

## **TOWN OF RYE – PLANNING BOARD MEETING**

**Tuesday, August 14, 2018  
7:00 p.m. – Rye Town Hall**

***Members Present:* Chairman Bill Epperson, Vice-Chair Patricia Losik, J.M. Lord, Jeffrey Quinn, Jerry Gittlein, Steve Carter and Selectmen's Rep Priscilla Jenness**

***Others Present:* Attorney Michael Donovan and Kimberly Reed, Planning & Zoning Administrator**

### **I. Call to Order and Pledge of Allegiance**

Chairman Epperson called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

### **II. Designation and appointment of alternates**

- None

### **III. Approval of Minutes**

- **July 10, 2018**

The following corrections were noted:

- Page 2 and Page 4, under item b it should state: **to amend the agreement signed with the building department to allow the use of the garden area for guests of the restaurant and to allow the business to use 20 parking spots for paid parking during the summer months.**
- Page 7, 3<sup>rd</sup> paragraph, 1<sup>st</sup> sentence should read: **Member Quinn asked if they have ever been so crowded that there were people waiting in the vestibule.**
- Page 7, 3<sup>rd</sup> paragraph from bottom, 3<sup>rd</sup> sentence should read: **There was an issue in the past over the commercial parking behind The Dunes.**
- Page 7, last paragraph, 4<sup>th</sup> sentence should read: **She continued that she went over to the restaurant and the owner took her out to the garden area.**
- Page 9, 4<sup>th</sup> paragraph from bottom, 2<sup>nd</sup> and 3<sup>rd</sup> sentences should read: **Long before the Carriage House, most of the fences in the neighborhood and along that strip, were not there. When people put up "walls", up and down the seacoast, it made a huge difference and everything is now constricted and blocked off.**
- Page 15, 3<sup>rd</sup> paragraph, 1<sup>st</sup> sentence should read: **Attorney Donovan noted that it basically says that for every group of five (5) units there will be one (1) workforce housing unit.**

- Page 16, 6<sup>th</sup> paragraph, 1<sup>st</sup> sentence should read: **Member Paul stated that there are different questions and analysis the Board would make if it were a development for rent versus a development for sale.**
- Page 17, 4<sup>th</sup> paragraph, 2<sup>nd</sup> sentence should read: **If there is any bedrock that needs to come out it would be hammered and the hours would be limited.**

**Motion by Patricia Losik to accept the minutes as amended. Seconded by Jerry Gittlein. All in favor.**

**IV. Submittal of Applications for Determination of Completeness  
(Not a public hearing) – Action Required:**

- a. Minor Site Development Plan for an Amendment to Major Site Development and Condo Conversion of the Seafarer Condominiums approved by the Planning Board in 1981, amended and recorded June 8, 1983 plan D-10813 for property owned and located at 901 Ocean Blvd., Tax Map 20.2, Lot 80, for a shed 8'x16' x 9.5' behind existing dumpster. Property located in the General Residence, Coastal Overlay Districts. Case #17-2018.**

**Motion by Patricia Losik to declare the application of Seafarer Condominiums complete and to accept jurisdiction. Seconded by J.M. Lord. All in favor.**

- b. Application by Eversource Energy to trim and remove trees and brush adjacent to and beneath some of its power lines within town for utility line upgrade along scenic roads within the Town. All roads have been designated a scenic road by the Rye Town Meeting. The work is necessary to insure the safe distribution of power and to improve the reliability of electric service. The work to be done will occur along the following streets and roads: Sagamore Road, Clark Road, Wallis Road and Long John Road. Case #18-2018.**

**Motion by Patricia Losik to declare the application of Eversource Energy complete and to accept jurisdiction. Seconded by J.M. Lord. All in favor.**

- c. Minor Site Development Plan for Carey & Giampa Realty Trust owned and located at 655 Wallis Road, Tax Map 16, Lot 22, for expansion of commercial space per LDR Section 201.2 due to installation of a new septic system where trees will be cut and parking plans changed. Property is in the Single Residence District. Case #19-2018.**

**Motion by Patricia Losik to declare the application of Carey & Giampa Realty Trust complete and to accept jurisdiction. Seconded by J.M. Lord. All in favor.**

**V. Public Hearings on Applications:**

**Motion by Patricia Losik to continue the application of Cellco Partnership d/b/a Verizon Wireless to Thursday, September 13, 2018, place to be determined.**

**Seconded by J.M. Lord.**

**Vote: 6-0-1 Abstained: Priscilla Jenness**

**Motion by Patricia Losik to continue the application of RJ Joyce to the September monthly meeting. Seconded by J.M. Lord. All in favor.**

- a. Minor Site Development Plan** by RJ Joyce for property owned by Isonlina LLC and located at 2263 Ocean Blvd., Tax Map 5.3, Lot 3, to amend the agreement signed with the building department to allow the use of the garden area for guest of the restaurant and to allow the business to use 20 parking spots for paid parking during the summer months. **Property is in the Business District. Case #16-2018.**

- **Continued to the September monthly meeting.**

- b. Minor Site Development Plan for an Amendment to Major Site Development and Condo Conversion of the Seafarer Condominiums approved by the Planning Board in 1981, amended and recorded June 8, 1983 plan D-10813** for property owned and located at 901 Ocean Blvd., Tax Map 202., Lot 80, for a shed 8'x16' x9.5' behind existing dumpster. **Property located in the General Residence, Coastal Overlay Districts. Case #17-2018.**

**Bob LaRoche, representing Seafarer Condominiums,** submitted photos to the board showing the proposed location. He noted that there are two other sheds in the area and this will be an additional shed in that same location. The shed will not be blocking anyone's view and is well away from the property line. The shed will be used for seasonal furniture storage. The condo association does not object to the proposal.

Mr. LaRoche reviewed the materials used for the construction of the shed.

The board reviewed the plans.

Chairman Epperson opened to the public for comments or questions. Hearing none, he closed the public hearing at 7:23 p.m.

**Motion by Jeffrey Quinn to approve the plan for Case #17-2018 as proposed. Seconded by Patricia Losik. All in favor.**

- c. Application by Eversource Energy to trim and remove trees and brush adjacent to and beneath some of its power lines within town for utility line upgrade along scenic roads within the Town. All roads have been designated a scenic road by the Rye Town Meeting. The work is necessary to insure the safe distribution of power and to improve the reliability of electric service. The work to be done will occur along the following streets and roads: Sagamore Road, Clark Road, Wallis Road and Long John Road. **Case #18-2018.**

**Ian Farley, representing Eversource Energy**, stated that the last time he was before the board was two years ago for the first stage of this project on Washington Road. This is the second phase of that project. The proposal is to upgrade the main line from the substation on Route 1 and tie into the substation at Foye's Corner, off Sagamore Road. This is a backup resiliency line that will back feed and pick up customers if one substation goes down during a power outage. There are 542 customers on the circuit who will benefit from this upgrade. He continued that part of the upgrade involves new taller poles and new conductor with the same engineering layout as on Washington Road. As part of the proposal, they try to gain clearance zone around the facility. They look for dead, dying, diseased trees and trees that have grown up over the facility over the years. The branches and trees that grow in close proximity to the facility are eliminated so there are no issue with trees falling into it during a storm event.

Chairman Epperson asked if they have started the process of notifying residents.

Mr. Farley stated that he has developed a permission sheet for this project. A representative from Asplundh Tree will be assigned to identify and speak with every property owner along the route. Before any work can happen a signed consent form from each individual property owner must be received.

Chairman Epperson asked the time frame for the project.

Mr. Farley noted that they will start the permission process within the next couple of weeks. The tree work is based on how successful they are in getting that permission. If they are unsuccessful in receiving a property owner's permission, that property will be skipped and they will continue down the line.

Chairman Epperson asked when the double poles on Washington Road will be removed from the first phase.

Mr. Farley explained that they can't remove the old pole until all utility companies move onto the new pole. As part of the Town Administrator's request, he is reaching out to Fairpoint to try to resolve this issue.

Member Carter asked how far up Wallis Road the line will be going.

Mr. Farley stated there is a third phase to this project that will tie this in. This phase builds out from west Rye and from Foye's corner. The last phase will be to tie it into Washington Road.



Chairman Epperson stated that last time there were quite a few comments about the trees begin "butchered".

Mr. Farley pointed out that these areas were where they were really trying to remove some of the overhanging branches. In those areas, the trimming may possibly be excessive.

Selectman Jenness commented that she does think there have been fewer outages.

Mr. Farley stated that they have found in the areas where they have had a lot of liability issues, if they have been able to not only do the upgrade but also the enhanced tree trimming, the outages related to storms have been cut in half.

Vice-Chair Losik stated that she likes the idea of the form and the arborist having a conversation with the homeowner. It is important because some homeowners don't understand that the "enhanced tree trimming" may leave vertically a half of a tree. The tree might not be sustainable and is certainly not aesthetically valuable. She thinks having those conversations will help. It is important to educate people so they know what the options are.

Selectman Jenness noted that if people would not plant trees under the wires it would be helpful. In some cases, that is exactly what they have done.

Mr. Farley stated that Eversource has a new poster out that shows thirty trees that will not grow over thirty feet tall. This is being distributed to all tree nurseries for people to reference.

Chairman Epperson opened to the public.

Referring to the double poles, **Peter Crawford, 171 Brackett Road**, stated that the double poles were supposed to be removed and he is disappointed that it has not been done after two years. (He submitted a photo showing excessive tree trimming on his neighbor's property.) He continued that the permission slip is a good idea. There were conditions on the last approval. He would suggest the same conditions be put on this approval.

Mr. Farley explained that the trees proposed for removal will be marked with an orange ribbon. On the permission slip, under scope of work, it will say remove orange ribbon trees. The homeowner has to review the permission slip and sign it.

Member Gittlein asked if the roots of the tree are also removed.

Mr. Farley stated it will be flush within three inches of the ground.

The board reviewed the conditions that were set for the phase one approval.

**Motion by Jeffrey Quinn to approve the application of Eversource Energy with the following conditions;**

- (1) Eversource obtains approval from property owners in writing, which includes property owners that have trees in the right-of-way;**
- (2) Eversource inform property owners in writing that they have the right to refuse the cutting or pruning; and**
- (3) Eversource conforms to the PUC Administrative Rules per RSA 231:172.**

**Seconded by Patricia Losik. All in favor.**

- d. Minor Site Development Plan for Carey & Giampa Realty Trust owned and located at 655 Wallis Road, Tax Map 16, Lot 22, for expansion of commercial space per LDR Section 201.2 due to installation of a new septic system where trees will be cut and parking plans changed. Property is in the Single Residence District. Case #19-2018.**

**Bob Gray, Gray Construction,** stated that the project was before the board in 2016 for an addition off the back of the real estate office. The addition was approved at that time with a condition of dark sky lighting and no cutting of trees. A building permit was issued and the addition was built.

**Matthew Stinell, Millennial Engineering,** stated that his company got involved with the project to design a septic system that was originally supposed to be a “shelf” design. He went out with the town’s septic consultant, Dennis Plante, and conducted soil testing on the property. Probes were done on the back and it was found that it was very shallow to ledge. They moved forward on the property, off the edge of the pavement, and an area was found that met the minimum requirements for the town. The design was completed and submitted to the town and it was submitted to the state. During the design process, it was discovered that the state subdivision process for the property had not been correctly adhered to. It was technically considered one lot with the lot next door and had not been subdivided. This process has forced the property owner to correct an old subdivision problem, which has been brought up to date and approved. The property owner also needs an approval for a new septic system. He noted that the only spot on the lot where the septic can go is in the location of the proposed parking spaces (as discussed with the addition). This area is the only area that has adequate soil depth. The state is not going to let the septic go in an area that is more non-conforming. He noted that five new parking spots, on a pervious surface, were proposed for that location. Because the septic has to go in this location, the parking spaces can’t. The building inspector has asked them to come back before the board to get permission to move those parking spaces. (He presented an updated parking plan to the board.) The five proposed spaces will be moved to the existing paved surface along the side of the building. There will be no new impervious surface being created.

Chairman Epperson asked the distance between the lot line and the edge of the proposed parking area.

Mr. Stinell replied that it is approximately 20ft.

Chairman Epperson asked the distance between the edge of the proposed parking spaces to the building.

Mr. Stinell commented it is inadequate for what the board wants but people are parking there now. The problem with moving the parking is that the existing septic that is shared with the abutter is in the side yard so parking cannot be moved there.

Chairman Epperson asked about the existing septic.

Mr. Stinell explained that it is a shared system that was allowed when the original subdivision was done. It was a post office and a residential unit that shared one system. Subdivision approval was obtained through the Planning Board but not the state. The two buildings are currently utilizing that one system. The existing system is lower in the ground and inadequate for the current usage. By removing the office use from the system, it will insure that the system will last longer because there will be less of a load.

The Planning Board reviewed the plan.

Mr. Farley noted that there will be tree removal for the installation of the septic. (He pointed this area out on the plan.) He continued that all the trees will be removed within the fill line. If any significant root systems are encountered that tree will have to come down as well. At this time, there is not a defined number of trees that are being removed.

Vice-Chair Losik asked how much of a buffer will be left.

Mr. Farley explained they are going to remove the absolute minimum. About 20 to 25ft will be retained off the rear lot line.

Attorney Donovan commented that it looks like it is a good 35 to 40ft to the rear property line. He noted that it is 35ft at its smallest then it expands a little more. He thinks they would need a variance for the buffer. The other option to explore would be to move it closer to the building, which would affect the layout of the pavement.

Mr. Stinell replied that the soil in that area does not meet the minimum requirement. The state would not approve the septic in that location.

Vice-Chair Losik pointed out that there is an existing shed in the north corner.

Member Carter asked where the water would be flowing from the system.

Mr. Stinell explained there is about 3ft subsurface so it wouldn't bubble up on the surface. The system is a completely sand system. It would be backfilled with fill material and grass on the surface. Any rain that falls on the system should soak directly into the ground. What little runoff there is, will end up on the side slopes of the system in the side and rear yard, which is all natural soil. He does not anticipate that any flow will be leaving the property.

Chairman Epperson stated that he thinks a variance is needed for the buffer. This is a good hardship case because that is the only place the septic system could go. He is a little concerned about the density of the buffer from Tehias Road. He would encourage the board to go out and take a look.

Mr. Stinell noted that he can stake out the leachfield to show the location.

Chairman Epperson opened to the public for comments or questions. Hearing none, he closed the public hearing at 8:06 p.m.

Member Lord asked if both sides are residential.

Chairman Epperson replied yes.

Member Lord asked if they would be looking for a variance from all three sides.

Chairman Epperson stated that they would need a variance for the 50ft buffer from the back.

Attorney Donovan stated that this was approved in 1981 and it predated site plan review. If they are not building on the side, the buffer cannot be enforced on that side. It can be enforced on the back side because they are building a septic back there.

Member Lord noted that they are building along the side as well because of the parking lot.

Attorney Donovan asked if the property next door is zoned commercial or residential. It only applies in residential zones.

Vice-Chair Losik commented that the abutters on Tehias are residential. It looks like the abutters on Wallis may not be residential.

Attorney Donovan stated that he believes the commercial district runs just north of the junior high. That would mean that the property next door to this property is zoned commercial. That would mean the zoning boundary would only apply to the back.

Chairman Epperson stated that an application will need to be filed with the ZBA for a variance to go from 50ft to 35ft.

After some discussion, it was agreed that the applicant would have the septic area marked off by Thursday, August 16<sup>th</sup>, in order for board members to visit the site on their own time. The trees that will be removed for the septic will also be marked.

**Motion by Patricia Losik to continue the application to the September meeting. Seconded by J.M. Lord. All in favor.**

- e. **Major Subdivision, Lot Line Adjustment and Conditional Use Permit** by the Housing Partnership for property located at 0 Airfield Drive, Tax Map 10, Lot 15-4, for construction of a residential development consisting of a mixture of multi-family dwellings with a portion being dedicated as Workforce Housing. **Property is in the Commercial Zoning District and the Multi-Family Dwelling District Overlay and Aquifer and Wellhead Protection Districts. Case #07-2017.**

**Attorney David Brown, representing the applicant,** stated that in July the board approved the boundary line adjustment and the Conditional Use Permit (CUP). The Special Use Permit (SUP) was partially approved and they would like to finish that at this meeting. He noted that they have worked on the SUP conditions and the Workforce Housing Covenants. Attorney Donovan has submitted a memo to the board that covers the issues.

Referring to Attorney Donovan's August 3<sup>rd</sup> memo #2, Vice-Chair Losik stated that it says, "in the event of foreclosure on a workforce housing unit, the unit will likely be lost as workforce housing because foreclosure extinguishes inferior liens on covenants". The instrument provides that if there are excess proceeds from a mortgage resale the excess proceeds will go to the town for further provision of workforce housing in Rye. She asked if the proceeds would be set aside in a separate fund. She continued that in 402.3F it says that the Planning Board shall impose conditions on workforce housing that the units remain permanently available for workforce housing. Is this the best it can be?

Attorney Brown stated that lenders need some protection also. This is the best that can be done.

Attorney Donovan stated that if this is approved, he would suggest an amendment to workforce housing to change the "permanently available" language to "available for thirty (30) years". He continued that Ben Frost, NH Housing Financing, did not feel the word "permanently" was needed to make it conform to the statute. Towns that required 30 years would be acceptable. He commented that he will draft something for the Rules and Regulations Committee to consider. He continued that Section 3.5 of the legal instrument, provides another scenario where it is possible the unit would no longer be workforce housing. In the case of a foreclosure, the excess proceeds shall go to the town to further the provision of workforce housing in Rye in a manner acceptable to the Planning Board and other authority for which approval of the use is required. An escrow fund could be set up for the funds, which could be used for further studies or for work on the Master Plan to further workforce housing.

Attorney Donovan and the board reviewed the conditions for The Housing Partnership Major Subdivision/S.U.P Approval.

Chairman Epperson opened to the public.

**Peter Crawford, 171 Brackett Road,** stated that it looks like the town will get something in the event of a foreclosure. Under 3.5 (Workforce Housing Covenants), he believes it is saying that the subsidy amount could be adjusted by the town, at the time of the sale, based on the market. It could be adjusted either up or down because it talks about the subsidy lien no longer being between 15 to 33% of the maximum resale price.

Attorney Donovan pointed out the adjustment of the subsidy is covered under 3.4.

Mr. Crawford stated that 3.4 adjusts it by the CPI but at the time of sale the town could step in and say they are priced out of the market or maybe the market has declined so the amount of the lien is too much.

**Marty Chapman, The Housing Partnership**, explained the point is to protect the equity of an affordable buyer, in the case of a downslide, or to make sure that whoever is coming in to buy the property can afford to buy that unit as affordable housing. He continued the lien only controls the affordability for workforce housing. The interest rates and income levels determine the current affordable price, which has to be looked at the actual market value and the existing subsidy plus CPI. If those two together do not flush out a price that is affordable, the subsidy will be manipulated to bring that price into that category. If it can't be done, it will simply be cash value.

There was discussion on the affordability aspect of workforce housing and the wording of the proposed covenants.

Attorney Donovan summarized changes to the covenants as discussed. He would encourage the board to vote to accept these with the changes as discussed.

- 1.14 – Change “designated agency” to “Housing Partnership as designated agent of the Rye Planning Board.... or any successor agent appointed by the planning board.”
- 3.5 – Change the word “conveyance” to “resale”.
- 3.6 – Eliminate the concept of qualified purchasers and priorities.
- 3.7 – Edit “qualified purchaser”.
- Amend the excess proceeds provision to include excess proceeds from trustee sale.

He noted that condition #19 will need to say “*The Workforce Housing Subsidy Lien and Restrictive Covenant as revised and approved on August 14<sup>th</sup> by the planning board and signed by planning board chair*”. The board also agreed to change the construction hours to 7:00 a.m. to 5:00 p.m., Monday through Friday.

Chairman Epperson closed the public hearing at 9:03 p.m. He called for a vote that the multi-family development met the following standards:

**1. All requirements of Section 402.3 have been met.**

Patricia Losik – agree  
J.M. Lord – agree  
Jerry Gittlein – agree  
Jeffrey Quinn – agree  
Steve Carter – agree  
Priscilla Jenness – agree  
Bill Epperson - agree



- 2. The granting of the Special Use Permit will not be detrimental to adjacent property or the neighborhood.**

Patricia Losik – agree  
J.M. Lord – agree  
Jerry Gittlein – agree  
Jeffrey Quinn – agree  
Steve Carter – agree  
Priscilla Jenness – agree  
Bill Epperson - agree

- 3. The granting of the Special Use Permit will not be detrimental to the public safety, health or welfare.**

Patricia Losik – agree  
J.M. Lord – agree  
Jerry Gittlein – agree  
Jeffrey Quinn – agree  
Steve Carter – agree  
Priscilla Jenness – agree  
Bill Epperson - agree

- 4. The granting of the Special Use Permit will not be contrary to the public interest.**

Patricia Losik – agree  
J.M. Lord – agree  
Jerry Gittlein – agree  
Jeffrey Quinn – agree  
Steve Carter – agree  
Priscilla Jenness – agree  
Bill Epperson - agree

**Motion by Bill Epperson to approve the Special Use Permit (S.U.P) and Major Subdivision Application of The Housing Partnership with the thirty-one (31) conditions as discussed. Seconded by Jerry Gittlein. All in favor.**

**CONDITIONS OF APPROVAL  
THE HOUSING PARTNERSHIP MAJOR SUBDIVISION/S.U.P. APPROVAL**

1. All conditions of approval of the Conditional Use Permit required by the Aquifer and Wellhead Protection District shall apply to the subdivision/land development.
2. The plans shall be revised as follows:
  - a. Street names shall be submitted to the building department and approved by the building inspector and added to the plans.
  - b. Items Nos. 2 -6 of Attorney Donovan's 6/29/18 memorandum need to be added.
  - c. Add the fence to the legend on all applicable plan sheets.
  - d. Make the revision date on Sht. C3A current.
  - e. Show the stockade fence on the utility drawings.
3. A condominium association shall be created for the development. Town counsel shall review and approve the *Declaration, Bylaws and other condominium instruments* and any other legal instruments required to form the association.
4. A Drainage Easement from Rye Airfield RCD I, Inc. to the applicant over Lot 15-3 to benefit Lot 15-4 shall be reviewed and approved by town counsel.
5. A pedestrian easement from Rickert Investment Real Estate, LLC to the applicant over Lot 10/16 to benefit Lot 15-4 shall be reviewed and approved by town counsel.
6. The applicant shall grant the town an easement relative to maintenance and repair of the rain garden and forebay. The easement shall: (1) require the applicant/condominium association to be responsible for maintenance and repair of the drainage facilities; and (2) provide that, if the applicant or 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 town counsel.

7. Compliance with the Stormwater Inspection and Maintenance Plan approved by planning board engineer shall be the responsibility of the Association. Said responsibility to be set forth in the *Declaration*. The plan should be revised to indicate that mowing takes place once a year at the minimum.
8. Surety in the amount of \$958,450 and in the form of a self-calling letter of credit and/or cash escrow shall be posted to guarantee the completion of all infrastructure, including the private drives, all drainage facilities, water lines, sidewalks, retaining walls and fences. Surety to be approved by town counsel.
9. Sufficient funds shall be placed in escrow with the planning board to pay final statements of planning board engineer, town counsel and Consultant Truslow.
10. Applicant shall sign an Escrow Agreement and post escrow for planning board engineer's monitoring of infrastructure improvements. Amount to be determined by planning board engineer.
11. DES approval of septic systems and an AoT permit shall be obtained.
12. Planning board chair may sign plans when foregoing conditions Nos. 2-11 are met.
13. Plan Sheets Nos. C2, C3a and C3b shall be recorded along with a Certification of Major Site Development Review Approval and the Boundary Line Adjustment Plan.
14. The condominium shall be registered by the Attorney General as required by the N.H. Condominium Act.
15. 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 town counsel.
16. The easements required by Conditions Nos. 4, 5 and 6 shall be recorded with the deed transferring the property to the developer. Copies shall be provided to the planning board and town counsel.

17. 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 building permit. Copies shall be provided to the planning board and town counsel. This condition supersedes Condition No. 11 of the CUP approval which requires recording upon transfer of the property to THP.
18. There shall be a Road and Utility Maintenance Agreement executed by Rickert Investment Real Estate, LLC and The Housing Partnership which allocates the responsibility for repair and maintenance of Airfield Drive and the utilities therein equally among the Rickert, THP and the Condominium Association. The agreement shall be approved by town counsel and recorded with the Declaration.
19. The Workforce Housing Subsidy Lien and Restrictive Covenant as revised and approved by the planning board on August 14, 2018 shall be signed by the planning board chair and THP and recorded with the plan sheets and Certification of Approval. (See Condition No. 13). Each subsequent owner of a workforce housing unit shall sign and record the lien and restrictive covenant upon purchase of a workforce housing unit.
20. THP shall designate at least one workforce housing unit for every five (5) units permitted until a total of eight (8) workforce housing units have been permitted. Eight (8) of the ten (10) dwellings shall have one (1) workforce housing unit. The workforce housing units shall be of the same quality as market units and shall be dispersed evenly throughout the development. THP will provide status reports to the planning board documenting that this condition is being met.
21. 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. THP shall notify the planning board of any workforce housing unit to be rented rather than sold.
22. The build out of the development shall comply with the Growth Management Ordinance.
23. The Fire Chief or the Police Chief may order windrows of snow along the drives to be removed if in his/her opinion piled snow inhibits access by emergency vehicles.

24. Water lines, hydrants and appurtenances thereto shall be constructed in accordance with Rye Water District requirements.
  25. The number of bedrooms served by each septic system shall not exceed the maximum number of bedrooms set forth in the "Site Septic Loading Table" on Sht. SS1.
  26. "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.
  27. For the purposes of RSA 674:39 "Active and Substantial Development or Building" shall be commencement of excavation for construction of the drives.
  28. As-built plans for roadway, drainage, sidewalks, septic systems and the retaining wall shall be submitted to the planning board (3 sets).
  29. Per Section 303.7 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.
  30. Emblems marking the "No Cut Area" with language approved by the building inspector and spaced not less than 40 feet apart shall be installed prior to the issuance of the first building permit.
  31. Construction and building activity shall be limited to 7 a.m. to 5 p.m. Monday to Friday.
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- f. Major Subdivision** by Tuck Realty Corporation for property owned by Joseph Goss and located at 0 Ocean Blvd, Tax Map 8, Lots 58 & 59, for a 5-lot subdivision.  
**Property is in the Single Residence District. Case #11-2018.**

**Attorney Tim Phoenix, representing the applicant,** spoke to the board. He stated that since they were before the board the last time, they went before the zoning board of adjustment who found that all the lots meet the frontage requirements. There are a number of items on the table. Waiver requests have been submitted and Attorney Donovan has commented on those. There are comments from Sebago Technics to review, Attorney Donovan's comments, RPC review and climate related issues to address.

**Joe Coronati, Jones and Beach Engineering,** stated that he would like to go through the changes that have been made since the board last saw the plan. A lot of the changes have to do with the road design. One of the main concerns they heard at the site walk was about the amount of fill on the site. The road has been lowered. (He pointed the area out on the plan.) There will be just over 2ft of fill for this part of the road. The retaining walls have also been eliminated. He noted that they have met with the Public Works Director and discussed his thoughts on maintaining a road such as this. This is the reason for some of the waivers that were requested. He continued the road has been straightened and is angled better towards Harbor Road. The main section is still 24ft wide but it narrows to 20ft and will become a one-way to reduce asphalt, help with the drainage and eliminate grading in the field areas. He noted that conceptual house lot plans have also been added to the plan, in response to the discussion on what the lots would look like if they were built out. There have been quite a few detail changes but the overall layout of the subdivision is relatively the same. He noted that an itemized list was submitted regarding the amendments to the plan.

Referring to the reduction of fill, Chairman Epperson clarified that the fill goes from 3 to 4.5ft of fill to 2 to 2.5ft on the road itself. He asked how many cubic yards this represents.

Mr. Coronati replied that he does not know but could come up with that answer. He explained that under the pavement there is always crushed gravel. That always gets brought in on every project and every road that gets built. The goal tends to be 2ft because it keeps the road above existing ground and it will last longer.

Chairman Epperson pointed out that the guardrail was eliminated at the end of the cul-de-sac and the retaining wall. He asked how they did this.

Mr. Coronati explained that they did this by lowering the roadway and reducing the road width. They are also asking for a waiver for a 3 to 1 side slope. He noted that the radius of the cul-de-sac still meets the requirements of the fire truck turnaround.

Chairman Epperson asked if that has been vetted by the fire chief.

**Mike Garrepy, applicant,** replied no. The new plan has not been reviewed by any department heads.



Mr. Coronati reviewed sheet C-5 with respect to the fill. He noted that the cul-de-sac is pitched in the middle. All the stormwater will drain off the pavement into the raingarden in the middle to be treated and infiltrated. If there is an overflow, there is an overflow pipe out of that area. Along the edge of the road will be lawn area within the town right-of-way.

Attorney Donovan asked if an estimate could be provided of the size of the meadow currently and how much of the meadow will remain after the buildout, including the leachfields and the lot development plans.

Mr. Coronati confirmed. He noted that there are large areas of the meadow that are unbuildable and will remain intact. There was a discussion with the Conservation Commission about a semi-annual mowing of the meadow to keep it a meadow. The commission also requested that placards be added along the wetland buffer lines for the residents' awareness. Typically, those are on a cedar post.

Mr. Garrepy noted that Sheet L-2 shows the buffer plantings, as requested by the Conservation Commission, along the edge of the meadow. The plantings will not require maintenance and will provide a nice buffer between the homes.

Referring to Sheet C-4, Vice-Chair Losik stated that it looks like there are two buildouts into the designated leaching areas (DLA's).

Mr. Coronati replied that these can be moved.

Vice-Chair Losik asked if there is enough room in the building envelope to move the house and still give the square footage for the DLA's.

Mr. Coronati explained the house will stay where it is and the DLA will be moved.

Mr. Garrepy commented that he is confident they will be able to do that.

Mr. Coronati explained that the 4,000sf reserve area is to prove the lot meets a receiving area for a septic system. Once the house is designed, the 4k goes away and the septic system is designed. Typically, both are not shown on the plan because they can move around. Once the septic is installed it can be replaced in kind.

Attorney Donovan commented that another test pit would be needed for lot 59-3.

Mr. Coronati stated that it will still be contiguous with the test pits they have.

Member Lord asked if there is a plan showing how the property looks today from across Route 1A. In looking at lots 59 and 59-1, it seems that a fair amount of fill is being added. It is going from elevation 14 to elevation 20. It is not constant across the parcel. It will come up 6ft and drop back down. This seems to be forcing the lots into an area that does not look uniform.

Mr. Coronati stated that the houses nestled up on the hill will blend in quite nicely.

Member Lord stated there is a fair amount of fill. It goes up 6ft in most places.

Member Carter asked if there will be walkout basements.

Mr. Coronati stated that the plans are schematics. The house builder might do something different. This plan is to prove the lots work with the grading on site, the septic and fill without extending into the wetland buffer, which was a concern people had. The lots will all be blended in and the lawns will be landscaped. With the requirements of the septic 4ft above the water table and 2ft above that, it is better to blend it in with the house than to create a mound. It can be done with this field quite easily. It will look like a rolling field in the back of the homes.

Mr. Garrepy stated that they are also concerned about sea-level rise. The plans are attempting to address that as well. It is a balance that they are looking at on this site. He does not want to bring in too much fill but does not want the houses in jeopardy in eight years either.

Chairman Epperson stated that the estimate for lot 59-1 was 4 to 6ft of fill. He asked what this will look like after it is built out. He can't tell. The board has had other applications that have created a rendering to show what the project would look like from the perspective of the road. To him, this looks like a lot of elevated mounds and elevated structures that are taking away the meadow.

Mr. Garrepy stated that a lot of the area is not just fill but house. It is the foundation and the house itself.

Chairman Epperson commented that the foundation has to be built in accordance with the seasonal high water so it will have to be up.

Mr. Coronati stated that the finish grade above the septic is at 4ft above the grade that is there now. The state rule is 4ft above the water table and 2ft on top of the leachfield so 6ft above the water table is what is required for every leachfield in Rye. When looking across the field, it will still be a rolling field with a house in the background, which is nothing abnormal from what is seen on Ocean Boulevard now.

Referring to Section 606 of the LDR, Vice-Chair Losik stated they are looking at the preservation of the natural features. This area is a beautiful marshland and a wetland meadow. There are no "mounded" homes. The board does not know what this is going to look like. It is hard to understand the aesthetic right now.

Mr. Garrepy replied that to be honest they do not know what it is going to look like either. They agreed to do the conceptual plans as a possible scenario. When someone buys one of these lots they are going to hire a builder. They will do something within the town's building code but it will potentially be something entirely different.

Vice-Chair Losik stated the board usually conditions based on the plans that have been submitted.

Mr. Garrepy stated they need to be careful on the conditions of approval because it needs to be flexible.

Chairman Epperson stated that it looks like an environment is being created that destroys a natural meadow. This is creating an environment not using the environment.

There was some discussion on sharing a common leachfield.

Referring to Sheet A-3, Mr. Garrepy stated that this shows the area proposed for the conservation easement. It shows how much of the natural features will be protected. This will permanently protect it in case of any regulatory changes. He noted that the town owns the abutting lot. If they can, he would like to create some connectivity between the lots and the Goss Farm across the street. He continued that there is also 3.75 acres that may also be deeded to the town as a gift. It would be nice to have the town as the steward for some of this sensitive tidal marsh.

Mr. Coronati pointed out that Sheet A-3 provides a good idea of how much land is being developed, as compared to how much land there is.

Chairman Epperson stated that test pit 2 hit seasonal high water at 30 inches. In order to create the sill of the house at 20.2, how much higher does it have to be built up in order to make it work? (Lot 59)

Mr. Coronati explained that the existing elevation is determined, which is about 14. From there, it would go down 30 inches and then up 6ft. In this case, it would be 42 inches above grade to the top of the lawn above the leachfield. The only way to have a septic completely flush with the ground is to have a 72 inch water table, which is almost impossible in Rye. The key is blending the septic in with the houses.

Referring to the pictorial rendering, Member Quinn stated it will give a picture of what it is going to look like from the road. It will show the road coming in, the placement of the houses and how that will change the complexion of the whole meadow.

There was some discussion on what the board is requesting to see in the renderings.

**Robert Roseen, Waterstone Engineering**, stated that they appreciate the information provided by Rockingham Planning Commission and gladly incorporate the climate resiliency considerations into the proposed designs. It will make for a better project and better prepared residents. He noted that they need solid guidance from the board in regards to elevation and grades. He continued that they were provided an analysis that was provided by RPC. There were four planning scenarios. The scenarios represent a moderate and an extreme condition for sea-level rise. The third represents a model for moderate sea-level rise plus storm surge. The fourth is extreme sea-level rise plus storm surge. That gives four scenarios that range between 8.4ft to 17.4ft above mean high water. He noted that the storm of March 3<sup>rd</sup> would've been at 7.2. Harbor Road is at roughly elevation 16 at the entrance to the site and it drops down to elevation 8. The Goss Farm property ranges from elevation 8 to elevation 18. He continued that all building first floor elevations are above scenario four (the worst case scenario). All buildings

themselves are above elevation three. The proposed road is entirely above scenario three with a good portion above scenario four. The septic systems were not designed to meet the higher scenarios. The septic systems were designed to all be above scenario two, which is elevation 10.7. All but one is above scenario three, which is elevation 15.1. He continued that notes will be added to the drawings to limit the installation of all critical elements of the house to above scenario two. All homes would be entirely climate resilient to scenario two; including electric, heating and basements. All habitable spaces would be climate resilient to scenario four. Egress from the new road onto Harbor Road can be maintained up to scenario three. He pointed out that much of Ocean Boulevard and the surrounding areas will be under water in these particular scenarios. He noted that all the stormwater management designs now include an additional 15% in the precipitation, which was a recommendation that came out of the Coastal Risks and Hazards Commission.

Dr. Roseen stated that he feels they are pretty solid on the climate preparedness piece. The issue is how the project will blend best into the hillside. From his perspective, he has no issue with the septic systems having to be rebuilt because in 30 years the septic would be rebuilt anyways. The residential aspect is not expected to be rebuilt within that timeframe. He stated that they fully support the preparedness aspect but recognize that nobody wants to look at a house “jutting” out of a hill. Hopefully, the renderings will help the board visualize what that would look like. He asked the board if they would like to see in the renderings the balance between the competing demands. He asked if they want climate preparedness to be the primary piece for what they are designing for. This is what is trying to be achieved at the moment. If the board would rather not see fill exceed 4 or 5ft that would be a different piece of guidance.

Chairman Epperson stated that clearly they do not want anything built that is going to be flooded in the next 15 or 20 years. What he is looking for is what it would look like aesthetically. He does not want to be guilty of perpetuating the destruction of a beautiful piece of property for the sake of building homes that do not look appropriate on it. He would like to take a look at it, as opposed to purely flood protection. He commented that according to the numbers, the chance of it flooding anytime soon is probably pretty slim.

Dr. Roseen agreed. The idea that there is climate preparedness gives a different level of comfort. He commented it would be fairly easy to limit electric and boilers. It is not that there would be zero risk of flood but a climate preparedness, meaning if the basement does get wet the critical elements do not get damaged.

Attorney Donovan asked if the fill would be reduced significantly if the board said the building sill had to be a scenario two or three. He pointed out that there are other factors besides just climate change that is governing the amount of fill.

Dr. Roseen agreed. When a foundation goes into the ground that material comes out and becomes fill for the septic system. Septic systems in this region, typically, always come up 4ft.

Mr. Garrepy noted that the pre-treatment systems can be lower in the ground but not per Rye’s regulations.

Attorney Donovan stated that what he heard at the site walk is that the road elevation was governed by the separation that had to be kept between the bottom of the raingarden and seasonal high water table. He asked if this is still a driving factor for the grade of the road.

Mr. Coronati confirmed.

Mr. Garrepy commented the road has to stay where it is or come up. It cannot go down. The first 300ft of the road is at existing grade and the cul-de-sac will be a few feet above.

Dr. Roseen stated that they pulled in houses and septic systems in tighter so they came up. The houses could be pushed out further, as well as the septic systems.

Chairman Epperson commented that the buffers still have to be considered.

Mr. Coronati stated that if they were to go to the ZBA for a variance and it was granted, the septic systems could be lower. It would make it easier to lower the houses. He pointed out that having a house lower than the road is not aesthetically pleasing. The driveways are short and the houses are close to the road so simpler is better.

Chairman Epperson opened to the public for comments.

**Anne Decker, 271 Harbor Road**, stated that she is very glad the board wants a rendering. She thinks a 3-D rendering would be even better for everyone to see. She continued that she applauds the applicant for going through this process and trying to lower the fill because it is very important to the neighbors. There is talk about the view from Ocean Road but everyone should keep in mind the view from Harbor Road and the conservation barn. The conservation land is used by many people in the community for gardening. The view from that property is also an important aspect to this. She noted that they have not really talked about climate change for the wetlands adjacent to this property. The NH State Commission on Coastal Risks and Hazards states that because of this climate change there should be a natural expansion of the marsh structure. This is very important when dealing with land that has not been developed. The applicant's proposal takes the opposite approach, in that it mounds the land adjacent to the wetland. She continued that there was a letter from Dr. Tom Sherman with a concern about all the chemicals in the land. She is concerned about soil contamination with PFASs, which are very prevalent in NH, Maine, Vermont and Massachusetts. She stated that people who are upland of the project, are concerned about an upstream impact of the fill as it might act as a dam. She has a concern about the amount of cubic yards. One cubic yard is 1.8 tons, which is 20 tons in each truck load. The more fill that goes onto the land (dynamic compaction) the more it pushes water into the wetlands. It was mentioned that some of the wetlands might be given to Rye. She does not know how this would impact the lot on Locke and Ocean Boulevard. The frontage may change if it were given away.

**Mary Ellen Fennessey, 294 Harbor Road**, stated that she echoes many of Ms. Decker's sentiments. The biggest concern is the aesthetics, fill and tax ramifications, as the town would lose some tax revenues if they were to gift some land. Also, if a waiver is given it will set a precedent for similar situations.



Chairman Epperson noted that all the applications stand on their own two feet. Where it is appropriate relief can be given. Where it is not, the board will not give relief.

**Mimi White, 166 Locke Road**, stated that what she heard is the builder taking necessary steps to protect the homes so they will survive at high levels of water rise. As a resident of the town, she is concerned about sea-level rise for all of Rye. She is also concerned about the marsh. The marsh continues to grow and expand when the land is not disturbed. This project will disturb the land and could impact adversely on the marsh. She is not in favor of the development at this time.

Ms. Decker stated that Goss has every right to sell his property. Tucker just does not have the right to desecrate it.

Ms. Fennessey stated that she has watched that area to the west of 1A change dramatically over the last 40 years. The marsh has changed dramatically and will continue to change. If the land is not allowed to change the way it needs to, other homes in the area will be impacted.

Chairman Epperson pointed out that they are trying to protect the aesthetics of Rye while protecting the rights of the homeowners.

**Peter Crawford, 171 Brackett Road**, noted that he stores his boat across the street at the harbor. During the March storm, there was a foot of water above the ground in the parking lot. He commented that developers always seem to resist reducing the number of homes but that might be the answer because there is a lot of opposition.

Planning Administrator Reed noted that the board has received a copy of letters and emails received from:

- Anne Decker
- Mary Ellen Fennessey
- Randolph Warner
- Maggie Leland
- Mariam White
- Thomas Sherman
- Laura Mazur
- Beverly Giblin
- Phil & Mae Winslow
- Michael Myers

Mr. Garrepy assured the board that he will address the concerns in the letters.

There was some discussion on presenting the waivers at the next meeting. There was also a quick review of what the board would like to see at the next meeting.

**Motion by Patricia Losik to continue the application to the September meeting. Seconded by Steve Carter. All in favor.**



- g. Conditional Use Permit** Application by Cellco Partnership d/b/a Verizon Wireless for property owned by Dolores F. Lintz and located at 120 Brackett Road, Tax Map 22, Lot 95-A, to install a 125' monopine wireless telecommunications facility which shall include twelve (12) panel antennas, six (6) remote radio heads, one (1) junction box, and ground-based equipment to be housed within a 30'x40' fenced enclosure.  
**Property is in the Single Residence District. Case #03-2018.**

- **Continued to Thursday, September 13<sup>th</sup>.**

## **VI. New Business/Old Business**

### **a. Stoneleigh Subdivision**

Planning Administrator Reed noted that the building inspector wanted the individual plot plans to be part of the conditions. The Registry of Deeds would not accept 8.5x11. Attorney Donovan got an amendment that says the plot plans are on file with the building department. The building inspector would like a signature on all the plot plans from the planning board chair.

Chairman Epperson agreed to follow up and sign.

### **b. Resignation of Anne Richter-Arnold**

The board acknowledged the resignation of Anne Richter-Arnold.

### **c. Katy Sherman**

Chairman Epperson noted that Katy Sherman has requested some time off from the board because of family conflicts. She will be making a decision by September 1<sup>st</sup> on whether she will continue as an alternate on the board.

## **VII. Subcommittee**

### **a. Long Range Planning**

Member Carter noted that the three revised chapters were sent to the planning board members. The next step is to send the chapters to a public hearing and adoption.

- **The board agreed to schedule a public hearing in September.**

### **b. Rules and Regulations**

Vice-Chair Losik stated they have had their second meeting. Work has been done on language to allow for correction of erroneous references. In the floodplain ordinance, substantial improvement and substantial damage is being addressed. The structure definition is being reviewed in relation to driveways and walkways. Corner lots and the frontage language is being worked on. The committee has discussed tiny houses and has decided to not take that on at this

time. NH DES has their second draft for public comment for the revision of NH Wetland Rules coming in the fall. It is not anticipated that significant changes will come but the committee will be looking at that language. The committee is also looking at impervious coverage calculations to exclude wetlands and beaches.

### **VIII. Other Business**

Chairman Epperson stated that there has been a lot of discussion about expanding the sewer up Route 1. He met with Joe Falzone and the Sewer Commission. Subsequent to that, he met with some of the principals along Route 1, all of who were pretty enthusiastic about having sewer connected to their establishment. He had a thought of forming an adhoc committee to help push this along a little further. Member Quinn was onboard and he would be looking for some additional help on the committee.

Attorney Donovan noted that a member of the sewer commission has met with City Manager and the Director of Public Works in Portsmouth to initiate a discussion on this.

### **IX. Pay Escrows**

- **Sebago Technics - \$2,083.34 – 421 South Road**

**Motion by Jerry Gittlein to pay Sebago Technics in the amount of \$2,083.34. Seconded by Steve Carter. All in favor.**

- **Attorney Donovan - \$2,551.15 – 0 Airfield Drive**

**Motion by J.M. Lord to pay Attorney Donovan in the amount of \$2,551.15. Seconded by Patricia Losik. All in favor.**

- **Sebago Technics - \$1,370.25 – 0 Airfield Drive**

**Motion by J.M. Lord to pay Sebago Technics in the amount of \$1,370.25. Seconded by Patricia Losik. All in favor.**

- **Attorney Donovan - \$480.65 – 120 Brackett Road**

**Motion by Steve Carter to pay Attorney Donovan in the amount of \$480.65. Seconded by Patricia Losik. All in favor.**

- **Sebago Technics - \$620.05 – Old Ferry Landing Road**

**Motion by Jerry Gittlein to pay Sebago Technics in the amount of \$620.05. Seconded by Patricia Losik. All in favor.**

**Adjournment**

**Motion by Jeffrey Quinn to adjourn at 11:30 p.m. Seconded by Patricia Losik. All in favor.**

*\*All corresponding files and documents may be viewed at the building department, Rye Town Hall.*

**Respectfully Submitted,  
Dyana F. Ledger**

August 14, 2018  
As Approved

# RYE PLANNING BOARD

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

## Notice of Decision

**Applicant:** The Housing Partnership

**Owner:** Rickert Inv Real Estate LLC

**Property:** 0 Airfield Drive, Tax Map 10, Lot 15-4  
Commercial District

**Case:** Case #07-2017

**Application:** Major Subdivision, Lot Line Adjustment and Conditional Use Permit by the Housing Partnership for Property located 0 Airfield Drive, Tax Map 10, Lot 15-4 for construction of a residential development consisting of a mixture of multi-family dwellings with a portion being dedicated as Workforce Housing. Property is in the Commercial Zoning District and the Multi-Family Dwelling District Overlay and the Aquifer and Wellhead Protection District.

**Date of Decision:** Tuesday, August 14, 2018

**Decision:**   X   Conditionally Approved

**402.4** The Planning Board unanimously voted on the record, that the multi-family development met the following standards:

- 1.All requirements of Section 402.4 have been met. (This may be a single vote on the record).
- 2.The granting of the Special Use Permit will not be detrimental to adjacent property or the neighborhood.
- 3.The granting of the Special Use Permit will not be detrimental to the public safety, health or welfare.
- 4.The granting of the Special Use Permit will not be contrary to the public interest.

*The Planning Board voted to conditionally approve the Special Use Permit (S.U.P) for the development of workforce housing. See attached Conditions of Approval: The Housing Partnership Major Subdivision/S.U. P Approval.*

8/16/18  
Date

  
\_\_\_\_\_  
William Epperson, Chairman  
Rye Planning Board

❖ *Planning Board Approvals do not include building permits; please check with the Building Inspector's office before any and all construction.*

**CONDITIONS OF APPROVAL**  
**THE HOUSING PARTNERSHIP MAJOR SUBDIVISION/S.U.P. APPROVAL**

1. All conditions of approval of the Conditional Use Permit required by the Aquifer and Wellhead Protection District shall apply to the subdivision/land development.
2. The plans shall be revised as follows:
  - a. Street names shall be submitted to the building department and approved by the building inspector and added to the plans.
  - b. Items Nos. 2 -6 of Attorney Donovan's 6/29/18 memorandum need to be added.
  - c. Add the fence to the legend on all applicable plan sheets.
  - d. Make the revision date on Sht. C3A current.
  - e. Show the stockade fence on the utility drawings.
3. A condominium association shall be created for the development. Town counsel shall review and approve the *Declaration, Bylaws and other condominium instruments* and any other legal instruments required to form the association.
4. A Drainage Easement from Rye Airfield RCD I, Inc. to the applicant over Lot 15-3 to benefit Lot 15-4 shall be reviewed and approved by town counsel.
5. A pedestrian easement from Rickert Investment Real Estate, LLC to the applicant over Lot 10/16 to benefit Lot 15-4 shall be reviewed and approved by town counsel.
6. The applicant shall grant the town an easement relative to maintenance and repair of the rain garden and forebay. The easement shall: (1) require the applicant/condominium association to be responsible for maintenance and repair of the drainage facilities; and (2) provide that, if the applicant or 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 town counsel.

August 14, 2018

As Approved

7. Compliance with the Stormwater Inspection and Maintenance Plan approved by planning board engineer shall be the responsibility of the Association. Said responsibility to be set forth in the *Declaration*. The plan should be revised to indicate that mowing takes place once a year at the minimum.
8. Surety in the amount of \$958,450 and in the form of a self-calling letter of credit and/or cash escrow shall be posted to guarantee the completion of all infrastructure, including the private drives, all drainage facilities, water lines, sidewalks, retaining walls and fences. Surety to be approved by town counsel.
9. Sufficient funds shall be placed in escrow with the planning board to pay final statements of planning board engineer, town counsel and Consultant Truslow.
10. Applicant shall sign an Escrow Agreement and post escrow for planning board engineer's monitoring of infrastructure improvements. Amount to be determined by planning board engineer.
11. DES approval of septic systems and an AoT permit shall be obtained.
12. Planning board chair may sign plans when foregoing conditions Nos. 2-11 are met.
13. Plan Sheets Nos. C2, C3a and C3b shall be recorded along with a Certification of Major Site Development Review Approval and the Boundary Line Adjustment Plan.
14. The condominium shall be registered by the Attorney General as required by the N.H. Condominium Act.
15. 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 town counsel.
16. The easements required by Conditions Nos. 4, 5 and 6 shall be recorded with the deed transferring the property to the developer. Copies shall be provided to the planning board and town counsel.



August 14, 2018

As Approved

17. 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 building permit. Copies shall be provided to the planning board and town counsel. This condition supersedes Condition No. 11 of the CUP approval which requires recording upon transfer of the property to THP.
18. There shall be a Road and Utility Maintenance Agreement executed by Rickert Investment Real Estate, LLC and The Housing Partnership which allocates the responsibility for repair and maintenance of Airfield Drive and the utilities therein equally among the Rickert, THP and the Condominium Association. The agreement shall be approved by town counsel and recorded with the Declaration.
19. The Workforce Housing Subsidy Lien and Restrictive Covenant as revised and approved by the planning board on August 14, 2018 shall be signed by the planning board chair and THP and recorded with the plan sheets and Certification of Approval. (See Condition No. 13). Each subsequent owner of a workforce housing unit shall sign and record the lien and restrictive covenant upon purchase of a workforce housing unit.
20. THP shall designate at least one workforce housing unit for every five (5) units permitted until a total of eight (8) workforce housing units have been permitted. Eight (8) of the ten (10) dwellings shall have one (1) workforce housing unit. The workforce housing units shall be of the same quality as market units and shall be dispersed evenly throughout the development. THP will provide status reports to the planning board documenting that this condition is being met.
21. 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. THP shall notify the planning board of any workforce housing unit to be rented rather than sold.
22. The build out of the development shall comply with the Growth Management Ordinance.
23. The Fire Chief or the Police Chief may order windrows of snow along the drives to be removed if in his/her opinion piled snow inhibits access by emergency vehicles.

August 14, 2018

As Approved

24. Water lines, hydrants and appurtenances thereto shall be constructed in accordance with Rye Water District requirements.
25. The number of bedrooms served by each septic system shall not exceed the maximum number of bedrooms set forth in the "Site Septic Loading Table" on Sht. SS1.
26. "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.
27. For the purposes of RSA 674:39 "Active and Substantial Development or Building" shall be commencement of excavation for construction of the drives.
28. As-built plans for roadway, drainage, sidewalks, septic systems and the retaining wall shall be submitted to the planning board (3 sets).
29. Per Section 303.7 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.
30. Emblems marking the "No Cut Area" with language approved by the building inspector and spaced not less than 40 feet apart shall be installed prior to the issuance of the first building permit.
31. Construction and building activity shall be limited to 7 a.m. to 5 p.m. Monday to Friday.

8/16/18  
Date



William Epperson, Chairman  
Rye Planning Board

# RYE PLANNING BOARD

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

## Notice of Decision

**Applicant/Owner:** RJ Joyce for property owned by Isonlina LLC

**Property:** 2263 Ocean Blvd., Tax Map 5.3, Lot 3  
Business District

**Case:** Case #16-2018

**Application:** **Minor Site Development Plan** by RJ Joyce for property owned by Isonlina LLC and located at 2263 Ocean Blvd., Tax Map 5.3, Lot 3 to amend the agreement signed with the building department to allow the use of the garden area for guest of the restaurant and to allow the business to use 20 parking spots for paid parking during the summer months. **Property is in the Business District. Case #16-2018.**

**Date of Decision:** Tuesday August 14, 2018

**Decision:**

<input type="checkbox"/>	Approved
<input type="checkbox"/>	Conditionally Approved
<input type="checkbox"/>	Denied
<input checked="" type="checkbox"/>	Continued

*The Board voted that the application was not complete and the applicant is to work with the building inspector and police chief to clarify their concerns and come back with a complete plan and layout of the property, parking spaces and distances to side streets. The Plan does not need to be by a licensed surveyor but it does need to be accurate.*

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8/16/18  
Date

  
\_\_\_\_\_  
William Epperson, Chairman  
Rye Planning Board

# RYE PLANNING BOARD

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

## Notice of Decision

**Applicant/Owner:** Carey & Giampa Realty Trust

**Property:** 655 Wallis Road, Tax Map 16, lot 22  
Business District

**Case:** Case #19-2018

**Application:** Minor Site Development Plan for Carey & Giampa Realty Trust owned and located at 655 Wallis Road, Tax Map 16, lot 22 for expansion of commercial space per LDR Section 201.2 due to installation of a new septic system where trees will be cut and parking plans changed.

**Date of Decision:** Tuesday August 14, 2018

**Decision:**

<input type="checkbox"/>	Approved
<input type="checkbox"/>	Conditionally Approved
<input type="checkbox"/>	Denied
<input checked="" type="checkbox"/>	Continued

*The Board voted to continue the application to the September meeting and during the time the Board would visit the site where the applicant will stake out the driveway and mark the trees to be cut.*

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8/16/18  
Date

  
William Epperson, Chairman  
Rye Planning Board

# RYE PLANNING BOARD

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

## Notice of Decision

**Applicant/Owner:** Seafarer Condominiums

**Property:** 901 Ocean Blvd., Tax Map 20.2, Lot 80  
General Residence, Coastal Overlay Districts

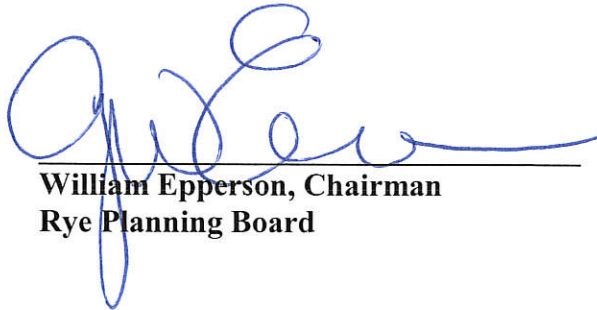
**Case:** Case #17-2018

**Application:** Minor Site Development Plan for an Amendment to Major Site Development and Condo Conversion of the Seafarer Condominiums approved by the Planning Board in 1981, amended and recorded June 8, 1983 plan D-10813 for property owned and located at 901 Ocean Blvd., Tax Map 20.2, Lot 80 for a shed 8'x16' x 9.5' behind existing dumpster. Property located in the General Residence, Coastal Overlay Districts. **Case #17-2018**

**Date of Decision:** Tuesday August 14, 2018

**Decision:**          X                        Approved  
                                                   Conditionally Approved  
                                                   Denied

8/16/18  
Date

  
\_\_\_\_\_  
William Epperson, Chairman  
Rye Planning Board



# RYE PLANNING BOARD

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

## Notice of Decision

**Applicant:** Eversource

**Case:** Case #18-2018

**Application:** Application by Eversource Energy to trim and remove trees and brush adjacent to and beneath some of its power lines within town for utility line upgrade along scenic roads within the Town. All roads have been designated a scenic road by the Rye Town Meeting. The work is necessary to insure the safe distribution of power and to improve the reliability of electric service. The work to be done will occur along the following streets and roads: Sagamore Road, Clark Road, Wallis Road and Long John Road.  
**Case #18-2018.**

**Date of Decision:** Tuesday, August 14, 2018


**Decision:**

<input type="checkbox"/>	Approved
<input checked="" type="checkbox"/>	Conditionally Approved
<input type="checkbox"/>	Denied

*The Planning Board unanimously voted to conditionally approve the application with the following conditions:*

- 1. Eversource obtains approval from property owners in writing, which includes property owners that have trees in the right-of-way;*
- 2. Eversource inform property owners in writing that they have the right to refuse the cutting or pruning; and*
- 3. Eversource conforms to the PUC Administrative Rules per RSA 231:172.*

8/16/18  
**Date**

  
**William Epperson, Chairman**  
**Rye Planning Board**



# RYE PLANNING BOARD

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

## Notice of Decision

**Applicant:** Tuck Realty Corporation

**Owner:** Joseph Goss

**Property:** 0 Ocean Blvd, Tax Map 8 Lots 58 & 59  
Single Residence District

**Case:** Case #11-2018

**Application:** **Major Subdivision** by Tuck Realty Corporation for property owned by Robert Goss and located at 0 Ocean Blvd, Tax Map 8 Lots 58 & 59 for a 5-lot subdivision. **Property is in the Single Residence District. Case #11-2018**

**Date of Decision:** Tuesday May 8, 2018

**Decision:**

<input type="checkbox"/>	Approved
<input type="checkbox"/>	Conditionally Approved
<input checked="" type="checkbox"/>	<b>Continued</b>
<input type="checkbox"/>	Denied

The Board voted to continue the application to the September meeting.

8/16/18  
Date

  
\_\_\_\_\_  
William Epperson, Chairman  
Rye Planning Board

# RYE PLANNING BOARD

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

## Notice of Decision

Applicant: Cellco Partnership d/b/a Verizon Wireless

Owner: Dolores F. Lintz

Property: 120 Brackett Road, Tax Map 22, Lot 95-A  
Single Residence District

Case: Case #03-2018

Application: Conditional Use Permit Application by Cellco Partnership d/b/a Verizon Wireless for property owned by Dolores F. Lintz and located at 120 Brackett Road, Tax Map 22, Lot 95-A to install at 125' monopine wireless telecommunications facility which shall include twelve (12) panel antennas, six (6) remote radio heads, one (1) junction box, and ground based equipment to be housed within a 30' x 40' fenced enclosure. Property is in the Single Residence District. Case #03-2018.

**Date of Decision:** August 14, 2018

**Decision:** ☐ Approved  
☐ Conditionally Approved  
☐ Denied  
☒ **Continued to September 13, 2018 location TBA**

8/16/18  
Date

  
William Epperson, Chairman  
Rye Planning Board