

**TOWN OF RYE – PLANNING BOARD
MEETING**

**Tuesday, July 13, 2021
6:00 p.m. at the Rye Public Library**

Members Present: Chair Patricia Losik, Vice-Chair JM Lord, Clerk Steve Carter, Jim Finn, Katy Sherman, Alternates Jeffrey Quinn, Bill MacLeod, Robert Wright and Kathryn Garcia, Nicole Paul (arrived at 6:10)

Present on behalf of the Town: Planning/Zoning Administrator Kimberly Reed, and Attorney Michael Donovan

I. Call to Order

Chair Losik called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

Alternate Jeffrey Quinn was seated for Nicole Paul.

II. To Review Applications to determine if they are complete:

- **Lot Line Adjustment Plan by the Town of Rye and the Rye Conservation Commission** for properties located at 500 Washington Road, Tax Map 16, Lot 201 and 55 Recreation Road, Tax Map 12, Lot 79. The Lot Line Adjustment would add 2.3 acres to Parcel 12/79 (Town Forest) leaving a 1.3 acre Parcel 16/201 as the site of the former TD Bank building. **Properties are in the Commercial District, Aquifer & Wellhead District, and the Public Recreation & Conservation Districts. Case #09-2021.**

Motion by JM Lord to declare the application for 500 Washington Road complete and move it to a public hearing. Seconded by Katy Sherman. All in favor.

- **Minor Site Development Plan by James Woodhouse** for property owned and located at 2263 Ocean Blvd, Tax Map 5.3, Lot 053-003 to sell parking spaces of the existing restaurant parking lot during non-business hours. **Property is in the Business and Coastal Overlay Districts. Case #10-2021.**

Vice-Chair Lord noted that in looking at the site plan versus the physical site, it's different. In the front they have 12 spaces where there is only 10 and, on the side, there are 2 spaces instead of 1. He wonders how accurate the site plan is. He commented it is not an accurate representation, so it is probably not a great site plan.

Alternate MacLeod stated that he wonders if this is based on a prior plan. He is familiar with the property. There may be some spaces on the site that may be in the right-of-way of the state highway.

Speaking to the applicant, Chair Losik stated that she thinks it should be a request for exempt status, not a waiver, based on the section of that LDR. When she thinks about that, she is not sure the information submitted is adequate enough to explain compliance with the features of exempt status; particularly, regarding possible adverse impacts to traffic hazards. She continued that Planning/Zoning Administrator Kim Reed provided the Board with a packet of information which included 2018 meeting minutes of a board meeting held on July 10th. During that time, the applicant applied for use of a garden area and also for 20 paid parking spaces during the summer months. In those minutes, there are references to an agreement with the Town dated March 18th. The Planning Board Chair at the time (Bill Epperson), referenced that document. That document apparently said that there would be no external tables and the parking lot was not going to be used for a fee. There was also reference to Police Chief Walsh's letter and Building Inspector Peter Rowell's July 10, 2018 letter. During that conversation, the town attorney felt there should be a site plan review or a site plan that memorializes what was there, as the Board did not have that information. Town counsel also mentioned whether paid parking was allowed under the town ordinance. Reference was made to other cases; specifically, he believed relief was needed for the 'Dunes'.

Chair Losik noted that she saw in the record that the application was continued to August, continued to September, and continued to October. Speaking to Planning Administrator Reed she asked if it is correct that it wasn't pursued further.

Planning Administrator Reed confirmed.

Speaking to the applicant, Chair Losik asked the applicant to address the Board on behalf of the application for the sale of the parking spaces.

RJ Joyce, co-owner Carriage House Restaurant, explained that they were looking to rent out the current existing parking spots, which the former owner had done for years, during times when the restaurant is not open. He noted that they are not going to address the garden issue, just the parking spots which are part of common business right now. As he understands, the parking spaces are not in question, in terms of spacing, and they are just looking to use those during the daytime. He continued that if they were able to be staffed and opened for lunch, those spaces would be used by cars in a very similar manner. They are just trying to find a use for the spaces during the hours that the restaurant is not open.

Chair Losik asked if a copy of the letter from March 2018 is available.

Planning Administrator Reed noted that she gave a copy to James Woodhouse.

Chair Losik asked if Mr. Woodhouse would have the letter from the Police Chief and the Building Inspector referencing the same matters.

Mr. Joyce explained that they have spoken with the Police Chief regarding this matter and he asked them to reapply to the Planning Board. Chief Walsh said that he would support the parking issue. Mr. Joyce pointed out that Chief Walsh said to reapply to the Board for just the parking.

Note: Member Nicole Paul arrived at the meeting at 6:10 p.m. Chair Losik unseated Alternate Quinn and seated Member Paul.

Vice-Chair Lord asked what ability the Planning Board would have to overrule or amend an agreement with the Town, if there is an agreement.

Mr. Joyce stated that in 2018, this is the route that the building inspector told them to pursue.

Chair Losik noted that the March 2018 letter shows that there was an agreement to not offer paid parking.

Mr. Joyce explained that when he and his partner first took over the restaurant, they were asked to sign a piece of paper that “wiped clean” all the things that the former owner had done out of normal purview.

Member Finn clarified the parking is already there and the intent is to just make money off the spaces.

Mr. Joyce confirmed. He also confirmed that the parking is not going to be increased and the dimensions of the spaces will not be changed.

Chair Losik stated that in looking at 202, to qualify for exempt status, which is what she took to be the focus of the application, she is not sure the Board would understand that there would be no adverse impacts from increased traffic hazards, which is one of the criteria to achieve exempt status. She asked the applicant the number of spaces.

Mr. Joyce replied there are 20 total. There are 19 spaces with 1 handicap space. They are laid out as depicted on the plan.

Chair Losik clarified the restaurant is open from 4:30 to 8:30, Thursday through Sunday.

Mr. Joyce confirmed. He noted that they are looking to use the parking spaces during the daytime until 4:00 p.m.

Chair Losik asked Attorney Donovan to weigh-in.

Attorney Donovan stated that he has not seen the application before the Board tonight. When he saw it on the agenda, he emailed Planning Administrator Reed asking what happened to the opinion he provided three years ago saying that commercial parking is not an allowed use in the business district, or any district for that matter. Planning Administrator Reed responded that the current building inspector isn't going to go along with that. He thinks the ZBA Chair felt that a variance is required, but it has all ended up in the Planning Board's lap. Attorney Donovan stated that he believes the agreement that there would be no for fee parking was the result of the opinion that he provided. Commercial parking is similar to a commercial parking lot. The only place that this is happening legally is in back of the 'Dunes', which was grandfathered. He continued that in the 90's, there were two cases where he was asked to go to court by the building inspector for enforcement against property owners who were renting out parking spaces on their lots. That regulation was successfully enforced against two property owners, albeit those properties were in a residential district. He continued that the fundamental rule of zoning is that unless the zoning ordinance specifically lists a use as being permitted, it is considered prohibited. He pointed out that if one commercial property owner is allowed to do it, then every property owner will be doing in. It really requires a use variance from the Board of Adjustment.

Speaking to Attorney Donovan, Alternate Wright asked how it would work if the business were charging for parking as part of the normal course of business.

Attorney Donovan replied he does not think it would because the parking is for off premise use. He would separate that from parking and going to the beach.

Alternate Wright asked if it would be any different than the restaurant charging for patrons to park there.

Attorney Donovan noted that parking is an accessory use to a commercial business. Whether the restaurant charges or not for parking does not make any difference. The use is allowed as an accessory to the restaurant. It changes when the parking is set up solely for others to park there and go to the beach because it essentially becomes like a parking garage in Boston.

Member Paul stated she does not have a problem with it being paid, as long as it is in compliance with what the ordinance provides. If it is not allowed, it will have to go through the variance process.

Attorney Donovan explained that in order to apply to the ZBA for a variance, the proposal needs a denial from the building inspector. Apparently, the building inspector was unwilling to give a denial of this use, so the restaurant owner could not take anything to the ZBA for a variance. The ZBA Chair has kicked it to the Planning Board. If the Board determines it needs a variance and does not take jurisdiction, it will then allow them to go to the ZBA for a variance.

Chair Losik commented they don't really have a way of denying it, as it doesn't fit exempt status.

Attorney Donovan explained that if the Board declines to accept jurisdiction because it requires a variance, he hopes it would be enough, in the eyes of the ZBA Chair, to allow it to get to the ZBA.

Member Paul commented that is the route it should go.

Member Sherman pointed out the summer months for the beach are only the next few months. The struggles the restaurants have felt due to Covid have just been stifling for the industry and the workers. She understands the owner being creative with making money. She wishes there was a quicker route this could go.

Vice-Chair Lord stated he does not think it falls within exempt status. After listening to Attorney Donovan, he thinks it probably needs a variance.

Speaking to Attorney Donovan, Member Sherman asked if there is any way this could be granted, keeping Covid in mind, for this summer with it going back to the ZBA next year.

Attorney Donovan noted that the Town made a Covid exemption for Ray's Seafood on some limitations on seating that they had agreed to abide by until they could install a new septic system that had been approved by the State. That exemption ended with the Governor's lifting of the state-of-emergency. There is no longer a state-of-emergency. It has been tough over the past year with Covid, but there is no state-of-emergency right now. He commented that the Board might recommend to the building inspector and select board that they amend the agreement that was signed three years ago to give the owners a break over the next two months. The Planning Board could table the application and kick it to the building inspector and the select board.

Member Sherman commented they could continue with the ZBA process for next year.

Chair Losik agreed. She clarified that for now they would go to the select board and building inspector to work out an agreement.

Mr. Joyce noted that for the longer term, if ZBA is the next option, he would get that started ASAP. However, it sounded like it wasn't a guarantee that it was the appropriate path.

Chair Losik replied that long term it is the appropriate path.

Mr. Joyce commented that he heard that until there is a denial it may not be able to go to ZBA.

Attorney Donovan noted that apparently the ZBA Chair wants something definitive for a variance before the ZBA. Perhaps the Planning Board should deny accepting jurisdiction because it requires a variance and recommend to the building inspector and select board that the 2018 agreement be amended to allow the parking for the remainder of this season.

Chair Losik clarified if the Board agrees, they will deny accepting jurisdiction because it requires a variance. The second part would be to recommend that the applicant go to the select board and building inspector to amend the agreement of 2018 to allow parking until the end of the 2021 season.

Attorney Donovan suggested it just go to the building inspector for timing reasons.

The Board agreed.

Motion by JM Lord to not accept jurisdiction over this application as it requires a variance for the parking, and recommend that the Applicant and the Building Inspector amend the March 2018 agreement to allow parking in the 20 spaces. Seconded by James Finn. All in favor.

- **Major Site Development Plan and Special Unit Permit Application by Jones & Beach, Engineers, Inc.** for property owned by Malcolm E. Smith, III and located at Tax Map 10, Lot 1 to construct 30 2-bedroom residential condominium triplex units. **Property is in the Commercial, Multi-Family Overlay District and Aquifer & Wellhead District. Case #11-2021.**

Chair Losik noted that the packet includes a full set of plans; drainage plan; special use documentation; hydrogeologic study; Attorney Donovan's letter of July 3rd; Truslow Resource Consulting letter of July 11th; and Sebago's letter of July 13th.

Vice-Chair Lord stated that Attorney Donovan's letter lists about ten reasons why this is not a complete application. He would suggest that the Board not take jurisdiction. He continued that there are a number of things the Board needs to act on. They also need to determine if this is a Development of Regional Impact (DRI), as well.

Chair Losik stated that the Board needs to consider and determine whether this is a DRI under RSA 36:55. The question is could the proposed thirty dwelling units be reasonably expected to impact the neighboring community? This depends on whether factors exist that would preclude or affect the development under the Land Use Regulations (LDR) under those towns. She noted that Planning Administrator Reed has reached out to Rockingham Planning Commission (RPC) because they are required to be named as a DRI, as well. Under the DRI Laws there are some considerations; such as, the proximity to borders of neighboring communities; such as, Greenland and North Hampton. There is also the consideration of the transportation network.

Vice-Chair Lord commented that traffic issues, growth issues and runoff issues might affect both North Hampton and Greenland. The transportation along Route 1 would be an issue as well.

Alternate Quinn commented that his immediate concern was about the placement of the entrance and its proximity to Dow Lane. In the best scenario, it isn't even conducive to a four-way stop. He is shocked that the traffic study didn't delineate any recommendations. His gut tells him this

is a very complicated situation. He noted that the close proximity to North Hampton could have an effect.

Chair Losik asked if there are any thoughts on transportation affecting the City of Portsmouth.

Planning Administrator Reed pointed out there is also the NH DOT right across the street.

Speaking to Attorney Donovan, Chair Losik stated that she knows there is going to be a significant change at the intersection to Lang Road and Ocean Road. She asked if this is something that should be considered.

Attorney Donovan replied he has not been involved in that situation at all, but it is possible that the trip generation could affect that interchange.

Chair Losik stated that #4 in the considerations is anticipated emissions; light, noise, smoke, odors, or particles. She pointed out that in all the documentation for the Coakley Landfill, the groundwater management zone and permitting, there is an email that came up about landfill gas. Mindy Messmer, a former NH House of Representative, raised this issue in the spring. Ms. Messmer wrote to the EPA and said; *"It is likely or possible that PFAS's are being emitted in the gas from the Coakley Landfill. Has the DES or EPA required landfill gas sampling for PFAS?"* EPA responded and said that they had communicated with Ms. Messmer on the subject before. They also said; *"There hasn't been any change. The US EPA nor NH has required landfill gas emplane for PFAS's in NH. There's no approved standardized sampling methodology."* She asked the Board if they see any issues with emissions, light, noise or particles.

Member Paul asked how close the landfill is to the property.

Chair Losik pointed out that the property is located in the groundwater management zone. Are any of those issues possibilities because it being adjacent to the landfill and part of the groundwater management zone? Chair Losik continued that #5 is regarding the proximity to aquifers or surface waters which transcends the municipal boundaries. In GEO Insight's report, there is mention of the fact that the property abuts the Coakley Landfill Superfund Site. ***"While the groundwater quality beneath the property does not appear to be affected by conditions of the landfill, the property is currently recorded in the groundwater management zone (GMZ) for the Coakley site."*** It goes on to pick out parts of the 2020 Annual Report filed with DES. This is about two things; overburdened groundwater and the groundwater flow through the bedrock.

- ***The overburdened groundwater flowing westward from the landfill, discharges into a large wetland complex. It serves as a hydraulic boundary for groundwater and the headwaters for Berry's Brook, which then flows in a northerly direction to Little River which flows to the south. (Little River is all in North Hampton.)***
- ***The groundwater flow in the bedrock is interpreted to move in a westerly direction from the landfill toward a bedrock trough located beneath the wetland complex. This bedrock trough is oriented north/northeast to south/southwest, parallel to regional***

geologic structure. As groundwater encounters the bedrock trough, it is likely that the groundwater in the bedrock is migrating in the direction trend of the regional geologic structure, which is coincident with Berry's Brook Valley to the north and Little River Valley to the south, ultimately charging to Little River and Berry's Brook.

Chair Losik stated that because this deals with proximity of aquifers and groundwater which transcends municipal boundaries, in relation to determining DRI, would it include Portsmouth? She continued that on the CMA Engineer's website, there is information on samplings of PFAS on Berry's study of 2018, and sampling of PFAS at various places; Berry's Brook, one on Lang Road and one on Sagamore and also the Cedar Swamp Run at West Road. In summary it states, *"The results from two samples taken from Berry's Brook, taken about a mile apart, are very similar in terms of compounds and concentrations. This may be indicative of a specific and continuing source of perfluorinated compounds perhaps from the northern perimeter of the Coakley Landfill; however, concentrations are well below."* She commented that the Board is just considering if there is any possibility. If there is flow offsite as it is near that resource, could there be any impact to Portsmouth or other communities in the DRI? She noted that they have Greenland and North Hampton. She asked the Board if they feel Portsmouth is part of it because of Berry's Brook.

Alternate MacLeod noted that the aquifer extends all the way from North Hampton into Portsmouth. Because of the fact that there are some PFAS in that aquifer, would the construction of this project trigger something with Portsmouth?

Chair Losik stated it is already known that compounds follow Berry's Brook. There are a couple of things from the GEO Insight report in terms of that complex wetland and how water is flowing. The question is whether it is possible?

Alternate MacLeod asked if it makes a difference whether they do a DRI or not, if the Board votes that it could possibly affect Portsmouth.

Chair Losik noted it is up to Portsmouth. She asked the Board if they feel they have a responsibility to let Portsmouth know that there is a project.

Alternate MacLeod replied that he doesn't see any reason why they wouldn't let them know anyhow.

Chair Losik explained this is not a concern about whether the development will be an impact. This is a different analysis about the Board's responsibility from a DRI perspective.

Mike Garrepy, Developer, stated that he has no issue with the Board declaring this a regional impact. The statute is pretty clear that if there is any ambiguity, the Board would declare it. He has no issues with all three communities, or more, being notified.

Attorney Donovan noted that the DRI process is really just a notification process, which gives the other communities a chance to weigh-in on any issues they think may affect them. The Board is not passing judgement on anything at this meeting, other than finding it's a DRI. It's providing RPC and the three communities a chance to weigh-in, under status of abutters.

Alternate Quinn asked if there is a sign-off for the abutting communities to say that the development is fine with them.

Attorney Donovan replied there are very few procedural requirements beyond the requirement that if it is determined to be a DRI, the communities are notified and sent a copy of the application. At that point, they have the status of abutters. They may come to the hearing to say why they have no concerns or have concerns they would like addressed. They could also not show up at all, as many abutters often don't show up.

Alternate Quinn stated he thinks the Board should err on the side of caution, since they are going through the procedure. He thinks it is prudent on behalf of the Board to give them the opportunity to comment.

Motion by JM Lord that the application meets the requirements of Development of Regional Impact and notification should be send to North Hampton, Greenland, Portsmouth and Rockingham Planning Commission. Seconded by Steve Carter. All in favor.

Chair Losik asked the applicant to bring the Board up to date on the application.

Mr. Garrepy noted that RPC will hold a meeting and inviting the stakeholders. They will be providing their comments back to the Board and this will be in tandem with the application process. He is fine with jurisdiction not being taken tonight. This is a big project that will go on for several months. He is looking for the Board's comments tonight and they will go back to make some revisions for September. The intent is to return with a complete application.

Joe Coronati, Jones and Beach Engineers, stated that the last time the proposal was before the Board, it was a conceptual consultation. There was a lot of discussion about the site development and having a 50' buffer on the North Hampton side. That was addressed and the cul-de-sac was flipped over. The project was before the Board last month for a lot line adjustment. Some land was taken from the abutting parcel to give a bit more land to have the cul-de-sac in the back. The proposal is for 30 two-bedroom units in ten buildings; three units per building. The road to the development has been designed to line up with Dow Lane, which is at the recommendation of DOT. The letter from DOT has been supplied to the Board showing this is where they prefer the driveway. The drainage calculations have been done. The proposal is for a porous pavement roadway and parking lot area. The future connection to the next site is shown. He continued that they have been working on the utilities. Arik Jones from the Rye Water District, along with Aquarion Water, have been working on the project. They have done some test pits on the water main in that area to determine the size and who's water main was

located on the development side of the road. He noted they have received comments from fire, water, Attorney Donovan, Sebago, Building Inspector and Danna Truslow. They are reviewing those comments and working on revisions to the plans.

Mr. Coronati pointed out they have hired Jeff Highland to do a landscape design for the front. Some items that came up with regards to landscaping was buffering and the front of the site along Route 1. A couple of berms and plantings are proposed in the front, as there is a 60' front setback. The corner of one of the units touches the 60' setback. The other buildings are back an additional 10', so there is quite a bit of space in the front of the site to do landscaping. With the porous pavement and excellent soils, the entire roadway is being infiltrated. The backs of the buildings have stone drip edges and the roof water is being infiltrated. All the stormwater is being infiltrated. There is a culvert that is located at the corner of the property that heads east towards Rye and the DOT parcel across the street. The culvert looks like it almost never had water in it. There is no sign of any flow there, which makes sense as the entire site is gravel and currently wooded. All the water infiltrates today from the site, so all the water has to infiltrate in proposed conditions which is being done with the porous pavement and the infiltration of the roof water.

Mr. Coronati noted that Geo Insight has been hired to do the hydrogeologic study, which has been provided to the Board. The traffic study was completed by Steve Pernaw.

Referring to the drainage study, Chair Losik stated that the report shows slight increases for analyzed storm events at point 2.

Mr. Coronati replied that he has not had a chance to review this.

Chair Losik commented that she is talking about the executive summary from the drainage study. In the last paragraph, it was noted; *"There are slight increases at analysis point #2 for all analyzed storm events. This is due to the fact that there will be more grass areas opposed to wooded areas that exist currently. There is no flow discharge from the impervious areas. These are very small flows and also very small increases and they will have minimal, if any effect, on the off-site runoff."* Referring to stormwater management ordinance 190-5.7B, Chair Losik noted that it talks about drainage onto adjacent properties and it cannot increase. She pointed out that it could increase onto an adjacent property if there is a way to have drainage easement allowing that flowage. She asked if those flows will be mitigated, so there will be no increases.

Mr. Coronati stated that this is an area where there are currently trees and it is being converted into lawn. There is room for mitigation.

Chair Losik asked if this would be with a drainage feature.

Mr. Coronati replied that he is not sure. He will have to speak with the engineer. He explained that all soil groups have curve numbers that are relative to their ground cover. Soil A is the best soil in the State. The lowest curve number is woods. In switching woods to lawn, it is still a

very low curve number but is not as low as woods. He thinks this is where the issue is arising. Behind the stone drip edge there is a bit of runoff coming off the lawn. It may be as simple as having a berm to make sure the water is not leaving that area.

Attorney Donovan stated that he wonders about the hydrogeologic study. In one of his reviews of the conceptual, he had suggested that the hydrogeologic study should be done for both parcels; Evolve and this site. In today's letter from Danna Truslow, she also makes a similar recommendation in the last paragraph.

Mr. Garrepy stated that there will be two hydro studies. Geo Insight will discuss with Danna Truslow what she would like to see. There must be a way to merge the two plans into one report.

Attorney Donovan pointed out that currently there is only one property owner. He suggested one study be paid for by the property owner.

Mr. Coronati explained that when a traffic engineer does a traffic study, they usually take into account recently approved developments near the site. He thinks this might be similar with this situation with the properties being right next to each other. However, they don't want the two sites being tied together, so that if one doesn't happen it will affect the other projects approval. He thinks the projects have to stand on their own. He thinks that Geo Insights can take the effects of neighboring development and still keep it in two separate reports.

Chair Losik commented that to a certain degree, this project would impact the future development on what could be done because this is in Aquifer Protection. Danna Truslow talks questioned whether those are correct readings. Those readings are going to be important by virtue of where this is located. She thinks there has to be some creativity in getting that information.

Attorney Tim Phoenix commented that his firm is lead counsel for Benchmark (Evolve) the hydro study is being completed now. It is anticipated that it will be before the Board within the next month or two. He pointed out that Danna Truslow will have all that information at that time.

Mr. Garrepy pointed out that both applicants are utilizing the same consultants, except for the architect. While they are separate applications, they are both being considered as the process moves forward.

Attorney Donovan stated it is possible there could be a conflict with the engineer, if a certain recommendation on the study favored one property versus the other. Having the same engineer and hydrogeologist doing a study to adjacent properties, sets up the possibility of a conflict, in his opinion. Who would be represented if there is a problem?

Mr. Garrepy noted that currently, there is one land owner for both of these properties but there are separate entities that have equitable title to those two different lots. There are two applicants

of record and two projects with separate applications. That is why there are separate reports for each individual application. He continued there is some crossover and there may need to be some melding together of some of the findings of all the reports.

Attorney Phoenix stated that in his mind, the concept of an overall hydro report for the whole project is helpful in the fact that the same people are doing both lots. He continued that if something becomes a conflict, that will have to be dealt with somehow.

Alternate Quinn asked if the emergency egress road goes somewhere onto the abutting property (Evolve) that melds nicely with their traffic patterns.

Mr. Coronati confirmed.

Alternate Quinn noted that the Fire Chief said minimum 20' roadways and this is 16'.

Mr. Coronati explained that just the emergency road is that width. The roadway itself is wider than 20'.

Alternate Quinn asked why 10 three-unit buildings was chosen, instead of another configuration. He asked if moving things around would have the potential of opening up this area a bit more.

Mr. Garrepy stated that when the plan was first before the Board, there was a different configuration. The first plan was a forty-unit plan with larger buildings and five units in each. There were some comments from the Board that the massing was too much. That is why the plan has been revised to buildings with three-units in each. It seems to certainly provide enough space between the units to provide adequate light and air. A good majority of the buildings have windows on the sides, so there is more light inside most of the units. That is the general reason why this setup was chosen.

Alternate Quinn stated that the intersection concerns him a lot. The number of vehicles that come off Dow Lane onto Route 1, is really immaterial. There is a difficulty here just because of the amount of traffic. He asked if there is any way in which the two properties could be combined into an entrance/exit that is utilized by both properties.

Mr. Garrepy replied there really isn't. He would be happy to have Steve Pernaw come to the next meeting. He pointed out that the right-of-way is within the jurisdiction of NH DOT District 6. DOT has said this is where they want it. He pointed out that a letter from DOT was submitted to the Board as part of the file and they drive where the curb cuts go. A lot of open curb cut is being eliminated along the entirety of the property, which is about 10-acres. At this point, most of the property is all open. The curb cuts from what is existing is being minimized.

Mr. Coronati explained there are four existing curb cuts on the property, where two are just paved shoulders. Also, there are still two entrances that went to the old Hector's Restaurant parking lot. There are basically four curb cuts that will be reduced to one. He continued that

they received a letter from DOT dated April 20th stating that they agree it should be lined up across the street from Dow Lane. This was sort of DOT's conceptual review of the project. This by no means is the actual driveway permit. They will be getting much further into the review of the design, striping and traffic.

Attorney Phoenix commented that the plans for Benchmark (Evolve) show that the connections match up to get from one site to another.

Mr. Garrepy noted there will be an overview sheet showing the two projects together.

Referring to the question regarding one driveway for both properties, Attorney Donovan stated that he wonders if the idea of having one intersection for the entire Evolve property and thirty-unit housing development, somewhere even further east, was even broached with DOT. Maybe that might make sense. It might be something the Board should ask their peer reviewer to look at.

Mr. Garrepy noted that this idea was not presented to DOT. He continued that this is not something he would consider because they are two different uses. Evolve is going to have many more deliveries and emergency services. It was felt to be important to have two clear distinct primary access points for the two uses. The interconnection in the back for emergency access is certainly acceptable and makes sense.

Alternate Wright commented that he is thinking about when the residents of Dow Lane asked for traffic control because of speed issues. He is not sure this will change that issue for the worse, but it will certainly add traffic. He wonders if there was any consideration to putting the emergency access onto some sort of access road on the westerly side of Route 1 with a control device to take care of the concerns on Dow Lane and the two properties together having one access point. (He pointed out the area he was referring to on the map before the Board.)

Mr. Garrepy stated that they can certainly speak with Steve Pernaw and engage in further discussion with DOT.

Member Carter asked for clarification on what they are considering the side versus the back of the property. On the right side, he was thinking that was the back and should have a 30' setback. It is clear that the plans consider it the side with a 20' setback. Also, there should be a 25' buffer between a residential property and other uses. He asked if the Board is comfortable with this being 20' from the property line. He commented that the site is pretty busy and there is not a lot of room. There is not very much room between the back of the houses and the property line.

Chair Losik asked the height of the berm.

Mr. Coronati replied it is only a couple of feet. It's really just in the area where there are no existing woods. He pointed out that it is 20' to the deck, which are fairly large at 10' in depth. The buildings themselves are really 30' from the property line. He noted that the intent was for

the decks to have separation from each unit. He explained that one side has the deck off the side, the middle unit has the deck off the front and the end unit has the deck off the rear to help with privacy amongst the units. He further explained it is 25' from the one building to the deck of the other building, so the buildings are really 35' apart.

Member Carter stated that in theory, Evolve could build up to 25' on the other side, so these buildings and Evolve's building would be 40' apart.

Mr. Coronati agreed.

Chair Losik noted that the landscape plans show using Junipers and Eastern Red Cedars.

Mr. Coronati commented that big yards are not proposed. There will be a lot more plantings. It will be more detailed between the septic systems and buffering.

Chair Losik commented there is not enough plantings on the landscape plan. Referring to the traffic concerns, she asked Alternate Quinn if he had other questions.

Alternate Quinn stated that he thinks it is just increasing the danger at that intersection by introducing a new element.

Alternate MacLeod stated that from an engineer's point of view, he thinks the entrance should be directly opposite Dow Lane. Any cross traffic from Dow Lane, if it is not lined up, creates a very hazardous situation with extra maneuvering in the center of the street. That is why in most planning regulations require major driveways or streets directly across from one another. He continued that he does not think the issue with people speeding on Dow Lane is an issue that this project impacts. The people that speed on Dow Lane, know the area and the fact that there are 30-units across the street are not going to make them speed faster. It is not going to cure it either, as that is an enforcement issue. He believes this project should have its own entrance. He does not think they should be pushing more traffic onto the project next door, which would probably have more elderly participants. For a number of reasons, this project should be a separate project and have its own entrance. From a logical point of view, the entrance should be opposite Dow Lane.

Member Carter commented that the problem really isn't Dow Lane, it's the angle that it comes onto Route 1. If it came in perpendicular to Route 1, it wouldn't be a big problem.

Alternate MacLeod stated there needs to be more control at the entrance to Dow Lane and it would force people to slow down.

Vice-Chair Lord agreed. He stated that his concern is that there would be a five-way intersection in this area, as the State property comes out in that area as well. Something has to happen there, but he is not sure what that is going to be. He continued that if the State is not concerned about the entrance at North Road and Layette Road, which is offset by a few hundred feet and are

lethal in the approaches, he does not think they are going to be concerned about thirty units in this location.

Alternate Wright asked how far the potential entrance would be from what is already there.

Mr. Coronati noted that it is already there. They are going to use one of the existing entrances for the site.

Member Finn asked for further information on the porous pavement.

Mr. Coronati explained the porous pavement design allows the stormwater to go through the pavement. It goes through the asphalt, a stone layer, a treatment layer and another stone reservoir which basically acts as a holding area to allow the water to infiltrate into the ground at a rate in can do that. The depth of the stone is designed based on the saturation rate. He pointed out that the project will be reviewed by the Alteration of Terrain Bureau. He also pointed out that his firm has been using porous pavement for fifteen years and UNH has been studying it for years.

Vice-Chair Lord asked what projects have used porous pavement.

Mr. Coronati replied that a lot are in North Hampton and Hampton Beach. It is well known that Lowe's in Greenland used porous pavement.

Vice-Chair Lord commented that his concern is that in looking at the proposal, the buildings are well aligned. It looks like a lot of the pavement will never see sunlight in the dark days of winter. It seems like from December on, this is going to get clogged really quick. He asked how the porous pavement would work at that point in time. With the soils that are onsite, he is surprised they didn't go with a huge underground detention area and infiltrate it from there. He thinks there is a long-term maintenance issue that could be problematic.

Chair Losik asked if the porous pavement is used over aquifers.

Mr. Coronati replied yes. It's an excellent use for aquifers because it doesn't direct all the stormwater to one location, so it doesn't have a mounding concern. The treatment is excellent through the filter course. Based on DOT's rules, yearly maintenance and maintenance reports are required. This is required for any development that requires an Alteration of Terrain Permit, no matter what the detention pond system is. He will submit more information to the Board.

Chair Losik stated that the infiltration media shows a depth of 42". She asked if more filtration is needed over the aquifer.

Mr. Coronati replied no. He noted that all the test pits that were dug didn't have water tables. It is actually being slowed down through the filter course and infiltrating. He also pointed out that the porous pavement is used on private sites and they control how it is maintained.

Alternate Quinn stated that he sees nine ancillary parking spaces on the site. He asked if this is based on a formula.

Mr. Coronati replied that it is not. The intent was to provide visitor parking that is not directly in front the units. Each unit has a one-car garage with two spaces in front of it. Each unit basically has three parking spaces available and there are nine overflow spaces, one of which is next to the mailbox.

Alternate Quinn commented that his concern is whether that is enough spaces. He asked if the two communities are going to be compatible with one another. He asked if there is going to be enough mitigation between the two properties, so that noise and light doesn't cross over.

Mr. Garrepy stated that it is good to have young families with the elderly. It's great to have integration if it's possible. He thinks they are very compatible uses, but there is a bit of separation, as well. The whole plan will show that the integration of the two works well because a good amount of separation is being provided between the buildings with some good open spaces between the two uses.

Alternate Quinn asked if lighting will be an issue.

Mr. Garrepy replied it is not going to be an issue. It will actually be a benefit for the communities to be together.

Mr. Coronati noted that they are also proposing no street lights for the units and just have residential lights. On the Benchmark side, the closest point is the outer access road and that's only going to be lit up with bollards for the walkways.

Alternate Quinn asked if there are trees between the two properties.

Mr. Coronati confirmed. He noted that six of the units are workforce housing units and the others are at market rate. Benchmark is actually excited about having the ability to have staff living right next door.

Mr. Garrepy stated that during the time between doing regional impact and finalizing the plans, the Board will start to see the Benchmark plans and will be able to see how they work together.

Alternate Garcia stated that potentially there could be young families in these units. She asked if there will be a playground or park within the vicinity.

Mr. Garrepy commented that the units are all two bedrooms. He can provide the statistics showing the average number of school children in a two-bedroom townhouse. He does not anticipate there being a lot of children in this development. At this point in time, there is no plan for an onsite recreational area for young children. There is certainly ample room on the site to

potentially look at doing something like that. Typically, this is not necessarily built, unless there is a need for it. He commented that they could look to identify an area for some passive recreation that the association could implement in the future.

Vice-Chair Lord pointed out that with the Airfield Drive approval, there was a place for children to play out of the street. When he looks at this development, during the winter, every open space will be plowed up with snow. The only place children will have to play is in the driveway area. It might be nice, perhaps in the southwest corner, to create a place for children to play.

Chair Losik commented that she wonders if people are going to use the access drive to Evolve. She noted that it is hard to get out on Route 1 and walk.

Mr. Garrepy replied that he does not think walking back and forth between the two uses is going to be a problem. The plan is to have some kind of barrier for the access road, so it is just for emergencies only. He reiterated he does not see any issues for passive recreational walking. He commented that they can ask Jeff Highland to integrate some of the open space areas.

Vice-Chair Lord commented these are two separate projects, but Danna Truslow and DOT brought the two projects together. He noted that the question is going to be whether the Evolve expansion will be enough to trigger a regional impact. If that is the case, he wonders how these projects will line up. Will the Board be waiting on information from one to make a decision on the other?

Attorney Phoenix replied that they will see where it goes. There was word that Benchmark was not quite ready. However, it was felt it would be best to put this development in front of the Board, so everyone can "get their arms around it". The other one will be presented, so that can be presented. Then the two projects can be considered together. He commented that they recognize this is going to take several meetings, so all the information can come forward to see how it all fits together.

Vice-Chair Lord pointed out that what is being discussed at this meeting can be applied to the next application.

Referring to escrow for peer review, Chair Losik noted that Sebago will be reviewing the traffic study and engineering; hydro will be reviewed by Danna Truslow; septic system design will be reviewed by Emily DiFranco at Comprehensive Environmental; and Attorney Donovan for legal counsel to the Board. She asked for \$10,000 for escrow.

Mr. Garrepy agreed.

Speaking to the Board, Mr. Coronati asked what the level of detail the Board would like to see.

Attorney Donovan commented the Falzone project and The Housing Partnership developments show the level of detail, which included grading drawings for the mounding. The Driftwood site is also another example of the level of detail.

Vice-Chair Lord asked if the test pits line up with the septic systems.

Mr. Coronati explained they did a battery of test pits early on around the whole site to see what there was for soils. They have to go back and do more test pits. He commented that they did not anticipate having separate designs for all ten buildings, but they can do that for sure.

Chair Losik summarized:

- AOT
- Stormwater drainage
- Test pits
- The information responses to Attorney Donovan's July 3rd letter; Truslow Resource Consulting July 11th letter; and Sebago's July 13th letter.
- More information on porous paving; other communities, aquifer use and UNH study.
- Passive recreation
- Traffic; mixed reviews on Dow Lane
- Landscaping

Motion by JM Lord to not take jurisdiction over the Major Site Development Plan and Special Use Permit Application by Jones & Beach for property at Tax Map 10, Lot 1, Case #11-2021 and continue the application to the September 14, 2021 Planning Board Meeting. Seconded by Nicole Paul. All in favor.

III. Public Hearings on Applications:

- **Lot Line Adjustment Plan by the Town of Rye and the Rye Conservation Commission** for properties located at 500 Washington Road, Tax Map 16, Lot 201 and 55 Recreation Road, Tax Map 12, Lot 79. The Lot Line Adjustment would add 2.3 acres to Parcel 12/79 (Town Forest) leaving a 1.3-acre Parcel 16/201 as the site of the former TD Bank building. **Properties are in the Commercial District, Aquifer & Wellhead Protection District, and the Public Recreation & Conservation Districts.**
Case #09-2021.

Jim Verra, James Verra and Associates, presented to the Board. He explained that the proposal is for a lot line revision to add 2.3-acres to the Town Forest and leave 1.3-acres with the former TD Bank building. He noted that test pits were done and the NH DES subdivision approval has been received for the lot line revision.

Speaking to Attorney Donovan, Chair Losik asked for clarification in regards to the information guiding the Board to a condition.

Attorney Donovan explained that the application is pretty straight forward and he wasn't planning on attending tonight's meeting. However, on July 1st, the Town received a threatening letter from a lawyer representing abutters about an adverse possession claim. The concern was that the lawyer would attend the meeting and cause all sorts of confusion by talking about adverse possession at this hearing. Since the lawyer is not present, he does not think the Board needs to bother with that note. He commented that they still don't know for sure exactly what these people are claiming as adverse possession and what area it is. He pointed out it's really not relevant to the lot line adjustment. He believes the Board is ready to approve the plan.

Mr. Verra noted that the mylar that will be submitted for recording will have less information. It won't have topography, some of the septic or miscellaneous information. It will have the test pits, 4k box, notes and abutters.

Alternate MacLeod asked where the existing septic system is located and whether there is a new system proposed.

Eric Weinrieb, Altus Engineering, stated that the test pits were done in the 4k area and there was a 48" water table, no refusal. A new system will be sited in that 4k area. The existing septic tank and pump chamber will be reused with the force main being intercepted out to that area.

Attorney Donovan commented that his understanding is that the Selectmen are going to be retaining Eric Weinrieb to design the new system.

Member Finn asked about the shaded area shown on the plan.

Mr. Verra replied it is a jurisdictional wetland.

Attorney Donovan stated there are a couple of waiver requests. The Town is not bound by its own regulations, so he does not think the Board needs to act on the waiver requests.

Suzanne McFarland, Conservation Commission Chair, noted that Conservation has a separate attorney, Attorney Manzelli, who agrees with Attorney Donovan regarding the adverse possession.

Chair Losik opened to the public for comments. Hearing none, she closed the public hearing at 8:06 p.m.

Motion by JM Lord to approve the lot line adjustment for the Town of Rye and the Rye Conservation Commission for properties located at 500 Washington Road, Tax Map 16, Lot 201 and 55 Recreation Road, Tax Map 12, Lot 79, which is the site of the former TD Bank building, the properties are located in the Commercial District, Aquifer and Wellhead Protection District, and the Public Recreation and Conservation Districts, Case #09-2021; subject to preparing a mylar for recording. Seconded by James Finn. All in favor.

- **Minor Site Development Plan by James Woodhouse** for property owned and located at 2263 Ocean Blvd, Tax Map 5.3, Lot 053-003 to sell parking spaces of the existing parking lot during non-business hours. **Property is in the Business and Coastal Overlay Districts. Case #10-2021.**
 - *Addressed under ‘Applications for Completeness’ (see minutes above)*
- **Major Site Development Plan and Special Use Permit Application by Jones & Beach, Engineers, Inc.** for property owned by Malcolm E. Smith, III and located at Tax Map 10, Lot 1 to construct 30 2-bedroom residential condominium triplex units. **Property is in the Commercial, Multi-Family Overlay District and Aquifer & Wellhead District. Case #11-2021.**
 - *Addressed under ‘Applications for Completeness’ (see minutes above)*

IV. New Business

The following applications were taken out of posted agenda order (as shown in minutes).

- **Hammerheads**

Planning Administrator Reed noted that the Board has a proposed zoning amendment in their packets addressing hammerheads, which was prepared by Attorney Donovan. The amendment was presented to the Board last month and there were some good questions with some clarifications and changes. Attorney Donovan made the changes and she would like the Boards comments and questions with the amendment possibly being moved to a public hearing in August.

Attorney Donovan pointed out that the principal issue was that the Board wanted a definition of cul-de-sac, which is pretty straight forward; ***“Dead-end street terminating in a circular paved area”***. The other thing the Board picked up on was that it really wasn’t well written in the beginning because it didn’t refer to cul-de-sacs.

Member Sherman asked why it is four lots, rather than three lots.

Attorney Donovan replied this is somewhat arbitrary. He explained that he tried to open the door for what the Board has been doing, which is allowing a 20’ width on loops and teardrops where there are very few lots and using the trip generation standard of ten trips per house per day (40 trips). He thinks this is what’s consistent with what traffic engineers would recommend. He believes there are three lots on the one on Harbor Road. There were three lots for the one on Long John and Cedar Run was three also. He commented that maybe it should be changed to three.

Member Finn asked where the ruling came in about more than ten lots.

Attorney Donovan explained that has been in the regulations since 1988. The original prohibition was 600' when the frontage requirement was 150'; however, that did not include the lots around the loop. There would be four lots of 150' on each side getting up to the loop and theoretically, there could be four lots getting around the loop. That is where ten came from. Then, the frontage requirement changed to 200'. At some point, the Board increased the 600' length limitation to 800' to make it consistent.

Motion by JM Lord to move the proposed zoning amendment regarding hammerheads to a public hearing with the correction of the spelling of "cul-de-sac" and changing the number of lots to three lots. Seconded by James Finn. All in favor.

- **Conceptual Consultation 15 Sagamore Road, Tax Map 24, Lot 22**

Mike Garrepy, representing the Sagamore Group, presented the conceptual for 15 Sagamore Road to the Board. He explained that the redevelopment is for the old Tibbetts Oil Company property. Currently, part of the building is being rented to a coffee shop and 'Seaport Fish'. The parcel also has three existing single-homes on the property. The parcel is split by two zones; residential in the back and commercial in the front. There is some non-conformity on the site right now and he believes it would benefit from a redevelopment. He continued that the project will need to go to the Zoning Board of Adjustment for zoning relief. The deadline for the August BOA meeting was missed; however, this gives the Planning Board a chance to provide feedback before the application is submitted.

Mr. Garrepy pointed out that all three houses and the commercial building are on septic. Part of the proposal is to tie into the force main that runs along the frontage, which the Labries put in when they built the Atlantic Grill. He continued that relief is needed for the site for residential use. Two of the existing residences are primarily in the commercial zone. The proposal is to bring most of the residential back into the residential zone. Everything is being brought in to conformance, as far as setbacks. He pointed out that one of the buildings is being pushed further back off the road, in order to comply with setbacks and provide access and parking along the front of the building. An additional building is being added as well for commercial purposes. Also, the access will be controlled much better with two points of access with what is there being closed off, which is one large curb cut for the entire property. He pointed out this is another DOT controlled roadway. Mr. Garrepy stated that variances will be need for more than one principal structure on the lot and more than one dwelling on a lot. The proposed dwellings in the back will be three duplex units, so there will be an increase in density. One reason this is being done is to provide a different housing stock, which is a good fit for the area. It will also help to facilitate the renovation of the site; tying everything into sewer, increasing the commercial aspect, by about twice the size, by adding a second building.

Mr. Garrepy noted that the owner of the coffee shop has expressed a desire to participate in this development process, as he would like to stay and grow his business. Hopefully, the Board sees this as something positive for the community. The other part of the proposal is to connect the two buildings with a patio area for outside seating. He continued that they are trying to work

with the theme the Labries had for the Atlantic Grill. He knows this is an important access way into Rye, so they are really trying to dress up the site with the commercial face in the front. He pointed out that the residential use really won't be seen from the street. An effort has been made to separate the residential uses from the commercial uses; however, they will share an entrance. A fence is proposed to weave through the landscaped island area and quite a few plantings are proposed as well to provide a separation between the two uses. (He presented the drawings showing the view from the street and the courtyard between the two buildings. He also presented drawings showing the two-story residential duplexes.)

Referring to 190-2.2.J(2)(b) regarding the buffer between residential and non-residential uses, Chair Losik read; ***"If new residential development and new nonresidential development are part of the same land development, a buffer shall be provided around the nonresidential development in the residential districts and around the residential development in the nonresidential districts."*** She commented this would be one question. The other question is what happens when the portion that is residential abuts a nonresidential? Does that spring a 50' buffer?

Mr. Garrepy commented that is one reason they tried to create a buffer with plantings and a fence.

Chair Losik asked what happens with the ledge on the southern side.

Mr. Garrepy pointed out the areas on the site plan where there is ledge. He commented there is shallow depth to ledge and it will have to be removed.

Chair Losik asked how much ledge is on site.

Mr. Garrepy replied they haven't gotten a ledge profile yet. Once there is a final design, they will be able to figure out quantities and the method that will be used to extract the material.

Chair Losik pointed out the landscape buffer along the Sagamore Road. She suggested integrating it with what the Labries have done. She also pointed out that there is nice landscaping on east side of the property.

Mr. Garrepy noted that this is not the final landscaping plan, but they will be working on one that shows more details. He also noted that they have spoken to most of the neighbors and have to speak to a few more. The Labries have given verbal support for the project.

Chair Losik stated that the neighbor to the northwest has a huge lot with a large tree canopy. She asked if the property they are reviewing has a tree canopy of about 50%.

Mr. Garrepy replied it is not a thick canopy, but it is fairly well wooded in the back.

Chair Losik asked if they have spoken with the abutters to the southwest, as there are a lot of trees on that property.

Mr. Garrepy replied they have not yet.

Attorney Donovan suggested speaking with Amy Holder, as she had concerns about the Labrie development. She is more than likely to have concerns with this proposal.

Member Finn asked about the type of commercial businesses.

Mr. Garrepy explained that the plan is for the coffee shop to stay in the building they are in for now, while the new building is constructed. The coffee shop would then move into the new building. The existing building would then be razed and rebuilt.

Member Carter asked if it is one building or two buildings.

Mr. Garrepy explained it is one building with a pass through on the ground floor.

Architect Mick Cavary explained that the idea was to provide a second building. Both buildings would be set at a 90-degree angle to create a courtyard space. It is really one volume with a breezeway that goes through at the ground level, which helps to reduce the visible mass of the building and create some variation in space. It also helps to provide some connectivity between the parking, the uses and courtyard.

Chair Losik noted that it is labeled as “manufacturing”. She asked for further clarification.

Mr. Cavary explained that this came out of discussions with the current tenant. That would be the area where he would do coffee roasting. Right now, it is all in one space and it can be noisy. He is not able to roast during the hours of operation.

Chair Losik asked about the residents directly behind.

Mr. Cavary stated that he doesn’t believe the sound goes beyond the walls. In regards to “manufacturing”, he pointed out that this is the closest term in the ordinance that fit.

Mr. Garrepy stated that they can relabel that. He does not want to have an approval for manufacturing use, beyond the scope of what is being proposed.

Chair Losik commented to be careful because it is so close to a residence.

Mr. Cavary noted that the ordinances have implications to the parking count. They are trying to be as true to what they know to date; manufacturing, retail, food service and office.

Member Carter stated that he likes the plan. He thinks two buildings in the back fit better than three. He thinks there will be problems with the buffers from the residential areas to the commercial area on both sides of the property because there is a 50' buffer requirement.

Attorney Donovan stated that he thinks the Chair's perspective on the buffer requirement is correct and there may be a need for a variance. He continued that there is a zoning provision that allows expansion where zoning boundaries split a parcel. One district can be expanded 50' into the other. **190-7.1B: "The Board may permit the extension of a district by not more than 50 feet where the boundary line of a district divides a lot in a single ownership."** He pointed out that this may provide the opportunity to wrap all the buildings on one lot in a commercial district. Why this becomes important is because the one principle building one lot rule only applies in a residential district. If everything can be in the commercial district that rule doesn't apply. He commented that this would be shifting the entire boundary 50' to the west.

Chair Losik asked if it would eliminate the problem of 190-2.2.J(2)(b) by doing that.

Attorney Donovan replied that it might. It might help solve some of the buffer requirements. He pointed out that a use variance will be needed if this is done, as the commercial district does not allow residential uses along Lafayette Road.

Chair Losik commented this makes her think a little bit of Driftwood and the turning fire truck.

Mr. Garrepy replied that they are looking at a hammerhead configuration.

Alternate MacLeod asked if there has been any thought to looping the driveway through.

Mr. Garrepy stated that they have thought about some sort of interconnectivity and that is something they will have to look at.

Mr. Coronati pointed out that the better exit for the residents is the one to the north, but they can look at an emergency connection at that spot. He noted that they also had difficulty finding a spot for dumpsters for the commercial units.

Alternate MacLeod stated it is a great improvement. Heading from the rotary into Portsmouth, there is a "sea of asphalt" on both sides right up to the line. He asked the width of the landscape along the street.

Mr. Garrepy replied that the island is about 12' or 13'.

Mr. Coronati noted there are existing utility poles in the pavement. The island was brought out around those poles, so it does vary a bit.

Alternate MacLeod commented there may be opportunity to enhance the landscaping to help take the curse off the "sea of asphalt" on both sides of the street. He suggested widening the landscape area.

Member Paul asked if the plan meets the parking requirements.

Mr. Garrepy confirmed. He commented that parking is based on the use so it becomes a balancing act. There are no businesses for the spaces right now, but depending on the type of business that goes in, the parking requirements will have to be met.

Referring to the residential buildings, Member Carter asked if they will be rentals or condos.

Mr. Garrepy replied that the thought right now is to have condominiums.

Alternate MacLeod asked if the commercial units will be condominiums.

Mr. Garrepy noted that the commercial units will be condominium, as well. There may be a condominium association for both.

Alternate Quinn asked how they envision the courtyard being used.

Mr. Garrepy replied it would depend on the use that is there in the building.

Alternate Quinn stated that if it is an expansion of the use of the restaurant, it would seem that there should be more parking. If it's just a walk-through garden, that's something else. He asked if there is a need for rear access to the commercial property for deliveries or waste pickup. Referring to the fence, he commented that it precludes any rear access. It seems that the site needs some kind of a loop for emergency vehicles, delivery vehicles and plow trucks. It may be one-way circulation.

Mr. Garrepy replied that they will look at that.

Mr. Cavary stated that right now on the plan, there is a 10' to 12' wide pedestrian alley for egress. Most of the deliveries are handled in the front for smaller types of deliveries. He commented that the point about the loop is well taken.

Referring to the residential buildings, Alternate Quinn asked if the garages are designed for two vehicles.

Mr. Garrepy replied yes, if stacked. There is also the ability to park two cars in front of each unit.

Member Paul asked the size of the units.

Mr. Cavary explained that the units are three bedrooms and 2.5 baths; approximately 2300sf with a partial unfinished basement, which will be used for mechanicals.

Alternate Quinn commented that a homeowner will fill the whole back end of the garage with storage. With two vehicles, the site will be more densely used.

Mr. Cavary noted it would be the same issue if the garage was side by side. He thinks the tendency for someone to put a car in the garage or use the space for storage is similar, whether it be tandem parking or side by side.

Member Sherman asked about the pervious and impervious coverage; mixing residential and commercial.

Mr. Garrepy pointed out that they did the calculations for themselves and they met the requirements for both zones, but that will have to be verified.

Member Sherman commented that is a concern and also the 50' buffer. She commented that a fence was mentioned; however, that is not a land buffer.

Mr. Garrepy stated they are strongly leaning towards a solid panel fence, which will be augmented with landscaping as well.

Regarding pervious coverage, Attorney Donovan commented that the requirement in the single-family district is 15% of the lot. If it only applies to the portion that is in the single resident district, it looks to be more than 15% coverage; whereas, the requirement in the commercial district is 75% of the lot. There should be some thought as to how those coverage requirements apply to this scenario with the split lot. This may affect the decision on how to alter the boundary.

Member Paul stated that her general thought is that it's too crowded and too many units. The housing is quite large. She commented that if the units are going to be three bedrooms, she thinks there will need to be a play area. Creating a three-bedroom unit is catering more towards a family versus a retiree. Families and play areas need to be taken into account.

Alternate Garcia agreed.

Mr. Garrepy commented they might be able to consider smaller square footage or two-bedroom units.

Alternate MacLeod asked if they thought about doing all commercial and no residential.

Mr. Garrepy stated that they thought about it, but in order to make all the improvements to the site, there really needs to be the residential component.

Mr. Cavary pointed out that the parking requirements increase as more commercial is added. There would then be that "sea of asphalt" that they are trying to back away from.

Alternate MacLeod commented he agrees that smaller units or two-bedrooms will have less impact on the school system and less density.

Member Sherman noted that the Town would like to have more impact on the school system with more children.

Member Paul stated she would say fewer units but keep the bedrooms because Rye wants more families and the younger population in the community.

Mr. Garrepy replied it might not necessarily be the area for children, so there is the two-bedroom plus home office option.

Attorney Donovan asked if they have considered having a couple of affordable units, in order to make the application more attractive to the boards reviewing it.

Mr. Garrepy confirmed. He explained that the commercial zone doesn't allow for the workforce housing component.

Member Carter noted that the way the units are laid out, they look like rental units, as they are behind the commercial units. He agrees with having the units stay three-bedrooms but with four buildings instead of six. He continued that the Town does need housing of this nature for families trying to get a foothold into the community.

Chair Losik commented that there is not much space around the buildings. She thinks the property to the northwest is not really impacted, but the properties to the southwest will be. She pointed out that the residence on the corner of Foye's Corner has a mixed evergreen buffer. The residence is across from Atlantic Grill on the north side of Route 1B. She suggested they take a look at that buffer.

Vice-Chair Lord stated that for him it's buffers. He doesn't really care about the size of the condos because he doesn't look at this as anything different than residential on top of commercial and those spaces sell all the time. Most of the time, this is going to be a quiet zone with a buffer and fence, so it is really a private little community. He thinks the connection and the turnaround is really going to be important.

The conceptual presentation was completed.

- **Approval of June 8, 2021 meeting minutes**

The following corrections were noted:

- Page 5, 3rd to last paragraph, 1st sentence should read: **Alternate MacLeod stated that he does not think they need a drainage easement because they're matching the grades at the edge of the easement.**
- Page 10, #3, 2nd sentence should read: **Copies of the maintenance contract shall be filed annually with the Building Department and the Planning Board.**
- Page 11, last paragraph, 2nd to last sentence should read: **However, right now, there is no real indication that it is going to happen soon.**
- Page 15, 5th paragraph, 1st sentence should read: **Chair Losik asked if the customers will be signing waivers.**

Motion by JM Lord to approve the minutes of June 8, 2021 as amended. Seconded by Katy Sherman. All in favor.

- **Rye Civic League (RCL) Correspondence**

Chair Losik explained that the Board was asked to look at the information that was shared with RCL. The survey by RCL was sent to 1,350 residents and there were over 120 responses. They identified approximately 69 issues or comments of relevance to the Planning Board. She noted that she sorted out those comments in the handout. She stated that the Planning Board would like to be able to do a lot of things. However, the Board is kind of stuck in the non-regulatory and regulatory functions. Non-regulatory is the master plan and regulatory is the drafting and reviewing of the ordinances, subdivision and site plan review, regulations and amendments. She would encourage RCL to evolve these various topical issues and come to the Planning Board with recommendations. It should be a little more evolved before the Board can really do anything. She is open to suggestions on how to integrate these ideas and implement them. However, she does not see an easy way for the Board to take the 69 items as actionable.

Member Sherman pointed out that she did not receive the survey. She asked who the population was that responded to this. If the survey is going to be done, it should be comprehensive.

Alternate Wright commented that he believes the survey was on RCL's website and the respondents all came from the website.

Member Carter commented it is important to note that 13% of the people who responded put the beach as their first concern. That would be about 13 people out of 5,000. With a lot of this, the sample size is so small. However, he does think it's useful information.

Alternate Wright stated that he thought that they had spoken of the fact that the proper response to this should actually come from the Select Board, as they oversee many of the functions that are addressed and the Planning Board is one little piece. Any response the Board provides is going to be piecemealed and might not address the whole issue. He continued there was a strong

desire to provide input and they were looking for the correct mechanism to provide the input. He noted that the Planning Board has oversight on some of these things, but not all.

Member Sherman pointed out that Long Range Planning (LRP) is trying to do a survey. If people fill out the Rye Civic League survey it's going to be confusing.

Alternate Garcia asked if RCL could steer people towards LRP's survey that's going out and maybe they can work together.

The Board agreed this is a great idea.

Vice-Chair Lord commented that maybe they could put out an announcement stating that there is going to be a larger survey coming out that addresses all the town boards and issues.

Chair Losik stated they can let RCL know that the LRP survey is coming out. Rules and Regs is going to start their meetings. There are avenues to communicate with the Planning Board surrounding these issues.

Member Sherman commented that RCL wants everything to be very transparent and she agrees. However, this survey doesn't feel that way because it wasn't given to everyone in town.

Alternate Wright pointed out that people had to go on RCL's website.

V. Committees

- **Long Range Planning – update on Visioning process, Surveys and RPC/Julie LaBranche contract**

Member Carter noted that LRP is meeting on Thursday. The committee has been on hold while they sort out the Julie LaBranche situation. He is hoping for an update on Thursday.

- **Rules and Regulations – Schedule meeting time**

➤ Meeting scheduled for Tuesday, July 17th, 9:00 a.m.

- **Technical Review Committee (TRC) – update on existing subdivisions**

Referring to 421 South Road, Vice-Chair Lord reported that Lot 1 on Autumn Lane is back up for sale again. There was going to be some paving in July, but he thinks it's going to be pushed out to August. With so much rain lately, he visited the site and found that the detention areas on Autumn Drive and Signature Drive are working well. Steve Harding is doing a very good job with updates. There are still some areas that need to be done, but it's really starting to get into shape. He noted that they haven't tied in the drainage near the conservation area on Signature Drive. He pointed out there is a fir tree disease going around and that is really taking a toll on Signature Drive. There are at least ten dead trees.

Referring to Goss Farm, he noted there are two houses under construction with a third starting soon. He continued that every time he goes by the 1215 Washington Road project, as much as he looked at that project, he never recognized the visual impact with four big buildings. Out of the five trees that were replanted, at least two are dead now. However, the project is moving along.

There was some discussion in regards to whether the TRC should start up meetings again to pre-review applications before they go to the full Planning Board. After discussion, the Board agreed to leave it as is for now.

VI. Escrows

Motion by JM Lord to pay the following bills:

- **Rye Place Realty; Attorney Donovan \$258.56 and Sebago \$2,417.75;**
- **850 Washington Road; Attorney Donovan \$275.80 and close out the escrow funds and return to the applicant \$1,774.90 and return any remaining funds;**
- **1244 Washington Road; Sebago \$677.47.**

Seconded by Nicole Paul. All in favor.

Adjournment

**Motion by Patricia Losik to adjourn at 9:48 p.m. Seconded by Katy Sherman.
All in favor.**

Respectfully Submitted,
Dyana F. Ledger

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

Notice of Decision

Owner/Applicant: James Woodhouse

Property: 2263 Ocean Blvd, Tax Map 5.3, Lot 053-003
Property is in the Business and Coastal Overlay Districts

Request: Minor Site Development Plan by James Woodhouse for property owned and located at 2263 Ocean Blvd, Tax Map 5.3, Lot 053-003 to sell parking spaces of the existing restaurant parking lot during non-business hours. Property is in the Business and Coastal Overlay Districts. Case #10-2021.

Date of Decision: Tuesday July 13, 2021

Decision: The Board voted 6-0-0 to not take jurisdiction over this application as it requires a variance for the parking, and recommends that the Applicant and the Building Inspector modify the March 2018 agreement to allow parking in the 20 spaces.

July 14, 2021

Date

Kimberly M. Reed, for

Patricia Losik, Chairman, Rye Planning Board

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

Notice of Decision

Owner: Town of Rye and the Rye Conservation Commission

Applicant: The Rye Conservation Commission

Property: 500 Washington Road, Tax Map 16, Lot 201
and 55 Recreation Road, Tax Map 12, Lot 79
Commercial District, Aquifer & Wellhead Protection District, and
the Public Recreation & Conservation Districts

Request: Lot Line Adjustment Plan by the Town of Rye and the Rye
Conservation Commission for properties located at 500
Washington Road, Tax Map 16, Lot 201 and 55 Recreation Road,
Tax Map 12, Lot 79. The Lot Line Adjustment would add 2.3
acres to Parcel 12/79 (Town Forest) leaving a 1.3 acre Parcel
16/201 as the site of the former TD Bank building. Properties are
in the in the Commercial District, Aquifer & Wellhead Protection
District, and the Public Recreation & Conservation Districts. Case
#09-2021.

Date of Decision: Tuesday July 13, 2021

Decision: **The Board voted 6-0-0 to grant the application for a lot line
adjustment.**

July 14, 2021

Date

Kimberly M. Reed, for

Patricia Losik, Chairman, Rye Planning Board

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

Notice of Decision

Owner: Malcolm E. Smith, III

Applicant: Mike Garrepy and Jones and Beach

Property: 0 Lafayette Road, Tax Map 10, Lot 1
Property is in the Commercial, Multi-Family Overlay District and
Aquifer & Wellhead District

Request: Major Site Development Plan and Special Use Permit Application by
Jones & Beach, Engineers, Inc. for Property owned by Malcolm E.
Smith, III and located at 0 Lafayette Road, Tax Map 10, Lot 1 to
construct 30 2-bedroom residential condominium tri-plex units. Property
is in the Commercial, Multi-Family Overlay District and Aquifer &
Wellhead District. Case #11-2021.

Date of Decision: Tuesday July 13, 2021

Decision: The Board voted 6-0-0 that the application meets the requirements
of Development of Regional Impact and notification should be sent
to North Hampton, Greenland, Portsmouth and the Regional
Planning Commission.

The Board voted 6-0-0 to not take jurisdiction over this application
at this time as the application was incomplete for the following
reasons:

1. DRI notification
2. AOT
3. Drainage analysis/SWMP
4. Porous paving information including UNH Study
5. Septic areas: test pits and layouts
6. Responses to Town experts' correspondence
(Attorney Donovan (7/3/21), Truslow Resource
Consulting (7/11/21), and Sebago Technics (7/13/21)
7. Traffic planning including Dow Lane intersection
8. Identification of passive recreation area(s), and
9. Landscaping considerations,

and to continue the application, as requested by the Applicant, to the
September 14, 2021, Planning Board meeting.

July 14, 2021
Date

Kimberly M. Reed, for
Patricia Losik, Chairman, Rye Planning Board

RYE PLANNING BOARD

10 Central Road Rye, NH 03870 (603) 964-9800

Notice of Decision

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July 14, 2021

Date

Kimberly M. Reed, for

Patricia Losik, Chairman, Rye Planning Board