

**TOWN OF RYE – PLANNING BOARD
MEETING**

**Tuesday, November 12, 2019
6:00 p.m. – Rye Public Library**

Selectmen Present: Chair Patricia Losik, Vice-Chair J.M. Lord, Steve Carter, Jerry Gittlein, Tim Durkin, Jeffrey Quinn, Selectmen’s Rep Bill Epperson, and Alternates Katy Sherman and Jim Finn

Others Present: Town Attorney Michael Donovan and Planning Administrator Kim Reed

I. Call to Order

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

Steven Borne, on behalf of the Rye Civic League, announced that Monday, November 18th is Rye Civic League’s 10th year anniversary and they will be holding an event at the Rye Public Library at 7:00 p.m. Resident and Civic League Member, Alex Herlihy and Rockingham Planning Commissioner, Kevin Coyle, will be giving presentations at the meeting. He asked the Board to join in the fun, as they are also holding a cookie contest that evening. Members of the public are welcome to join.

II. Approval of the October 8, 2019 meeting minutes

- *Moved to end of meeting.*

III. Public Hearing: Proposed Zoning Amendments:

- a. Proposed Zoning Amendment 2020-01: Section 304 Height within the Coastal Area District to allow for construction in the SFHA.

Public hearing opened at 6:05pm.

Chair Losik read Proposed Zoning Amendment 2020-01.

No comments or questions regarding the proposed amendment were heard from the Board or the public.

Motion by Jeffrey Quinn to move Proposed Zoning Amendment 2020-01 to the town warrant. Seconded by Tim Durkin. All in favor.

- b. Proposed Zoning Amendment 2020-02: Section 507 Add new Section 507 A – Illicit Discharge and Elimination Ordinance

Public hearing opened at 6:10p.m.

Chair Losik explained the purpose of the Illicit Discharge and Elimination (IDDE) Ordinance is to provide for the health, safety and general welfare of the citizens of Rye through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practical, as required by

Federal and State law. The IDDE Ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system, which is referred to as MS-4, in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) Permit process.

Chair Losik continued that Julie LaBranche, from Rockingham Planning Commission, has been working with the Board on these various components of the MS-4 Permit. The actual permitting that the Town received from the EPA, dated March 18, 2019, is the MS-4 Permit, which authorizes the discharge of stormwater. The IDDE Permit is for the first year and the program goes through to 2023.

Dennis McCarthy, Public Works Director, noted the permits are for five-year increments and this is the third permit that has been issued to Rye.

Chair Losik explained the purpose and intent is to regulate the contribution of pollutants to MS-4 by stormwater discharges by any user. It prohibits illicit connections and discharges to the MS-4, establishes legal authority to carry out all inspection surveillance, monitoring and enforcement procedures necessary to ensure compliance with this ordinance. The storm drainage systems are considered to be publicly owned facilities, by which stormwater is collected or conveyed. This section is applicable to all water, all pollutants and all substances entering the drainage system generated by any developed and undeveloped land, unless explicitly exempted by the Board of Selectmen. There are penalties that can be set forth and imposed by the Board of Selectmen when there is found to be violation or prohibition of discharges. She noted this piece of ordinance that needs to go into the RZO is one piece of this whole system to further protect the drainage and the Town's systems. There is another component of this in the Land Development Regulations (LDR).

Director McCarthy noted that most of the things that are in here are already being done by the Town. This is codifying the language and what is already done, relative to looking for illicit discharges, which is sewerage getting into the storm drainage systems. He continued that if it is found, it is usually a failed septic system or an issue with the sewer line. It is not a huge event in a town of this size.

Steven Borne, 431 Wallis Road, asked who would be the most impacted by this.

Director McCarthy stated if a resident's septic system is working properly and they are not discharging water into the storm drainage system, it should not really affect the homeowners, as such. The burden of the work falls on the Public Works Department.

Selectman Epperson asked if this includes sump pumps.

Director McCarthy explained that one of the issues with sump pumps is the capacity. If it is below what it should be, it'll be doing what it should do and will only be pumping groundwater. It should not be pumped into the system because it's a possible source of contamination.

Chair Losik noted that the GIS on the town's website shows the town's drainage system on a map for anyone who would like to look at the system near their property.

Selectman Epperson noted that there are horse farms in Rye. He asked about animal waste.

Director McCarthy replied this can be problematic. It is the same for dogs, geese and any type of animal husbandry. It can be a problem, in a large operation, if the manure is not kept securely and is running into areas that cause problems. He noted the big issue is with closed systems. If it sheet flows over land and goes down into the ground, the ground itself will attenuate the problems. The bigger problem is when it is concentrated into pipes and being discharged directly into water bodies, as in Rye everything goes to the ocean.

Director McCarthy explained dry weather screening.

Referring to page 2 regarding storm drainage systems, Member Gittlein stated that culverts are part of the storm drainage system, yet it is not listed here.

Director McCarthy replied that culverts would be considered pipe storm drains.

Member Gittlein stated that during big rain events, there are homeowners pumping to the street. He asked if this is legal.

Director McCarthy explained that homeowners should be discharging onto their own property.

Member Gittlein asked what a citizen should do if they see someone pumping onto the street.

Director McCarthy replied that they should call Public Works and they will speak with the property owner.

Motion by Jeffrey Quinn to move Proposed Zoning Amendment 2020-02 on the town warrant. Seconded by Steve Carter. All in favor.

IV. Submittal of Applications for Determination of Completeness. Not a public hearing, if complete public hearing will immediately follow: Action Required

- a. Minor Site Development Plan by Malcolm E. Smith for property owned and located on Lafayette Road, Tax Map 10, Lot 1, to temporarily store motor vehicles and related products including trailers and boats on a limited area of the premises. **Property is in the Commercial and Aquifer and Wellhead Protection District. Case #17-2019.**

Speaking to Steve Slovenski, representative for the applicant, Selectman Epperson commented this has been going on for a while. He asked if this is an overflow for the dealership.

Mr. Slovenski explained this started last February. The Kia dealership has been parking cars there for the winter. During plowing, the cars are parked there and moved back to the dealership lot. There is also an overflow of new cars, which are parked here.

Chair Losik asked what the “related products” are that is listed in the application.

Mr. Slovenski stated that was just in case there were trailers or other items. For the most part, it is for new vehicles.

Chair Losik asked if they would agree to striking “related products”.

Mr. Slovenski confirmed.

Referring to “limited area on the premise” listed on the application, Chair Losik asked if they are referring to the impervious asphalt.

Mr. Slovenski replied yes. No use will be created beyond the paved parking lot.

Selectman Epperson asked when they are anticipating this to be gone.

Mr. Slovenski noted that there is a buyer for the property but the process could take some time. They are asking for this to be allowed for six months to a year, in order to have that income.

No other questions were heard from the Board.

Motion by JM Lord to accept Case #17-2019 as complete. Seconded by Jeffrey Quinn. All in favor.

- b. Major Site Development Plan by Altus Engineering for the Rannie Webster Foundation d/b/a Webster at Rye for property owned and located at 795 Washington Road, Tax Map 11, Lots 52 & 6, for an expansion of the nursing and assisted living facility by 23 beds, and an expansion to the garage and activities room. **Property is in the Single Residence District and Aquifer and Wellhead Protection District. Case #15-2019.**

- *Request a continuance to the December 10, 2019 meeting.*

Motion by JM Lord to continue Case #15-2019, for determination of completeness and public hearing, to the December 10, 2019 meeting. Seconded by Jeffrey Quinn. All in favor.

- c. Conditional Use Permit by Ryan & Linsay Kaplan for 371 Washington Road, Tax Map 16, Lot 119, for an Accessory Dwelling Unit per RZO Section 506. **Property is in the Single Residence District. Case #19-2019.**

Chair Losik summarized the application submittals received in the application packet.

No questions were heard from the Board.

Motion by Jeffrey Quinn to accept Case #19-2019 as complete. Seconded by JM Lord. All in favor.

V. Public Hearing on Applications if they are complete and/or have been continued:

- A. The Housing Partnership requests an 18 month extension of its approvals: Lot Line Adjustment (approved July 10, 2018), Conditional Use Permit (approved July 10, 2018) and Special Use Permit (approved August 14, 2019) for construction of a residential development consisting of a mixture of multi-family dwellings with a portion dedicated as Workforce Housing on 0 Airfield Drive, Tax Map 10, Lot 15-4. **Case #07-2017.**

Attorney David Brown, representing The Housing Partnership, spoke to the Board in regards to the request for an extension of its approvals received for a residential development on Airfield Drive.

The Board did not have any issues and agreed it was a reasonable request.

Chair Losik opened to the public. No comments or questions were heard. The public hearing was closed at 6:38 p.m.

Motion by Bill Epperson to grant The Housing Partnership an 18-month extension, to August 14, 2021, of its approval for a Lot Line Adjustment, Conditional Use Permit and Special Use Permit for Case #17-2017. Seconded by JM Lord. All in favor.

Applicants present agreed to take the applications out of posted agenda order, as shown in minutes.

- Conditional Use permit by Ryan & Lindsay Kaplan for 371 Washington Road, tax Map 16, Lot 119, for an Accessory Dwelling Unit per RZO Section 506. **Property is in the Single Residence District. Case #19-2019.**

Ryan Kaplan, 371 Washington Road, spoke to the Board in regards to the request to add an accessory dwelling unit to the property. The footprint of the house will not change, nor the design of the building. The proposal is to take 700sf of the existing 3600sf and make a one-bedroom apartment to allow extra income for the property and allow them to live in Rye. He noted that the proposal meets all the requirements for an ADU and no variances will be required.

Mr. Kaplan explained the proposal for the interior door, as required by the RZO and State statute. He also explained the exterior entrance for the apartment. In regards to the septic system, he noted the alarm has been fixed and the system was pumped two weeks ago, as part of the closing agreement for the property.

Chair Losik stated that she would make annual pumping a condition of approval. In relation to where the property is located to the resources, an annual inspection is important.

Chair Losik opened to the public. Hearing no comments, the public hearing was closed at 6:45 p.m.

Motion by Jeffrey Quinn to approve the application for Case #19-2019 with the condition that the septic system be inspected and pumped annually. Seconded by Jerry Gittlein. All in favor.

- Minor Site Development Plan by Malcolm E. Smith for property owned and located on Lafayette Road, Tax Map 10, Lot 1, to temporarily store motor vehicles and related products including trailers and boats on a limited area of the premises. **Property is in the Commercial and Aquifer and Wellhead Protection District. Case #17-2019.**

Steven Slovenski, representing the applicant, spoke to the Board regarding the minor site development plan to temporarily store motor vehicles on the pavement area of the property. It is his position that the proposal satisfies the requirements of Rye to approve the application.

There was some discussion on the length of time being requested.

Mr. Slovenski suggested a time period to June 1, 2020.

The Board agreed that would be reasonable.

Chair Losik asked if the language of “related products” and insert the language of “impervious” for parking.

Mr. Slovenski agreed to the changes.

Chair Losik opened to the public. Hearing no comments, the public hearing was closed at 6:50 p.m.

Motion by Jeffrey Quinn to grant an approval to Case #17-2019 with the conditions of use until June 1, 2020, striking the language “related products” and adding the language “impervious”. Seconded by Steve Carter.

Member Carter noted there are conditions that have been proposed that no structures are to be built, no maintenance and a limit on the number of cars.

Speaking to the applicant, Chair Losik asked if they would be comfortable with up to 75 vehicles for the limit.

Mr. Slovenski confirmed.

Steve Carter amended the motion to include the conditions that there be no structure constructed, no maintenance of vehicles happening on the site and the limit will be set to seventy-five (75) vehicles.

Selectman Epperson noted that he does not like this; however, he will acquiesce to the will of the Board. The Town has done everything they can to try to make the approach to Rye look better. He does not think this makes it look better. He reiterated that he will go along with the will of the Board.

JM Lord seconded the amendment to the motion on the floor.

Vote: All in favor

- B. Major Site Development Plan by Samonas Realty Trust for property owned and located at 1215 Ocean Blvd, Tax Map 17.3, Lot 6, to raze all of the existing structures, eliminate the parking and access encroachments, remove the existing septic systems, and other building infrastructure and replace them with 4 duplex style town homes with new septic, permeable driveways and tidal buffers. **Property is in the General Residence, Business District and Coastal Overlay Districts and SFHA-Zone AO. Case #01a-2019.****
- C. Special Use Permit by Samonas Realty Trust for property owned and located at 1215 Ocean Blvd, Tax Map 17.3, Lot 6, to allow land housing tourist accommodations to become obsolete and to be redeveloped in residential use densities per Section 304.6 of the Rye Land Development Regulations. **Property is in the General Residence, Business District and Coastal Overlay Districts and SFHA-Zone AO. Case #01b-2019.****

Eric Weinrieb, Altus Engineering, representing Samonas Realty Trust, spoke to the Board. He explained the property is located at the corner of Wallis Road and Ocean Boulevard and is the location of the existing Driftwood cabins. The property is located in the Business District and also in the General Residence District. It also lies within the Coastal Overlay District and the Special Flood Hazard Area Zone AO. In May of 2018, a conceptual was presented to the Planning Board. On October 3, 2018 and

on July 10, 2019, zoning relief was received for the site. The zoning relief was for siting the building, driveway, septic tank in the buffer and height variance. Relief was also received for separation from seasonal high-water table. He continued that Mr. Samonas purchased the property in 2017. It had been in decay for many years. The septic systems are antiquated. The buildings are tired and do not meet code. In order to upgrade the buildings, they would have to be brought into FEMA compliance. The retail building is slab on grade. It is not even a reasonable alternative to try to lift up the concrete pad. He noted the rear of the lot is in the tidal wetland. There is freshwater wetland. There are five leachfields on the site. All five leachfields are within 50ft of the tidal marsh. One is partially in the tidal marsh. There are three cabins existing within 50ft of the tidal wetland. Seven parking spaces are in the State right-of-way currently. Four spaces will move back into the town right-of-way. The property is at a busy intersection with a restaurant and retail uses. The cottages are used by transient tenants. The occupants of the cottages are not residents of the Town. They are not vested in the community or the surrounding environment. The occupants of the new homes will be residents of Rye.

Mr. Weinrieb stated that with the new development, they will be eliminating an unsafe access and creating a single means of egress in and out of the site with a turnaround for service vehicles. He continued the team thought long and hard about the best way to redevelop the property. They started with a clean slate because all the buildings have to come down and the septic systems have to be replaced. Everything was pushed forward towards the front setbacks to try to protect and restore the wetland buffer in the best way possible. They strived to improve pedestrian safety because this is a very busy intersection. All those things were considered when they started to look at the development. That is why they came up with a development that has a driveway off Wallis Road, entering the site, dead-ending and coming back out.

Referring to the plan, Selectman Epperson asked if there is a sidewalk near the entrance to the site.

Mr. Weinrieb explained this is an at grade pedestrian walkway area. It is not a raised sidewalk with curb. He stated that in looking at the design of the site, they started with ten dwelling units because that is what the density in the zoning allows. They felt that that was unreasonable, so they went with eight two-bedroom dwelling units. What was heard from this Board, is that they wanted six. Therefore, one building has been dropped, the area between the buildings has been separated and now there are six units. The leachfields are already sited outside the 100ft buffer. This allows to get one of the tanks outside the 100ft buffer. All the tanks are further away from the wetland than when they went for the zoning ordinance. He noted that they had a tapered driveway proposed before. They heard the comments from the Board, that this was not adequate so the driveway is now 20ft wide the whole length. The buildings are designed as previous, to have an elevation at 10ft and a first floor elevation at 20ft. The views have been increased, by eliminating a building, by about 44ft. There is a gap along the properties of about 44ft.

Attorney Donovan asked if this is the total gap.

Mr. Weinrieb confirmed. It is 44ft additional. Referring to the drive, he noted they have provided a turnaround area for service vehicles. There is a concern about providing a second access on the lot for safety reasons. DOT would want a gate on the property, which would create an issue for blocking or for people parking in that area. He stated they designed the site with access on the lower travelled road onto a safer intersection that had better sight lines. That area does flood during a period of time during a storm event. It is typically an hour on either side of high tide and is infrequent. He noted it is not the site that is

actually flooding. It is the Wallis Road area. When Wallis Road gets corrected for climate change and resiliency, this driveway will be able to be raised up as well.

In regards to permitting, Mr. Weinrieb stated for the eight-unit development, they have received the State Alteration of Terrain, Wetlands and Shoreland Permits. Confirmation from the State has been received that they would give grandfathered right for the replacement of septic at the current design flow, which is over 4,000 gallons per day. They are proposing a twelve-bedroom 1,800 gallon per day option. As soon as they get feedback from the Board, they will move forward with getting State permitting for the septic. He reviewed his prepared fact sheet regarding existing and proposed conditions.

- Currently, there are 12 buildings on the site – The proposal is for 3 code compliant buildings.
- All new buildings will have sprinklers.
- The pool will be removed.
- Currently, there are 14 residential units on the site – The proposal will bring that to 6 units.
- The residential dwelling density is 6.2 units per acre and that will be reduced to 2.7.
- 20 bedrooms are allowed and this will be at 12.
- There are 6 year-round dwellings on this site right now. There will be 6 two-bedroom units.
- There will not be any commercial use. There will not be a restaurant. Three residential uses inside the 50ft buffer will be done away with.
- Five septic systems within the 100ft buffer are being done away with. The proposal is for 3 code compliant septic systems today, where there are 0 compliant systems currently.
- The dwelling coverage density is going from 8.5% down to 7.7%.
- The impervious is being reduced from 19,500 to 11,760.
- The driveway access is being reduced from 250ft down to 20ft.
- The proposal is restoring 14,000sf of buffer.
- 7 parking spaces are being removed in the State right-of-way and 4 spaces will be back in the town right-of-way.
- Sign that is in the right-of-way is being removed.
- A 50ft clearance is being created by getting rid of the building on the Wallis Road side.
- 2 propane tanks in the 50ft buffer are being removed.
- 2 onsite dumpsters are being removed, which are within the 100-year floodplain.

Referring to responses to Attorney Donovan's letter, Mr. Weinrieb stated he did not provide any comments on the first three items in regards to bulk, height or architecture. Item 4 is related to the turnaround. He noted that a turning template for the turnaround area has been provided to demonstrate the most likely vehicle that would be using the turnaround, which would be a UPS/FedEx style vehicle. He also noted that with the original submission, none of the department heads objected to the dead-end driveway. Fire apparatus has safe access from Ocean Boulevard and fire department staff have access to the property via the driveway. The trucks can back out of the driveway, just as they would on any other dead-end road in Rye. The proposed driveway is 20ft wide with a turnaround being provided. All three of the proposed buildings will have sprinkler systems.

Mr. Weinrieb stated the six residential units will be responsible for their own trash disposal. As others in town, it is anticipated that they will use the Rye Transfer Station. So, access for trash removal will be no different than access on the nearby public roads. Private trash pick-up services are available in Rye in various vehicle sizes, including trucks capable of turning into the driveway. Regarding the second driveway, Mr. Weinrieb stated that Chief Walsh had commented that a second access off Ocean

Boulevard would be helpful in a storm event or tidal surge. He pointed out that Chief Walsh's first department head comments did not mention a second access. The Police Chief's primary concerns were focused on the outdoor recreation, beach parking, rentals and businesses. In his recent comments, the Chief said that a second access would help during storm events. Mr. Weinrieb stated that design professionals were very concerned with vehicular safety by providing an access onto a heavily travelled highway with limited sight lines due to parking on the shoulders and roadway.

In the case of the infrequent storms, Mr. Weinrieb pointed out that residents have advance notice of weather conditions and can plan ahead. Typical storm flooding recedes with the tide cycle, which will allow access to Wallis Road. Residents can also access Ocean Boulevard by the grass, walkways and areas. When, and if the Town, corrects the deficiencies on Wallis Road and raises it above the 100-year floodplain, the grade of the driveway will be able to be adjusted to meet the road. He noted that the risk of day-to-day usage of an egress onto Ocean Boulevard presents a safety hazard that outweighs the impact of a temporary storm flood event on Wallis Road.

Referring to Emily DiFranco's review, Mr. Weinrieb stated that her first couple of comments summarizes the project. He noted that he had no comment on the environmental advantages comment, as he agrees. He continued that it was noted by Ms. DiFranco that the advanced on-site system is an advanced treatment system and offers a significant improvement in the reduction of solid. The site currently has an approved daily flow of 4,125 gallons per day. By right, the property can continue to operate with this design flow in perpetuity. Mr. Samonas has elected to reduce the flow by 230%. This reduction allows Mr. Samonas to meet the current lot loading criteria set by DES which allows for the change of ownership. The regulations do not include any provisions for requiring additional separation from the seasonal high-water table for anticipated climate change conditions. Should the Board request that greater separation be provided for future conditions, it will come at a compromise to increase the fill within the 100-year flood. The design for two of the three septic systems provide more than the 4ft separation for the current seasonal high. The third meets the minimum 4ft separation. As noted by Ms. DiFranco, the AOS System requires only 1 to 3ft of vertical separation; thus, as designed, the site meets the water quality standard should sea-levels rise above 3ft.

In regards to reduction in impervious coverage and permeable paver comments, Mr. Weinrieb stated the proposed development is reducing the impervious coverage on the site by over 14,000sf. The site will be going from a transient rental property, office space and restaurant, to six residential units. Contaminates from six residential units is far less than the current day use. All proposed driveways are to be constructed with permeable pavers. Therefore, the only impervious coverage are small exterior pads or rooftops, which typically are low contaminant.

Mr. Weinrieb stated in summary the proposal meets project design and exceeds the intent of the Rye Land Use Regulations. The only question is whether or not a second driveway is required. (He submitted his memo regarding drainage calculations for the site.) He summarized, in all storm analysis, there is a decrease in peak runoff. He noted that comments were received back from Dr. Rosen and he had no further issues. The Planning Board has hired consultants to look at this. Dr. Rosen and Steven Harding have both looked at this, and as he reads it, they support the project as presented.

Mr. Weinrieb submitted a height comparison and density chart to the Board and reviewed photos showing the area around the site. He also submitted a simulated photo showing the new design of the site, as seen from the Pelletier's home.

Attorney Phoenix, representing John Samonas, submitted architectural sheets showing the second floor design of the units.

Member Gittlein stated that a couple of times, access was discussed and he understands the concerns. He asked if another access could be created that would be temporary with a gate that could be opened up in the event of an emergency, instead of it being open all the time.

John Samonas, Applicant, explained that one of the delays in coming back to the Board, was the going back and forth with regards to the second access. After operating the site for the past three seasons, he has seen many potential accidents that can happen if an unfettered access was left. He would absolutely not want that because of the traffic coming from Route 1A and the Wallis Road intersection. The problem with a gated access is the control of the driveway. The gate would have to be 50ft from the edge of pavement. There would be a “temporary” driveway that came from Ocean Boulevard westward toward the gate. The gate would open upon emergencies by an emergency vehicle, the Police Department or residents themselves. The problem would be controlling that driveway and making sure that people did not block the driveway or park in it. The temporary driveway would be impossible to control. In the event of an emergency, vehicles would almost have to be towed in order to get the gate open. He noted that they tried to adopt all the other concerns that the Board and neighbors had pertaining to the site, but that one is a very difficult one to address. It was felt that the new elevation of the site would allow for water to go right through the property. The buildings were built so water will go right through the garage space.

Member Gittlein asked the elevation difference of the driveway from what is there now to what is proposed.

Mr. Weinrieb explained that right at the edge of the pavement, the elevation is 7.2. The garages are at elevation 9.10 and the end of the driveways are at 9.6. He noted that it will be going up 2ft from what is there now.

Chair Losik asked how the drainage will be dealt with if the height of Wallis Road is raised in the future.

Mr. Weinrieb explained the whole area will be raised up and there will probably be the ability to put a cross culvert in. He further explained the road could be raised to 9ft and could be 10ft or more. This will cause challenges to the abutter on the other side. When that happens, there will be enough elevation to put a cross culvert under the street and drain on the other side.

Attorney Donovan asked about the culverts at Parsons Creek.

Mr. Weinrieb stated that would need to be replaced as well, to allow a larger conveyance to go underneath. These are some of the things that the Town needs to think about because of climate change.

Alternate Sherman stated she is concerned with having another outlet. Having grown up in this area, she has seen this location flooded time and time again. She thinks they need to be thinking about this plan “as is” with Wallis Road as it is. She noted that whether Chief Walsh expressed his comment a year ago or yesterday, he has the concern today. It is a valid concern.

Attorney Donovan noted that Chief Walsh also brought this up at the site walk in June.

Alternate Sherman commented she really appreciates the decrease in density, as she was really concerned about the “wind tunnel” effect with the eight units.

Mr. Samonas noted there is 40, 60 and 70ft between buildings. There is a lot of open space.

Selectman Epperson stated that a remarkable job has been done to improve the whole project. He commented that if he was going to buy one of these units, and there was no way out because there was no second access, he would not be very happy.

Attorney Donovan stated he has a thought on the driveway matter. From what he has heard, the concern is that if the driveway was to be all the way out to Ocean Boulevard and the gate had to be at the property line, people may be parking in that driveway. He noted that there could be signage and a prohibition of parking. He suggested that if the Board asks this to be done, it could be evaluated after a year or two to see if there is a problem. If the area is well signed, it may not be a problem.

Chair Losik stated what is seen, in terms of the master plan, the increase mapping and things that are being put on the town’s website to let citizen’s be prepared, is that more water is coming. If they do not look at this issue and try to solve it today, it will be a more expensive to fix in the future. She worries about putting people in a situation where they cannot get out.

Vice-Chair Lord asked if there could be an all-season access that could be disguised. This is to be used in an emergency situation. It would not be a driveway. It could be an access that does not look like a road with an all gravel surface. It seems that would be a very easy way to solve the issue.

Mr. Weinrieb stated that one of the challenges is the grade. It should follow the grade and not be unnatural. It will not have a driveway culvert so stormwater is going to run across. It is going to get inundated because it is in the 100-year flood area but it will allow people to exit the property, if needed. He continued that the gate/bollards would have to be on the private property. Something ornamental could be done to discourage people from using it on a regular basis.

Vice-Chair Lord commented if it is well landscaped, the gate and bollards may not be needed.

Member Carter stated a lot of progress has been made and he appreciates the work that has been done. The second access is a concern for people and he hears the applicant’s concern also. If there is a curb cut there, people may pull in and park there.

Mr. Samonas noted it could be a gravel driveway with signage that could say “no parking”. He would encourage the Board to approve the site plan contingent on that temporary drive being installed.

Member Durkin asked if the building footprints have changed.

Mr. Samonas noted the building footprints have been widened by 2’ per unit, to allow for wider hallways and better master bathrooms.

Member Durkin asked why they did not come back with a revised plan with three structures with the same footprint as the structures before.

Mr. Samonas stated they went through a thorough review of the entire project. There was an obvious flaw, for practical reasons, on the second floor of the first plan. That flaw was fixed by losing 56ft and then adding 2ft again. This is a better plan for the purposes of density, site easement and lack of the “wind tunnel”. The last change was made for practical purposes for those units. What was being presented before was too much and too condensed.

Member Durkin asked if there would be more flexibility and room if the structures were kept with the same footprint.

Mr. Samonas stated he could’ve had a second driveway just the same as he can now.

There was some discussion and review of the height.

Alternate Finn stated this is a much better proposal than what was before the Board before. He asked if the square footage per unit has increased.

Mr. Samonas replied they have increased by 120sf.

Referring to the revised plan, Member Quinn stated it answers a lot of practical questions he had at the onset; however, he still has a few questions. Sidewalks have been added for people who want to access the property from Ocean Boulevard. However, he still has a problem where the sidewalk meets Ocean Boulevard. It looks like the grade goes down and then back up.

Mr. Samonas stated that they do not feel that is going to get a lot of use.

Member Quinn stated that during the summer months there is a lot of activity in front of the buildings and people park and block the sidewalk. In the winter, he sees the snowplows plowing those sidewalks shut. Water will collect or build up and rise above the level of the sidewalk making them impractical to use. He thinks they need to condition that the sidewalks be kept clear at all times. He would even restrict parking in front of them.

Mr. Samonas stated he assumes the condo documents would read that the sidewalks are to be kept completely clear of snow and debris at all times. That would be a responsibility of the property owners. It is going to be the option of the delivery driver or the emergency personnel to use the sidewalk in the front or the Wallis Road drive for access.

Referring to the turnaround, Member Quinn stated it is a vast improvement. He asked if a normal fire truck could make the turnaround.

Mr. Weinrieb stated it is his guess that it could be done on a multi-point turn.

Member Quinn asked if the Fire Department is good with the plan.

Mr. Weinrieb replied they had no comment on the turnaround.

Vice-Chair Lord noted that if there is going to be an emergency access, as discussed, this concern goes away.

Chair Losik opened to the public.

Attorney Scott Hogan, representing many abutters, spoke to the Board. He stated it has been a good long number of months since this has been before the Board. He noted that he was just handed six or seven really substantive pieces of paper. This is a very complicated process and there has been a lot of revisions. He continued that when he is handed stuff at the meeting, there is no way he can review it and give legal comment. He suggested that the progress continue after this meeting to give him that opportunity.

Attorney Hogan continued that he looked at Attorney Donovan's memo to the Board based on the new submissions. Initially, it was four three story buildings, which are really tall, really dense and out of character with the rest of the neighborhood in this part of Rye. One of the first things heard from the applicant was "we felt the ten units were unreasonable". What the applicant had said to this Board, is that they can have ten units and it is reasonable to have ten units. The density, number of units, size, height, and character of the building have not had much discussion tonight. These are three buildings which basically have the same negative effect that the four buildings had. If the applicant was listening to what everyone said about the character in this part of Rye and this is why it is inconsistent, nothing about any of that has changed. There are three buildings at the same height that have the same "wind tunnel" effect.

Attorney Donovan pointed out they have provided 44ft more of open space on 200ft of frontage on Ocean Boulevard. That is a 22% increase in open views towards the marsh on Ocean Boulevard. That is not insignificant.

Attorney Hogan stated the two things the Board said really clearly the last time was it is too dense and a second access is needed. There are now three buildings that are kind of as dense with the same character. The same inconsistent height and density. The Board also said to take the plan and actually design a second access from Ocean Boulevard. He commented he thinks the discussion tonight was helpful and this is moving in the right direction. However, using this plan with a second access actually designed from Ocean Boulevard, much of what was talked about tonight is hypothetical. If there was an actual plan, Tobin Farwell (abutters' engineer) could look at that. There were a lot of things that he and Tobin were handed at this meeting that they would actually like to look at and give their input on.

Chair Losik asked which aspects of the density he finds most difficult.

Attorney Hogan stated there are three buildings that are the same height. The buildings are wider and just as deep. They are out of character with anything that is near them in the area.

Alternate Finn stated he recalls at the last meeting Tobin presented some engineering studies that suggested six units, as opposed to 8 or 10. In fairness, there are six here. To suggest that nothing has been done is not quite fair. The fact is, there have been some improvements from what was previously presented.

Chair Losik stated there has been good discussion on concepts for the second access. There is another piece but it seems that the second access is not terribly difficult to do, while leaving most of what is there in place. Speaking to Attorney Hogan, she stated that it sounds like he and his clients want to see that plan. She noted they are going to get to that point because there are not a set of plans that they can all agree on tonight.

Chair Losik summarized documents received by the applicant to make sure that Attorney Hogan and his clients have received all paperwork. Regarding the items that were presented to the Board at this meeting, and the document that Mr. Weinrieb stood and read, Chair Losik pointed out it was a summary of the changes. She asked if he received the drainage information.

Attorney Hogan confirmed.

Chair Losik pointed out to Attorney Hogan that it is his responsibility to stay on top of getting all the information that comes in to the Town. She encouraged him to stay in communication with Planning Administrator Reed to get that information as soon as he can.

Frank Drake, South Road, stated this is a new three building, six-unit project. There is a lot less density covered but the units are bigger and there is some change in height. He commented that it might be helpful to see the new footprint.

Chair Losik agreed this is a great request.

Joanne Price, 19 Parkridge Ave, stated she is a long-time neighbor to 1215 Ocean Boulevard. (She submitted an aerial from DES showing the area called “Rye ROW Ocean Blvd”.) She pointed out that there has long been a second entrance and exit to the property. She continued that from the plans she looked at, it appears that one of the new leachfields has been placed exactly at that opening. She does not know that a driveway can technically go over a leachfield.

Chair Losik replied that they have been told it can.

Mrs. Price stated she would like to hone in again on the need for safety to have that second driveway. (She submitted photos of storm events in the last seven years.) She stated it is very good that they made some improvements but it hasn't been enough. In regards to the height, it would seem that these townhouses could be designed to be within the height limit, which was put in for a reason. The reason for the height was to keep the character of the area and to keep the views from the Wallis Road area and behind. (She read from the drainage computation summary on page 5; disclaimer.)

Chair Losik pointed out that disclaimers will be in every drainage summary.

Tammy Pelletier, 30 Ordiorne Drive, stated at the last meeting there was a question whether these were rentals or condos. It sounds like they are now being called condo townhouses.

Mr. Samonas stated the decision has not been made whether these are going to be rented or sold as condos. He continued the reduction down to six units allows both. He pointed out there will be no more transient nightly rentals going forward under this plan. Even a primary owner will not be renting them nightly.

Ms. Pelletier stated she has always been an advocate for the second driveway. Her concern is for pedestrians walking to that beach entrance. There is a lot of commotion at the intersection of Ocean Boulevard and Wallis Road. Another reason to have that access is so that the residents can turn right and go onto Ocean Boulevard.

Mr. Samonas spoke about the parking along Ocean Boulevard, near the entrance to the site.

Judy Scott, 1237 Ocean Boulevard, presented photos to the Board showing the kings tide from October 28th. She asked why there is not a raingarden plan in this proposal.

Mr. Weinrieb explained that all raingardens and permeable pavers are conveyance methods to get the surface water to the subgrade. On this site, the most appropriate method was the impermeable pavers. (He explained the methods of infiltration and treatment used by engineers in design of a site.)

Vice-Chair Lord stated he agrees with Mr. Weinrieb. There are a lot of tools available; however, some of them are not even practical in certain situations. Some sites use different tools. From what has been presented, this is probably the best one to use on the site. There is so much impervious there now and they are doing a lot of things they don't even have to do by State regs.

Ms. Scott expressed her concern about the pavers becoming clogged.

Mr. Drake spoke in regards to the Town having a seasonal speed limit on Ocean Boulevard.

There was discussion with the public about the process for submittals from the applicant and peer reviewers.

Steve Borne, 431 Wallis Road, spoke about having a dedicated webpage for making information available to the public.

Mr. Weinrieb stated the plans and original submission stand on its own. All that was provided at this meeting was additional clarification. The only thing that is new, of a technical sort, is the drainage memorandum. He pointed out the flows are being reduced. There is better treatment, so it is meeting the intent of that ordinance, when it comes to septic.

Mr. Samonas noted that a 56ft wide building has been deleted and 12ft has been added back in with 2ft per unit. There is a reduction of 44ft in width of building and a reduction of 2 units.

Chair Losik recommended the applicant have a summary sheet of the calculations prepared for the next meeting.

Attorney Donovan stated that from the presentation, he thought he heard these were going to be condos, but then it was said that it still wasn't decided. He asked if this was going to be decided before the Planning Board makes a decision. He noted this is important to structuring conditions of approval.

Member Quinn stated he has heard the term "second access" and also "second egress". He thinks it is important that the applicant leave the meeting understanding what he is designing. His only concern is that the residents have an alternative way, in the event of a crisis, to get off the property other than Wallis Road. He does not see any need to access the property from Ocean Boulevard. He is talking about an "egress". That is what he understands they are trying to promote, not people walking through the driveway of this property. This is private property.

Chair Losik agreed. She summarized next steps for the applicant;

- Design for a second egress;
- Need for quantification by floor and overall;
- Clarification on DES approval;
- Conditions will start but it needs to be known if it is condos or not;
- Stop sign on Wallis is on the property (discussion on a stop bar);
- Renderings of the proposal including street views.

After some discussion about submission deadlines for the next meeting, it was agreed by all that the deadline would be December 2nd for additional submittals.

Motion by Jerry Gittlein to continue the application. Seconded by JM Lord. All in favor.

- D. Major Subdivision and Condominium Development Plan by Harbor Street Limited Partnership for property located at 1244 Washington Road, Tax Map 10, Lot 82, for a 20-unit residential town houses which will comprise of 5 4-unit buildings. **Property is in the Single Residence District, Multi-Family Dwelling District, Aquifer and Wellhead Protection District and Rye Landfill Groundwater Management (RL-GMZ) District. Case #06a-2019.****
- E. Special Use Permits for the multi-family dwellings, per Section 307.3 and Section 402 and for the Aquifer Wellhead Protection District by Harbor Street Limited Partnership for property located at 1244 Washington Road, Tax Map 10, Lot 82, for a 20-unit residential town houses which will comprise of 5 4-unit buildings. **Property is in the Single Residence District, Multi-Family Dwelling District, Aquifer and Wellhead Protection District and Rye Landfill Groundwater Management (RL-GMZ) District. Case #06b-2019.****

Christian Smith, Beals and Associates, representing the applicant, spoke to the Board. He introduced the team; Landscape Architect Jen Martell, Architect Mike Keene, Developer Joe Falzone, and Attorney Greg Richard. He noted they have received sign-off from Sebago on the bond estimate, which was a request from Attorney Donovan. Sebago has also signed off on the inspection and maintenance plans for the stormwater facilities and stormwater analysis itself. Jen Martell was also tasked with revising the landscaping to improve the buffer on the eastern portion, as well as providing a higher growth buffer up near the intersection of Lafayette Road. He noted that Mike Keene has provided the full size architectural plans and renderings, along with two alternates.

Chair Losik suggested reviewing Attorney Donovan's memorandum of November 5th. She noted that visitor parking is a concern, as there is zero visitor parking. There was a lot of discussion at the last session about where people could park, such as the driveways and garages. She continued that she looked at the project for The Housing Partnership and they have five extra parking spaces in that development for visitors. It seems that to provide for zero is unwise. She pointed out that Member Durkin, at the last meeting, expressed that he would like clarification on parking. She asked if there is any place to provide parking.

Mr. Smith stated there is room for two, possibly three spaces, without any alterations between buildings 4 and 5. It would just require the leaching catch basin to be pushed back, which is not a problem because it is not connected to anything.

Chair Losik asked how the impervious versus pervious would be handled because the project is at 25.2%.

Mr. Smith replied that he could point those parking spaces directly at the leaching catch basin. The spaces could be gravel.

Chair Losik asked the Board their thoughts on additional parking in the location being discussed.

Member Quinn stated he would hate to lose the landscaping in that area, as it does a good job at softening the project.

Mr. Smith noted the landscaping would not be lost. It would just be pushed further out.

Alternate Finn commented there is a need to have extra spaces.

Member Durkin agreed more parking is needed. In regards to the location, he does not see a lot of other options.

Member Gittlein expressed his concern on the limited parking.

Alternate Sherman agreed the three additional spaces were needed.

Selectman Epperson stated the additional two to three extra spots is more than adequate.

Vice-Chair Lord asked what will be used for the surface.

Mr. Smith commented they could use gravel or crushed stone.

Selectman Epperson stated anything that is pervious, besides gravel, would be best. Gravel is just going to get compacted and torn up.

Vice-Chair Lord agreed.

Chair Losik agreed with something pervious with the most consistent base during the winter months. Referring to the septic plans, she noted that the configuration of the design of building 1 has been changed. There is now hydraulic loading for three two-bedroom units and one three-bedroom in what was really designed to be four three-bedrooms. There was a suggestion that this would be dealt with in terms of modifications in a legal agreement with stipulations that the closet is removed and it not be called a bedroom. She struggles with that.

Mr. Smith stated this has been the intent all along. The hope and original design was planned with sewer. The size of the lot can only sustain what it can sustain based on DES soil loading.

Chair Losik asked why there are not two different plans; one for a septic project and one for a sewer project.

Mr. Smith stated it was felt that the buildings did not need to change materially. If this goes septic, there will be one three-bedroom unit in each building and the remaining units will be two-bedrooms. Those

that had three-bedrooms that are changing to a two-bedroom, it is a simple matter of making a great room, as opposed to a bedroom which can be dealt with in the condominium documents.

Chair Losik stated she had asked about the units, at past meetings, and it was said that it would be the same. Now, she clearly understands that it can't be the same without some "jumping through hoops" from a legal perspective. She is reluctant about that because this is in the Aquifer and Wellhead Protection District.

Joe Falzone, Developer, stated this meets the definition for bedrooms, under the zoning, when the closet is taken out. There would also be a restriction in the deed.

Attorney Donovan stated he thinks it is a problem. There should be a different floor plan if septic is done. There should not be the possibility of the great room, very easily, being converted to a bedroom without the need for a building permit. He noted he did not understand that there was a different loading situation for septic versus sewer. The floor plans should be adjusted for the two-bedroom units. There should be two sets of floorplans.

Chair Losik stated she is not sure how they would proceed with the legal agreements. It does not seem to represent the intention of what's required. If this ends up with septic and never has sewer, it will always be a problem that this Board leaves for someone else.

Attorney Greg Richard, representing the applicant, stated that with respect to converting one room by removing a closet, the Board is presuming that everyone is going to use the room for which it is not authorized. That could be for any room within the unit. He continued there is an on-going negotiation for the sewer. If the sewer plan does not go forward, language has been proposed with a restriction that it would only be a two or three-bedroom. He understands the concern; however, having separate floor plans, for something that is a moving target on whether this is going to be sewer or septic, is an undertaking. They are proposing that it be built in to a condition of approval so the project can continue to move forward.

Member Gittlein stated it is a concern and the Board should weigh-in on this.

Alternate Sherman stated she understands how complicated it is with whether it be septic or sewer. Having two sets of plans is a great idea, if it is possible. It seems like a solution.

Selectman Epperson stated they cannot assume that people are going to do the illegal thing by putting in another bedroom. When they sign the deed restriction, it should be assumed that they abide by it. In regard to the sewer versus the septic, there is a legitimate shot of getting that done. However, if that effort fails, there could be a condition that the plan will have to come back to the Board to at them to be sure significant septic loading has been provided. He does not think there needs to be two sets of plans, as that would be redundant.

In regards to the Conditional Use Permit, Chair Losik stated that under 306, the Board will be asked to review the components of the requirements for that CUP. That is another consideration because of where the property is located.

Member Quinn stated he thinks the floor plans need to be designed, if this is going to go with septic.

Alternate Finn stated the current plans are fine for sewer. If it had to be septic, there would need to be another set of plans.

Member Durkin agreed.

Member Carter commented that he does not think it would be much work to redesign one of the units and cut and paste them in.

Vice-Chair Lord stated they have gone down a long road with the buildings to get them to where they want. If the sewer line goes in, they have the right to have the bedroom. If the sewer line does not go in, they have the right, by Rye's regulations, to make this a great room. That's the ordinance and nothing can be done about that. He thinks they could have them remove the wall, or whatever they need to do architecturally. It will solve the problem and will give an option for whichever way it goes.

Attorney Donovan stated one option is to make the "bonus room" so small that it would unlikely become a bedroom. He continued the better option is what Member Lord talked about.

Mr. Falzone stated the wall does not have to come out. The room will probably be an office or a den. The square footage would be the same.

Attorney Donovan explained if the wall comes out, if someone creates another bedroom and they did not get a permit, it is a more substantial violation than if the closet was just taken out.

Attorney Richard pointed out there is no prohibition on finishing a basement and there could be a closet in the basement, but that does not constitute a bedroom. There are opportunities to finish unfinished spaces in houses. He pointed out these are being built with a deed restriction that the owner is accepting that these will be used as two-bedroom units.

Chair Losik stated it is on the owner and subsequent owners, whether they go to the building department for the change or do it illegally. The Board has been following the same plan all along and it is either going to be septic or sewer. That is a really uncomfortable place. It is being built into the language of the deed, not the plan itself. The plans are going to be signed and put into the file. She wants them to be two-bedrooms, if they need to be two-bedrooms.

Mr. Falzone stated this issue came up with the bonus room on the garage level. Someone suggested a restriction that the room could not be sheetrocked. He commented that the room will be sheetrocked by some people. If he is asked to come back with another plan, he will come back with the same exact plan without a closet at the same square footage.

Attorney Donovan pointed out there is no definition of "bedroom" in the zoning ordinance.

Mr. Falzone reiterated that he will come back with a bonus room and no closet. He commented that he is not going to take a wall down because he does not have to.

Vice-Chair Lord commented it comes down to if this was always a bonus room and never showed a closet, would the plans have been approved? It meets all the codes. If it was always septic with a bonus room, would the Board have approved this footprint?

Alternate Finn commented he thinks they would have questioned the third room. Whether it would be approved or not, he does not know.

Member Carter stated the number of people that live in each unit cannot be controlled. However, he would rather have seen two-bedrooms with an office from the get-go.

Vice-Chair Lord stated if this were going to be septic, he would have a hard time approving the plans because it shows a closet. It really shows it as three-bedrooms.

Attorney Richard asked how the Board would feel about two sets of plans, showing the “bonus room”, with one set showing the closet and one with the closet being removed.

Attorney Donovan replied that the Board would prefer two different sets of plans. It comes down to whether the Board will accept just the closet being removed or the wall being removed.

Attorney Richard asked if the Board would approve the plan, as it is, with the closet being removed from that third bedroom and calling it a “bonus room”.

Chair Losik noted that a condition of approval would be no convergence of any space in the entire unit to a third bedroom. She called for a poll vote of the Board in regards to removing the closet or the wall:

- Jeffrey Quinn – closet; Jim Finn – closet; Tim Durkin – closet; Steve Carter – closet; JM Lord – closet; Bill Epperson – closet; Katy Sherman – closet; Jerry Gittlein – closet; Patricia Losik – closet (with no convergence language)

Mr. Falzone agreed to two sets of drawings; one for septic and one for sewer.

Mr. Smith asked for confirmation that nothing else about the building is going to materially change and it just be that floorplan.

Chair Losik confirmed.

Attorney Donovan noted there is a different set of floorplans for buildings 1, 2 and 5.

Mr. Smith agreed there would be two different floor plans; one for 1, 2 and 5 and one for 4 and 5.

Chair Losik asked if the patios are going to be allowed to be enclosed by screen or glass.

The applicant replied “no”.

In regards to Workforce Housing, Attorney Donovan asked what is being proposed for a mix if this is on septic.

There was discussion on how many units, and the number of bedrooms in each unit, would be considered for Workforce Housing.

Attorney Donovan explained the concept behind this whole zoning district was that nobody could build multi-family housing in Rye unless they do a Workforce Housing concept. The units that are Workforce

should reflect what is overall in the development. It seems to be reasonable to require the Workforce units to be provide in a ratio that is reasonably comparable to the market place. He suggested;

- 1 three-bedroom
- 1 two-bedroom (smaller unit)
- 2 two-bedroom with office

Alternate Sherman commented when she reads the ordinance it is 20% of each style of condo or home.

Member Gittlein agreed with Alternate Sherman. There is a cost to build this development and to provide the Workforce Housing. He does not think they can “skimp” just because there is a cost.

Alternate Finn agreed that what Alternate Sherman says makes sense.

Member Carter stated it makes sense that it should be proportional, even though the ordinance is silent on this. He commented that he is on the fence because the regular two bedrooms will go for less money than the two bedrooms with the bonus room for affordable housing. Therefore, there would be more affordable housing available for someone who can afford the two-bedroom but not the two-bedroom with bonus room.

Chair Losik asked the spread, percentage wise, between the two-bedroom with office and smaller two-bedroom.

Attorney Richard replied that the difference is about 600sf. The difference in cost would be about \$60,000 or more.

Chair Losik stated the argument could be made that the opportunity for Workforce units could be increased by making more two-bedrooms available.

Attorney Donovan clarified the applicant’s proposal for Workforce units with septic;

- 1 three-bedroom
- 2 two-bedroom (smaller units)
- 1 two-bedroom with office

Mr. Falzone confirmed.

Workforce units with sewer;

- 2 three-bedrooms
- 2 two-bedrooms

Referring to the height, Mr. Smith noted there are only two that are going to be at grade. The other buildings are cut into the slope in the back. This goes from average existing grade, as implemented by the Building Department.

Attorney Donovan clarified that the first two buildings are not going to have a problem. The drawings show there may be about a foot of fill. He asked if they can live with a condition of no height variances.

Mr. Smith confirmed.

Chair Losik noted there was discussion at the last meeting about a fence for the bus stop.

Mr. Smith spoke about Jen Martell's plan to use the stones from the current stonewall to "fence" off the bus stop area.

Michael Keene, Architect, spoke in regards to the alternate color scheme for the development. He noted their preference is to stay with the gray color palette. Two different grays and textures have been used to break up the massing of the buildings. The gray is subdued and will blend in better with the trees and environment. He also spoke about the alternate overhang for the first floor. The revised proposal is to eliminate the overhang over the garage doors and porches. The overhang is proposed to be just over the entrances. He commented this breaks up the massing and the buildings look smaller.

There was discussion about no-cut buffers.

Mr. Smith reviewed the proposed buffer on the plan.

Chair Losik opened to the public.

Mike Oakes, 1201 Washington Road, asked about the trees in the buffer.

Jen Martell, Landscape Architect, explained that quite a few trees along the edge of the property are going to be evergreens. (She pointed out the location of the evergreens and maple trees on the plan.) She also spoke on the size of the existing and proposed trees.

Mr. Oakes asked about the pricing for Workforce Housing.

Mr. Falzone explained that each year it changes and is set by the State.

Mr. Oakes asked if the Workforce Housing units could be flipped and sold at market value.

Attorney Donovan explained there is a very complicated covenant and lean that each owner signs, which spells out the process they have to go through when they resell the unit to be sure it is sold to another qualifying family at Workforce pricing.

Lisa Oakes, 1201 Washington Road, stated she would rather see evergreens on Washington Road, which would provide a better buffer. She asked who will be taking care of the trees.

Ms. Martell explained the Washington Road streetscape is meant to mirror what is happening on that street. The development across the street has maple trees and that is why they are being proposed. The evergreens are parallel to Washington Road.

Mrs. Oakes asked if there would be any monitoring to be sure residents do not clutter up their patios with junk.

Mr. Smith explained there will be details in the condo docs to be sure owners keep the outside of their units tidy from junk cars, boats, etc.

Mrs. Oakes commented she appreciates the different colors proposed; however, she does not like the gray. She does not think it will blend. She also thinks it is too much on this lot.

Attorney Donovan noted this proposal has come a long way from where it originally started.

Hearing no further comments, Chair Losik closed the public hearing at 11:06 p.m.

Attorney Donovan summarized his notes for the next meeting:

- Three visitor parking spaces between buildings 4 and 5 with a pervious surface;
- No conversion of any space for a third bedroom (condition);
- Two sets of floor plans as discussed;
- No enclosure of the patio areas (condition);
- Mix of Workforce units:
 - Septic:
 - 1 three-bedroom
 - 2 two-bedroom smaller units
 - 1 two-bedroom with office
 - Public Sewer:
 - 2 three-bedroom
 - 2 two-bedroom
- Traffic simulation will be up to DOT – free right-hand turn lane;
- Alternate overhang presented is preferred by the Board;
- Gray color is preferred by the Board;
- No-cut buffer proposal; and
- Check the inspection plan submitted and approved by Sebago for cutting frequency:
 - Bio-retention area mowed to maintain 4”;
 - Wildflowers no mowing; and
 - Rest of area to be mowed weekly

Motion by JM Lord to continue the application to the December meeting. Seconded by Steve Carter. All in favor.

- F. Minor Site Development Plan by Malcolm E. Smith for property owned and located on Lafayette Road, Tax Map 10, Lot 1, to temporarily store motor vehicles and related products including trailers and boats on a limited area of the premises. **Property is in the Commercial and Aquifer and Wellhead Protection District. Case #17-2019.**
 - *Taken out of posted agenda order. See above.*
- G. Major Site Development Plan by Altus Engineering for the Rannie Webster Foundation d/b/a Webster at Rye for property owned and located at 795 Washington Road, tax Map 11, Lots 52 & 6, for an expansion of the nursing and assisted living facility by 23 beds, and an expansion to the garage and activities room. **Property is in the Single Residence District and Aquifer Wellhead Protection District. Case #15-2019.**
 - *Taken out of posted agenda order. See above.*

- H. Conditional Use permit by Ryan & Lindsay Kaplan for 371 Washington Road, tax Map 16, Lot 119, for an Accessory Dwelling Unit per RZO Section 506. Property is in the Single Residence District. Case #19-2019.**

- *Taken out of posted agenda order. See above.*

VI. Proposed Zoning Amendments for Discussion:

- a. Vote to schedule public hearings on December 3, 2019 on adopting the chapters which make zoning ordinance, building code and floodplain development and building ordinance part of the new Town Code.

Attorney Donovan explained he has suggested for years, that the Town needs to have all town ordinances and codes consolidated into one code book that is well organized in one place. The Selectmen have put this into the budget and a company was hired to prepare a new Town Code. The information is well organized and includes corrections of outdated references and typos. The voters will need to vote on adopting the chapters of the new Town Code. The next step is to schedule a public hearing.

Motion by JM Lord to move to a public hearing on December 3, 2019. Seconded by Steve Carter. All in favor.

- b. Vote to schedule public hearings on December 3, 2019 on adopting Proposed Ordinance: Ordinance Establishing a Procedure for Conversion to Legal Apartments

Motion by Jeffrey Quinn to move to a public hearing on December 3, 2019. Seconded by JM Lord. All in favor.

- c. Vote to schedule public hearings on December 3, 2019 on adopting Proposed Ordinance: Z-Amend 2020-03: Coastal Overlay District change to Conditional Use Permit.

Attorney Donovan explained this is aimed at requiring a Special Use Permit for any new building or substantial renovation in the Coastal District. This will replace the avenue for people to apply for variances, similar to what was done with accessory dwelling units.

Motion by Jeffrey Quinn to move Proposed Zoning Amendment 2020-03 to a public hearing on December 3, 2019. Seconded by JM Lord. All in favor.

- d. Vote to schedule public hearings on December 3, 2019 on adopting Proposed Ordinance: Z-Amend 2020-04 Re: Unnecessary Hardship

Chair Losik noted there is a definition of “unnecessary hardship” in State law and that reference is being added. The specific areas being changed from “hardship” to “unnecessary hardship” are in 303.5E; 303.5H; 505.11 and 505.11A(4).

Motion by Jeffrey Quinn to move Proposed Zoning Amendment 2020-04 to a public hearing on December 3, 2019. Seconded by JM Lord. All in favor.

- e. Vote to schedule public hearings on December 3, 2019 on adopting Proposed Ordinance:
Z-Amend 2020-05 Re: Demolition Review Section 303 of the Historic District.

Chair Losik reviewed the proposed amendments brought to the Board by the Demolition Review Committee.

Motion by Jeffrey Quinn to move Proposed Zoning Amendment 2020-05 to a public hearing on December 3, 2019. Seconded by JM Lord. All in favor.

- f. Vote to schedule public hearings on December 3, 2019 on adopting Proposed Ordinance:
Z-Amend 2020-06 Section 702.3 require public hearing on ZBA applications 45 days.

Motion by Jeffrey Quinn to move Proposed Zoning Amendment 2020-06 to a public hearing on December 3, 2019. Seconded by JM Lord. All in favor.

- g. Vote to schedule public hearings on December 3, 2019 on adopting Proposed Zoning Ordinance:
Z-Amend 2020-07 Section 301.4B to amend the Wetlands and to add to the definitions.

Chair Losik noted this is a minor change which brings the new Best Management Practices from DES, which is effective December 2019.

Motion by Jeffrey Quinn to move Proposed Zoning Amendment 2020-07 to a public hearing on December 3, 2019. Seconded by JM Lord. All in favor.

- h. Vote to schedule public hearings on December 3, 2019 on adopting Proposed Ordinance:
Z-Amend 2020-08 Section 3030.5G Solar Collectors in the Historic District

Motion by Jeffrey Quinn to move Proposed Zoning Amendment 2020-08 to a public hearing on December 3, 2019. Seconded by JM Lord. All in favor.

- i. Vote to schedule public hearings on December 3, 2019 on adopting Proposed Ordinance:
Z-Amend 2020-09 regarding noise levels for small wind energy systems to be consistent with State statute.

Motion by Jeffrey Quinn to move Proposed Zoning Amendment 2020-09 to a public hearing on December 3, 2019. Seconded by JM Lord. All in favor.

- j. Vote to schedule public hearings on December 3, 2019 on adopting Proposed Ordinance:
Z-Amend 2020-10 - To adopt the new State definition of Wetland Scientist

Chair Losik made suggestions to Sections 301.3 and 301.7.

Motion by Jeffrey Quinn to move Proposed Zoning Amendment 2020-10 to a public hearing on December 3, 2019. Seconded by JM Lord. All in favor.

- k. Building Code Amendment: 2020-01 re: permits for temporary structures (only tents are addressed) Amends the Building Code to make it consistent with the State, removing the requirement for a temporary structure permit for a tent.

Motion by Jeffrey Quinn to move Proposed Building Code Amendment 2020-01 to a public hearing on December 3, 2019. Seconded by JM Lord. All in favor.

- l. Building Code Amendment: 2020-02 re: Updates the reference in the Building Code from the 2009 International Property Maintenance Code to the 2018 International Property Maintenance Code.

Motion by Jeffrey Quinn to bring Building Code Amendment 2020-02 to a public hearing on December 3, 2019. Seconded by JM Lord. All in favor.

VII. New Business

- a. Release Surety Request by Donald Cook for the subdivision plan for the Rye Farm/ street name Cedar Run.

Motion by JM Lord to release the surety for the Rye Farm/Cedar Run Subdivision. Seconded by Jeffrey Quinn. All in favor.

- b. 137 Lafayette Road: The Rug Store wants to sell CBD Oil in the shop the Planning Board has been asked to make a determination if this needs site review or exempt

After review of the submittals, the Board agreed a site walk should be scheduled.

- **Site Walk scheduled for Tuesday, December 3rd, 4:00 p.m.**

- c. Conceptual Consultation by Tuck Realty Corporation for 0 Lafayette Road, Tax Map 10, Lot 1 (Former Hector's site) for a 4-unit multi-family townhouse with mixed use commercial and retail.

Motion by JM Lord to continue the application of Tuck Realty to the December meeting. Seconded by Steve Carter. All in favor.

VIII. Old Business

- Vote to schedule public hearings on January 14, 2020 on adopting Land Development Regulations Final Draft discussion for public hearing and adoption for the December Planning Board meeting.

Motion by Tim Durkin to schedule public hearings on January 14, 2020 for the Land Development Regulations Final Draft. Seconded by JM Lord. All in favor.

IX. Communication

- Monday, November 18, 2019 at the RJH at 5pm: Workshop lead by UNH Amanda Stone and Lisa Wise

Adjournment

Motion by Bill Epperson to adjourn at 11:45 p.m. Seconded by JM Lord. All in favor.

***All corresponding documents and files may be viewed in the Building Department, Rye Town Hall**

Respectfully Submitted: Dyana F. Ledger