

The Planning Board for the Town of Derry held a public meeting on Wednesday, October 20, 2021, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room with all members of the Board physically present.

Members present: John O'Connor, Chairman; Jim MacEachern, Vice Chair; David Nelson, Secretary; Randy Chase, Town Administrative Representative; Brian Chirichiello, Town Council Liaison; Mark Connors, Members, Andy Myers, Alternate

Absent: James Hultgren; David Clapp, David Granese

*Denotes virtual attendance.

Also present: George Sioras, Planning Director; Mark L'Heureux, Engineering Coordinator

Mr. O'Connor opened the meeting at 7:00 p.m. The meeting began with a salute to the flag. Mr. O'Connor advised that although Emergency Order #12, as issued by Governor Sununu has expired, Board members are allowed to attend the meeting remotely, provided there is a quorum of members physically present in the meeting room. He provided the appropriate links for members of the public to join the meeting virtually via a MAC, PC, or by phone. He then introduced the staff and Board members.

Mr. Myers was seated for Mr. Clapp.

Escrow

#21-17

Project Name: Peabody Road Commercial Buildings

Developer: Lauralei, LLC

Escrow Account: Same

Escrow Type: Letter of Credit

Parcel ID/Location: 36067-012, 4 Peabody Road Annex

The request is to approve Release #1 in the amount of \$51,989.04 on Letter of Credit #1506, drawn on Primary Bank and to provide a replacement Letter of Credit in the amount of \$152,876.16. Upon receipt of the replacement Letter of Credit, the Board will release the Letter of Credit held in the amount of \$204,865.20 for the above noted project. The current expiration date of the Letter of Credit is September 05, 2022.

Motion by MacEachern, seconded by Nelson to approve as presented.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson, and O'Connor voted in favor and the motion passed.

Minutes

The Board reviewed the minutes of the October 06, 2021, meeting.

Motion by MacEachern, seconded by Chirichiello to approve the minutes of the October 06, 2021, meeting as written.

Chase, MacEachern, Myers, Connors, Nelson, and O'Connor voted in favor; Chirichiello abstained, and the motion passed.

Correspondence

Mr. Nelson reported the State of NH, Department of Transportation notified the Board the final design for Exit 4A will be available at a public information meeting. The meeting will be held on October 28, 2021, in the Third Floor Meeting Room of the Derry Municipal Center. An open house will take place between 5:00 p.m. and 6:00 p.m., with the presentation beginning at 6:00 p.m. All interested parties are welcome to attend. Mr. O'Connor noted the Town of Derry has detailed information on the homepage of its website.

Other Business

Review of Tax Deeded Properties

Mr. Sioras explained the Board has a memo from the Tax Collector, Diane Mulholland. She has provided a list of tax deeded properties that will be offered for sale. There are six properties on this list this year. The list has been provided to town departments, Boards, and Committees to see if there is any interest in retaining them as town owned property. The Department of Public Works recommends retaining three of the properties. The first is 26 Gordon Road. The land is very wet, DPW recommends retaining it for drainage purposes. The second is 50.5 Tsienneto Road. The recommendation is to retain that parcel for the Exit 4A construction, specifically shoulder improvements. The third parcel, 148 Goodhue Road, which also has a lot of wetlands should be retained for drainage purposes. Planning staff recommends the sale of the remaining properties.

Mr. O'Connor stated in reviewing the GIS, 148 Goodhue did have frontage. Mr. Connors noted abutters may want to purchase the other lots. Mr. Sioras said the Board comments would be forwarded to the Tax Collector.

Discussion of Field Change, PID 23016, 30 Brook Street, Stage Crossing, LLC

Mr. Sioras explained this project is at the corner of Brook Street and Fordway. The original approval had a fence to the rear. Staff has provided photos of the site. The developer, represented this evening by Brian Pratt of Fuss and O'Neill (formerly CLD), can provide more detail. Mr. Sioras, Mr. Mackey, and Mr. L'Heureux recommend the shrubs be approved in place of the fence.

Mr. Pratt advise the project was approved in 2015 as a nine-unit townhouse project. There was a proposed fence to the rear of the property. They are requesting a minor field change to replace the fence with landscaping. The photos he provided this evening show 9-foot arborvitae which provide a similar screen as the proposed fence. The retaining wall is a bit wider than originally planned and therefore there is less space to place the fence. If the fence were installed, snowplows would hit it. The arborvitae are 9 feet tall and grow about a foot a year; they get wider as well. The shrubs are providing a good screen. The request this evening is to omit the proposed fence.

Motion by MacEachern, seconded by Chirichiello to open the floor for discussion. Motion passed.

There was no public comment.

Motion by MacEachern, seconded by Chirichiello to close the floor to discussion. Motion passed and discussion returned to the Board.

Mr. Connors asked if there is a requirement for a fence given the height of the retaining wall, to prevent someone from falling off the wall. Mr. L'Heureux advised the wall is large and acts as a guardrail as well. Mr. Connors noted arborvitae have a tendency to die off after a while; what is the obligation or enforcement if they die. Mr. L'Heureux said if they do perish and were approved as part of the site plan, the developer would be required to replace them; this would be a Code Enforcement issue.

Mr. ~~Connors~~ O'Connor recalled during the original public hearing, abutters had requested arborvitae on their side, rather than a fence.

Mr. MacEachern confirmed the fence was required as part of the site plan, and the arborvitae were also included in the landscape plan on the approved plan. The fence was to be closer to the parking lot, with the shrubs behind the fence, closer to the abutters. Mr. MacEachern noted in the pictures, there does not appear to be a lot of room for the fence and it would interfere with the growth of the arborvitae. Mr. L'Heureux added the scope of the wall ended up being very wide as it acts as a guardrail, and it takes away from the area where the proposed fence would be installed. Mr. MacEachern noted the wall will prevent any vehicles from going onto the abutting property. Mr. L'Heureux stated DPW has no issues with the proposed change.

Motion by MacEachern, seconded by Nelson, pursuant to LDCR Section 170-74B, to allow a minor field change to the site plan approved by the Planning Board on January 07, 2015, for PID 23016, Stage Crossing, LLC; 30 Brook Street: change the 8-foot fencing along the rear property line to 8-foot arborvitae.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson, and O'Connor voted in favor and the motion passed.

Chairman/Planning Director Updates

Mr. Sioras reported on the Façade Improvement Program. Compare Ristorante, located on East Broadway, had held a discussion with the Planning Board about the painting of the exterior of the building. The owner, as directed, changed the proposed color of the building. They have been painting the building. There are still funds available in this program. There are some other restaurants in the downtown that are planning updates to their buildings.

The NH DOT will hold the Ten-Year Highway Plan meeting at the Derry Municipal Center on Tuesday, October 26, 2021 beginning at 7:00 PM. Executive Councilor Stevens will host the meeting. The Derry Rail Trail extension project is on the list of projects. It would be helpful if people could speak in support of project. They will also provide updates on other highway projects around the state, including the I93 Widening Project.

Mr. O'Connor reported North Point Outdoors held their grand opening in Derry last week.

Public Hearing

The Grindhouse

Bobby Marcotte/Paul Simbliaris

(Owner: H & B Berggren, LLC)

PID 32025-003, 43.5 Crystal Avenue

Acceptance/Review, Site Plan

24,936 square foot commercial development

Butcher Shop, Restaurant, Brewery

(Continued from October 06, 2021)

Mr. Sioras provided the following staff report. The project will be called The Grindhouse and is located behind Gibbs gas station, adjacent to McDonald's on Crystal Ave. The purpose of the plan is to construct a 24,936 square foot commercial building in the General Commercial district. The development includes a butcher shop, restaurant, and brewery. All town departments have reviewed and signed the plan. There is one waiver request which has been forwarded to the Board members. Staff recommends approval of the waiver and site plan application.

Doug MacGuire, The Dubay Group, represented the applicants. The property is the open field area on Crystal Ave, adjacent to McDonald's and Gibbs Gas Station. The land is not very visible, has some wetlands, and totals approximately six acres. The land is very flat and because of the lack of visibility, is suited to a unique user who can create more of a destination location. The proposal is two different uses, in one cohesive site. The access is between Gibbs and McDonalds. The use on the left is the butcher shop and associated restaurant. The brewery will be located on the righthand side. Parking is proposed and provided for each of the uses. The two uses work well together. There will be a common area located between the two uses which allows a customer to enjoy both the restaurant and the brewery; there will also be a common outdoor area which is popular for both of these uses. The area in the middle functions as a high-end food court. Each of the uses operates independently and can be open or closed, independently. That is required as part of the state licensing. If one business is closed, a roll down window will be employed so that the common space will remain available for the open use. This is a unique design, which creates a cohesive development.

The site plan accommodates good access for deliveries. There are loading docks on the rear of the building which drop down to four feet for delivery of materials. There is more than ample parking based on the requirements. The regulations require a total of 90 spaces; they are proposing 138 spaces. Both of the uses are existing businesses and are aware of what they need for customer and employee spaces. The landscaping plan meets the requirements for parking lot, street trees, and enchantments to the front of the building.

The site is very flat. They did pick up the site which provided some elevation to the rear which assists with the loading docks and provides a means to handle the drainage. The site has been created with a closed drainage system which catches the site runoff and directs it to a wet pond located to the left (north) side of the site. The natural outfall of this property is two culverts located on the McDonald's site. The emergency overflows are directed to the existing culverts, but the pre and post drainage is handled on site. The eastern side of the property collects the immediate parking lot area sheet flow to a pond in that location. The roof drains lead to a small infiltration system to the north side of the site, which helps alleviate site runoff. The site has access to town water, sewer, and natural gas which will be brought in off Crystal Avenue. They will overlay a portion of Crystal Avenue after installing the utilities. The erosion control plan protects the wetlands. Lighting will be downward facing, full cut off LED fixtures, similar the surrounding area. The plan meets the minimum green space and impervious requirements.

A building rendering has been provided. Two different architectural firms are working together on the building plan specifics. Market Square Architects will work on the butcher shop; McHenry Associates is working on the brewery portion. Representatives are available to answer questions about the rendering details. He provided a copy of the rendering to the Board members. Mr. MacGuire noted the rendering shows the front of the building with the two uses, common area and outdoor area.

Motion by Nelson, seconded by MacEachern to accept a copy of the rendering as additional material for the proceedings this evening.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson, and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Connors to open the public hearing.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson, and O'Connor voted in favor and the motion passed. The floor was open to the public.

There was no public comment.

Motion by MacEachern, seconded by Connors to close the public hearing.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson, and O'Connor voted in favor and the motion passed. Review of the plan returned to the Board.

Mr. MacEachern noted the plans are detailed and he has no issue with the waiver request. He questioned one entrance with no other emergency exit out of the site. On the butcher shop side, near the trash compactor, closer to Map 36 Lot 017 [Hood Commons], is there any way or is there a need for an emergency exit to that area? His concern is that there is only one way in or out of the project. Can there be a stone or gravel access way that could fit a fire engine, leading to Hood Commons? Mr. MacGuire noted the plan has been reviewed by the Fire Department. His team made the access entrance as wide as possible; there is 34 feet of width. The loop around the building is also 30 feet wide, which is wider than required. The building is sprinkled. He is not sure they have the ability to legally connect to another lot. They are ten feet from T Bones parking lot; but have no legal right to provide a connection to an abutting lot. Mr. MacEachern noted the snow storage adjacent to T Bones which might be more applicable as an area to propose a secondary exit. Hood Commons is more advantageous to get an emergency vehicle in. If there is an emergency on the site, there needs to be the ability to get a vehicle to the site through another entrance. He does not want to cause undue financial hardship. Mr. MacGuire noted on the grading and utility plan there is not an easy access on the Hood Commons side; on the T Bones side, they may not be able to obtain the access. The Fire Department will not need to request permission from property owners to get to the site in the event of an emergency. Mr. MacEachern wondered if emergency vehicles could access the site through the T Bones side since that is the area set aside for snow storage. He just wants to make sure there is another way to access the site if necessary. Maybe the snow storage area can be expanded and a parking space or two lost to make sure there is a place to access the lot. That is his only concern with the project.

Mr. Connors had a concern that if there is a significant issue with the gas station, there would not be a way to exit the site. If one looks at the site aerially, near Sumo Sushi at Hood Plaza, is there a means to create an access; which may also provide an access to the site for patrons. Mr. MacGuire noted a few hardships with that connection – the area is very wet in that area; the wetland wraps around and comes into the other wooded area near McDonalds. There are two

large culverts in that area and to create an access in that area would require a major wetland impact. The Fire Department did not request a secondary egress when they reviewed the plan, and he believes it would create a hardship to create access in that location. He does not see a feasible option. This is why they maximized the entrance and access. They did try to do the best they could to provide access and work with the land they have. Mr. Connors noted a bump out area near Gibbs. Mr. MacGuire explained Gibbs has a legal shared access easement on this property; they wanted to make sure they did not cut off the Gibbs access while providing traffic control. Adjacent to the Gibbs structure, there is a grass island proposed to provide way finding as one turns into the development. The peer review consultant requested they find a way to discourage maneuvers from the gas station at the entrance and to tighten the area up. The concern is there needs to be a way to drop off fuel on site and to continue to provide a vehicle path for the fuel vehicles. Fuel deliveries enter from Crystal Avenue and drive around the building. That had to be preserved. Most passenger vehicles can take a left from the pumps and exit the site. For larger vehicles, or those towing something, they have proposed a scored concrete area that will discourage the average vehicle from driving over it, but a larger vehicle has the ability to pass in that area. That will help control traffic and set the traffic pattern at the access. That is not on the plans currently but will be coordinated with Mr. L'Heureux and VHB. Mr. Connors confirmed customers at Gibbs will still have the 24-foot-wide access point and the access to the rear of the building. There will be better wayfinding for the property. There will be a five-foot-wide scored concrete area on the Gibbs side.

Mr. Nelson appreciated his colleagues noting the concern for a secondary egress but the authority having jurisdiction over emergency access is the Fire Department; any additional access would require negotiation on the part of the applicant with other property owners to gain an easement; some of them are competitors. He did not feel this was a reasonable request.

Mr. L'Heureux noted if there was an emergency at the entrance, such as an accident, patrons can utilize the access around Gibbs and come out on the other side of the entrance island.

Mr. ~~Connors~~-O'Connor had a question about the wet ponds. On sheet 7, it appears the wet pond could be as deep as 12 feet. Mr. MacGuire explained they have to meet the certain requirements. They are proposing guardrail at that location. There is a 3:1 grade, the pond would have 5 feet of water and then it would drain. Mr. ~~Connors~~-O'Connor asked about a fence to protect the area from kids that might be in the area; this lot abuts two schools and the children travel in the area. Mr. MacGuire felt that was a good suggestion and they will consider adding a chain link fence to provide some security around the pond. That was also noted in the VHB report. Mr. ~~Connors~~-O'Connor noted on sheet 4, there is a comment in Note 8 with regard to the cleaning of catch basins. Who inspects that and provides documentation? Mr. MacGuire said there is an Operations and Maintenance guide; this is the responsibility of the owner. Some communities have the reports submitted to them; this is a private site and if there is an issue, the responsibility is with the owner to address it. Mr. L'Heureux was not aware that the town polices the O & M. Mr. ~~Connors~~-O'Connor also asked about how the property would be connected to the town's fire alarm system. Mr. MacGuire advised the notes on the plan are the standard notes; they will comply with whatever the town requires. Mr. Chase advised the Fire Department has a process in place.

Mr. Connors inquired if there is or should be a process requiring documentation that site owners are complying with conditions. Mr. Sioras explained if an abutter has a concern, when it is brought to the town's attention, staff reviews the approved plan and minutes and then moves forward with any necessary enforcement. It is more difficult to enforce the older plans as the sites age.

Mr. Nelson remarked on sheet 3 there is a reference to the Town of Kingston which should be corrected. On the architectural rendering, there is a large colorful structure. Mr. MacGuire advised that is a mural which is part of their branding. Mr. Nelson inquired if there is a rendering for signage. Mr. MacGuire stated they have not proposed signage at this point as they would need variances to do that. His applicants are going to focus on the façade of the building and advertising. They will request relief if they move forward with signage.

Mr. L'Heureux noted the VHB comments are fairly benign and there is a waiver request to allow two feet of cover; he acknowledged the site is flat and it is difficult to achieve the regulation. The three-foot cover over pipe requirement is important with regard to draining water on site and keeping it out of the gravels. When there is lack of cover on a site such as this, the plastic pipe ends up getting crushed which causes problems. He advocates revising the waiver to look at the affected areas and to replace the certain sections of the plastic pipe with Class 5 reinforced concrete pipe for better assurances during construction so that pipe does not need to be replaced. The segments with lack of cover have been identified and they will review those areas with regard to wheel loading.

Motion by MacEachern, seconded by Nelson to accept jurisdiction of the plan for The Grindhouse/Bobby Marcotte/Paul Simbliaris, 43.5 Crystal Avenue, Parcel ID 32025-003, owned by H & B Berggren, LLC.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson, and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Chirichiello to approve a waiver from LDCR Section 170-65J, to allow two feet of cover, as after review of the waiver request the Board finds that specific circumstances relative to the plan, or conditions of the land in such plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson, and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Chirichiello to approve a waiver from LDCR Section 170-65J, Stormwater Management Requirements, pipe covering, to allow two feet of cover and to replace the proposed pipe in certain areas with Class 5 concrete pipe.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson, and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Nelson to approve, pursuant to RSA 676:4 I – Completed Application, with the following conditions: Comply with the Vanasse Hangen Brustlin report dated October 07, 2021, or later; Subject to owner’s signature; Subject to on-site inspection by the Town’s engineer; The HDPE OCS within the detention pond shall be changed to a precast concrete structure; Establish escrow for the setting of bounds or certify the bounds have been set if the bounds need to be set/reset for this project; Establish appropriate escrow as required to complete the project; Note approved waivers on the plan; Obtain written approval from the Planning Director/designee that the GIS disk is received and is operable and it complies with LDCR Section 170-61.C; Subject to receipt of applicable state or local permits relating to the project (i.e., AoT, Wetland, Building Department, Fire Department, Water/Wastewater, Driveway, DES Sewer Connection/Industrial Discharge Permit etc.); Snow and ice removal shall be performed by a “Green Sno-Pro” certified contractor following Best Management Practices for the application of de-icing materials; Add the section of scored pavement to the plan set for review by the Town’s Engineer; Add fencing around the detention ponds per review of the Town’s Engineer; Add the review and approval for the fire systems (wired versus wireless) per the Fire Department’s latest regulations; Conditions precedent shall be met within 6 months. Discussion followed.

Mr. ~~Connors~~ O’Connor confirmed Mr. MacGuire did not have any concerns with the VHB report. Mr. MacGuire advised he spoke with Mr. L’Heureux on the items. The Board granted a waiver for the only item he could not address.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson, and O’Connor voted in favor and the motion passed.

Proposed changes to the following section of the Town of Derry Zoning Ordinance: Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map to move twelve properties from the Medium High Density Residential II District to the Industrial VI District.

Mr. Sioras provided the following staff report. This is a zoning change. The Board held a workshop to discuss moving the properties from one zone to the other. Several of the affected property owners are in attendance. The twelve properties noted on the map in yellow are proposed to be moved to the Industrial VI District. The construction of Exit 4A has been approved and will begin in the spring of 2022 which will create a T intersection at North High Street and Madden Road. These particular properties will not be affected by a taking as a result of the construction of Exit 4A. When the town updated the Master Plan, this area was designated as the Gateway District. When the new road comes down, it will open up the land for more commercial development. The thought is to not have housing on these properties. Any existing homes on these twelve lots can remain as an existing non-conforming use indefinitely; the tax rate remains residential. If the structure is damaged extensively or removed and not replaced with a residence within twelve months, the use would then have to be commercial. Any sale of the property for a commercial use would be allowed. Once the ramp opens, this area will change. The Board is trying to be proactive and ensure that the land will be used for commercial

or industrial use, rather than multifamily. He personally spoke with Lola Meriano, Marian Fraser (Brudzisz) and Steven Piec. Mr. Piec indicated support of the proposal.

Motion by Connors, seconded by Chirichiello to open the public hearing. The motion passed and the floor was open to the public.

Mark Dunajski, 64 North High Street, asked if by changing the zoning of the land, does it make it easier for the State to take the properties. Mr. Sioras said the State has already purchased the properties on Folsom Road. The State will build the road and these properties will not be affected by the State. A benefit of this change is an increase in property value. The quality of life in this area is not what is used to be and this will be an access to the highway. The tax rate will be based on the residential rate. The assessed value may increase based on the increased value of the property.

There was no further public comment.

Motion by MacEachern, seconded by Connors to close the public hearing. The motion passed with all in favor and review of the proposal returned to the Board.

Mr. MacEachern noted the Board has discussed this several times.

Motion by MacEachern, seconded by Connors to recommend the following proposed changes to the Town of Derry Zoning Ordinance: Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map to move twelve properties from the Medium High Density II Residential District to the Industrial VI District and to forward same to the Town Council for consideration and approval.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson and O'Connor voted in favor and the motion passed.

Labelle Winery, LLC
(Owner: Vineyard Properties, LLC)
PID 15002, 48 Conley's Grove Road
Acceptance/Review, Site Plan
3,580 square foot wine barn

Mr. Sioras provided the following staff report. The purpose of the plan is for a 3,580 square foot wine barn. All town departments have reviewed and signed the plan with the exception of the Fire Department. The Director of Fire Prevention, David Eastman was to provide comment following his discussion with the State Fire Marshall's office. Mr. Sioras provided a copy of an email to the Board that he received from Director Eastman late this afternoon. Staff is recommending conditional approval, subject to resolution of discussions with the State Fire Marshall's office relating to the location of the fire cistern. If the location of the cistern changes, the plan would need to come back to the Board for a Condition Compliance Hearing. He also received an email from an abutter, which he will discuss during the public hearing.

Kenneth Clinton, Meridian Land Services, presented for the applicant, LaBelle Winery. The plan set has been reviewed by the TRC. The Derry Fire Department did not sign the plan as they were working on two outstanding issues. The property was the former Brookstone Event Center and Golf. It was recently purchased by LaBelle Winery. The property has been undergoing some renovation and reinvigorating the property with the LaBelle brand. One of the visions for the property was to establish a vineyard, similar to the Amherst location. The logical location for that was the area of the former driving range. The agricultural vineyard encompasses about 2 acres of the property. In order to enhance the experience for guests, the vision includes the construction of a barn. The proposal this evening is for the winery barn and the infrastructure to support it. The property is two lots, one fronts on Route 111 known as Parcel 04129-003 which contains the majority of the uses on the property. The second lot, known as 48 Conley's Grove Road, Parcel 15002, was largely vacant other than the driving range and the portion of the golf course and pitch and putt area; it now contains the vineyard which takes advantage of the southern exposure. This is where the proposed barn is planned to be located. The existing conditions plan is fairly detailed showing the wetlands, abutting lots, etc.

The barn is a little over 3,000 square feet. There is a production area which will be used to convert wine, produced primarily at the Amherst location, into a sparkling wine product. Wine will be delivered in barrels to this facility to be converted to sparkling wine. The production area is approximately half of the building and located on the northern end of the building. The southerly end is for a wine tasting room. It will be an extra space for guests already on the property for other events. The business contains an event center, restaurant, function space, golf and mini golf. This is ancillary to the existing uses. This barn could be used as a cocktail area surrounded by vineyards for guests attending a wedding on the property. The barn is intended to be part of the overall offerings on the property and not necessarily a stand-alone destination. Only one employee will be on site for the production of the sparkling wine. For an event, which is normally a two-hour window, there may be two other employees to service guests. Food is prepared at the main facility and brought over via golf cart or the like to serve the guests during a cocktail hour. There is no kitchen, but there are the required sinks and bathrooms for guests. The barn requires a fair amount of infrastructure to support and light it.

The access road leads from Conley's Grove Road. This is a 20-foot paved drive, through what was left of a proposed roadway on a former subdivision plan. The access ends in a hammerhead turnaround at the rear access to the barn. This access has been a substantial part of the design. There had been a former residence on this property that had been served by an 8-12 foot gravel driveway. The original plan had been to utilize the remains of the gravel access to provide emergency access to the building and for the infrequent deliveries. However, during TRC discussions, the Fire Department required compliance with NFPA with regard to width and surface. The design team felt that was overkill and unnecessary. They did discuss waiver options, bringing the width down to 16 feet with 2-foot shoulders but it appeared the waiver would not likely be granted. They have complied with the request of the Fire Department and the private access is paved at a width of 20 feet. The access is an emergency access and will be used for the infrequent deliveries of wine from Amherst. The wine barrels are delivered, the sparkling wine produced and then barrels are swapped out. The deliveries do not happen weekly. This is strictly a private access and there will be no public access or parking along this access

way. A sign will be posted stating this is private property and there shall be no trespassing. If necessary, in the future, a gate can be installed to prevent public access. The gate would have a Knox Box so that the Fire Department has access through the gate. This future option has been added as a note on the plan.

Drainage from the access way will be collected in the swale to the northside, which wraps around the hammerhead, into a culvert under the farm road access for the vineyard, and then out into existing storm basins and piping located in the former driving range. The stormwater detention pond was already been substantially constructed as it is downslope of the vineyard. It was installed so that the larger machinery used to construct it did not disrupt the vineyard once it was planted. The pond is substantially completed, but not final. There is a proposed leach field designed for the expected volume from the use. It is sized for 80 guests and three employees.

As the building began to take shape, and they worked through different iterations of the building that did and did not include a basement or fire sprinklers, the Fire Department required a fire cistern that was 25,000 gallons in size to aid in fire protection. That was placed near the neck of the access as they felt that was the best location for Fire Department access. NFPA requirements state the suction pipe for the cistern must be 100 feet from the building. Their proposed location puts it at 73 feet from the building. In order to keep it in the proposed location, a waiver would need to be approved by the State Fire Marshall's office. As of yesterday, the design team acquiesced to the Fire Department's wish that they not see the waiver and will now propose the cistern to be located in front of the proposed leach field. A preliminary plan was shown to Director Eastman yesterday, but is not included in this plan set. The relocation would require the leach field to be moved slightly north. These are NFPA requirements, so cannot be waived by the Planning Board. Note 9 on the cover sheet states the final size and capacity for the cistern will be coordinated with the Fire Department and finalized with the Building Permit.

Water is being supplied by wells from the main facility; underground utilities are also proposed. With regard to landscaping and lighting, they are aware this use is close to abutting residential uses. During the boundary survey, they realized that the previous owner of the property had laid out a portion of the pitch and putt on one of the adjoining properties. In order to shield the abutters, they are constructing a landscape berm that wraps around the turnaround and access to help protect the most affected homeowners. That should substantially illuminate the view. Proposed lighting includes building lights, and walkway lights. Guests will access this barn from the main facility over the golf path which goes over an existing bridge and ends in a circular area. That area will be extended and ADA access will be created to the side. The lighting plan is shown on the last sheet. Elevations of the barn are included in the plan set.

The hours of operation are intended to be Wednesday through Sunday, 12:00 to 7:00 p.m. for the public. There is no intent to be open late at night with large amounts of light, which is why the lighting plan is simple. For security purposes a light will be left on at the entrances.

The impact of this use, aside from the size of the access, is not much larger than that of the former single-family residence with the associated residential uses when looked at from an engineering point of view. This is a unique addition to what is already being supplied at the facility and Mr. Clinton acknowledged the use came with some challenges for access and

impacts on abutters. He did speak with abutters this evening, and has agreed to bring those comments back to Amy LaBelle and follow up in good faith. Concerns included noise from the facility, tree cutting impacts - especially to the two land owners on either side of the access and what might be done to alleviate those impacts. During construction, they are committed to working with the neighbors. He has worked with Amy LaBelle for eight years and has found her to be understanding and willing to work with abutters to her projects.

Motion by MacEachern, seconded by Connors to accept jurisdiction of the plan for LaBelle Winery, LLC, (Owner: Vineyard Properties, LLC), PID 15002, 48 Conley's Grove Road.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Connors to open the public hearing. The motion passed with all in favor and the floor was open to the public.

Dirk Cyr*, 50 Conley's Grove Road, had questions after reviewing the plan. His concern is for the tree loss. Will the berm be sufficient to block the views and divert the sound or light? He believed the berm was going to be substantial in his discussions with Amy LaBelle. On sheet P2, in looking at the rear part of his property noted as PID 15003, what is that going around his property that is shown as a thicker line? Mr. Clinton explained what he is seeing is silt fence that is used for erosion control. Silt fence is put in place to keep stormwater from running off onto abutting property. There are no plans for a fence. With regard to the height of the berm, the comment with regard to the height will be relayed to Amy LaBelle to see what can be done to accommodate him.

Mr. Cyr asked if he would be able to drive over the access to reach the rear of his property if he had to access his leach field or the rear of the property. Mr. Clinton said he would be able to do that, as Mr. Cyr has historically driven in that area to access the rear of his property. The question would be if a gate has to be installed, he is not sure how they would handle it. They will work with Mr. Cyr on that issue. Mr. Cyr stated he reached out with regard to the movement of the utility pole. He had been told there is a 92 year old easement on his property to allow the guy wires. He was not provided a copy of the documentation for the easement. He would prefer to not have a pole or guy wires on his property.

Mr. Clinton explained the construction of the access way does require a utility pole to be relocated. When the utility company came out to look at potential locations, it was stated they may put guy wires on Mr. Cyr's property (not the pole), which they are allowed to do by right of an easement or rights in a former deed. Mr. Clinton has not seen the easement documents himself. The pole does need to be moved. If there is no legal right, Mr. Cyr's property cannot be impacted and the pole will need to go in a different location. The movement of the pole is noted on the plan, but this is a construction issue and the utility company preferred this option. It is not the only option.

Paul Comtois, 46 Conley's Grove Road, felt that a 20-foot-wide access was a little excessive. That will require the removal of almost all of the trees in this area. This will change the way the

area looks now and make it look like an open field. Parts of Conley's Grove Road is only 22 feet wide and the Fire Department has no problem with access. Escumbuit Road is less than 20 feet and fire trucks can get down it to reach the homes. He does not know why it has to be 20 feet; why not 14 feet? Mr. O'Connor said the town needs to comply with NFPA requirements, which in the past may have been less than a twenty-foot width. Mr. Comtois said he was hopeful there would be other landscaping installed so that it is not a barren, 20-foot road.

Ann Vaillancourt Theriault, 37 Escumbuit Road, said her concern is there could be up to 100 people with outdoor seating. She is concerned about the noise. Since LaBelle has moved onto the property it has been excessively noisy with constant weddings and fireworks. They live in a cove of the lake, which causes the noise to echo. She would like the owner to consider some form of barrier on the back side to address the outside seating at the barn which will be on the opposite side from the berm. There will be outdoor seating on two sides of the barn and she feels that is excessive noise for them to bear.

Jen Bartholomew*, Project Manager with Fulcrum, stated she was available to provide comment. Mr. Sioras explained she is the construction project manager for the project.

Mr. Sioras advised he received an email this afternoon from Arthur Arsenault, 3 Escumbuit Road, who indicated he was unable to attend. His questioned if the private access road would be gated for emergency access only? Mr. Arsenault would request access for Water's Edge be gated and for emergency access only; he also questioned the uses at the wine barn. Mr. Sioras indicated the growing of grapes on the property is allowed, the wine barn is an accessory use. Mr. O'Connor noted the access is private, not for emergency use only, and will not be gated at this time. The access will also be used for deliveries to the wine barn.

Mr. Sioras stated he did speak with Director Eastman this afternoon who indicated there is agreement on the location of the cistern and he felt the Board could grant a conditional approval this evening. Director Eastman will work with Mr. Clinton to finalize the plan.

Mr. L'Heureux advised his comments were addressed during the TRC process.

Motion by MacEachern, seconded by Nelson to close the public hearing. The motion passed with all in favor and review of the plan returned to the Board.

Mr. Nelson asked if this plan was declared a plan of regional impact; he noted the land abuts the Atkinson town line. Mr. Sioras said this was not a hearing for the whole project, just the wine barn. The abutters to the project were notified of the hearing and staff did not feel this was a regional impact as guests would be going to the barn from the existing facility. The site is already there and had been formally approved as Brookstone Park.

Mr. Connors confirmed the existing topography prohibited access to this site from the main facility. Mr. Clinton said there are wetlands that bisect the property and part of the driving range is filled wetlands with a culvert. Public access is from the existing facility; but there needed to be emergency access to the barn and if that was going to be in place, it should be used for deliveries as well. Mr. Connors understood the abutter's concerns. He did believe the general

public would ignore the posted sign and park on the access or the roadway. He would prefer to have the gate in place to avoid any future problems for the neighbors. He noted the one employee parking space behind the building. Mr. Clinton stated they built a proposed future gate into the plan in the event they needed to do that. With regard to the guy wire, Mr. Connors confirmed the project requires the movement of the pole and Eversource is responsible for providing a copy of the guy wire easement to the abutter. Mr. Clinton stated he is also land surveyor and did not see an easement in the chain of title for Mr. Cyr's property when he reviewed it. This is a construction rather than design and permitting matter. He believes it is Eversource's obligation to provide the document to Mr. Cyr; absent that, Eversource does not have the right to place the guy wires on Mr. Cyr's property and would need to look at a different location. Mr. Connors noted the berm on the plan is more of a planting bed as it is 2 feet high; in his mind a berm is more like 6 feet tall with plantings to assist in blocking views. Mr. Clinton said the intent is to shield the view of the barn for the neighbors. If the Board wants to stipulate a three to five foot tall berm, they are agreeable. Mr. Connors asked how noise can be blocked for the residents on Escumbuit. He confirmed the hours of operation are proposed as Wednesday through Sunday between the hours of noon and 7:00 p.m., for the public. Mr. Clinton noted on Sheet 1 of the plan set, the location of the proposed barn in relation to Escumbuit is visible. The land was already cleared for the driving range, and is now planted with vines. There is a significant distance between the residences and the barn. He noted the guests that will be at the barn will be inside the building and outside the building. There will be conversational noise, but there will not be a loudspeaker, or live music. Mr. Connors believed that there might be occasion to have a musician there, but given the topography, there may not be much that can be done to alleviate the noise. Mr. Clinton noted that was a comment he will be bringing back to the owner. He has been informed this evening of some events that have been held at the event center that are bothersome to the abutters and will bring that information back to the owner so that she is made aware and can make accommodations. The proposal before the Board tonight has a limited window of operation, not only in hours of operation, but the time of year.

Mr. Nelson is a little taken aback by the number of accommodations to be negotiated after plan approval. Normally, the Planning Board decides which accommodations are reasonable to mandate as conditions of approval and those get added as notes to the plan, or the Board decides it's an unreasonable ask and then the accommodations would be up to the landowner. Some of the accommodations mentioned this evening seem reasonable, such as the hours of operation, with no DJs to address the noise concerns. How comfortable are other Board members with leaving it up in the air? Mr. Clinton said the only accommodations which appear to be up in the air would be the one for additional landscaping beyond what has been proposed. After hearing additional comment from abutters this evening, he is suggesting increasing the berm height from two to three feet to three to five feet. He does not feel it is unreasonable as the trees are felled during construction of the access to have conversations with the abutters to perhaps add more shrubs to be a good neighbor. But they won't know that until mid-construction. His level of commitment was, if during construction it was felt additional shrubs should be planted, then that should be done. He does not feel there is anything else that is uncertain. With regard to noise, this barn is a tasting room and he believes the noise concerns, such as the fireworks, are more concerned with the existing facility operations. He will bring those concerns back to Amy LaBelle. He is not aware of any music events that will take place at this barn. If that is the case, then someone may need to come back to the Board to discuss an amendment of the uses at the

wine barn. There could be music coming from a speaker on the terrace, that seems reasonable. For music that requires an amplifier, it seems reasonable to bring that back to the Board for discussion.

Mr. Nelson agreed the Board is not reviewing the operations at the existing facility. What is being said tonight is reasonable, but from a Planning Board perspective, if it is not a condition of approval or on the plan, then it did not happen.

Mr. Sioras said if conditions of approval are put in place to allow the applicant to move forward tonight, the applicant has the ability to come back to the Board to address specific items, such as signage, and lighting, as has been done with other applicants in the past.

Mr. L'Heureux requested, if the Board is placing stipulations on the plan, to not put in stipulations that require alterations or additional landscaping on another's property. It should all take place on the applicant's property.

Mr. MacEachern reviewed potential conditions of approval with the Board. With regard to hours of operation, Mr. Clinton explained there are hours of operation for the public, but they were not looking to have restrictions placed on the hours of operation for the production portion which includes one employee, the occasional delivery and the removal of wine product from the premises. Mr. Nelson noted there should not be DJs or loud music/entertainment during the public hours.

Mr. Connors inquired if there is an event at the main facility on a Monday, would the proposed hours of operation preclude the public from using the wine barn on a Monday. Mr. Clinton said he did ask that question of Amy LaBelle today and was informed the wine tasting portion takes place Wednesday through Sunday, and if it is found there is a need for additional hours of operation, that would need to come back to the Board for consideration.

Mr. Nelson believed it would be acceptable to move forward with the gated access as Plan B if it was found they need to do that. Mr. Connors believed the abutters are very close to the access and they will be losing all of the tree cover. Mr. Clinton acknowledged this is difficult. Originally, the roadway was platted on the original subdivision at 40 feet wide and the two abutting homes were constructed at an angle, with the understanding there would be a larger subdivision. Mr. Connors asked if the tree cut can be minimized. Mr. Clinton said the trees will need to be cut right to the limits in order to accommodate the accessway and associated drainage.

Motion by MacEachern, seconded by Chirichiello pursuant to RSA 676:4, I, Completed Application, subject to the following conditions: Subject to owner's signature; Subject to onsite inspection by the Town's Engineer; If the NH Fire Marshall's Office requires a different location for the fire cistern than as shown on the plan this evening, a Condition Compliance Hearing/Site Plan Amendment Hearing is required for the plan change [note discussion this evening was to place the cistern adjacent to the leach field]; Establish escrow as required to complete the project; Obtain written approval from the Planning Director/designee that the GIS disk is received and is operable and it complies with LDCR Section 170-61.C; Subject to receipt of

applicable state or local permits relating to the project; Snow and ice removal shall be performed by a Green Sno Pro Certified Contractor following best management practices for the application of de-icing materials; The berm height shall be between three to five feet tall; Hours of operation for the wine tasting shall be Wednesday through Sunday between the hours of noon and 7:00 p.m.; No disc jockeys at the wine barn during those hours of operation; conditions precedent shall be met within six months. Discussion followed.

Mr. Connors felt it was a reach to place a condition on the music.

Chase, Chirichiello, MacEachern, Myers, Connors, Nelson and O'Connor voted in favor and the motion passed.

Board Member Comments

Mr. Nelson noted the "Green Sno Pro" condition of approval applied to site plans seems to be redundant. Mr. Sioras advised that particular condition has recently been added to the LDCR and will address his comment and have it removed from the list of conditions.

Mr. Sioras reminded the Board of the Communities and Consequences event that will take place at the Derry Opera House on November 04, 2021.

There was no further business before the Board.

Motion by MacEachern, seconded by Connors to adjourn.

Chase, Connors, MacEachern, Clapp, Myers, Nelson, Granese and O'Connor voted in favor and the meeting stood adjourned at 9:28 p.m.

Approved by: _____
Chairman/Vice Chairman

Approval date: _____