Town of Merrimack, New Hampshire
Community Development Department
6 Baboosic Lake Road
Town Hall - Lower level - East Wing
603 424-3531
Fax 603 424-1408
www.merrimacknh.gov
Planning - Zoning - Economic Development - Conservation

MEMORANDUM

Date: September 29, 2016

To: Robert Best, Chairman, & Members, Planning Board

From: Timothy J. Thompson, AICP, Community Development Director

Subject: **Meridian Land Services, Inc., North View Homes & Development, Inc., & Bernstein, Shur, Sawyer & Nelson, P.A. (applicants) and Greenfield Management, LLC. (owners) –** Review for consideration of Final Approval for a 66-lot cluster subdivision on four lots (originally part of the Greenfield Farms subdivision) located on Wire Road and Whispering Pines Lane in the R-1 (Residential) and Aquifer Conservation Districts and the 100-year Flood Hazard Area. Tax Map 7C, Lots 28, 30, 40 & 40-1. *This agenda item is continued from the July 19 and September 6, 2016 meeting.*

Background: Please see the staff memos dated January 28, 2016, April 13, 2016, July 12 and September 2, 2016 for further background information on this project from previous conceptual and formal discussions.

The applicant has not submitted revised plans to the Community Development Department since the last public hearing on September 6; however, Community Development and Public Works staff has now had sufficient time to complete a full review of the plans that were previously submitted.

The applicant has addressed the majority of peer review comments based on a preliminary review by staff (the peer review memo was 16 pages and included 139 individual comments, which based on the revised plans appears to have been narrowed down to around 40 or so minor items that either need to be addressed, clarified, or are dependent on decisions the Board has yet to make).

Staff expects that the applicant's representatives will wish to discuss some of these items (particularly relative to stop sign/stop bar warrants, how to depict the off-site sewer improvements, and others) with the Board at the public hearing.

Completeness
The Board voted to accept the application as complete on July 19, 2016.

Waivers
The applicant is requesting 2 waivers (see attached waiver request letter dated September 27, 2016 for the applicant's requests and rationale). Public Works staff has provided feedback on these waivers, and their comments are in *italics* below:

1. A "partial" waiver to Section 4.06.1.i (Monuments), seeking to limit the installation of boundary monuments to only the new roads and lot lines, but specifically not along the frontages of the Open Space lots on Wire Road and Pearson Road;

    - Public Works Comment: *The Department of Public Works strongly recommends that monumentation along the existing ROW's and along the entirety of lot 7D/360 be*

installed. Public Works feels that the bounds should be installed as called for in the subdivision regulations as this is the only chance to have the boundary of the property defined by a survey.

2. A waiver to Section 4.12.d (Intersection Approach Grades), to allow the intersection approach grade in the vicinity of Station 87+50 to be 1.5%, where the regulations allow a maximum of -2.0%.

    - Public Works Comment: *The request of the -1.5% grade vs. the -2% grade may be OK so long as Meridian can prove that there will be no water ponding in the intersections from this change. The areas in the radius sections of the intersections are prone to puddling water. We would expect that Meridian show a detailed grading plan for each intersection where the grading waiver is granted.*

Staff recommends that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:36:

- Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; **or**

- Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Recommendation
Based on the information available to date, **staff recommends that the Board grant conditional final approval to the application with the following precedent conditions to be fulfilled within *12* months and prior to plan signing, unless otherwise specified:**

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;

2. The applicant shall obtain any required State approvals/permits as may be applicable, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department;

3. The applicant shall note all waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable;

4. The applicant shall provide draft copies of any legal documents (easements and required Homeowners Association/Condominium Declaration from Section 3.08.18 of the Zoning Ordinance) for review, at the applicant's expense, by the Town's Legal Counsel;

5. The applicant shall obtain, and provide a copy to the Town, a Joint Use Agreement with Eversource to permit the construction of a portion of a drainage basin, access to the basin, and the crossing of "Road A" through the Eversource easement area;

6. The applicant shall address any comments from the peer review consultant, Keach-Nordstrom Associates, that have not yet been addressed from their July 26, 2016 memo, as well as any further (forthcoming) peer review comments as may be determined applicable/necessary by the Planning Board, Community Development Department, or Public Works Department;

7. The applicant shall address the following comments from the Public Works Department:

a. Address the following on Sheet #8:

   i. The Access, Drainage and Slope Easement (aka IB-1) should be labeled (not just as open space);
   ii. The access road to IB-1, as it is shown on the sheet SP-2, should be located totally within the Access, Drainage and Slope Easement and should not be within the proposed recreation area labeled as the "Community Area" on Sheet 8. The easement line should be adjusted accordingly;
   iii. The limits of all of the easements should have the metes and bounds labeled;

b. Address the following on Sheet #9:

   i. Label the Access, Drainage and Slope Easement for IB-1;
   ii. Lot 7C/30-47 should be labeled as Access, Drainage and Slope Easement;
   iii. The limits of all of the easements should have the metes and bounds labeled;
   iv. The hatching, type and scale, for all of the Access, Drainage and Slope Easements should be the same (IB-1 is larger than IB-2);

c. Address the following on Sheet #10:

   i. Label the Access, Drainage and Slope Easements on both lots 37 and 47 for clarity;
   ii. Label the Access, Drainage and Slope Easement for IB-3;
   iii. Use the same type and scale of hatching for all similar easements;
   iv. The limits of all of the easements should have the metes and bounds labeled;
   v. Road 'D' is labeled twice;

d. Sheet #11 should have the same hatching and labeling as noted above;

e. Address the following on Sheet #13: There is a discrepancy in the labeling of the CB at Sta. 206+75+/-, the plans show 119A but on sheet 12 of 37 within the structure schedule table it is listed as CB 109A. All references to the CB should be verified on all sheets and profiles;

f. Address the following on Sheet #14:

   i. There is an interception swale shown on lot 47. This should have an easement around it and the easement should be defined and shown on sheets 9 and 10;
   ii. A detail of the interceptor swale should be shown;

g. Address the following on Sheet #27:

   i. Add a silt sock detail to the plans;
   ii. Add an erosion control mixed berm detail to the plan if there is a possibility that they can be used in place of the siltation fence. Add the specifications when and where they can be used;

h. Add note that any work within the public right of way will require a ROW permit from the Highway Division of Public Works;

i. Gravel access roads shall be located for all cross county drains and sewer lines (not shown for 206+75 lt; 244+50 rt and 253+80 lt)

i. The main access for basin area IB-1 is shown from Sta. 209+00 verses of from Sta. 206+75. The easement documents need to be clear that even though the access road won't be constructed over this section, if the need arises, access can still be obtained and a road installed over the area from Sta. 206+75;
ii. Access to IB-2 has been shown from Sta. 244+50;
iii. The main access being constructed for basin IB-2 is from Sta. 244+50 and not from Sta.253+80. The outfall of the pipe at Sta. 253+80 will not be easily accessible from the access off of Sta. 244+50 due to the slope and shape of the basin and the close proximity of the property lines. The easement language needs to be very clear that an access road may be constructed in the future if the need arises on Lot 37 from Sta. 253+80;

j. Each road should have a different stationing series for clarity during review and construction (ie 200+00, 300+00, 400+00). Stationing on the revised plans has remained all within the 200 series. Clarification of any stationing issues during review and construction should be addressed. For example, on sheet 1 of 37, the stationing could be added to each of the road profile sheets (ie. 230+00 to Sta 234+00) and/or on sheet 12 of 37 (SP-1) label the profile sheet number next to the road names so that it is clear which sheet to view for specifics;

k. The street light has been added to the plan as requested. The reference should be expanded to read and include that the lighting needs to be LED lighting as approved by the Town;

l. The proposed stop signs and stop bars at the B – G roads intersecting with Road A remain on the revised plan, and should be eliminated. Following MUTCD guidelines, in order for the stop signs/bars to remain the designer needs to provide stop sign warrants to the Department of Public Works;

m. On sheet P-2, SMH 82 is headed southerly to SMH 83 however no information or profile has been provided for the connection into the existing system. Information should be provided to make the connection up to where the present system ends. If the approved design is part of another project, a set of the sewer drawings should be appended to the final design plans for this project. In addition, Sheet 1 note 25 should be revised to read that the entire subdivision is contingent upon the installation and acceptance of the sewer line construction to the project;

8. The applicant shall verify that the comments from Merrimack Village District (dated April 4, 2016) have been addressed;

9. The applicant shall address the following planning staff technical comments:

a. Please address the following relative to the notes on Sheet #1:

i. Note #1.B should be revised to read "…WITH 3 OPEN SPACE LOTS…";
ii. Note #13 shall be updated as necessary for the requested waivers;
iii. Note #17 shall be updated with all state permit approval numbers;
iv. Note #22 shall be updated as necessary, or as directed by the Board, relative to the project phasing;

b. On Sheet 3, Note #2: please remove the typo "I" before the word "issuance";

c. On Sheets 7-11 please revise the note to read "cluster residential lots";

d. Should the applicant's request for a waiver be denied by the Board, the applicant shall include all required monumentation at property corners and angle points as required by the regulations;

e. The applicant shall provide inclusion lines on all applicable sheets of the plan set wherever a stream, waterbody or stone wall (as applicable) is not a property line in order to clearly show the extents of the open space parcel;

f. The applicant shall address to the satisfaction of Public Works (see Public Works comment 7.m above) how the municipal sewer is proposed to be extended to connect to the proposed development *(or an alternative means of addressing this item as may be otherwise determined by the Planning Board during the public hearing)*;

g. On sheet #16, the drain manhole 128A (in the profile view) is mislabeled as "DBH." Please revise;

h. The applicant should indicate the sewer location, and any other underground utilities (as applicable) in the roadway cross-sections on Sheets #28-37;

10. Proposed fire hydrants and street names must be shown on an engineered plan for review and approval by the Fire Marshal;

11. The applicant shall coordinate with the Fire Department on road names for the proposed new roadways. The applicant should note that the NH E-911 Bureau has requirements that new road names do not conflict with existing names in the town (for instance Merrimack currently has street names that start with "Wood", i.e. Woodward, Woodbine Woodbury, and E-911 will not accept any more names that are similar). The applicant shall submit a list of 5 names for each proposed road so that an acceptable road name can be selected. Upon approval of the new road names by the Fire Department, all lots will be assigned the appropriate NH E-911 addresses;

Staff also recommends that the following general and subsequent conditions be placed on the approval:

1. The applicant is responsible for recording the plan (including recording fee and the $25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;

2. All proposed easements and any applicable legal documents (including the required Homeowners Association/Condominium Declaration from Section 3.08.18 of the Zoning Ordinance) shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant. If possible, the applicant shall include in the Association documents (as recommended by the Conservation Commission) references or specific language on best management practices (related to fertilizer use, lawn and related debris storage, and potential improvements) when owning property abutting or in the vicinity of a protected brook/river;

3. As required by Section 3.08.13(f) of the Zoning Ordinance, all deeds transferring any interest in the real property included in the development shall specify that the common land/open space parcels in the development are acknowledged to be part of the residential use and do not qualify for "current use" real estate tax appraisal and assessment under NH RSA 79-A;

4. As stipulated in Section 3.08.18 of the Zoning Ordinance, any proposed changes to the project's Articles of Association or the Condominium Declaration following the final approval of the project shall require the prior written approval of the Planning Board;

5. Required Right-of-Way permits are available from the Highway Division of Public Works and shall be filled out and filed prior to any construction.

cc: File
Correspondence
Rebecca Hebert, Town of Bedford Planning Director

ec: Kenneth Clinton, Meridian Land Services
Northview Homes & Development
Bernstein, Shur, Sawyer & Nelson, P.A.
The Allen Swenson Real Estate Trust of 1999, Owner
The Barbara Swenson Real Estate Trust of 1999, Owner
Hampshire Ventures, Inc, Owner
Greenfield Management, LLC, Owner
John Manuele, Fire Marshal
Jim Taylor & Ken Conatay, Wastewater Division
Kyle Fox, PE, Public Works Director
Assessing Department
Building Department Staff

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MEMORANDUM

Date: September 2, 2016

To: Robert Best, Chairman, & Members, Planning Board

From: Timothy J. Thompson, AICP, Community Development Director

Subject: **Meridian Land Services, Inc., North View Homes & Development, Inc., & Bernstein, Shur, Sawyer & Nelson, P.A. (applicants) and Greenfield Management, LLC. (owners) –** Review for consideration of Final Approval for a 66-lot cluster subdivision on four lots (originally part of the Greenfield Farms subdivision) located on Wire Road and Whispering Pines Lane in the R-1 (Residential) and Aquifer Conservation Districts and the 100-year Flood Hazard Area. Tax Map 7C, Lots 28, 30, 40 & 40-1. *This agenda item is continued from the July 19, 2016 meeting.*

Background: Please see the staff memos dated January 28, 2016, April 13, 2016, and July 12, 2016 for further background information on this project from previous conceptual and preliminary layout discussions. Also included in the packet are the minutes from July 19, 2016 (as well as previous background information from previous packets).

The applicant submitted revised plans to the Community Development Department on August 31, but did not provide additional copies of the revisions for other departments (in particular Public Works) to review. Reduced size copies of the plans for the Planning Board packets and a set for Public Works' review did not arrive until the afternoon of September 1.

Staff has reviewed the revisions against the previous staff review comments (from the July 12 Staff Memo) and has begun to review the revisions against the peer review comments from Keach-Nordstrom Associates (KNA), but given the timing of the submission, were not able to fully review the plans for how they addressed all of the peer review comments, as packets needed to be sent out on September 2. Staff does note, however, that KNA concurred with the findings of the applicant's traffic engineer, and did not have any comments relative to the project's traffic impact analysis or recommendations.

Due to the timing of the submission being so close to the meeting date and wanting to ensure a full and thorough review by Community Development and Public Works, staff is recommending continuance of the application (see recommendation on next page).

One item that the Board should be prepared to discuss with the applicant and staff is the off-site sewer work, and how to best represent that work in the plan set. Both Public Works and Community Development have requested in our comments (dating back to the original formal submission) that the location of the approved off-site sewer be included as part of the plans, since the connection to municipal sewer is required in order for the proposed cluster design to be permitted by Zoning. The applicant has provided a note (Note #25 on Sheet 1) indicating that no building permits will be issued until the sewer extension is accepted by the Town, providing further a reference to the off-site sewer plans. The Board will need to determine the best way of providing the information regarding the off-

site sewer to connect to the proposed project, and should provide direction for the applicant and Town staff (see potential precedent conditions #7.g and 9.d).

Completeness
The Board voted to accept the application as complete on July 19, 2016.

Waivers
The applicant is requesting 2 waivers (see attached waiver request letter dated August 30, 2016 for the applicant's requests and rationale):

1. A "partial" waiver to Section 4.06.1.i (Monuments), seeking to limit the installation of boundary monuments to only the new roads and lot lines, but specifically not along the frontages of the Open Space lots on Wire Road and Pearson Road;

2. A waiver to Section 4.12.d (Intersection Approach Grades), to allow the intersection approach grade in the vicinity of Station 87+50 to be 1.5%, where the regulations allow a maximum of -2.0%.

Staff recommends that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:36:

- Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; **or**

- Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Recommendation
Based on the information available to date, **staff recommends that the Board CONTINUE the application until October 4, 2016** (or another date certain agreeable to the applicant and the Board), to allow for a complete review of the revised plans and information by Community Development and Public Works.

Should the Board disagree with the recommendation, and opt to move forward with a conditional final approval, staff recommends that it do so utilizing the following precedent conditions to be fulfilled within 12 months and prior to plan signing, unless otherwise specified:

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;

2. The applicant shall obtain any required State approvals/permits as may be applicable, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department;

3. The applicant shall note all waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable;

4. The applicant shall provide draft copies of any legal documents (easements and required Homeowners Association/Condominium Declaration from Section 3.08.18 of the Zoning Ordinance) for review, at the applicant's expense, by the Town's Legal Counsel;

5. The applicant shall obtain, and provide a copy to the Town, a Joint Use Agreement with Eversource to permit the crossing of "Road A" through the Eversource easement area;

6. The applicant shall address any comments from the peer review consultant, Keach-Nordstrom Associates, that have not yet been addressed from their July 26, 2016 memo, as well as any further (forthcoming) peer review comments as may be determined applicable/necessary by the Planning Board, Community Development Department, or Public Works Department;

7. The applicant shall address the following comments from the Public Works Department from their review of the initial set of plans, as applicable, as well as any further and forthcoming comments from Public Works following their review of the revised plans (see item "a" below):

    a. Additional comments may be forthcoming following receipt and review of the peer review consultant comments and review of the revised plans submitted to Public Works on September 1, 2016;

    b. Add note that any work within the public right of way will require a ROW permit from the Highway Division of Public Works;

    c. The drain line and gravel access road at Sta 209+00 lt is located within the PSNH easement – is construction and future maintenance of drainage allowed within the easement? The PSNH easement may need to be revised to allow for construction and/or future maintenance efforts in this area;

    d. Each road should have a different stationing series for clarity during review and construction (ie 200+00, 300+00, 400+00);

    e. A street light is required at the intersection of Road A and Wire Road – location to be approved by Town Engineer;

    f. The proposed stop signs and stop bars at the B – G roads intersecting with Road A should be eliminated unless they meet the stop sign warrants in MUTCD or need to be there by engineering judgement (reasoning should be provided for the file);

    g. The proposed sewer line and road plans/profiles connecting the proposed subdivision to the siphon on Brenda Lane should be part of this plan set *(or an alternative means of addressing this item as may be otherwise determined by the Planning Board during the public hearing)*;

8. The applicant shall verify that the comments from Merrimack Village District (dated April 4, 2016) have been addressed;

9. The applicant shall address the following planning staff technical comments:

    a. Please address the following relative to the notes on Sheet #1:

        i. Note #1.B should be revised to read "…WITH 3 OPEN SPACE LOTS…";

        ii. Note #13 shall be updated as necessary for the requested waivers;

        iii. Note #17 shall be updated with all state permit approval numbers;

        iv. Note #22 shall be updated as necessary or as directed by the Board relative to the project phasing;

b. On Sheet 3, Note #2: please remove the typo "1";

c. On Sheets 7-11 please revise the note to read "cluster residential lots";

d. Should the applicant's request for a waiver be denied by the Board, the applicant shall include all required monumentation at property corners and angle points as required by the regulations;

e. The applicant shall provide inclusion lines on all applicable sheets of the plan set wherever a stream, waterbody or stone wall (as applicable) is not a property line in order to clearly show the extents of the open space parcel;

f. On sheet #12, there is no indication of how the municipal sewer is proposed to be extended to connect to the proposed development. As requested by Public Works, the proposed sewer line and road plans/profiles connecting the proposed subdivision to the siphon on Brenda Lane should be part of this plan set and shown graphically on this sheet *(or an alternative means of addressing this item as may be otherwise determined by the Planning Board during the public hearing)*;

g. The applicant should indicate the sewer location, and any other underground utilities (as applicable) in the roadway cross-sections on Sheets #28-37;

10. Proposed fire hydrants and street names must be shown on an engineered plan for review and approval by the Fire Marshal;

11. The applicant shall coordinate with the Fire Department on road names for the proposed new roadways. The applicant should note that the NH E-911 Bureau has requirements that new road names do not conflict with existing names in the town (for instance Merrimack currently has street names that start with "Wood", i.e. Woodward, Woodbine Woodbury, and E-911 will not accept any more names that are similar). The applicant shall submit a list of 5 names for each proposed road so that an acceptable road name can be selected. Upon approval of the new road names by the Fire Department, all lots will be assigned the appropriate NH E-911 addresses;

Staff also recommends that the following general and subsequent conditions be placed on the approval:

1. The applicant is responsible for recording the plan (including recording fee and the $25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department (this would be a General & Subsequent Condition at the time of conditional approval);

2. All proposed easements and any applicable legal documents (including the required Homeowners Association/Condominium Declaration from Section 3.08.18 of the Zoning Ordinance) shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant. If possible, the applicant shall include in the Association documents (as recommended by the Conservation Commission) references or specific language on best management practices (related to fertilizer use, lawn and related debris storage, and potential improvements) when owning property abutting or in the vicinity of a protected brook/river (this would be a General & Subsequent Condition at the time of conditional approval);

3. As required by Section 3.08.13(f) of the Zoning Ordinance, all deeds transferring any interest in the real property included in the development shall specify that the common land/open space

parcels in the development are acknowledged to be part of the residential use and do not qualify for "current use" real estate tax appraisal and assessment under NH RSA 79-A (this would be a General & Subsequent Condition at the time of conditional approval);

4. As stipulated in Section 3.08.18 of the Zoning Ordinance, any proposed changes to the project's Articles of Association or the Condominium Declaration following the final approval of the project shall require the prior written approval of the Planning Board (this would be a General & Subsequent Condition at the time of conditional approval).

cc: File
Correspondence
Rebecca Hebert, Town of Bedford Planning Director

ec: Kenneth Clinton, Meridian Land Services
Northview Homes & Development
Bernstein, Shur, Sawyer & Nelson, P.A.
The Allen Swenson Real Estate Trust of 1999, Owner
The Barbara Swenson Real Estate Trust of 1999, Owner
Hampshire Ventures, Inc, Owner
Greenfield Management, LLC, Owner
John Manuele, Fire Marshal
Jim Taylor & Ken Conatay, Wastewater Division
Kyle Fox, PE, Public Works Director
Assessing Department
Building Department Staff

Town of Merrimack, New Hampshire
Community Development Department 603 424-3531
6 Baboosic Lake Road Fax 603 424-1408
Town Hall - Lower level - East Wing www.merrimacknh.gov
Planning - Zoning - Economic Development - Conservation

MEMORANDUM

Date: July 12, 2016

To: Robert Best, Chairman, & Members, Planning Board

From: Timothy J. Thompson, AICP, Community Development Director

Subject: **Meridian Land Services, Inc., North View Homes & Development, Inc., & Bernstein, Shur, Sawyer & Nelson, P.A. (applicants) and Greenfield Management, LLC. (owners) –** Review for acceptance and consideration of Final Approval for a 66-lot cluster subdivision on four lots (originally part of the Greenfield Farms subdivision) located on Wire Road and Whispering Pines Lane in the R-1 (Residential) and Aquifer Conservation Districts and the 100-year Flood Hazard Area. Tax Map 7C, Lots 28, 30, 40 & 40-1.

Background: Please see the staff memos dated January 28, 2016 and April 13, 2016 for further background information on this project from previous conceptual and preliminary layout discussions.

The subject parcels, Tax Map 7C, Lots 028, 030, 040 & 040-1, comprise approximately 129 acres of land and are located at Wire Road, Whispering Pines Lane and Pearson Road in the R (Residential) and Aquifer Conservation Districts and the 100/500 year Flood Hazard Areas. The area is undeveloped, but portions have been planned for the next phase of the Greenfield Farms subdivision (the currently developed portion of the project is located in Bedford). The site would have access to water from Merrimack Village District and municipal sewer would also be extended to service the development of the property.

The applicant was most recently in front of the Planning Board on April 19, 2016 for a Preliminary Layout hearing (see attached minutes). The applicant has since refined the project design, and has now submitted a full set of plans and information for the Board's consideration for final approval.

The applicant has submitted new information regarding the project's traffic impact. While the submitted information is not a traditional full scale traffic impact analysis, it is, in staff's opinion, an appropriate level of detail submitted for the size of the project being proposed. While staff expects that this information will be included as part of the peer review of the project, it does appear that the analysis' conclusions are reasonable, and consistent with standard traffic engineering practices. The analysis is summarized as follows by the applicant's traffic engineer (Steve Pernaw):

- "The proposed subdivision will generate approximately 72 vehicle-trips during the worst case weekday PM peak hour period. The majority (45 vehicles) will be entering during that period, and the minority (27 vehicles) will be exiting;"

- "The new through connection that will be created between Wire Road and Whispering Pines Lane by the proposed subdivision road will result in a small amount of "local diversion." Those who currently reside in the Dodier Court-Blair Road-Circle Drive area and travel to/from points north via Wire Road will find the new subdivision road to be an attractive "short cut." The amount of through traffic is expected to be minimal (< 10 vehicles) during the PM peak hour;"

- "The subdivision road approaches to Wire Road and Whispering Pines Lane should operate under stop sign control (MUTCD R1-1);"

- "The Wire Road/Proposed Subdivision Road intersection and the Whispering Pines Lane/Proposed Subdivision Road intersection will function adequately with one approach lane on each leg of each intersection; auxiliary turn lanes are not necessary."

Additionally, the traffic engineer notes during their site inspection that the sight distance looking left and/or right from the Blair Road and Haise Way approaches to Brenda Lane were restricted by roadside vegetation within the apparent right-of-way. Mr. Pernaw recommends that the vegetation be trimmed and maintained, independent of the proposed subdivision.

Due to CLD's prior involvement with the design team on this project, and per the vote of the Planning Board on April 19, Keach-Nordstrom Associates (KNA) is serving as the Town's peer review consultant on this project. As of the time of this memo's preparation, Staff has not yet received any peer review comments from KNA. Given the relative complexity of this (or any) cluster development proposal, staff recommends that the Board not take any final action on the application until such time that peer review comments are received from KNA.

Completeness

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow the Board to make an informed decision.

Waivers

The applicant has not requested any waivers relative to the subdivision plans. Should any be requested, Staff recommends that they be provided in writing to the Board.

Staff recommends that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:36:

- Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; **or**

- Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

Recommendation

Based on the information available to date, **staff recommends that the Board CONTINUE the application until August 16, 2016 (or another date certain agreeable to the applicant and the Board), so that peer review comments can be received, and to allow the applicant an opportunity to address peer review comments and staff comments listed below:**

1. Community Development Staff reserves the right to amend, add, or remove any of the following comments pending the KNA peer review of the project;

2. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;

3. The applicant shall obtain any required State approvals/permits as may be applicable, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department;

4. The applicant shall note all waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable;

5. The applicant shall provide draft copies of any legal documents (easements and required Homeowners Association/Condominium Declaration from Section 3.08.18 of the Zoning Ordinance) for review, at the applicant's expense, by the Town's Legal Counsel;

6. The applicant shall address the comments from the peer review consultant, Keach-Nordstrom Associates, as applicable;

7. The applicant shall address the following comments from the Public Works Department as applicable:

    a. Additional comments may be forthcoming following receipt of the peer review consultant comments;

    b. Add note that any work within the public right of way will require a ROW permit from the Highway Division of Public Works;

    c. Gravel access road shall be located for all cross country drain and sewer lines (not shown for 206+75 lt, 244+60 rt, 253+80 lt,);

    d. The drain line and gravel access road at Sta 209+00 lt is located within the PSNH easement – is construction and future maintenance of drainage allowed within the easement? The PSNH easement may need to be revised to allow for construction and/or future maintenance efforts in this area;

    e. The plan titles for sheets SP-2 and SP-3 are both labeled 'Grading Plan Infiltration Basin B-1' but appear to be different basins;

    f. On sheet SP-3 the infiltration basin is labeled IB-3, on sheet SP-1 the same basin is labeled IB-4;

    g. A gravel access road shall be provided for maintenance of IB-3/4;

    h. Each road should have a different stationing series for clarity during review and construction (ie 200+00, 300+00, 400+00);

    i. Stop sign and stop bar required on Road A at intersection with Wire Road;

    j. A street light is required at the intersection of Road A and Wire Road – location to be approved by Town Engineer;

    k. CB 109, CB 128A, is not on curbline – should it be a MH?;

    l. The proposed stop signs and stop bars at the B – G roads intersecting with Road A should be eliminated unless they meet the stop sign warrants in MUTCD or need to be there by engineering judgement (reasoning should be provided for the file);

    m. The proposed sewer line and road plans/profiles connecting the proposed subdivision to the siphon on Brenda Lane should be part of this plan set;

    n. Detail sheet note D-2/1 – remove 'unless otherwise noted' from note 9;

8. The applicant shall address the following comments from the Wastewater Division, as applicable:

    a. On Page D-3 Manhole Structure Note:

        i. Note 5 shall also note that 30" cover will be Neenah Foundry #1743 or equal, 36" cover will be Neenah Foundry #1742 or equal, and no India covers will be accepted;

        ii. Note 6 shall be corrected from ASTMC-478 to ASTMC-478-12A

9. The applicant shall address any forthcoming comments from the Fire Department, as applicable;

10. The applicant shall address any forthcoming comments from the Conservation Commission as applicable;

11. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable;

12. The applicant shall address the following planning staff technical comments:

    a. Please address the following relative to the notes on Sheet #1:

        i. Please correct note #7, replacing the word "AREA" with "ARE";

        ii. Please correct note #8, replacing the word "AND" with "AS", removing the word "DOES" after "PORTIONS OF THIS SITE", and replacing the comma at the end of the sentence with a period;

        iii. Please correct note #10, replacing the word "NEEDS" with "NEED";

        iv. Note #13 shall be updated as necessary for any waivers, though no waivers appear to be requested at this time;

        v. Note #17 shall be updated with all state permit approval numbers;

        vi. Note #22 shall be updated as necessary or as directed by the Board relative to the project phasing;

        vii. Please clarify Note #23, it is unclear what the note is intended to convey and how it relates to the application as presented;

    b. The applicant shall include all required monumentation at property corners and angle points as required by the regulations;

    c. The applicant shall provide inclusion lines on all applicable sheets of the plan set wherever a stream, waterbody or stone wall (as applicable) is not a property line in order to clearly show the extents of the open space parcel;

    d. Please address the following on Sheet #3:

i. There appear to be at least 3 instances of encroachments of structures or retaining walls over either a property line or setback line. The Town of Merrimack typically determines that these existing encroachments are "grandfathered" as pre-existing non-conforming structures. The Applicant should verify that the Town of Bedford has a similar determination on these encroachments, or provide verification of appropriate relief from the Bedford Zoning Board of Adjustment;

ii. The applicant should clarify in a note if the proposed revised Lot 7C/28 is intended to be a part of one of the lots adjacent to or in Bedford (39-45 or 39-45-1) or if it is intended to be a separate building lot for construction of a new single family dwelling unit in Merrimack (staff notes that if this is part of one of the Bedford lots, it may address all or part of comment 12.d.i above);

e. On Sheet #4 there are two symbols (rectangles with the letter M in them) that are not indicated in any of the legends in the plan set. Please clarify what these are (assumed to be mailboxes). Additionally, please note that the word "OPEN SPACE" is partially obscured by the rectangle surrounding the text 7C/40 and should be corrected;

f. (Please add a note to Sheet #5 referring to the soils legend on Sheet #4;

g. Sheet #6 indicates a new lot 7C/40-2, however, this lot is not indicated as proposed on Sheet #1 in the purpose of the plan, which indicates the plan is to adjust lot lines/consolidate lots/create the 66 lot cluster subdivision. The only "conventional" lot other than the open space lot indicated in the purpose of the plan is the newly configured lot 7C/28. The text in the plan on this sheet indicates "potential", and the notes on the sheet seem to indicate that this lot is proposed, even though the reference back to sheet 1 does not support this conclusion. Please clarify all applicable sheets as necessary;

h. Please address the following on Sheets #7-11:

i. Please indicate the 5' setback requirement for the cluster lots graphically on the plans;

ii. On Sheets #7 & 8, please label Wire Road, and note the status and class of the road;

iii. On Sheets #9 - 11, please label the proposed roads, include the 25' no-disturb buffer line on Sheet #9, and include the wetland setback and no-disturb buffer lines on Sheet #10;

iv. On Sheet #11 please label Whispering Pines Lane, and note the status and class of the road;

i. Please address the following on Sheets #12-14:

i. On sheet #12. There is no indication of how the municipal sewer is proposed to be extended to connect to the proposed development. As requested by Public Works, the proposed sewer line and road plans/profiles connecting the proposed subdivision to the siphon on Brenda Lane should be part of this plan set and shown graphically on this sheet;

ii. On Sheet #13, please label Wire Road;

iii. On Sheet #14 please label Whispering Pines Lane and the pipe cover should read "maintain 3' min.";

j. The applicant should indicate the sewer location, and any other underground utilities (as applicable) in the roadway cross-sections on Sheets #28-37;

13. Proposed fire hydrants and street names must be shown on an engineered plan for review and approval by the Fire Marshal;

14. The applicant is responsible for recording the plan (including recording fee and the $25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department (this would be a General & Subsequent Condition at the time of conditional approval);

15. All proposed easements and any applicable legal documents (including the required Homeowners Association/Condominium Declaration from Section 3.08.18 of the Zoning Ordinance) shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant (this would be a General & Subsequent Condition at the time of conditional approval);

16. As required by Section 3.08.13(f) of the Zoning Ordinance, all deeds transferring any interest in the real property included in the development shall specify that the common land/open space parcels in the development are acknowledged to be part of the residential use and do not qualify for "current use" real estate tax appraisal and assessment under NH RSA 79-A (this would be a General & Subsequent Condition at the time of conditional approval);

17. As stipulated in Section 3.08.18 of the Zoning Ordinance, any proposed changes to the project's Articles of Association or the Condominium Declaration following the final approval of the project shall require the prior written approval of the Planning Board (this would be a General & Subsequent Condition at the time of conditional approval).

cc: File
Correspondence
Rebecca Hebert, Town of Bedford Planning Director

ec: Kenneth Clinton, Meridian Land Services
Northview Homes & Development
Bernstein, Shur, Sawyer & Nelson, P.A.
The Allen Swenson Real Estate Trust of 1999, Owner
The Barbara Swenson Real Estate Trust of 1999, Owner
Hampshire Ventures, Inc, Owner
Greenfield Management, LLC, Owner
John Manuele, Fire Marshal
Jim Taylor & Ken Conatay, Wastewater Division
Kyle Fox, PE, Public Works Director
Assessing Department
Building Department Staff

3. The applicant shall address the following Planning Staff Technical Comments:

   a. Note 8 to be revised to state "Approved with conditions June 2, 2015." Conditions to be indented under Note 8 to read a) Cross-walk striping will be placed across driveways and striping to extend along paved area of the frontage to delineate the walkway; b. Snow will be removed in a timely manner from the sidewalk easement area at the owner's expense; c) A 5' wide reclaimed asphalt pavement sidewalk will be placed and maintained by the owner within the sidewalk easement area from the northerly property line to the crosswalk area of the northerly driveway;

   b. Proposed sidewalk location within the easement area should be depicted on the plans.

General and Subsequent Conditions

1. The applicant is responsible for recording the plan (including recording fee and the $25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department.

7. Meridian Land Services, Inc., North View Homes & Development, Inc., & Bernstein, Shur, Sawyer & Nelson, P.A. (applicants) and Greenfield Management, LLC. (owners) – Review for acceptance and consideration of Final Approval for a 66-lot cluster subdivision on four lots (originally part of the Greenfield Farms subdivision) located on Wire Road and Whispering Pines Lane in the R-1 (Residential) and Aquifer Conservation Districts and the 100-year Flood Hazard Area. Tax Map 7C, Lots 28, 30, 40 & 40-1.

Bill Boyd returned to the Board.

Tim Thompson said that, since the April 19, 2106, preliminary hearing, the applicant refined the project design and submitted a full set of plans and information. Due to CLD's involvement with the design team on this project and per the Planning Board on April 19, 2016, Keach-Nordstrom Associates is serving as the Town's peer review consultant on this project. Staff has not yet received their peer review comments.

Ken Clinton, President, Meridian Land Services, Inc, said a lot line adjustment on the 130 acre property would be done first with the Swensons, reducing their lot to a conventional 7.48 acre lot with an individual septic system. No new structures would be erected on that parcel, which would be separate from the cluster subdivision. After the lot line adjustment, the rest of the property would be consolidated into 124.63 acres that yields a cluster of 66 lots. 50% (62 acres) of open space are required; 80% (100 acres) would be provided.

Nelson Disco asked how the lot would intersect with Merrett Road. Ken Clinton noted that it is a "paper street" that intersects the lot or open space. It is not intended as access to that lot and has no function or value. It was left from the 2007 and 2009 plans that were neither completed nor approved. Public roads are proposed. There would be

six cul-de-sacs off the through road and three open space lots. One open space lot of 8.79 acres would be conveyed to the Town as a gift for recreation or a community garden. The 8.8 acre open lot on the south, which is under a transmission line, would be open conservation space and left undisturbed. The third open space lot of 82.5 acres has wetlands, Baboosic Brook and diverse habitat. The open space would be mixed passive recreation with public access and use of Baboosic Brook and would be kept in its natural state.

Alastair Millns asked about access to the Baboosic Brook, which Ken Clinton said would be general public access on the north and homeowner access on the south. There would be three different types of open areas. Michael Redding stated that preserving the upland area would benefit the environment. Nelson Disco and Alastair Millns wanted access to the open space for the residential development as an amenity. Chairman Best disagreed, stating that it is not an amenity; rather it is open space as it is in nature. The Ordinance speaks only of "open" space. Ken Clinton added that the Ordinance does not mention that is must be "accessible" (although it would be.) Tim Thompson read out the main purpose of a cluster subdivision, which is "to promote conservation of the natural environment in harmony with the natural features of the land".

Ken Clinton said the land has a very flat footprint with sand and gravel on the plateau. Three infiltration basins would collect and treat rainwater and put it back into the ground. The impact would be reasonable. He awaits Alteration of Terrain (AOT) comments.

One area would be maintained as a recreation area/gathering place with grass and 1-2 picnic tables. Eversource approves using the gravel road under its easement as a public road.

Ken Clinton asked Traffic Engineer Steve Pernaw to update his traffic reports of 2007 and 2009. His memo of June 22, 2016, concludes that the increase to area roads does not pose enough safety concerns to require off-site improvements.

Ken Clinton sent PWD photos of staining at Brenda and Blair Roads due to drainage issues.

At its July 18, 2016, meeting, MCC was concerned that some lots near the top of the Baboosic Brook slope might encroach on open space and deposit yard debris. There should be no compost in the open space. Ken Clinton will research DES best management practices to include as a paragraph in the homeowner association document. Michael Redding suggested that the MCC's concern is phosphorous from lawn cuttings getting into the water, but compost could be controlled.

Ken Clinton is awaiting Keach-Nordstrom peer review comments. He said there would be no wetland impact whatsoever. He will need Alteration of Terrain and Sewer Discharge Permits from the State.

Bill Boyd wanted a full traffic report. Tim Thompson said it would most likely not provide additional analysis. Volume is not an issue and speed is an enforcement issue. Chairman Best said the applicant must prove his traffic would not make the current situation worse. Tim Thompson added that the traffic update concludes that an

increase of 72 vehicle trips during the worst case weekday p.m. peak hour period has no impact on the level of service. Wire Road can handle it. Bill Boyd requested that Steve Pernaw be asked to name the level of service.

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow it to make an informed decision.

The Board voted 7-0-0 to accept the application for review, on a motion made by Nelson Disco and seconded by Desirea Falt.

Ken Clinton seeks a waiver from the requirement of a negative 2% slope where two roads intersect. That is meant to prevent drainage from flowing onto other roads and to make a level plateau for cars to stop. He wants to retain the negative 1½% slope. The requirement would make the road steeper. The Planning Board wanted to wait for Keach Nordstrom's opinion.

Alastair Millns and Chairman Best questioned Condition 7.l. to eliminate stop signs and stop bars at intersecting roads. Tim Thompson said that PWD Director Kyle Fox's reasoning is that per the MUTCD, volume is too low to justify long-term maintenance costs. Ken Clinton said he intends to place stop signs at all intersections.

Public comment

Paul Pelsinski, 132 Wire Road, disagreed that there could be kayaking on Baboosic Brook because underwater hazards are too dangerous. It is just a pull-off for fishing. He said that, although Jason Drive has little traffic and only four houses, it has a stop sign, which is useful for visitors. Traffic on Wire Road is at an all-time low because Wallace Road is closed.

Phil Knotts, 127 Wire Road, noted that a toll booth was removed and traffic from Bedford increased on Wire Road since the 2007 traffic study. Straightening Wallace Road will also increase traffic. School buses make it worse in the morning, but the update addressed only the p.m. peak hours. There is no sight line at the ridge. Ken Clinton showed Phil Knotts where MVD water would potentially loop and the proposed storm water drainage.

Richard Comeau, 18 Whispering Pines Lane, asked who would repave the street after the sewer is installed. Chairman Best said someone would, although it is not known who. Not much of the road would be affected. Richard Comeau's concern is that the road is falling apart. His catch basin has water in it. He cannot use his driveway in winter because everything comes down from the road to his yard. Richard Comeau mentioned taking down some trees. He wants the ones on his property marked to be sure they are not cut down. Chairman Best said the applicant has no right to cut anyone else's trees.

Rhianne Berrigan, 4 Bryant Circle, asked what benefit the project would afford the Town. Chairman Best explained that a private property owner has the right to do something without benefiting the Town. If a site plan meets the standards, a property owner is entitled to Planning Board approval. Rhianne Berrigan asked about the effect of 66 new homes on the water supply in light of the water ban. Tim Thompson

explained that MVD would have to supply a letter stating that it can provide the service required. Chairman Best said that could be a condition of approval. If MVD cannot provide the service, there would be no approval. Rhianne Berrigan objected to so many large projects in town.

Richard Pero, 2 Bryant Circle, asked whether the infiltration basins would always be full of water. Ken Clinton explained that infiltration basins are not designed to hold water but to infiltrate, collect and return water to the ground. There would be some water in the basins in a 100-year storm before it goes back into the ground. All development would be on top of the slope. Richard Pero was also concerned about traffic, opining that there would be more when Wallace Road reopens. Chairman Best agreed, but stated that the subdivision would not be the cause of the increase.

Bill Hebel, 153 Wire Road, said the infiltration basin at the gravel pit would be 30'-35' above his home and asked where the water would go. He wanted his well to be protected. Chairman Best said water would not likely go to that property. There is a lot of room below ground for water to infiltrate. The peer review of drainage will be publicly available. Ken Clinton said water would go down and laterally. There would be a spillway for surface relief directly away from the Hebel lot. DES will review drainage as part of the Alteration of Terrain Permit. There must be no impact to abutters.

Richard Pero reminded the Planning Board that it wanted to do a site walk.

The Board voted 7-0-0 to schedule a site walk for August 27, 2016, at 8:00 a.m., on a motion made by Alastair Millns and seconded by Bill Boyd.

Staff recommends that the Board continue the application to a date certain agreeable to the applicant and the Board so that peer review comments can be received and to allow the applicant an opportunity to address them as well as staff comments.

The Board voted 7-0-0 to continue this item to September 6, 2016, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Bill Boyd and seconded by Alastair Millns.

8. **Public Hearing – Zoning Ordinance Amendments** — The Planning Board will conduct a public hearing to consider recommended amendments to Section 2.02.1 and Section 17 of the Merrimack Zoning Ordinance, pursuant to RSA 675:6 and 675:7.

This item was continued to August 2, 2016, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Bill Boyd and seconded by Desirea Falt.

9. **Zoning Ordinance Amendments Workshop** — "Redevelopment Overlay" for underutilized parcels.

This item was postponed to August 2, 2016

10. Discussion/possible action regarding other items of concern

The Board voted 7-0-0 to reduce the Windy Hollow Circle road bond to $86,737.88, on a motion made by Bill Boyd and seconded by Alastair Millns.

Town of Merrimack, New Hampshire
Community Development Department
6 Baboosic Lake Road
Town Hall - Lower level - East Wing
603 424-3531
Fax 603 424-1408
www.merrimacknh.gov
Planning - Zoning - Economic Development - Conservation

MEMORANDUM

Date: April 13, 2016

To: Robert Best, Chairman, & Members, Planning Board

From: Timothy J. Thompson, AICP, Community Development Director

Subject: **Meridian Land Services, Inc., North View Homes & Development, Inc., & Bernstein, Shur, Sawyer & Nelson, P.A. (applicants) and The Allen Swenson Real Estate Trust of 1999, The Barbara Swenson Real Estate Trust of 1999, Hampshire Ventures, Inc. & GFM Development, LLC (owners) –** Preliminary layout discussion (per Section 3.02 of the Subdivision Regulations) of a 66-lot subdivision on four lots (originally part of the Greenfield Farms subdivision) located on Wire Road and Whispering Pines Lane in the R-1 (Residential) and Aquifer Conservation Districts and the 100-year Flood Hazard Area. Tax Map 7C, Lots 28, 30, 40 & 40-1.

Background: Please see the staff memo dated January 28, 2016 for general background information on this project.

The application was submitted under Section 3.02 (Preliminary Layout) of the regulations. This is an optional preliminary step that applicants can utilize in the development of subdivisions. The "process" for a "Preliminary Layout" is summarized below:

- Plans and information should be submitted in accordance with the requirements of Section 4.05 of the regulations.

- The Board has the option to consider "conditional approval with modifications only to authorize the preparation of the final plat", or to "disapprove such preliminary layout". While these are the only two options listed in this section of the regulations, Staff believes that because this is an optional preliminary step in the subdivision process, the Board can also provide feedback more akin to a conceptual discussion or pre-submission hearing, and need not make a formal decision on the "preliminary layout."

- Abutter notice is required along with a public hearing for a preliminary layout.

- "Conditional approval of a preliminary layout shall be separate and apart from formal consideration of a completed application under Section 3.03 and the time limits for acting under Section 3.03(b) shall not apply until a completed application is submitted under Section 3.03(a), all in accordance with RSA 676:3 and 4 (as amended)."

- "Conditional approval does not constitute, nor should it be construed as approval, either implied or granted, of the final plat, nor does it bind the Planning Board to approval of the final plat."

Staff recommends that given the missing information from Section 4.05 (see comments listed below), that the Board should refrain from formally deciding to "conditionally approve" or "deny" the preliminary

layout, and rather should use the public hearing and discussion to provide direction to the applicant in terms of the design and any concerns the Board may have.

As you may recall from the discussion in February, the applicant is requesting that the services of a different peer review consultant be utilized for the review of this project (given the previous involvement of CLD's intellectual property and CLD employees in the design of the project in the past iterations). See attached letter from Meridian requesting a different peer review consultant. Staff has confirmed that Keach Nordstrom Associates (KNA) is willing to take on the peer review of the project, and is in a good position of understanding the project given KNA's history as the peer review consultant for the Town of Bedford (where previous phases of this project are located). *Staff recommends that the Board vote to authorize KNA to be the peer review consultant for the Town on this project, commencing once a formal application is submitted for review by the applicant*.

Staff offers the following comments to the Preliminary Layout submission:

1. The following items, as required by Section 4.05 of the Regulations, were not provided for the Preliminary Layout:

    a. (4.05.d) Names and addresses of abutting property owners, subdivisions, and buildings within 200 feet of the boundaries of the parcel to be subdivided and intersecting roads and driveways within 300 feet of the subdivision frontage on existing roads;

    b. (4.05.f) Existing and proposed street right-of-way lines, widths of streets, proposed names of new streets, existing and proposed lot lines and location and width of proposed sidewalks or pedestrian ways;

    c. (4.05.g) Location of existing and proposed easements, deed restrictions, building setback lines, parks and other open space, water courses, large trees, foliage lines and significant natural and man-made features, water mains, sanitary sewers, storm water drainage lines, drainage structures and drainage ways;

    d. (4.05.h) Location of stump dumps and/or material disposal areas; all such dumps and/or material disposal areas must be permitted by the State in accordance with RSA 149-M:10;

    e. (4.05.i) Existing and proposed plans for telephone, electricity and gas utilities;

    f. (4.05.j) required flood hazard area information;

    g. (4.05.k) A general site location map at the scale of the official or municipal base map, locating exactly the subdivision boundary and proposed streets in relation to at least two existing intersecting streets or other features shown on the official map;

    h. (4.05.m) A statement and contours in sufficient detail to indicate clearly the method of storm water drainage on and off the subdivision, methods of sanitary sewage disposal and water supply; soils data;

    i. (4.05.n) Watershed areas and drainage computations;

    j. (4.05.0) Typical roadway cross-sections;

    k. (4.05.q) Copies of statements outlining the conditions under which any land is to be reserved for public use;

l. Other items, not necessarily from Section 4.05:

i. Provide lot sizing and setback information on the plans as required by the regulations and ordinance;

ii. Indicate all required buffers specified by the Zoning Ordinance;

2. Wastewater related comments:

a. The Public Works Department has approved the sewer extension and siphon design behind Barbie Court to Whispering Pine Ln (which will facilitate connection to this project). The Department notes in the approval memorandum that connections to this sewer are not available until the previously installed section through Hamilton Court has been accepted and turned over to the Town of Merrimack by the developer;

b. The above referenced approval does not cover the need for a permit and sewer design to be approved by both the State and Town for the proposed project before you. There will be additional sewer design work and permitting that the Wastewater Division will be reviewing and commenting on as the project moves into a formal design;

3. The Assessing Department offers the following comment: Prior to the subdivision, it appears 4 existing lots are to be consolidated and currently there are 3 separate owners of record. Before consolidating land of 3 separate owners it would seem appropriate for ownership to be conveyed first to one entity before approval of consolidation;

4. The applicant is reminded that proposed fire hydrants and street names must be shown on an engineered plan for review and approval by the Fire Marshal.

5. The applicant should be prepared to address the following as the project transitions to a formal application (note that this is not intended to be an all-encompassing list, and Community Development reserves the right to add any applicable review comments as the project moves through the design process):

a. Address all forthcoming comments from the various Town Departments, Boards/Commissions, and peer review consultant as is typical for review of any subdivision application;

b. Obtain all applicable state permits;

c. Provide draft copies of any legal documents (easements and required Homeowners Association/Condominium Declaration from Section 3.08.18 of the Zoning Ordinance) for review, at the applicant's expense, by the Town's Legal Counsel;

d. Provide applicable notes relative to the requirements of Section 3.08 of the Zoning Ordinance relative to Cluster Subdivisions;

e. Provide appropriate notes describing proposed project phasing (and depict graphically on the plans as applicable);

f. As required by Section 3.08.13(f) of the Zoning Ordinance, all deeds transferring any interest in the real property included in the development shall specify that the common land/open space parcels in the development are acknowledged to be part of the residential use and do not qualify for "current use" real estate tax appraisal and assessment under NH RSA 79-A;

g. As stipulated in Section 3.08.18 of the Zoning Ordinance, any proposed changes to the project's Articles of Association or the Condominium Declaration following the final approval of the project shall require the prior written approval of the Planning Board.

6. Staff recommends that the applicant continue to seek input from all local entities (Conservation Commission, , Merrimack Village District, Town Departments) early in the process.

cc: File
Correspondence
Rebecca Hebert, Town of Bedford Planning Director

ec: Kenneth Clinton, Meridian Land Services
Northview Homes & Development
Bernstein, Shur, Sawyer & Nelson, P.A.
The Allen Swenson Real Estate Trust of 1999, Owner
The Barbara Swenson Real Estate Trust of 1999, Owner
Hampshire Ventures, Inc, Owner
Greenfield Management, LLC, Owner
John Manuele, Fire Marshal
Jim Taylor & Ken Conatay, Wastewater Division
Kyle Fox, PE, Town Engineer/Interim Public Works Director
Assessing Department
Building Department Staff

c. Note 11 regarding the filing of a Stormwater Management Plan mentions Map 4B, Lots 153 and 153-2. Please replace these with the appropriate Map & Lot numbers.

General and subsequent conditions

1. The applicant is responsible for recording the plan (including recording fee and the $25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
3. The applicant shall obtain right-of-way permits from the Public Works Department for all new driveways.
4. The Fire Department assigns addresses as follows:
   a. Tax Map 6A, Lot 29-1 shall be 258 Baboosic Lake Road;
   b. Tax Map 6A, Lot 29 shall be 260 Baboosic Lake Road.

7. Meridian Land Services, Inc., North View Homes & Development, Inc., & Bernstein, Shur, Sawyer & Nelson, P.A. (applicants) and The Allen Swenson Real Estate Trust of 1999, The Barbara Swenson Real Estate Trust of 1999, Hampshire Ventures, Inc. & GFM Development, LLC (owners) – Preliminary layout discussion (per Section 3.02 of the Merrimack Subdivision Regulations) of a 66-lot subdivision on four lots (originally part of the Greenfield Farms subdivision) located on Wire Road and Whispering Pines Lane in the R-1 (Residential) and Aquifer Conservation Districts and the 100-year Flood Hazard Area. Tax Map 7C, Lots 28, 30, 40 & 40-1.

Tim Thompson explained that this is an optional preliminary layout review only. The applicant can utilize it in the development of subdivisions and the Board can provide feedback more akin to a conceptual discussion or pre-submission hearing without making a formal decision.

Because of the involvement of CLD's intellectual property and employees in designing past iterations of the project, Meridian requests a different peer review consultant. Staff confirms that Keach-Nordstrom Associates, which was the peer review consultant for the Town of Bedford for previous phases of the project located there, is willing to act as peer review consultant.

The Board voted 6-0-0 to authorize Keach-Nordstrom Associates, Inc., to be the peer review consultant for the Town on this project, commencing once a formal application is submitted for review by the applicant, on a motion made by Bill Boyd and seconded by Alastair Millns.

Ken Clinton, President, Meridian Land Services, Inc., listed the proposed lot sizes. The original plan called for 58 lots with open space, but lack of public sewer stalled the design. There would be a sewer extension from Bedford Road to Whispering Pines

Lane. This design has been approved, up to but not internal to the parcel. Adding the new Lot 40 and subtracting the seven-acre Swenson farm, which will remain as is, leaves 123 acres out of the total 130 acres. Only 60.67 acres are buildable. That allows a density of 66 lots. 61-85 acres would be open space, leaving 35-44 buildable acres. There would be no lots in the gravel pit. There would be a gravity sewer on all lots, which could not be done previously. The applicant had to create more grades/transitions in the developed area. The road is slightly higher than expected on road C because of the sewer, so 4' of fill would be needed to cover the sewer pipe as well as a waiver for a grade of 2% rather than 1½%. Ken Clinton met twice with PWD Deputy Director/Town Engineer Kyle Fox. Because the cul-de-sacs would be short, less fill would be needed.

The applicant proposes rough grading and using Lot 17-28 at the corner of Pearson Road along the Bedford line as public use open space that would donated in fee to the town. The 8-9-acre field could be used for two playing fields conceivably.

Nelson Disco was very much in favor of the idea; there is a big need for playing fields in town.

Alastair Millns asked if there would be interior sidewalks. Ken Clinton said there would be sidewalks on one side of the roads. The applicant would create a private recreation area for residents against the pit area along the access road. There would be no trails in the rear of the homes. Residents could use the small public boat access on Wire Road from the open space in the subdivision. Ken Clinton's research shows that this is not a good location for elderly housing. He believes the traffic study done by Steve Pernau is still valid. The traffic pattern would be more spread out; another study is not necessary. Tim Thompson suggested updating the traffic study with a memo or addendum. Alastair Millns said he did not like the previous traffic study because of the effect on Wire Road. Ken Clinton will go to the Merrimack Conservation Commission (MCC) because the project is in the Aquifer Conservation District and the 100-year Flood Hazard Area. There are no wetland impacts. The roads would be town roads.

Public comment

Shannon Rand, 1 Blair Road, asked whether the bridge on Whispering Pines Lane would be opened. She opposes opening it because of the traffic impact. Ken Clinton said it is defunct and would not re-open. Chairman Best suggested designating "usable" and "non-usable" roads on the site plan. Shannon Rand was concerned about the increased number of cars and rush hour speeding on a street with young children.

Shannon Rand asked if there would be a sewer on Blair Road, which Ken Clinton answered in the affirmative. Shannon Rand is concerned about the cost of connecting to the sewer for residents on Blair Road, Brenda Lane and Whispering Pines Lane and would prefer another route. Tim Thompson explained that residents could ask for waivers if they meet the criteria. Ken Clinton said storm water on Blair Road is a PWD issue.

Shannon Rand said there is no way for people on this side of Merrimack to get to the Bedford field. Playing fields should be centrally located in Merrimack. Alastair Millns said that it is not a long way and he does not share her concerns.

Alastair Millns asked whether residents must connect to the sewer if they have septic systems. Tim Thompson explained they must if the sewer is a certain distance from a post-1985 home; otherwise they must seek a waiver.

Shannon Rand was concerned about safety. Whispering Pines Lane is a throughway. There are traffic jams at the four-way stop; it would be worse with 66 new homes.

Richard Comeau, 18 Whispering Pines Lane, said a home within 200' of a sewer must hook up to it; a home beyond 200' can do so later at the homeowner's expense. That means that everyone will pay to connect to the sewer and must tear up then replace underground sprinkler systems in order to lay the pipes.

Rhianne Berrigan, 4 Bryant Circle, listed her environmental concerns for a project in the Aquifer Conservation District and the 100-year Flood Hazard Area. Chairman Best said the Planning Board ensures that the applicant meets standards, but it does not determine what he can build. Any easements would be considered and reflected on final plans. Ken Clinton stated that there would be no wetland impacts. He must apply for a NH Department of Transportation (DOT) Permit. e mus Certain uses are allowed by right. The applicant must design according to town, state and federal environmental regulations. He e Hemust list threatened or endangered species with the Natural Heritage Bureau.

Doug McCaffery, 20 Whispering Pines Lane, opined that 74 more cars would come onto his street. Chairman Best said a traffic study would determine the number. Doug McCaffery asked about the 100' strip behind his house. Ken Clinton explained that it is the property line and it must have a 100' buffer. More open space is being planned than is required. Doug McCaffery said that, when his father conveyed the land, the applicant agreed not to build on a portion of it. Ken Clinton said that there were previous plans in 2006 and 2009. The proviso was that Lot 40-1 would be open space, but the plans were not approved. Further negotiations lifted the restriction. Ken Clinton offered to discuss the matter with Doug McCaffery.

Daniel Jaskiewicz, 15 Whispering Pines Lane, agreed with the previous speakers. He asked how construction and the transmission easement over his property would be managed. He does not want bulldozers on his property, which Ken Clinton said would not occur. Tim Thompson explained that before construction, the applicant must meet with all relevant town departments for a Pre-Construction meeting and follow regulations. Daniel Jaskiewicz noted dumping of large rocks on the easement behind 38 Brenda Lane. Ken Clinton explained that it is a town stockpile for future road materials; the rest would be removed.

Paul Pelsinski, 132 Wire Road, was concerned about traffic on Wire Road growing over the years. Speeding vehicles and trucks coming from Bedford create a safety issue. He suggested a three-way stop sign. Tim Thompson said he would bring the speeding and truck issues to the attention of the Police Department. Stop signs are the purview of the

Highway Safety Committee, which does not always look favorably on stop signs. The public can forward comments to the Committee.

Tammy Carlson, 14 Blair Road, agreed with concerns about increased and speeding traffic. There are five autistic children on the street and four special needs buses at her driveway. There are no stop signs in the neighborhood. Traffic goes onto Blair Road to Brenda Lane in order to get to the Transfer Station, Shaw's and Exit 12. Construction traffic would impact the children and her family. Tammy Carlson asked who would pay to maintain the open space. New costs to the neighbors are stressful. Chairman Best explained that the open space would be a donation to the town, which would set up a Capital Improvement Plan. Town Council decides budgets. He, too, is concerned about the expense of hooking up to the sewer for affected residents.

Ken Clinton said the sewer would serve the subdivision and comply with the Sewer Master Plan. Construction would be privately funded. Instead of a cluster, he could build a conventional grid subdivision with larger lots that are more widespread and have on-site septic systems. Tammy Carlson wanted the Board to consider the drainage issue on Blair Road from melting snow and ice and not make it worse. Chairman Best explained that peer review would look at some of these issues, including storm water. The applicant cannot increase runoff to neighboring lots, but the Planning Board has no purview over the sewer line. Ken Clinton said that the extension design would not alleviate the existing issue, but he would discuss it with Tim Thompson and PWD.

John Rennie, 130 Wire Road, asked who would supply the water and how. Ken Clinton replied that MVD has provided a letter stating suitability and will update it. The water would come from Whispering Pine Lane and/or perhaps Wire Road. It might be possible to bring a water main past the hydrant. Chairman Best explained that the Planning Board does not have any say as to where MVD puts water lines.

Elizabeth Griffith, 2 Dodier Court, said the neighborhood is quiet, with large lots where children play in the street. There is a path through the forest. Her concern is loss of green space and the density of the new homes. Tiny lots would be crammed together. Where would neighbors walk? Chairman Best explained that a cluster development is intentionally dense in order to leave open space. Elizabeth Griffith wanted the open space to be available to the neighbors. Chairman Best said they could walk on the buffer in the woods. Ken Clinton repeated that there would be 50-70 acres of open space for both active and passive recreation with public access. The pit would be used for storm water detention and a community area.

Eric Hanscom, 5 Dodier Court, agreed about traffic on Whispering Pines Lane. Where it meets Wire Road there is a small hill that blocks the sightline and view exiting left to the four-way intersection. There would be more traffic in addition to the 10-15 cars that go there now. He has no privacy because headlights at the stop sign shine onto his backyard and pool. He would prefer an alternative road exit on Wire Road north of this entrance that would create one road north to Bedford and one road south to Merrimack. That would spread the traffic through Wire Road.

Phil Knotts, 127 Wire Road, has no problems with his septic system and private well and does not want town water. Open space on the north would not be accessible. There is no sidewalk or parking on Wire Road. Children must walk a dangerous path to get there. Rather than playing fields, there should be a common area for children to play in the neighborhood without having to travel. Chairman Best noted that it is intended not for the development but for the public. Phil Knotts agreed with his neighbors about traffic. There is no sight line at the ridge at Lois Lane. Widening of the road in Bedford would make traffic worse. Ken Clinton clarified that more than 50% of the cluster's common land must become permanent open space. It can be private, public or non-profit as designed by the applicant. Public use of open space is not required. It is voluntary and not imposed on the applicant. It is the applicant's decision.

Frances Donahue, 3 Blair Road, asked about the sewer timeline. Ken Clinton said there is none. The extension depends on Planning Board approval and financing of the project. The engineering work would be done internally. The survey work done externally to design the sewer system and collect data was approved. Some borings were done to show that a sewer could be brought in that would comply with the Sewer Master Plan. Frances Donahue asked if the private sewer could be where the power lines are. Ken Clinton said that regulations discourage cross-country and encourage maximum connectivity. He has considered all options. He would fill and pave the trenches. Frances Donahue agreed with previous speakers about traffic. There are no sidewalks or night lights when children play.

Chairman Best suggested that the Planning Board schedule a site visit.

Bill Hebel, 153 Wire Road, asked where rain water would go. The land is flat and his house is 40' lower than other homes.

Shannon Rand asked if the developer would pay to attach a sewer to a home. Chairman Best said the Planning Board cannot require him to and again suggested that residents seek a waiver. Shannon Rand repeated her concern about the cost to others on her street. Alastair Millns opined that home values would increase if they had on the sewer. Shannon Rand asked if the developer's taxes would pay for the sewer. Chairman Best said that would not decrease neighbors' taxes. A sewer is functionally better than a septic system. The state wants to encourage public sewers. He agreed that the neighbors' situation is "awful", but it is not a Planning Board decision.

John Griffith, 2 Dodier Court, said snow piles up on the stub of Whispering Pines Lane and asked how the cluster would be cleared. Chairman Best explained that the development would have public streets that must be designed to meet standards. John Griffith said one cannot see traffic around the snow piles at the intersections. It is dangerous. He had to call PWD to cut back the piles. John Griffith did not want all cars to connect to Whispering Pines Lane. Chairman Best asked how long the road would be from Wire Road to the deepest part of the intersection if Whispering Pines Lane were not connected. Ken Clinton replied it would be approximately 1,400' from Wire Road to Lots 34-35, which is beyond the Fire Department's 1,200' limit. Tim Thompson said that would create six cul-de-sac points. Ken Clinton said this plan has the most suitable road. It was planned this way in many plans since the 1970s.

Tim Thompson assured abutters that they would be notified at the time of the formal site plan application.

Ken Clinton explained the difference between buffer and easement lines.

3. Zoning Ordinance Amendments Workshop

a. Accessory Dwelling Units

Tim Thompson explained that the Legislature passed and the Governor signed a bill that sets forth new statutory requirements for ADUs to become effective June 1, 2017. The new law correlates nicely with Master Plan recommendations in that municipalities will no longer be able to restrict occupancy of ADUs to family members only. The proposed Ordinance amendments would set forth two different processes for ADUs. The first would be to change "attached" ADU approvals from a Special Exception requiring ZBA approval to a permitted use, with criteria that would be administered by the Community Development Department. The second process would allow for "detached" ADUs to be permitted by Conditional Use Permit by the Planning Board. The criteria for unit and lot size would differ between the two proposals. The proposed amendments would address the ZBA's desire to fix the Special Exception process as well as the Master Plan and state law goals of helping to meet the needs of a diversified housing stock to address a limited part of the workforce housing needs or the community.

Discussion ensued about whether an ADU over a garage is accessory to the dwelling or must be smaller than the main house and count toward 50% of its heated living space. Tim Thompson will ask Legal Counsel about the status of previously recorded restricted covenants requiring that an ADU be for a family member only.

It was the Board's consensus to move forward to a public hearing for the proposed amended Ordinance concerning ADUs.

b. Signs (in response to Reed v. Gilbert SCOTUS Case)

Jillian Harris reminded the Board that, at its February 2, 2016, meeting, it was discussed about amending the Zoning Ordinance to remove content bias from sections dealing with signs. A June 2015 U.S. Supreme Court decision established that sign codes cannot make distinctions based on the message of the speech. As a result a sign code that makes any distinctions based on the message of the speech is content based. A review of Merrimack's current sign regulations indicate that there are certain sections of the Ordinance that must be amended in light of recent case law. The proposed amendments seek to remove any content bias and to simplify the process of regulating temporary signs in order to protect the town from litigation. Jillian Harris summarized the affected sections and suggested changes. Tim Thompson said that Legal Counsel would review the proposed amendment in the next few weeks and wanted Planning Board comments before then.

c. "Redevelopment Overlay" for underutilized parcels

Town of Merrimack, New Hampshire
Community Development Department 603 424-3531
6 Baboosic Lake Road Fax 603 424-1408
Town Hall - Lower level - East Wing www.merrimacknh.gov
Planning - Zoning - Economic Development - Conservation

MEMORANDUM

Date: January 28, 2016

To: Robert Best, Chairman, & Members, Planning Board

From: Timothy J. Thompson, AICP, Community Development Director
Robert Price, Assistant Planner

Subject: **Greenfield Management, LLC. for Greenfield Farms (applicant/owner) –** Conceptual discussion of a proposed single family cluster development located at Wire Road, Whispering Pines Lane and Pearson Road in the R (Residential), Aquifer Conservation Districts and the 100/500 year Flood Hazard Areas. Tax Map 7C, Lots 028, 030, 040 & 040-1.

Background: The subject parcels, Tax Map 7C, Lots 028, 030, 040 & 040-1, comprise approximately 129 acres of land and is located at Wire Road, Whispering Pines Lane and Pearson Road in the R (Residential) and Aquifer Conservation Districts and the 100/500 year Flood Hazard Areas. The area is undeveloped, but portions have been planned for the next phase of the Greenfield Farms subdivision (the currently developed portion of the project is located in Bedford). The site would have access to water from Merrimack Village District and municipal sewer would also be extended to service the development of the property.

As the Board is likely aware, this project has been in front of the Board on multiple occasions. In 2007, the Board granted conditional approval to a cluster subdivision of 24 lots (with 2 open space lots). The project never received final approval, however, as the provision of municipal sewer to serve the project was never in a format and design that met the approval of the Public Works Department (the applicant prepared but withdrew a plan in 2009, then appeared before the Board in 2014 with discussions regarding sewer extensions, see attached prior memos and minutes for further background).

After continued discussion between the applicant and the Public Works Department, it now appears that the sewer extension's design has been modified to be consistent with the Town's latest Sewer Master Plan (adopted in 2013), and that Public Works is comfortable with the plans/design to bring sewer to the site.

In addition to the revisions to the sewer extension design, the applicant has acquired additional abutting parcels which are now incorporated into the latest conceptual design. The applicant is seeking initial feedback from the Board on the concept, before beginning formal design and engineering work on the new subdivision concept.

Staff will also note that the applicant has changed design firms for the project. The initial 2007 plan was design by True Engineering, which has since gone out of business, and True Engineering's intellectual property was acquired by CLD Consulting Engineers. As you are no doubt aware, CLD is the Town's engineering peer review consultant for Planning Board applications. While Meridian Land Services has now taken up the design work for the project, the work is still based on the plans and information that were prepared initially by True and CLD. As such, when a formal application for this project is submitted, the Town, at the applicant's request and as authorized by new state law,

recommends that the services of a different peer review consultant be utilized for this project (RSA 676:4-b, which states:

> *"The applicant may request the planning board choose a different third party consultant and the request may include the name of a preferred consultant. The planning board shall exercise reasonable discretion to determine whether the request is warranted. When such a request is granted by the planning board, the 65-day period for the board's action on an application stated in RSA 676:4, I(c)(1) shall be extended 45 days to provide the board adequate time to identify a different consultant.")*.

Staff will work with the applicant and Meridian to secure the services of a peer review consultant for the project moving forward, which will be, as per the normal procedure in accordance with statute, at the applicant's expense. At the appropriate time, staff will bring forth a recommendation to the Board for the selection of a peer review consultant for your approval.

Staff offers the following comments to facilitate the conceptual discussion with the applicant:

1. The Board should discuss how the purposes of the Cluster Residential Development Ordinance are being met:

    a. To promote the conservation of the natural environment, and the development of community uses in harmony with the natural features of the land;

    b. To establish living areas within the Town that provide for a balance of community needs, such as a diversity of housing opportunities, adequate recreation and open space areas, easy accessibility to these and other community facilities, and pedestrian and vehicular safety;

    c. To provide for an efficient use of land, streets, and utility systems; and

    d. To stimulate new approaches to land and community development.

2. The Board should ask the applicant to discuss how the project has grown with the additional land they've acquired, how that has allowed them to alter the layout of the development and also if they are considering phasing the project in any manner.

3. The applicant shows 66 lots on the plan but the application indicates the number of lots is 'to be determined." The Board should ask the applicant to clarify how this number may change.

4. The applicant should discuss how the sewer plans have been modified to satisfy the Public Works Department.

5. The applicant should be asked to discuss any potential waiver requests or zoning relief they may be considering.

6. As has been done previously, the applicant should be reminded that proposed fire hydrants and street names must be shown on an engineered plan for review and approval by the Fire Marshal.

7. Staff recommends that the applicant continue to seek input from all local entities (Conservation Commission, Town Departments) early in the process.

cc: File
Correspondence

ec: Kenneth Clinton, Meridian Land Services
Greenfield Management, LLC, Applicant/Owner
John Manuele, Fire Marshall
Jim Taylor, Acting Public Works Director
Ken Conatay, Wastewater Division
Kyle Fox, PE, Town Engineer/Deputy Public Works Director
Fred Kelley, Building Official
Carol Miner, Building Department

At the applicant's request, the Board voted 7-0-0 to continue this item to March 1, 2016, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Desirea Falt.

3. **Madi Choueiri for LaTerrasses Restaurant (applicant/owner) –** Compliance Hearing as required by conditions of Approval for a restaurant located at 480 D.W. Highway in the C-1 (Limited Commercial), Elderly and Town Center Overlay and Aquifer Conservation Districts. Tax Map 5D-3, Lot 046.

This agenda item was taken up after agenda item #5.

Desirea Falt recused herself from discussing and voting on this agenda item. Chairman Best designated Nelson Disco to sit for Desirea Falt.

Tim Thompson reminded the Board that one condition of approval was that the "applicant attend a compliance hearing with the Planning Board after legible architectural elevations are submitted to Community Development". Those elevations have now been submitted.

Madi Choueiri, 480 D.W. Highway, said he has fulfilled the conditions of approval and that there were no changes in the elevations.

In answer to Nelson Disco, he stated that the front would be glass and the rest of the building would be the same white and light green color as now. He hopes to open next winter.

Nelson Disco said a condition of approval was to "indicate any proposed easements on the plan . . . including . . . parking and sidewalk easements", but the cross-hatching is not visible where asphalt was to be replaced with grass, the sidewalk easement boundaries are not clear and the parking spaces are not delineated. The Public Works Department (PWD) must approve the easement plan. Tim Thompson explained that the lines are very faint and do not show on the Planning Board's copy. Staff will be sure they show on the final plan. No Planning Board action is necessary tonight; precedent condition #11 of approval has now been satisfied. PWD has already made its review. The Town attorney has only minor comments. Plans will be brought forth for signature when remaining conditions are satisfied.

This public hearing satisfied precedent condition #11 of the project approval.

4. **Greenfield Management, LLC. for Greenfield Farms (applicant/owner) –** Conceptual discussion of a proposed single-family cluster development located at Wire Road, Whispering Pines Lane and Pearson Road in the R (Residential), Aquifer Conservation Districts and the 100/500 year Flood Hazard Areas. Tax Map 7C, Lots 028, 030, 040 & 040-1.

Desirea Falt returned to the Board. Nelson Disco returned to Alternate status.

Tim Thompson summarized the background of the development: In 2007 the Board granted conditional approval to a 24-lot subdivision with two open space lots. The project never received final approval because the provision of municipal sewer to serve

the project was never in a format and design that met PWD approval. In 2009 the applicant withdrew the plan. In 2014 the applicant discussed sewer extensions with the Board. After continued discussion with PWD, the sewer extension's design has been modified to be consistent with the Town's latest Sewer Master Plan and PWD is comfortable with the plans/design to bring sewer to the site.

The initial 2007 True Engineering design was acquired by CLD Consulting Engineers, which is the Town's peer review consultant. At the applicant's request and as authorized by new State law, the Town recommends that the services of a different peer review consultant be utilized when a formal application is made.

Ken Clinton, President, Meridian Land Services, Inc., proposes to build a 66-lot cluster development serviced by both sewer and water. There are currently four separate parcels ranging from 5.5 acres to 97 acres. The project was stalled and withdrawn because of the sewer issue, which has now been solved. All the infrastructure will be in place and ready for State approval. With the addition of the fourth parcel, the right-of-way will become a through road to Wire Road. The road would have enough curves to prevent speeding. There is a power line easement in the middle of the property. Six separate, short cul-de-sacs or pods are proposed. Some improvements were moved away from the wetlands. A gravity sewer system was discussed with PWD and the Sewer Department; no pump system would be required. No road design or drainage waivers would be necessary. The project is much improved since 2006 and 2009. Remarkably there would be no wetland impact. The project would need an Alteration of Terrain Permit. Despite PWD's suggestion, he did not make extra road loops around the cul-de-sacs because he sees no reason for extra paving. The average lot would be ¼ acre or approximately 12,000 square feet. The subdivision would take up 35-40 acres out of the 130 acre total, leaving 90 acres of contiguous open space, more than the required 50%. A waiver for a flatter road grade may be sought.

In answer to Board questions, Ken Clinton stated that four tax map lots would be consolidated and re-subdivided. Brenda Lane is on the south. The lot on the Bedford town line would be open space. There would be a lot line adjustment for the Swenson homestead, which is mostly in Bedford. There would be open space on both sides of Baboosic Brook. No crossing is proposed. There would be connectivity to the public roads.

Nelson Disco wanted access to the open space from the homes, but Ken Clinton said it would not work because a homeowner's association would have the burden of maintaining the access. Tim Thompson explained that recreational space is not required in the open area by ordinance, but is suggested as an option. Alastair Millns wanted the applicant to consider the walking trail on the perimeter that was on the original application. Jeff Sebring noted that there is land above the Brook that would never be developed. He asked whether most of the homes would be separated from the power line/easement. Ken Clinton explained that, although he could build against it, he would build in 50' of separation. The old sand pit will remain because the Town is using it for bridge reconstruction.

Ken Clinton noted that the Cluster section of the ordinance encourages "diversity of housing opportunities". He asked the Board's view of mixing uses and building housing units for the elderly in one of the cul-de-sacs. He stated that the Elderly Overlay District is "incredibly small". The suggestion has received some positive comments from Town officials, but no specific endorsements. It would require a variance from the Zoning Board of Adjustment (ZBA), although he does not know what the density would be. Nelson Disco recalled that the District was created to be within walking distance from business areas. That would not be possible for this development, which is also far from a fire station. He doubted whether juxtaposing multi- and single-family units would be marketable.

Ken Clinton said residents of a 55 and over development have no problem driving. Lynn Christensen noted that part of the District (Turkey Hill Road) is not walkable to businesses. She suggested that single-story ranch-type units with connected buildings would be more interesting than flat-front townhouses. Chairman Best agreed with both Nelson Disco and Lynn Christensen and is open to considering the suggestion. He cautioned against adding a convenience store just because it would be within walking distance and against using salt or fertilizer on the land. Alastair Millns said it would be easy to drive to the Bedford commercial district.

Tim Thompson said he had suggested having this discussion with the Board. He is neutral, but noted that the Master Plan encourages mixed use.

Ken Clinton said there would be sidewalks and trails, perhaps with exercise stations. He prefers passive recreation that is free and does not require maintenance. Chairman Best suggested installing benches. Nelson Disco suggested a ball field accessible to the Town and maintained by an entity other than a homeowners' association. Tom Mahon suggested asking the Parks and Recreation Department what it wants.

There was no public comment.

It was the consensus of the Planning Board to utilize the services of a different peer review consultant.

6. Discussion/possible action regarding other items of concern

Tim Thompson alerted the Board that Prime Alternative Treatment Center would appear before it on February 16, 2016. Because of issues with the landlord, it officially withdrew its previous application and conditional approval, and will instead pursue another parcel at 380 D.W. Highway/Skyline Mall.

7. Approval of Minutes – January 5, 2016 & January 19, 2016

The minutes of January 5, 2016, were approved, with one change, by a vote of 6-0-1, on a motion made by Lynn Christensen and seconded by Alastair Millns. Jeff Sebring abstained.

The minutes of January 19, 2016, were approved, as submitted, by a vote of 6-0-1, on a motion made by Lynn Christensen and seconded by Alastair Millns. Vincent Russo abstained.