

LONDONDERRY, NH PLANNING BOARD

MINUTES OF THE MEETING OF OCTOBER 9, 2019 AT THE MOOSE HILL COUNCIL CHAMBERS

I. CALL TO ORDER

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

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

Chairman Rugg called the meeting to order at 7:00 PM, explained the exit and emergency procedures, and began with the Pledge of Allegiance.

II. ADMINISTRATIVE BOARD WORK

- A. APPROVAL OF MINUTES: N/A
- B. REGIONAL IMPACT DETERMINATIONS: N/A
- C. DISCUSSIONS WITH TOWN STAFF:

Chairman Rugg informed the Board that there are four terms expiring in December: Chris Davies, Al Sypek, Peter Commerford and Roger Fillio. He said that if you wish to reapply to please email Kirby Brown, Executive Assistant.

III. Old Business

- A. Application for formal review a lot line adjustment between 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner) and 55 Wilson Road, Map 18 Lot 24-5, Zoned AR-1, Douglas B. & Maria F. Jones (Owners) and subdivision to create 9 residential lots, 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner and Applicant) - **continued from August 7, 2019**

Chairman Rugg read the case into the record noting it has been continued from August 7, 2019. He noted that the Board has had three public hearings on this case as well as a conceptual discussion prior to those. He reviewed how the Board concluded the last meeting stating that Mr. Evans had the choice of a denial of the plan or to visit the Town Council to see what the Town could do for their portion of the roadway. J. Butler recused himself from this case. Chairman Rugg appointed A. Chiampa to vote for J. Butler. J. Trottier explained that as far as he understood, the Town does not have any monies available for funding improvements to the roadway

at this time. He commented that the next recourse would be for Mr. Evans to petition a warrant article for the next Town Meeting for improvements to be done on Wilson Road. Charlie Evans, from Evans Family Limited Partnership, addressed the Board, also noting that Stephen Pernaw, traffic engineer from Stephen G Pernaw & Company Inc., Loudon, NH as well as Morgan Hollis, Esq. from Gottesman & Hollis, 39 E Pearl St, Nashua, NH was with him tonight as well. C. Evans told the Board that he had spoken to Kevin Smith, Town Manager, who told him that there was no money in the foreseeable future for improvements to Wilson Road. He asked if this development did not place any more traffic on Wilson Road, would the Board have a problem with it. Chairman Rugg commented that was more of a hypothetical situation and they could not answer that. C. Evans said that Staff has told him that the 5% increase in traffic this development would bring would be too much. J. Trottier reiterated that the road is sub-standard and needs to be improved. C. Evans proposed to petition the Board to leave it a one-way street with a sign posted and enforced for no thru traffic. He said this would decrease the traffic on Wilson Road by 50% and stated that the Board has the latitude to grant the subdivision and make it work like it was done in 2015. Chairman Rugg explained that these are two different issues and he is looking for new information tonight. C. Evans said that he would like to have his traffic engineer present the improvements. Chairman Rugg asked if Staff had reviewed these improvements. J. Trottier told Chairman Rugg that these improvements have been reviewed and noted in the Staff memorandum.

Stephen Pernaw addressed the Board noting that he has written five different memorandum on this project going back to 2017. S. Pernaw reviewed the findings with the Board noting the estimate of the proposed eight lot subdivision would be 76 vehicles trips over a 24-hour period. He said that because this is a one-way road, the net impact is 38 vehicle trips, which would increase traffic by 5.6%. He added that there were only two car crashes over a three year period. He commented that some of the improvements would be to widen the shoulder over 1,000 feet, have 600 feet of improved ditch line and three utility poles will be reset. He expressed his opinion as a traffic engineer stating that he believed the general public is far better off with the improved road with eight additional lots than with no improvements and no additional lots.

Chairman Rugg opened it up to questions from the Board. A. Chiampa asked for Staff clarification regarding a memorandum that the Fire Department wrote about the width of the roadway. Town Planner Mailloux noted May 2, 2019, Fire Department memorandum that referenced the National Fire Protection Association (NFPA) standards requesting at least 20 feet of roadway as the roadway is too narrow and impedes their aerial operations. A. Chiampa said the roadway is 19 feet right now and asked if the Town would need to do something to get the extra foot that is needed. Town Planner Mailloux said that the Town recognizes that there are roadway improvements needed and shares a burden in a portion of the improvements that need to be done. A. Chiampa expressed concern that the applicant and Town work together to solve this issue, as it is a public safety issue. G. Verani noted that he agreed with A. Chiampa that there should be some way to raise those funds to provide better conditions for the residents who live on the road. R. Fillio noted that at one of the last meetings, the current residents stated they did not want any

improvements to the road. C. Evans told the Board that he has a petition signed by some of the residents of Wilson Road asking to leave the road a one-way road. S. Benson said in his opinion, he did not think adding more homes to a bad situation is the wisest choice right now although he does sympathize with the applicant. He offered that there needs to be improvements done to the road before adding more homes. C. Evans suggested adding a sign that states no-thru traffic, which would greatly reduce the traffic now. S. Benson said that the sign should be placed to see how it works before adding any more homes. S. Pernaw cautioned the Board in their line of thinking that the road cannot handle any more traffic, as the day to day traffic can vary by 100 vehicles. He said that there are signs that could be used, but admitted that they are not 100% effective. He noted that he performed a reverse calculation and if just 12% of the thru traffic heeded the sign, it would totally eliminate the impact of the proposed development.

Morgan Hollis addressed the Board noting that he has spoken to Kevin Smith, Town Manager, who told him there was no reason to go to the Town Council, as there is no money, it is not in the current budget, it is not likely to be in the budget and it is not going to be built by the Town. He commented that we now have a road that does not meet Town standards, but is a Class V accepted road used and occupied by citizens of this town. He pointed out that the applicant meets half of the criteria, as he has frontage on a Class V road, but does not meet the other half of the criteria that the road be built to Town standards. He explained that the Board has the ability to determine what is or what is not sub-standard and whether the regulation can be waived. He read from the regulation stating "where an adjacent existing street from which access is gained is deemed to be sub-standard, the upgrading of said street shall be provided for as may be required by the Town of Londonderry Department of Public Works." He told the Board his applicant cannot meet this criteria as he does not own enough land to bring it to today's standard. He commented that he believes the road to be safe as the Town has not closed the road and residents use it today. He said they can stay within today's parameters of safety by reducing the traffic and improve the line of sight. He said that the Board could waive the requirement noting that the applicant is keeping the current safety standards of the road today and would be unfair to expect the applicant to rebuild the road. Chairman Rugg discussed that C. Evans could submit a warrant article to the Town to be voted on in the next election. M. Hollis said that he has discussed this with the applicant and believes that the warrant article would most likely fail and then the applicant would be back in front of the Board.

Chairman Rugg opened it up to the public.

Roger Baril, 105 Old Derry Road, addressed the Board. R. Baril told the Board that he did not think the road was unsafe because it is narrow, as a fire truck can park on part of the roadway where there are no homes. He said that he does not think improving the road would be good as it would just increase the number of cars that use it now as a cut through. He stated that he has no issue with C. Evans building the lots, but had no idea how the traffic could be made better.

Deborah Stewart, 40 Wilson Road, addressed the Board. D. Stewart told the Board that she agreed there is no possible way to improve the road without widening the road. She noted that there are signs out there now that people do not obey going the wrong way on the one-way part of the street and there being more than just local traffic that uses the road. She said that any increase on Wilson Road would be a bad idea.

Morgan Hollis, Esq., addressed the Board. M. Hollis asked the Board to consider giving Staff direction to look at the proposed suggestions, look at the reality that road might never be able to be improved and could something other than full build out to Town regulations be done. He said that the engineers could sit down and try to find a compromise. Chairman Rugg said that the engineers were working together, but then it stopped. J. Trottier explained that a plan was prepared as C. Evans wanted and Staff's position was to make the plan to Town's standards, which C. Evans does not want to do; therefore, plans were stopped. M. Hollis said if the Board would accept anything less than Town standards, he believed there could be dialogue again on this plan. He reviewed the proposed improvements noting widening of the road, improved sight distance and a 5% contribution from the applicant. J. Trottier noted that the way money is figured out is by using the rational nexus for a project like this. M. Hollis respectfully disagreed stating the rational nexus is paying your fair share, whatever that might be if you need it; however; the Town is saying the applicant must rebuild the road. J. Trottier told M. Hollis that is not what the Town is saying. M. Hollis commented that if the Town does not rebuild the road, what choice is there even if the applicant pays for it, the applicant cannot build houses until the road is improved. He said that the applicant would write a check for the road, but build no houses and in his opinion, is of no value to anyone involved. He stated that in all practicality even though the applicant is willing to pay the rational nexus fee, he cannot build out there, which in his opinion is a legal issue.

Ronald Stewart, 40 Wilson Road, addressed the Board. R. Stewart told the Board that he has witnessed several motor vehicle and motorcycle incidents on Wilson Road. He said that he does not believe that any signs would be effective to help control the traffic at this time. He asked if the Town could take any land from abutting property owners to improve the land. He told the Board that he did not sign C. Evan's petition as he does not want any improvements.

Chairman Rugg brought the discussion back to the Board. C. Davies said that the memo from the Fire Department is something he cannot get past and does not want to make a bad situation worse. M. Soares said the Board has an option to deny the application or give the applicant more time to try and work with the Fire Department to come up with a solution. Chairman Rugg said that the applicant could come back to the Board with a redesign and encouraged the applicant to go through design review with Staff to work together. M. Soares asked if there would be another cost if the applicant were to reapply. Town Planner Mailloux said that there would be another application fee. S. Benson asked if the Board could make a motion to defer and have Staff and the applicant work with the Fire Department and come to a compromise. Town Planner Mailloux explained that the application has been continued several times for discussion and the application was accepted as complete back in June

stating the 65-day time clock has expired, and now is closing in on another 65-day time clock expiring from the August continuance. She said that if the Board is requesting a continuance, she would recommend very specific direction on what it is exactly that the Board is looking for. M. Soares asked if Staff has a standard for one-way roads. J. Trottier said the Town does not have a standard for a one-way road. M. Soares asked if the Town would come up with a standard for a one-way road. J. Trottier explained that the Town does not create one-way roads to satisfy the development of a roadway. She said she agreed with J. Trottier, but there needs to be improvements to the road per the Fire Department and could such a standard be given to the applicant to carry out to keep it a one-way road. J. Trottier told M. Soares that the Fire Department wants at least twenty feet of pavement. G. Verani voiced his concern that if this were to be denied, the real concern from the Fire Department would never be addressed for the current residents of Wilson Road. C. Evans said that the Board has the latitude to make exceptions, as was done in 2015 with the addition of 5 lots on Wilson Road that is two-way noting the road does not meet Town standards. J. Trottier said that there are portions of Wilson Road that do not meet Town standards as the Board allowed it. M. Soares concluded that the Board is at a point where they have to make a decision. She said that even if C. Evans cannot meet Town standards, but moved forward with his best faith effort, there might be people on the Board who would listen. She noted that C. Evans has not done this to date. M. Hollis asked the Board for a continuance as they would like to speak with Staff again and have the engineers give additional information. He would like to come back to the next meeting with a clearer position for everyone involved so the Board can make a more informed decision.

M. Soares made a motion to continue the application for a lot line adjustment between 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner) and 55 Wilson Road, Map 18 Lot 24-5, Zoned AR-1, Douglas B. & Maria Jones (Owners) AND subdivision to create 9 residential lots, 23 Wilson Road, Map 16 Lot 9, Zoned AR-1/IND-I, Evans Family Limited Partnership (Owner and Applicant) until November 13, 2019.

S. Benson seconded the motion.

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

Chairman Rugg noted that the plan is continued until November 13, 2019, at 7 p.m. at the Town Hall and this would be the only formal public notice.

B. Application for formal review of a site plan for the design and construction of a telecommunications facility, 11 Mohawk Drive, Map 6 Lot 35-3, Zoned C-I, Tahoe Realty Holding, LLC (Owner) & Bay Communications III, LLC and T-Mobile Northeast, LLC (Applicant) – continued from the September 4, 2019 meeting

Chairman Rugg read the case into the record. J. Butler came back to the Board for

this case. S. Benson stepped out of the room at this point in the meeting, 8:10 p.m. Chairman Rugg appointed R. Fillio to vote for S. Benson until he is back. J. Trottier told the Board that there is one outstanding checklist item for which the applicant has submitted a waiver request, and if the Board grants the waiver, Staff recommends the application be accepted as complete.

M. Soares made a motion to approve the applicant's request for the above checklist waiver as noted in the Staff recommendation memorandum dated October 9, 2019.

R. Brideau seconded the motion.

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

M. Soares made a motion to accept the application as complete per Staff's Recommendation Memorandum dated October 9, 2019.

R. Brideau seconded the motion.

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

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

John Springer, Esq. from Springer Law, 118 Maplewood Ave, #C-1, Portsmouth, NH addressed the Board noting he is joined by Vincent Granese, a consultant with Bay Communications. J. Springer reviewed the site with the Board. S. Benson came back to the Board at this point in the meeting, 8:15 p.m. He noted that they received a special exception from the Zoning Board of Adjustment (ZBA) in January of this year to operate a cell tower on this property, as well as waivers from the setback requirements. He pointed out that they are proposing a compound on the site as far back as they could to move it as far away from the street as they could. He said they received approval from the Heritage Commission in March. He explained that they are proposing a 140 foot monopole or tower that can support a total of four carriers. He said that T-Mobile would be at the top of the tower and three additional carriers would be able to locate their antennas on the tower. He commented that the Fire Department has requested them to be amenable to allow the emergency responders to have space on the tower, which they are more than happy to do. He stated that this is a great area to bring coverage to for T-Mobile to Route 102, South Road, Apple Tree Mall shopping center and surrounding commercial establishments. He said the access is off Mohawk Drive with utilities being brought to the compound underground. He commented that the ZBA's condition of approval was to discuss potential additional landscaping with the Board, which they are more than happy to do. He noted that if the tower were to be occupied by four carriers it would result in five to ten vehicle trips per month total, which the site can easily handle. He stated that the total area of the wetlands is .19 acres, which is less than the ordinance requirements and they will not be impacted.

Chairman Rugg opened it up to questions from the Board. J. Trottier reviewed the waiver request from the Board noting it is from Section 3.08.b.8 and the Town of Londonderry driveway regulations requiring that the applicant provide driveway sight distance plan and profile. He said that Staff does not support this waiver request and recommends that a sight distance plan and profile be provided in compliance with the regulations. He discussed the remaining design review items with the Board. Springer discussed the waiver request noting that it is for sight distance to the current driveway, which to their knowledge has had no issues for the trucking company that uses this and is not necessary for the applicant to address. He explained that this property received a variance to allow a C-II use (parking of trailers) on May 26, 1987, as well as a non-residential site plan approval on December 7, 1988 and a special exception to allow a wireless communication facility that does not meet the performance criteria of Section 5.10.3 on January 16, 2019. Town Planner Mailloux informed the Board that this application would not eliminate the non-residential site plan approval from 1988, but would in fact add the additional cell tower use to that prior approval to the property. R. Fillio asked if the compound is enough for all four carriers or if each carrier has to build their own. J. Springer responded that each carrier would have to build their own and would require site plan approval with the Board. G. Verani asked about the placement of the pole on the site. J. Springer explained that the setback from the northerly, westerly and southerly property line has a 150 feet requirement and they were granted 30 feet, 39 feet and 128 feet respectively from the ZBA. He reviewed the engineering of the pole to account for local buckling, so the bent portion of the pole will not go over the property line. M. Soares asked what the radius for the electromagnetic field would be. J. Springer said that they are compliant with the Federal Communications Commission (FCC) requirements. M. Soares asked if more carriers are put on the pole would the radius increase exponentially. J. Springer answered that it would not increase it exponentially. T. Combes asked if there were any images of the balloon test. J. Springer passed out pictures of the balloon test that he had with him for the Board to review. M. Soares asked if they ever considered disguising the pole. J. Springer said that the feedback they have received over the years is it is better to keep it a pole rather than trying to fool people.

Chairman Rugg opened it up to the public.

Tony DeFrancesco, One Cheshire Court, addressed the Board. T. DeFrancesco asked for clarification on the compound. J. Springer said the 50x50 compound will include an 8'x20' concrete pad. T. DeFrancesco asked why they are proposing external antennas versus internal antennas. J. Springer said that with internal antennas, they have to be stacked inside the pole and the coverage may be affected.

Chairman Rugg brought the discussion back to the Board.

M. Soares made a motion to deny the applicant's request for the above waiver as noted in the Staff recommendation memorandum dated October 9, 2019.

R. Brideau seconded the motion.

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

M. Soares made a motion to grant conditional approval of a site plan for the construction of a telecommunications facility, 11 Mohawk Drive, Map 6, Lot 35-3, Zoned C-I, Tahoe Realty Holding, LLC (Owner), Bay Communications III, LLC and T-Mobile Northeast, LLC (Applicant), in accordance with plans prepared by Hudson Design Group, last revised September 17, 2019 with the precedent conditions to be fulfilled within 120 days of the approval and prior to plan signature and general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memorandum, dated October 9, 2019.

R. Brideau seconded the motion.

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

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Hoyle, Tanner & Associates, Inc review memo dated October 9, 2019.
2. The Applicant shall provide a copy of the recorded reference plan, and update the plan notes on the existing conditions sheet to include a full plan reference, and not just a plan number.
3. All required permits and approvals shall be obtained and noted on the plan.
4. The Applicant shall note all waivers and modifications granted on the plan.
5. The Owner's signature shall be provided on the plans.
6. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Site Plan Regulations.

7. Third-party review fees shall be paid within 30 days of conditional site plan approval.
8. Financial guarantees be provided to the satisfaction of the Department of Public Works and Engineering.
9. Final engineering review.

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

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

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

2. Prior to issuance of a building permit, a report from a qualified professional engineer demonstrating compliance with Londonderry's structural and electrical standards shall be provided to the Building Department.

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

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

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

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

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

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

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

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

IV. New Plans/Public Hearings

A. Application for formal review of a site plan to construct a phased senior living facility with a total of 254 independent living units and 40 assisted living units and associated site improvements, Pillsbury Road and Michels Way, Map 10 Lots 41 and 41-1 Zoned AR-1, Woodmont Commons Planned Unit Development, Edgewood Retirement Community (Applicant) & Pillsbury Development (Owner)

Chairman Rugg read the case into the record. (T. Combes, A. Sypek, G. Verani and J. Butler stepped out of the meeting at this point.) J. Trottier told the Board that there are no outstanding checklist items and recommends the application be accepted as complete.

M. Soares made a motion to accept the application as complete per Staff's Recommendation Memorandum dated October 9, 2019.

R. Brideau seconded the motion.

The motion was granted 6-0-0. The Chair voted in the affirmative.

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

Philippe Saad, architect from DiMella Shaffer, 281 Summer Street, Boston, MA; Melissa Flynn, P.E., from SMRT Inc., 200 Brickstone Square, Suite 303, Andover, MA addressed the Board. P. Saad reviewed the site with the Board. He commented that they have tried to connect the urban aspect of Woodmont Commons with the

nature of the site as they designed the Baldwin. He noted that the road named Governor Bell Drive has been continued from Woodmont Commons to the Baldwin as well as sidewalks. He said the road will be named Wexford Street on the site that will be lined by buildings on the right and left as well as a large open space that will be used for passive recreation. He explained that they have buildings A, B, C, D, E & F, noting that Phase 1 will consist of all the buildings but F, which will be built at a later stage. He noted that building A will consist of the majority of the amenity spaces, a restaurant, gathering room, art gallery, library and administrative offices, while building B having a café and bakery that will open on the sidewalk. He said that building E will consist of a fitness center, pool, grocery store and offices. He commented that the residential units will be garden style apartments with access from the sidewalk stating that everything will be Americans with Disability Act (ADA) accessible inside and outside. He stated that there will be underground parking below buildings A, B, D, E & F for the residents. He said that there will be recreational lawn, a community garden and paths to connect the project. He pointed out that there will be a memory garden for residents, which will be private surrounded by residential units. He said that buildings D, E, B & C are all independent residential living units and building A will have assisted living units. He added that since they are building on both sides of the street they are designing a bridge that connects building D to building E.

Melissa Flynn, P.E. addressed the Board. M. Flynn reviewed the topography of the site with the Board. She explained that all the utilities will be brought on site from Woodmont Commons and the sewer is going to be routed to a pump station that TFMoran is designing for Woodmont. She said that the drainage will be collected either by rain gardens and discharged to the existing drainage channel on the west edge or the storm water treatment pond. She discussed the three waiver requests that they are requesting from the Woodmont Commons Planned Unit Development (PUD) Master Plan. She discussed the conditional use permit (CUP) that they brought before the Conservation Commission in March of this year.

David Libardoni, Esq. from Nutter McClennon & Fish LLP, 155 Seaport Blvd, Boston, MA addressed the Board. D. Libardoni said that they are proposing three amendments to the Woodmont Commons PUD Master plan as well that will allow Baldwin's density and use under the PUD. He explained that they need to amend the PUD Density Table and the first amendment is to Flexibility Factor #5. He said that they would like it to read that total PUD maximum may be exceeded if you are dealing in exchange between Nursing Homes, Assisted Living, Accommodations and Commercial Uses. He stated the second amendment is to Flexibility Factor #3 that addresses how you exchange between Nursing Homes, Assisted Living, Accommodations and Commercial Uses by proposing one room equaling 650 SF. He commented that the last amendment is to the PUD definition of nursing homes, assisted living or a life care community or other retirement community for senior (over 55 years of age) providing a continuum of care.

Chairman Rugg opened it up to questions from the Board. Town Planner Mailloux explained that Staff supports granting all three of the amendments to the Woodmont Commons PUD Master Plan. She noted that Staff supports granting the

waiver requests from Section 2.3.3 and Section 2.3.4 of the PUD Master Plan, but the request from Section 2.4.2 of the PUD Master Plan was approved under the associated subdivision and consolidation plan by the Board on May 9, 2019, so Staff does not believe that this waiver requires action at this time. She reviewed the CUP with the Board explaining the total impact to be 5,270 SF of buffer within the Conservation Overlay (CO) District with two separate areas being affected. She said the first area relates to a proposed open box culvert in the access drive and the second area is just below the commercial access drive as it wraps around the building. She noted that the Conservation Commission recommending approval of the open box culvert, but did not recommend approval of the buffer impact associated with the commercial access lane around the building. She commented that the Woodmont Commons PUD Master Plan has a modification to the CO District to allow disturbances in the CO District "as close as the edge of the jurisdictional wetland" as long as they demonstrate compliance with the criteria. She stated that if the Board finds that the applicant has demonstrated compliance with the criteria, Staff recommends approving the CUP. J. Trottier reviewed the design review items with the Board.

Mike Speltz, alternate member of the Conservation Commission, addressed the Board. M. Speltz read from a staff recommendation memorandum written by Cynthia May from September 11, 2013, for their review. He said that when the Commission reviews a CUP they look at criteria as well with one being the buffer encroachment not due to monetary advantage, for example putting in more residential units rather than staying out of the buffer. He noted that the Commission recommended shaving the corner off the building, even though the building does not encroach the buffer, the access way that goes around the building does. He commented that the developer equated a loss of 16 units with this suggestion.

Chairman Rugg brought the discussion back to the Board. S. Benson left the meeting at this time, 9:37 p.m. Chairman Rugg appointed R. Fillio to vote for S. Benson. C. Davies asked if what M. Speltz read was from the Woodmont Commons PUD Master Plan or opinion added in a memorandum. M. Speltz responded that it was a staff memorandum to the Board. Town Planner Mailloux commented that language is not in the Woodmont Commons PUD Master Plan and clarified that there is different criteria for this CUP because of the PUD rather than using the zoning ordinance criteria. C. Davies asked if a certain part was removed would it allow for the buffer to not be impacted. M. Flynn told the Board that this area is needed for the turning radii of turning fire trucks. A. Chiampa asked if building A could be made shorter to not have the buffer impact. M. Flynn responded that is where the loss of 16 units was discussed, but the applicant could not make this work with their balancing of the 5,720 SF of impact. She commented that this area was an old farmer's orchard where the farmer was dumping rocks and such, so this is not considered a valuable wetland area. M. Soares asked if there was going to be valet parking. P. Saad said that there was not. M. Soares said she would like this to be an amenity for the residents. She added that in her opinion, she thought the main entrance looked institutional and asked if this was the intent. P. Saad responded that this is just a rendering and were looking for building A to have a

grander feel than the other buildings. M. Soares asked if the café and bakery would be open to the public. P. Saad said it would be open to the general public. M. Soares asked about the community garden. P. Saad said that this would be for the residents of the Baldwin. G. Verani asked if there were enough parking spaces. Town Planner Mailloux said that they are in excess of the PUD requirements as this is an independent living facility, not just assisted living, so other parking spots to accommodate guests are needed. J. Butler said in his opinion, it looks like a lot of concrete with this development and asked if it could be broken up a bit. Michelle Crowley, landscape architect from Crowley Cottrell, LLC responded that all the paths are stabilized stone dust and all the trees have permeable pavers. A. Chiampa asked about water service to this development. M. Flynn told her that they will have water from Pennichuck and the hydrant locations have been confirmed with the Fire Department. A. Chiampa asked if they would have enough water pressure. M. Flynn answered that they would and that was addressed in the letter from Pennichuck.

Chairman Rugg opened it up to questions from the public.

Ray Breslin, Three Gary Drive, addressed the Board. R. Breslin asked if this was the first time the Board had heard about this project. Chairman Rugg noted that the Board heard about this project conceptually either in December of last year or January of this year where there was a public hearing. R. Breslin expressed concern regarding the water to the site. J. Trottier stated that Pennichuck has water capacity for this site. R. Breslin asked if they had a letter from the Fire Department. Chairman Rugg pointed out that this site would have to meet the Fire Department's specifications. R. Breslin suggested that before a decision is made tonight someone should verify where the water protection is coming from for this development.

Ari Pollack, Esq. from Gallagher, Callahan & Gartrell, PC, 214 North Main Street, Concord, NH addressed the Board. A. Pollack told the Board that he is representing Pillsbury Realty Development and concurs with the submissions of the presenters this evening. He specifically commented on the CUP, stating that the type of buffer impact that is proposed is not created by the building but rather the area that surrounds the building. He said that he believes this is entirely consistent with other buffer impacts that have been proposed by the PUD modification and have been approved by the Board.

Chairman Rugg brought it back to the Board.

M. Soares made a motion to approve the Applicant's request for the above amendments to the Woodmont Commons PUD Master Plan as outlined in Staff's recommendation memorandum dated October 9, 2019.

T. Combes seconded the motion.

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

M. Soares made a motion to approve the applicant's request from Section 2.3.3 and Section 2.3.4 of the PUD Master Plan waivers as outlined in Staff's recommendation memorandum dated October 9, 2019.

T. Combes seconded the motion.

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

M. Soares made a motion to grant the request for a conditional use permit per Staff's Recommendation Memorandum dated October 9, 2019.

T. Combes seconded the motion.

The motion was granted, 8-1-0. The Chair voted in the affirmative.

M. Soares made a motion to grant conditional approval of the site plan to construct a phased senior living facility with a total of 254 independent living units and 40 assisted living units and associated site improvements, Pillsbury Road & Michels Way, Map 10, Lots 41 and 41-1, Zoned AR-1, Woodmont Commons Planned Unit Development, Edgewood Retirement Community (Applicant) Pillsbury Realty Development (Owner) in accordance with plans prepared by Dimella Shaffer & SMRT, last revised September 19, 2019 with the following precedent conditions to be fulfilled within 120 days and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated October 9, 2019.

T. Combes seconded the motion.

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

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Hoyle, Tanner & Associates, Inc review memo dated October 9, 2019.

2. Prior to plan signature, the associated Woodmont Commons Lot Line Adjustment and Consolidation plan, conditionally approved by the Planning Board on May 8, 2019, shall receive final approval and be recorded in the Rockingham County Registry of Deeds.
3. All required permits and approvals shall be obtained and noted on the plan.
4. The Applicant shall note all waivers and modifications granted on the plan.
5. The Owner's signature shall be provided on the plans.
6. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Site Plan Regulations.
7. Third-party review fees shall be paid within 30 days of conditional site plan approval.
8. Financial guarantees be provided to the satisfaction of the Department of Public Works and Engineering.
9. Final engineering review.

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

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

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

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

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

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

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

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

B. Public hearing on proposed changes to the Londonderry Zoning Ordinance, Section 5.15.1 Portable Storage Structures in the AR-1 District, 5.15.2 Portable Structures in Commercial Districts, and 5.15.3 Portable Structures in Industrial Districts as it relates to provisions concerning placement, length and permitted time of these structures

Chairman Rugg read the case into the record. T. Combes left the meeting at this point 10:15 p.m. Chairman Rugg told the Board that they have to decide if they want another discussion on this or to approve the language as it is written tonight. Town Planner Mailloux summarized that the language presented tonight was discussed by the Board last month and recommended either taking action to recommend this language to the Town Council or not after they have heard public input.

Chairman Rugg opened it up to discussion from the Board. A. Chiampa voiced her concern with the 40 foot storage containers in the front yards of residential dwellings.

J. Butler expressed his concern that this language does not help a resident who has a lot of land where one of these containers might never be seen. He commented that it could be written so that a container must be behind someone's house, as he felt this could be treated like a shed. He asked if it is known how many are actually in the Town right now and what will happen to residents who currently have them.

Chairman Rugg opened it up to questions from the Board.

Marc Fortin, from Fortin Modular Storage Co, 574 Mammoth Road, Londonderry, addressed the Board. M. Fortin said that this has come to be a problem two years ago when the Town started to issue letters to residents who had these containers. He told the Board that it would be his recommendation to look around to the surrounding towns for guidance, as they treat these containers like any other out building. R. Brideau told M. Fortin that these containers cannot be taxed. J. Butler expressed his frustration that for the past three months of discussion, he has suggested these containers be behind a resident's house, tax it and leave it alone. Town Planner Mailloux commented that the language J. Butler just presented had been in the ordinance before and then it was taken out as a result of one of the many conversations the Board had. She said that there was a concern from Richard Canuel, Chief Building Inspector, Health Officer, Zoning Administrator & Code Enforcement Officer, about putting an additional restriction on a portable storage unit that was not on other structures and sheds, so that language was taken out. She suggested that the Board either move forward and recommend the language that is in front of them tonight to the Town Council or not move forward.

Tony DeFrancesco, One Cheshire Court, addressed the Board. T. DeFrancesco commented that he believes these containers should be taxed, but does not believe these containers should be in a residential zone other than moving, fires and remodeling, which are covered in other parts of the ordinance. He said that he does agree with J. Butler that this language is limiting and has suggested there be language stating "or by special exception by the Code Enforcement Officer," which would help other situations. He noted that the Board is now back to where they started with the original language. He asked if these could be permitted. Town Planner Mailloux responded that the Building Department/Code Enforcement Officer does not want to have a permit for this. She said that if the Board is not comfortable with this language, M. Fortin could submit his own draft to Staff and then the Board can take a vote on his proposed language.

Ben Fontaine, Londonderry Baptist Church, addressed the Board. B. Fontaine said that he spoke to R. Canuel six months ago and offered to side it and put a roof on it or move it behind the church, but was told no. He reiterated that the church wants to be able to keep this container, as there shed was broken into years ago and now they have the container. M. Soares asked who would give people relief. Town Planner Mailloux answered the Zoning Board of Adjustment (ZBA). B. Fontaine offered to have the Town tax this one and treat it like a shed. Town Planner Mailloux told the Board that if the language presented tonight is approved, the church would be able to get the container approved on a site plan under administrative review. She noted that without this language, containers are not permitted in an AR-1 District, whether

a non-residential use or not. C. Davies suggested that if a container is in the back of the property, not visible, screened, on permanent footing, that there be an exception for this. M. Soares asked to make the change that a container would not be allowed in a front yard. Town Planner Mailloux summarized the new language to be provision H "with the approval of the Building Official exceptions to these regulations may be granted where a portable storage container is located to the side, rear, is not visible from the roadways, right-of-ways and is appropriately screened." M. Soares asked if the Board could vote on this new language or if another public hearing was needed. Town Planner Mailloux told the Board she would like to be able to write the new language, have Staff review it and bring it back for a public hearing. M. Soares suggested the public hearing be held on the first meeting of the month. Town Planner Mailloux said this could be continued until November 6, 2019.

M. Soares made a motion to allow the Town Planner to add the proposed language discussed tonight to the portable storage ordinance and have another public hearing on November 6, 2019.

C. Davies seconded the motion.

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

V. Other

VI. Adjournment

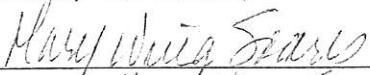
Member R. Brideau made a motion to adjourn the meeting at approximately 10:45 p.m. Seconded by M. Soares.

The motion was granted, 9-0-0.

The meeting adjourned at approximately 10:45 PM.

These minutes were prepared by Beth Morrison.

Respectfully Submitted,


Name: Mary W. Soares
Title: Vice Chair

These minutes were accepted and approved on November 6, 2019, by a motion made by M. Soares and seconded by T. Combes.

STAFF RECOMMENDATION

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

Date: October 9, 2019

Application: Application for formal review of a site plan for the construction of a telecommunications facility, 11 Mohawk Drive, Map 6, Lot 35-3, Zoned C-I, Tahoe Realty Holding, LLC (Owner), Bay Communications III, LLC and T-Mobile Northeast, LLC (Applicant).

- Completeness: There is one outstanding checklist item, for which the Applicant has submitted a waiver request. If the Board grants the waiver, Staff recommends the Application be accepted as complete.
- Checklist Waiver: The Applicant has requested the following waiver from the Site Plan Regulations:
 1. A waiver from Section 4.12 of the Site Plan Regulations and Checklist Item V.2 which requires that a boundary plan be provided. Staff **supports** this waiver as the Applicant has indicated that there is an existing boundary plan on record. Staff has included recommended conditions of approval that a copy of the reference plan be provided and the plan notes on the existing conditions sheet be updated to include the full plan reference.
- Board Action Required: **Motion to approve the applicant's request for the above checklist waiver as noted in the Staff recommendation memorandum dated October 9, 2019**
- Board Action Required: **Motion to accept the application as complete.**
- Waivers: The Applicant has requested the following waiver from the Site Plan Regulations:
 1. A waiver from Section 3.08.b.8 and the Town of Londonderry driveway regulations requiring that the Applicant provide driveway sight distance plan and profile. Staff **does not support** this waiver request and recommends that a sight distance plan and profile be provided in compliance with the regulations.

Board Action Required: **Motion to deny the applicant's request for the above waivers as noted in the Staff recommendation memorandum dated October 9, 2019**
- Recommendation: Based on the information available to date, Staff recommends that the Planning Board **CONDITIONALLY APPROVE** this application with the Notice of Decision to read substantially as follows:

Board Action Required: Motion to grant conditional approval of a site plan for the construction of a telecommunications facility, 11 Mohawk Drive, Map 6, Lot 35-3, Zoned C-I, Tahoe Realty Holding, LLC (Owner), Bay Communications III, LLC and T-Mobile Northeast, LLC (Applicant), in accordance with plans prepared by Hudson Design Group, last revised September 17, 2019 with the precedent conditions to be fulfilled within 120 days of the approval and prior to plan signature and general and subsequent conditions of approval to be fulfilled as noted in the Staff Recommendation Memorandum, dated October 9, 2019.

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Hoyle, Tanner & Associates, Inc review memo dated October 9, 2019.
2. The Applicant shall provide a copy of the recorded reference plan, and update the plan notes on the existing conditions sheet to include a full plan reference, and not just a plan number.
3. All required permits and approvals shall be obtained and noted on the plan.
4. The Applicant shall note all waivers and modifications granted on the plan.
5. The Owner’s signature shall be provided on the plans.
6. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Site Plan Regulations.
7. Third-party review fees shall be paid within 30 days of conditional site plan approval.
8. Financial guarantees be provided to the satisfaction of the Department of Public Works and Engineering.
9. Final engineering review.

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

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work for the subdivision may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the site-restoration financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.
2. Prior to issuance of a building permit, a report from a qualified professional engineer demonstrating compliance with Londonderry's structural and electrical standards shall be provided to the Building Department.
3. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
4. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
5. Fire department access roads shall be provided at the start of the project and maintained throughout construction. Fire department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with an all-weather driving surface.
6. Prior to issuance of a certificate of occupancy, all site improvements and off-site improvements shall be completed in accordance with the phasing plan approved by the Planning Board.
7. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.
8. Site improvements must be completed in accordance with the approved plan prior to the issuance of a certificate of occupancy. In accordance with Section 6.01.d of the Site Plan Regulations, in circumstances that prevent landscaping to be completed (due to

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

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

MEMORANDUM

To: Planning Board

Date: October 9, 2019

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

Re: Londonderry, NH Mohawk Drive
Communications Tower
11 Mohawk Drive
Map 6, Lot 35-3

Owner: Tahoe Realty Holding, LLC

Applicant: Bay Communications III LLC and
T-Mobile Northeast LLC

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

Checklist Items:

1. The Applicant has not provided a boundary plan with the required certifications per Checklist item V.2. and has submitted a written **waiver request** for this item.

Design Review Items:

1. The Applicant has submitted a written **waiver request** from providing the required sight distance plan and profile for consideration by the Board. LSPR 3.08.b.8. and the Town of Londonderry driveway regulations require that the Applicant provide sight distance documentation for the existing driveways to demonstrate that sight distance criteria are met. The Applicant has previously responded that the sight distance information is provided; however, the sight distance information is not indicated on the plan set.
2. The Applicant has not provided a utility clearance letter for the "telco" run indicated on the plans per Londonderry Site Plan Regulations (LSPR) Sections 3.04. and 4.18.b. and Checklist item XI.5. We recommend that the Applicant provide utility clearance letters in accordance with the regulations.
3. The Applicant should update the plans to remove the Planning Board approval block from sheets other than the cover sheet, site plan and landscape plan and should use the current version of the approval block per Checklist item III.4. and LSPR Section 4.03.
4. The owner's signature should be provided on the plan set per LSPR 4.12.c.16. and Checklist item V.13.
5. The Applicant should provide a surveyor's certification, stamped and signed by the Licensed Land Surveyor on the existing conditions sheet.
6. The Applicant has provided a plan note on the *Title Sheet* indicating that monuments are to be set, however; locations of the monuments and installation details are not provided per Checklist V.3.b. and LSPR 3.02.a, b., and c. and 4.12.c.4.. Monuments to be set should be indicated on the plans.

7. The Applicant has not provided the location of benchmarks (or control points) on the required plans per Checklist VI.1.r. and LSPR Section 4.05.. Control points have been indicated on the existing conditions plan and should be added to the improvement plans.
8. The Applicant should add the plan scale to the vicinity plan on the title sheet and to the locus map on the Existing Conditions Plan per Checklist IV.2. and Checklist V.
9. We recommend that the Applicant provide or address the following related to the **Commercial Wireless Communication Facility requirements**:
 - a. The report required under LSPR 5.01.b.3.iii. was not provided and the Applicant has requested that this requirement be incorporated as a condition of approval, as allowed by the regulations.
 - b. The Applicant has proposed a 140' monopole and has received a special exception on January 16, 2019 to allow setbacks of 128', 39' and 40'. We note that a condition of the special exception requires that the Planning Board approve the type, size and location of existing and proposed plant materials.
10. We recommend that the Applicant clarify/address the following on the **Abutters Plan/Existing Conditions plan**:
 - a. The Applicant has noted a proposed 25' access/utility easement, on the site plan, yet a portion of the landscaping is shown outside of the easement. The Applicant's response letter indicates that the Applicant is responsible for maintaining the landscaping. A copy of the agreement should be provided to the Town.
11. We recommend that the Applicant address the following items related to the **Grading and Drainage Plan** requirements:
 - a. The Applicant has added four spot grades showing the intent for future stormwater flow, however; one of the spot grades should be coordinated with the adjacent existing contour line. As designed, the Applicant has created a low point within the site that will have ponding. Additionally, the Applicant should review the elements required to be provided on Grading and Drainage Plans and include those elements on a plan that shows the proposed grading details as required by LSPR 4.14.a. (such as; outlet of existing pipe, inverts, pipe cover, and drainage flow arrows).
 - b. An existing drainage structure and pipe that will receive flow from the developed site is shown on the plan, but no information is provided on the plan set regarding the structure as required by 4.14.a.19. The Applicant has noted that there are no existing drainage structures; however, the plan sheet shows an existing catch basin within the limits of the driveway curb cut and an existing 15" CPP in the rear of the property. The Applicant should provide details for the existing catch basin and the 15" CPP located at the northeast corner of the site.
12. We recommend that the Applicant clarify/address the following related to **Site Layout and Design**:
 - a. The Applicant should label the driveway radius flares for the existing drives.

13. We recommend that the Applicant address the following items related to the **Project Drainage Report** (No updated drainage report information was provided since the review dated 7/17/19.):
- The Applicant should provide the watershed area delineated on a current USGS quadrangle as required by LSPR 3.07.b.6. (The Applicant has provided a USGS map with the drainage areas within the parcel shown, but has not shown the actual watershed contributing area on the USGS plan provided.)
 - The Applicant should review the delineation of the subcatchment areas as some of the area might fall outside of the site boundaries. (We find it unusual for the catchment delineation to exactly match the property boundaries. The Applicant noted it was intentionally calculated in this manner due to the small parcel size.) The Applicant should review the discharge points and provide a clearer plan showing the locations of them. Per the report, the post-development flows match the pre-development flows, however; a complete review could not be performed until the mentioned items are adjusted (i.e. show discharge points of interest—effect on each abutter, confirm catchment boundaries, use “good soil,” review curve numbers, update time span, etc.) in accordance with LSPR 3.07.a.1. Per Londonderry’s requirement, a table showing actual discharge flows to each abutter should be provided.
 - The Applicant should review the Curve Numbers used. Per LSPR 3.07.b.11., the New Hampshire Department of Environmental Services (NHDES) standards are part of the Site Plan Regulations. Per Env-Wq 1504.09.b.3.a. (NHDES regulations), the hydrologic condition for woods should be “good”, where the calculations used poor. (See Existing Subcatchment 1, etc.)
 - Subcatchment 1 does not appear to have an outlet. The Applicant should clarify where Subcatchment 1 is routed to, or if it is a discharge point off the site. (The Applicant has stated in a letter that the flows from Subcatchment 1 flow off-site to the southeast, but have not presented any updates to the drainage report.)
 - The Applicant should clarify how the Curve Number (CN) for the Crushed Stone Compound can be less than the woods material below it (CN=66) when the Compound material is only 6” thick. The Applicant has noted that the CN was decreased to 50 because the 6” of gravel provides a larger void space than the existing smaller grained soil. Although we agree that it is likely the net volume impact is small, since the CN 66 soil is not being replaced with the CN 50 soil, so we do not feel this is an assumption that is representative of the field condition.
14. We recommend that the Applicant clarify/address the following details related to the **Erosion Control Details & Notes Sheet (C-5)**:
- Silt Sock Detail: The Applicant should clarify when the compost material should be removed from site (as noted in note 2).
 - The Applicant should update Note 7 to coordinate with the detail regarding the thickness of removal of organics on Sheet A-5.
15. We recommend that the Applicant clarify/address the following details related to the **Details Sheet (A-5) and Proposed Erosion Control Plan (C-4)**:
- Stabilized Construction Entrance Detail: The Applicant has removed the Stabilized Construction Entrance Detail from the plan set. Since there is proposed earth moving activity with trucks in

and out of the site that could move dirt onto Mohawk Drive, the detail and location for the construction entrance should be included in the plan set as discussed with Staff.

Board Action Items:

1. The Applicant submitted a written waiver request to two (2) of the Site Plan Regulation's requirements. The Board will need to consider each waiver request as part of the project review.

Board Information Items:

1. The property has received a variance to allow a C-II use (parking of trailers) that was approved on May 26, 1987 (case # 5/26/87-10).
2. The property has received a non-residential site plan approval, approved on December 7, 1988.
3. The property has received a special exception to allow a wireless communications facility that does not meet the performance criteria of Section 5.10.3 (case # 1/16/19-2).

STAFF RECOMMENDATION

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

Date: October 9, 2019

Application: Application for formal review of a site plan to construct a phased senior living facility with a total of 254 independent living units and 40 assisted living units and associated site improvements, Pillsbury Road & Michels Way, Map 10, Lots 41 and 41-1, Zoned AR-1, Woodmont Commons Planned Unit Development, Edgewood Retirement Community (Applicant) Pillsbury Realty Development (Owner).

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

Board Action Required: **Motion to accept the application as complete per Staff's Recommendation Memorandum dated October 9, 2019.**

- **PUD Amendment Request:** The Applicant has requested the following amendments to the PUD as it relates to the application of PUD density exchanges and the definition of Nursing Home and Assisted Living Facilities:
 1. Amend the PUD Density Table- Flexibility Factor number 5 to add clarifying language that the Total PUD Maximum Development may be exceeded for Nursing Homes, and Assisted Living, Accommodations and Commercial Uses pursuant to an exchange in Allowable Area as permitted under Flexibility Factor #3. Staff **supports** approving the requested amendment as it is consistent with the spirit and intent of the PUD and clarifies the use of allowable area exchanges. This amendment will NOT allow an increase in the overall maximum PUD development.
 2. Amend the PUD Density Table – Flexibility Factor number 3 to add clarifying language that for the purposes of exchanging Accommodations to either Nursing Homes and Assisted Living or Commercial Uses, or exchanging Nursing Homes and Assisted or Commercial Uses for Accommodations, 1 Room shall equal 650 square feet. Staff **supports** approving the requested amendment as it provides for a reasonable “conversion rate” on density exchanges between square footage and room number which is currently unclear in the PUD.
 3. Add to the PUD a Definition for Nursing Homes and Assisted Living in Section 2.1.5 of the PUD as follows: Nursing Homes and Assisted Living shall mean any of the following: (i) “Assisted Living Facilities” as defined under the Londonderry Zoning Ordinance, (ii) “Nursing Homes” as defined under the Londonderry Zoning Ordinance, or (iii) a life care community or other retirement community for seniors (over 55 years of age) providing a continuum of care including both independent living units and Assisted Living Facilities and/or Nursing Homes. Staff **supports** approving the requested amendment as it provides clarity on what constitutes an Assisted Living Facility / Nursing home in accordance with the PUD.

Board Action Required: Motion to approve the Applicant's request for the above amendments to the Woodmont Commons PUD Master Plan as outlined in Staff's recommendation memorandum dated October 9, 2019.

- **PUD Waiver Request:** The Applicant has requested the following three waivers of the PUD Regulations and Standards:
 1. A waiver from Section 2.3.3 of the PUD Master Plan which requires vertical granite curb on both sides of a commercial access lane. The Applicant is proposing sloped granite curb at the outside side of the rear access lane which provides service access around the rear of the proposed building. Staff ***supports*** the waiver in the locations requested because it is located to the rear of the building and is not adjacent to pedestrian walkways.
 2. A waiver from Section 2.3.4 of the PUD Master Plan which requires 13 bicycle parking spaces. The Applicant is proposing to provide 8 bicycle parking spaces. Staff ***supports*** the waiver as the Applicant has indicated that additional bicycle parking spaces are available in the parking garage.
 3. A waiver from Section 2.4.2 of the PUD Master Plan for Lot Type frontage and depth regulations. As the Planning Board approved a waiver for the lot frontage and depth requirements under the associated subdivision and consolidation plan conditionally approved on May 8, 2019, Staff does not believe that this waiver requires action at this time.

Board Action Required: Motion to approve the Applicant's request for the above waivers 1 and 2 as outlined in Staff's recommendation memorandum dated October 9, 2019.

- **Conditional Use Permit:** The Applicant is requesting a conditional use permit for 5,270 square feet buffer impact in the Conservation Overlay District.

The Conservation Commission recommends approval of the wetland CUP for the purposes of installing an open bottom box culvert associated with a wetland crossing. The Conservation Commission does not recommend approval of the buffer impact associated with commercial access lane around the building.

Under the Woodmont Commons PUD Master Plan, a modification was approved to the Conservation Overlay District allowing disturbance in the CO district "as close as the edge of the jurisdictional wetland" as long as it demonstrates compliance with the following criteria:

- The structure for which the exception is sought cannot feasibly, after consideration of all reasonable alternatives, be constructed on a portion or

portions of the lot which lies outside the CO District or the application of the CO District eliminates greater than 50% of the buildable area located on the parcel.

- The proposed structure and use must be consistent with the intent of the CO District, and provisions must be made to ensure the structure's drainage will not adversely impact any wetlands and be consistent with the purpose and intent of this section.
- There shall be no construction of parking areas within the area for which the conditional use permit is sought.
- The maximum building coverage in the outer-50 feet of the buffer area shall be no greater than 50%
- Best management practices must be demonstrated to the satisfaction of the Planning Board.

If the Board finds that the Applicant has demonstrated compliance with the above criteria, staff recommends approving the Conditional Use Permit as requested.

Board Action Required: Motion to grant the request for a conditional use permit per Staff's Recommendation Memorandum dated October 9, 2019.

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

Board Action Required: Motion to grant conditional approval of the site plan to construct a phased senior living facility with a total of 254 independent living units and 40 assisted living units and associated site improvements, Pillsbury Road & Michels Way, Map 10, Lots 41 and 41-1, Zoned AR-1, Woodmont Commons Planned Unit Development, Edgewood Retirement Community (Applicant) Pillsbury Realty Development (Owner) in accordance with plans prepared by Dimella Shaffer & SMRT, last revised September 19, 2019 with the following precedent conditions to be fulfilled within 120 days and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated October 9, 2019.

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

PRECEDENT CONDITIONS

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

1. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Hoyle, Tanner & Associates, Inc review memo dated October 9, 2019.
2. Prior to plan signature, the associated Woodmont Commons Lot Line Adjustment and Consolidation plan, conditionally approved by the Planning Board on May 8, 2019, shall receive final approval and be recorded in the Rockingham County Registry of Deeds.
3. All required permits and approvals shall be obtained and noted on the plan.
4. The Applicant shall note all waivers and modifications granted on the plan.
5. The Owner's signature shall be provided on the plans.
6. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Site Plan Regulations.
7. Third-party review fees shall be paid within 30 days of conditional site plan approval.
8. Financial guarantees be provided to the satisfaction of the Department of Public Works and Engineering.
9. Final engineering review.

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

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the site-restoration financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.
2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of

conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.

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

MEMORANDUM

To: Planning Board

Date: October 9, 2019

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

Re: Site Plan – The Baldwin, Senior Living
at Woodmont
Map 10, Lot 41-1
Pillsbury Road

Owner: Pillsbury Realty Development, LLC
Applicant: Edgewood Retirement Community

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

Design Review Items:

1. The Applicant has proposed nontraditional sloped granite curb for use in the commercial access lane where the Woodmont PUD Master Plan 2.3.3. requires vertical curb. They have submitted a written **waiver request** to this requirement for consideration by the Board.
2. The Applicant has proposed frontage and depth dimensions that do not comply with Lot Type frontage and depth regulations in Woodmont PUD Master Plan 2.4.2. and has submitted a written **waiver request** to this requirement for consideration by the Board.
3. The Applicant has submitted a written **waiver request** from the Bicycle Parking requirements as required by Woodmont PUD Master Plan 2.3.4. for consideration by the Board to provide 8 bicycle parking spaces where 13 are required, and have noted that additional spaces will be available in the parking garage.
4. The Applicant has indicated that the New Hampshire Department of Environmental Services (NHDES) Alteration of Terrain permit is pending. When received, the project permit should be provided for inclusion in the Planning Department files. In addition, the Applicant has indicated that the NHDES and Town of Londonderry sewer discharge permits will be filed by the Applicant and that Pillsbury will be filing the NHDES water supply permit.
5. The Applicant has indicated that I Rods will be set to comply with LSPR Section 4.12.c.4. , and has stated that construction of the road leading to the pump station will comply with appropriate monumentation requirements. The Existing Conditions Plan continues to note that I Rods will be set. The plan should be clear that the road leading to the pump station (formerly Placeholder Way) will be monumented (instead of pinning).
6. The Applicant's plan set should be stamped by a professional engineer in accordance with LSPR Section 4.01.c. The submittal did not include the stamp on sheet CG201.
7. The Applicant has included benchmarks, but has not shown them on every relevant or appropriate sheet of the plan set as required by LSPR Section 4.05. Additionally, the legend should be provided on every relevant or appropriate sheet as required by LSPR 4.08.

8. It is our understanding that, upon approval and recording of the associated subdivision plan creating the subject parcel, reference will be made to that plan in lieu of providing a full boundary plan.
9. The Applicant should provide spot grades on the top and bottom of the water feature's surrounding walls in accordance with LSPR Section 4.14.a.12. (The Applicant has indicated that no walls are required for the water feature, however; the detail provided includes wall details.) The Applicant has noted that water feature details will be provided with the Building Permit Application. Since this is a site feature, we recommend that basic details, such as depth, be provided on the grading plan at this time. Additionally, the Applicant should confirm with the Building Inspector whether additional protective measures are required where no wall or rail is proposed adjacent to the water feature.
10. The following **Utility requirements** are noted with some remaining to be addressed:
 - a. The Applicant should provide complete details related to the proposed telephone, cable, and electric systems that complies with LSPR Section 4.14.b.7. (The Applicant has provided electric conduit locations and details on the plan, but has not shown proposed locations for cable or telephone. One adjustment that could be made to clarify would be to modify the electrical conduit label on the plan sheets to say electrical/communications trench, or something that conveys the same information (versus the legend label of "New Underground Electric"). If there are two conduit runs proposed in a single trench, the detail should be updated to show both conduit runs in the same trench and/or to clarify the intent for cable and telephone to share conduit.) Furthermore, the electric and communications trench details should be coordinated with the Pennichuck trench detail on the preceding sheet which requires 5' of separation.
 - b. The Applicant has indicated that the off-site pump station was designed by Woodmont Commons and will be reviewed as part of their subdivision approval.
11. We recommend that the Applicant clarify/address the following related to **Site Layout and Design**:
 - a. Sheet CP102: The Applicant's proposed northeasterly access point is partially constructed on the parcel to the north. The Applicant has stated that the access lane to the north will be constructed by the developer and that each will be responsible for work on the respective properties. The Applicant has provided draft easement documents which clearly state that utility construction and maintenance is allowed, however, the document should be clarified to allow driveway construction. We recommend that copies of updated access and construction easements be provided to the Town when available.
 - b. Sheets CP101: The Applicant should label and detail Detectable Warning Surfaces and flush loading zones. The Applicant has added clarifying linework to the area near the west entrance at Building A, however; additional information should be added to the drop off circle on the east side of Building A. We continue to recommend that spot grades be provided to clarify where flush sidewalk or loading zones is/are proposed. Also, the Applicant has noted the intent to install raised crosswalks between Building E and Building A. Additional information should be provided detailing how the ramps of the crosswalk are intended to be constructed. (What is the proposed length of the ramp, such that the slope can be

identified. This is important for small vehicle planning and emergency response vehicle identification.) We also recommend that the Applicant consider signage or pavement markings warning motorists of the raised crosswalk. Additionally, we note that the line-type for the various curb types is difficult to differentiate on the printed version of the plan set. The Applicant has noted that the plans will be revised for clarity at the time of construction issue. We recommend that this be addressed prior to that stage.

- c. The Applicant has provided spot grades and has noted the intent to provide required ADA crosswalk slopes, however; the proposed crosswalk along the entrance drive is shown to exceed the required 2% maximum cross slope.
12. The Applicant should verify that all design review comments for the project are adequately addressed as applicable:
- a. Please verify the comments of the Planning Department have been adequately addressed with the Planning Department.
 - b. Please verify the comments of the Conservation Commission have been adequately addressed with the Conservation Commission.
 - c. Please verify that any comments of the Sewer Division have been adequately addressed with the Sewer Division.

Board Action Items:

- 1. The Applicant submitted written waiver requests to three (3) of the Woodmont PUD Master Plan's requirements as noted in the submittal dated September 19, 2019. The Board will need to consider each waiver request as part of the project review.
- 2. The Applicant is proposing improvements within an area outlined on the plan to be within the Conservation Overlay District (COD) that will require Conditional Use Permit (CUP) approval by the Planning Board. The Applicant has noted that they have submitted a CUP for review.

Board Information Items:

- 1. This submission is for approval of a site plan for a senior living facility.
- 2. The Applicant has submitted a draft access and utility easement document to the Town relative to use of shared infrastructure.
- 3. The Applicant has included parking space calculations indicating that significant excess parking is proposed. The Applicant has noted that the number of parking spaces is required by the operations of the Applicant.
- 4. Plan approval is contingent on approval of the associated subdivision plan conditionally approved on May 8, 2019.