

**TOWN OF RYE – PLANNING BOARD
MEETING**

**Tuesday, January 11, 2022
6:00 p.m. – Rye Public Library**

***Members Present:* Chair Patricia Losik, Vice-Chair JM Lord, Clerk Steve Carter, Jim Finn, Katy Sherman, Selectmen's Rep Bill Epperson, and Alternates Bill MacLeod and Kathryn Garcia**

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

1. Call to Order

Chair Losik called the meeting to order at 6:03 p.m. and led the Pledge of Allegiance.

Alternate Bill MacLeod was seated for Kevin Brandon.

2. Public Hearing on Zoning Amendments

Alternate Kathryn Garcia was seated for Katy Sherman for the following public hearing on Zoning Amendment 2022-02.

- **2022-02: Multi-Family Development increase spacing from 25' to 35'**

Chair Losik read Proposed Zoning Amendment 2022-02. The Board agreed that the word "dwelling" should be "dwellings".

Chair Losik opened to the public for comments. Hearing none, she closed the public hearing at 6:07 p.m.

Motion by JM Lord to move Proposed Zoning Amendment 2022-02 to the Town Warrant. Seconded by Bill Epperson. Vote: 7-0 (Kathryn Garcia seated for vote)

- **2022-09: Amend definition of structure to define retaining walls**

Chair Losik read Proposed Zoning Amendment 2022-09. She noted that this amendment has received quite a bit of discussion. The Rules and Regulations Committee has taken this up a couple of times and then it came to Planning Board. There were some suggestions by board members at the December meeting and the amendment is back this month.

Member Finn asked if it should say “retaining wall 6’ in height or less” for consistency.

Chair Losik explained it’s saying that if it’s less than 6’ in height, it’s exempt from the dimensional requirement.

Selectmen’s Rep Epperson asked about fences that are already in the town rights-of-way.

Chair Losik noted this applies to fences that were erected or replaced after January 2, 2001.

Attorney Donovan explained this language goes back to the original fence ordinance. Anything before that would be grandfathered.

Chair Losik opened to the public for comments.

Steve Borne, 431 Wallis Road, asked how people will know that before January 2, 2001 it’s grandfathered.

Speaking to Attorney Donovan, Chair Losik asked if it needs a modest modification.

Attorney Donovan replied no. He noted that there wasn’t a fence regulation until January 2, 2001 and it went into the building code. For variance reasons, the Planning Board and ZBA thought that it should be in the zoning ordinance rather than the building code. A couple of years ago, there was an amendment that took it out of the building code and into the zoning ordinance. The date has stayed and remained consistent through this change. He reiterated that there was no fence ordinance before 2001. If someone had a fence or wall before then, it’s really grandfathered against these regulations.

Selectmen’s Rep Epperson pointed out that if someone wants to build a fence, they have to get a building permit. They’re going to be made aware of the ordinance. He thinks it’s clear.

Referring to the proposed amendment, Planning Administrator Reed noted that the new language is emboldened and italicized. In looking at H, the language has existed and hasn’t changed since the ordinance was enacted. Only the words “and walls” was added to H.

Chair Losik stated that this has applied to everything since January 2, 2001. No fence could have been erected or replaced without a permit.

Hearing no further comments, Chair Losik closed the public hearing at 6:18 p.m.

Motion by JM Lord to approve Proposed Zoning Amendment 2022-09 regarding stone walls, retaining walls and fences. Seconded by Bill Epperson.

Vote: 7-0 (Kathryn Garcia seated for vote)

Katy Sherman was reseated for the remainder of the meeting. Alternate Kathryn Garcia was unseated.

3. Public Hearings on Applications:

- a. **Major Subdivision for a Condominium Conversion** for property owned by Arthur & Sharon Pierce Rev. Trust, Arthur & Susan Pierce, Trustees for property located at 251-279 Pioneer Road, Tax Map 24, Lot 117 to convert 8 dwelling units in 4 duplex structures into 8 condominium units. **Property is in the Residence District.**
Case #13-2021.

- **Applicant has requested a continuance to the March 8, 2022 Planning Board meeting, as they are waiting for information from NH DES.**

Motion by Bill Epperson to continue Case #13-2021 to the March 8, 2022 meeting.
Seconded by JM Lord. Vote: 7-0

- b. **Major Residential Site Development Plan** and BSL Rye Investors, LLC for property owned by BSL Rye Investors, LLC and located at 295 Lafayette Road, Tax Map 10, Lot 3 for construction of a 78-bed assisted living complex. **Property is in the Commercial District and the Aquifer and Wellhead Protection District.**
Case #14-2021.

Attorney Tim Phoenix, representing the applicant, stated that since the workshop on January 6th, he and Attorney Donovan have been working on some of the conditions that came out of that meeting. Danna Truslow has also been working with Dave Maclean (GeoInsight). He pointed out that he has submitted a clean draft of the conditions of approval. Danna Truslow's conditions have also been submitted. There are also a number of plans that address turnarounds, temporary easements, etc. He suggested having Joe Coronati go through the plan changes.

Joe Coronati, Jones & Beach Engineering, commented there's only been a couple of changes to the plans. Referring to the plan, he noted there's potential for two temporary easements. There was some discussion about what would happen if one development moved forward and the other did not, and how the emergency egress would work for a temporary situation while waiting for the other site to construct their development. The plan shows two different temporary easements. If Benchmark builds their site and the 30-units does not go forward, Benchmark would have a temporary easement for access. (He pointed out the location on the plan for the Board.) The access would go around the detention pond and out to the Dow Lane intersection. If the 30-unit development moves forward and Benchmark does not happen right away, Benchmark would provide an easement for the 30-units to get to the existing loop road that goes around the Evolve building.

Chair Losik clarified that some trees would need to be taken down.

Mr. Coronati confirmed. He noted that they tried to follow the parking lot location. They would be taking down trees that would be also taken down for the development plan. He continued that the only other change was in regards to the water line. He noted that he submitted an idea of how to modify the water line. One of the ideas was a connection of Aquarion Water to Rye Water. It was basically a connection at the end of the Aquarion line that would happen right in front of the existing Evolve building. The Rye Water District line is about 160' away. The proposal was to connect those two lines. There was a lot of discussion about who would pay to do this and how the money transaction would work, which are complex issues. To make things simpler, one of the ideas was for Benchmark to install a water line from the Rye Water District and extend the main 150' towards the Aquarion line. Right before the Aquarion line, a T and a valve would be installed. The water service would come off the T. It would be effectively utilizing Rye Water District's water. The entire development would be done off that line. There would be a 4' gap between Rye Water District's and Aquarion's water lines. If the connection agreement goes forward in the future, the only thing that would have to happen is to install the 4' line.

Chair Losik commented this will cut the cost that would have to be paid for the Aquarion line.

Mr. Coronati pointed out it would cut the cost of any future construction. The cost of the Aquarion line would still have to be purchased; however, it eliminates a lot of construction work.

Chair Losik noted it runs along the west side of Route 1 and into Benchmark.

Mr. Coronati explained it basically follows the west side. Right before the Aquarion line it would branch off to a private water main for the developments. He noted that he spoke with Carl McMorran from Aquarion who ran through the process and all the issues that the Public Utilities Commission (P.U.C.) has gone through recently. They're really back up, so that process may take time.

Selectmen's Rep Epperson asked if that process is being pursued.

Mr. Coronati replied that Mr. McMorran said that he is working with Arik Jones from Rye Water to put a proposal together for the P.U.C.

Chair Losik pointed out that a copy of an email from Carl McMorran to Arik Jones was received, which outlines the milestones for the interconnection process; 1) Company staff is drafting an interconnection agreement; 2) When complete, it will be sent to Rye Water District for any negotiated changes and final approval; 3) After final approval by RWD and Aquarion, it will be submitted for approval by the P.U.C.; 4) After P.U.C. approval, the agreement will be signed and the pipe will be transferred to the Water District; and 5) Construction of pipe connections, etc.

Selectmen's Rep Epperson asked if Aquarion could take responsibility for domestic water, if the connection is approved by the P.U.C.

Mr. Coronati replied no. This is for the fire flow. He explained that the existing Aquarion line would be sold to the Rye Water District. Aquarion would not be providing any domestic flows.

Speaking to Attorney Phoenix, Selectmen's Rep Epperson asked if this could be a parallel application. Right now, the intent for the interconnect is for fire suppression. There was also a lot of conversation about domestic water. If P.U.C. approval is being sought for the interconnect for fire suppression, could domestic water run on a parallel path?

Attorney Phoenix stated that his response is based on his memory of what Arik Jones said at the work session, which is no. North Hampton's water stops at the North Hampton Town Line and Rye's water starts there.

Chair Losik noted that one of the water commissioners said that this would be a longer process of about five to ten years.

Mr. Coronati pointed out that there may be a level of emergency domestic use. Referring back to the plans, he noted that this will get close to the end goal.

At this time, the Board had no further questions for Mr. Coronati.

The Board reviewed the Conditions of C.U.P. Approval for the Benchmark Assisted Living Facility.

Changes/Edits:

- #1 - Add date of plans (11-30-2021)
- #2 - Add "prior to issuance of certificate of occupancy".
- #6 (new) - Add new condition: "A report summarizing the results of sampling, water quality analyses, and field measurements will be provided to Planning Board Consultant Danna Truslow, or such other consultant as may be identified by the Planning Board, within one month of the receipt of laboratory results or sampling round".
- #7 – Will read: "The existing unnamed well on the property will be decommissioned. Any wells other than the unnamed well destroyed by construction, will be replaced with the same well construction and in the same or nearby location to accurately monitor the hydrogeologic conditions at the original well."
- #8 – Add date of plans (11-30-2021)
- #9 – Add "a copy of which is attached to these conditions".
- #13 (new) – The notes regarding the irrigation system shall be added to the final L2 plan and incorporated into the Landscape Best Management Practices, Operation and Maintenance Plan.
- #14 (new) - Irrigation system will be designed and maintained as outlined in the landscape BMP document and replaced when needed with a water efficient irrigation system and shall be subject to all water restrictions by the Town.

Referring to condition #15 (formerly #12), Chair Losik read from Rye Zoning Ordinance 190-3.6, Aquifer and Wellhead Protection District, Section G2.

Attorney Donovan noted that they started out with just prohibiting regulated substances. The applicant came back and said there was a reason why they couldn't live with "prohibit".

Dave Mclean, GeoInsight, stated that he brought this to Danna's attention when he read this condition. The list of regulated substances under 40 CFR Part 302 is extremely long and includes thousands of chemicals which are used every day. It's a list that's used by NH DES as part of their model ordinance and is adopted by other towns in their model ordinances. The things that are required in Rye's ordinance are for regulated substances. If those are completely prohibited, they couldn't have any kind of material. It's impractical because a business has to run. The triggering of the Best Management Practices includes regulations such as keeping things under cover and regulating things over five gallons. That's a more practical approach than just prohibition. He noted that Danna Truslow thought this made complete sense. He suggested to her that they reference the NH DES Best Management Practices Env-Wq 401.04. He pointed out that Env-Wq 401.4 and Rye Zoning Ordinance 190-3.6 are almost verbatim.

Chair Losik noted that Rye's Aquifer and Wellhead was done in 2019 and passed in 2020. The language was reviewed by Pierce Rigrod from NH DES. She continued that she has the email from Danna Truslow addressing this concern. Danna is the one who is agreeing and suggesting this modification to BMP's under 401.04.

The Board did not have any concerns with condition #15 as proposed. Some minor wording changes were made to #16. It was agreed that the Bioclere Operation Plan Manual should be included with "Attached". The Board finished the review of the conditions for the C.U.P.

Note: Final Conditions of C.U.P. Approval Benchmark Assisted Living Facility attached to minutes.

The Board reviewed the Conditions of Approval Benchmark Assisted Living Facility Major Land Development Approval.

Changes/Edits:

- #1.d – Final plan set shall include revised Sht. C4 (1-10-22) and temporary easement plan EA1 (1-04-22).
- #1.e – remove
- #2 (new) – Written certification from Rye Water District Superintendent and Rye Fire Chief indicating their approvals of the water supply and water system plan depicted on Sht. C4 dated 1-10-22.
- #3 – last sent to read: This easement shall be reviewed and approved by board counsel prior to chair signing pursuant to paragraph 9 below, to be recorded prior to obtaining a certificate of occupancy.
- #9 – conditions Nos. 1-8

- #18 – delete first sentence. Condition should start at: “Upon completion”. Add sheet EA1 and date 1/4/2022.

The Board ended their review of the conditions of approval. Chair Losik opened to the public for comments.

Steve Borne, 431 Wallis Road, stated that he would love to see a list of all the variances the ZBA has granted for this project. He would like to know how much this is going to cost the town. The town may need two land use assistants with all these conditions. He thinks it's a tremendous cost to the town for all the things that have to be monitored.

Hearing no further comments, Chair Losik closed the public session at 8:20 p.m.

Chair Losik called for a vote on the Aquifer and Wellhead Protection District Conditional Use Permit Application, Section 190-3.6.E(3)(a)-(e). The Planning Board may grant a Conditional Use Permit only after a public hearing and written findings of fact that all the following conditions are met:

- (a) The proposed use will not detrimentally affect the quality of ground water by directly contributing to pollution or by increasing the long-term susceptibility of groundwater to potential pollutants.**

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

- (b) Adequate safeguards will be in place to prevent accidental spillage of substances or materials which may be harmful to groundwater from reaching the aquifer.**

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

- (c) The proposed use will discharge no wastewater on site other than that typically discharged by domestic wastewater disposal systems and will not involve on-site storage or disposal of toxic or hazardous wastes as herein defined.**

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

- (d) The proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer.**

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

(e) The proposed use complies with all other applicable subsections of this section.

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

Motion by JM Lord to approve the Conditional Use Permit for the Major Residential Site Development Plan by BSL Rye Investors, LLC located at 295 Lafayette Road, Tax Map 10, Lot 3 for construction of a 78-bed assisted living complex, Case #14-2021, based on the amended Conditional Use Permit Conditions as discussed at the January 11, 2022 Planning Board Meeting.

Seconded by Jim Finn.

**Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes**

Vote: 7-0

Motion by JM Lord to approve the Major Residential Site Development Plan and BSL Rye Investors, LLC for property owned by BSL Rye Investors, LLC and located at 295 Lafayette Road, Tax Map 10, Lot 3 for construction of a 78-bed assisted living complex; property is in the Commercial District and the Aquifer and Wellhead Protection District, Case #14-2021, with the conditions of approval amended at the January 11, 2022 Planning Board Meeting.

Seconded by Jim Finn.

**Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes**

Vote: 7-0

- c. 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 tri-plex units. Property is in the Commercial, Multi-Family Overlay District and Aquifer & Wellhead District. Case #11-2021.**

The Board reviewed the Conditions of Conditional Use Permit Approval Hector's Site Multi-Family Development.

Changes/Edits:

- #14.g (new) – Use language recommended by Consultant Danna Truslow. “Best Management Practices will be used for storage or use of regulated substances as required by NH Code of Administrative Rules Best Management Practices for Groundwater Protection, Env-Wq 401.04 Storage of Regulated Substances and as described in Rye Ordinance Section 190-3.6, Aquifer and Wellhead Protection District, Section G2.
- #15.e – Change the word “subdivision” to “development”.
- #15.h (new) – As recommended by Danna Truslow, add language pertaining to operation, repair and maintenance of the irrigation system.

- #16.j (new) – Add language: “The irrigation systems have been operated and maintained in accordance with the Irrigation Notes on Sht. L1 and the NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications, which is attached hereto, and shall be subject to all water restrictions imposed by the Town.”
- #18 – Last sentence will read: “Note that any wells destroyed by construction must be replaced using the same construction details and in or close proximity to the original location to accurately monitor the hydrogeologic conditions at the original well.”
- #19 – Minor edits to be added per Danna Truslow’s recommendation.
- #20 (new) Add, per Danna Truslow’s recommendation: “A report summarizing the results of sampling, water quality analyses, and field measurements will be provided to planning board, within one month of the receipt of laboratory results for that sampling board.”

The Board completed the review of the conditions for C.U.P Approval for the Hector’s site.

Note: Final Conditions of C.U.P. Approval for the Hector’s Site Multi-Family Development are attached to minutes of meeting.

The Board reviewed the Conditions of Approval Hector’s Site Multi-Family Development Major Land Development/S.U.P. Approvals.

Changes/Edits:

- #1.b – Delete last two sentences. Keep first sentence: “Revise Sheet C4 to show latest plan for water services as approve by the Rye Water District and the Rye Fire Chief.”
- #2 – Delete and replace with: “Written certifications from the RWD Superintendent and the Fire Chief indicating their approvals of the water supply and water system as depicted on Sht. C4, revised as of 1/10/22.”
- #11 – Delete (i.e. septic system)
- #23 – Change “CS1” to “C2”
- #26 – Delete “and Aquarion”
- #33 – Add: EA1, dated 1/4/22
- #34 – Add to last sentence: “or construction of a temporary easement per No. 33 above.”

The Board completed their review of the conditions for the Major Land Development/S.U.P. Approvals for the Hector’s Site Multi-Family Development

Note: Final Conditions of Approval Hector’s Site Multi-Family Development Major Land Development/S.U.P Approvals is attached to minutes of meeting.

Chair Losik opened to the public for comments.

Steve Borne, 431 Wallis Road, stated that he doesn’t know why this is being approved with the Workforce Housing. He believes the town has already approved more than the market can bear.

With Portsmouth building so many, the area is being saturated with workforce housing units. He thinks they need to pause and really understand that.

Hearing no further comments, Chair Losik closed the public hearing at 9:47 p.m.

Chair Losik called for a vote for the Aquifer and Wellhead Protection District Conditional Use Permit Application, Section 190-3.6.E(3)(a)-(e). The Planning Board may grant a Conditional Use Permit only after a public hearing and written findings of fact that all the following conditions are met:

- (a) The proposed use will not detrimentally affect the quality of ground water by directly contributing to pollution or by increasing the long-term susceptibility of groundwater to potential pollutants.**

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

- (b) Adequate safeguards will be in place to prevent accidental spillage of substances or materials which may be harmful to groundwater from reaching the aquifer.**

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

- (c) The proposed use will discharge no wastewater on site other than that typically discharged by domestic wastewater disposal systems and will not involve on-site storage or disposal of toxic or hazardous wastes as herein defined.**

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

- (d) The proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer or in the storage capacity of the aquifer.**

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

- (e) The proposed use complies with all other applicable subsections of this section.**

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;
Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

Motion by JM Lord to grant the Conditional Use Permit for the 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 tri-plex units; property

is in the Commercial, Multi-Family Overlay District and Aquifer & Wellhead District, Case #11-2021, with the conditions of approval amended at the January 11, 2022 Planning Board Meeting.

Seconded by Bill Epperson.

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;

Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

Vote: 7-0

Chair Losik called for a vote for the Multi-Family Development Dwelling Overlay District Special Use Permit Application, under Section 190-4.2.D. The Planning Board may grant a Special Use Permit only after a public hearing and written findings of fact are made that all the following conditions are met:

(1) All requirements of §190-4.2C have been met.

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;

Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

(2) The granting of the special use permit will not be detrimental to adjacent property or the neighborhood.

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;

Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

(3) The granting of the special use permit will not be detrimental to the public safety, health or welfare.

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;

Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

(4) The granting of the special use permit will not be contrary to the public interest.

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;

Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

Motion by JM Lord to grant the Special Use Permit for a Multi-Family Dwelling Development subject to the conditions as amended by the Planning Board at the January 11, 2022 meeting for the property owned by Malcolm E. Smith, III and located at Tax Map 10, Lot 1 to construct 30 2-bedroom residential condominium tri-plex units.

Seconded by Bill Epperson.

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;

Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

Vote: 7-0

Motion by JM Lord to approve the Major Site Development Plan 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 tri-plex units subject to the conditions of approval amended at the January 11, 2022 Planning Board Meeting; property is located in the Commercial, Multi-Family Overlay District and Aquifer & Wellhead District, Case #11-2021.

Seconded by Bill Epperson.

Katy Sherman – Yes; Steve Carter – Yes; JM Lord – Yes; Patricia Losik – Yes;

Bill Epperson – Yes; Jim Finn – Yes; Bill MacLeod – Yes

Vote: 7-0

- d. Oxland Builders for property owned and located by Anne Decker located at 6 Goss Farm Lane, Tax Map 8, Lot 59 for violations to the conditions (10, 14, 15 and 30g and 31h) of the approval of the May 14, 2019 Major Subdivision by Tuck Realty Corp. Case #11-2018 for construction of a deck in the wetlands buffer. Property is in the Single Residence District. Case #18-2021.**

Chair Losik asked Vice-Chair Lord to address this issue.

Vice-Chair Lord, Technical Review Committee Chair, stated that he, Member Finn and Member Losik went out the site.

Alternate MacLeod confirmed that he also visited the site.

Vice-Chair Lord asked Alternate MacLeod his thoughts, after seeing the deck.

Alternate MacLeod stated that his opinion is that it was not done intentionally. The house was built per the architectural plans. He thinks it was the result of the builder's team not going the extra step. Alternate MacLeod noted that he's seen this type of lot before where it's really at the minimum on all sides. It really requires having the architectural plans mathematized into a CAD file, fitting it onto the lot and making sure there is enough buffer. He always uses the minimum standard of 6" in all directions. That would only work if it was staked out three times by a licensed surveyor. It should be staked out for the excavation. It should then be staked inside the excavation for the footing. The footing should be pinned with concrete nails so the foundation company has the exact form for placing the foundation. He commented that maybe that wasn't done.

Alternate MacLeod stated the property line can be measured along the street and the side lines to a hundredth of a foot because that's documented on the subdivision plans. The wetland line that the buffer zone is being measured from is not done to that accuracy. It's a line that one person gave their opinion on and either the town's consultant agreed or modified it. How it's surveyed is even another issue. The wetland line, at best, is plus or minus a foot. He continued that the 3" or 4" that this deck is closer to the wetland line is within the margin of error. The line that was on the plan that the buffer zone was measured from, is not a line that any surveyor, other than the

original surveyor, can define to great accuracy. His opinion is that it's not having an impact on the wetlands and it was built within reasonable accuracy of the site plan.

Member Finn stated they've all been down the path with builders blatantly doing things incorrectly and looking back for forgiveness afterwards. A number of board members came down hard on the builder because the example should be set for people who do what they want and come back for forgiveness. He continued that having gone out to the site, he would concur that the error on the deck is a half percent off. He would leave the deck as is. It has no material impact on the wetlands. The columns are further in, so there's over a 100' buffer. He would leave the deck as it is at this stage.

Vice-Chair Lord agreed. He thinks it was extremely well built. The building was to such tight dimensions. The whole house probably made that little bit of change. The deck is 3' to 4' above the wetland area. He doesn't see an impact. From a visual standpoint, no one would ever notice the impact. However, he doesn't think the deck is the issue. He pointed out there was an additional 25' buffer that was put on that property. It goes right up to about where the house sits. Referring to the photos, he asked what the additional 25' buffer will look like in the end. It looks like there are different grasses than what is there now. He asked the intent of the Planning Board at that time. He also asked if the Conservation Commission should get involved to give some guidance.

Alternate MacLeod asked if lawn is allowed in the buffer zone, whether it was the 75' or the additional 25'. He sees that it was worded as a "voluntary" additional buffer. He asked if this was just so no structures would be put within that 25'.

Vice-Chair Lord stated this was part of a five-lot subdivision. There was a lot of conversation about the meadow and protecting it. As part of that, the developer offered the additional 25' voluntarily. At the same time, it was really a give and take. As seen on the grading plans, the Board allowed them to grade out there, but they didn't want to see retaining walls. The Board wanted this to be an extension of the wetlands. He doesn't know that it is.

Member Sherman clarified that the buffer goes up to the deck.

Vice-Chair Lord confirmed.

Member Finn explained that the lawn is the 25' portion. Between the lawn and the wetland is brush.

Vice-Chair Lord read from the declarations; *There's a voluntary setback on Lots 59, 59-1 and 59-2, i.e. a voluntary buffer, which extends the 75' buffer with the Rye Zoning Ordinance by 25' and is shown on Sheet A-1 of the subdivision plan. Lot 59, building and septic system shall not be located within the voluntary buffer. On Lots 59-1 and 59-2, structures, including buildings, and septic systems shall not be located within the buffer. The existence of the voluntary buffer does not negate any of the Rye Zoning Ordinance restrictions within the 75' wetland buffer depicted on Sheet 1.* Vice-Chair Lord stated that it looks like there's a 100' wetland buffer here,

even though they were allowed to fill and build into it. What goes back is now a 100' buffer and not the 75' buffer.

Member Carter commented that the Board didn't want a shed going in that area or other kinds of structures. He doesn't know that the Board got specific on what kind of grass was going to be planted.

Vice-Chair Lord asked if they want it to look like the buffer.

Member Sherman stated this is a clear argument of squeezing too much in. That is why the Board was so strict with all the conditions. The Board felt it was "squeezing" this in. It doesn't matter if the buffer is voluntary or not. It is a 100' buffer.

Vice-Chair Lord stated if that wasn't on there, they would have the right to do whatever they want; however, that's not what they agreed to. They agreed that this would be a part of the buffer.

Chair Losik asked if they can have a lawn there. She noted that the buffer regulations in 3.1 defines what the buffer is. The first thing it says is that there can't be surface alteration by the addition of fill, excavation or dredging. Clearly, that was allowed. It's really not saying if it can be a lawn or not. Chair Losik stated that her concern is when she looked at it, her sense was that it didn't look super health. Maybe Conservation should look at this because it's not just a Lot 59 issue. It's about what is going to work for the three lots.

Vice-Chair Lord opened to the applicant.

Attorney Derek Durbin, representing Oxford Builders, stated that the notice says that the Board is taking up consideration of whether or not there were violations to conditions 10, 14, 15, 30g and 31h of the 2019 approval of the subdivision. Conditions 10, 14, and 15 were conditions present for adding notes to the plans and things of that nature. He's not sure those necessarily apply. Condition 30g and 31h are more of obligations imposed upon the HOA relative to enforcing the buffer restriction and making sure that got into the declaration. He thinks condition 43 is probably the one that directly applies. In any event, the consideration is whether or not there is a violation of a slight encroachment to the wetland buffer. Attorney Durbin continued there are a couple of different routes the Board could take on this request. The application was made voluntarily after it was realized that per the as-built plan, the deck slightly encroached.

Attorney Durbin stated that he does not know a lot about the lawn. He can see where the concerns can lie with that. From the records, it was not entirely clear what was represented to the Board or what restrictions were intended to apply in that 25'. Some restrictions were carved out; such as, buildings versus structures. It seems like there was some per lot consideration in regards to the 25' buffer. Relative to the matter that was noticed before the Board, it's a two-step process. Is there a violation? If there is, can relief be granted? He noted that if it gets to the point that the Board finds this is a violation and is considering an approval, there would be

another step on behalf of the application, which would be that the HOA would have to grant a waiver to the relative covenants.

Selectmen's Rep Epperson asked if he is asking for the Board to forgive the 6" encroachment of the deck.

Attorney Durbin stated that first he would ask that a plus/minus be given to this. To the extent that the Board finds it be a violation, the applicant is asking for forgiveness.

Member Finn stated that he believes the TRC came to the conclusion that they would accept the deck as is.

Vice-Chair Lord stated that the deck is not really an issue.

Vice-Chair Lord opened to the public. Mr. Borne suggested moving on to next topic. Public comment was closed at 10:23 p.m.

Member Sherman stated that she thinks it's a clear violation. It's clear there are no variances or waivers that were given for this land. The Conservation Commission should go out to take a look and give some advice on what should be planted there now.

Member Carter stated that he thinks it's a violation and they should fix it. It was their mistake. They didn't give themselves any room for error.

Chair Losik stated that she attended the site walk as an observer. It's a 20s.f violation over the entire square footage. It was really in that very tiny triangle on the north side of the deck. It's a highly unusable space. She was not really concerned about that. She continued that she is concerned about the language of the setbacks that's in the approval, specifically that it's considered a buffer under Rye's zoning. As far as she's concerned, there is not clear language as to the handling from a planting perspective of that additional 25'. She would prefer to have Conservation look at this. It will be a benefit to the homeowner. She reiterated that she can be fine with the deck. Maybe there should be a condition that Conservation has a look.

Selectmen's Rep Epperson stated that Member MacLeod makes a very persuasive observation about what is out there. He thinks it's grace over judgement. He would let the deck stand, but Conservation should look at the landscape.

Member Finn noted that at the prior meeting, he would've been very much on the same page as Member Sherman and Member Carter. However, after meeting on the site, he feels they should let the deck stand as it is and defer to Conservation as to what to do with the grass. He thinks they should make this a condition.

Referring to the conditions, Alternate MacLeod stated that it says; "Lot 59, buildings and septic systems should not be located within the voluntary buffer". To him, that's the restriction on the

voluntary buffer. He doesn't think this is worded such that all the restrictions in the Rye Zoning Ordinance shall apply to the 25'. It says it's a voluntary buffer which extends the 75' of the Rye Zoning Ordinance. There's a 75' buffer in the zoning ordinance and this 25' extends beyond that. Everyone can have a different opinion as to what this condition means. He continued that if the Board approved the plan that had grading in that buffer, it complied with this. They can't grade in the 75' zoning buffer. He noted the Board approved a plan that had grading in the buffer. Why would that preclude someone from having any grass that would be to someone else's specifications? Alternate MacLeod stated the only reason this came up is because they used the same engineer to do the as-built as they did the subdivision plan. That engineer is the only one who knows the coordinate of the wetland line. If they hired another surveyor, it may have come actually closer to the house or been further away.

Alternate MacLeod stated that he doesn't think they made a mistake. In looking at the architectural plans and from what he saw in construction, they made every attempt to build correctly. It's not so much that they made a mistake, but they may not have taken a procedure that may have guaranteed a better outcome.

Motion by Bill MacLeod that the deck is not in violation.

Selectmen's Rep Epperson noted that it is in violation. However, due to circumstances, the Board may be willing to accept it.

Motion by Bill MacLeod that the deck is in violation by a de minimis amount. It would cause a hardship to the owner of the property to reconstruct the deck. Viewing the way the deck is constructed, there is not an impact to the wetland buffer for this particular circumstance.

Seconded by Jim Finn.

Chair Losik asked what is meant by "it doesn't have impact to the wetland buffer".

Alternate MacLeod stated look at runoff. Look at all the things that would impact the buffer. What does the construction of that deck do to the buffer? The digging of the ground was actually further back. It's actually an overhang. The deck is pervious. It's not an impervious surface. Any water that falls on the deck is dispersed through the cracks between the deck boards and infiltrates into the ground underneath. Runoff is not being increased from the site. It was open area to begin with. He doesn't see that it has any impact on any wetland resources.

Vice-Chair Lord called for a vote on the motion:

**Katy Sherman – No; Steve Carter – No; Bill MacLeod – Yes; Jim Finn – Yes;
Bill Epperson – Yes; JM Lord – Yes; Pat Losik – Yes
Vote: 5-2**

Vice-Chair Lord stated that he thinks Conservation should go out to look at all three of these lots. The Board really has to dig in to what the intent was for that buffer and get Conservation to weigh-in.

Selectmen's Rep Epperson suggested having Steve Harding from Sebago look at all the lots, along with having the Conservation Commission weigh-in.

Planning Administrator Reed confirmed that she will reach out to Sebago and the Conservation Commission.

4. New Business:

- **Letter by Steve Borne**

Chair Losik noted that the Board will take up the letter to the Board of Selectmen first. She asked Mr. Borne if this is coming from him as a resident or Rye Civic League.

Steve Borne, 431 Wallis Road, responded that it's coming from him as a resident.

The Board reviewed the letter sent by Steve Borne to the Board of Selectmen.

Chair Losik stated that in the letter to the Board of Selectmen there were a host of issues. The first was the Master Plan. The letter noted that *at the December 16th Budget Committee Meeting, during discussion of additional \$20,000 to support the ongoing Vision Chapter updates, Selectman King indicated that the Select Board would be driving an update to the whole master plan on the heels of the Vision Chapter. If that's the plan, where's the money in the 2022 Budget or Capital Improvement Plan? It should have been in the CIP before this year and it's not in the CIP. Mr. Borne's letter suggested putting in \$200,000 in the 2022 Budget to develop a best-in-class master plan. It could also be a warrant article, instead of being directly in the budget.*

Chair Losik explained that the discussion about the master plan work actually came out of the Rules and Regulations Committee in August of 2020. It was suggested that the Planning Board use its planning board session in September of 2020 as a work session and begin to talk about visioning. During the meeting, Kim Reed recommended that this be followed on with a visioning session in the spring of 2021. A vision framework was contracted with Rockingham Planning Commission (RPC). Julie LaBranche continued the work after she left her position with RPC. The Long Range Planning Committee consulted with her throughout this time period. The LRP Committee has had seventeen meetings with Steve Carter as chair. Rob Wright, Kathryn Garcia, Katy Sherman and Dominique Winebaum are also on the committee and have worked intensely. The direction from vision session to vision chapter to master plan, has been discussed over the time period of that work. In March of 2019, Kim Reed, Planning and Zoning Administrator, wrote a letter to the Board of Selectmen; *"The process will likely establish whether the Master Plan needs a small update or a full rewrite in the next two to three years."*

Chair Losik continued that from the minutes of May 5, 2021, Kim Reed says; *“Once they have the visioning chapter, they can decide what needs to be done to move forward to create a master plan. Create a vision for how to create a master plan.”* On July 15, 2021, Kim Reed and Consultant Julie LaBranche discussed outline of vision chapter. *“Master plan to be on the ballot in 2023. Everything would be ready to go by December 2022 for a new master plan in 2024.”* October 5, 2021, there was discussion about the framework for the Vision Chapter and the Master Plan being something greater than \$100,000. December 15, 2021, Julie LaBranche, Consultant, suggested requesting for quotes qualifications, not a proposal, no interviews, range of service info to use for budget numbers, which would be for the fall of 2022. For the 2023 Budget, an RFP could be drafted and ready to go in January of 2023. A master plan engagement begins, if the budget is approved, in March of 2023.

Chair Losik stated that on the table, there has always been an update, full rewrite, once this committee started working. Some of the recent chapters include; Coastal Hazard and Climate Adaptation; Existing and Future Land Use, 9/2018; Transportation, 9/2018; Natural Resources, 9/2018. In regards to demographics, the 2020 Census is now available. The current Master Plan largely relies on the 2010 Census. Current discussions include theme based executive chapters or implementation chapters. Part of the process of the committee is looking at what other towns have done. She noted that Exeter, Stratham and Bedford update every ten years, roughly. From the RSA perspective, it's five to ten years.

Speaking to Mr. Borne, Chair Losik stated that she hears his discussions and ideas about moving forward and finding \$200,000 for a master plan. She pointed out that it doesn't have to be done yesterday. It needs to be done right. It needs to be following a process and it is following a process. That process has been discussed throughout many meetings.

Mr. Borne stated that what he has been saying for eight years and the first time he read the Master Plan, is that they need to start now. His personal opinion is that the town is five years late. The Master Plan needs to be done. It needs an implementation plan. The town is late because of all the issues they are getting into. The root cause goes back to the Master Plan. Having an implementation plan drives zoning ordinances that will help address the problems. He noted that the money for the Master Plan should be in the Capital Improvement Plan. He thinks the path could be more aggressive. The town should be putting more money towards it.

Member Sherman commented that she is very frustrated by how slow the process is, so she understands Mr. Borne's frustration. However, a lot of time has to go into the process, in order to do it right.

Chair Losik commented there's no question that they have to move forward. From a fiscal situation, the town has a history of solving things using the least amount. She doesn't even know that they would be thinking about spending \$200,000 five years ago. Even people on the committee today are thinking this is going to be a lot of money with all the other initiatives the town is facing. She thinks many people feel the same angst and would like it to go faster. She noted that the Planning Board has a process.

Member Carter explained they are trying to put together a vision framework that can be presented to the full planning board and the Select Board with the support of people behind it. The last thing they want to do is to put \$200,000 on the ballot and have it voted down. If that happens, it will not be another year or so, it will be three or four more years before anything will get done. The committee is trying to put something together that will convince people that a new master plan is a good idea. The committee is coming to a conclusion about the kind of master plan they'd like to see. Part of it is trying to get people interested in the Master Plan and find out what they feel are the important issues. There's a lot of education that needs to be done. He commented that they are working on it.

Member Sherman stated they need to explain to the Town of Rye why this is needed and why it will cost \$160,000 to \$180,000.

Vice-Chair Lord commented that the town gets by on a very "skinny" budget. There are a lot of great people in town that really put in a lot of effort and donate a lot of time. The other towns have the advantage of hiring a professional group to give them some oversight. Maybe they need to recognize that Rye might need some oversight. Maybe they need an overall planning group to come in to see what resources are needed to manage the town.

Mr. Borne commented that he has been pitching the same thing to the Select Board for ten years. He noted that there is probably no one else in town that has read every single set of meeting minutes for the past ten years. When someone reads that much and pays that much attention, they have a little bit different perspective. He can see some of the problems and trends.

Vice-Chair Lord stated that maybe they could bring in someone that had an organizational structure on planning who could help the town with where it's going and what infrastructure is needed.

Chair Losik stated that the town doesn't have a build-out analysis. There's still growth that's going to happen but it's not known what that might look like. It's pretty important to have that understanding.

Selectmen's Rep Epperson stated they have spent fifteen years doing the very best job they can for this town to make it a desirable place to live. The Board is doing the very best they can. He encouraged Mr. Borne to get on the Planning Board or ZBA so his opinion can cause something to happen.

There was discussion about the Parsons Creek Watershed.

5. Committees

No update

6. Other Business

a. Minutes November 9, 2021 and December 14, 2021

Not addressed

b. Escrows December 2021 and January 2022

Not addressed

7. Communications

None

Adjournment

Motion by Bill Epperson to adjourn at 11:30 p.m. Seconded by Steve Carter. All in favor.

Respectfully Submitted,
Dyana F. Ledger

CONDITIONS OF C.U.P. APPROVAL
BENCHMARK ASSISTED LIVING FACILITY

1. A Two Stage Bioclere wastewater system with flow equalization and associated leach field shall be installed as depicted on the approved plans, Shts. S1 –S3, 11/30/21.
2. Since the Benchmark Expansion and the existing Benchmark facility have or will have a Groundwater Discharge Permit (GDP) issued by NHDES, the applicant will provide the final GDP for the facility to the Town of Rye Building Inspector and hydrogeologic consultant for the Town of Rye prior to issuance of a Certificate of Occupancy.
3. The required sampling of effluent and groundwater will be conducted as specified in the GDP. The expected groundwater monitoring program will include the proposed wells and analyses listed in items 4 and 5 below.
4. The proposed groundwater monitoring program will include existing and proposed monitoring wells. Two upgradient wells, Geo-1, MW-6 (both existing) and three downgradient wells, Geo-5, Geo-6 (both existing) and proposed new well Geo-9.
5. One preliminary round of sampling will be conducted following construction but prior to occupancy to establish a background for groundwater quality. The laboratory parameters for analysis include: fecal coliform, E. coli, nitrate, TKN, Volatile Organic Compounds (using EPA Method 8260B), & Drinking Water Metals (Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium, & Silver). Dissolved metals will be tested and therefore samples will be field filtered. Static groundwater elevation, pH, and specific conductivity will be measured with field instruments. The frequency for permit monitoring will be twice yearly in the month of May and November for the above list excluding VOCs, PFAs and drinking water metals which are to be conducted twice during the 5-year permit (years 3 and 5). Modifications to the sampling program may be made after further discussion with Benchmark and NHDES. Reasonable efforts will be undertaken to schedule sampling coincident with the Map 10, Lot 1 property for an evaluation of synoptic data.
6. A report summarizing the results of sampling, water quality analyses, and field measurements will be provided to planning board consultant Danna Truslow, or such other consultant as may be identified by the planning board, within one month of the receipt of laboratory results for that sampling round.
7. The existing unnamed well on the property will be decommissioned. Any wells destroyed by construction (other than the decommissioned well) will be replaced with the same well construction and in the same or nearby location to accurately monitor the hydrogeologic conditions at the original well. The decommissioning report for this and any other well

decommissioned as part of construction will be provided to planning board consultant Danna Truslow, or such other consultant as may be identified by the planning board.

8. Grease traps and primary tanks shall be inspected every 3 to 6 months and pumped as needed. (See Owner Notes, Sht. S3, 11/30/21).

9. The operation and maintenance of the Bioclere system shall conform to the Operation and Maintenance Manual submitted to the planning board, including the sampling frequency set forth in the "Recommended Modeling Parameters" table, a copy of which is attached to these conditions.

10. Bioclere system monitoring and sampling and groundwater monitoring reports prepared for the GDP shall also be sent to the Town of Rye Building Inspector and the hydrogeologic consultant for the Town of Rye upon completion. If a sampling exceeds the recommended range set forth in the "Recommended Monitoring Parameters" table, an explanation of the corrective action taken shall be provided.

11. Winter maintenance of the facility roads and walkways should be completed by a New Hampshire Green Snow Pro certified contractor to minimize impacts to groundwater from road salt. The contractor used and salt usage should be included in the stormwater monitoring report.

12. Fertilizer use should conform to the requirements of the May 2021 document titled "Guidance for Lawn/Turf Areas for Lawn Care and Fertilization that Protects Water Quality," a copy of which is attached to these conditions.

13. The irrigation system shall be designed and maintained in accordance with NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications, which is attached hereto, and shall be subject to all water restrictions that may be imposed by the Town.

14. The Irrigation Notes on Sht. 1-1 of the Hectors plan set shall be added to Benchmark Sht. L2 and incorporated into the Landscape Best Management Practices Operations and Maintenance Plan, where applicable. The requirements for Irrigation Systems set forth in the NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications, which is attached hereto, should be incorporated into the Landscape Best Management Practices Operations and Maintenance Plan.

15. Best management practices will be used for storage or use of regulated substances as required by the NH Code of Administrative Rules-Best Management Practices for Groundwater Protection Env-Wq 401.04 Storage of Regulated Substances and as described in Rye Ordinance section 190 – 3.6 Aquifer and Wellhead Protection District, Section G2.

16. Immediately following the issuance of a building permit the applicant shall pay the town a fee \$5000 (to be held in escrow) to be used to defray the expenses of its consultant and/or the building inspector in monitoring inspection reports on the septic and such other work as may be necessary to effect compliance with these conditions, including annual inspections of drainage

facilities. When the escrow is depleted the owner shall be responsible for payment of the expenses of such work. Failure to pay such expenses shall constitute a lien on the facility

Attached:

Guidance for Lawn/Turf Areas for Lawn Care and Fertilization that Protects Water Quality.

Bioclere Operation and Maintenance Manual.

NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications

CONDITIONS OF C.U.P. APPROVAL
BENCHMARK ASSISTED LIVING FACILITY

1. A Two Stage Bioclere wastewater system with flow equalization and associated leach field shall be installed as depicted on the approved plans, Shts. S1 –S3, 11/30/21.
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3. The required sampling of effluent and groundwater will be conducted as specified in the GDP. The expected groundwater monitoring program will include the proposed wells and analyses listed in items 4 and 5 below.
4. The proposed groundwater monitoring program will include existing and proposed monitoring wells. Two upgradient wells, Geo-1, MW-6 (both existing) and three downgradient wells, Geo-5, Geo-6 (both existing) and proposed new well Geo-9.
5. One preliminary round of sampling will be conducted following construction but prior to occupancy to establish a background for groundwater quality. The laboratory parameters for analysis include: fecal coliform, E. coli, nitrate, TKN, Volatile Organic Compounds (using EPA Method 8260B), & Drinking Water Metals (Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium, & Silver). Dissolved metals will be tested and therefore samples will be field filtered. Static groundwater elevation, pH, and specific conductivity will be measured with field instruments. The frequency for permit monitoring will be twice yearly in the month of May and November for the above list excluding VOCs, PFAs and drinking water metals which are to be conducted twice during the 5-year permit (years 3 and 5). Modifications to the sampling program may be made after further discussion with Benchmark and NHDES. Reasonable efforts will be undertaken to schedule sampling coincident with the Map 10, Lot 1 property for an evaluation of synoptic data.
6. A report summarizing the results of sampling, water quality analyses, and field measurements will be provided to planning board consultant Danna Truslow, or such other consultant as may be identified by the planning board, within one month of the receipt of laboratory results for that sampling round.
7. The existing unnamed well on the property will be decommissioned. Any wells destroyed by construction (other than the decommissioned well) will be replaced with the same well construction and in the same or nearby location to accurately monitor the hydrogeologic conditions at the original well. The decommissioning report for this and any other well

decommissioned as part of construction will be provided to planning board consultant Danna Truslow, or such other consultant as may be identified by the planning board.

8. Grease traps and primary tanks shall be inspected every 3 to 6 months and pumped as needed. (See Owner Notes, Sht. S3, 11/30/21).

9. The operation and maintenance of the Bioclere system shall conform to the Operation and Maintenance Manual submitted to the planning board, including the sampling frequency set forth in the "Recommended Modeling Parameters" table, a copy of which is attached to these conditions.

10. Bioclere system monitoring and sampling and groundwater monitoring reports prepared for the GDP shall also be sent to the Town of Rye Building Inspector and the hydrogeologic consultant for the Town of Rye upon completion. If a sampling exceeds the recommended range set forth in the "Recommended Monitoring Parameters" table, an explanation of the corrective action taken shall be provided.

11. Winter maintenance of the facility roads and walkways should be completed by a New Hampshire Green Snow Pro certified contractor to minimize impacts to groundwater from road salt. The contractor used and salt usage should be included in the stormwater monitoring report.

12. Fertilizer use should conform to the requirements of the May 2021 document titled "Guidance for Lawn/Turf Areas for Lawn Care and Fertilization that Protects Water Quality," a copy of which is attached to these conditions.

13. The irrigation system shall be designed and maintained in accordance with NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications, which is attached hereto, and shall be subject to all water restrictions that may be imposed by the Town.

14. The Irrigation Notes on Sht. 1-1 of the Hectors plan set shall be added to Benchmark Sht. L2 and incorporated into the Landscape Best Management Practices Operations and Maintenance Plan, where applicable. The requirements for Irrigation Systems set forth in the NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications, which is attached hereto, should be incorporated into the Landscape Best Management Practices Operations and Maintenance Plan.

15. Best management practices will be used for storage or use of regulated substances as required by the NH Code of Administrative Rules-Best Management Practices for Groundwater Protection Env-Wq 401.04 Storage of Regulated Substances and as described in Rye Ordinance section 190 – 3.6 Aquifer and Wellhead Protection District, Section G2.

16. Immediately following the issuance of a building permit the applicant shall pay the town a fee \$5000 (to be held in escrow) to be used to defray the expenses of its consultant and/or the building inspector in monitoring inspection reports on the septic and such other work as may be necessary to effect compliance with these conditions, including annual inspections of drainage

facilities. When the escrow is depleted the owner shall be responsible for payment of the expenses of such work. Failure to pay such expenses shall constitute a lien on the facility

Attached:

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Bioclere Operation and Maintenance Manual.

NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications

CONDITIONS OF CONDITIONAL USE PERMIT APPROVAL
HECTOR'S SITE MULTI-FAMILY DEVELOPMENT

1. A condominium association shall be created for the development.
2. Ten (10) Septi-Tech Model STAAR 1.0 DENITE wastewater systems and associated leach fields shall be installed as portrayed on the approved plans (OVS Sheets S1-S10, revised 12/01/21) and as approved by DES.
3. Prior to the establishment of a condominium association the applicant shall designate a qualified entity to conduct inspections and maintenance of all Septi-Tech systems. After the establishment of a condominium association, the association shall be responsible for designating the qualified entity. The association shall have an inspection and maintenance agreement in place with the entity designated by the applicant or the successor association for the lives of the systems for all ten (10) systems.
4. Within 6 months of a Septi-Tech system going on-line, an initial sample of effluent shall be collected for effluent testing to assess system performance. Follow-up testing will be at one year of use. Testing would then be conducted at one year intervals for the first five years of use with subsequent testing dependent upon results of the testing program. After all ten systems are operational, a testing schedule which provides concurrent testing of all ten systems may be approved by the Technical Review Committee. Testing results shall be provided to the Rye Planning Board, the Rye Building Inspector and planning board consultant Truslow (or such other consultant as the planning board may designate) within 30 days of the sampling event.
5. As part of this, the effluent from each system should be sampled for nitrate-nitrogen (nitrate-N) and Total Kjeldahl Nitrogen (TKN) at each inspection.
6. Effluent shall contain less than 16 mg/L nitrate-N. A 10 mg/L or greater concentration of nitrate-N will trigger confirmation sampling and may require septic system maintenance, repair or replacement if issues are not resolved.
7. Septic tanks shall be pumped every two years.
8. The most current Septi-Tech Operation and Maintenance Manual shall be provided to each unit owner.

9. Winter maintenance of the condominium roads and walkways should be completed by a New Hampshire Green Snow Pro certified contractor to minimize impacts to groundwater from road salt. The contractor used and salt usage should be included in the stormwater monitoring report.
10. The maintenance of porous pavement shall be as set forth on Plan Sheet D-1. These maintenance requirements shall be included in the Declaration.
11. The use of fertilizer shall conform to Note 18 on Plan Sheet CS1. This requirement and the May 2021 document titled "Guidance for Lawn/Turf Areas for Lawn Care and Fertilization that Protects Water Quality" shall be included in the Declaration.
12. Prior to the establishment of the Condominium Association the applicant shall retain a Designated Oversight Manager (DOM) who shall have the following responsibilities:
 - a. Collecting and keeping on file the required inspection and maintenance agreement for the septic systems. The DOM shall certify to the planning board and building inspector in January of each year that the required agreement is in place.
 - b. Collecting and keeping on file the required inspection reports and providing them within 15 days of receipt to the building inspector, the planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board.
 - c. Reviewing the inspection reports. If a report indicates that the standard of No. 6 herein has not been met, the DOM shall notify the association to have the system inspected again and a confirmatory sample collected.
 - d. Keeping records of the pumping of all septic tanks.
 - e. Providing a report to the planning board and the building inspector in January of each year. The report should summarize the inspections made, the pumping of septic tanks, and any deficiencies that were identified and the corrective action taken.
 - f. Certify use of a Certified Snow Pro for winter road maintenance and salt usage reported to NHDES.
 - g. Retaining a civil engineer to inspect the porous pavement once a year in order to evaluate its continued effectiveness.
 - h. Conduct annual inspections to ensure that required no cut buffer remains in place. Notify the association, planning board and building inspector of any observed violations.

- i. Provide an annual report to the planning board of the results of the inspections in January of each year.
13. The applicant shall provide the name of the DOM and contact information to the building inspector, planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board. Upon the establishment of an association the responsibility of retaining an oversight manager shall transfer to the association. The DOM and any changes of the DOM shall be approved by the planning board's Technical Review Committee.
14. Prior to the issuance of the first occupancy permit, the applicant shall record the *Declaration, Bylaws and other condominium instruments* and any other legal instruments required to form the association, which shall run with the land and which shall apply to all lots. The Declaration shall be reviewed and approved by board counsel and shall include provisions allowing the association and the town to enforce. The restrictions and requirements shall include:
 - a. Use of Green Snow Pro contractor for winter maintenance.
 - b. Use of fertilizer as required by Condition No.11.
 - c. Replacement septic systems shall be Septi-Tech systems or other systems providing equal or better treatment and de-nitrification.
 - d. No garbage disposals shall be installed in the dwelling units.
 - e. Double walled oil storage tanks required if units have oil furnaces.
 - f. Maintenance of porous pavement as required by Condition No. 10.
 - g. Best Management Practices will be used for storage or use of regulated substances as required by NH Code of Administrative Rules Best Management Practices for Groundwater Protection, Env-Wq 401.04 Storage of Regulated Substances and as described in Rye Ordinance Section 190-3.6, Aquifer and Wellhead Protection District, Section G2.
15. The responsibilities of the association shall include:
 - a. Assuring that the required inspection and maintenance agreements for the septic systems are in place.
 - b. Assuring that the required inspections and sampling of the septic systems have been done.

- c. Assuring that any required maintenance, repair or replacement of septic systems has been done.
 - d. Assuring that all required pumping of septic tanks has been done.
 - e. Monitoring the use of snow removal substances and fertilizers in the development.
 - f. Maintenance, repair and replacement (if required) of all drainage facilities owned by the association.
 - g. Maintenance of all porous pavement in the development.
 - h. Operation, repair and maintenance of the irrigation system in accordance with the Irrigation Notes of Sht. L1 and the requirements for Irrigation Systems set forth in the NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications, which is attached hereto.
16. The association shall certify annually in January of each year to the planning board (with copies to the building inspector and planning board consultant Danna Truslow, or such other consultant as may be identified by the planning board) that:
- a. All required septic system inspection and maintenance agreements are in place.
 - b. All required septic system inspections have been conducted and the reports provided to all required parties.
 - c. Any required maintenance, repair or replacement of septic systems has been completed or will be completed by a time certain.
 - d. All required pumping of septic tanks has been done.
 - e. Fertilizers are being used in accordance with Condition No. 11.
 - f. NH Green Snow Pro certified contractors are being used for snow removal and treatment and annual salt usage reported to NHDES.
 - g. No garbage disposals have been installed in the dwelling units.
 - h. All drainage basins have been inspected by a qualified professional engineer and maintained in accordance with these conditions and are functioning properly.
 - i. All porous pavement has been maintained as required by Condition No. 10 and a civil engineer has inspected the porous pavement and determined that it continues to effectively allow storm water to permeate into the underlying soil.
 - j. The irrigation systems have been operated and maintained in accordance with the Irrigation Notes on Sht. L1 and the NH DES Model Regulations for Water

Efficient Landscaping for Subdivision and Site Plan Applications, which is attached hereto, and shall be subject to all water restrictions imposed by the Town.

17. The requirements of Condition No. 12 allow the association to assign the responsibilities set forth in Conditions Nos. 15 and 16 to a Designated Oversight Manager (DOM).

Notwithstanding this, the association has the ultimate responsibility for complying with Conditions Nos. 15 and 16.

18. Groundwater monitoring will be accomplished utilizing existing and proposed monitoring wells. Two upgradient wells Geo-2, Geo-5 (both existing) and three downgradient wells: Geo-3 (existing) and proposed new wells Geo-7 and Geo-8. The existing well on the property Geo-4 will not be utilized at this time but will be left in place for possible future use. Note that any wells destroyed by construction must be replaced using the same construction details and in or close proximity to the original location to accurately monitor the hydrogeologic conditions at the original well.
19. One preliminary round of sampling will be conducted following construction of the housing units and septic fields and prior to occupancy to establish a background for groundwater quality. The laboratory parameters for proposed analysis include: fecal coliform, E. coli, nitrate-N, and TKN. Static groundwater elevation, temperature, pH, and specific conductivity will be evaluated each round using field instrumentation. The frequency for monitoring will be twice yearly in the months of May and November for the above list, and sampling will be scheduled coincident with sampling activities of Benchmark for an evaluation of synoptic data.
20. A report summarizing the results of sampling, water quality analyses, and field measurements will be provided to planning board consultant Danna Truslow, or such other consultant as may be identified by the planning board, within one month of the receipt of laboratory results for that sampling round.
21. Immediately following the issuance of the first building permit the applicant shall pay the town a fee \$5000 (to be held in escrow) to be used to defray the expenses of its consultant and/or the building inspector in monitoring inspection reports on the septic systems and the annual certification of the association and such other work as may be necessary to effect compliance with these conditions, including annual inspections of drainage facilities. When the escrow is depleted the association shall be responsible for payment of the expenses of

such work. Failure to pay such expenses shall constitute a lien on the condominium and the units.

22. All Conditions of Major Site Development/S.U.P Approval are incorporated herein by reference. All conditions above (and all Conditions of Major Subdivision/SUP approval) shall be exhibits to the Condominium Declaration.

Attached: NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications

CONDITIONS OF APPROVAL
HECTOR'S SITE MULTI-FAMILY DEVELOPMENT
MAJOR LAND DEVELOPMENT/S.U.P. APPROVALS

1. The plan set dated November 29, 2021 (revision date) shall be revised as follows:
 - a. Show locations of Ground Water Monitoring Wells Geo-2, 3, 4, 5, 7 & 8 on Sheets C2 and C4.
 - b. Revise Sheet C4 to show latest plan for water service as approved by the Rye Water District and the Rye Fire Chief.
 - c. Show a "No Cut Buffer" on Sheets C2 and C3 on south and west sides of parcel. The restriction of the "No Cut Buffer" shall be included in the Declaration. The buffer shall be marked in the field before any clearing takes place.
 - d. In the detail sheets, add a cross-section for the emergency drive construction.
2. Written certifications from the RWD Superintendent and the Fire Chief indicating their approvals of the water supply and water system as depicted on Sht. C4, revised as of 1/10/22.
3. A condominium association shall be created for the development. Planning board counsel shall review and approve the *Declaration, Bylaws and other condominium instruments* and any other legal instruments required to form the association. The purpose of the review is limited to assurances that the instruments are consistent with the planning board's approvals.
4. The owner shall grant the town an easement relative to maintenance and repair of the infiltration basin located at the west corner of the site. The easement shall provide that, if the association fails to maintain or repair the facilities, the town, after notice, shall have the right, but not the obligation, to do so. In such case the association shall be responsible for reimbursing the town for its expenses. If the town has to commence a legal action to obtain payment, the town shall be entitled to its costs and reasonable attorney's fees. This easement shall be reviewed and approved by board counsel.
5. The owner shall grant a drainage easement as depicted on Sht. C2 to BSL Rye Investors, LLC to allow surface water drainage from Tax Map 10/Lot 3 to pass through the easement area in order to be conveyed to the existing storm drainage system under Lafayette Road, including drainage emanating from the proposed Benchmark Assisted Living Facility. Said easement shall be approved by planning board counsel.

6. The owner shall grant the RWD a 25' x 40' easement as depicted on Sht. C2 for a valving station. The easement deed shall be reviewed and approved by RWD legal counsel.
7. Compliance with the Stormwater Management Operation and Maintenance Manual (Revised September 19, 2021) shall be the responsibility of the Association. Said responsibility to be set forth in the *Declaration*.
8. Surety in the form of a self-calling letter of credit and/or cash escrow shall be posted to guarantee the completion of all on-site improvements (except septic systems) including the private drive, all drainage facilities, water lines and landscaping. Surety shall include any improvements to US Route 1 required by NHDOT and the emergency gate and access drive. Surety to be approved as to form by planning board counsel and as to amount by planning board engineer after review of an engineering estimate provided by applicant.
9. Sufficient funds shall be placed in escrow with the planning board to pay final statements of planning board engineer, planning board counsel and Consultant Truslow.
10. Applicant shall sign an Escrow Agreement and post escrow for planning board engineer's monitoring of site improvements. Amount to be determined by planning board engineer.
11. The following DES approvals shall be obtained: Alteration of Terrain and Subdivision.
12. A DOT Driveway Permit shall be obtained.
13. Applicant shall post an escrow in the amount of \$15,000 with the Rye Water District ("RWD") to be used towards the purchase of the Aquarion water line and other work depicted on Sht. C4. The escrow shall be posted for 5 years and returned to the applicant if the Aquarion water line is not purchased by January 11, 2027. Interest earned on the escrow may be used towards the purposes of the escrow.
14. The Workforce Housing Services Agreement as approved by the planning board on December 14, 2021, subject to non-substantive changes acceptable to board counsel, shall be signed by all parties, and an original provided to the planning board.
15. Planning board chair may sign plans and Certificate of Site Plan Approval when foregoing conditions Nos. 1-14 are met.
16. All conditions of approval of the Conditional Use Permit required by the Aquifer and Wellhead Protection District shall apply to the land development.
17. Plan Sheets Nos. C2 and CS1 shall be recorded along with a Certification of Major Site Development Review Approval.

18. The condominium shall be registered with the Attorney General as required by the N.H. Condominium Act or an exemption from registration shall be obtained.
19. Any changes to the *Declaration, Bylaws and other condominium instruments* or to any other legal instruments required to form the association required by the Attorney General that do not affect the Town of Rye's land use approvals may be made by the developer after review by planning board counsel.
20. The easements required by Condition Nos. 4, 5 & 6 shall be recorded with the deed transferring the property to the developer. Copies shall be provided to the planning board and town counsel.
21. The *Declaration, Bylaws and other condominium instruments* and any other legal instruments required to form the association shall be recorded prior to the issuance of the first occupancy permit. Copies shall be provided to the planning board and town counsel.
22. The Workforce Housing Subsidy Lien and Restrictive Covenant as approved by the planning board on December 14, 2021, subject to non-substantive changes acceptable to board counsel, shall be signed by the planning board chair and the developer and recorded with the Declaration. Each subsequent owner of a workforce housing unit shall sign and record the lien and restrictive covenant upon purchase of a workforce housing unit.
23. Workforce housing units shall be as indicated on Note 1 of Sheets C2 and CS1.
24. If workforce housing units are not marketable as owner-occupied units, they may be rented to tenant families who meet the workforce housing requirements of the Rye Zoning Ordinance. Workforce housing units shall remain on the sales market for at least 6 months beginning at the later of the date of the first permit issued by the building department and the date the unit is first listed for sale and actively marketed. The developer shall notify the planning board of any workforce housing unit to be rented rather than sold.
25. The build out of the development shall comply with the Growth Management Ordinance, as amended by the provisions of RZO § 190-4.2, E.
26. Water lines, hydrants and appurtenances thereto shall be constructed in accordance with Rye Water District requirements.
27. There shall be no conversion of any first floor unfinished spaces or garage spaces into a third bedroom. This restriction shall be included in the Declaration.

28. Patio areas and balconies shall not be enclosed in any manner. This restriction shall be included in the Declaration.
29. The land development may be connected to public sewerage, should it become available, without further review by the planning board. Plans for any such connection shall be approved by the Rye Sewer Commission and the City of Portsmouth (if required by the City).
30. There shall be no height variances applied for in this land development.
31. The applicant shall be responsible for the relocation of GPS Disk 10 in a manner and to a location to be determined by the planning board.
32. An emergency access gate shall be constructed on Tax Map 10/Lot 3 as depicted on the approved plans for the Benchmark Major Site Development. The gate shall be constructed by the owner of Tax Map 10/Lot 3. If for some reason the gate is not constructed on Tax Map 10/Lot 3, it shall be located on Tax Map 10/Lot 1 and constructed as part of the condominium land development.
33. Upon completion of construction of the emergency access drive the owner of Map 10/Lot 3 shall grant the owner of Map 10, Lot 1 an easement for it. The easement shall allow use by emergency vehicles, residents, and employees and contractors of residents during such time as access from the condominium's Lafayette Road drive is blocked. It shall include provisions for maintenance of the emergency drive and procedures for controlling the gate to be installed on the emergency access drive. The easement shall also allow use of the Benchmark perimeter drive and entrance drive for such emergency access to the condominium development. The easement shall be reviewed and approved by town counsel.

In the event that the Owner of Map 10 Lot 3 purchases the lot, but does not build the emergency access, or is delayed in building beyond the date that the owner of Map 10 Lot 1 seeks its 21st Certificate of Occupancy, the owner of Map 10 Lot 3 shall grant a temporary easement over its lot in the alternate location as depicted on Jones and Beach Plan Sheet EA1, dated 1/4/22.. The temporary easement shall remain in effect until such time as the owner of Map 10, Lot 3 provides the intended emergency access depicted on Jones and Beach plans, Sheet C2, dated 11/30/21 or some other suitable Planning Board approved location.

In the event that the Owner of Map 10, Lot 1 does not build, or is delayed in building the emergency access on its lot beyond the date that the owner of Map 10, Lot 3 seeks its Certificate of Occupancy, the owner of Map 10, Lot 1 shall provide an alternative emergency access on its Lot as depicted on Plan Sheet EA1 dated 1/4/22. The temporary easement shall remain in effect until such time as the owner of Map 10, Lot 1 provides the intended emergency access depicted on Jones and Beach plans, Sheet C2, dated 11/30/22 or some other suitable Planning Board approved location.

In the event that Benchmark does not purchase that portion of current Map 10, Lot 1 (to become Map 10, Lot 3) as shown on the plans, as approved by lot line adjustment, the owner of Map 10, Lot 1 shall return to the Planning Board for approval of a second means of egress/emergency access on the remaining portion of Map 10, Lot 1 prior to the issuance of its 21st Certificate of Occupancy.

34. Occupancy permits for more than 20 units shall not be issued prior to completion of construction of an emergency access drive connecting the condominium development to the perimeter drive located on Map 10/Lot 3 and recording of an easement over Map 10/Lot 3 for the emergency access drive or construction of a temporary easement per No. 33 above.
35. Monumentation shall be installed as required by the *Land Development Regulations*. A certificate of Monumentation shall be provided to the Planning Board and Building Inspector prior to the first occupancy permit being issued. Grading of lots shall not disturb installed monumentation. If development disturbs or covers monuments, the monuments shall be reestablished by a surveyor and a new Certificate of Monumentation provided.
36. For the purposes of RSA 674:39 "Active and Substantial Development or Building" shall be commencement of excavation for construction of the first dwelling.
37. As-built plans for all site improvements shall be submitted to the planning board (3 sets). It is recognized that the location of water line appurtenances such as hydrants and valves may be adjusted during construction. The As-Built Utility Plan shall show the final locations of all appurtenances and shall be signed by the Fire Chief and the RWD Superintendent.
38. Per Section 202-4.4 of the *Land Development Regulations*, this conditional approval shall expire in 18 months if the chair has not signed the plan as the result of the applicant's failure to meet those conditions necessary to permit the chair to sign the plan.

PLANNING BOARD

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant:

Tuck Realty and Jones & Beach, Engineers, Inc.

Owners:

Malcom E. Smith III, of Hampton NH, Tax Map 10, Lot 1

Property:

0 Lafayette Road, Tax Map 10, Lot 1

Property is in the Commercial District, Aquifer and Wellhead Overlay District and the Multi-family Overlay District.

Application case:

Case #11-2021

Application:

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 tri-plex units. Property is in the Commercial, Multi-Family Overlay District and Aquifer & Wellhead District. Case #11-2021.

Date of decision:

January 11, 2022

Decision:

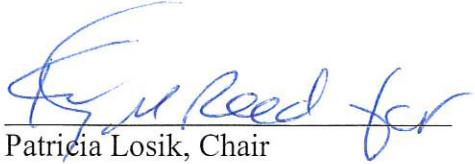
The Board voted unanimously to accept the Special Use Permit for the application per Section 190-4.2.D of the Multi-Family Dwelling Development.

The Board voted unanimously to accept the Conditional Use Permit for the application per Section 190-3.6.E(3)(a)-(e) of the Rye Zoning Ordinance of the Rye Wellhead and Aquifer Protection District with conditions.

The Board voted unanimously to accept the Major Site Development Plan for construction of a 78-bed assisted living complex with conditions.

Please see conditions attached:

1-24-2022
Date


Patricia Losik, Chair
Rye Planning Board

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

CONDITIONS OF CONDITIONAL USE PERMIT APPROVAL
HECTOR'S SITE MULTI-FAMILY DEVELOPMENT

1. A condominium association shall be created for the development.
2. Ten (10) Septi-Tech Model STAAR 1.0 DENTTE wastewater systems and associated leach fields shall be installed as portrayed on the approved plans (OVS Sheets S1-S10, revised 12/01/21) and as approved by DES.
3. Prior to the establishment of a condominium association the applicant shall designate a qualified entity to conduct inspections and maintenance of all Septi-Tech systems. After the establishment of a condominium association, the association shall be responsible for designating the qualified entity. The association shall have an inspection and maintenance agreement in place with the entity designated by the applicant or the successor association for the lives of the systems for all ten (10) systems.
4. Within 6 months of a Septi-Tech system going on-line, an initial sample of effluent shall be collected for effluent testing to assess system performance. Follow-up testing will be at one year of use. Testing would then be conducted at one year intervals for the first five years of use with subsequent testing dependent upon results of the testing program. After all ten systems are operational, a testing schedule which provides concurrent testing of all ten systems may be approved by the Technical Review Committee. Testing results shall be provided to the Rye Planning Board, the Rye Building Inspector and planning board consultant Truslow (or such other consultant as the planning board may designate) within 30 days of the sampling event.
5. As part of this, the effluent from each system should be sampled for nitrate-nitrogen (nitrate-N) and Total Kjeldahl Nitrogen (TKN) at each inspection.
6. Effluent shall contain less than 16 mg/L nitrate-N. A 10 mg/L or greater concentration of nitrate-N will trigger confirmation sampling and may require septic system maintenance, repair or replacement if issues are not resolved.
7. Septic tanks shall be pumped every two years.
8. The most current Septi-Tech Operation and Maintenance Manual shall be provided to each unit owner.

9. Winter maintenance of the condominium roads and walkways should be completed by a New Hampshire Green Snow Pro certified contractor to minimize impacts to groundwater from road salt. The contractor used and salt usage should be included in the stormwater monitoring report.
10. The maintenance of porous pavement shall be as set forth on Plan Sheet D-1. These maintenance requirements shall be included in the Declaration.
11. The use of fertilizer shall conform to Note 18 on Plan Sheet CS1. This requirement and the May 2021 document titled "Guidance for Lawn/Turf Areas for Lawn Care and Fertilization that Protects Water Quality" shall be included in the Declaration.
12. Prior to the establishment of the Condominium Association the applicant shall retain a Designated Oversight Manager (DOM) who shall have the following responsibilities:
 - a. Collecting and keeping on file the required inspection and maintenance agreement for the septic systems. The DOM shall certify to the planning board and building inspector in January of each year that the required agreement is in place.
 - b. Collecting and keeping on file the required inspection reports and providing them within 15 days of receipt to the building inspector, the planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board.
 - c. Reviewing the inspection reports. If a report indicates that the standard of No. 6 herein has not been met, the DOM shall notify the association to have the system inspected again and a confirmatory sample collected.
 - d. Keeping records of the pumping of all septic tanks.
 - e. Providing a report to the planning board and the building inspector in January of each year. The report should summarize the inspections made, the pumping of septic tanks, and any deficiencies that were identified and the corrective action taken.
 - f. Certify use of a Certified Snow Pro for winter road maintenance and salt usage reported to NHDES.
 - g. Retaining a civil engineer to inspect the porous pavement once a year in order to evaluate its continued effectiveness.
 - h. Conduct annual inspections to ensure that required no cut buffer remains in place. Notify the association, planning board and building inspector of any observed violations.

- i. Provide an annual report to the planning board of the results of the inspections in January of each year.
13. The applicant shall provide the name of the DOM and contact information to the building inspector, planning board and planning board consultant Danna Truslow or such other consultant as may be identified by the planning board. Upon the establishment of an association the responsibility of retaining an oversight manager shall transfer to the association. The DOM and any changes of the DOM shall be approved by the planning board's Technical Review Committee.
14. Prior to the issuance of the first occupancy permit, the applicant shall record the *Declaration, Bylaws and other condominium instruments* and any other legal instruments required to form the association, which shall run with the land and which shall apply to all lots. The Declaration shall be reviewed and approved by board counsel and shall include provisions allowing the association and the town to enforce. The restrictions and requirements shall include:
 - a. Use of Green Snow Pro contractor for winter maintenance.
 - b. Use of fertilizer as required by Condition No.11.
 - c. Replacement septic systems shall be Septi-Tech systems or other systems providing equal or better treatment and de-nitrification.
 - d. No garbage disposals shall be installed in the dwelling units.
 - e. Double walled oil storage tanks required if units have oil furnaces.
 - f. Maintenance of porous pavement as required by Condition No. 10.
 - g. Best Management Practices will be used for storage or use of regulated substances as required by NH Code of Administrative Rules Best Management Practices for Groundwater Protection, Env-Wq 401.04 Storage of Regulated Substances and as described in Rye Ordinance Section 190-3.6, Aquifer and Wellhead Protection District, Section G2.
15. The responsibilities of the association shall include:
 - a. Assuring that the required inspection and maintenance agreements for the septic systems are in place.
 - b. Assuring that the required inspections and sampling of the septic systems have been done.

- c. Assuring that any required maintenance, repair or replacement of septic systems has been done.
 - d. Assuring that all required pumping of septic tanks has been done.
 - e. Monitoring the use of snow removal substances and fertilizers in the development.
 - f. Maintenance, repair and replacement (if required) of all drainage facilities owned by the association.
 - g. Maintenance of all porous pavement in the development.
 - h. Operation, repair and maintenance of the irrigation system in accordance with the Irrigation Notes of Sht. L1 and the requirements for Irrigation Systems set forth in the NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications, which is attached hereto.
16. The association shall certify annually in January of each year to the planning board (with copies to the building inspector and planning board consultant Danna Truslow, or such other consultant as may be identified by the planning board) that:
- a. All required septic system inspection and maintenance agreements are in place.
 - b. All required septic system inspections have been conducted and the reports provided to all required parties.
 - c. Any required maintenance, repair or replacement of septic systems has been completed or will be completed by a time certain.
 - d. All required pumping of septic tanks has been done.
 - e. Fertilizers are being used in accordance with Condition No. 11.
 - f. NH Green Snow Pro certified contractors are being used for snow removal and treatment and annual salt usage reported to NHDES.
 - g. No garbage disposals have been installed in the dwelling units.
 - h. All drainage basins have been inspected by a qualified professional engineer and maintained in accordance with these conditions and are functioning properly.
 - i. All porous pavement has been maintained as required by Condition No. 10 and a civil engineer has inspected the porous pavement and determined that it continues to effectively allow storm water to permeate into the underlying soil.
 - j. The irrigation systems have been operated and maintained in accordance with the Irrigation Notes on Sht. L1 and the NH DES Model Regulations for Water

Efficient Landscaping for Subdivision and Site Plan Applications, which is attached hereto, and shall be subject to all water restrictions imposed by the Town.

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Notwithstanding this, the association has the ultimate responsibility for complying with Conditions Nos. 15 and 16.

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such work. Failure to pay such expenses shall constitute a lien on the condominium and the units.

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MAJOR LAND DEVELOPMENT/S.U.P. APPROVALS

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 - d. In the detail sheets, add a cross-section for the emergency drive construction.
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15. Planning board chair may sign plans and Certificate of Site Plan Approval when foregoing conditions Nos.1-14 are met.
16. All conditions of approval of the Conditional Use Permit required by the Aquifer and Wellhead Protection District shall apply to the land development.
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18. The condominium shall be registered with the Attorney General as required by the N.H. Condominium Act or an exemption from registration shall be obtained.
19. Any changes to the *Declaration, Bylaws and other condominium instruments* or to any other legal instruments required to form the association required by the Attorney General that do not affect the Town of Rye's land use approvals may be made by the developer after review by planning board counsel.
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25. The build out of the development shall comply with the Growth Management Ordinance, as amended by the provisions of RZO § 190-4.2, E.
26. Water lines, hydrants and appurtenances thereto shall be constructed in accordance with Rye Water District requirements.
27. There shall be no conversion of any first floor unfinished spaces or garage spaces into a third bedroom. This restriction shall be included in the Declaration.

28. Patio areas and balconies shall not be enclosed in any manner. This restriction shall be included in the Declaration.
29. The land development may be connected to public sewerage, should it become available, without further review by the planning board. Plans for any such connection shall be approved by the Rye Sewer Commission and the City of Portsmouth (if required by the City).
30. There shall be no height variances applied for in this land development.
31. The applicant shall be responsible for the relocation of GPS Disk 10 in a manner and to a location to be determined by the planning board.
32. An emergency access gate shall be constructed on Tax Map 10/Lot 3 as depicted on the approved plans for the Benchmark Major Site Development. The gate shall be constructed by the owner of Tax Map 10/Lot 3. If for some reason the gate is not constructed on Tax Map 10/Lot 3, it shall be located on Tax Map 10/Lot 1 and constructed as part of the condominium land development.
33. Upon completion of construction of the emergency access drive the owner of Map 10/Lot 3 shall grant the owner of Map 10, Lot 1 an easement for it. The easement shall allow use by emergency vehicles, residents, and employees and contractors of residents during such time as access from the condominium's Lafayette Road drive is blocked. It shall include provisions for maintenance of the emergency drive and procedures for controlling the gate to be installed on the emergency access drive. The easement shall also allow use of the Benchmark perimeter drive and entrance drive for such emergency access to the condominium development. The easement shall be reviewed and approved by town counsel.

In the event that the Owner of Map 10 Lot 3 purchases the lot, but does not build the emergency access, or is delayed in building beyond the date that the owner of Map 10 Lot 1 seeks its 21st Certificate of Occupancy, the owner of Map 10 Lot 3 shall grant a temporary easement over its lot in the alternate location as depicted on Jones and Beach Plan Sheet EA1, dated 1/4/22.. The temporary easement shall remain in effect until such time as the owner of Map 10, Lot 3 provides the intended emergency access depicted on Jones and Beach plans, Sheet C2, dated 11/30/21 or some other suitable Planning Board approved location.

In the event that the Owner of Map 10, Lot 1 does not build, or is delayed in building the emergency access on its lot beyond the date that the owner of Map 10, Lot 3 seeks its Certificate of Occupancy, the owner of Map 10, Lot 1 shall provide an alternative emergency access on its Lot as depicted on Plan Sheet EA1 dated 1/4/22. The temporary easement shall remain in effect until such time as the owner of Map 10, Lot 1 provides the intended emergency access depicted on Jones and Beach plans, Sheet C2, dated 11/30/22 or some other suitable Planning Board approved location.

In the event that Benchmark does not purchase that portion of current Map 10, Lot 1 (to become Map 10, Lot 3) as shown on the plans, as approved by lot line adjustment, the owner of Map 10, Lot 1 shall return to the Planning Board for approval of a second means of egress/emergency access on the remaining portion of Map 10, Lot 1 prior to the issuance of its 21st Certificate of Occupancy.

34. Occupancy permits for more than 20 units shall not be issued prior to completion of construction of an emergency access drive connecting the condominium development to the perimeter drive located on Map 10/Lot 3 and recording of an easement over Map 10/Lot 3 for the emergency access drive or construction of a temporary easement per No. 33 above.
35. Monumentation shall be installed as required by the *Land Development Regulations*. A certificate of Monumentation shall be provided to the Planning Board and Building Inspector prior to the first occupancy permit being issued. Grading of lots shall not disturb installed monumentation. If development disturbs or covers monuments, the monuments shall be reestablished by a surveyor and a new Certificate of Monumentation provided.
36. For the purposes of RSA 674:39 "Active and Substantial Development or Building" shall be commencement of excavation for construction of the first dwelling.
37. As-built plans for all site improvements shall be submitted to the planning board (3 sets). It is recognized that the location of water line appurtenances such as hydrants and valves may be adjusted during construction. The As-Built Utility Plan shall show the final locations of all appurtenances and shall be signed by the Fire Chief and the RWD Superintendent.
38. Per Section 202-4.4 of the *Land Development Regulations*, this conditional approval shall expire in 18 months if the chair has not signed the plan as the result of the applicant's failure to meet those conditions necessary to permit the chair to sign the plan.

PLANNING BOARD

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant:

BSL Rye Investors, LLC d/b/a Benchmark Senior Living

Owners:

BSL Rye Investors, LLC, Tax Map 10, Lot 3
Malcom E. Smith III, of Hampton NH, Tax Map 10, Lot 2

Property:

295 Lafayette Road, Tax Map 10, Lot 3
Property is in the Commercial District, Aquifer and Wellhead Overlay District and the Multi-family Overlay District.

Application case:

Case #14-2021

Application:

Major Residential Site Development Plan and BSL Rye Investors, LLC for property owned by BSL Rye Investors, LLC and located at 295 Lafayette Road, Tax Map 10, Lot 3 for construction of a 78-bed assisted living complex. Property is in the Commercial District and the Aquifer and Wellhead Protection District. Case #14-2021.

Date of decision:

January 11, 2022


Decision:

The Board voted unanimously to accept the Conditional Use Permit for the application per Section 190-3.6.E(3)(a)-(e) of the Rye Zoning Ordinance of the Rye Wellhead and Aquifer Protection District with conditions.

The Board voted unanimously to accept the Major Site Development Plan for construction of a 78-bed assisted living complex with conditions.

Please see conditions attached:

1-24-2022
Date


Patricia Zosik, Chair
Rye Planning Board

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see Article VII, Section 703 of the Town of Rye Zoning Ordinance. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

CONDITIONS OF C.U.P. APPROVAL
BENCHMARK ASSISTED LIVING FACILITY

1. A Two Stage Bioclere wastewater system with flow equalization and associated leach field shall be installed as depicted on the approved plans, Shts. S1 –S3, 11/30/21.
2. Since the Benchmark Expansion and the existing Benchmark facility have or will have a Groundwater Discharge Permit (GDP) issued by NHDES, the applicant will provide the final GDP for the facility to the Town of Rye Building Inspector and hydrogeologic consultant for the Town of Rye prior to issuance of a Certificate of Occupancy.
3. The required sampling of effluent and groundwater will be conducted as specified in the GDP. The expected groundwater monitoring program will include the proposed wells and analyses listed in items 4 and 5 below.
4. The proposed groundwater monitoring program will include existing and proposed monitoring wells. Two upgradient wells, Geo-1, MW-6 (both existing) and three downgradient wells, Geo-5, Geo-6 (both existing) and proposed new well Geo-9.
5. One preliminary round of sampling will be conducted following construction but prior to occupancy to establish a background for groundwater quality. The laboratory parameters for analysis include: fecal coliform, E. coli, nitrate, TKN, Volatile Organic Compounds (using EPA Method 8260B), & Drinking Water Metals (Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium, & Silver). Dissolved metals will be tested and therefore samples will be field filtered. Static groundwater elevation, pH, and specific conductivity will be measured with field instruments. The frequency for permit monitoring will be twice yearly in the month of May and November for the above list excluding VOCs, PFAs and drinking water metals which are to be conducted twice during the 5-year permit (years 3 and 5). Modifications to the sampling program may be made after further discussion with Benchmark and NHDES. Reasonable efforts will be undertaken to schedule sampling coincident with the Map 10, Lot 1 property for an evaluation of synoptic data.
6. A report summarizing the results of sampling, water quality analyses, and field measurements will be provided to planning board consultant Danna Truslow, or such other consultant as may be identified by the planning board, within one month of the receipt of laboratory results for that sampling round.
7. The existing unnamed well on the property will be decommissioned. Any wells destroyed by construction (other than the decommissioned well) will be replaced with the same well construction and in the same or nearby location to accurately monitor the hydrogeologic conditions at the original well. The decommissioning report for this and any other well

decommissioned as part of construction will be provided to planning board consultant Danna Truslow, or such other consultant as may be identified by the planning board.

8. Grease traps and primary tanks shall be inspected every 3 to 6 months and pumped as needed. (See Owner Notes, Sht. S3, 11/30/21).

9. The operation and maintenance of the Bioclere system shall conform to the Operation and Maintenance Manual submitted to the planning board, including the sampling frequency set forth in the "Recommended Modeling Parameters" table, a copy of which is attached to these conditions.

10. Bioclere system monitoring and sampling and groundwater monitoring reports prepared for the GDP shall also be sent to the Town of Rye Building Inspector and the hydrogeologic consultant for the Town of Rye upon completion. If a sampling exceeds the recommended range set forth in the "Recommended Monitoring Parameters" table, an explanation of the corrective action taken shall be provided.

11. Winter maintenance of the facility roads and walkways should be completed by a New Hampshire Green Snow Pro certified contractor to minimize impacts to groundwater from road salt. The contractor used and salt usage should be included in the stormwater monitoring report.

12. Fertilizer use should conform to the requirements of the May 2021 document titled "Guidance for Lawn/Turf Areas for Lawn Care and Fertilization that Protects Water Quality," a copy of which is attached to these conditions.

13. The irrigation system shall be designed and maintained in accordance with NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications, which is attached hereto, and shall be subject to all water restrictions that may be imposed by the Town.

14. The Irrigation Notes on Sht. 1-1 of the Hectors plan set shall be added to Benchmark Sht. L2 and incorporated into the Landscape Best Management Practices Operations and Maintenance Plan, where applicable. The requirements for Irrigation Systems set forth in the NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications, which is attached hereto, should be incorporated into the Landscape Best Management Practices Operations and Maintenance Plan.

15. Best management practices will be used for storage or use of regulated substances as required by the NH Code of Administrative Rules-Best Management Practices for Groundwater Protection Env-Wq 401.04 Storage of Regulated Substances and as described in Rye Ordinance section 190 – 3.6 Aquifer and Wellhead Protection District, Section G2.

16. Immediately following the issuance of a building permit the applicant shall pay the town a fee \$5000 (to be held in escrow) to be used to defray the expenses of its consultant and/or the building inspector in monitoring inspection reports on the septic and such other work as may be necessary to effect compliance with these conditions, including annual inspections of drainage

facilities. When the escrow is depleted the owner shall be responsible for payment of the expenses of such work. Failure to pay such expenses shall constitute a lien on the facility

Attached:

Guidance for Lawn/Turf Areas for Lawn Care and Fertilization that Protects Water Quality.

Bioclere Operation and Maintenance Manual.

NH DES Model Regulations for Water Efficient Landscaping for Subdivision and Site Plan Applications

CONDITIONS OF APPROVAL
BENCHMARK ASSISTED LIVING FACILITY
MAJOR LAND DEVELOPMENT APPROVAL

1. The plan set dated November 30, 2021 (revision date) shall be revised as follows:
 - a. Show locations of Ground Water Monitoring Wells on Sht. C2.
 - b. In the detail sheets, add a cross-section for the emergency drive construction.
 - c. Show the location of the emergency access gate on Sht. C2 and all other sheets which depict the emergency access drive.
 - d. Plan set shall include Sht. C4, revised 1/10/22, and Sht. EA1, dated 1/4/22.
2. Written certifications from RWD Superintendent and Rye Fire Chief indicating their approvals of the water supply and water system plan, Sht. C4, revised 1/10/22.
3. The owner shall grant the town an easement relative to maintenance and repair of the six (6) bioretention ponds. The easement shall provide that, if the owner fails to maintain or repair the facilities, the town, after notice, shall have the right, but not the obligation, to do so. In such case the owner shall be responsible for reimbursing the town for its expenses. If the town has to commence a legal action to obtain payment, the town shall be entitled to its costs and reasonable attorney's fees. This easement shall be reviewed and approved by board counsel prior to Chair signing pursuant to No. 9 below. To be recorded prior to issuance of Certificate of Occupancy.
4. Sufficient funds shall be placed in escrow with the planning board to pay final statements of planning board engineer, planning board counsel and Consultant Truslow.
5. Applicant shall sign an Escrow Agreement and post escrow for planning board engineer's monitoring of site improvements. Amount to be determined by planning board engineer.
6. The following DES approvals shall be obtained: Alteration of Terrain and Subdivision (i.e. septic system).
7. A DOT Driveway Permit shall be obtained.
8. Applicant shall post an escrow in the amount of \$15,000 with the Rye Water District (RWD) to be used towards the purchase of the Aquarion water line and other work depicted on Sht. C4. The escrow shall be posted for 5 years and returned to the applicant if the Aquarion water line is not purchased by January 11, 2027. Interest earned on the escrow may be used towards the purposes of the escrow.

9. Planning Board chair may sign plans and Certificate of Site Plan Approval when foregoing conditions Nos. 1-8 are met.
10. All conditions of approval of the Conditional Use Permit required by the Aquifer and Wellhead Protection District shall apply to the land development.
11. Plan Sheets No. C2 shall be recorded along with a Certification of Major Site Development Review Approval.
12. Operation and maintenance of stormwater management facilities shall comply with the Stormwater Management Operation and Maintenance Manual (Revised October 28, 2021).
13. Maintenance of landscaping shall be performed in accordance with the Landscape Best Management Practices Plan prepared by Ironwood Design Group, LLC and dated October 28, 2021, which is attached.
14. The easement required by Condition No. 3 shall be recorded prior to the issuance of a Certificate of Occupancy. Copies shall be provided to the planning board and town counsel.
15. Water lines, hydrants and appurtenances thereto shall be constructed in accordance with Rye Water District requirements.
16. The land development may be connected to public sewerage, should it become available, without further review by the planning board. Plans for any such connection shall be approved by the Rye Sewer Commission and the City of Portsmouth (if required by the City).
17. An emergency access drive and gate shall be constructed as depicted on the approved plans.
18. Upon completion of construction of the emergency access drive the owner of Map 10/Lot1 shall grant Benchmark/Evolve an easement allowing emergency vehicles, residents, and employees and contractors of Benchmark/Evolve to pass over the drives of the adjacent condominium development during such time as access from Benchmark/Evolve's Lafayette Road drive is blocked. It shall include provisions for maintenance of the emergency drive and procedures for controlling the gate to be installed on the emergency access drive. The easement shall be reviewed and approved by town counsel.

In the event that the owner of Map 10, Lot 1, does not build, or is delayed in building the emergency access on its Lot beyond the date that the owner of Map 10, Lot 3 seeks a Certificate of Occupancy, the owner of Map 10, Lot 1 shall provide an temporary emergency access drive in the location on Map 10, Lot 1 as depicted on Jones & Beach plan Sheet EA1,

dated 1/4/22. The temporary easement shall remain in effect until such time as Map 10, Lot 1 is developed and the original permanent easement is provided

In the event that Benchmark/Evolve purchases Map 10 Lot 3, but does not build or is delayed beyond the date that the owner of Map 10, Lot 1 seeks its 21st Certificate of Occupancy, Benchmark/Evolve shall grant the owner of Map 10, Lot 1, a temporary emergency access easement as depicted on Jones and Beach plan Sheet EA1, dated 1/4/22. The temporary easement shall remain in effect until such time as Map 10, Lot 3 is developed and the original permanent easement is provided

19. An occupancy permit for the assisted living facility shall not be issued prior to completion of construction of the emergency access drive recording of the easement over Map 10/Lot 1.
20. Monumentation shall be installed as required by the *Land Development Regulations*. A certificate of Monumentation shall be provided to the Planning Board and Building Inspector prior to the first occupancy permit being issued. Grading of lots shall not disturb installed monumentation. If development disturbs or covers monuments, the monuments shall be reestablished by a surveyor and a new Certificate of Monumentation provided.
21. For the purposes of RSA 674:39 “Active and Substantial Development or Building” shall be commencement of excavation for construction of the assisted living facility.
22. As-built plans for all site improvements shall be submitted to the planning board (3 sets). It is recognized that the location of water line appurtenances such as hydrants and valves may be adjusted during construction. The As-Built Utility Plan shall show the final locations of such appurtenances and shall be signed by the Fire Chief and the RWD Superintendent.
23. Per Section 202-4.4 of the *Land Development Regulations*, this conditional approval shall expire in 18 months if the chair has not signed the plan as the result of the applicant’s failure to meet those conditions necessary to permit the chair to sign the plan.

Attached: Landscape Best Management Practices Plan

PLANNING BOARD

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant:

Oxland Builders

Owner:

Anne Decker

Property:

6 Goss Farm Lane, Tax Map 8, Lot 59
Property is in the Single Residence District.

Application case:

Case #18-2021

Application:

Oxland Builders for property owned by Anne Decker located at 6 Goss Farm Lane, Tax Map 8, Lot 59 for violations to the conditions (10, 14, 15, and 30g and 31h) of approval of the May 14, 2019 Major Subdivision by Tuck Realty Corp. Case#11-2018 for construction of a deck in the wetlands buffer. Property is in the Single Residence District. Case #18-2021.

Date of decision:

January 11, 2022

Decision:

The Board voted 5-2-0 to grant relief from violations of the deck in the buffer.

1-24-2022
Date

Patricia Losik
Patricia Losik, Chair

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.

PLANNING BOARD

-Rye, New Hampshire-

NOTICE OF DECISION

Applicant/Owner: Arthur & Sharon Pierce Rev. Trust, Arthur & Susan Pierce, Trustees

Property: 251-279 Pioneer Road, Tax Map 24, Lot 117
Property is in the Single Residence District.

Application case: Case #13-2021

Application: Major Subdivision for a Condominium Conversion for property owned by Arthur & Sharon Pierce Rev. Trust, Arthur & Susan Pierce, Trustees for property located at 251-279 Pioneer Road, Tax Map 24, Lot 117 to covert 8 dwelling units in 4 duplex structures into 8 condominium units. Property is in the Single Residence District.

Date of decision: January 11, 2022

Decision: The Board voted unanimously to continue the application to the March 8, 2022 Planning Board meeting.

1-24-2022
Date


Patricia Losik, Chair
Rye Planning Board

Note: This decision is subject to motions for rehearing which may be filed within 30 days of the above date of decision by any person directly affected by it including any party to the action, abutters and the Rye Board of Selectmen; see *Article VII, Section 703 of the Town of Rye Zoning Ordinance*. Any work commenced prior to the expiration of the 30 day rehearing / appeal period is done so at the risk of the applicant. If a rehearing is requested, a cease and desist order may be issued until the Board of Adjustment has had an opportunity to act on the rehearing request.