6.2.1 Newly introduced upholstered furniture shall meet the criteria specified in 10.3.2.1 and 10.3.3.

29.7.6.2.2 Newly introduced mattresses shall meet the criteria specified in 10.3.2.2 and 10.3.4.

29.7.6.3 Furnishings or decorations of an explosive or highly flammable character shall not be used.

29.7.6.4 Fire-retardant coatings shall be maintained to retain the effectiveness of the treatment under service conditions encountered in actual use.

29.7.7 Inspection of Door Openings. Door openings shall be inspected in accordance with 7.2.1.15

Chapter 30 New Apartment Buildings

30.1 General Requirements.

30.1.1 Application.

30.1.1.1 The requirements of this chapter shall apply to new buildings or portions thereof used as apartment occupancies. (See 1.3.1.)

30.1.1.2 Administration. The provisions of Chapter 1, Administration, shall apply.

30.1.1.3 General. The provisions of Chapter 4, General, shall apply.

30.1.1.4 The term *apartment building*, wherever used in this Code, shall include an apartment house, a tenement, a garden apartment, or any other structure meeting the definition of apartment building.

30.1.2 Classification of Occupancy. See 6.1.8 and 30.1.4.2.

30.1.3 Multiple Occupancies.

30.1.3.1 Multiple occupancies shall be in accordance with 6.1.14.

30.1.3.2 No dwelling unit of an apartment building shall have its sole means of egress pass through any nonresidential occu-

pancy in the same building, unless otherwise permitted by 30.1.3.2.1 or 30.1.3.2.2.

30.1.3.2.1 In buildings that are protected by an automatic sprinkler system in accordance with Section 9.7, dwelling units of an apartment building shall be permitted to have their sole means of egress pass through a nonresidential occupancy in the same building, provided that both of the following criteria are met:

- (1) The dwelling unit of the apartment building shall comply with Chapter 30.
- (2) The sole means of egress from the dwelling unit of the apartment building shall not pass through a high hazard contents area, as defined in 6.2.2.4.

30.1.3.2.2 In buildings that are not protected by an automatic sprinkler system in accordance with Section 9.7, dwelling units of an apartment building shall be permitted to have their sole means of egress pass through a nonresidential occupancy in the same building, provided that all of the following criteria are met:

- (1) The sole means of egress from the dwelling unit of the apartment building to the exterior shall be separated from the remainder of the building by fire barriers having a minimum 1-hour fire resistance rating.
- (2) The dwelling unit of the apartment building shall comply with Chapter 30.
- (3) The sole means of egress from the dwelling unit of the apartment building shall not pass through a high hazard contents area, as defined in 6.2.2.4.

30.1.3.3 Multiple dwelling units shall be permitted to be located above a nonresidential occupancy only where one of the following conditions exists:

- (1) Where the dwelling units of the residential occupancy and exits therefrom are separated from the nonresidential occupancy by construction having a minimum 1-hour fire resistance rating
- (2) Where the nonresidential occupancy is protected throughout by an approved, supervised automatic sprinkler system in accordance with Section 9.7

30.1.3.4 Atrium walls in accordance with 6.1.14.4.6 shall be permitted to serve as part of the separation required by 6.1.14.4.1 for creating separated occupancies on a story-by-story basis.

30.1.4 Definitions.

30.1.4.1 General. For definitions, see Chapter 3, Definitions.

30.1.4.2 Special Definitions.

30.1.4.2.1 General. Special terms applicable to this chapter are defined in Chapter 3. Where necessary, other terms are defined in the text.

30.1.4.2.2 Apartment Building. See 3.3.36.3.

30.1.5 Classification of Hazard of Contents. The contents of residential occupancies shall be classified as ordinary hazard in accordance with 6.2.2.

30.1.6 Minimum Construction Requirements. (Reserved)

30.1.7 Occupant Load. The occupant load, in number of persons for whom means of egress and other provisions are required, shall be determined on the basis of the occupant load factors of Table 7.3.1.2 that are characteristic of the use of the

30.3.4.6.2 Where required by 30.3.4.6.1, carbon monoxide alarms or carbon monoxide detectors shall be installed in the following locations:

- (1) Outside of each separate dwelling unit sleeping area in the immediate vicinity of the sleeping rooms
- (2) On every occupiable level of a dwelling unit

30.3.4.6.3 Carbon monoxide alarms and carbon monoxide detectors as specified in 30.3.4.6.1(1) shall not be required in the following locations:

- (1) In garages
- (2) Within dwelling units with communicating attached garages that are open parking structures as defined by the building code
- (3) Within dwelling units with communicating attached garages that are mechanically ventilated in accordance with the mechanical code

30.3.4.6.4 Where fuel-burning appliances or fuel-burning fireplaces are installed outside dwelling units, carbon monoxide alarms or carbon monoxide detectors shall be installed in accordance with the manufacturer's published instructions in the locations specified as follows:

- (1) On the ceilings of rooms containing permanently installed fuel-burning appliances or fuel-burning fireplaces
- (2) Centrally located within occupiable spaces served by the first supply air register from a permanently installed, fuel-burning HVAC system
- (3) Centrally located within occupiable spaces adjacent to a communicating attached garage

30.3.5 Extinguishment Requirements.

30.3.5.1 All buildings shall be protected throughout by an approved, supervised automatic sprinkler system installed in accordance with 30.3.5.2.

30.3.5.2 Where an automatic sprinkler system is installed, either for total or partial building coverage, the system shall be installed in accordance with Section 9.7, as modified by 30.3.5.3 and 30.3.5.4. In buildings four or fewer stories above grade plane, systems in accordance with NFPA 13R, *Standard for the Installation of Sprinkler Systems in Low-Rise Residential Occupancies*, shall be permitted.

30.3.5.3* In buildings sprinklered in accordance with NFPA 13, *Standard for the Installation of Sprinkler Systems*, closets less than 12 ft² (1.1 m²) in area in individual dwelling units shall not be required to be sprinklered. Closets that contain equipment such as washers, dryers, furnaces, or water heaters shall be sprinklered, regardless of size.

30.3.5.4* In buildings sprinklered in accordance with NFPA 13, *Standard for the Installation of Sprinkler Systems*, bathrooms not greater than 55 ft² (5.1 m²) in individual dwelling units shall not be required to be sprinklered.

30.3.5.5 The draft stop and closely spaced sprinkler requirements of NFPA 13, *Standard for the Installation of Sprinkler Systems*, shall not be required for convenience openings complying with 8.6.9.1 where the convenience opening is within the dwelling unit.

30.3.5.6 Listed quick-response or listed residential sprinklers shall be used throughout all dwelling units.

30.3.5.7 Open parking structures complying with NFPA 88A, *Standard for Parking Structures*, that are contiguous with apart-

ment buildings shall be exempt from the sprinkler requirements of 30.3.5.1.

30.3.5.8 Buildings with unprotected openings in accordance with 8.6.6 shall be protected throughout by an approved, supervised automatic sprinkler system in accordance with 30.3.5.

30.3.5.9 Reserved.

30.3.5.10 Reserved.

30.3.5.11 Reserved.

30.3.5.12 Reserved.

30.3.5.13 Portable fire extinguishers in accordance with Section 9.9 shall be provided in hazardous areas addressed by 30.3.2.1, unless the building is protected throughout with an approved, supervised automatic sprinkler system in accordance with 30.3.5.2.

30.3.6 Corridors.

30.3.6.1 Walls. Exit access corridor walls shall comply with 30.3.6.1.1 or 30.3.6.1.2.

30.3.6.1.1 In buildings not complying with 30.3.6.1.2, exit access corridor walls shall consist of fire barriers in accordance with Section 8.3 that have not less than a 1-hour fire resistance rating.

30.3.6.1.2 In buildings protected throughout by an approved, supervised automatic sprinkler system in accordance with 30.3.5.2, corridor walls shall have a minimum ½-hour fire resistance rating.

30.3.6.2 Doors.

30.3.6.2.1 Doors that open onto exit access corridors shall have not less than a 20-minute fire protection rating in accordance with Section 8.3.

30.3.6.2.2 Reserved.

30.3.6.2.3 Doors that open onto exit access corridors shall be self-closing and self-latching.

30.3.6.3 Unprotected Openings.

30.3.6.3.1 Unprotected openings, other than those from spaces complying with 30.3.6.3.2, shall be prohibited in exit access corridor walls and doors.

30.3.6.3.2 Spaces shall be permitted to be unlimited in area and open to the corridor, provided that the following criteria are met:

- (1) The space is not used for guest rooms or guest suites or hazardous areas.
- (2) The building is protected throughout by an approved, supervised automatic sprinkler system in accordance with 30.3.5.
- (3) The space does not obstruct access to required exits.

30.3.6.4 Transoms, Louvers, or Transfer Grilles. Transoms, louvers, or transfer grilles shall be prohibited in walls or doors of exit access corridors.

30.3.7 Subdivisions of Building Spaces. Buildings shall be subdivided in accordance with 30.3.7.1 or 30.3.7.2.

30.3.7.1 In buildings not meeting the requirement of 30.3.7.2, dwelling units shall be separated from each other by walls and floors constructed as fire barriers having a minimum 1-hour fire resistance rating.

✓ **30.3.7.2** In buildings protected throughout by an approved, supervised automatic sprinkler system, dwelling units shall be separated from each other by walls and floors constructed as fire barriers having a minimum ½-hour fire resistance rating.

30.3.8 Special Protection Features. (Reserved)

30.4 Special Provisions.

30.4.1 High-Rise Buildings.

30.4.1.1 High-rise buildings shall comply with Section 11.8. The provisions of 30.3.5.3 and 30.3.4.5 shall be permitted.

30.4.1.2* Emergency action plans in accordance with Section 4.8 shall be provided and shall include all of the following:

- (1) Egress procedures
- (2) Methods
- (3) Preferred evacuation routes for each event, including appropriate use of elevators

30.4.2 Alcohol-Based Hand-Rub Dispensers. Alcohol-based hand-rub dispensers in accordance with 8.7.3.3 shall be permitted.

30.5 Building Services.

30.5.1 Utilities. Utilities shall comply with the provisions of Section 9.1.

30.5.2 Heating, Ventilating, and Air-Conditioning.

30.5.2.1 Heating, ventilating, and air-conditioning equipment shall comply with the provisions of Section 9.2.

30.5.2.2 Unvented fuel-fired heaters, other than gas space heaters in compliance with NFPA 54, *National Fuel Gas Code*, shall not be used.

30.5.3 Elevators, Escalators, and Conveyors. Elevators, escalators, and conveyors shall comply with the provisions of Section 9.4.

30.5.4 Waste Chutes, Incinerators, and Laundry Chutes. Waste chutes, incinerators, and laundry chutes shall comply with the provisions of Section 9.5.

30.6 Reserved.

30.7 Operating Features.

30.7.1 Emergency Instructions for Residents of Apartment Buildings. Emergency instructions shall be provided annually to each dwelling unit to indicate the location of alarms, egress paths, and actions to be taken, both in response to a fire in the dwelling unit and in response to the sounding of the alarm system.

30.7.2 Contents and Furnishings.

30.7.2.1 Contents and furnishings shall not be required to comply with Section 10.3.

30.7.2.2 Furnishings or decorations of an explosive or highly flammable character shall not be used outside of dwelling units.

30.7.2.3 Fire-retardant coatings shall be maintained to retain the effectiveness of the treatment under service conditions encountered in actual use.

30.7.3 Inspection of Door Openings. Door openings shall be inspected in accordance with 7.2.1.15.

Chapter 31 Existing Apartment Buildings

31.1* General Requirements.

31.1.1 Application.

31.1.1.1 The requirements of this chapter shall apply to existing buildings or portions thereof currently occupied as apartment occupancies. In addition, the building shall meet the requirements of one of the following options:

- (1) Option 1, buildings without fire suppression or detection systems
- (2) Option 2, buildings provided with a complete approved automatic fire detection and notification system in accordance with 31.3.4.4
- (3) Option 3, buildings provided with approved automatic sprinkler protection in selected areas, as described in 31.3.5.8
- (4) Option 4, buildings protected throughout by an approved automatic sprinkler system

31.1.1.2 Administration. The provisions of Chapter 1, Administration, shall apply.

31.1.1.3 General. The provisions of Chapter 4, General, shall apply.

31.1.1.4 The term *apartment building*, wherever used in this Code, shall include an apartment house, a tenement, a garden apartment, or any other structure meeting the definition of apartment building.

31.1.2 Classification of Occupancy. See 6.1.8 and 31.1.4.2.

31.1.3 Multiple Occupancies.

31.1.3.1 Multiple occupancies shall be in accordance with 6.1.14.

31.1.3.2 No dwelling unit of an apartment building shall have its sole means of egress pass through any nonresidential occupancy in the same building, unless otherwise permitted by 31.1.3.2.1 or 31.1.3.2.2.

31.1.3.2.1 In buildings that are protected by an automatic sprinkler system in accordance with Section 9.7, dwelling units of an apartment building shall be permitted to have their sole means of egress pass through a nonresidential occupancy in the same building, provided that all of the following criteria are met:

- (1) The dwelling unit of the apartment building shall comply with Chapter 31.
- (2) The sole means of egress from the dwelling unit of the apartment building shall not pass through a high hazard contents area, as defined in 6.2.2.4.

31.1.3.2.2 In buildings that are not protected by an automatic sprinkler system in accordance with Section 9.7, dwelling units of an apartment building shall be permitted to have their sole means of egress pass through a nonresidential occupancy in the same building, provided that all of the following criteria are met:

- (1) The sole means of egress from the dwelling unit of the apartment building to the exterior shall be separated from the remainder of the building by fire barriers having a minimum 1-hour fire resistance rating.
- (2) The dwelling unit of the apartment building shall comply with Chapter 31.

July 8, 2019

Londonderry Planning Board
268B Mammoth Road
Londonderry, NH 03053
Attn: Laura Gandia, Associate Planner

Re: Conditional Use Permit application
112 Rockingham Road
Hsiang-Hwa W. Pan, Applicant


Dear Planning Board Members:

I am the manager and sole member of Ramp Holdings, LLC, which owns the property at 114 Rockingham Road. It is next door to the property Ms. Pan owns at 112 Rockingham Road.

I am unable to attend the hearing on July 10, 2019. I authorize my lawyer, Robert S. Carey, to speak on my behalf at the hearing on Ms. Pan's application for a conditional use permit.

Thank you.

Sincerely,


Alan Johnson
Ramp Holdings, LLC

cc: Robert S. Carey, Esq.

STAFF RECOMMENDATION

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

Date: July 10, 2019

Application: Application for formal review of a subdivision plan to subdivide one lot into two, 55 Old Nashua Road, Map 3 Lot 168, Zoned AR-1, Amy T. & Maxwell J. Cooper (Owners & Applicants)

- **Completeness:** There are three outstanding checklist items for which the Applicant has requested a waiver:
 1. Section 3.05 of the Subdivision Regulation and item X.7 of the checklist - utility clearance letters for electric, telephone or CATV.
 2. Item X.4 of the checklist – traffic impact analysis
 3. Section 4.16.B.7 of the regulations and items and VII.2.g of the checklist – to indicate the proposed utility services to the proposed lot on the topographic plan

Staff **supports** granting the waivers for acceptance purposes only and the submission of the above checklist items are noted as conditions of approval.

Board Action Required: Motion to waive the three checklist items for acceptance purposes only as outlined in Staff's recommendation memorandum dated July 10, 2019

Board Action Required: Motion to Accept the Application as complete per Staff's Recommendation Memorandum dated July 10, 2019.

- **Waivers:** No additional waivers are being requested for this project.
- **Recommendation:** Based on the information received to date, Staff recommends that a conditional approval be granted with a Notice of Decision to read substantially as follows:

Board Action Required: Motion to grant conditional approval of a subdivision plan to subdivide one lot into two, 55 Old Nashua Road, Map 3 Lot 168, Zoned AR-1, Amy T. & Maxwell J. Cooper (Owners & Applicants) in accordance with plans prepared by Maynard & Paquette, Inc. dated December 20, 2018, last revised May 20, 2019 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated July 10, 2019.

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

PRECEDENT CONDITIONS

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

1. The Applicant shall satisfactorily address all checklist items as noted in the Staff Recommendation memorandum dated July 10, 2019.
2. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated July 10, 2019.
3. The Applicant shall provide the Owner’s signature(s) on the plans.
4. Required permits and permit approval numbers shall be noted on the plan.
5. The proposed access easement for the driveway shall be reviewed for approval by the Town and shall be recorded concurrently with the final plan.
6. There is an existing shed located within the front yard setback. The shed shall either be removed, a variance obtained from the ZBA to allow the structure to remain, or documentation be provided to confirm that the structure is a lawfully pre-existing non-conforming structure and appropriate notes be provide on the plan.
7. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
8. The Applicant shall provide a check for \$25 (made payable to the Rockingham County Registry of Deeds) for LCHIP.
9. The Applicant shall note all general and subsequent conditions on the plans.
10. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
11. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
12. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work for the subdivision may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the appropriate financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.
2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
4. Prior to issuance of a certificate of occupancy, all site improvements and off-site improvements, if any, shall be completed.
5. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

MEMORANDUM

To: Planning Board

Date: July 10, 2019

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

Re: Cooper Subdivision Plan
Tax Map 3 Lot 168
55 Old Nashua Road

Owners: Amy T. & Maxwell J. Cooper

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

Checklist Items:

1. The Applicant has not provided utility clearance letters for electric, telephone or CATV in accordance with section 3.05 of the Subdivision Regulation and item X.7 of the checklist. The Applicant has submitted a waiver request for this item.
2. The Applicant has not provided a traffic impact analysis per item X.4 of the Subdivision Application & Checklist. The Applicant has submitted a waiver request for this item.
3. The Applicant has not indicated the proposed utility services to the proposed lot on the topographic plan per section 4.16.B.7 of the regulations and items and VII.2.g of the checklist. The Applicant has submitted a waiver request for this item.

Design Review Items:

1. The Applicant's stormwater information does not address the existing drainage pipe (8" RCP pipe with one invert noted at 303.11) that appears to outlet the pond and thus the impacts to abutters does not appear to be properly addressed. the Applicant's drainage analysis notes that there will be a 1.17-foot increase in the pond elevation. With an 8" outlet pipe, we anticipate the rise in pond level would result in an increase in the discharge rate. Please provide additional information relative to the pond outlet and to demonstrate compliance with section 3.08 of the Subdivision Regulations is achieved (no increase in runoff) under this application acceptable to the Town.
2. We recommend the Applicant address the following on the **Subdivision Plan and Topographic Plan**:
 - A. We recommend the Applicant indicate the northerly right-of way limits as typically requested by the Town per section 4.12.C.6.iii of the regulation and item V.6.c of the checklist. In addition, please update the topographic plan to include the status per item VI.6.c of the checklist.
 - B. Please provide both Owner signatures on the plan per section 4.12.C.16 of the regulations and items V.16 and VI.16 of the checklist.
 - C. Only a portion of the existing drainage pipe is shown on the topographic plan that appears to be an outlet to the existing pond. Please indicate the entirety of the existing drainage system including inverts on the topographic plan per section 4.17.A.27.iii of the regulations and item VI.28.c of the checklist.
 - D. Please clarify/complete the limits of the proposed tree line on lot 168-2 especially around the proposed dwelling, driveway and access to the proposed well.

- E. We recommend the Applicant complete the proposed driveway grading to clarify any impacts to the wetlands and include erosion control measures per item VII.1.b and 1.u of the checklist.
 - F. Please provide a typical trench detail in the plan set for the proposed utilities to serve the proposed dwelling per item VII.13.d of the checklist.
3. A portion of the indicated right of way along Old Nashua Road on the subdivision plan is less than 25 feet from the centerline of the existing roadway pavement. We understand the Town typically requests a minimum 25 feet be provided along existing roads for future widening. We recommend the Applicant discuss this issue with the Town.
 4. We recommend the Applicant verify the project DRC comments of Planning Department have been adequately addressed with the Planning Department.
 5. We recommend the Applicant verify the project DRC comments of Fire Department have been adequately addressed with the Fire Department.

Board Action Items:

1. The Applicant has submitted a written waiver request for three (3) waivers to the Londonderry Subdivision Regulations as noted in a letter dated July 9, 2019. The Board will need to consider each of the waiver requests as part of the project review.

STAFF RECOMMENDATION

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

Date: July 10, 2019

Application: Application for formal review of a conditional use permit to allow a multi-family use in the C-II district, 112 Rockingham Road, Map 16 Lot 90, Zoned C-II, Hsiang-Hwa W. Pan and Steve S. Pan (Owners) and Hsiang-Hwa W. Pan (Applicant)

- **Completeness:** There are no outstanding checklist items and Staff recommends the Board accept this application as complete.

***Board Action Required:** Motion to accept the application as complete per the Staff Recommendation memorandum dated July 10, 2019.*

- **Background:** The Applicant is requesting a Conditional Use Permit to allow a multi-family use in the C-II district. This use is permitted in the C-II zone by Conditional Use Permit. In order for the Planning Board to grant a conditional use permit, the Applicant must demonstrate that it complies with the General Criteria of Section 6.2.

Section 6.2 General Criteria

- A. Granting of the application would meet some public need or convenience.
 - B. Granting of the application is in the public interest.
 - C. The property in question is reasonably suited for the use requested.
 - D. The use requested would not have a substantial adverse effect on the rights of the owners of surrounding properties.
 - E. The traffic generated by the proposed use is consistent with the identified function, capacity, and level of service of transportation facilities serving the community.
 - F. There must be appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks, so as to assure public safety and to avoid traffic congestion.
- **Recommendation:** Based on the information presented to date, Staff believes that the Applicant has demonstrated compliance with Section 6.2 of the Zoning Ordinance and recommends that the Planning Board grant the Applicant's request for a Conditional Use Permit.

***Board Action Required:** Motion to approve the Applicant's request for a Conditional Use Permit to allow a multi-family use in the C-II district, 112 Rockingham Road, Map 16 Lot 90, Zoned C-II, Hsiang-Hwa W. Pan and Steve S. Pan (Owners) and Hsiang-Hwa W. Pan (Applicant) in accordance with the CUP request prepared by Hsiang Haw Pan dated May 22, 2019 with the following conditions:*

1. The Applicant obtain appropriate approvals from NHDOT for the expansion of the use of the existing driveway.
2. Per letter from the Building, Health & Zoning Enforcement Department dated April 24, 2019, the Applicant shall obtain appropriate building permits from the Building Department for the work done within the house.
3. Per letter from the Building, Health & Zoning Enforcement Department dated April 24, 2019, the Applicant shall obtain appropriate septic approvals from the NH Department of Environmental Services.

STAFF RECOMMENDATION

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

Date: July 10, 2019

Application: Application for formal review of a lot line adjustment and subdivision plan, 6 Innovation Way and 44 Rear Pettengill Road, Map 28, Lot 17 and Map 14, Lot 45, Zoned Gateway Business, Ballinger Properties, LLC and Five N Associates, LLC (Owners) and Nazdrowie, LLC (Applicant).

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

Board Action Required: **Motion to accept the application complete as outlined in Staff's recommendation memorandum dated July 10, 2019**

- Waivers: The applicant has requested the following waivers from the Subdivision Regulations:
 1. The Applicant has requested a waiver from Section 3.09F and 4.16.C.1.xi of the regulations and Item VII.3.a.11 of the checklist to provide sight distance plans for the new lots. Staff **supports** this waiver as the Applicant has provided the sight distance plan and profile for proposed Map 14 Lot 45 in the associated site plan for that property, and because there are existing sight distance plans on file for Map 28 Lot 17 and proposed Map 14, Lot 45-8.
 2. The Applicant has requested a waiver from Section 3.02C and 4.12.C.4 of the regulations and Item V.4 of the checklist to not provide CO district signage over all of the lots. Staff **supports** granting this waiver as CO district signage will be installed on the parcel currently proposed for development.
 3. The Applicant has requested a waiver from Section 4.01C of the regulations and Item III.1 of the checklist to provide a master subdivision plan and a topographic plan at a plan scale greater than 1" = 40'. Staff **supports** granting this waiver as the plans are legible at the scale presented.
 4. The Applicant has requested a waiver from Checklist Items VI.24 and VI.28 a, b, c and d to not provide topography and utility information for a portion of Pettengill Road and Innovation Way. Staff **supports** granting this waiver as the information has been provided for the associated site plan, and other record plans that are on file with the Town which have the requisite information.

Board action required: **Motion to approve the Applicant's request for the above waivers 1-4 as outlined in Staff's recommendation memorandum dated July 10, 2019.**

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

Board Action Required: Motion to grant conditional approval of a lot line adjustment and subdivision plan, 6 Innovation Way and 44 Rear Pettengill Road, Map 28, Lot 17 and Map 14, Lot 45, Zoned Gateway Business, Ballinger Properties, LLC and Five N Associates, LLC (Owners) and Nazdrowie, LLC (Applicant) in accordance with plans prepared by Hayner-Swanson, Inc., dated March 28, 2019, last revised June 14, 2019, with the precedent conditions to be fulfilled within 2 years of the approval and prior to plan signature and general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memorandum, dated July 10, 2019.

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated July 10, 2019.
2. If approved, the waivers requested shall be noted as such on the plan.
3. The Applicant shall provide the Owner’s signature(s) on the plans.
4. Appropriate legal documents for easements to be extinguished or amended be provided to the Town for review and shall be recorded concurrently with the final plan.
5. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
6. The Applicant shall provide a check for \$25 (made payable to the Rockingham County Registry of Deeds) for LCHIP.
7. The Applicant shall note all general and subsequent conditions on the plans.

8. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
9. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
10. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
2. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

MEMORANDUM

To: Planning Board

Date: July 10, 2019

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

Re: Lot line Adjustment/Subdivision
Tax Map14 Lot 45 & Map 28 Lot 17
Webb Drive, Innovation Way and
Pettengill Road

Owners: : Ballinger Properties, LLC and
Five N Associates GP

Applicant: Nazdrowie, LLC

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

Checklist Items:

1. There are no checklist items.

Design Review Items:

1. The Applicant has not indicated the proposed driveways to serve lot 45-8 and lot 17 or provided driveway sight distance plans for any of the new lots in accordance with sections 3.09.F and 4.16.C.1.xi of the Subdivision Regulation and item VII.3.a.11 of the checklist. The Applicant has submitted a **waiver request** for the proposed sight distance for the new lots for consideration by the Board.
2. The Applicant has not provided the location of the CO District signage on the plans relative to the new lots per section 3.02.C and 4.12.C.4 of the regulations and item V.4 of the checklist. The Applicant has submitted a **waiver request** for the CO District signage for the new lots for consideration by the Board.
3. The Applicant's master subdivision plan, sheet 1 of 5 is a scale of 1"=200' and does not comply with the maximum of 1"=100' per section 4.01.C of the regulations and item III.1 of the checklist. In addition, the Applicant's topographic plans are at a scale of 1"=80" and do not comply with the maximum of 1"=40' per section 4.01.C of the regulations and item III.1 of the checklist. The Applicant has submitted a **waiver request** for the plan scale for consideration by the Board.
4. The Applicant's revised topographic plans do not include the following items:
 - A. The size and type of all of the existing water lines per item VI.28.a of the checklist. Information along Pettengill Road and Innovation Way are absent.
 - B. The size, type, and inverts of all the existing sewer lines per item VI.28.b of the checklist. Information along Pettengill Road and Innovation Way are absent.
 - C. The size, type, and inverts of all the existing drainage system per item VI.28.c of the checklist. Information along Pettengill Road and Innovation Way are absent.
 - D. The location of all the existing underground or overhead utilities (power, catv, communications, etc.) per item VI.28.d of the checklist. Information along Pettengill Road and Innovation Way are absent.
 - E. Complete topographic information on all lots per item VI.24 of the checklist. Information along a portion of Webb Drive and a portion of Innovation Way are missing.

The Applicant has submitted a **waiver request** for the missing existing conditions information for consideration by the Board

5. The plans indicate some of the easements along Webb Drive are to be released. It appears that some of the easements contain roadway drainage swales that would not be retained in a drainage easement as required by the Town. In addition, portions of the easements to be released contain backslopes to the drainage swales that would not be protected by a slope easement as required by the Town. We recommend the Applicant confirm the release of the easements is acceptable to the Town and update, as necessary, to provide all appropriate roadway easements for Webb Drive acceptable to the Town.
6. A monument is missing at the northeasterly corner of new lot 17 per section 3.02 of the Subdivision Regulations that appears to be located within the roadway pavement of Pettengill Road. The Applicant should provide the appropriate offset monument acceptable to the Town.
7. We recommend the Applicant verify the project DRC comments of Planning Department have been adequately addressed with the Planning Department.

Board Action Items:

1. The Applicant has submitted a written waiver request for four (4) waivers to the Londonderry Subdivision Regulations as noted in a letter dated June 18, 2019. The Board will need to consider each of the waiver requests as part of the project review.

Board Information Items:

1. The Applicant has submitted a separate site plan application for development on proposed Lot 45.
2. Proposed lot 45-8 is indicated with an area of 4.296 acres, but this lot area includes the existing roadway pavement of Webb Drive, the existing right-of-way easement for Webb Drive outside the pavement, the existing detention basin and stormwater system serving Webb Drive, the existing utility easements for power, gas and communications that serve the Webb site along with two separate and exclusive access and utility easements.

STAFF RECOMMENDATION

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

Date: July 10, 2019

Application: Application for formal review of a site plan to construct a one-story 141,765 square foot warehouse/distribution facility and associated site improvements, 44 Rear Pettengill Road, Map 14, Lot 45, Zoned Gateway Business, Ballinger Properties, LLC and Five N Associates, LLC (Owners) and Nazdrowie, LLC (Applicant).

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

Board Action Required: Motion to accept the application complete as outlined in Staff's recommendation memorandum dated July 10, 2019

- Waivers: The applicant has requested the following waivers from the Site Plan Regulations:
 1. The Applicant has requested a waiver from Section 3.07g.2 to allow pipe velocities that exceed 10 feet per second in three drain runs. Staff **supports** this waiver due to the characteristics of the site and because the design has included sumps in the downstream drainage structures and a riprap forebay at the outlet of this system to dissipate energy during peak rainfall.
 2. The Applicant has requested a waiver from Section 3.09.i.2 to allow 101 parking spaces where the regulation requires 156 spaces. Staff **supports** granting this waiver as the applicant has provided documentation from its similar facilities to demonstrate their typical parking demand, and because there is sufficient area on site to accommodate an expansion of the parking field, if necessary, in the future.
 3. The Applicant has requested a waiver from Section 3.10.g.1 to allow an automobile parking lot with no interior landscape area. Staff **supports** granting this waiver as strict application of this standard would result in vehicle maneuvering and maintenance concerns, and because the plan incorporates significant landscape and green spaces on the parking lot perimeters.
 4. The Applicant has requested a waiver from Section 3.10.g.3 to allow an automobile parking lot with no interior shade trees. Staff **supports** granting this waiver for the reasons stated above and recommends that the 8 trees required to satisfy this requirement be planted elsewhere on site.
 5. The Applicant has requested a waiver from Section 3.10.g.5 to allow 18 parking lot perimeter shade trees where 53 are required. Staff **supports** granting this waiver where the parking lots are screened or not visible from the road and

where steep slopes prevent the planting of trees immediately adjacent to the parking areas. Staff recommends that the required trees be planted elsewhere throughout the site.

6. The Applicant has requested a waiver from Section 3.09.k.2.ii to allow a typical pavement section of 3 ½ inches of pavement upon 6 inches of crushed stone upon 6 inches of gravel, where the regulations require 4" pavement, 6" crushed gravel, 12" gravel. Staff **supports** this waiver as the applicant has provided supporting documentation from a geotechnical engineer that the proposed section is recommended for the Applicant's proposed use.
7. The Applicant has requested a waiver from Section 4.01c to allow plan scale that exceeds the maximum 1" = 40'. Staff **supports** this request for the erosion control plans, landscape plan and photometric lighting plan as it allows for the project to be viewed on one sheet, and the plans are legible at the scale presented.

Board action required: Motion to approve the Applicant's request for the above waivers 1-7 as outlined in Staff's recommendation memorandum dated July 10, 2019.

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

Board Action Required: Motion to grant conditional approval of a site plan to construct a one-story 141,765 square foot warehouse/distribution facility and associated site improvements, 44 Rear Pettengill Road, d Map 14, Lot 45, Zoned Gateway Business, Ballinger Properties, LLC and Five N Associates, LLC (Owners) and Nazdrowie, LLC (Applicant) in accordance with plans prepared by Hayner-Swanson, Inc., dated March 28, 2019, last revised June 14, 2019, with the precedent conditions to be fulfilled within 120 days of the approval and prior to plan signature and general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memorandum, dated July 10, 2019.

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated July 10, 2019.
2. The landscaping plan shall be updated, to the satisfaction of the Town Planner, to provide the interior parking lot shade trees and perimeter parking lot shade trees elsewhere on the site in accordance with the requested waivers.
3. If approved, the waivers requested shall be noted as such on the plan.
4. The Applicant shall provide the Owner's signature(s) on the plans.
5. All required permits and approvals shall be obtained and noted on the plan. The Applicant shall indicate the permit approval numbers on the cover sheet and provide copies of all permits for the Planning Division files.
6. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
7. The Applicant shall note all general and subsequent conditions on the plans.
8. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
9. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
10. Final engineering review.

PLEASE NOTE – If these conditions are not met within 120 days of the meeting at which the Planning Board grants approval, the Board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work for the subdivision may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the site-restoration financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.
2. The project must be built and executed as specified in the approved application package

unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.

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

MEMORANDUM

To: Planning Board

Date: July 10, 2019

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

Re: Tax Map14 Lot 45 Site Plan
Warehouse/Distribution Facility
46 Pettengill Road

Owners: : Ballinger Properties, LLC and
Five N Associates GP
Applicant: Nazdrowie, LLC

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

Checklist Items:

1. There are no checklist items.

Design Review Items:

1. The Applicant's proposed stormwater design includes pipe velocities that exceed 10 feet per second in three (3) drain runs that does not comply with Section 3.07.g.2 of the Site Plan Regulations. The Applicant has submitted a waiver request for the proposed pipe velocities for consideration by the Board.
2. The Applicant's proposed site design indicates 101 parking spaces where the regulation requires 156 spaces per section 3.09.i.2 of the Site Plan Regulations. The Applicant has submitted a waiver request for the proposed reduction in parking for consideration by the Board.
3. The Applicant's site design indicates a landscape design with 0% interior landscaping within the front and sides automobile parking lots and does not comply with Section 3.11.3.g.1 of the Site Plan Regulations. The Applicant has submitted a waiver request for the proposed reduction in interior landscaping for consideration by the Board.
4. The Applicant's site design indicates a landscape design with zero (0) trees planted in the interior of the car and truck parking areas of the site, where 8 are required per Section 3.10.3.g of the Site Plan Regulations. The Applicant has submitted a waiver request for the proposed reduction in interior shade trees landscaping for consideration by the Board.
5. The Applicant's site design indicates a landscape design with 12 shade trees around the car and truck parking area perimeter, where 53 are required, per Section 3.10.g.5 of the Site Plan Regulations. The Applicant has submitted a waiver request for the proposed reduction in perimeter shade trees for consideration by the Board.
6. The Applicant's plan set indicates a plan scale of 1" =50' on the Erosion Control plans, Landscape Plan and Photometric Lighting Plan which do not comply with Section 4.01.c of the Site Plan Regulations (1"=40' max.). The Applicant has submitted a waiver request for the proposed plan scale for consideration by the Board.
7. The Applicant's project pavement design indicates a typical section of 3-inches of pavement upon 6-inches of crushed gravel upon 6-inches of gravel, where 4 inches of pavement, 6-

inches of crushed gravel upon 12-inches of gravel is required per Section 3.09.k.2.ii of the Site Plan Regulations. The Applicant has submitted a **waiver request** for the proposed pavement section for consideration by the Board.

8. We recommend the Applicant clarify/address the following on the **Site Utility Plans and Profiles**:
 - a. Proposed CB 44 exceeds 12 feet in depth and is not indicated as five (5) foot diameter structures per exhibit D104 of the Town's standard details and as noted in the details provided on sheet 17. Please review and update the profiles to properly identify the required structure size in compliance with the Town's standard details and for proper construction.
 - b. The utility plan does not indicate the location of the proposed utility lines to serve the proposed project lighting. Please indicate the proposed utility lines to serve the proposed lights and connection from the proposed building for proper construction. In addition, please review and update the utility profiles accordingly as acceptable to the Town.
 - c. Please remove the CB 71 label from sheet 4, which was eliminated with the revised design. In addition, please clarify how the stormwater flow to CB 31 will be treated with this revised design acceptable to the Town.
9. The oil/water separator detail on sheet 19 does not include the inlet and outlet tee baffle configurations as typically requested by the Town for proper construction. In addition, the detail does not indicate the proposed bedding typically required by the Town. Please review the proposed design with the Sewer Division and update acceptable to the Sewer Division.
10. We recommend the Applicant address the following relative to the **Project Drainage Report**:
 - a. The Applicant's design will direct project stormwater to the Town's stormwater basin and new lot 45-8 with an increase in runoff of 0.57 CFS to the basin under the 25-year storm (POA SW) as indicated in the submitted stormwater analysis and does not comply with section 3.07.A of the regulations. The Applicant shall revise the design as necessary to be in compliance with the regulations (no increase in runoff).
 - b. The proposed project grading design indicates several swales are proposed to direct runoff around the site, but the drainage report does not include the swale information per section 3.07.b.5 of the regulations and item XI.2.e of the checklist. Please review and update the report and analysis accordingly.
 - c. The catch basin grate capacity in Table 6 of the report indicates CB 3 located along the paved driveway with a flow in excess of 2 cfs to a single grate. We recommend that the catch basin be revised to double grate basins as typically requested by the Town. Please update the design accordingly.
 - d. The 50-year pond elevation noted for SMA B is noted as 229.41 and the submitted calculations indicates the low point of the pond embankment at elevation 229.5 for the secondary outlet device (broad-crested rectangular weir) which does not provide the minimum 12" of freeboard above the 50-year elevation as required by the regulations. We note that the revised grading plan indicate a spot elevation for the outlet weir at 230.5. Please revise the calculations to properly represent the revised design intent for the secondary outlet device to demonstrate that the proper and minimum embankment height above the 50-year elevation is in compliance with the regulations.
 - e. Post development subcatchment A is a combination of the subcatchments shown on the post development plan, but it is unclear that the calculations have properly addressed the separate areas of impervious, grass, etc. depicted in each subcatchment. In addition, it is unclear that the calculations have accounted for the indicated riprap or pond area

(C=100) of the basins. Please provide more detailed information relative to each post subcatchment area to clarify the calculations have appropriately included all the proposed improvements. In addition, please provide additional information for post subcatchment B accordingly.

- f. Please update the storm drain design spreadsheet to correct the rim elevation for DMH 33 and DMH 30 consistent with the latest profile information.
- g. The revised report includes an operation and maintenance manual for the stormwater management systems including a maintenance checklist. However, the checklist does not appear to address maintenance of the proposed swales. We recommend the post development operation and maintenance procedures be updated accordingly. In addition, we recommend the checklist provided in the report be placed in the plan set as typically requested by the Town (on sheet 5?).

- 11. We recommend the Applicant address the comments of the traffic review memorandum dated July 10, 2019.
- 12. We recommend the Applicant verify the DRC comments for the project are adequately addressed as applicable:
 - a. Please verify the comments of Planning Department have been adequately addressed with the Planning Department.
 - b. Please verify the comments of Fire Department have been adequately addressed with the Fire Department.
 - c. Please verify the comments of Conservation Commission have been adequately addressed with the Conservation Commission.
 - d. Please verify the comments of sewer Division have been adequately addressed with the Sewer Division.

Board Action Items:

- 1. The Applicant has submitted a written waiver request for seven (7) waivers to the Londonderry Site Plan Regulations as noted in a letter dated June 18, 2019. The Board will need to consider each of the waiver requests as part of the project review.

Board Information Items:

- 1. The Applicant's proposed access drives at Webb Drive are dimensioned as 30 feet and do not comply with section 3.08.b.6 of the regulations (24-foot maximum). We understand the Planning Board can grant an exception to 36 feet.

Memorandum - Tax Map 14 Lot 45 Site Plan
Proposed Warehouse/Distribution Facility
46 Pettengill Rd.
Owner: Ballinger Properties, LLC and Five N Associates GP
July 10, 2019
Page 4



Stantec Consulting Services Inc.
5 Dartmouth Drive, Suite 200
Auburn NH 03032
Tel: (603) 669-8672
Fax: (603) 669-7636

MEMORANDUM

To: Ms. Colleen Mailloux, AICP
Community Development Department

Date: July 10, 2019

Re: Proposed Warehouse
46 Pettengill Road
Traffic Memorandum Review

Cc: Mr. John Trottier, P.E.
Department of Public Works & Engineering

From: David J. DeBaie, PE, PTOE
Michael Leach

Owner: Prosit, LLC

Stantec Consulting Services Inc.

Project No. 1953-11747

Stantec has received the July 1, 2019 memorandum prepared by Stephen G. Pernaw & Company, Inc. for a 141, 035 sf single story industrial building at 46 Pettengill Road to be used as a large warehouse, small office, vehicle maintenance area, and a mezzanine. This location is near Pettengill Road and 60 percent of the vehicle trips to and from this site will be routed through the Pettengill Road/ Ray Wieczorek Drive signalized intersection. (This development was previously identified as 5 Webb Drive and the traffic study was previously submitted on Mar 28, 2019)

Stantec has also received a copy of the New Hampshire Department of Transportation (NHDOT) Application for Driveway Permit associated with the Pettengill Road intersection with Raymond Wieczorek Drive. The Town holds this NHDOT permit.

Stantec comments as follows:

1. Where this development will add to the traffic demands at the Pettengill Road/ Ray Wieczorek Drive intersection, Synchro analyses of this intersection for the morning and evening peak hour conditions has been prepared and referenced in the Traffic Study Memorandum. Stantec recommends that an electronic copy of these Synchro Files be provided to the Town for future use as the record analyses of the intersection.
2. The updated NHDOT Application for Driveway Permit cites this new development for Pettengill Road and the traffic study documents the expected increase in traffic volumes at the intersection with Raymond Wieczorek Drive. Based on the Synchro Analyses results, it appears that the traffic signal timing requires updating. In this regard, Stantec recommends that the permit identify a needed increase in the Maximum Green time for the Pettengill Road left turn from 20 seconds to 25 seconds.

DJD/ml

STAFF RECOMMENDATION

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

Date: July 10, 2019

Application: Application for formal review of a condominium conversion at 39 Mammoth Road, Map 1 Lot 52-2, Zoned AR-1, Jigsaw Builders, LLC (Owner & Applicant)

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

Board Action Required: Motion to Accept the Application as Complete per Staff's Recommendation Memorandum dated July 10, 2019.

- Waivers: No waivers are being requested for this project.
- Recommendation: Based on the information available to date, Staff recommends that the Planning Board **CONDITIONALLY APPROVE** this application with the Notice of Decision to read substantially as follows:

Board Action Required: Motion to grant conditional approval of the condominium conversion plan at 39 Mammoth Road, Map 1 Lot 52-2, Zoned AR-1, Jigsaw Builders, LLC (Owner & Applicant) in accordance with plans prepared by Eric C. Mitchell & Associates, Inc. dated May 24, 2019, last revised June 19, 2019 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated July 10, 2019.

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address any outstanding DRC comments.
2. The Owners' signature shall be provided on the plans.
3. A final copy of the condominium declaration shall be provided for review and approval by the Town for recording at the Rockingham County Registry of Deeds, concurrent with the recording of the plans.
4. All project permit and approval numbers shall be noted on the plan.

5. Exhibit A is included but Exhibit A is not referenced in the body of the documents. Please provide an appropriate reference.
6. In the declaration, the unit descriptions, limited common area and common area descriptions shall be updated to reference the square footage areas per the condominium plan.
7. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
8. The Applicant shall provide checks for LCHIP and recording fees, made payable to the Rockingham County Registry of Deeds.
9. The Applicant shall note all general and subsequent conditions on the plans (must be on a sheet to be recorded, or a separate document to be recorded with the subdivision plans).
10. Final planning review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
2. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.