

# **Town of Bedford Planning Board Minutes January 22, 2024**

A meeting of the Bedford Planning Board was held on Monday, January 22, 2024, at the Bedford Meeting Room, 10 Meeting House Road, Bedford, NH. Present were Charlie Fairman (Chair), Hal Newberry (Vice Chair), Matt Sullivan (Member), Phil Greazzo (Town Council), Priscilla Malcolm (Member), John Nelson (Alternate), Chris Swiniarski (Alternate). Absent: Matt Nichols (Secretary), Steve Clough (Member), Logan Johnson (Alternate), Michael Strand (Town Council Alternate), Becky Hebert (Planning Director).

## **I. Call to Order and Roll Call**

Chair Charlie Fairman called the meeting to order at 7:00 p.m., introduced Board members and appointed Mr. John Nelson and Chris Swiniarski to vote in place of missing members this evening. Vice Chair Newberry reviewed the agenda and stated I have an email from the Planning Department from today stating that the new applications to be heard tonight have been reviewed by staff. It is their determination that the applications are complete. The abutters have been notified and it is the opinion of staff that none of the applications pose a regional impact. Staff would recommend that the Board accept the applications and the agenda as complete.

**MOTION by Ms. Malcolm to accept the agenda as read. Mr. Sullivan duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carries.**

## **II. Old Business & Continued Hearings: None**

## **III. New Business:**

- 1. Clark & Diane Gott, Brian K. Jr. & Mary Jo Smith and Lisa M. Lombardi (Owner & Applicant)** – Request for approval of a subdivision of one residential lot into three and approval of an associated lot line adjustment between properties at 138 North Amherst Road, 18 Westview Road and 15 Fairlane Drive, Lots 19-6-2, 19-5-19 & 19-5-18, Zoned R&A.

**Mr. Jim O'Neil of Hancock Associates presented the application:** Good evening. My name is Jim O'Neil from Hancock Associates. What we've got tonight is approximately a little over 10-acre parcel situated on North Amherst Road, Fairlane Drive and Westview Road. What we're proposing to do is to create two buildable lots on Westview Road. We're also looking to do an equal land swap with 18 Fairlane Drive. It's basically square footage for square footage. The abutting lot at Fairlane Drive will retain over, I believe it's 270 feet of road frontage, so there's no issue there, associated setbacks, so forth. We're also looking to transfer land and I believe it's about 3,700 square feet to Westview Drive, the Smiths, at the same time. So there's two lot line adjustments and one subdivision to create two new lots, happening at the same time, is what we're proposing.

And what I'm going to do is bring this down to the actual subdivision plan, if I can. There we go. So the purpose for the one on Westview, and I'm going to zoom in just a little bit so that everyone can see it. Basically this is a 3,700 square foot transfer for two reasons. 1.) during the original subdivision, which was a planned—let me see if I have the data—1978 when they originally subdivided this lot, there was an error in the plan and the deed transfer. A parcel did get transferred to 18 Westview back in that day, but part of it was already part of Westview. Let me say it that way, that lot. So, what we're doing is transferring an additional 3,700 square feet which 1.) will resolve any overlaps of use onto the current Gott property. It'll be monumented, cleaned up, put on record so it'll be finalized. It does just a net increase to that lot, so there's no zoning issues there.

And then we can go to the transfer on Fairlane. Basically Fairlane Drive, 15, when it was cut out from a previous subdivision of the remainder of Fairlane Drive and Westview, that's a big loop road, there was a transfer requested as part of the plan. It was called Parcel D in that subdivision, but it never transferred from abutter to this, the subject property. So that's a moot point, but what we're doing is, because of the way that lot on Fairlane Drive is situated, it has a very large triangular peak that goes up along Fairlane. And what we're really trying to do is square off the lots. So it's an equal transfer. The Lombardi's would get the Parcel B as labeled, which would square off their lot substantially, give them some more room between the existing house and the property line, and then parcel A, the triangle on Fairlane would go into the subject property that we're working on in order to square that off as well. So that's the two adjustments. I'm not sure if you want to kind of handle those first or talk about those first or if you want to get into the subdivision.

Chair Fairman said it looks like the staff report has it all in as one motion.

Mr. O'Neil replied I can keep going. I just didn't know if they were questions.

Chair Fairman said so why don't you talk a little bit about the subdivision, and then we'll get into the waiver.

Mr. O'Neil replied absolutely. So what we're looking at is two lots. Basically, starting on the northwesterly corner of the property, which is down at the lower—if you've been on Westview, it's the lower end before you get up the hill. We're creating two lots. One is 1.8 acres, the other one is 1.65. They've both gone through soil calculations. We've done the zoning checks. We've done our building footprint. We've done our wells. Wetlands have been delineated, topography on the lot. Driveways have been proposed with utilities. We've done sight distance profiles and have had that all gone through review. Basically, we're creating those two lots. Mr. Gott is going to retain the remainder, which is approximately little over 7 acres, which does not include the 13,000 square feet out front. That would get added into the 7.3 acres. And he basically wants to retain use of the property. He doesn't want to do any more than the two lots. Pretty straightforward as far as the subdivision. They both have minimum Town required frontage, lot area, buildable area. They've gone through stormwater permitting. I'm not sure if there are other questions relative to the subdivision.

Chair Fairman said well, let's go around the Board and find out. Are there any questions from the Board on the subdivision?

Vice Chair Newberry said Mr. Chairman, on Lot 4, that looks awful tight with the grades there. Are you going to actually be able to manage not encroaching there and develop it? Mr. O'Neil answered they'll be able to make it work. We've had our engineers look at it and they said it's not a problem. Obviously that will be at the point of development but they said there's no issues with it. It seems smaller than it is, but there's, I forget the exact frontage on it, but I believe it's just over 150 feet and then it slightly widens as it goes back. And again any of the items shown on here are for general layout. Those can adjust during design. So they said they've got plenty of options. It's really not as steep as it looks when you get out there. It seems steep, but it's not. They've told me that there's plenty of room for what they need to do out there to be able to build something. Chair Newberry said thank you.

Chair Fairman said all right, I'll ask the Planning Board also, are there any questions on the lot line adjustments? [There were none]. Chair Fairman continued why don't you go over the waivers, then.

Mr. O'Neil replied OK, I did speak with Becky, and we did talk about actually removing the first three waivers. So those are being...

Mr. Nelson asked first two or first three? Mr. O'Neil replied the first one, Fire Protection. That's all set. Second, stormwater management. We've submitted all that. No, I'm sorry. Just the first two. So the 3rd and 4th would remain. The drainage memo to demonstrate compliance of the subdivision requirements, and then requesting a waiver requiring showing the entirety of the two parcels that are having the lot line adjustment. Ms. Malcolm said we don't have a fourth waiver here. We only have three waivers. You are withdrawing the first two, is that correct? Mr. O'Neil replied OK, no, this is the last one that I submitted to Becky, first of the year. So I submitted her an updated one, and I apologize for that. Let me go back to the... So it's just the first two. Ms. Malcolm clarified that you're withdrawing. Mr. O'Neil replied yes, that we are withdrawing. Section 236, development outside the public water supply. Section 235 to not provide a stormwater plan, and we are still requesting Section 218.1.5 to not survey the entirety of the abutting lots as they're shown on our reference plan and we're either equally swapping and/or increasing their areas. My apologies. Thank you.

Vice Chair Newberry said Mr. Chairman, I have a question on 236. Is that documented that the Fire Department has reviewed it and has cleared you? Mr. O'Neil replied we have submitted it to Planning and it has gone through the process with Public Works and Engineering that what I've been told by my engineers is that it's been submitted. They've gone back and forth on it, and they've approved it. I don't have that in writing with me, but that can be a condition of approval. And I say that meaning it's all been submitted and what I understand, it's been approved. I just don't have anything in writing with me.

Vice Chair Newberry said yeah, that's fine. I just want to make sure that it was documented. Mr. O'Neil replied, absolutely.

Chair Fairman asked are there any other questions from the Board on the waivers or any part of this? Does anybody in the public have any questions or comments on either the subdivision or the

lot line adjustments? [There were no questions or comments]. Seeing none, the Chair will entertain a motion on the waiver, one waiver.

**MOTION: Mr. Sullivan moves that the Planning Board grant the waiver from Section 218.1.5, to not survey the entirety of the Lots 19-5-19 and 19-5-18, and to use reference plan #3908 recorded at the Hillsborough County Registry of Deeds for the boundary information and lot area for this application. Ms. Malcolm duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.**

**MOTION: Mr. Sullivan moves that the Planning Board grant approval of the proposed subdivision to create two residential lots and a third lot for the existing house at 138 North Amherst Road (Lot 19-6-2), together with two associated lot line adjustments between Lot 19-5-18 (15 Fairlane Drive) and Lot 19-5-19 (18 Westview Road), as shown on plans by Hancock Associates last revised December 14, 2023, in accordance with the following findings of fact:**

1. The plans are found to be in compliance with the purpose and intent of the Bedford Land Development Control Regulations;
2. The Board also includes all facts found in the meeting minutes for this application and incorporates all meeting minutes into this decision.

This approval is granted with the following conditions to be fulfilled within one year and prior to plan signature:

1. In the event that the Planning Board approves the waivers, the plan shall be updated to list all waivers granted.
2. A letter shall be submitted to the Planning Department by a Licensed Land Surveyor, certifying that all boundary monumentation has been set as noted on the approved plan, or in lieu of a letter, the final subdivision plan to be recorded may be submitted noting that the bounds have been set.
3. The Planning Director and the Department of Public Works Director shall determine that the applicant has addressed all technical review comments to the Town's satisfaction.
4. All outstanding engineering review fees shall be paid to the Planning Department.
5. All recording fees shall be submitted to the Planning Department at the time of recording.
6. The applicant shall obtain approval for a Stormwater and Land Disturbance Management Permit from the Department of Public Works.

7. The owner shall remove the existing bush at the corner of lot 19-6-2 to improve sight distance on North Amherst Road.
8. The existing iron pin along the easterly corner of parcel B shall be removed.
9. All property owners shall sign the final plan.
10. Prior to the issuance of a certificate of occupancy for homes on Lots 19-6-3 and 19-6-4, School and Recreation Impact Fees shall be paid. Note #8 on the Subdivision Plan shall be corrected to reference Lots 19-6-3 and 19-6-4.

**DISCUSSION:** Vice Chair Newberry asked would you entertain a friendly amendment to add condition 11, the approval by the Fire Department be documented to the Planning Staff? Mr. Sullivan replied I would accept that amendment. Ms. Malcolm duly seconded the amendment.

**MOTION AMENDED TO ADD the following condition:**

11. The documented approval by the Fire Department shall be provided to the Planning Staff.

**Ms. Malcolm duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carried.**

Chair Fairman said you're all set. Thank you. Mr. O'Neil replied thank you very much.

2. **Bentley Commons Bedford, LLC (Owner) & Property Possible, Inc. (Applicant)** – Request for Site Plan approval to change the use of an existing 85 unit assisted living facility to a multifamily apartment building with 85 units, including 25% of the units designated as workforce housing, with associated parking & site improvements, located at 66 Hawthorne Drive, Lot 24-1-3, Zoned PZ.

**Mr. Jonathan Devine of TFMoran presented the application:** Good evening, Mr. Chairman, Members of the Board. My name is Jonathan Devine and I'm a civil engineer at TFMoran's office here in Town. Tonight, I have the pleasure of being joined in presenting by attorney Pat Panciocco, a real estate attorney representing the applicant. Fred Matuszewski, the architect and original builder of this building that we are going to be talking about tonight, as well as Robert Duval, president of TFMoran and head of the Traffic Engineering Department and Property Possible represented by the president and owner Matthew Lefavor.

A little bit of background: We came to you with this project in September at the September 11th hearing where we had a conceptual discussion regarding the change of use from an 85 unit assisted living facility to an 85-unit workforce residential development. We thought that conversation was rather productive and have since filed a formal site plan application regarding the change of use

plan. Earlier this month, we had the opportunity to invite Bedford code officials to come to a site walk where Michael, myself, and some of the team members were able to walk them through the building, show them some of the code aspects, show them layout. Additionally, this month we were able to invite some of you to have a site walk where we walked through the building, also around to the back of the property and took a look at some of the site features with, again, some productive conversations.

The project location is 66 Hawthorne Drive, a closed loop street off of Route 3. The project property abuts the Merrimack River and is Tax Map 24, Lot 1-3. I'm going to quickly transition over to the existing conditions plan, and I would also like to invite Michael to introduce himself and introduce a little bit of the project program to give you guys a little bit of background of what's being proposed.

**Mr. Michael Lefavor, President and Owner of Property Possible presents:** Excellent. Well, I'm Michael Lefavor. Good to see all of you again, those that were able to attend the meeting a week or so ago. I'm a resident of Merrimack, NH located at 99 Severance Bridge Road and the President of Property Possible. I'm also accompanied by Chris Cormier. He is a partner in this project as well, and Matthew Lavery, who should be here shortly, handles all the management and oversees the operations of our company.

So Property Possible is a New Hampshire registered company who solely focuses on residential multifamily and property management services. We currently own and operate similar buildings to the one proposed here tonight, primarily focusing in the Southern New Hampshire area. Our expertise, managing properties like this with parking restrictions. Some of them even have lower parking ratios than what we're proposing here today. We're able to kind of overcome hurdles like that by putting in place effective management and establish protocol for all of the residents to adhere to, and we're able to really hammer down and control any type of parking infractions, violations. And a big way of us accomplishing that is by having a dedicated team of on-site management, maintenance crew and also vrending out to third party tow companies that do routine monitoring of all of our locations, including the city locations as well if they're parked in wrong spots. So tenants learn very quickly kind of the policy in play on some of our other properties. A big thing with our management company is where we're committed to clean, well-maintained housing. We hold a high standard for our crew and our managers, and we like to give an environment that, again, is suitable for living, and we expect to continue that tradition here in Bedford.

We're very excited about this project. We think it's a fantastic opportunity to add some new units to the Town of Bedford. As you know, all of New Hampshire needs a significant amount of new housing. We think it's a great location, close to the highways, shopping, Bedford's Performance Zone and corridor, and it abuts the Heritage Rail Trail, which is just a really great amenity for that location. As many of you guys saw during the walk through, we do plan on keeping the existing layout, which is comprised of 85 units: that is 14 Studios, 56 one-bedrooms and 15 two-bedrooms. We do plan on doing full, interior, cosmetic updates. That would include new cabinets, quartz countertops, stainless steel appliances with dishwashers and garbage disposals, new flooring, upgrades to the bathrooms, and fresh paint throughout the building. We also plan on enhancing the amenity package for the residents. And we have a wide variety of amenities we plan on adding

such as a fitness center, cardio room, a pet washing station, a media room, a zoom meeting or mobile conference rooms, a common area lounge with pool tables, shuffle boards, a full library, which was already there in the building that we plan on keeping. Amazon package centers, storage units for the residents, bike storage and on-site management facilities, including a full-time maintenance technician as well.

We are proposing that 25 percent of these units will be workforce housing to align with the spirit of the Performance Zone. And these units will be renovated in the exact same fashion as the market rate units. We're not cutting any corners or trying to save cost on those affordable units. And that gives us kind of the highlight of our excitement and what our plan for the project was. I'll pass it back to Jonathan for him to continue the presentation. And I'm here for any questions if you do have them. Thank you.

Mr. Devine said thanks, Michael. I'm just going to get into a few site details regarding the parcel and then work our way through the design. The parcel itself is roughly 6 acres. There's one curb cut along Hawthorne Drive that provides access for the entirety of the site. A few notable features are some wetlands that run along the northern property line. Some wetlands that actually bisect the property line here, that were previously permitted when this building was built or when this building was permitted in project—permitted and built back in 2006 through 2008. There are a number of easements that run through the site. Along this drainage brook here is a drainage easement that runs 30 feet into our property from the center line of the brook as well as a no-touch, no-disturb easement that runs 50 feet from the property line into our site. We are impacting neither of these easements.

Additionally, there's a sewer easement granted from this parcel to the Town of Bedford that enters the site here, comes down and leaves the site here. Additionally, we have a 100-foot wide Eversource easement that runs along the Merrimack River here, and you can see the Bedford Heritage Trail also bisects our site and runs sort of congruent with the Eversource easement. Additionally, because we are along the Merrimack River, the New Hampshire Department of Environmental Services Shoreland Protection Zone is in our parcel, and it extends 250 feet from the ordinary high watermark into the site. It's this dark line that runs right along here and right along the curbing. I'm going to switch over to the proposed site layout plan and show you what we're proposing.

So, in order to accommodate the change of use site plan, we are enhancing the parking as well as some of the utilities on site. The existing parking is 67 spaces, and the proposed parking will be 118. We are doing this by adding 55 parking spaces along the frontage here, rearranging some of the parking here, as well as adding a little bit of parking in the back. We are additionally adding a carport to double the amount of covered parking that is currently on site. Residents will have a place to park in the front and in the back. We're additionally proposing to add a school bus stop in the front for any future tenants who have children, so the bus can just run along Hawthorne Drive, stop, and kids can wait and hop off or hop on the bus here.

In order to account for some of this additional impervious area, the existing drainage infrastructure, the catch basins and pipe networks are still adequate for the increased impervious area. The only item that has to change is we are enlarging the existing drainage basin. This is to attenuate and

detain the increased flow as well as treat it before it gets discharged to a head wall down here where it currently services. We are not increasing any rates of runoff on site and are maintaining the current rates. The other utilities that we are changing on site is, due to the rearrangement of parking, we're going to be adding some site lighting. This is to provide adequate lighting for the entirety of the parking lot at night. We are also moving a transformer right here to add parking here. And that's just going to be running new conduit around the parking area to the transformer and then back into the building. So nothing major, but we will have to coordinate that with Eversource.

We are going to improve the debris facilities. So, we're going to add recycling totes where there are currently none as well as reestablish the landscape buffer around the refuse area. We are also going to do a full revamp of the landscaping at these sites. So, we're going to increase landscaping along the pavement strips here, redo some of the plantings in this island, as well as replant these new islands. And then we're also going to look at this front area, too. This is one of the areas where we are requesting a waiver. So this front area runs along Hawthorne Drive, and we are requesting a waiver to—I can reference the exact waiver. This is going to be Waiver #4 that I'm talking about right now from the staff memo. So this is to reduce the front landscape strip from a required 30 feet to a proposed 13 feet. This is because, well, we need this space to increase the parking for the site. We are not asking for a waiver from the number of plantings. That we are providing the required number of plantings. They're just in a different orientation than what the ordinance proposes they be in, as well as whereas 30 feet is required in a staggered orientation, we're just squeezing those plantings in—same number of plantings, down to 13 feet. This will provide adequate buffer from Hawthorne Drive to the site.

Additionally, this parking area is roughly 1 to 2 ½ feet lower than the road grade along Hawthorne Drive here. So, when cars are parked, their headlights will hit sort of a landscape berm, an earthen berm, so no light is going to shed out into Hawthorne Drive. We believe that this provided landscaping meets the intent of the ordinance and ask for that waiver to be considered. Additionally, I would like to invite Bob Duval to come up and speak to some of the traffic impacts that this project has, although minimal. I just want to at least give them a little touch so everybody's on the same page.

**Mr. Bob Duval of TFMoran, Bedford presents:** Good evening members of the Board. Bob Duval from TFMoran. So, the original facility was an assisted living facility, and when the owners of that facility decided they could no longer maintain it as an assisted living facility, they put it up for sale and Property Possible is buying that property and converting it to multifamily apartments.

So, from a traffic perspective, the existing facility, which was 99 beds of assisted living, generated 18 morning peak hour trips, 24 evening peak hour trips and 26 Saturday peak hour trips. The multifamily housing is slightly higher generator with roughly 50 trips on an a.m., 57 on a p.m. and 35 on a Saturday. The difference in trip generation is 31 trips a.m., 33 trips p.m. and nine trips on a Saturday. So considering the roadway network, South River Road and Hawthorne Drive, these are relatively modest increases—about one trip every two minutes. There's something like 12,000 vehicles per day on River Road, and Hawthorne is a two-lane road with certainly adequate capacity for that additional modest increase in traffic. So, we see this as having no significant impacts on either intersection, the signalized intersection or the stop sign intersection or Hawthorne, or South



River itself. And a little earlier this month we got a memo from Robin Barbosa, the Town's Traffic Reviewer, who in her words, 'we concur with the conclusion of the memorandum that traffic increases are modest and will not substantially impact traffic operations on the roadway network.' So I'd be happy to answer your questions about that.

Chair Fairman asked are there any questions on the traffic?

Vice Chair Newberry asked can you just review the volume going out the south end and the signalized north end to Hawthorne? Mr. Duval replied we didn't do a full traffic study with a full distribution of traffic, but I'd be happy to just apply some commonsense perspectives to that and based on the traffic on South River Road, which is somewhat directional, I believe it's in the 60/40 range a.m./p.m. going with commuter traffic. At the most you would expect 18 trips in the predominant direction, and 12 trips in the other direction. So you're talking about one trip every 5 minutes or less, in any given direction. So, that splits that one for 2 minutes, essentially in half at the two intersections. And, again, the northern intersections or the robust intersection is ten lanes and 10 approach lanes, between all the approaches is 2 travel lanes in each direction, plus turn lanes with turn lanes on Hawthorne, too, so the signal can easily handle that without any perceptible impact. And the south stop sign would be primarily for southbound traffic. There'd be no reason for northbound traffic to go down there and, again, you're talking about one trip every 5 minutes maybe.

Vice Chair Newberry asked so, the southbound number would roughly look like... Mr. Duval replied the southbound number would be approximately half. It would be 60 percent in the p.m. and 40 percent in the a.m. Vice Chair Newberry asked 10-12? Something in that range? Mr. Duval replied of additional traffic, yes.

Vice Chair Newberry said I'm just trying to get a sense of how the flow is anticipated. Thank you.

Chair Fairman asked are there any other questions on traffic?

Vice Chair Newberry replied I have a question on parking, Mr. Chairman.

Chairman Fairman replied parking, we have questions, yes, but go ahead... parking question. Vice Chair Newberry asked do you want to go with that, now? OK.

Chair Fairman replied Do you want to talk about parking, or do you want to wait?

Mr. Devine replied so I just wanted to get the traffic out of the way and then move into the staff report where we can address the waivers and the concerns laid out in the report. So to touch on parking, I'm going to move back to the site layout plan. So just to reiterate, we are going from 67 spaces to 118 spaces. That's an addition of 55 spaces in the orientation that I went over previously. The parking demand for a building like this comes from the Site Plan Regulations or the Land Development Control Regulations that state that you need two parking spaces per unit for multi-family residential.

The zoning ordinance says that for our type of proposal, workforce housing, at least half of the units must be two-bedroom units. That means that for a building with 12 units, you need 24 parking spaces. But there are at minimum 18 beds in that building, which that works out to a parking ratio of one bed per 1.33 parking spaces. We are proposing a ratio of 1 bed to 1.18 parking spaces. This is completely within the rationale of the Zoning Ordinance, as well as the Site Plan Regulations. However, we do need a waiver because we do not meet the two spaces per unit. But if you look at the same number of parking spaces per bed, we are well within the rationale of what's outlined in both the Land Development Control Regulations and the Zoning Ordinance.

Additionally, to mitigate this, Property Possible is implementing a lot of language and control and the way they're going to manage their parking, which is outlined in their lease agreement which we have shared a copy of with staff. So I just wanted to touch on that. If there are any questions regarding parking, I'd be happy to address them.

Mr. Swiniarski said I've just one question on parking since we're on it. Have you had a chance to see the staff report and see the suggested conditions in the staff report? Mr. Devine replied yes. Mr. Swiniarski continued because I think one of those was to provide an off-site solution for visitors. Is there anything in place, contemplated or what do we know about that?

**Atty. Patricia Panciocco presents:** Good evening members of the Board. My name is Patricia Panciocco and I'm here on behalf of Property Possible with Jonathan. I did a lot of work on the parking, and I have a formal waiver request for that. But yes, to answer your question, we did see all the conditions that Becky had put into the memorandum, and we don't have an issue with either one. In fact, my client kind of scrambled. We kind of got the staff report just this morning. My client has identified two off-site locations: U-Haul and I guess The Vault. It's just over the Merrimack line, where you can park vehicles off site. So he has located at least two, and Becky asked us to put together a formal parking, I think, management program, which we're prepared to do. It would just build on the lease that we already submitted.

To talk about the lease just a little bit more, since I put it together. It calls for each unit to include a parking space with every unit. That would leave, I believe, 24 units available as extra units. If somebody has a need, they can speak to the landlord about that. And then there would be 10 spaces put aside for guest parking. So they've taken a great deal of time to think through how the parking would be managed. In the lease, it calls for you to have a sticker on your windshield and your parking space, will have a number. If you park on the street or you park in someone else's space, it says right in the lease that you will be towed, and any costs become additional rent. There will be on-site management. They will monitor that. And the fact that the spaces are going to be numbered and match the decal on the individual's vehicle, it should be a fairly simple process to keep control over. So we've agreed to all of those restrictions. The only concern we had with the list of conditions was that a tenant enter into some type of agreement with the Town. Because tenants turn over quite a bit, we think that might be a little burdensome for everybody, including the Town, and tracking all that. The owners of the property are more than willing to stay responsible and the go to people to make sure all the parking restrictions are honored and enforced strictly. So hopefully that will help.

They've done this before. One of the members of Property Possible has actually managed parking in one of the other multi families on Hawthorne Drive. So it's not unfamiliar to them, and they have other properties and other municipalities that they also manage parking.

Mr. Swiniarski said I think the concern was guest parking. I agreed with what you presented about the idea of per bedroom, because that makes sense for residents. And so, Pat, if I hear you correctly, there's going to be 10 additional guest parking spaces?

Atty. Panciocco replied yes, that is exactly the case. And then, as I said, there are other spaces that the landlord will maintain control over. And if a tenant has a special circumstance or wants to reserve an additional parking space on site, they have to go through the landlord and that also will be strictly controlled by the lease. But the 10 will remain available, yes.

Mr. Swiniarski replied right, OK so there isn't really a plan in place for off-site. Two potential sites have been identified, and I understand if you only saw this today. I get it, but I just want to be clear. That's the situation right now.

Atty. Panciocco replied but I could add to that a little bit, Mr. Swinarski, correct? My client has spoken with some of the neighbors, and apparently there's a site that may be developable as a parking lot, but it's kind of just in the talking stage. There's also a property next door that's in the process of transferring to another entity, and we didn't want to upset the apple cart on that particular transfer, but I've got arrangements in place to speak to the new owner once that closing does take place to see if there is parking available there.

Ms. Malcolm said you mentioned two off-site possibilities for parking. One was U-Haul. What was the other one? I missed that.

Atty. Panciocco answered as I understand it, the name is The Vault, and it's just over the line going towards Merrimack on South River Road. So, it's not that far away at all.

Mr. Swiniarski asked and then what would there be like a shuttle? You can't walk from The Vault to this.

Atty. Panciocco replied true. True. Well, they're going to know upfront they get one parking space and to plan ahead for however it would be coordinated.

Mr. Swiniarski said I mean, I think the concern is that people will end up having guests park on Hawthorne, and that's the concern and that's a problem. And then the Town would be in a position to have to enforce that which I don't know that we have a lot of parking enforcement in Bedford at the moment. So, I understand the concern.

Atty. Panciocco replied we've agreed to keep an eye on that, and we also agreed to put no parking signs along the frontage of the property along Hawthorne. I believe that's the limit to where we can go is our own frontage, yes. Mr. Swiniarski said understood.

Chair Fairman asked what about employees? How many employees are you going to have and where do they park?

Atty. Panciocco replied, as I understand it, there'll be two people during the day that will be coming and going from the property. Is that correct, Michael? Yes. So there are two people that will come in. They'll monitor the parking, of course, and they'll be doing maintenance tasks.

Chair Fairman asked where would they be parking?

Atty. Panciocco answered they will probably be using one of the guest spaces during the day when guests are not likely to be there.

Chair Fairman said so you're telling us of these 118 spaces, 10 of them are guests, employee, guests, whatever, right?

Atty. Panciocco replied yes.

Chair Fairman continued so that brings you down to 108 spaces for the residents.

Atty. Panciocco replied well, there's 85 units and each one would have one space dedicated to them. And the delta in between will be in control of the landlord as to who gets to use them.

Chair Fairman said I certainly think that we need to see a good written management plan. Atty. Panciocco replied we're happy to submit that. Chair Fairman continued this is very difficult to perceive how it's going to work. Atty. Panciocco replied understood. Understood.

Chair Fairman asked are there any other questions from the Board?

Ms. Malcolm asked, have you ever considered looking at it from a different viewpoint? I admit that you have a parking issue there, and I do want to thank you by the way, for the walkthrough that you provided for us. That was very helpful. But instead of, because I don't see where you're going to get more parking spaces there, other than what you have indicated to us. What would happen if you reduced the number of units in the building? You have several studio apartments. Could you make those into one? Could you combine two studios into one apartment? Could you combine one of the studios with a single bedroom apartment, not increasing the number of bedrooms, which is not going to help with the parking issue. But could you make, perhaps, the number of apartments fewer?

Atty. Panciocco replied I think what I would need to do to not step out of bounds here is to have our architect address that question, if you don't mind. Do you mind if he comes up? Ms. Malcolm replied please do.

Mr. Sullivan said actually I have some parking questions before we get into that. There were a couple of things that you mentioned that I just want to make sure that we're all using the same vocabulary, because you were talking about units and then spaces and then said 24 units of parking. So when you say 24 units of parking, do you mean 24 spaces in addition to the 85? And I'm just

not sure how that math works. Because if you have 85 units, 118 spaces, 10 are designated as parking and that only leaves 23. So I just want to make sure that we're all doing the same math together.

Atty. Panciocco answered OK, so I have 118. I take away the 85, one per unit. I have 33 left. Mr. Sullivan said and then you take away the 10 for the guests. That would be 23. Atty. Panciocco said correct. Yeah, so 23, not 24. You're correct, yes. Mr. Sullivan said all right. So there's one less spot than we had talked about, OK. Atty. Panciocco said yes, sorry about that.

Mr. Sullivan said I just want to make sure that we're talking units, spaces and numbers all correctly. Thank you.

Vice Chair Newberry asked can you indicate where you anticipate the guest spaces to be?

Atty. Panciocco replied I'm not sure exactly. Do you know, John?

Mr. Devine said the plan right now is to have them closest to the door, along with the handicap spots or with the ADA spots in the front here. So the residents will have their numbered spaces in the other locations.

Atty. Panciocco asked OK, so should I have Mr. Matuszewski come up or do you want me to read through the parking waiver with you? It's up to the Board, Mr. Chairman.

Ms. Malcolm asked does anybody else care about having fewer units? Atty. Panciocco said I can have him come up and we can come back to this.

Vice Chair Newberry said we might as well know the answer to that before we talk about the waiver.

**Mr. Fred Matuszewski, Architect, presents:** Good evening, Mr. Chair, Members of the Board. My name is Fred Matuszewski. I'm an architect. I am registered throughout northern New England, New York, Maryland. I've been practicing in New Hampshire since 1973 and I was involved in the design but not the construction. We did perform construction administration of the facility in 2006 and '08. I have served on the Governor's Commission on Disability, the New Hampshire Building Code Review Board for six years until I termed off. In 2021, I served as a Community volunteer on the master plan for the Town of Bedford. So, the building was designed in conformance with the 2000 edition of the present codes. We have generated through a number of revisions to that code, but the codes have remained consistent. What is interesting is that a facility designed for assisted living and apartments have a designated use of R2. So the codes are transferable, if you will, from one use to the other. However, this building was designed with a wood panel system. The spans are short, and it'll be very difficult to make any changes to the unit designs, if you will. The units are presently designed and fully compliant with the code as one-hour cells—that is floor, ceiling, quarter assemblies. To make any changes of combining units is going to add substantial expense to the renovation and the future use of this building.

This building was designed specifically as an assisted living facility as a series of apartments. And going forward, lends itself to the future use as apartments. Parking is a problem, I understand that, but changing the building would be very difficult.

Chair Fairman said thank you. Any questions?

Ms. Malcolm said this has nothing to do with parking. Are any of the units designed specifically for handicapped access?

Mr. Matuszewski replied yes, one unit on each floor is accessible, yes. So we have 4 units.

Mr. Sullivan said, and I assume that because of its previous usage is that all hallways and doorways are compliant with what would be considered accessibility in terms of, what is it typically—36 inches for doorways? Things like that? Mr. Matuszewski answered exactly.

Chair Fairman said we'll see where the Board goes, but I would look forward to seeing the parking management plan at some time. I think it's a critical item because this is so, as I said before, difficult to see how you're going to have this many apartments with only one car. Typically you've got two people living in an apartment. They're both going to work or one's going to work, one's going to the schools or shopping. They're both going to have a car. Even the one-bedroom apartment. Even the studio may have two adults living in it. In those cases, you've got two cars. So, it's hard for me to comprehend how this is all going to work, but I'll look forward to seeing a good plan.

Mr. Devine said I would like to add that it's explicitly written within the lease agreement. So, whoever signs into the agreement is well aware of that prior to agreeing to live there, such that it's not going to come up. Two people aren't going to show up one day and expect to park in the lot.

Chair Fairman said I'd like to see it in writing. Mr. Sullivan said lease agreements can change. Mr. Devine said but we were asked to provide it to staff as part of the technical review for the project, so it has been issued and reviewed. And changing that would be a bad faith effort on the part of the applicant, which I know they're not trying to do.

Chair Fairman asked is there anything else we want to talk about?

Mr. Swiniarski said I think we should discuss the waiver request. I'm sorry, not the waiver. I meant the impact fee waivers. I think that's a big issue as well. That and parking seem to me to be the two challenges here. I know I was a little bit reserved on this project when we first saw the conceptual. But after the site walk, I actually think it is a good project. But I think the impact fee waiver request and the parking is going to be a challenge. I don't know what are other people's thoughts about the impact fees.

Chairman Fairman said I suggest that we go through each waiver and make sure as the ones that are contentious come up, we'll talk about those in more detail, perhaps. But let's go through each waiver and have you talk about them.

Mr. Devine said I'm going to go a little bit out of order. I already touched on the landscaping one, but I'm just going to continue that conversation. So we're just asking a waiver from Zoning Ordinance Article 257, Section 53. This is to reduce the required front landscape strip as well as the exterior pavement strip which dimensionally combine to 30 feet off of the right-of-way of Hawthorne Drive into the site. This is 1.) We are not providing it because that is where we are proposing additional parking and my other notion, I'd like to point out is that the landscaping we are providing is numerically in adherence with the code. So, we are supplying the appropriate number of plantings. It's just not within that 30-foot dimensional requirement as laid out in the Ordinance. So that's Waiver #4 in the list. If there are any questions...

Chair Fairman said you need to cover Waivers 1-3. You've got to sell to us why the waivers should be approved.

Mr. Devine replied absolutely, Mr. Chairman, I'm not ignoring them. Attorney Panciocco is going to speak to the first three.

Atty. Panciocco said the other waivers that were requested from the PZ Zone included Article 275-21B(4)(a)(4) to provide 15 two-bedroom units where 48 would be required otherwise, under the ordinance. I guess the ordinance requires 50 percent of the units in the development to have, it actually says in the memorandum to have more than two bedrooms, but I believe it is supposed to read to have at least two bedrooms or two bedrooms or more.

The fourth one is, that was the landscaping. Then we've got article 275-21B(4)(c) to allow more than 12 dwelling units per net developable area, and Article 275-21B(4)(c) to allow 85 units where no more than 12 units are allowed in a building under the ordinance.

So those were the three remaining provisions under the PZ. In that context, what I need to point out is this building is existing. The building, while it may not squarely conform with legal definition of a pre-existing, non-conforming use, it is there and there's really very little that the applicant can do—make 12 units in each building. Or, it says here 15 two-bedroom units where 48 would otherwise be required out of the 85, because of the existing improvements that are already there. We don't feel that that has an adverse impact on the purpose of the Performance Zone. We feel it fits quite nicely in the area simply because there's lots of other multifamily buildings in the area, many of which are even denser than this particular building. They have more units. We don't have it in fact, but we're pretty sure that the parking is not two per unit either because they were approved such a long time ago—before this project was ever built. So, being the area of the Town of Bedford that is meant to be somewhat transitional, mixed-use, maybe walk to work, we don't feel that these particular waivers, because this is a pre-existing, non-conforming structure, perhaps is a better way to put it, that it would be unreasonable to ask for a waiver of these provisions. Because there really is little that the applicant can do to change the circumstances of what is already there.

In addition, this is a very oddly shaped lot. It kind of looks like a dog bone, actually. It backs up to the Merrimack River, which has got your floodplain there. You've also got your shoreland protection area and a huge power easement in addition to the restrictions that are private, that limit the use of the available land. There isn't a whole lot more we can do to change that, but we don't

feel it is out of place where it is at the moment or would frustrate the purpose of the PZ Zone. I think that's all I have.

Mr. Devine said just a just one clarifying note. Waivers one and two come from the same section of code. They are differentiated just simply by virtue that the code is like a paragraph in that section. So it's just one section of code, but there's two different points within that section that staff wanted us to differentiate. It's not a typo, I guess is what I'm trying to say.

Atty. Panciocco said and those amendments to the ordinance were adopted after this building had already been built and opened.

Chair Fairman asked does the Board have any questions related to the first three waivers?

Ms. Malcolm asked are we going to vote on all the waivers at once? Or are we going to vote on them in a block? Chair Fairman said we've got to go to public first, so we'll vote on them later. But I'm looking for more discussion or questions. All right, seeing none, I think we already talked about [number] four. Let's go on to five, which was a request to waive the school and recreation impact fee.

Atty. Panciocco replied OK. So you'd like to hear just an overview of that? OK.

Mr. Nelson said well, I think we'd like to hear in detail. That's a pretty large ask so you can do an overview, but I think there'll be a number of questions, I'm assuming, from the Board.

Chair Fairman said I'll remind you; you have to sell it to us.

Atty. Panciocco replied OK. Becky sent us today, because we were unaware of a fiscal impact analysis requirement, and as I understand it in the regulations, it's required when the Board finds that it's necessary. So, that's still a question. But she did send me, just so I understood what it would entail, a copy of the Fiscal Impact Analysis for 125 South River Road. It's a multifamily. I believe it's down near Whole Foods, in that area. So, at least I had an idea of what she meant when she was describing that. And so, when I was reading that, I did find some other support for our waiver in there—at least for the position that we've taken. The three pages that are at the back were taken from that analysis. The first two pages, I generated, by a comparison. But as to the impact fee waiver, we realize that the Board can grant a full waiver, a partial waiver, whatever you feel is appropriate. But here is where we're coming from. Under 674-21, V, the Town through the Planning Board may assess impact fees, and you all know this. You revisit them every year and evaluate how much they are and what's collected. And I don't know how much of the other items you get into, but the use of impact fees is quite limited. It is only for the construction or improvement of capital facilities. It's not for personnel. It's not for repairs. It's not for maintenance and it's not for upgrades. In other words, if you have students that don't have a building around them, you get to put the building up—the capital improvements. And those capital improvements that are paid for by impact fees must be reasonably related to the capital needs created by the development. So in other words, they can't be used to pay for prior needs, and they can't be used to pay for future needs that aren't for the people who actually pay them. And that's important when you think of impact fees. So, when I looked at this and I looked at Mr. Mayberry's most recent



report, and I did a little research over the weekend. Impact fees are like growth control. They help you manage new people moving into Town to make sure the capital facilities can accommodate those people. They were adopted in 2002—twenty-one years ago—quite a long time ago, and that was just before the Town's school population began to pop. And you had a bubble go through Bedford, just like went through other towns like Londonderry and Derry, where the population peaked. Well, it peaked on or about 2012, just after the high school was built in 2007, 2008, when your population was about 3,738 in your schools. In 2016, it was 4,501 students, and it's continued to decline since then. That was seven years ago. So it's not an unreasonable question to ask. Who are we accommodating? The school's big enough for new growth, yet impact fees are still being assessed, and they, more recently, were increased. And the increase represents dollars of replacement cost which also make the [inaudible]. In fact, since 2016 you have 500 less students. That's a 10 percent decline since 2016. And since 2002, the Town here has collected \$4.6 plus million dollars in impact fees, and I assume it's just school and recreation. And there have been a number of capital improvement projects. But I looked at the CIP, and I don't see any for schools coming up. You've got a big, beautiful facility you have now, and I think that there's nothing else on the horizon to be done. And yet, the enrollment has been declining for years now. This just didn't happen. So when I looked at this, I had to think about, too, that when Mr. Mayberry does his reports for the Town, he does them for everybody. Towns hire them to do them for the Town in the Town's best interest, as it should be. In his report, though, at the end, before he comes to a conclusion on a recommendation, he also develops what he calls accrediting process, where he reduces whatever he's come up with by credits. And in his report, right here. This is page 24. It's called Credit Allowance Number 4. Credit for property tax payments. And here, what happens is he credits previously paid taxes towards the impact fee amount he's calculated. Number twenty-four at the bottom is raw land, raw land, raw land. So when I looked at this, when I did this particular waiver, I thought, this is not just raw land. This facility at 66 Hawthorne is land, indeed, but it's also a very valuable building, which right now is kind of a white elephant if you will. So, when I put together this waiver, I went back, and I pulled the tax bill for this property dating back to when it was built. And the tax portion alone paid by the taxpayers was over \$2,000,000—just school portion. Just the schools. I mean, they've paid a lot of taxes, but rightfully so, they're taxpayers. But these were all people who were older, assisted living. And I'm not thinking they probably made a whole lot of use of recreational facilities if they're in an assisted living facility.

Chair Fairman said ma'am, we all live in it. I don't have children in school. I pay my taxes, too. So I've paid large school taxes for years with nobody in the school system. It's pretty much standard for many people.

Atty. Panciocco said you don't pay an impact fee.

Mr. Nelson said Mr. Chairman, we've spent the last 20 minutes here listening to you opine to us about how fees, in your mind, are not applicable to the schools, to the recreation. I don't know how any of that is applicable to the discussion we're trying to have here, which is that's a personal opinion that you're saying of your take on something that is set in stone right now, and you're asking us for a waiver from. But yet you're telling us how none of this should be applicable based on your personal assessment that this is not applicable. That, to me, is far from what we're supposed to be talking about here, which is we have something that if we followed the rules exactly, would have a number that should be paid. And what we're saying is a waiver to move off of that number

to some other number, either zero or somewhere in between \$404,855. And I don't want to sit and listen about the rightness or wrongness of the school and recreational impact fees. Those are what they are. They're set. We're not going to change those here. We're not going to eliminate them or we're not going to say that the school should or shouldn't use that money. That's not the intent of this discussion, I don't think, Mr. Chairman, I apologize if that's out of line.

Atty. Panciocco replied I'm providing the background of why we're asking for a waiver. I was asked to provide mitigating circumstances and the specific criteria that needs to be met to qualify for a waiver, and these were attached to the waiver request we submitted. I was simply providing an explanation of what they meant. Now, as to the documents that I just gave you, this comes right out of the report for the fiscal analysis that Becky sent with the staff report this morning that I had asked for. And the point there is, in that fiscal analysis, Mr. Fougere, who was working for the Town, did an analysis for the Town as to the fiscal benefits of that particular project. And what's relevant in that handout is that the .249 was used for all multifamily units to determine the impact of school children in a multifamily. What he chose to carve that out and say that when you have one bedroom, it's a far lesser impact. So, we used the framework on that and put in the numbers here, and it shows that it's much less than what is contemplated in the fees that are assessed. So, we were asked to develop reasons why we felt this impact fee package should be mitigated to some extent. And not knowing where the dividing line is, we submitted all of it, and we leave it to the Board to decide what's fair and what's not.

As you can see on that handout, only about five children out of this whole building will go into the Bedford Public Schools.

Mr. Sullivan asked how can you substantiate that?

Atty. Panciocco replied I did substantiate it by using Mr. Fougere's framework that I just passed out that he used when he did this for 125 S River Road, put our numbers in instead of his, shown in red, and that's how it's substantiated.

Mr. Sullivan said so this packet we haven't had time to read yet because we just got it. So five children forever? Five children per year?

Atty. Panciocco replied well, because of the nature of the units being one-bedroom units and studio units, they produce far less children being put into the schools.

Mr. Sullivan asked is the applicant willing to guarantee that?

Atty. Panciocco asked how can we guarantee that?

Mr. Sullivan asked how can you guarantee it won't?

Atty. Panciocco replied well, this is all statistical. And the impact fees are based on statistical analysis, also. They don't guarantee, either. But generally speaking, attached to the waiver request that was submitted weeks ago, there is also confirmation of those numbers per one-bedroom unit from Applied Economic Research. It was Mr. Thibeault. He used to do a lot of these economic

reports. His numbers align with Mr. Fougere's, that in the one-bedroom, if you look up here, the one-bedroom unit, .56. Two-bedroom is the 2.249 as shown in the table. And with studio apartments, there were zero. In that fiscal report Mr. Fougere did for 125 S River, he actually went back and looked at what actually moved in and confirmed that his numbers were spot on. These numbers are real.

Chair Fairman said impact fees were developed based on averages. You can't go back and pick the ones you want to have in your analysis. You take them all into an average. That's what came out. The impact fees are what they are. We have 100 percent workforce housing facilities in Town. There's never a question of them paying an impact fee. Many of the people in those workforce housing are on Social Security, but there was never a question when they came to the Board about paying impact fees. None of the apartments in Town. None of them at all have asked for a waiver to the impact fees. They all understand them. They all know that it's statewide. They're very accepted. And yes, and you know this, but you didn't mention it, the money has to be used within a certain amount of time or it gets paid back.

Atty. Panciocco replied I know that, yes.

Chair Fairman said you didn't mention it, of course, because it didn't support your argument. So, let's make sure you understand. You pay the money. If the Town doesn't use it within a certain length of time, you get it back. But don't waive impact fees.

Atty. Panciocco replied that's not what we were told. You can ask for a waiver for anything.

Chair Fairman agreed, you can ask for a waiver for anything.

Atty. Panciocco replied right. And we can offer the evidence that we feel supports that. It's up to the Board. It's a Board decision.

Mr. Lefavor said and I just want to preface this as well. Just jumping in and kind of the holistic view of why we came here for the waiver, and it was simply due to the unit mix. So we viewed 83 percent of the property is studios and one-bedrooms. So just from a logic standpoint, we weren't trying to be egregious and not contribute anything to the Town of Bedford. It was simply from a logical standpoint of OK, are we really contributing an impact to the school district, which is specifically what that fee was for. So, the intent of this waiver was more exploratory, not demanding or really requesting a major concession here on the impact fees. We are simply trying to understand, we've got a very small likelihood of children occupying these studios and one-bedroom units. So, that's really the framework. I don't want this to spiral out of control. Because, again, this was more exploratory to see what the Board was in favor with. If there's a compromise. If there is something that you guys are able to consider with the unit mix or density or not. It's just something that we wanted to bring up and have a discussion. Where if this was a new construction project, our density or unit mix would be significantly different. We'd have three bedrooms, two bedrooms, and we wouldn't be having this conversation. So that's just to preface this reason for the waiver. It's not try to avoid having to do what's right with the Town.

Vice Chair Newberry said Mr. Chairman, looking at the staff memo, they had in the staff memo recommended some fiscal impact analysis in support of the request. I haven't heard that the Board has any interest in entertaining waving completely. I haven't heard that the Board wouldn't entertain something less than the full impact fees. It's not up to the Board to determine whether recreation needs or has a use for within the constraints of the impact fees, and it's not up to the Board to determine whether the school has needs that those fees may feed to. And as Mr. Chairman pointed out, if those fees aren't used within a prescribed period, they revert to the contributor. So I would suggest that you guys go back, and having heard the concerns of the Board, come back with some numbers that the Board can look at and understand the impact of agreeing to any of your request less than, it says here recreation is X dollars. It says here school is X dollars. This particular development might make sense for it to be less than what the book says, but I think it's up to the application to make that case in dollars and cents that the Board understands and is not doing something that's going to be harmful either to the applicant unnecessarily or to recreation, the school, to the Town.

Atty. Panciocco said for point of clarification, Mr. Chairman, would that be somebody the Town would choose or somebody the applicant should choose?

Vice Chair Newberry replied I can't speak for Planning Staff directly, but I think that Planning Staff would be able to work with the applicant to develop some data that you could come back to the Board with to make your case.

Mr. Swiniarski said in the past, it's usually been the applicants who present the fiscal impact analysis.

Vice Chair Newberry replied right. Yeah. I mean it would clearly be at your risk, but my sense is that the Board is not about to agree to waiving the whole thing.

Atty. Panciocco replied no, we understood that. We understood, when we submitted the waiver, we didn't have the data that we have now, and we just got this this morning about the fiscal impact analysis. So we're kind of a little short, too.

Vice Chair Newberry said you're looking at fresh data. We're looking at fresh data. Let's take a breath and make sure that we all understand what we want to do here. It's in everybody's best interest.

Mr. Nelson said and Mr. Chairman, I think to that point, it's not an assessment of the overall project or the value of what I think can be a very good thing. But it is important. It's an important part of what's being asked and for us to review. And I think having the ability to both look at that and fairly quickly come back and go through that process would be a healthy exercise for everyone.

Atty. Panciocco replied and I guess the other question I would have; would it be limited to just that particular issue? It really is only, I think, the impact fee issue. I know that some of the fiscal analyses are, they cover a variety. They look at future tax income, like when the project is built and the revenues to the Town, and vehicle registrations, and things of that sort. Should it include all of that, where this is an existing building?

Chair Fairman said the other issue that's been brought up tonight, and it's still open, is parking. And I've asked for a nice written management plan for parking. So to me, we have those two things outstanding. One is for you to come back with us as to what you think the appropriate impact fees should be, as Hal described, with good, strong statistical numbers that say why. And a management plan for the parking, which is a big issue. I think we all recognize that. So those two items, to me, are the two items that we basically talked about. I haven't heard any issues with the other waivers, but these are the two that we need. If there's nothing else from the Board at the moment, I'll ask the public if they have any comments on this application at all. Does anybody out there want to talk about it? Yes, ma'am, please. Stand up and state your name at the mic.

**Ms. Alice Love, President, RiverWalk, Bedford:** Well, I really wasn't prepared to say anything, but my name is Alice Love. I'm the president at River Walk in Bedford, which is 65 Hawthorne Drive, so we're right across the street. And I just want to say, as an aside, I don't know if we were entitled to a notice that this hearing was being held, and if we are, we didn't receive that. This is just something that we picked up, I guess in the Bedford Bulletin or wherever it's advertised. But let me join the Board in its concern about the parking. We're very familiar with that lot, and I was glad to hear that you had walked it. And I just can't visualize adding that much parking space that's being requested. That's number one. There's a lot of trees that are going to go down to put in this parking lot. But we're concerned about the limited number of spaces and the addition of traffic. And from what I think I understand that some of the traffic they propose will be going out the south end of Hawthorne Drive, which is probably right across from where the new safety complex is being proposed for Bedford. I could be wrong in that regard, but I think that's where it's going to be, in the back.

Chair Fairman said a bit further south, I think.

Ms. Lavin continued it's not where the consignment store is? Just beyond that. Well, close enough, anyway. Close enough. And I wonder, also, if traffic—there isn't a light there. And so even now, you can sit there for quite a while trying to get out. And I can imagine maybe everybody caught driving down the other way to Hawthorne Drive where there is a light which would just drastically increase the traffic there as well.

Our other concern is that the tenants are not going to have enough parking spaces, and we're a little worried about them using our parking spaces when they can't be accommodated at their own building. We don't want to have to monitor that. I don't even know how we would monitor that, and I just hope that the Board will give some real serious concern about traffic parking on the streets, the necessity of having to call the police to enforce whatever the rule is there to keep them off. Having to call the police to get them out of our lot, if we even could determine where those cars belong. I know in the wintertime plowing can be an issue. There's going to be even more plowing, and snow being pushed from that particular property, basically onto Hawthorne Drive sometimes. And I would hate to see us have to get into some kind of a struggle with them as to where the snow is being put. And so I hope that you will be giving this some really serious concern. Thank you.

Chair Fairman said thank you very much, ma'am. Anybody else? Yes, Sir.

**Mr. George Wisemen of RiverWalk, Unit 308, Bedford:** Hi, my name is George Wiseman. I also live at River Walk in Unit 308. I'd like to know why we were not contacted. Are we considered abutters or not being we're across the street? Or does the property line actually have to touch? Because in the beginning of the meeting, you said all abutters had been notified. We are owners, we're not renters.

Vice Chair Newberry replied that was the statement from our Planning Staff. So, from their perspective, they believe that all the abutters were notified. If, in fact, that's not the case, you're aware now and we'll make sure that you're aware of any subsequent Tabling and/or hearing on this application.

Mr. Wiseman said well, I would maintain, respectfully, that being that was not done we have to go back to square one. You have to notify all the abutters and start over.

Mr. Swiniarski asked are you a condominium?

Mr. Wiseman replied yes, we are a 62-unit condo. We are owners. We're not renters. We pay taxes. We have a tax map, lot number. So, we are owners and I'm asking the Board, are we abutters?

Mr. Swiniarski replied I don't know if you're an abutter, but the reason I ask whether or not you're a condominium is that under the notice provisions of New Hampshire law if you are a condominium, it can be the officers of your Board that are notified. So, it wouldn't be every individual unit owner. So, maybe that's—and I don't know that. I don't know. I'm just offering up a possibility.

Mr. Wiseman said yeah. But nobody from no individual unit. No, but the Board member was notified.

Vice Chair Newberry explained the notice goes to the association.

Mr. Wisemen replied OK, and that did not happen. Evergreen is our Management Association. Perhaps it went to them and didn't come to us.

Vice Chair Newberry said if I may, Mr. Chairman, it sounds like we need to check on our side, but I would suggest that you need to check on your side also. Because we believe that the proper notification was executed, but if it wasn't, then that's something that's going to need to be addressed I would say.

Chair Fairman suggested check with your association.

Mr. Swiniarski said also, do we, because it's an administrative thing, I don't know how we do it in Bedford, but does the applicant prepare the abutters list? Or do we do it for you guys?

Mr. Devine replied so the process is when we make our preliminary application, we send in a preliminary list. It is then checked by Town staff and told whether or not we need to add or redact in any way the abutters list. We then do that, send it back to the Town with mailing labels and then Town staff executes all the certified mailing labels. It also goes to the property owner which sometimes in cases of organizations that are owned by like a conglomerate, it may go to the like head offices of that association. So it's not necessarily sent to the location if its owners has an address that's not the address of the abutter.

Mr. Swiniarski asked do you happen to know if it went to RiverWalk?

Vice Chair Newberry replied normally I think we could answer the question. Unfortunately, the Planning Director was not available this evening. She's out sick. Mr. Chairman, if I may, I would suggest that the association check around and see if your management or your association or somebody probably got that notice, and it may not have get gotten communicated to the community.

Mr. Swiniarski replied well they might not be abutters.

Vice Chair Newberry said that, too. But we'll work with staff to look at it from the Town's perspective, also.

Mr. Wiseman said the question remains, are we abutters? Because Hawthorne Drive separates us. I don't know what the technical terms are here, an abutter is and if it has to actually physically touch each other.

Chair Fairman said that's exactly the question I had, too.

Mr. Swiniarski said across the street, directly across the streets is an abutter as well.

Chair Fairman said usually it's pretty easy to tell.

Vice Chair Newberry said yeah, I just have to note, too, that you should check with whoever manages your facility, also. That's probably where the notice went.

Mr. Duvall said we just checked our plan list of abutters and Lot 24-1-2, RiverWalk at Bedford Condominium Association care of Alice C. Love, President, 65 Hawthorne Drive was notified.

Mr. Wiseman said so I guess my question now is being well, they said it was contacted, we didn't receive it. I don't know what we can do about that.

Mr. Swiniarski said the unit number says 310 on the plan.

Mrs. Love said I didn't receive it.

Mr. Wiseman asked, may I ask two other questions after we figure this out, please? With all the numbers on the parking, I'm still fairly confused on how many parking lots are required. For 85

units, what does the Town require for the number of units or number of parking spots? Excuse me. So that would be 185 times 2 is 170, correct? So, I believe they're asking for a waiver down to 118. I mean, that's a significant amount. The other comment I will make is this: where are they going to put the snow? We've run into problems before with [inaudible] contractors plowing across the road, which is not legal, number one. But putting all the snow on our side when we try to exit onto Hawthorne, we're going to get clobbered. So we'd ask, where do you plan on putting your snow?

Chair Fairman replied that is a question that has reminded me that we need to ask about snow and snow removal or how they plan to manage this snow. We will get you that answer.

Mr. Wisemen said OK. And I appreciate the idea if they put no parking signs up, again, because that could become—we're on a curve there and even though it's what, 30-35 mph, yeah, people are coming around pretty good hickory and...

Chair Fairman said it sounds like they know how to manage the parking. They've done it before. What we need to do is get it in writing so we can see exactly what they're talking about and how it's going to be managed. And then we can have an intelligent discussion about it. Until we see something writing, I don't I don't believe everything I'm told.

Mr. Wiseman asked will we be able to see this report?

Chair Fairman said sure. It will be publicly available.

Mr. Wiseman replied OK, great. Thank you very much.

Vice Chair Newberry said one point of information for you, also, the Town gets certified mail receipts for notification to abutters. And the applicant certifies the abutters list. So we should be able to check and see who got that.

Mr. Wiseman replied OK. Thank you very much.

**Mr. James Dumont, 316 Wallace Road, Bedford:** Hi, James Dumont, Bedford resident as of June of this year. Maybe I'm a bit jaded for my many years as a renter. Maybe I'm cautious because I have family who are property managers. Perhaps I'm projecting. But the lack of parking is a serious issue. This should be deemed fatal to this application. As a matter of policy, the Town should not be supporting projects that carry hidden taxes and further impair the ability of all our citizens to access employment or recreate. This facility is supposed to be approximately 20 percent workforce housing. Yet you're telling me a working couple will be limited to one vehicle and they'll risk being towed if they try to park their other working vehicle near their home. Unless they have to walk to U-Haul in the snow to get to their job, a tax—that's a tax on people who don't make as much money to be able to afford their own home to be able to afford their own garage. The lease agreements having a clause that informs them that their cars are at risk of being towed if not parked in their single spot is insufficient and not protective of the renters. Renters are not savvy attorneys, unlike the gentleman is showing us the terms are in the lease. Renters are often desperate for housing, particularly in this tight market. Renters will listen to the sales pitch, which may



include the tantalizing promise of potentially getting one of 23 additional available spots in that facility of 85 units. This lack of parking risks being a hidden tax on renters and on those qualifying for workforce housing, aka low-income housing. Who benefits when the car is towed? Not the renter. Not the Town. The private towing company. And in many cases, the property management or property manager who has some sort of arrangement which they get a profit margin off of the towed vehicles. That does not advance to settle goals or Town objectives. It only risks a feedback loop of poverty that further impairs the upward mobility of our citizens, our fellow Bedford residents, whether they're temporary or long term. Moreover, how will the property manager guarantee the 23 additional spaces are equitably distributed, including for the workforce housing units? These are for workforce housing—people that may be working two or three low-paid jobs, barely scraping by, that might have their kids in this school district. We should not be forcing them to choose between being able to provide for their kids or provide for their parking.

They're asking for a tax break, but they aren't coming to this meeting today with a plan to avoid placing an undue and heavily burdensome hidden tax on their future renters by their inability to come tonight with any real, firm, actionable plan for this parking issue. All we heard is that they've looked at satellite images, identified a few nearby lots. That doesn't say how they're going to help their renters access these nearby lots. It doesn't say how they're going to ensure that they can access them safely. Apparently, where there's only one stop light, are there any sidewalks or crosswalks to access these additional parking facilities that are off site? That's a tax on the Town if we have to develop those crosswalks, those sidewalks, etcetera, so these renters can access their offsite parking. Let's make sure they aren't taxing our future neighbors and residents before this Board determines whether to reduce the property tax liability for this company. And I understand the need for more housing, but this seems like it will put people in a really tough spot for working couples or for folks who need to have roommates to be able to afford rent in this tough market. Thank you.

**Mr. Richard Daigle, 65 Hawthorne Drive, Bedford:** My name is Richard Daigle. I live at 65 Hawthorne. We're right in the front where we can see everything that happens every day. We're fortunate that we have 72 parking spots inside our garage where people can go when it snows. If we didn't have that, we'd have 72 people out in the parking lot and no one could plow the snow, which is a situation you're going to have over here, I'm afraid. Also, the typical day—right now we have a lot of snowbirds. They've gone to Florida. They're renting their places. Everybody's going to have a place to park their car. There are no cars out front at all. But at 9:00 in the morning, the trucks come in. The plumbing guys, Xfinity, you name it, they all come in, the cleaning people. They take up all those spots. OK. And a few people will park here and there, and all the spots are taken with just people that you didn't think about before. Also, we are owners. We transition maybe 8 units a year. People move, somebody passes away or somebody moves. They sell their place. This is going to be a rental of 85. It's a rental, right? It's going to be leased. Am I correct about that? So the moving truck is going to come in 85 times a year and park out front. OK, exactly where the fire engines have to go. I'm also the fire [inaudible] for our building. I can picture what's going to happen when that truck is there and all Xfinity and everybody else is there. And then the fire trucks come in. How are they going to access the building? It's something I think you need to think about because it's a serious thing. We have access right now the way we're set up, but we're fortunate. We understand that. But we're concerned that people are going to park in the streets like we've seen before, around Christmas time, even across the street. They were parking in the

streets around Christmas time because there wasn't parking over there. That's all I've got to say. I think it's a serious concern that you need to really look at.

Chair Fairman said thank you very much. Is there anybody else from the public? All right. I'll come back to the Board then. I would like to bring up the snow issue while it's fresh in our minds and how are you going to manage the snow.

Mr. Devine replied absolutely. Snow storage is limited on this site. However, there are areas that we have designated for snow storage, particularly in this area here. And that is in a location that the snowbank if you will, is allowed to drain into the stormwater management system here. Additionally, we have snow storage here and then spots here and additionally here. Now when these snow storage spaces are filled up, like most site plans in this Town, we put a note, and the applicant coordinates the removal of the snow. So pretty much like a dump truck will come. If the snow storage capacity is met, and then haul it off site and dispose of it in a legal manner with both New Hampshire Department of Environmental Services regulations as well as the Town regulations. When it gets that point, the management team just calls in a service that removes the snow. Were there any other questions from the Board?

Chair Fairman asked are there any other comments on snow removal concerns? It is a concern, certainly. We are using up every available slot for parking, so it gets hard to find places for snow. You pointed out a few. I can't guarantee the whole winter will be like this, you know.

Mr. Devine replied I know. This has been crazy.

Mr. Duval said Mr. Chairman, I'd like to respond to the parking question. That seems to be a major concern. With a little perspective, remember this is an existing building. We're not proposing a new building and proposing a significant reduction in parking for a new building. This is an existing building, which is unusual in that it has a very high proportion of singles—studios and singles. And we have found throughout the state, and we've done a lot of multifamily recently, that parking ratios of one per bedroom are generally effective. The linking of parking demand to units makes no distinction between a studio or a three-bedroom or a two-bedroom or a one-bedroom. It's antiquated, and not really reflective of true parking demand. Now, maybe in times gone by when apartment buildings probably did average two bedrooms per unit, a parking ratio of two per unit was appropriate. And in certain recent multifamily developments, it is appropriate here in Town. But in this existing building, which has such a high proportion of single bedroom units, that two per unit really has no applicability, and we shouldn't be looking at that. What we did do is look at the site and increase the parking count as much as reasonable for the lot. Maybe we could squeeze in another two or three, but I think it's pretty tight right now. And I also think that when a lease requires no more than one or that the lessee has no more than one vehicle, that is an appropriate solution. And there's certainly lots of multifamily buildings in center city, Manchester and elsewhere, where they're parking in an area where there's no off-street parking. Those requirements are met and understood, and the tenant can choose to live there or not. This is not a tax on poor people. This is, in fact, making available a stock of 85 units to people of all incomes that otherwise wouldn't be available. And they can decide for themselves if I can live with one assigned parking space or not. And that's really what we're talking about here, an existing condition

that we're trying to make the best use of. And the best use of is providing housing for those people who are comfortable with one spot. Otherwise it's not.

Chair Fairman said I think, Bob, that the key here is, again, we're looking for the plan. You've talked through a lot of good ideas. I'd like to see the plan. While you're up, I have a question related to traffic. South River Road has become pretty busy. I'm wondering what is the vintage of the numbers that you're using for South River Road? Are they reasonably recent traffic studies that have been done on that road or not?

Mr. Duval replied the numbers that we used, again, this is not a traffic study. This was a memo summarizing trip generation and the difference between before and after. So we don't have the type of rigorous analysis that would typically happen for projects that generate more than 100 trips. That's not the case here. But having said that, the data that we used to compare the volumes on South River Road to volumes on Hawthorne for example, are right off the DOT website and they're as recent as well within one year. In some cases, within a month.

Chair Fairman said somebody did bring up the fact that you have to wait quite a while on Hawthorne to get out of there now.

Mr. Duvall said yes you do. Right at the unsignalized [inaudible].

Chair Fairman said a few more cars doesn't seem like much, but if you've already got a traffic problem, a few more cars makes it pretty bad. OK, thank you. Are there any other questions from the Board?

**MOTION: Vice Chair Newberry moves the Planning Board table this application to the next available Planning Board meeting, February 12, to give the applicant an opportunity to respond and make their case for particularly the two waivers that drew most of the discussion this evening, which would be the impact fees and the parking. To the points just made, I think you may want to include some of that data in your parking response as well as your parking plan.**

**DISCUSSION:** Chair Fairman said I'd like to amend the motion to set the date to one agreeable between the applicant and the staff. Mr. Swiniarski said we've got to say the date, though. Mr. Sullivan said the next Planning Board meeting is February 12<sup>th</sup> followed by February 26<sup>th</sup>. Chair Fairman said I'd like to give them a chance to make it later if they wish. Vice Chair Newberry said I think we have to give a date. Certainly they could always work with staff to change it to a later date. Mr. Sullivan said, and this serves as public notice. Vice Chair Newberry asked does the 12<sup>th</sup> work for you guys? The applicant agreed, it does. Vice Chair Newberry said okay. So, this will be heard again on the 12<sup>th</sup>, by the motion.

**Ms. Malcolm duly seconded the motion. Vote taken - All in Favor. Unanimous. Motion carried.**

Chair Fairman said thank you, folks. Mr. Devine said thank you very much. Chair Fairman said we're going to take a 5-minute recess.

#### **IV. Concept Proposals and Other Business:**

1. The Planning Board will conduct the second public hearing on the proposed 2024 zoning amendments submitted by the Planning Board and by citizens' petition.

Chair Fairman said the next item on the agenda is a public hearing, the second public hearing of proposed zoning changes. At the end of this meeting, the Board will vote whether or not to put these on the Town ballot or not. There are two zoning changes recommended by the Planning staff and one by petition. I'll ask Hal to review them for us.

Vice Chair Newberry said Mr. Chairman, two amendments are proposed by the Planning Board.

#### **Amendment #1, Modification to the Conditional Use Permit criteria for Detached Accessory Apartments:**

Amendment #1 consists of criteria a through j. This proposed zoning amendment is to modify criteria A(e) to remove reference to table of dimensional requirements, which includes a footnote requiring the soils-based lot sizing calculation to be done to determine the minimum lot size. The idea of eliminating that is that's typically already done for an existing lot. It's been looked at by staff and the Board as being a burdensome hurdle for anyone proposing to do a detached accessory. That's item one.

#### **Amendment #2 – Updates to the Floodplain Development Ordinance:**

The Office of Planning and Development audited the Town's Floodplain Development Ordinance. The county wide effort to update the FEMA maps and this consists of a number of definitions being refined and changes that are pretty much of a technical nature. I think we've discussed them and if anyone wants to look at the details, those are available on the Town website. So that's amendment one and two, Mr. Chairman, both proposed by the Planning Board and developed with Planning staff.

#### **Amendment #3 – is a Citizens' Petition to Modify the Boundary of the Historic District**

Chair Fairman said the third amendment is by petition. It's relative to moving the Historic District, the west side of Wallace Road to the middle of Wallace Road.

Vice Chair Newberry said I have some text on that one also, Mr. Chairman. As you said, a citizens' petition. I citizens' petition is drafted as a citizens' petition and has to be put forward exactly as the wording was written. This petition, as you said, is to modify the boundary of the Historic District to remove approximately 20 properties on the westerly side of Wallace Road between 266 Wallace Road and 324 Wallace Road from the Historic District. If the amendment passes, the westerly boundary of the Historic District would become the center line of Wallace Road.

Staff memo notes that there are at least four properties within the proposed local area that are of historic significance.

Chair Fairman said just as a reminder to everybody, the Planning Board does not approve or disapprove petition amendments. We will vote to either support or not support it, and that's what will go on the ballot whether or not the Planning Board supports the petition change.

Vice Chair Newberry said Mr. Chairman, if I may just comment: The two amendments proposed by the Board, we do vote on whether to put those forward onto the ballot for the March Town Meeting.

Chair Fairman said that's correct. Does the Board have any further comments? We've looked at these many times.

Mr. Greazzo said I do have one comment for the first item, Mr. Chairman. We had some discussion about reducing the lot size from 1 ½ acres to 1 acre. Becky is not here tonight, but she did send me an e-mail that she did speak with the Town Attorney. And if the Board wanted to reduce the size to 1 acre, we would need to vote to change it tonight and that we would have to have an extra meeting on February 5th in order to have the 2<sup>nd</sup> hearing for it, or an additional hearing for it. So, that would be a meeting outside of our normal meeting schedule. It would have to be a special meeting, if we chose to do that. And then the date that she had that coincides with the schedule would be February 5th.

Chair Fairman said yeah, I saw that message as well. I'm not sure that there's a huge advantage to doing that. I see there's certainly some advantage. What would you like to see us do?

Mr. Greazzo replied it's the pleasure of the Board. I personally would think that it should have been one acre but didn't see it until that night. So, if it's not amenable to the rest of the Planning Board to meet again on February 5<sup>th</sup>, then we just continue on as we are and add it for next year.

Vice Chair Newberry said I would just respond that I think that may be a good idea to reduce it, but I would hesitate to do it at this late stage. My take would be to go forward with what we have written up, which is the 1.5. See how it does for the next year, and then look at it next year and go we really can reduce this to one acre to make it something that's available to potentially more homeowners. And doesn't risk creating the impression that we're doing something at the last second. That's my take.

Mr. Greazzo said I'm fine with that as well. I just wanted to make it available and make everyone who wasn't part of the e-mail aware that that was a possibility and it was something that we discussed and it was part of the Housing Study—the Housing Study and the presentation that was given to us on the shortage of available housing, that this might be an added benefit to be able to reduce it so that more people might use it. But I completely concur with your assessment as well. Don't want to do it just to do it. If you want to do it purposefully, then we wait until next year.

Chair Fairman said I think it can be included in that overall housing review and whatever zoning suggestions they come up with for another year. It might be appropriate to include that going down to one acre.

Mr. Swiniarski asked when this was presented, did they give a number of how many lots we have in Town that are more than one acre but less than one and a half? I'm just trying to get a sense of how significant this change is. Do we have a lot of lots like that? I truly don't know.

Chair Fairman said well, there are certain parts of Town like so-called the Pines, Boynton Street area, Donald Street area. They have a lot of lots of that size.

Vice Chair Newberry said I think staff was going to look into that. I don't know if they've had a chance to actually do that. Did you get any feedback on that, Phil?

Mr. Greazzo replied just that night when we were looking at that other project and you could see all the lots that weren't 1 ½ acre that were smaller, and I was hoping that Becky would have been here tonight to have been able to answer that but given her condition... We don't have an exact number, but it's just you grow the...

Mr. Nelson said just the visual analysis that we did show that it appeared to be a fair amount of properties that could fall into that.

Chair Fairman said it gets complicated as we said the last time, because all of those cluster developments and....

Mr. Swiniarski said so yeah, I would think most of those are less than one acre anyway. So this doesn't create any benefit there.

Chair Fairman said I think I agree that letting it go for this year and see where it goes from there. All right. [There were no further questions from Board members]. Chair Fairman opened the public hearing on the first two zoning amendments as suggested by the Planning Staff.

## **PUBLIC HEARING**

**Ms. Susan Tufts-Moore of 27 Bedford Center Road, Bedford:** Hi, Susan Tufts-Moore, 27 Bedford Center Road. I do agree that I think rather than do this suggestion amendment item one kind of at the last minute, it would be better to have some more input from the Town staff and have more time to take a look at that and maybe even educate the public along the way. Maybe with some articles in the Bedford Bulletin so somebody else, people in Town have an idea of what's being proposed.

Chair Fairman replied thank you, Susan. Just to make it clear, we're not talking about changing the zoning of 1 ½ acres to one acre. Only relative to an accessory unit.

Ms. Tufts-Moore replied I was thinking from what I've read online that it did only relate regarding accessory apartments, but there again I think it would be helpful if the public had more education.

I realized these days with the Bedford Bulletin, and it's a little hard to get articles in there, but it is possible, and it would be, I think, very beneficial and probably support your cause if more information was provided. Thank you.

**Mr. David Clark, 62 Bedford Center Road Bedford:** I think ADUs are pretty new to this New England area. My son lives out in Bend, Oregon and they have hundreds of ADUs, and I think it's very important that you as a Planning Board look into some of these areas that have a lot of experience in this. There are ADUs that are attached to like above a garage. They usually have to be attached to the house, and there are all kinds of little tricks that people play. So get it tight, because people get away with some stuff that they shouldn't get away with. There are towns that have been doing this for a long time. It's a very, very good way to provide affordable housing for people. But I also look at Airbnb. Are people going to live in those places? Or are they going to turn it into an Airbnb, which has its own sort of set of circumstances, if you will. So that's something you should be really on and talk to other towns that have ADUs before we jump into this. So that's all.

Chair Fairman said thank you, Sir. If there are no other comments, I will entertain a motion on the first two zoning changes.

**MOTION: Vice Chair Newberry moves that the Planning Board move Amendment #1, Modification to the Conditional Use Permit Criteria for Detached Accessory Apartments, and Amendment # 2, Updates to the Floodplain Development Ordinance be moved to the ballot at Town Meeting. Ms. Malcolm duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carries.**

Chair Fairman all right now let's talk about Amendment #3, which is by petition. I think the Board has pretty well made their comments, so I'll open up the public comment. We've heard from many of you last time, some of you.

**Ms. Claire Day, 25 Ministerial Road, Bedford:** My name is Claire Day and I live at 25 Ministerial Road in the Bedford Historic District. I have a quick slideshow, 20 seconds. Can you see these on your monitors? Board affirms.

Mr. Greazzo asked what is this first picture of? Ms. Day replied I'll tell you in just a moment. These are older homes that no longer exist in Bedford, and I think it was Rich Moore that spoke at the last meeting about when the Historic District was put together, they were thoughtful about the area that they were going to protect. These homes were outside that area, and it is a truism in historic preservation circles that if these older historic homes are not protected by some type of covenant or Historic District rules, they will not stand the test of time. So, there are four distinctly historic properties in the parcel that the petitioner wants to remove. If they are removed from this district, chances of them surviving another fifty to one hundred years are not great. Homes in Historic Districts tend to retain their value and they often have a value higher than the surrounding area. So, there really is an advantage, economically, to being in a Historic District. I remember when we bought our home. The realtor was so excited. She couldn't wait to tell me your home is in the Historic District. Fifty years ago, the Town selected the Historic District, and they made a decision. It was a pragmatic one, and they decided that area down on Route 3 where a lot of these

homes existed were probably going to be surrendered to commercialism, and that's exactly what's happened. So 50 years ago, they made a very pragmatic and I'd say a very thoughtful decision about how to proceed. I think we should respect that decision and not go willy nilly and start chopping up this very small portion of our rich heritage.

The final thing I want to say is these homes represent our link to the past. I'm in the Historic Society, and we had a wonderful talk this past fall by one of our members. It was about a young man, a 17-year-old man named John Houston. He was the nephew of Reverend John [inaudible], who was the first vicar here in Bedford with the Presbyterian Church. He was 17 years old. He joined the cause for our independence. He joined up with a regiment in Amherst, ended up in the Quebec Campaign up in Fort Ticonderoga, NY, under the generalship of General Benedict Arnold. Ron began his talk with how he started his journey into our history and our nation's history. It was through that historic home, right in the center of town right now, that one of our members, Greg Zimmerman, owns. We know it as the Reverend Houston Home. So these homes have a special link to our history—not only Bedford's history and New Hampshire's history, but to the nation's history. And it's a real easy step to investigate the homes, their history, come in contact with some of our founders. I don't think in America, at this point in time, we reflect enough on where we came from; the people that sacrificed to give us the nation that we have. And I'm going to say that it's our duty and responsibility to protect this small portion of our nation's legacy. Thank you.

**Petitioner, Mr. Matthew McLaughlin of 12 Briar Road, Bedford:** I might as well speak one more time. I was the petitioner, Matthew McLaughlin, 12 Briar Road. I'll start off by saying I think I recognized I've kicked the beehive, so the bees are buzzing. It is what it is, and we'll see how the voters decide. The only reason I did this is I border property in the Historic District. I've always felt like I've never really liked having to ask permission to do anything at my house that other residents of the Town of Bedford don't. If I want to take down a tree, I have to ask permission. If I want to put some small additions on my house, of course you have to get a building permit to make sure it's structurally sound and properly built, but I have to ask permission for what color and style and everything it is. I've never been a fan of that, hence the petition. I went up and down Wallace Road. I did talk to a number of neighbors who agreed with me. That's why I put the boundary on Wallace Road. So that is the purpose. That's how it started. It's not an attempt to destroy the history of the Town of Bedford. Thank you.

**Ms. Susan Tufts-Moore, 27 Bedford Center Road, Bedford:** Susan Tufts, 27 Bedford Center Road. As I said at the last hearing, as a resident of the Historic District, I consider it a real honor and a privilege. I love living in the Historic District and we don't have that many more requirements for when we want to make changes to our property. We really don't. So I don't see the problem with that, and I am thrilled that the Historic District Commission at their meeting the day after the last Planning Board hearing, made a vote to recommend that this Planning Board not put this on—not recommend its passage on the Town ballot in March. I would like to second that and say I do hope the Planning Board will not recommend its passage on the Town ballot. Thank you.

**Mr. David Clark, 62 Bedford Center Road, Bedford:** David Clark, 62 Bedford Center Road. When we were looking at houses in Southern New Hampshire, we thought Bedford would be a good place to live. The first place that our realtor brought us was Bedford Center. And OK, we fell in love with the Town because of the Historic District. We ended up buying a house in the



Historic District knowing what was expected of us in living in the Historic District and we thought that's great insurance because that goes for our neighbors. That gave us a sense of being in an area that was protected, and we loved it. And I suggest that the people, the 21 properties or ±21 properties in the zone that Mister McLaughlin is trying to get out of the district... People understood when they bought their houses that they were part of the Historic District and to split the Historic District right down the middle of Wallace Road means the people on the east side of Wallace are going to suffer damage. You've got the Woodbury House at the end of Church Road. You've got some other historic houses that would be impacted by that as well. I agree with Susan Tufts-Moore, and I hope that we have no support for this from the Planning Board. Thank you very much.

**Mr. James Dumont, 316 Wallace Road, Bedford:** Hi, James Dumont, 316 Wallace. We are one of the historic homes on the west side of Wallace that would be removed. I spoke last time. You heard most of it, but really want to focus on what the Historic District does through the Historic Zoning Ordinance, Section 275. That provides protection for the historic homes and Chairman Fairman, you mentioned last time that you had authorized some newer development north of above our house uphill from it with the intention of making sure that our house is protected and preserved. Unfortunately, the Town is finding out and we're all finding out that that development was done improperly, and the culvert was put in the wetland instead of being where it was permitted and designed for. Section 275-53 is the only recourse I have absent having to pay an attorney upward of \$20,000, and that's where I'm at today. My neighbors haven't agreed to meet with us yet to try to resolve the culvert issue. My driveway is deteriorating before my eyes. Our house is shifting, at risk of falling apart. And right now I'm having to try to defend. Maybe you guys could continue to keep our house in the Historic District, so I have access to Section 275-53, just to try to make sure that this house I bought six months ago, seven months ago, isn't going to collapse under me because my neighbors did something wrong, maybe negligently. And now the Town hasn't done anything to help us. I'm out another 20 grand to date because of the Town's inaction on Section 275-53, and now I'm being told that that might be rug pulled from me, too. If the Planning Board and the Town Council go forward with approving or recommending that the Town passes this, it really puts me at a further disadvantage and potentially really threatens the ongoing legacy of four of these historic homes that are currently protected by limited protections that are exclusively available to those homes that are in the Historic District and that do have a review and approval process via the Historic District Commission. So, there are benefits to this Historic District. I don't want to see those gone. I recognize they might cause additional burden for some, but maybe we can take away that burden from them by going through a more targeted future amendment to the boundaries of the Historic District, so we keep in the older homes.

And lastly, before you make a determination as to whether to recommend or not how this goes on the ballot, there is a petition in the works to try to—I guess there's a mechanism by which it would require two-thirds of the vote to go through so that petition is in process. We expect it to receive the minimum 20 percent of the acreage threshold to force that requirement. And so if you guys go through and you say you support this Historic District boundary change and that makes the ballot, but then it's a two-thirds requirement, that might look a little bit weird.

Chair Fairman said thank you. I'd like to make one comment. I do think that the homeowners of historic homes in Town, and there are a lot of historic homes outside the Historic District

Commission. There are probably more outside than there are in. I happen to have one of them. But I do think that those owners recognize and value what they have and they're not going to let them be destroyed. They work hard to keep them and work hard to improve them when necessary. There are a lot of improvements made in the old homes. There were comments made about the homes without the district falling apart. I don't think that's fair to the owners of those homes that are not in the district because they're not going to fall apart. With that, Board, do you have any questions on this?

Mr. Swiniarski said my only question is what's the justification for non-historic homes being in the Historic District and being subject to that additional review? It doesn't really make a whole lot of sense that if you have a house that was built in 1987 and you happen to be in the district now, there's no criteria review of four. On the flip side, I'm not sure why this proposed amendment was styled such that it eliminates four historic homes. That seems like a mistake to me.

Chair Fairman said I'll give you my two cents on that and that is modifications to any property have the potential to affect the neighboring properties. And if you're in the Historic District, you want to make sure that your neighbors have the same restrictions as you do, so that they can't do something to, at least I won't say restriction—reviews that you do. These restrictions are all reviewable by the Commission and can be waived by the Commission. It's more a question of requiring reviews than totally restricting what's there. So I think that if you're in the district, no matter how old your house is, it should be required to meet the same [inaudible]. My take.

Vice Chair Newberry said all houses will be historic someday. We should live so long. Excuse me.

**Mr. Richard Moore, 27 Bedford Center Road, Bedford:** Richard Moore, 27 Bedford Center Road. I'd just like to respond to the last comment about the people outside the Historic District preserving their old homes. It's true. I mean, a lot of people take a lot of care in maintaining their historic homes. But what I would recommend is a study and look at the, outline the areas that the Historic District, the other area on South River Road and everything else. We've got very good indications of what was there. There's the 1903 history shows what was standing at that point and discusses the old houses and then the 1971, I think, Town history shows basically a modification of the same map and that shows which ones are no longer existing at that point. It shows a lot of houses that have disappeared in the meantime and basically that coincides with the start of the Historic District area. And you could take that map, see what historic homes were there at that point in time. How many have survived in the historic district of those. How many outside of that are gone. You could do an inventory basically of how effective the Historic District has been in preserving those homes, and I think you would find it was very effective. I do recommend you don't recommend this have your approval.

[There were no further questions or comments].

**MOTION: Vice Chair Newberry moves that the Planning Board NOT support Zoning Amendment # 3, which is proposed by citizens' petition, per our deliberations and for the following reasons:**

1. Mr. McLaughlin stated that he initiated the Petition because he felt his personal property at 12 Briar Road does not warrant inclusion in the District. The Commission does not disagree that his property may warrant removal from the District.
2. The area affected by the amendment includes four particularly valuable properties that contribute significantly to the District, the William Riddle (van Loan) House (c. 1780), the Town Pound, the John Riddle House and barn (c. 1780), the Riddle Mill site, and one of Bedford's earliest examples of Colonial Revival-style domestic architecture (c. 1910).
3. A Preservation Planning Handbook for New Hampshire, prepared by the NH Preservation Alliance states that in establishing a district,
  - Wherever possible it is preferable to include both sides of the street. (Which our district currently does on Wallace Road).
  - A visual edge such as topography, a rail line, or other constructed elements can be an appropriate boundary where there is a concentrated group of buildings with similar periods or style. (In this case, the powerline is a reasonable visual edge).
4. Removal of all properties west of Wallace Road would contribute to an erosion of the District and may subject the District to more, similar requests.
5. In the 2021 Master Plan Update, the Bedford residents expressed their desire to maintain the existing District.
6. The Commission heard from four (4) residents at our January 9, 2024 meeting. All four residents spoke against Mr. McLaughlin's proposal. No citizens spoke in favor of the proposal.
7. During the discussion regarding the proposal at the January 9, 2024 meeting, it was noted that there are historic properties that are scattered throughout Bedford that are not part of the Historic District, as well as properties within the District boundaries that may not be nearly as old as some of the historic properties in the District. It was then further noted that this has occurred because Bedford was once a farming community and land parcels have been subdivided into lots, often passed on to multiple individuals of the next generation or sold as property value increased. This is demonstrated by the Wallace Heights subdivision, west of Wallace and south of N. Amherst, which represents a pattern of post-World War II suburbanization in the Town of Bedford. While these properties may not be as old as the original farmhouses that represent the roots of our community, they do represent a part of Bedford's history and demonstrate what happened to the community as we transitioned from agriculture. Therefore, we do not find it

necessary that all homes within the District meet the requirements of an historic home, nor do we discount the historic value of other properties in Bedford.

8. The citizens of Bedford chose to preserve the homes in the District by establishing the current boundaries. We have seen firsthand what has happened to many historic properties outside the District and we find it important, as do the citizens of Bedford, to maintain current boundaries.
9. The Commission believes that if the residents of Bedford desire a change in the Historic District boundary, we should first seek the recommendations of an Architectural Historian or other similar professional to ensure the changes are based on an historic understanding of Bedford.
10. Public comments have been resoundingly pointing out reasons for not supporting this particular amendment.

**Mr. Sullivan duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carries.**

**V. Approval of Minutes of Previous Meetings:** January 8, 2024 meeting.

**MOTION by Ms. Malcolm to accept the Planning Board minutes for January 8, 2024, as printed. Vice Chair Newberry duly seconded the motion. Vote taken – all in favor. Unanimous. Motion carries.**

**VI. Communications to the Board** None.

**VII. Reports of Committees** None.

**VIII. Adjournment**

**MOTION by Vice Chair Newberry to adjourn at 9:34 p.m. Ms. Malcolm duly seconded the motion. Vote taken – all in favor. Motion carried.**

The next meeting of the Planning Board is scheduled for February 12, 2024.

Respectfully submitted by  
Sue Forcier