

The Planning Board for the Town of Derry held a public meeting on Wednesday, October 03, 2018 at 7:00 p.m., at the Derry Municipal Center (Room 207) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; Lori Davison, Secretary; Randy Chase, Town Administrative Representative; Brian Chirichiello, Town Council Representative; Frank Bartkiewicz, Jim MacEachern, Maya Levin, Mark Connors, Members; Matthew Leavitt, Alternate

Absent: John O'Connor, Elizabeth Carver

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning and Economic Development Assistant; Mark L'Heureux, Engineering Coordinator

Mr. Granese called the meeting to order at 7:02 p.m. The meeting began with a salute to the flag. Mr. Granese then noted the emergency exits, the location of meeting materials, and introduced the Board members and staff.

Mr. Leavitt was seated for Mr. O'Connor.

### **Escrow**

None.

### **Minutes**

The Board reviewed the minutes of the September 19, 2018, meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the September 19, 2018, meeting as written. The motion passed.

The Board reviewed the notes of the site walk held on September 29, 2018.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the September 19, 2018, meeting as written. The motion passed with Granese, Chase, Leavitt, Connors and Davison abstained.

### **Correspondence**

Ms. Davison advised the Board has a notice from the Town of Salem regarding upcoming public hearings concerning a two-lot subdivision for the Tuscan Village. The meetings will be held at the Salem Town Hall, 33 Geremonty Drive.

**Other Business**

Mr. Sioras reported parking lot striping has begun at Hannaford for the Hannaford To Go. Sal's Pizza closed on Sunday, and work is scheduled to begin next week on the demolition. The development at 23 Crystal Avenue is underway.

The public forum for the Master Plan will be held on Wednesday, November 28, at Pinkerton Academy. More information will be forthcoming, but he wanted the Board members and public to save the date.

**Recommend Road Acceptance – North Shore Road**

Mr. L'Heureux advised several years ago the Board approved a two-lot subdivision on North Shore Road. One of the conditions of approval was that the right-of-way had to be straightened adjacent to the lots. The property was donated to the town as part of the off-site improvements and the area had new bounds set. The town will need to formally accept the new area of the road because the dimensions of the roadway have changed. The process is the Board recommends acceptance of the roadway as laid out on the plan to the Town Council.

Motion by MacEachern, seconded by Bartkiewicz to recommend the Derry Town Council accept North Shore Road with the new right-of-way limits as shown on plan D-38937, in the vicinity of 128 and 130 North Shore Road.

Chase, Leavitt, Connors, Levin, Chirichiello, MacEachern, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

**Recommend Road Acceptance – Fox Hollow Road**

Mr. L'Heureux stated this is different than the previous request. Fox Hollow is located off Warner Hill Road and currently dead ends at a cul-de-sac. When the subdivision was created, the right-of-way was extended to the property line. He referred Board members to the staff report prepared by Public Works Director Michael Fowler. The Rutter family is requesting the town approve the right-of-way so that they can access their lot from the platted right-of-way. The right-of-way is proposed as a Class VI road; the Fire Department is okay with the Rutters creating a driveway for access to the lot. New building lots are not allowed on a Class VI roadway. The Rutter family will need to apply for a variance to access the lot. This is a public way, but not subject to gates and bars. Mr. MacEachern confirmed the intent is to create a stub off the cul-de-sac to allow access. Mr. L'Heureux advised the access is noted in the deeds to the lots. This will not be a town maintained road and could be approved as a driveway. Mr. MacEachern said the cul-de-sac ends at the frontage for lots 06076-006 and 06076-009. Are those abutters on the cul-de-sac aware the Board is looking at this?

Mr. Sioras explained the process for the request: the Board recommends acceptance, and then Town Council holds a public hearing for which abutters are notified. The public and abutters are allowed to provide input at the public hearing. Mr. MacEachern felt the affected abutters should

be here this evening to say they are okay with the change before the Board recommended acceptance. Mr. L'Heureux stated the abutters are aware this is a right-of-way. The right of way is not on the abutters' property. They need to be aware of it because it is in their deeds. He does not believe the abutters have structures in the right-of-way. Mr. Connors thought there was plenty of land there but there is an above ground pool that may be close to the right-of-way. Mr. MacEachern noted when the Board recommends acceptance to the Town Council, it is a de facto recommendation; he wants to make sure the abutters are aware. Mr. L'Heureux commented this is the procedure to accept a road as laid out in the RSA. Mr. Granese read an excerpt from the letter written by Attorney John Korbey which discussed the approval of the original subdivision. During the hearing in 1984, the Planning Board discussed the fact that the right-of-way would extend to the Rutter farm. Mr. MacEachern stressed he wanted the abutters to be aware of this action. Sometimes people don't read their deeds or understand what a paper street might mean.

Mrs. Robidoux reported one of the direct abutters was present at the recent public hearing when the Board approved the subdivision of the Rutter lot and spoke publicly about the possibility of a driveway coming off this cul-de-sac to access the remaining land. The abutter has phoned the Planning Office to see if a plan has been submitted yet; she is aware of the potential access in this location. Mr. Sioras agreed the abutter is aware. Mr. Granese said there is always the possibility the Town Council will push this back to the Planning Board. Mr. Sioras reiterated Mrs. Bodenrader will notice the abutters for the Town Council public hearing.

Motion by MacEachern, seconded by Bartkiewicz, to recommend the Derry Town Council accept the unimproved portion of Fox Hollow Road from the end of the cul-de-sac to the property boundary with Lot 06058 as depicted on the recorded plan D-12629, as a Class VI road with no maintenance responsibilities. The improved portion of Fox Hollow, from the intersection of Warner Hill Road to the end of the paved section, remains a Class V road, previously accepted by the Town of Derry.

Leavitt, Chase, Connors, Levin, Chirichiello, MacEachern, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

#### Request to Extend Approval, 29 Ashleigh Drive, PID 08280-006, 1<sup>st</sup> Request

Mr. Sioras explained the project is the detox facility located across from the movie theatre. The project is moving forward but the developer needs more time to establish the escrow and finalize permits.

Motion by MacEachern, seconded by Bartkiewicz to approve a six-month extension of the conditional approval granted on April 18, 2018, for 29 Ashleigh Drive, LLC, PID 08280-006, 28 – 33 Ashleigh Drive.

Leavitt Chase, Connors, Levin, Chirichiello, MacEachern, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

**Public Hearing**

**Kevin & Kathryn Coyle  
PID 55012-002, 74 Chester Road  
Acceptance/Review  
2 Lot Subdivision**

Mr. Sioras provided the following staff report. The purpose of the plan is for a two-lot subdivision. One new house lot is being created. There is an existing house on the parcel. The property is located in the Medium Density Residential District. All town departments have reviewed and signed the plan. There are no waiver requests. A NH DOT driveway permit application has been approved. Staff would recommend approval of the subdivision plan.

The applicant, Kevin Coyle, joined the meeting via telephone. Peter Stoddard, S & H Land Services, presented for the applicants. He stated this is a fairly straightforward plan. There is an existing home on the lot and one new house lot is being created; the two lots will be separated by a wetland. The Coyle's went to the ZBA to obtain relief from the 75-foot wetland buffer and the ZBA allowed them to reduce the building setback. They have met with the appropriate departments and committees. The Conservation Commission was concerned that the ZBA reduced the wetland setback. After discussion with the Commission, it was agreed there would be a 25 foot no cut buffer which will be placarded and noted on the final plan if the subdivision is approved.

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

Gina Hutchinson, 75 Chester Road, asked if it was permissible to ask what style home would be constructed on the lot. There was some concern in the neighborhood as the existing home is a mobile home. Mr. Stoddard explained the existing home will remain on the lot. The proposed home will be 28 x 48 feet. There are no restrictions on the type of home that can be constructed; this home will have a slab on grade; there will be no basement. Ms. Hutchinson said she was concerned with regard to the property values. Mr. Stoddard said the home will set back a bit on the wooded lot. Ms. Hutchinson agreed it was a beautiful lot and had no issue with the subdivision so long as the wetlands are taken care of; this area floods quite a bit. Mr. Stoddard explained the building envelope is outside of the flood zone. He acknowledged there are flooding issues at the access point. They have an approved driveway permit from the NH DOT for access to the lot and the plan was reviewed by the Town departments. Ms. Hutchinson stated her concern is for the type of building that will be constructed, and she is glad someone can use the lot.

There was no further public comment.

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

Mr. L'Heureux stated there are no outstanding issues for Public Works. All of the plan items of concern have been addressed and the Town will have the access it needs to continue to maintain the pump house.

Mr. MacEachern asked for confirmation that the Conservation Commission signed off on the plan and the no cut buffer is clearly noted. Mr. Stoddard directed the Board to Notes 20 and 21 on the plan. Mr. Connors noted the new home will be behind the pump station. This summer, Route 102 was under water; he was surprised to see a plan with a new lot in this location, but it seems to have been engineered to fit. Mr. MacEachern felt that is why the home will be on a slab and not have a basement.

Motion by MacEachern, seconded by Bartkiewicz to accept jurisdiction of the two-lot subdivision plan before the Board for Kevin and Kathryn Coyle, PID 55012-002, 74 Chester Road.

Leavitt, Chase, Connors, Levin, Chirichiello, MacEachern, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to approve pursuant to RSA 676:4, III, Expedited Review, with the following conditions: subject to owner's signature, subject to on-site inspection by the town's engineer, establish escrow for the setting of bounds, or certify the bounds have been set, establish appropriate escrow to complete the project, place house numbers on the plan, obtain written approval from the IT Director that the GIS disk is received and is operable and complies with LDCR Section 170-24, receipt of state or local permits relating to the project; conditions precedent shall be met within 6 months, a \$25.00 check payable to the Rockingham County Registry of Deeds should be submitted with the mylar in accordance with the LCHIP requirement, and submission of the appropriate recording fees, payable to the Town of Derry.

Leavitt, Chase, Connors, Levin, Chirichiello, MacEachern, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

**Lifestyle Homes of NH, Inc.****Owner: David and Mary Ann Fraser****42 Tsienneto Road, PID 08039****40 Tsienneto Road, PID 08039-004****Acceptance/Review****30 Unit Independent Adult Condominium Community****Continued from September 19, 2018**

Mr. Sioras provided the following staff report. A site walk was held on Saturday, September 29<sup>th</sup>. The Board also has a memorandum from Michael Fowler, the Director of Public Works which details his responses to suggestions made during the site walk with regard to water, sewer, road improvements and access to the lot. During the site walk, there had been some discussion about screening for Mr. Saad, the abutter most affected by the development, which could include trees along the property line. Eric Mitchell of Eric C. Mitchell & Associates presented for the applicant, Mr. Redmond, who was also present.

Mr. MacEachern asked if staff had met internally to discuss the option of moving the entrance to the development to the access to Rider Field and also having water and sewer service come in from Tsienneto Road rather than Eastgate. Mr. L'Heureux said those items are addressed in the memo from Mr. Fowler. He read the memo (MM18-151) dated October 3, 2018, into the record. [explanatory comments are noted in brackets]

The Department of Public Works does not recommend the creation of a new public way over the current gravel access road to Rider Field. Accepting a public way mandates that the municipality become responsible for perpetual maintenance including plowing, salting and pavement management. Currently, the access road is plowed as a secondary response in the Town's operation plan [for winter maintenance], meaning it is typically completed later than primary and arterial routes [similar to parking lots]. If this road were to be used as a public access for this development, expectations for winter maintenance would be higher [similar to the main plow routes]. Traditionally, the Town of Derry has been cautious in accepting new public assets such as roads, due to the maintenance costs ultimately passed along to taxpayers.

During the soccer season (spring and fall), the access road is used for overflow parking as the existing parking lot does not provide ample parking for all patrons during a Saturday game day [people park on both sides of the access and there would not be a lot of room for people to park in the street]. Town road standards would mandate a 24 foot wide road defined by granite curbing, which would cause a hardship for overflow parking not being able to park along the public way without obstructing traffic heading to the new development.

Most importantly, vertical profile of the existing Rider Field access road would be altered significantly due to a requirement for a 75 foot flat section closest to Tsienneto

Road, which would then trigger grade changes for a longer section of the current gravel access road. [It needs to be at 3%; the current slope is between 5 and 6%] The road profile would likely be 4 % - 6%, with concern over vehicles sliding downhill toward Tsienneto Road on any untreated surfaces. Paving the road along with installation of granite curbing would also require construction of new stormwater treatment areas to be maintained by the Town [that would take up area for parking].

The developer and the engineering team consulted with DPW to review the location of nearest available public water and sewer mains for connection. [DPW requested the applicant look at the feasibility of extending utilities on Tsienneto. They looked at the feasibility. There is a low spot that needs a pump station for the sewer and they would have to find a location for that. It is hard to obtain easements for these items on someone else's property. The pump station would have to be built to town standards with redundancy and alarms; that makes it extremely costly.] A cross country route toward Eastgate Road was favored in lieu of installing a new sewer and water main on Tsienneto Road. The topography of Tsienneto Road would require construction of a sewer pump station, which would be inherited as a public asset. There is no interest in adding another pump station due to short term and long term operations and maintenance costs. It is preferable to utilize the existing gravity collection system on Eastgate Road as opposed to a pump station and force main if Tsienneto Road was selected as the route. After review of the developer's preliminary plans to service the new development via a connection to existing mains on Eastgate Road, the Department of Public Works concurs with this design conclusion.

Independent of the pump station concern, extensions of each utility typically cost the Town

\$100 - \$125 per foot to install. The Water and Sewer divisions are not currently equipped with excess capital funds to support a major extension without a rate increase. There has been little to no resident interest in extending sewer to Tsienneto Road. It would be very difficult to promote this area for sewer and/or water main expansion where there is no substantive demand.

Mr. MacEachern stated he disagreed with Mr. Fowler. Mr. Chirichiello asked for clarification of an item noted during the site walk. Several people observed man hole covers stamped sewer and drain. Mr. L'Heureux explained they are all drain covers. They may have had to use "sewer" covers because there were no "drain" covers left. Mr. Connors spoke of the gravity fed sewer system to Eastgate. There is a large drop off to the wetland and then an increase in elevation to Eastgate. Mr. L'Heureux said there will be a pump station for the project but any pump station installed to handle utilities coming from Tsienneto would be more expensive and would have to be constructed to a higher standard. Mr. Connors asked if there is sewer on the Pinkerton Academy side of North Main. Mr. L'Heureux explained the sewer main on North Main Street ends at the gymnasium. Most of the service for the Pinkerton campus comes through back to Pinkerton Street. Sewer ends at the Irving property where it meets the animal hospital. Mr. Connors asked if there was a possibility to go overland from Pinkerton to connect to this property. Mr. L'Heureux said they did not look at that option closely; that is not town property.

Mr. Connors commented there has been discussion about a new road from Pinkerton. Has that been weighed in? It may end up that there are three major egress points on Tsienneto that don't line up within a short distance of each other: Rider Field, Pinkerton and this project. He is concerned with the potential volume of traffic and he thought he heard there will be a 6-8% slope at the entrance to this project. Mr. L'Heureux said the slope will not be that steep at the entrance. It is a lesser grade at the entrance and then the slope transitions to 4-6%. Mr. Connors was concerned people would slide out of the private way onto Tsienneto.

Mr. MacEachern said he understood Mr. Fowler's comments, but Pinkerton Academy has just purchased three parcels of land on Tsienneto Road. What is the Town's overall sewer master plan for this area? Barkland Acres voted years ago to potentially acquire sewer service. He does not see that issue being raised and is not sure how sewer service would get to those residents. That is why he is asking these questions. It may be the service will come through Scenic.

Mr. L'Heureux said he is very familiar with the service in that area and how the Town branched the lines. Any extension to Barkland Acres is taken care of from Scenic Drive. If a utility were constructed in Tsienneto Road, it would collect for this development and maybe a few more homes, but then the hill crests and it could not collect any further. The back side would drain to Scenic. Mr. MacEachern believed the largest user would be Pinkerton and he is not sure what they would do for development on its three lots. He would like to be assured that utilities for the three properties would perhaps come in from the gymnasium or theater. This is a good project, but he needs to make sure the Board is doing the right thing overall. He is upset Pinkerton Academy did not send a representative to the site walk to answer questions. What the Board does tonight could adversely be affected in the future. Mr. L'Heureux said sewer is available to the lots but he can't give a definitive route. Service is possible because they can achieve a gravity extension in some manner. No one knows what the plans are for these properties in the future. Mr. MacEachern said the Town is aware of the Ombudsman program as the Board just approved it, but the Board does not know what will be on the other two lots. The Planning Board plans. If Pinkerton Academy extends sewer it will be done on the dime of the sending towns. He feels it is the Board's duty to find the most efficient way to build these projects.

Mr. Mitchell reported he spoke with the engineer who is working with Pinkerton Academy. The engineer indicated Pinkerton is not going to develop the two lots. At best they may create a second access to the recreation fields because they only have one access point. This was mentioned during the discussions the Board had with Pinkerton for the Ombudsman plan. There is no plan to develop the lots on Tsienneto with structures. The intent is to bring the access plan to the Board at some point next year.

Mr. Connors indicated he looked at the topography and thought a gravity feed could go across the land, but this is private property. It would be helpful if the larger project developers got together to discuss their projects and work together. The Pinkerton Alumnus magazine shows a future rendition for that area and it does not show a large building along Tsienneto.

Mr. MacEachern said he has an issue with Mr. Fowler's memo regarding the Rider property. The property is used as a ball field. The access also leads to the water tower. He understands the grade issue but the town can waive the granite curb requirement. He is concerned about the



amount of traffic during soccer tournaments near a new curb cut. The road does get plowed, it would just get plowed sooner. He does not share Mr. Fowler's concerns; this may be more of an issue for Mr. Mitchell and Mr. Redmond if they need to move a home. This access exists and now they are adding access between Mr. Fraser's property and the next lot. He understands the parking issue but disagrees with the memo. He acknowledged this can't hold up the project. Mr. Connors said the parking lot is the access to the field. Any new road to the development would have to go to the right and people would likely block the entrance or park on the private road during soccer games. Traffic is only an issue in this area at certain times of the day.

Mr. MacEachern stated he walked through the wooded buffer between this lot and the Rider Field access with Mr. O'Connor during the site walk. He suggested to Mr. Mitchell which house would have to be moved. The gate to the water tower could be pushed back to create more parking area near the field. He does not find Mr. Fowler's argument compelling, although he does respect him and the work his department does. Mr. Connors asked Mr. Mitchell if developing access through the Rider Field entrance was of any interest to the developer.

Mr. Mitchell said they did look at it and the result was similar to what was expressed in the memo from Mr. Fowler. Rider Field access has a slope between 6.5 and 8.5% for the first 100 feet, then the slope goes to 7.5%. If it was to be upgraded to a town road, the pavement would need to be widened to 24 feet wide, with granite curbing and sidewalk because their project has sidewalks. There is not a lot of width, other than in the parking area, to put in curbing, sidewalk and leave room to allow people to park. People casually park in this area; if this became a town road, there would be increased congestion. The grades on their site are more favorable. There is a short stretch of roadway that is at 8% but they can get to the top. Their access is for a independent adult community; there is less independence if the access is shared with the soccer field. The results of their traffic study indicate there will be less traffic than in a regular development. The weekday morning peak is 7 vehicles; the weekday evening peak is 9 vehicles. They don't have as much traffic with this type of development. It is important to restrict access to Tsienneto, but it should be noted they will have less traffic.

Mr. Leavitt inquired who would pay for an upgrade to the Rider Field access. Mr. MacEachern confirmed the developer would pay for the upgrade but the Town Council would then have to accept that portion as a town road and maintain it. Mr. Leavitt noted that creates additional cost for the town. It seems that parking would be more congested; the town would improve one situation and make another worse. Mr. MacEachern said he wanted better access to the field. Mr. Leavitt said that is a valid point, but this increases overall costs for the town into the future. Lily and Myles would be private roads. Mr. L'Heureux explained the developer is already creating and paying for a paved apron 100 feet into the Rider Field access drive as of the drainage improvements.

Mr. Sioras asked what type of home will be constructed. Mr. Mitchell said they will be single family homes. The living space will all be on the first floor, some of the units are on a slab and do not have a basement. Those with a basement will have a walkout basement. These are two-bedroom units; none of them have a full second floor. Mr. Granese asked why stairs are shown on the floor plan. Mr. Redmond stated the stairs lead to the basement for the units with walkouts; there is no attic in any of the units; they have truss roofing.

Mr. Connors thought in looking at the topography, it might be more gentle to come in off Rider Field. Mr. Mitchell said the grade is the same in that location adjacent to Rider and at Tsienneto Road. They need to get to the top of the hill on their site. The entrance to Rider is steep, they would need to make the entrance to their development lower. Mr. Connors asked if there was a reason the road is heading to the left off the entrance rather than continuing on the existing path. Mr. Mitchell said the grade lessens to that side and they need the area to the right for the storm drainage.

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

Katherine Brand Holt, 12 Barkland Drive, explained they were hoping to keep some of the existing tree line between the two developments. Mr. Redmond said they are keeping a 15-foot buffer between the properties. He noted residents on Barkland have clear cut their lots to the back property line. The 15-foot buffer will be maintained on their side of the line. Mr. MacEachern added the tree line along the Fraser field is about where the front door to the proposed homes will be. The homes are about 40 feet deep. The current tree buffer is approximately 100 feet. Mr. Redmond said the Barkland residents will still have trees on their property where they currently exist. Mrs. Holt asked where the water and sewer will come from for this project. Mr. MacEachern stated from Eastgate. Mrs. Holt asked if there has been future consideration to how the town is developed. Located in this area are Pinkerton Academy, Exit 4A, a new car lot and this development; she is not sure she will be able to take a left out of Barkland onto Tsienneto Road. How does the Planning Board consider this issue? Brian Holt, 12 Barkland, asked if a traffic light will be installed at the entrance to this project so that the kids can walk across the entrance safely. There are a lot of kids who walk to school along Tsienneto.

Mr. Mitchell said the sidewalk in this area will be recessed so that bicycles and wheelchairs will be able to cross the entrance safely. They will also place a crosswalk across the entrance to the development. Mr. Sioras advised there will be another NH DOT meeting concerning Exit 4A in early December. The meetings are open to the public. The State is at the design level and will be discussing transportation improvements such as access points and sidewalks. It would be beneficial for the Holt's to attend the meeting and let NH DOT what they would like to see in this area of Tsienneto Road for improvements.

Sam Saad, 44 Tsienneto Road, said water from rain runs off the hill coming down to his house. Will this runoff affect his well water? What guarantees are there that the development won't flood his home? Mr. Mitchell said the slope does lead down to Mr. Saad's lot. The road has curbing. Water from the homes will go to a closed drainage system, leading to a detention pond. The drainage system will take more water to the pond than currently drains now, so the runoff will be decreased as a result of the development. The detention pond is located between Mr. Saad and the road; the pond is three to four feet deep. There is another pond near the turnaround; only half of the water will head that way. They will slow down the water so there is no increase in water coming off the site. The detention pond will be maintained by the Homeowner's Association, which will also maintain the landscaping and roads.

Mr. Granese asked if there will be a diverter for the detention pond in the event it is full. Mr. Mitchell said the outlet takes the water out. It will slowly release; if the water fills up too fast, it will go to a pipe.

Mr. Saad asked if there will be any blasting and will that affect his well water. Mr. Mitchell said they will need to remove ledge. They will have to probe to see the depth of ledge to determine if they can hammer it out or if they need to blast. It is better to hammer the ledge rather than blast it, although hammering is loud and takes longer. If they find they need to blast, the blasting company will perform a pre-blast survey. They are not blasting down to the bedrock as they only need to go down about 10 feet, so there should be no affect on the well. Mr. Granese suggested that as a good neighbor, part of the pre-blast survey should include testing of the well, with additional testing after blasting to confirm there have been no changes. Mr. Saad asked with regard to construction times. Will they work seven days a week? He is going to be most affected by the construction and by the construction dust. They will be driving up and down next to his house. What will they do to mitigate that for him? He has asked before why the homes have to be so close to his property line. Why can't the homes be pushed back another acre to gain some room between the two properties? He is going to be affected on two sides of his property.

Mr. Mitchell explained if they did a conventional subdivision, they could use the all the land and put a road through the wetland. With an Independent Adult Community, they need to keep 50% of the land as open space. The open space has to be contiguous and cannot be cut up into pieces. This means they need to group the homes together. They need to keep the homes at least 35 feet apart. At the site walk, they looked at the distance between the homes and Mr. Saad's property. They can put landscaping in between him and the closest house on the developer's property. That will reduce the effect on the abutter and assist the new homeowners as well because it will add landscaping to their lots. Mr. MacEachern noted the yield plan on sheet 18 of the plan set which shows a conventional subdivision. The developer cannot move the homes because they have to stay 75 feet away from the wetland. There is no room to move the homes back; one of the homes is already near the wetland setback.

Mr. Chirichiello recalled discussion at the last meeting about developing the open space. He asked Mr. Michell to explain why that cannot be done. Mr. Mitchell said because of the open space requirement there will be no further development on this lot for roadways or homes. They will have a sewer easement and walking trails to the rear of the property off Eastgate. There is no intent to cut down the existing trees in this area.

Mr. Saad had concerns for privacy and the effects of the construction. Will there be any fence or trees along his property to protect his privacy, and how long will it take to build the development? What will be done for dust mitigation? Mr. Mitchell said all truck traffic has to come in off Tsienneto. He asked if the town had any regulations with regard to hours of operation or days of the week. Mr. L'Heureux said there are none. Mr. Mitchell said they would defer to Mr. Redmond. Mr. L'Heureux explained there is no ordinance restricting operations such as earth movement, that can be done of their own accord. They can move dirt on their property just as Mr. Saad has the ability to do if he so chooses. With regard to the construction of the road, installation of utilities and blasting of ledge, this cannot be done outside of normal

town working hours unless there is an agreement for overtime in place. The town typically does not allow weekend road work because the town representatives need to be there to inspect the work. Mr. Granese asked if they would put water down for dust mitigation. Mr. Saad asked how will the developer prevent spills from reaching his property. Mr. Mitchell said they can install orange construction fencing along the property line. This will create a visual barrier so that the people will know to stay away. They can also install silt fence as well and that can remain in place until the loam and seed take. Mr. Saad asked if they will install trees along the entire property line abutting his home. Mr. Mitchell said they are willing to landscape (an island with trees and shrubs) behind the three homes that look down on Mr. Saad's property (units 18, 19 and 20). There will be loam and seed, some trees and maybe some shrubs. There may not be a row of trees.

Mr. Connors noted there will be a big impact on Mr. Saad by this development. When he walked the site, he noted an area that looked like a large swath of vegetation had been removed on Mr. Saad's property near the trampoline. Mr. Saad said he did remove trees for his swimming pool. Mr. Connors said there is not a lot that can be done to mitigate the privacy issue because the slope is above Mr. Saad's property. He inquired as to the distance from the back of the deck of the nearest unit to the property line. Mr. Mitchell said it was about 30 feet. Mr. Connors noted the landscaping will need to be done on the developer's lot. It is unfortunate Mr. Saad removed the trees along his property line; he may want to replant some. Mr. Saad commented no one told him before he took the trees down there would be 30 homes behind him. Mr. Connors noted there was a previous plan approved for homes on that land; he understands Mr. Saad's concerns, but the property owner has a right to develop his property as well. Mr. MacEachern added the original plan was for over 50 homes. Mr. Saad maintained pushing the homes back another 50 feet would not make a difference for this development. Mr. MacEachern pointed out the wetland setback on the plan and the location of the nearest proposed home. The developer cannot encroach on the wetland setback. Mr. Saad asked that the detention pond be put in place prior to construction of the homes to help protect him from runoff. Mr. Mitchell said the detention pond will be constructed during the initial phase of construction. They will also install erosion and sediment controls and make sure the silt fence is in place. The erosion control has to be inspected after each rain event to make sure it is working properly. Those are federal and State regulations put in place to protect wetland and abutters. Mr. Saad inquired as to the trees along the access to the development. Mr. Mitchell noted the arborvitae are on Mr. Saad's property. Some trees will be kept. The bend in the road is about 130 feet from Mr. Saad's property line.

There was no further public comment.

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

Mr. MacEachern questioned a comment noted in the TRC notes with regard to the make up of the 55 and older community. It was stated that 20% of the development could be open market and not age restricted. Mr. Chase said the development is allowed because of the ordinance. The Town ordinance mirrors federal law which allows 80/20. The developer can voluntarily change their covenant, as they did at Bunker Estates, to limit the development to those 55 and

older only. Mr. MacEachern asked if that is what will be done here. Mr. Mitchell said they are designing the development for those 55 years of age and older. 20% of the development would be six units. He has seen instances where people not quite 55 years of age want to move into a development and age in place. The plan is not to have a family with kids come into a two-bedroom unit. There are also circumstances where grandparents have to raise their grandchildren. There may be a situation where this can be accommodated by the 20%. Mr. Chase said the ordinance requires the language be noted in the deed. One person in the household must be 55 years of age and there is a prohibition that no one under the age of 19 can live in the home for more than 90 days. This precludes minor children. Mr. Mitchell understood that people of any age could live in the 20%. Mr. Chase said the 20% could be two people in their forties. There are no minor children allowed. The restrictions need to be recorded in the covenant and deed. Mr. Redmond said he has another development that is not age restricted, but they are two-bedroom units. 97 to 98% of the people moving into the development are people who are downsizing; he sees this project to be the same. Mr. Chirichiello commented people buy into the idea of a community with people of a similar age. Mr. Redmond added a first-time home buyer would likely not be able to afford the homes in this development as they will price out in the 400 thousand range.

Mr. Chase had a comment with regard to the proposed hammerhead. Given the size, it will be very tight for plows, rubbish and other trucks to make the turn. He feels the length of the hammerhead should be 100 feet, not 75 feet; there should be more area on the south side to accommodate turns. Mr. Mitchell said VHB also commented on that and wanted to make sure a tractor trailer/fire truck could turn around here. They revised the hammerhead and increased one of the legs by about 15-20 feet.

Mr. L'Heureux advised there are some additional details to be worked out. The plan was revised per the VHB comments and he has not had a chance to fully review the changes. DPW would like to look at the details of the changes more closely. He would like the Board to add a condition to any approval that the plan may need to be adjusted per DPW comments on the revised plan. He wanted to stress that the roads are proposed as private roads. The developer is asking for waivers from the town road construction standards; DPW is neutral on the waivers. If this was to be a public street, it would need to be 50 feet wide. These roads are meant to be private and should never become public roads. DPW is adamant on that. In order to accept the roads as public, they would need to be widened to a 50 foot right of way that met all the appropriate setbacks. Mr. Mitchell commented the condo documents will go to the town legal counsel for review. All of the language will be in place to make sure the town is protected and will note the roads will always be private roads. Mr. Redmond stated he reiterated those thoughts to his attorney. The deeds of the property owners, the bank loans, as well as the condo docs will state this development is private property constructed on private roads.

Mr. Saad wanted assurance that his well water would not be affected by this development. He has lived there for about 15 years with no issues. If there is an issue in the future, what is his recourse? Are there any guarantees the developer will fix it? Mr. Granese noted the requirement for a pre-blast survey and hoped the developer would work with Mr. Saad to check the well before any blasting is done. It was noted this development will be on town water and that the

aquifer can change naturally. Mrs. Robidoux stated they are not blasting to the bedrock so the aquifer should not be affected; the well will only be affected by runoff if the seal is not intact.

Motion by MacEachern, seconded by Bartkiewicz to accept jurisdiction of the site plan application for a 30 units independent adult community before the Board for Lifestyle Homes of NH, Inc. (Owner: David and Mary Ann Fraser), PID 08039, 42 Tsienneto Road and 08039-004, 40 Tsienneto Road.

Leavitt, Chase, Connors, Levin, Chirichiello, MacEachern, Davison, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-26.A.14, to allow the installation of cape cod berm rather than vertical granite curbing. After review of the waiver request the Board finds that strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations. Discussion followed.

Mr. Connors inquired as to the hardship; his impression is that cape cod berm can get torn up during plowing. Mr. Chirichiello noted the Homeowner's Association will pay to have it repaired. Mr. Mitchell explained the berm they are planning to install is a 6" high triangle and will be keyed into the binder pavement. Plows have a better chance to not tear it up. Mr. Chase confirmed the condominium documents will explicitly state the roads will remain private roads in perpetuity and the town will never be requested to accept the roads. This was confirmed.

Leavitt, Chase, Connors, Levin, Chirichiello, MacEachern, Davison, Bartkiewicz voted in favor; Granese voted no stating there is no hardship, and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-26.C.4, to allow a road grade of 8% in certain sections of the roadway. 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. Discussion followed.

Mr. Leavitt inquired if the road could not be reduced to below an 8% slope. Mr. Mitchell explained because the road is flat to begin with, gets steep and then goes up again, they cannot. The regulation for standard slope is 6%. There is a stipulation that under certain conditions, the town will grant a waiver of up to 8%. This allows less cuts, fills, and blasting. The hardship is the existing slope of the land and layout.

Leavitt, Chase, Connors, Levin, Chirichiello, MacEachern, Davison, Bartkiewicz voted in favor; Granese voted no stating there is no hardship, and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from LDCR Section 170-26, Table B, to allow a hammerhead at the end of a private street with only five units. After review of the waiver request the Board finds that strict conformity to the regulation would pose an

unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations. Discussion followed.

Mr. MacEachern confirmed the hammerhead has been adjusted to meet Mr. Chase's concerns. Mr. Connors asked why they could not construct a cul de sac in this location; it appears there is room. Mr. Mitchell advised there were flags in the woods that were noted during the site walk. That is the location of the intersection near unit 17. The land goes downhill at this point. A cul de sac is required to have 75 feet at the centerline radius and needs to be flat. That would take up the area encompassed by the hammerhead and two units. There is also a detention pond at the end of the hammerhead. Mr. Leavitt agreed the land drops off at that point. Mr. L'Heureux confirmed the land has to be flat to construct a cul de sac.

Leavitt, Chase, Connors, Levin, Chirichiello, MacEachern, Davison, Bartkiewicz voted in favor; Granese voted no stating he did not see the hardship and it should meet the regulations, and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to approve, pursuant to RSA 676:4, I – Completed Application, with the following conditions: comply with the Vanasse Hangen Brustlin report and any subsequent reports; subject to owner's signature; subject to on-site inspection by the Town's Engineer; establish appropriate escrow as required to complete the project; obtain written approval from the IT Director that the GIS disk is received, is operable, and complies with LDCR Section 170-61; amend the Plan Reference note on the cover sheet to identify the recorded Lot Consolidation Plan by the number assigned by RCRD; the existing vegetated buffer between this project and the lots on Barkland Drive shall be retained to the furthest extent possible; note approved waivers on the plan; subject to receipt of state or local permits relating to the project; conditions precedent shall be met within 6 months; condominium documents to be reviewed by the Town of Derry legal counsel prior to recording, fees to be paid by the developer; easements for water and sewer to the Fraser home will need to be provided on the plan and recorded prior to planning board signature on the site plan; right of way widening easements to be recorded and referenced in the deeds; further residential housing on this lot is prohibited; any residential buffering shall be planted/constructed on the applicant's property; review by the town for the improvements in the buffer on the Tsienneto side of the property; subject to further review and comment by Derry DPW on plans revised pursuant to VHB's comments. Discussion followed.

Mr. Connors asked if the state changes the regulations, can the land be further subdivided. Mr. Chase said it could not per the town's regulations. Mr. Connors wondered about "to the largest extent possible". Should that restriction also be applied to the Rider Field side of the development? Mr. MacEachern said there is no real buffer there now. The new homeowners will not want to cut trees there. Mr. Connors asked for confirmation that this project will run water and sewer to the existing home. Mr. Mitchell said the Fraser home will have water and sewer from this project. That lot is part of the whole property they are developing. That lot will not be part of the homeowner's association; they will be tied in because they are adjacent. Sewer will be pumped up from this home. There will be a pump facility from Eastgate; the Fraser home will have a pump in the house. Water will be continued to Tsienneto with a hydrant. Mr.

Chase confirmed VHB addressed the hammerhead length. Mr. Leavitt asked if there would be any outlet to Rider Field. There will not.

Leavitt, Chase, Connors, Levin, Chirichiello, MacEachern, Davison, Bartkiewicz voted in favor; Granese voted no stating he felt this was not a good fit for the area. The motion passed.

There was no further business before the Board.

Motion by MacEachern, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 9:06 p.m.

Approved by: \_\_\_\_\_  
Chairman/Vice Chairman

\_\_\_\_\_  
Secretary

Approval date: \_\_\_\_\_