

TOWN OF AMHERST
Planning Board

December 6, 2023

APPROVED

In attendance at Town Hall: Arnie Rosenblatt – Chair, Tracie Adams, Chris Yates, Bill Stoughton – Board of Selectmen Ex-Officio, Rob Clemens (alternate), Pam Coughlin (alternate), and Brian Cullen (alternate).

Staff present: Nic Strong (Community Development Director), and Kristan Patenaude (Recording Secretary) (remote)

Arnie Rosenblatt called the meeting to order at 7:00pm.

Rob Clemens sat for Cynthia Dokmo. Pam Coughlin sat for Tom Silvia. Brian Cullen sat for Tom Quinn.

PUBLIC HEARING(S):

1. **CASE #: PZ17708-080923 – Riley Investment Properties, LLC c/o Tom Riley (Owner & Applicant); 125 NH Route 101A, PIN #: 002-035-001-C.** Non-Residential Site Plan. To amend the previous site plan approval for Phase C involving the construction of a 12,000 square foot single story retail building and propose a 2,400 square foot single story drive-thru only café. *Zoned Commercial. Continued from November 1, 2023.*

Arnie Rosenblatt read and opened the case. He explained that the Board previously heard this case twice and deferred it until now largely at the request of an abutter who had raised concerns with respect to the impact on his business due to traffic. Since then, the Board has received additional materials, including materials from the abutter.

Sam Foisie, Meridian Land Services representing the applicant, explained that this item was continued from the last Planning Board meeting essentially to give the abutter more time to review two traffic memos. An additional memo has also since been provided. The applicant has had internal discussions for reevaluating the traffic patterns internal to the site. The applicant has added an inbound turn at the eastern entrance, allowing traffic to make it to the parking area without having to go through the kiosk lane. Striping has also been added to avoid any conflict from one way traffic to two-way traffic. Pavement markings for the drive through lanes have been extended and identify which ones are the drive through lanes. Pavement markings have also been extended to channelize the drive through toward the pickup window. Several traffic engineers have had input on these plans. Additionally, the applicant heard concerns regarding the traffic along the internal drive and signage has been added stating, “do not block traffic.” The abutter’s report does indicate that those signs could be clearer to not block the driveway and the applicant is happy to change the verbiage if the Board so chooses. An additional sign has been added encouraging patrons traveling southbound to exit right, in order to lessen the amount of traffic volume on the reverse access drive.

Sam Foisie noted that Nic Strong, Community Development Director, pointed out that the driveway permit filed by the applicant was not the correct one. She was correct, and the applicant

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has since reached out to DOT to update that traffic permit. DOT responded that the two separate driveway permits are definitely related and would likely be used by this proposed use. The applicant can update the second permit as it relates to the proposed site, which it has, and there may be some small updates required (line striping updates). Sam Foisie stated that, while he cannot guess which updates the DOT will require, his prediction is that the existing markings have faded, and DOT will ask for these to be restriped.

Regarding other state permitting, Sam Foisie stated that the applicant has received comment from State Alteration of Terrain (AoT) and is prepared to resubmit following this meeting. The applicant hopes to receive conditional approval from the Board, with the condition that an AoT permit, and updated DOT permit are provided. The applicant has provided three traffic memos, which essentially all say the same thing, that there is no adverse impact caused by this proposed project. He suggested that the Board first hear from the abutter's traffic engineer and then from the applicant's.

Arnie Rosenblatt stated that he would like to hear questions from the Board at this time.

Tracie Adams stated that she appreciates the changes made by the applicant. She asked about the applicant's proposal for traffic to turn right from the site towards the Goodwill store. Sam Foisie stated that this will take traffic through the Goodwill's parking lot and out the nearby access drive. Tracie Adams asked about traffic queuing coming from the Taco Bell/KFC. Sam Foisie stated that the Taco Bell is designed to have a bypass lane that circumvents the other sites. This is similar to the Dunkin' Donuts. Signage could be created to circumvent this area.

Kim Hazarvartian, P.E., with TEPP LLC, stated that the site has queue storage for 34 vehicles and 27 parking spaces with no inside seating. This allows for up to 60 vehicles being stored on the site. He stated that he has never heard of so much queue storage and parking on a site like this. The queuing all fits on the site and will not affect the other nearby sites. If the other sites are having operational issues and spill over, that is separate from this proposal. This site will be self-contained. Tracie Adams stated that she has visited the Pressed Café site in Nashua and is familiar with how that site is run. This seems to have a larger scale amount of queuing available and the amount of parking available seems very reasonable, if not oversized a bit.

Chris Yates asked if the property next door is owned by the same person. Sam Foisie stated that it is not. Chris Yates stated that the traffic studies did not answer the overall concerns of some Board members regarding the traffic flow in and out of the site. There does seem to be plenty of space for queuing once on the site, but the concern is as the traffic funnels in and out. Sam Foisie stated that the westerly entrance is one of the first entrances into the site. The queuing would run from Dunkin' Donuts into the intersection, well beyond the applicant's driveway before it becomes an issue. He stated that he does not believe it is natural for vehicles to block driveways, but it is natural for them to queue along the access drive. Chris Yates stated that, post COVID, he sees people block roads or parking spots all the time. Sam Foisie stated that, other than signage, the applicant cannot control the operations of the other nearby sites.

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Bill Stoughton stated that Keach Nordstrom had further comments since the last meeting dealing with stormwater management and agreement for maintenance. He noted that the Staff Report contains a draft condition precedent which states that the applicant will obtain verification from the Town Engineer that the plans and stormwater management plan are acceptable. He asked if the applicant is agreeable to this. Sam Foisie noted that this maintenance may be handled by the association in charge of these parcels, but the applicant is willing to sign off to make sure this is acceptable with the Town Engineer.

Bill Stoughton asked who owns the access road between Dunkin' Donuts and the applicant's site. Sam Foisie explained that this is privately owned by the condominium association. Bill Stoughton stated that he is trying to understand the Town's interest in this road. He understands that there needs to be emergency access for safety purposes, but otherwise this may be more of a private matter for the parties to work out. He stated that he has reviewed the traffic reports and agrees with the design. There does seem to be more than ample storage on site.

Bill Stoughton asked the applicant for an appropriate marker for active and substantial development and substantial completion. Sam Foisie stated that, in order to stay consistent with other past projects, he would recommend stormwater for the active and substantial development and a completed topcoat of pavement for the substantial completion. Bill Stoughton stated that he believes the active and substantial items should be completed within 24 months. Sam Foisie agreed.

In response to a question from Rob Clemens, Sam Foisie stated that it is unclear what an existing monitoring well is there for, and the applicant would agree to abandon it, but is also willing to relocate it elsewhere on the site. PFAS will not be removed from the site, as it is a fill site. As this site was already developed, there is an existing stormwater basin, and the site was previously disturbed, there is not much more that can be done to deal with the PFAS on the site.

Pam Coughlin and Brian Cullen had no questions at this time.

Attorney Tom Pappas, representing Andrade Management Group, explained that the focus is whether the traffic that will be generated by the proposed development will cause traffic problems in the area. The applicant has the burden to show that the proposed development will not cause traffic problems in the area, and his client believes that the applicant has failed to meet this burden. The applicant's traffic memos focus on the site itself, as opposed to the impact for surrounding businesses including Dunkin' Donuts, Taco Bell, and Goodwill. All three traffic memos fail to adequately consider the impact. The memos do not have sufficient data regarding impact. The memos fail to capture the vehicle traffic from the intersection and from the other businesses that use the access road. The data used is flawed. His client's memo provides traffic engineer comments. He showed the Board pictures taken at various times of day used to capture some of the current conditions of the area. Cars queue to go both into the Dunkin' Donuts and the Taco Bell, as well as the Goodwill, all via the shared access road. Regarding the Town's interest in this private way, originally when this site was first approved, this was not a through access road; it ended at the Taco Bell. Eventually, at the Town's request it was opened up and the public

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was allowed to travel along the access road. The town should have an interest in making sure that additional development does not cause problems on the access road, as it is now open to the public. The applicant did not give sufficient data or sufficient analysis of the impact along that access road. The access road is fairly narrow and busy during the peak hours being considered for the proposed development. The east entrance/exit to the proposed development is directly across the drive through for Taco Bell, and the west entrance/exit is very close to the drive through for the Dunkin' Donuts. This will lead to cars having difficulty accessing these areas while also queuing along the access road.

Attorney Pappas addressed the items of concern within the three traffic memos from the applicant. He stated that his client believes the studies used the wrong ITE land use code. The memos discussed using the fast-food code and Attorney Pappas stated that his client's engineer believes that the code for coffee-related products is more applicable. There is a significant difference between the two, with one noting 100 trips per day, and the other noting 377 trips per day. The study also relies on the data from the Pressed Café in Nashua. As his client's engineer indicated, that is located in a different area than this proposed development and is not an appropriate comparison due to it being a different area and clientele. In addition, that data was only taken on one day in July during the week and one Saturday in July. This is not a representative or sufficient amount of data. The Nashua store is substantially different than the proposed store in Amherst, as it looks to be approximately half the size of the store proposed in Amherst. The Nashua store has one drive through lane and the proposed store has three drive through lanes. The Nashua store does not have outdoor seating and the proposed store does. The proposed store also has substantially more parking, as the Nashua store has 11 spots, and the proposed store has 37 spots. It appears that the new store expects substantially more customers and is thus not comparable to the Nashua store. The two additional traffic memos rely on the first memo. The second memo from TEPP LLC, made comparisons to an office building and a retail strip mall. This additional data is not relevant. The third memo from TF Moran just summarized the first two memos. All three memos missed the point, which is what this proposal will do to an already congested area. The abutting shopping center is not fully leased, and this would also bring additional traffic to the area.

Arnie Rosenblatt stated that he would like the applicant to respond to those items. Before that, he would like the Board to ask questions of the abutter's representative.

Pam Coughlin had no questions at this time.

Brian Cullen asked if the pictures were selected because they showed the worst conditions on the site or if they are representative of what the current conditions are on the site. If it is the latter, he does not believe the conditions look too bad. Attorney Pappas stated that these were the pictures taken by Dunkin' Donuts' staff members and provided to him. He believes they are representative photos.

Rob Clemens asked if the abutter is recommending any solutions regarding the access way. Attorney Pappas stated that the Condominium Association has three members, the owner of the

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Dunkin' Donuts, and Tom Riley, principal managing partner Riley Investment Properties, LLC, through his ownership of the Taco Bell/KFC, and this proposed site. Attorney Pappas stated that his client's engineer's view is that the necessary data and analysis is needed in order to determine if there is a solution. His client has not collected that data and it is not his burden to do so. His client's engineer has indicated where the data was short and made some suggestions regarding how to collect data and which analysis to use in order to address the problem.

Bill Stoughton suggested that the Board could require that all queuing for each individual business in this area occur on the sites and not in the access way. Kevin Andrade, Andrade Management Group, explained that the Taco Bell/KFC queues into the access way at all times. Attorney Pappas stated that it is unclear if the Board can condition this on a private road. Bill Stoughton stated that, if the Board made this a condition of approval of this application, the Condominium Association could then decide whether or not to adopt it or abandon the project. He explained that the prohibition would be equal for each lot. Attorney Pappas noted that all three lots have equal rights to the access road. It is unclear if the condominium declaration would allow for this.

Chris Yates stated that the abutter appears to be acknowledging that there is an existing issue on these sites. 2/3 of the businesses are owned by Tom Riley. This sounds like a condominium issue that the owners should start considering how to solve. This is an existing issue for the existing businesses to consider. Attorney Pappas asked if it is appropriate planning for the Town to make an existing problem worse by approving a development knowing that it could aggravate this existing issue, especially when the Town asked for the public to be able to use the access road. This is a policy decision for the Board to make. Chris Yates stated that the pass-through lanes were designed on the two existing businesses for people to use and queue in the parking area. These likely need to have signage to that effect. Also, traffic patterns have changed in the past 20 years since these two businesses were built and this needs to be considered. Attorney Pappas stated that he believes Taco Bell/KFC needs to be able to queue onto the access road. Kevin Andrade agreed that he has never seen this business queue into its parking area.

Tracie Adams stated that she does not have any problems with the on-campus traffic. The pictures shown are representative of what she previously expressed concern about.

Arnie Rosenblatt asked the abutter if the queuing appears to be an issue offsite, but not within the proposed Pressed Café site. Attorney Pappas agreed that this is what was represented by his client's engineer.

Arnie Rosenblatt asked if the abutter believes that the Town should not approve this proposal because there is an existing traffic problem for the businesses in this area and allowing this proposal would exacerbate this due to additional traffic from Pressed Café. Attorney Pappas stated this is clearly a congested area. Currently, people are able to queue for Dunkin' Donuts and queue for Taco Bell and queue for Goodwill. This area is certainly not ideal, but it is not a disaster. His client believes that adding a Pressed Café to this area will create a serious problem.

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Arnie Rosenblatt stated that the abutter's engineer does not seem to offer an opinion that the proposed Pressed Café will not work, but instead seems to be critiquing the applicant's traffic reports. Attorney Pappas agreed that the engineer reserved judgment until different data is obtained and properly analyzed using a different methodology.

Kevin Andrade stated that the KFC/Taco Bell has an area to stack the queue on the site, but they do not because it is not a two-way area. Drivers would have to access this parking lot through the Dunkin' Donuts site.

Arnie Rosenblatt asked the applicant to comment specifically on the comments made by the abutter's team. He asked the applicant team to comment on if they agree that more data is needed in order to reach a determination. He also asked if the applicant has a view regarding the impact of the traffic pattern outside the immediate proposed Pressed Café site. He asked if a representative from Pressed Café has been able to review the information from the abutter. Attorney Andy Sullivan, of Sullivan Law Office, representing the applicant, noted that some of the external aspects may be due to the way the site is being used currently that was not necessarily planned for. Everyone seems to agree that these will likely not be issues that will affect the site internally.

Andrew Arsenault, 35 New England Business Center Drive in Andover, MA, representing Vanasse & Associates, Incorporated (VAI), explained that, for the initial trip generation, he could not find a perfect land use code match to create an informed decision, so he used the Nashua site as a comparison. He noted that Nashua is a drive through only site that does have two drive through lanes. In review of the photos from the abutter, specifically the November 13th 7:20 AM photo, there is a driver of a pickup truck stopping short of blocking the intersection. He only noticed two photos in which there appeared to be some blocking occurring.

Kim Hazarvartian, P.E., stated that he does not believe additional analysis is needed. The site is self-contained. Regarding trip generation, he reviewed the closest Institute of Transportation Engineers Land Use Code and what Pressed Café anticipates for operations. The trip generation estimates were bumped up a bit based on that information. The number mentioned of 300 trips per day is not realistic and he would dismiss anything outside of the data reviewed specific to Pressed Café. Regarding the activity on the access road, it is possible to access the Pressed Café site through the intersection without using the access road at all. Regarding the signal at that intersection, the number of trips being added is small enough when considering the number of signal cycles per hour and the number of lanes on each of the approaches, to not make a huge impact. His comfort level with the information at hand has not changed based on the information the abutter provided.

Bill Stoughton stated that he does not have any questions but does not yet feel that Arnie Rosenblatt's questions have been answered. The concern seems to be the queuing on the access road. Sam Foisie stated that one suggestion could be striping out intersections that should not be blocked. The applicant does not have the ability to fix the other site plans but does have the ability to do as much as possible to indicate to vehicles that they should not and cannot block the

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nearby intersections. If vehicles can access the applicant's site without blocking other businesses, it is not causing an adverse impact. Large square striping with big bold letters and directional guidance can be included in this area. The Board's focus should be on public safety and convenience secondarily. This does not seem to be a concern regarding public safety. The applicant could include signage and striping, in order to help with convenience.

Bill Stoughton asked Sam Foisie's thoughts on not allowing queuing within the access road for any of the associated businesses. Sam Foisie stated that this condition would help the applicant, as all queuing will be kept on the site, but he is unclear if that would open up the overall property to litigation from Dunkin' Donuts. He would prefer a different solution.

Tom Riley stated that this is not a convenience issue, and he believes he has done all he can do on behalf of the applicant. He will work to make the site flow better, including any signage necessary.

There were no questions from any other Board members at this time.

Arnie Rosenblatt stated that everyone on the Board wants to act as efficiently as possible for the sake of both the applicant and abutters. While it is true that this application which significantly reduced the square footage of the proposed building has taken several meetings, this is due to the fact that there is an abutter who is vigorously opposing it. The abutter is entitled to this. There are also issues with regard to traffic around the site. Pressed Café is successful, so it will see a lot of traffic.

In response to a question from Arnie Rosenblatt, Sam Foisie stated that it is the applicant's position that the traffic outside the immediate site, while it might get worse from this proposal, will not pose a danger to the public. The applicant also believes that there is adequate data in order to reach this conclusion. Additional data, as proposed by the abutter, would not change the site plan as designed.

Attorney Pappas stated that the VAI memo first criticized the ITE Code because it is not apples to apples and then did not rely on it but instead relied on the Nashua store. His client identified a code that was more applicable. The Nashua store is not a comparable store and does not provide comparable data. There has not been sufficient trip generation data produced for the Board to make an informed decision. More data needs to be collected and analyzed. This is why the Board does not have the information it needs in order to make a decision. Regarding the entrances for the proposed development, these will come onto the access road opposite the Taco Bell entrance and very close to the Dunkin' Donuts entrance. This will also impact Goodwill. This will create a potential public safety problem as vehicles will access three or four establishments in different locations all at the same time. This is not a wide access road. Without knowing the extent of the increased traffic level, the extent of the safety issue cannot be determined. If the traffic is substantially more than the Nashua store generates, it may be enough to create a public safety issue. Dunkin' Donuts owns its site and is one of the three members of the condominium association, but the Town has its own interest to consider in this site. The proposed site plan is

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different than the office building previously proposed for the site and generates different traffic patterns and amount of traffic. The Town needs to weigh in on the traffic issue and the safety issue. He agreed that a condition for the onus to be placed on the condominium association to not allow any blocking of the access way is likely not the best choice.

Arnie Rosenblatt asked for a final comment from the applicant. The applicant's team thanked the Board, noting all the information had been submitted and it was now up to the Board to make its decision.

Bill Stoughton thanked the applicant and the abutter for the quality and professionalism of the presentations. He stated that he was inclined to approve this. He listened carefully to the abutter's concerns and believes there is enough data at hand to make a decision. The central issue that has concerned Board members is the queuing along the shared private road. The entrance and at least one of the exits to the applicant's lot is at the very edge of the road. If the traffic can get into the Pressed Cafe location, it has no impact on the queuing, and thus he is prepared to approve this.

Tracie Adams stated that she is not as concerned about the Dunkin' Donuts entry, but still has some concerns regarding the exit in front of Taco Bell going towards Goodwill. She stated that she is $\frac{3}{4}$ of the way toward making a decision. Arnie Rosenblatt asked if any additional information would help to make the determination. Bill Stoughton stated that he did not see the need for the left turn at this location. The traffic could circulate within the lot and go back out to the entrance as was originally proposed to avoid the queue altogether. Chris Yates expressed concern with the safety of the left hand turn to get people into the site.

Brian Cullen stated that this is a private issue between parties who will hopefully be able to work out any of the concerns with signage or other matters.

Bill Stoughton moved to approve CASE #: PZ17708-080923 for Riley Investment Properties LLC, for the above cited Non-Residential Site Plan Review of Map 2, Lot 35-1-C, 125 New Hampshire Route 101A, for the construction of a 2,400 square foot single-story drive through café and other associated site improvements, with the conditions set forth in the Staff Report and with the following additional comments and condition

- **Condition Precedent #3, submission of approved plans and permits, to add State driveway permits to that list.**
- **To assess impact fees in Condition Subsequent #4 at the Retail rate.**
- **To set active and substantial completion at 24 months and trigger that based on commencement of installation of stormwater best management practices and define substantial completion as the installation of the finished coat of pavement in the parking area.**

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- **Condition #3, submission of a maintenance security for landscaping for one year from installation, to add that the required securities are to be provided prior to site disturbance and pre-construction meeting.**

Seconded by Chris Yates.

Vote: 6-0-0 motion carried unanimously.

The Board reviewed its Findings of Fact:

Application Description

Case #PZ17708-080923, Riley Investment Properties, LLC, c/o Tom Riley, 125 NH Route 101A, Map 2 Lot 35-1-C, Non-Residential Site Plan to amend the previous site plan approval for Phase C involving construction of a 12,000 square foot single story retail building and propose a 2,400 square foot single story drive-thru only café.

The Staff Report's description and chronology is adopted into the record by the Board as a portion of the Findings of Fact and can be referred to for any further details that are needed.

Application Compliance

Per Section 3.1 F., the Planning Board was provided the application documents, and they were reviewed, and it was determined the application was sufficiently complete to proceed with consideration by the Board per RSA 676:4. I. (b).

Land Use Requirements

Per the Zoning Ordinance Section 4.7, the proposed land use meets the existing land use permitted in the Commercial Zoning District.

Compliance with Regulations

General Standards 2.1 requirements were achieved to the satisfaction of the Board, specifically 2.2.1 traffic circulation and access, including adequacy of adjacent streets, entrances and exits, traffic flow, sight distances, curb cuts, turning lanes, and existing or recommended traffic signalization.

The Board was presented with several professional traffic studies and reviews by the applicant and by the owner of the Dunkin Donuts which abuts this application site. In addition, town staff members have had discussions with the State DOT official to clarify and address relevant concerns.

The Board acknowledges and has carefully studied the traffic concerns raised by the abutter. Based on all the professional traffic reports and the discussion during the public hearings, the Board was satisfied the applicant has adequately addressed the traffic concerns relevant to the town in its proposed plan. In particular the Board accepts the ITE Land Use Code used in the applicant's traffic analyses as appropriate based on the factual presentations regarding the planned use of the site. The Board also accepts the applicant's use of the Nashua site as a

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relevant comparison for the proposed location. In making this finding, the Board recognizes that the onsite queuing and parking capacity proposed by the applicant provides ample margin to the anticipated traffic. The Board has also carefully considered the other traffic concerns raised by the abutter and finds none warrants alterations or rejection of the proposed plan.

Section 6.1 Parking Area requirements in relation to landscaping islands and plantings are met to the satisfaction of the Board.

Section 7.1 Outdoor Lighting is now superseded by the Outdoor Lighting and Glare Ordinance, 3.20. The applicant demonstrated that the requirements were met particularly in relation to light remaining on the site.

Section 8.1 Parking Space requirements were calculated and deemed to comply with the regulations for a commercial use.

Section 12.1 the Architectural Design Standards' purposes are achieved to the satisfaction of the Board.

The Board notes that the abutting Dunkin Donuts' owner raised numerous concerns regarding the competition from the applicant's proposed business. Whether or not such concerns are warranted, matters of business competition are not something that this Board evaluates, and decisions will not be made based on those concerns.

Environmental Requirements

Per Section 2.1.7, environmental factors such as pollution, noise, odor, and protection of natural land features were evaluated, and it was determined that adequate provisions were made.

Per Section 2.1.8, the landscape plan was found to be in keeping with the general character of the surrounding area.

Per Section 5.1, the purposes of the Landscaping section, protecting, enhancing, and promoting economic, ecological, and aesthetically pleasing landscaping that improves safety and positively impacts stormwater quality and quantity is achieved to the satisfaction of the Board.

Waivers

The following waiver(s) were requested by the applicant(s):

Section 6.2 A. Adjacent Buildings, a waiver request was granted for relief from the minimum 10' deep area with trees and shrubs around the building sides with public access, to allow for the drive-thru food pickup window.

Section 5.1 under Landscaping Standards, the applicant requested a waiver for relief from the requirement for the landscape plan to be provided and endorsed by a licensed landscape architect. The landscape plan was prepared, and it was noted that the landscaper had

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successfully completed landscaping plans in Amherst and her career began before the adoption of the licensing requirement and the waiver was granted.

Stormwater Management

General Standards 2.1.5. stormwater drainage was addressed in the Stormwater Management Report. The report was reviewed, and it was determined that the Stormwater Management and Erosion and Sediment Control Plans met the Town's requirements.

Conditions

The applicant acknowledges the conditions precedent and conditions subsequent in the Staff Report as well as any additions from the Planning Board are required.

Summary

The Planning Board finds that with the conditions imposed on the approval, the application meets the spirit and intent of the Ordinances and Regulations.

Tracie Adams moved to approve the Findings of Fact, as presented. Seconded by Chris Yates.

Vote: 6-0-0 motion carried unanimously.

2. Public Hearing on Proposed Zoning Ordinance Amendments. See separate notice.

Arnie Rosenblatt noted that these items have been heard by the Board previously. He noted that this is a public hearing on the proposed amendments.

Nic Strong presented each proposed amendment and Arnie Rosenblatt asked for comment on each.

Proposed Amendment #1

To amend Article IV, Zoning Regulations, Section 4.9 Industrial Zone, to delete the 80' height allowance for uninhabited structures and require all structures in the district to be a maximum of 50' in height

Steve Nelson, 9 Beacon Lane, commended the Board for the proposal of this amendment. He stated that he believes it is critical to help maintain the rural nature of the Town. The southern end of the Town has typically been industrial in nature. This should be a residential Town with some industrial items in it and lowering the allowed height will make sure that large buildings that increase traffic are not encouraged in Town.

Bill Stoughton moved to advance the first proposed Zoning Ordinance Amendment change to the ballot. Seconded by Chris Yates.

Vote: 6-0-0 motion carried unanimously.

Proposed Amendment #2

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To amend Article IV, Zoning Regulations, Section 4.3 D.3., Residential/Rural Zone, to add the word "either" to the first line of the last sentence.

There was no public comment.

**Bill Stoughton moved to advance the second proposed Zoning Ordinance Amendment change to the ballot. Seconded by Chris Yates.
Vote: 6-0-0 motion carried unanimously.**

Regarding the third amendment for floodplain language, Nic Strong explained that Town Counsel reviewed this and noticed that there were two sections that referred to the parking of recreational vehicles, one of which had been updated and the other one was missed. He thus suggested that both needed to read the same and the State Floodplain Coordinator agreed with that. The proposal would be to change Section N to have the same language as in Section E. This will require a second public hearing for the third proposed amendment.

There was no public comment.

**Bill Stoughton moved to amend the proposed Zoning Ordinance amendment, as stated by Nic Strong, and schedule for a second public hearing on January 3, 2024, at 7pm at Town Hall. Seconded by Chris Yates.
Vote: 6-0-0 motion carried unanimously.**

Proposed Amendment #4

To amend Article IX, Definitions, Section 9.1 Meaning of Certain Words, Wetland(s), to update the citations to reference documents, Vernal Pool, Vernal Pool --Primary Vernal Pool Indicators, and Vernal Pool --Secondary Vernal Pool Indicators to reference the correct NH Administrative Rules; and Article IV, Zoning Regulations, Section 4.11 Wetland and Watershed Conservation District, to amend Section 4.11 F., District Boundaries, to include language moved from the definition of Wetland(s) describing the Town's wetland classifications and the method for classification of wetlands that extend over property lines, to include language moved from the definition of Vernal Pool Tiers describing how to identify Tier One and Tier Two vernal pools, and to refer to the definitions section.

**Bill Stoughton moved to advance the fourth proposed Zoning Ordinance Amendment change to the ballot. Seconded by Chris Yates.
Vote: 6-0-0 motion carried unanimously.**

Nic Strong explained that the last amendment is a housekeeping amendment. During preparation it became apparent that some items were more than housekeeping and they needed substantive discussion in the future. The amendment was thus amended to remove some of those items for the Board to work on them next year.

Proposed Amendment #5

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This housekeeping amendment would amend Article IV Zoning Regulations, Section 4.4 Northern Transitional Zone, Section 4.4 B.9. Permitted Uses to delete #9 Other Development and renumber existing #10 as #9; and to change all references from Accessory Apartments to Accessory Dwelling Units in Sections 3.5 Accessory Apartments, Section 4.3 Residential/Rural Zone, 4.3 A.10., Section 4.4 Northern Transitional Zone, newly numbered, 4.4 B.9., Section 4.5 Northern Rural Zone, 4.5 B.9., Section 4.7 Commercial Zone, 4.7 A.9., Section 4.8 Limited Commercial Zone, 4.8 A.12., Section 4.14 Workforce Housing, 4.14 E.2.b., and Article IX Definitions, Section 9.1 Meaning of Certain Words.

**Bill Stoughton moved to advance the proposed housekeeping Zoning Ordinance Amendment change to the ballot. Seconded by Tracie Adams.
Vote: 6-0-0 motion carried unanimously.**

Nic Strong noted that the timeframe for submitting petitions to change the Zoning Ordinance is November 13 through December 13. Following that timeframe, the Planning Board has to meet to schedule the petitions at a public hearing. The Board may need to schedule a meeting on the 20th if petitions are received to get them on the ballot.

Planning Board review pursuant to RSA 41:14-a for the acquisition or sale of land by the Town on the following properties: Map 3 Lots 60-2 & 60-3; and Map 25 Lots 28 & 29

Bill Stoughton explained that the Board has two matters that have to go through the RSA 41:14-a process, which is the same process used when purchasing conservation land. One of these is to accept the donation of an easement over land. The old B&M rail bed continues through a number of lots in Town, and crosses Boston Post Road. A goal of the Bicycle & Pedestrian Advisory Committee and the Town is to acquire rights in this area to create a multipurpose trail over the entire length of the rail bed which stretches from the northern border of the Town with Bedford to Route 101A. Chris and Judy Shenk have generously donated a trail easement along the section of the rail bed that crosses their property, as well as temporary access easements, allowing people to get from Boston Post Road onto the segment, and a drainage easement.

**Bill Stoughton moved to advise the Board of Selectmen that the Planning Board is in favor of this acquisition. Seconded by Tracie Adams.
Vote: 6-0-0 motion carried unanimously.**

Bill Stoughton stated that the next items deals with two parcels down at Baboosic Lake at Washer Cove Road and the extension of Washer Cove Road. The two lots in question are currently Town owned and the proposal is to sell them to the Houveners who occupy a nearby house. This is in connection with the resolution of a potential claim by the Houveners regarding a community septic system failure last year when sewage backed up onto their lot. In resolution, one of the things that was agreed upon was that the Town would sell these two lots to the Houveners at the assessed price. These lots are basically not buildable. Most of each lot is covered by the 100-year floodplain and frequently floods. The interest of the Houveners is that

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their existing dock is located adjacent to the shoreline of the Town land. One of the two lots was tax deeded and does not require the RSA 41:14-a process, but the other does.

Bill Stoughton moved that the Planning Board recommend the transaction for Lot 25-28 and Lot 25-29. Seconded by Chris Yates.
Vote: 6-0-0 motion carried unanimously.

OTHER BUSINESS:

3. Regional Impact:

- a. **CASE #: PZ18270-120523 – PKM Properties, LLC; 10 Howe Drive, PIN #: 002-034-007.** Non-Residential Site Plan Review Amendment. To depict changes to the approved plan to lower the site and reduce the pavement for a 24,680 s.f. building: 21,160 s.f. warehouse and 3,520 s.f. office. *Zoned Industrial.*

Bill Stoughton moved that there is regional impact to Nashua, Merrimack, Milford, and Hollis. Seconded by Tracie Adams.
Vote: 6-0-0 motion carried unanimously.

- b. **CASE #: PZ18271-120523 – Vonderosa Properties LLC (Owners & Applicants); County & Upham Road, PIN #: 004-145-000.** Subdivision Application. To subdivide Tax Map 4 Lot 145 into five (5) residential lots. *Zoned Residential Rural.*

Tracie Adams moved that there is regional impact to Mont Vernon and Merrimack, as previously noted. Seconded by Chris Yates.
Vote: 6-0-0 motion carried unanimously.

- c. **CASE #: PZ18272-120523 – Vonderosa Properties LLC (Owners & Applicants); Cricket Corner & Upham Road, PIN #: 004-116-000.** Subdivision Application. To subdivide Tax Map 4 Lot 116 into nine (9) residential lots. *Zoned Residential Rural.*

Tracie Adams moved that there is regional impact to Mont Vernon and Merrimack, as previously noted. Seconded by Chris Yates.
Vote: 6-0-0 motion carried unanimously.

- d. **CASE #: PZ18273-120523 – Vonderosa Properties, LLC (Owners & Applicants); County, Upham & Spring Road, PIN #: 004-118-000, 004-119-000 & 004-121-000 & 006-102-000.** Subdivision Application. To subdivide Tax Map 4 Lots 118, 119 & 121, and Tax Map 6 Lot 102 into seven (7) conservation lots and thirty-seven (37) residential lots. *Zoned Residential Rural.*

Tracie Adams moved that there is regional impact to Mont Vernon and Merrimack, as previously noted. Seconded by Chris Yates.
Vote: 6-0-0 motion carried unanimously.

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- 613
614 **4.** Notice of receipt pursuant to RSA 676:18, IV., of Boundary Plan, Tax Map 24 Lot 58, 3
615 Hillside Avenue, for informational purposes only.

616
617 Arnie Rosenblatt noted that the Board was in receipt of this item.

- 618
619 **5.** Minutes: November 1, 2023

620
621 **Tracie Adams moved to approve the minutes of November 1, 2023, as presented.**
622 **Seconded by Bill Stoughton.**
623 **Vote: 6-0-0 motion carried unanimously.**

- 624
625 **6.** Any other business that may come before the Board.

626 Arnie Rosenblatt noted that Nic Strong will not be available if the Board has to schedule a
627 meeting on December 20th. She is having shoulder surgery and will be out of the office for a
628 while.

629
630 Tracie Adams noted that the Village Streets Study Committee, which she served as the Chair of,
631 has finished its work. The Committee met with the Board of Selectmen for a final time and
632 turned in an action plan which will be part of the next steps, including finishing the design
633 engineering and the grant application in order to try to get additional grant funding for work to
634 improve the Village streets. The Board thanked Tracie Adams and the Committee for its work.

635
636 **Bill Stoughton moved to adjourn the meeting at 8:56pm. Seconded by Tracie**
637 **Adams.**
638 **Vote: 6-0-0 motion carried unanimously.**

639
640 Respectfully submitted,
641 Kristan Patenaude

642
643 Minutes approved: