

The Planning Board for the Town of Derry held a public meeting on Wednesday, December 03, 2014, at 7:00 p.m., at the Derry Municipal Center (3rd Floor Meeting room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; John O'Connor, Vice Chairman (8:07 p.m.); Frank Bartkiewicz, Secretary; Michael Fairbanks, Town Council Representative; Jan Choiniere (7:25 p.m.); Ann Alongi, Members; Marc Flattes, Lori Davison, Alternates

Absent: Randy Chase, Darrell Park, Jim MacEachern

Also present: Galen Stearns, Town Administrator; George Sioras, Planning Director

Mr. Granese called the meeting to order at 7:00 p.m. The meeting began with a salute to the flag. Mr. Granese noted the emergency exits, the location of meeting materials and introduced the Board members and staff.

Mr. Flattes was seated for Mr. MacEachern

Ms. Davison was seated for Mr. Park

Escrow

#14-25

Project Name: Bunker Estates

Developer: JEMCO Builder and Developer, Inc.

Escrow Account: JEMCO

Escrow Type: Letter of Credit

Parcel ID/Location: 02020-001, 65 Fordway

The request is to renew Letter of Credit #20001082, drawn on TD Bank, in the amount of \$62,122.86 for the above noted project. The expiration date will be December 11, 2015.

Motion by Bartkiewicz, seconded by Flattes to approve as presented. The motion passed with all in favor.

Minutes

The Board reviewed the minutes of the November 19, 2014 meeting.

Motion by Fairbanks, seconded by Flattes to approve the minutes of the November 19, 2014 meeting as written. The motion passed with Granese abstained.

Correspondence

Mr. Bartkiewicz advised the Board has received a packet containing information on the 2011 tax deeded properties. This should be reviewed prior to the next meeting.

Other Business

Mr. Sioras reported there will not be a Planning Board meeting on December 17, 2014. The next meeting of the Board will take place on January 7, 2015. Mr. Granese and Mr. Sioras noted this was the last meeting of the Board in 2014, and expressed best wishes for the holiday season. Mr. Granese advised the January 7th meeting agenda would include a workshop on the Medium High Density Residential zone.

Public Hearing

**James Taylor and Aaron Hill
PID 24037, 19 Kendall Pond Road
Review, Site Plan
18 unit multifamily development
Continued from October 13, 2014**

Mr. Sioras advised the waiver requests for this project had been denied at the October hearing. Based on the denials, the applicant came back to the Board with a revised plan. The Board members have a memo from Mark L'Heureux commenting on items that should be considered if the Board approves the plan. Mr. L'Heureux suggests there may be another waiver to be requested based on the regulations found in LDCR Section 170-63, specifically with the planter barrels. The memo is self-explanatory. It would be a standard condition of approval to make sure the applicant meets the comments from Public Works. There should be discussion on the striped pavement islands.

Eric Mitchell, of Eric C. Mitchell & Associates, Inc., presented for the applicant. The applicant was before the Board a few months ago. At that time the requested waivers were denied. He reviewed the changes that had been made to the plan since the last meeting. They added a 6' tall fence along the walking path adjacent to the lot lines so that the fence can be installed without disturbing the abutters. A four foot fence was added along Magnolia which will replace the existing fence. They also added landscaping in front of the fence and added street trees along Kendall Pond and Magnolia which will grow no taller than 8 feet. They have added a landscaped area near the entrance. In addition, landscaping has been added along the parking lot, power will come from across the street to a point on their property and then go underground from there. The three questions relative to Public Works have been addressed although Mr. Mitchell was now aware that additional concerns had been noted. In terms of landscaping they added more along Magnolia. The question seems to be with the striped island areas in the parking lot. They are striped so that people will not park in them. They have proposed some landscape barrels in those locations. The landscape plan as is meets the 5% requirement, even if the planter barrels are not there. They thought those would be good to have internally; obviously they would not be there in the winter, but it added more vegetation inside the parking lot itself.

The area behind the building has proposed landscaping and they are proposing landscaping and a fence on the adjacent property. That was on the previous plan and is still proposed on the revised plan. The landscape designer who prepared the plan is here this evening and can answer any questions and give a brief overview of what the landscaping to the rear is meant to accomplish and achieve.

Mr. Sioras noted there is an email from James Kersten of Fire Prevention. Firefighter Kersten is satisfied with the 8 foot trees proposed along Magnolia. Mr. Fairbanks asked if any waivers were being requested at this point. Mr. Mitchell said no.

Cynthia Beauvert, Arago Land Consultants, stated with regard to the landscaping along the abutter's side line, they have several layers of plants that front along a 6 foot vinyl fence. The large diameter circles are shade trees. There are three levels of leaves and trees proposed. The shade trees are closest to the building. On the abutter's side they have dogwood and cersis (eastern redbud) which will give privacy around the pool. Once the shade trees get tall, they will provide privacy. In addition to that, there are the smaller trees which will supply another canopy of leaves and create privacy for the pool area. They have provided the vinyl fence and a border along the walkway with a hedge as well. There are several levels of buffer between the apartment building and the abutting yard.

Mr. Flattes asked how large are the trees when they go in the ground. Ms. Beauvert explained they are specified to be of a three inch caliper which is the diameter. A three inch caliper tree is a strong tree; at that size they will be about 15-18 feet tall going into the ground. It will take a bit of time for them to grow to full maturity at 40 feet. Mr. Fairbanks asked for clarification. Will there be plantings placed on the abutter's property? Ms. Beauvert said she was under the impression that had been agreed to prior to the revised plan. Mr. Sioras asked if the Steinhoff's were in the audience and confirmed this had been discussed with them and they agreed to the plan.

Mr. Granese asked if the applicant revised the plan so that they did not need the waivers they had requested at the last meeting. He asked if the abutter's issues were addressed. Mr. Mitchell said they addressed some of the comments. With regard to privacy along the walking path, they added a 6' vinyl fence which will limit additional access along the back. Their property goes back across four lots on Magnolia. The path and fence will be along the two adjacent properties and just into the third lot. There had also been a request to have more of a fence along Magnolia; they have replaced the existing fence with an ornamental fence and added additional landscaping. The abutter's may still have other comments about what they would prefer to see or not see, but those are the items that he had noted from the last meeting.

Mr. Granese referred to the comments Mr. O'Connor had sent to the Board for the October meeting. Was anything done with the balconies on the building? Mr. Mitchell said the applicant looked into the possibility of having the balconies be windows; at this point they have decided to keep the balconies. That is one reason Ms. Beauvert is involved; once the trees grow to height, views of the back yard of the house next door would not be possible from the balconies because of the trees. The applicant did give it consideration. Mr. Granese said he wanted to make sure

all the comments from the previous meeting had been addressed before they opened the public hearing.

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

Barry Drago, 1 Magnolia Lane, said they have not had an opportunity to review the revised plan. There seems to be several pages of changes and they can't comment on all that the builder is proposing. He would like to make sure that some of the things they talked about at the last meeting were addressed during this session. He noted the fencing issue has been addressed on Magnolia. He looked at the ZBA requirements – he believes their area is zoned Central Business District. Town requirements include fencing, a minimum of 6 foot high trees based on buffers, and specific distances from parking lots to property lines. He can't say if what has been proposed meets those regulations or not. The applicant is proposing a 4 foot high fence; the regulation requires a six foot tall fence. The caliper of tree should be 2.5"; they are proposing 3" which is good. It appears the underground utility issue has been addressed and he assumes the parking lot issues have been addressed with regard to layout and the amount of space. He does not believe they addressed the point of public egress that goes from the back of the property out to Magnolia; all of the abutters had requested the public egress be re-routed to lead to Kendall Pond. There had been a discussion about sidewalks being installed for the children to reach the school bus. In looking at the plan it does not appear that was addressed. That is a concern for the abutters. There was a question on lighting to the left side that faces Magnolia; he does not know if there are external poles or lighting; they would prefer not to have lighting on Magnolia. There had been concerns with the green space calculation behind 4, 6 and 8 Magnolia. It has been said that concern has been addressed but he is unsure if that had been recalculated. There had been a request for the traffic study which was a few years old to be reviewed. This is an extremely busy road. It does not appear there was a new traffic study. There had been questions with regard to the height of the building. The balconies and windows were an issue for the abutters at #4 Magnolia.

Mr. Granese asked Mr. Sioras to confirm the zoning for this lot. This is the MHDR zone. Mr. Granese said the walkway to the rear was put there at the request of the Fire Department. In looking at the plan, it looks as though there is only one light above the door facing Magnolia. Mr. Mitchell confirmed that was correct and advised the landscape plan shows the proposed lumens. Off the parking lot to the south side of the building the numbers are .1 fc, which is very low in terms of candle power. No light will broadcast into the street. The lights will shine on the parking lot. Lighting is stronger above the rear door but then dims as it nears the fence.

Daria Mlynarski, 7 Magnolia, had a comment about the walkway. She understood that the Fire Department wanted it in that area for safety, but if the applicant owns land on both sides of the property, why can't the walkway take a left onto Kendall Pond Road and incorporate it into the parking lot? They did research with the School District. The applicant had said any children in that building would go to South Range. In actuality, the School District confirmed #2-30, on the odd side, would go to Grinnell, which is the same bus their children ride. Why can't there be a sidewalk to Kendall Pond for the children the egresses on their own property? If the children

attended South Range, the bus would need to turn around. For Grinnell the bus continues up Kendall Pond toward Pinehurst. If the children from these apartments are going to be attending Grinnell it would make sense to have a bus stop on their own property, where it is safe for the children, so the bus can just continue up Kendall Pond. She did not know why there had to be an egress onto Magnolia; the egress should go into their own parking lot. Safety for the children is important, but it does not have to go to Magnolia. Mr. Granese said the walkway is not there specifically for the children, it is there for fire safety. There needs to be egress from the building in the event there is a fire in the building.

Shareen Hawkesworth, 24 Magnolia Lane said the issue with the walkway was a large concern. She spoke directly with Mr. Kersten who read to her the code. He said he would not require the egress to come out to Magnolia. It would be fine for it to lead to the parking lot which is a public area; based on the code that would be sufficient. Mr. Granese said he had received a different answer from another fire official. Mr. Sioras confirmed Mr. Kersten had provided that information to both himself and Mrs. Hawkesworth. David Hawkesworth wanted to know if the issue of handicap parking in the parking lot had been addressed. Did they have the correct number of handicap parking spaces and are they sized appropriately? He also wanted to make sure there was handicap parking in the garage and outside. Additionally, he wanted to confirm the electricity would be underground. Mr. Sioras said there was a memo from Public Works regarding the utilities; they would be underground. Mr. Mitchell said their handicap calculations include one regular and one van handicap accessible space. Inside the garage, there are 18 spaces, dedicated to each unit. Outside parking is not dedicated. If anyone needs handicap access, it has been provided and the calculations meet the codes. With regard to the walkway, they need a fire access out the rear of the building. Whether it goes to Magnolia or not, there needs to be access. They estimate 5-6 school age children for this development and it was safer to have children waiting for a bus on Magnolia than it is to have them waiting on Kendall Pond Road. That is the primary reason they have the access leading to Magnolia. The property has frontage on both Magnolia and Kendall Pond and they believe the access is safe for the children and gives secondary access from the building to the rear for anyone who needs to go out.

Cynthia Cahill, 15 Magnolia, asked for clarification of the parking arrangements. Mr. Mitchell confirmed there is an underground garage with 18 spaces; the remainder of the parking will be outside in the parking lot. Mrs. Cahill said per the ADA regulations, a parking garage with one to 25 spots would need a van accessible space that is 8 feet wide. There should also be another handicap space in the underground parking.

Laura McLaughlin, 14 Magnolia Lane, questioned the walking path that goes behind several of the residences on Magnolia. Seasonally, there are wetlands. How do they propose to place a bench and picnic tables there that would be usable? She asked for confirmation of the location of the fence and its placement; the wetland does continue along the back of those properties to the cul de sac on Magnolia. How will that area be usable as a walking space and recreational area? Mr. Mitchell said the walking path will be in the area that is not wetland. The fence will be located on the applicant's property, along the back of the next three adjacent lots and will continue to the edge of wetland. No one would be going behind the last two lots on Magnolia.

Cynthia Flammia, 25 Magnolia Lane, read a short article from a local paper, dated November 27th, titled "Skewed Priorities". The article focused on the ability of Planning Boards to impose strict architectural design on projects to keep the developments more in tune with existing neighborhoods and the impacts that multifamily can have on established residential neighborhoods.

Taru and Mukesh Kapadia, 6 Magnolia Lane, asked for further clarification with regard to the fencing proposed behind Magnolia. Will there be vinyl fencing that will block access to the wetland, where exactly will the fencing be placed, and who will maintain it? Mr. Mitchell advised the fence will be maintained by the owner of 19 Kendall Pond/2 Magnolia. The fence will go behind 4 Magnolia, 6 Magnolia and 10-15 feet behind 8 Magnolia, turning 90° towards the wetland at that point. Mr. Kapadia asked if there would be any buffer between his property line and the fence. Mr. Mitchell said the fence will be set back off the property line by a few feet so that when it is installed, there need be no access on the abutter's property. The walkway will be closer to the fence along 4 Magnolia and then veer away behind 6 Magnolia. Mrs. Kapadia asked if they agree to this now, what rights do they retain for the future. Who do they approach if things don't work out? Mr. Granese said during construction there is oversight by the town, but after that, they would contact the property owner if something happened to the fence. The town does not have jurisdiction over a fence on a private property. If there is a problem with it, they would need to contact the property owner so that the owner could address the issue. Mr. Fairbanks noted a property maintenance ordinance will be going into effect that would assist neighbors adjacent to a rundown property. They would contact Code Enforcement. Mr. Sioras recalled an issue with a fence off Crystal Avenue where the fence deteriorated over the years. Code Enforcement was able to address the issue because the fence was installed as part of the site plan approval. Mr. Kapadia asked if the Board could add a condition of approval that the fence has to be maintained. Mr. Sioras explained that by virtue of the fence being located on an approved plan, if in the future the fence is not as it should be, Code Enforcement can enforce it. As it is being constructed, the town field engineer will make sure the fence is installed appropriately. Mr. Kapadia asked regarding the handicap parking in the lower level, are they proposing the appropriate amount of spaces. Mr. Sioras said that is something the Board can decide, if they want a certain size. Mr. Kapadia asked if the parking calculation had been adjusted, as at the last meeting, the applicant was unable to get the requested waiver. Mr. Mitchell explained one of the waivers was from the requirement that 5% of the parking area had to be landscaped. They have met that and have added additional landscaping. The other requirement is for a landscaped island in a group of twenty spaces. They have 25 parking spaces outside, but in reviewing it they don't have a group of twenty as you would find in a mall. That particular requirement, they believe, is not something they have to meet based on other projects in town they have reviewed. He confirmed if necessary, Code Enforcement could request the property owner maintain the fence in the event it falls down or breaks.

Dennis and Sarah Steinhoff, 4 Magnolia Lane, spoke first with regard to the trees. Mrs. Steinhoff clarified they agreed to the trees, but agreeing to the trees does not mean they agree to the apartment building. She is hoping it does not get approved, but if it does, they need some type of buffer. They did want to know more about the balconies and see if they could be replaced with windows. She also has noted that in one year Magnolia Lane has paid \$168,000.00 toward taxes, totaling over \$800,000.00 in the time she has lived on Magnolia. She

feels like that should buy them some kind of opinion on what comes to the end of their street. Mr. Steinhoff added comments with regard to the walking path. There are a lot of wetlands to the rear and he can't put a shed near the wetland. He is not sure how they will be able to put in the walking path and other items without leveling the wetland. He is unsure of the process and did not know if that could or could not be approved. That should be considered.

Mr. Fairbanks confirmed the edge of wetland has been mapped and certified. Mr. Mitchell said the area does get narrow, but they are putting in a walking path, not a paved walkway. There is enough room.

Mrs. Mlynarski noted safety has been mentioned many times during this process. The recommendations for stopping and sight distance are a minimum of 200 feet in a 30 MPH zone. Is there 200 feet stopping distance as one comes around the bend in the road at this location? When things like snow enter the mix, where does that go or will there be snow banks blocking the sight distance? This is a concern for children waiting for the bus on Magnolia. Mr. Sioras noted sheet 7 has the sight distance profile. Mr. Fairbanks said he had a concern for that location as well as people turn out of the parking lot. Board members noted traffic travels above the speed limit at this location. Mr. Mitchell confirmed they have the appropriate sight distance as required by the regulations. They also met with the Highway Safety Committee and they did not impose any conditions on this plan; the members of the committee are aware of the current condition on Kendall Pond Road. There is always a note on the plan that excess snow will be trucked off site if required. Snow storage areas are located to the back of the parking lot. If there is a lot of snow, the snow will be trucked off site. Mrs. Mlynarski asked if the intent is to keep snow off the proposed recreation area. Mr. Mitchell said the trail would not be maintained in the winter, but people could still access it. He confirmed there would be no snow piled near the driveway entrance to impede sight distance.

Mrs. McLaughlin said the wetlands are being used for square footage to gain the density for 18 units. It does not appear to her that this will be used as a real recreational space; it will not be maintained during the winter. There is one acre of land that the apartment complex will be put on; it won't be on the extra acre of unusable land. She asked the Board to take that into consideration.

Mr. Steinhoff asked for clarification on the proposed landscape barrels. Those will not be permanent; are they intended to be included in the 5% landscape requirement? Does the vegetation need to be permanent? Mr. Mitchell indicated the last note on sheet 1. They are required to have 5% interior green space, if the barrels are taken away, they still meet the 5%, but felt it was important to add a bit of color and ensure vehicles coming in and out of the garage do not take too sharp a turn.

Mr. Hawkesworth noted the walkway leading to Magnolia is not in place for fire safety and it could be taken out; Mr. Mitchell has stated it was put in place for the safety of the children. There are 15 children who get on and off the bus at the end of Magnolia and it is difficult to keep them off Kendall Pond Road while they wait for the bus. The potential for 18 additional children at the top of Magnolia creates a large safety concern. This should be addressed and handled on

the applicant's property on Kendall Pond Road. They should not be using Magnolia as a way to keep the children safe; it will be less safe for all the children.

Mr. Granese confirmed that if a bus stop wanted to be moved, residents would need to contact the School Board first. Mr. Mitchell said part of their property is on Magnolia. They believe the walkway is a good alternative for the safety of the children and one less bus stop, but will leave that up to the Board to decide where the children will get the bus, either on Magnolia or at Kendall Pond.

Mr. and Mrs. Kapadia confirmed the fence will go behind 8 Magnolia for about 10-15 feet and then will turn toward the wetland. The plan is showing two areas for the benches and picnic tables. The Kapadias maintained this had not been shown previously. Mr. Granese noted the fence will go beyond the rock wall. Mr. Mitchell believed they did show two areas to the rear on the previous plan. Mr. Granese reviewed prior versions of the plan submittal and they did show the two areas.

Joe Midolo, 16 Magnolia, said there have been questions asked but not a lot of answers. He wanted to go through each of the previous waiver requests and make sure they don't need them. Mr. Granese believed they had addressed those issues. The curb landscaped bed of 10' was addressed earlier, the 15' street strip running parallel to the frontage of the lot had also been addressed. Mr. Mitchell explained they had asked for that waiver so that they did not have to plant trees along the frontage; that had been a concern of the Fire Department. But they are proposing to plant the requisite number of street trees that will be no higher than 8 feet tall. Mr. Granese said they addressed Section 170-60C, underground utilities. Mr. Midolo asked if the total size of the lot issue had been addressed. Can they take into account the wetland area? Mr. Fairbanks said there had been a lot of discussion but the regulation speaks to the gross total of the lot, not the buildable area. Mr. Midolo asked what type of wetland is behind the area and are there any specific buffers that go along with them. He had been told he could not get within a certain number of feet of the wetland when he wanted to make improvements to his backyard. Mr. Mitchell said his understanding of the Derry regulation is that the building setback must be 75 feet from wetlands of more than 1 contiguous acre. Their building is 75 feet from the edge of wet. The parking lot is not a building. A shed enclosure for the refuse area would need to be setback from the wetland; they are instead using a fence. The Code Enforcement Officer approved that. They can have disturbance up to the wetland but can't go into the wetland. Their building will be 75 feet away from the edge of wetland. The plans were reviewed by the TRC, which includes the Code Enforcement Officer, and the Conservation Commission has reviewed and signed off on the plan as well. Mr. Midolo asked if the walkway and fence installation could take place within the wetland buffer. Mr. Mitchell said there is not a regulation that prohibits them from putting in a walkway adjacent to the wetland. Mr. Midolo noted during winter, trees do not have leaves. It is good thing to put trees along the neighbor's boundary but he did not believe they served a purpose since 9 months out of the year they would not have leaves.

Mrs. Hawkesworth did not want the walkway issue to get overlooked, even though it had been discussed several times. It is very important to them. They feel exposed with the walkway leading to Magnolia. They are trying to protect their children and preserve their neighborhood. She asked the Board to think about what it means to them to have this walkway leading to their

street, especially where it is not required. There are residents in this neighborhood who have contributed millions of dollars in taxes to the town and she wished that was factored in some way.

There was no further public input.

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

Mr. Granese said with regard to the walkway, he had been misinformed. He had provided the information he had been given. He asked if the walkway could be stopped at the rear egress door. Mr. Mitchell said they could do that if it was a condition from the Board. It would lead to the parking lot. Mr. Granese asked how that would affect the proposed fence. Mr. Mitchell said they could continue the fence to the property line as well as the landscaping. Mr. Granese asked if they had obtained all of their permitting for the project. Mr. Mitchell did not believe they needed state permits for the project. They would obtain the local permits. The sewer discharge permit is done prior to the hookup of the sewer system. Either the town or the applicant will do that. The state verifies the town has the capacity to add this project to the sewer system and that can be done as a condition of approval. Mr. Granese confirmed the barrels do not count toward the 5% interior green space.

Mr. Granese asked if all the technical requirements had been met. Mr. Sioras said they had been met. There are two memos from staff, one from Mark L'Heureux that raised the question of whether there needed to be a waiver for the landscape barrels. The other memo is from James Kersten. The concern had been the height of trees along Magnolia and that they would grow too high and prohibit access to the building from Magnolia from the aerial truck. Mr. Kersten confirmed in a memo that 8 foot tall trees (at maturity) would be acceptable and allow access. The regulations call for plantings along Magnolia. Mr. Fairbanks asked why a waiver would be required for the landscape barrels. Mr. Sioras said Mr. L'Heureux is reading Section 170-63 literally; Mr. L'Heureux did not feel the striped, paved islands met the intent of the regulation, even with the landscape barrels. The planter barrels do not meet the spirit and intent. Mr. Fairbanks said he would agree if they were using those to meet the planted green space. It sounds like they are using them in this case to divert traffic. Mr. Mitchell said the barrels were added to provide more color and direct traffic in and out of the garage. They have 5% interior green space without the barrels and thought it would be helpful in the spring in summer.

Mr. Granese read the memo from Mr. L'Heureux into the record. A copy of the memo is in the file. Mr. L'Heureux confirmed it was appropriate to run the utilities underground from a pole located on the applicant's property, this is not unusual. The pole location cannot obstruct sight distance for Magnolia Lane or for the proposed driveway. The proposed mountable curb had been removed from the driveway. Mr. L'Heureux had recommended a proposed condition of approval regarding a cross section detail and then commented that a waiver may be required to allow the planter barrels. Mr. Granese confirmed the areas are flat, not raised. Mr. Flattes felt the regulation was requiring raised landscaped islands. Mr. Granese reviewed the regulations. Section 170-63.A.6 states, "A curbed, raised and landscaped island, a minimum of 15 feet in width, shall be provided where parking spaces, service or delivery aisles, interior access drives,

aisles and vehicular access ways about a public street in all zoning districts of the Town of Derry except within the Central Business District....” Section 170-63.A.7 states, “A curbed, raised and landscaped island, a minimum of 10 feet in width shall be provided between groupings of twenty or more parking spaces in all zoning districts within the Town of Derry.” Section 170-63.A.8 states, “A minimum of 5% of the interior area of any proposed parking area and aisles shall be provided as interior landscaped green space in all parking lots containing more than 20 parking spaces.” Mr. Granese said when reading this it appears there should be raised landscaped islands. Mr. Sioras directed the Board to page 2 of the staff report. The suggested motions note potential waivers, which would be from Section 170-63.A.8. In this case they have provided seasonal, landscaped barrels. Mr. Granese said according to this they need raised, curbed islands. Mr. Sioras felt the issue was the landscaping.

Mr. Mitchell said they have provided the required 15 feet from the road. They need to provide 5% green space area, that includes the barrels. That has nothing to do with islands. They can take the barrels out and still meet the 5%. The part that talks about the 10 foot raised islands is for groupings of 20 or more parking spaces. They had requested that waiver previously, but don’t feel one is required since they don’t have a grouping of 20 spaces or more. They have 25 spaces, but they are not grouped together in a long line. The barrels are there for the 5% but they don’t need them to meet the 5%. They can be removed if necessary. Mr. Fairbanks felt Mr. Granese had been speaking not to the 5% interior landscaping but to the need for a curbed, raised island. Mr. Granese said there are 25 spaces in the parking lot. Mr. Fairbanks agreed with Mr. Mitchell that the spaces were not grouped together. Mr. Flattes asked why they did not provide raised islands and only provided striped areas flush with the pavement. Mr. Mitchell said the area is striped to ensure people don’t park there and obstruct the garage entrance; they also don’t want a curb that would obstruct snow plowing. Mr. Granese said he still had a question about meeting Sections 170-63.A 6 & 7. Mr. Fairbanks said he recalled the applicant was not looking for waivers. Mr. Sioras said they put the section in when discussing parking. Tonight, the applicant is saying they won’t require the waiver. He does not feel it will be required based on what Mr. Mitchell is telling them. The question would be whether the Board wants the barrels. Mr. Mitchell said they could remove the barrels. Mr. Fairbanks said he did not care one way or the other, as a waiver is not required to keep them. He just wanted to make sure they met the 5%. Mr. Granese suggested taking the barrels out, and did not feel the area needed curbed, landscaped beds.

Mr. Sioras asked Ms. Beauvert if it was common to see landscaped barrels in multifamily projects. She said aesthetically it will make it look better and given the proposed location, the barrel with flowers can be used as a directional tactic. The benefit is that they are removed in the winter and it cleans up the area. She felt it would break up the area. An island with plants in such a small parking lot will not do well, where plantings in a barrel will do well as they will have the structure of the barrel to support growth. The barrels are not required to meet the regulations, but aesthetically, they will add to the project.

Mr. Granese confirmed the Board should vote to accept the revised plan presented this evening.

Mr. Flattes asked where the barrels would be stored during winter. Mr. Mitchell said there would be room in the basement for the three barrels.

Motion by Bartkiewicz, seconded by Flattes to accept the revised plans.

Fairbanks, Alongi, Flattes, Davison, Bartkiewicz, and Granese voted in favor and the motion passed.

Mr. Granese asked the applicant about the proposed balconies. During the last meeting there had been suggestions about removing the balconies. James Taylor and Aaron Hill approached the Board. Mr. Hill said they brought the landscape artist with them this evening. They had a need to create a geometric image. Once the 15 foot trees are planted it would create privacy. One of the neighbors had expressed a concern that people living in the building would be able to sit on their balcony and watch them swimming in their pool. The fifteen foot trees would obstruct those views. Whether it was a balcony or window, they are cannot put a solid wall. The plantings provided the privacy the abutters are hoping to achieve. They have tried to accommodate their concern and that is why there are plantings on the abutter's property as well. Mr. Taylor said it would not be end of the word if there was a window and not a balcony. Their intent was to obstruct the sight lines with the plantings. They are also concerned about the people living in their building as well. The residents in the apartment would like the ability to be able to sit outside as well. Mr. Granese asked if everyone had a proposed balcony. Mr. Taylor said they are proposing two rows of three. He did not feel the lower level or second floor posed an issue and was not sure the third level would either. They feel they have provided adequate screening and there is not a great difference between a window and a balcony. They feel this is a good project and it is their intent to get it approved. They don't want this issue to stand in their way. Mr. Sioras asked if they had determined the layout of the interior space. He believed there would be 14 two bedroom and 4 one bedroom apartments. Mr. Taylor said they have fully designed the interior of the building with the architect. They tried unsuccessfully to get the balconies to face the parking lot or Magnolia. Mr. Sioras asked what would face the Steinhoff residence. Mr. Taylor said Unit 204 is a one bedroom and the balcony comes off the living room. The units in question don't have walls that face east or west. Mr. Sioras felt the Steinhoff's have the most direct impact. Mr. Hill said that is why they are proposing fifteen foot high trees that will only grow taller. Mr. Flattes asked what will be planted for trees in that area. Ms. Davison noted Sheet 5 has a planting list. Ms. Beauvert advised they are planting thornless honey locust trees, which have small leaves and are not messy. She did not want to plant a tree that had leaves which would create a blanket as they came down, such as a maple, because that could affect the abutter as well. The tree is very full once it leafs out. In the winter, the branches create a double story consisting of the shade trees and the understory of the flowering trees which will create a screening effect. It will be a filtered view in the winter, but not a clear view. They did not want a tree that created seasonal messes. Mr. Flattes said he lives on a third floor and can't see through the pines planted outside his building. Ms. Beauvert felt pine trees were messy because of the sap, needles and pine cones. Pine trees also don't do very well in storms such as the one we just had; they tend to break. The benefit to the neighbors at 4 Magnolia is that the shade trees will cool their house off; they will receive the benefit of the shade in the summer and in winter the trees will let the light through. The Steinhoff's backyard is a little lower, so they will be looking up at the building and trees; it will also give them benefits on their heating bill.

Mrs. Steinhoff said she understood what the applicant was saying with regard to the similarities between balconies and windows but she did not feel someone would sit in their window for an unlimited amount of time as one might sit on a deck and enjoy it. She heard what they are saying about the residents wanting to sit and enjoy the outdoors, but the applicant is making such a big deal about this beautiful walking path; the residents can go on that, which will be behind her house as well. There are many apartments in town that don't have balconies that are perfectly fine. Bay windows are beautiful and there are many options. The trees are great, but there is only so much a tree can do, especially in the early years. Any alternative to balconies would be appreciated so that people are not sitting and looking down into her yard.

Mr. Flattes asked with regard to handicap parking. There are two visitor handicap spaces outside; what is provided in the parking garage for the residents? Mr. Mitchell said they did not provide any in the garage below. Attorney Daniel Muller of the law firm of Cronin, Bisson & Zalinsky, stated the issue of the ADA has come up several times this evening. ADA does not apply to this development. ADA has three sections: employment, governmental programs, and public accommodations. This does not fall under any of those categories. The ADA requirements do not apply to the parking garage.

Motion by Bartkiewicz to grant conditional approval pursuant to RSA 677:4:1, Completed Application with the following conditions: comply with the Vanasse, Hangen, Brustlin report dated October 9, 2014, or later; subject to owner's signature; subject to onsite inspection by the Town's Engineer; establish appropriate escrow as required to complete the project; Sewer Bypass Plan to be submitted, reviewed and approved by DPW; Sewer Easement documents to be submitted to the Planning Department/DPW for review and approval prior to recording of the easement; provide a cross section detail for infiltration trench installations; obtain written approval from the IT Director that the GIS disk is received and is operable and it complies with LDCR Section 170-61.C; subject to receipt of state or local permits relating to the project; that the above conditions all shall be met within 6 months; 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 proposed back door walkway is discontinued to Magnolia and a fence put in its place; removal of balconies on the back side of the building, 8 foot trees will be planted along Magnolia Lane; fence maintenance is the responsibility of the property owner (at the apartment complex). Discussion followed.

Mr. Flattes asked who would maintain the plantings on 4 Magnolia. Mr. Fairbanks asked Mr. Mitchell to explain the agreement. Mr. Mitchell said they will install and maintain the plantings until they become established through one season and proven to not be diseased, at which point they would be the responsibility of the owners of 4 Magnolia. Ms. Beauvert said the trees are of a certain caliper. The first year the roots will establish and if the trees are going to fail, it will be within that first year. The shade trees will be 15 feet tall, the flowering trees will be 12 feet tall and the shrubs are listed at the maximum height. The trees will grow to about 45 feet tall at full maturity. The first few years there will not be much growth, but within five to six years they will grow to about 20 feet tall.

Mr. Bartkiewicz suggested adding a condition that trees would be maintained for three years so that they have two additional years past the warranty period to ensure the growth of the trees.

Mr. Flattes asked if they could include all plantings in that condition. Mr. Flattes did not feel the abutters should be responsible for the maintenance of the trees for the first few years. An abutter approached the Board to speak and Mr. Granese advised the Board was in the middle of a motion discussing conditions of approval and could not take public comment. Mr. Fairbanks felt three years was sufficient, as did other members of the Board.

Bartkiewicz added a condition to the motion that trees and plantings shall be cared for by the owner of the apartment building for a three year period, ensuring they last for the lifetime of the complex.

Mr. Granese asked the Board if any member had an issue with letting the abutter speak, even though the Board was in discussion. The Board did not have an issue.

Mrs. Hawkesworth said the area experiences strong storms and wondered if there was anything to be done in the event that eight years from now, a tree that is meant to protect the neighbor comes down. Mr. Granese did not believe the Board could put that kind of condition on the plan; that would be from natural causes. He would hope that if a tree came down, the applicant would replace it. He said normally they could put a condition for a few years out, but could not guarantee something for life.

Ms. Davison had a concern for the rights of the property owner of 4 Magnolia. If things are conditioned in perpetuity, the property owner also needs to have the flexibility to remove the plantings if desired. She suggested the Board be conscientious that they are not dictating what people do with their property. Mr. Flattes wanted to hear from the owners of 4 Magnolia since things were being planted on their property to see if there was anything they would like to see. Mr. Granese felt the Board had already done that and a motion was on the floor.

Fairbanks seconded Bartkiewicz' motion.

Fairbanks, Alongi, Davison, Bartkiewicz, Flattes and Granese voted in favor. Mr. Granese said he had to vote yes as the applicant met the zoning, did what the Board had asked and met the technical regulations and there are a lot of conditions in place. The motion passed.

Mr. Granese noted Mrs. Choiniere and Mr. O'Connor were seated; they had been present earlier.

Workshop #4, Discussion regarding multifamily housing

This workshop is a continuation from November 19, 2014. Mr. Sioras said the document incorporates changes from the last meeting. In November, the Board discussed the height of buildings, reduced the density, and talked about the green area. He referred the Board to page 3. The suggestion is that green area on non-residential site plans may not be applied toward the recreational space calculation. Mrs. Choiniere thought the Board had also discussed net buildable area. Mr. O'Connor said they can't do the gross lot until after the net buildable has been calculated. After the net buildable area has been calculated, that is when the 15% recreation space is calculated. Mr. Fairbanks and Mrs. Choiniere felt that it should state the 15% recreation area is based on the net buildable area, not the gross lot area. Mr. Fairbanks noted the

Board had created a definition for net buildable at the last meeting. He did not feel they should include steep slopes as the land can be engineered to accommodate them. Mrs. Choiniere did not feel steep slopes were buildable in this area of the country. Mr. O'Connor suggested excluding steep slopes from the net buildable area. If the slope is 8% slope, it would not be buildable. Mr. Fairbanks felt that would be addressed under other building codes and did not need to be defined here. Mr. Granese commented this document also encompassed the MHDR and the Board needed to look at that as well. Mr. Sioras said if the Board is okay with the changes made last meeting, at the next meeting the Board can focus on the changes to the MHDR. Mr. O'Connor noted the architectural design regulations are included as well, but did not feel there was anything out of the ordinary there. Mr. Sioras said an architect, Pat Sherman, had been hired to draft those regulations and they were fairly solid. Another change is on page 18, and he asked the Board if they wanted to increase the number of parking spaces required per multifamily unit. Mr. Flattes recalled at the last CBD subcommittee meeting, they had changed the number. Mr. Fairbanks recalled the same discussion and that he thought they had decided on 2.5 per bedroom, which is almost twice what the Board has now. Mr. Flattes wanted to see three spaces per bedroom since increasing the amount of parking would cut down on the amount of multifamily.

Mr. Granese asked Mrs. Eisner for her input. Mrs. Eisner said she wanted to be reasonable. There should be at least 2-3 spaces per unit, which might defeat the purpose of what they are trying to do, but she thought there should be a reasonable balance. Mr. O'Connor noted this Board has taken positions in the past to reduce the parking in an effort to reduce the impervious area which alleviates groundwater runoff. He noted Mr. Mackey suggested two or two and a half. He does want to ensure adequate but not excessive parking. Mr. Granese said he could see decreasing parking for places like Walmart, but does not want to see 20 unit apartment buildings all over town. If the Board increases the parking calculation, it will decrease the allowed number of units. He suggested 2.5 spaces. Residents can't park in the street. He was trying to plan 10-15 years down the road. Mr. Sioras felt 2.5 spaces would be reasonable. It was noted that for fractions, the number must be rounded up. Mr. Sioras said it may be critical to discuss the number of units in the building. The parking may determine the number of units, which will determine the type of market. The Board felt 2.5 was a reasonable number. Mr. Fairbanks asked that on Page 3, Item B.2.e, the distance be verified. Both distances are crossed out on this draft. Mr. Sioras and Mr. Fairbanks thought that number should be 500 feet.

Mr. Sioras said the draft will be cleaned up for the next meeting on January 7th and the Board can look at the MHDR zone in more depth.

There was no further business before the Board.

Motion by Bartkiewicz, seconded by Choiniere to adjourn. The motion passed with all in favor and the meeting stood adjourned at 9:22 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____