

**TOWN OF BEDFORD**  
**September 24, 2018**  
**PLANNING BOARD**  
**MINUTES**

A meeting of the Bedford Planning Board was held on Monday, September 24, 2018 at the Bedford Meeting Room, 10 Meetinghouse Road, Bedford, NH. Present were: Jon Levenstein (Chairman), Hal Newberry (Vice Chairman), Chris Bandazian (Town Council), Kelleigh Murphy (Town Council Alternate), Rene Pincince, Charlie Fairman (Alternate), Matt Sullivan (Alternate), Becky Hebert (Planning Director), and Mark Connors (Assistant Planning Director)

I. Call to Order and Roll Call:

Chairman Levenstein called the meeting to order at 7:00 p.m. Town Manager Rick Sawyer, Public Works Director Jeff Foote, Secretary Karen McGinley, and regular members Randy Hawkins and Mac McMahan were absent. Mr. Fairman and Mr. Sullivan were appointed to vote. Mr. Connors reviewed the agenda.

II. Old Business – Continued Hearings: None

III. New Business:

1. Noah's Event Venue (Applicant), Rockwell Bedford, LLC (Owner) – Request to amend a condition of a final site plan approval granted by the Planning Board August 14, 2017 to construct an 8,057 square-foot banquet hall and meeting facility at 379 South River Road, Lot 35-3, Zoned PZ.
2. West Street Keene, LLC c/o Riley Enterprises (Owner) – Request to amend a condition of final site plan approval granted by the Planning Board April 9, 2018 to construct a 3,024 square foot restaurant at 28 South River Road, Lot 11-12, Zoned PZ.
3. ER Bedford, LLC c/o Encore Retail, LLC (Owner) – Request to amend a condition of final site plan approval granted by the Planning Board September 26, 2016 to construct 'Market & Main,' a mixed-use development at 125 South River Road, Lot 12-33 & 12-33-1, Zoned PZ.

IV. Concept Proposals and Other Business

4. The Planning Board will hold an informal workshop to discuss general community planning issues.

Mr. Connors stated all of the applications have been reviewed by staff and it is staff's opinion that the applications are complete, the abutters have been notified; it is the opinion of Planning

Staff that none of these applications pose a regional impact, and the agenda is ready for the Board's acceptance.

**MOTION by Vice Chairman Newberry to approve the agenda as presented. Councilor Bandazian duly seconded the motion. Vote taken – all in favor. Motion carried.**

**1. Noah's Event Venue (Applicant), Rockwell Bedford, LLC (Owner) – Request to amend a condition of a final site plan approval granted by the Planning Board August 14, 2017 to construct an 8,057 square-foot banquet hall and meeting facility at 379 South River Road, Lot 35-3, Zoned PZ.**

Councilor Bandazian stated I would just like to disclose that my wife is a member of the Rotary, and I don't think it creates a conflict for me. Mr. Fairman recused himself from this application as he is a member of the Bedford Rotary. Councilor Murphy stated I am going to recuse myself because I also own an event center, and I recused myself the last time Noah's was before the Planning Board.

Chris Winkle and Brandon Jensen from Noah's Event Venue were present to address this request to amend a condition of a final site plan approval.

Mr. Winkle stated unfortunately we are here again for the same situation, but at least this time we can come back to you and say thanks. The last two events went off very well, and now we have come up to the Rotary Club, which is our next event here, and we were hoping to be done and ready to go by this time. I think the Board has the staff report from Mr. Connors and in it you see a photo that I think is pretty recent from this week. As you can see, we are making progress slowly but surely. I will tell you we had a roadblock with these utilities just about every other day. We just wanted to let you know where we are today. The road is getting widened and everything; the only thing that is left for the road is putting the topcoat of asphalt on and striping it. DOT will not let us put that topcoat on until all of the utilities are finished to be relocated. As of now they went and moved another electrical line this week so that Comcast and a couple more of them can get in there and finish their relocations. Just because of the battle I can't guarantee when that is going to happen, so we are still working on that part, and that is the only thing that is holding us up now. I have to give kudos to Mike Sisto at the New Hampshire Public Utilities Commission as he helped us out a ton in getting these guys off from square one to make the progress that we have today, so we are getting close. In our conversations with DOT today, they halted us from putting a topcoat on and doing that stuff, so as of today what we talked about is he threw out October 7<sup>th</sup>, so we are going to work with our asphalt guy and I think we have a deadline date of that. What ends up happening is we have a date that says alright, we are getting to a point where we can't do asphalt anymore, whether utilities move by that point or not we are finishing it up. I think that is what is going to end up happening, so if they have to come in and move them after or whatever, hopefully that is two weeks away, so I am hoping that by that point they should be able to do it. We've got high-ups involved now that will hopefully keep pushing to get it done.

Chairman Levenstein asked what is the next event that you have after the Rotary event? Mr. Winkle replied she told me we have one October 20<sup>th</sup> is the next event after that. I was going to ask if anybody has a problem as we are making it so far and so close, so I don't have to come back again, that we just remove the condition from our Certificate of Occupancy, let us have our Certificate of Occupancy, we have \$193,000 sitting in there so it is not like anything is not going to happen. If it doesn't, we are not leaving town, we are the owner, and we are the thing there.

Mr. Winkle stated with regard to our onsite stuff; all the onsite stuff should be completed by the end of the week. We have to have a raised stage and Wayne wanted a contrasting color on it. We typically make it the same color so when it stages down flush with the wood floor; you can't tell that it was a stage. So for trip hazards and everything we have to change the color. The material came in this week, he comes in tomorrow to install it, so we will have that done and we will be able to have Wayne back out to sign off on that. The landscaper will be out there tomorrow, he is supposed to have two days, so we should have all the rest of the landscaping in by Wednesday or Thursday of this week per the new changed plan. With regard to the site, we are waiting for a sign. There is a sign left that as you are leaving at the entrances, that shows the dividing line that we have there and then that takes care of everybody on the checklist, other than the road.

Mr. Pincince asked you currently have a temporary Certificate of Occupancy? Mr. Winkle replied we have no Certificate of Occupancy. It was revoked after the two events. Mr. Sullivan stated the same process as today; they came in and requested this. Chairman Levenstein asked Ms. Hebert, would there be a problem doing it through October 20<sup>th</sup>, so they don't have to come back again for that one? Ms. Hebert stated that is giving you several more days. What is the event on October 20<sup>th</sup>? Mr. Winkle replied I didn't ask her that question. I am going to tell you that it is probably a wedding because it is the 20<sup>th</sup>, which is a Saturday. Ms. Hebert stated maybe you could work with staff to wrap up all other site issues prior to October 20<sup>th</sup>; I think that is also a condition of this approval, and leave staff the ability to allow for that event as well, but I am really not comfortable just issuing the Certificate of Occupancy. That would not be something that we would recommend. Chairman Levenstein stated then this approval would cover through the 20<sup>th</sup> so they don't have to come back.

Mr. Jensen stated I think one of our concerns is basically if those poles don't get moved, DOT is not going to sign off, and if DOT doesn't sign off, we are basically handcuffed. We could have the road 100 percent finished, paved, striped, ready to use, but if those poles that have been misplaced by other people aren't removed, they won't sign off on it. So they could handcuff us and if you are telling me that my building is now not operational because I am handcuffed to something, we have fulfilled our obligation, but because we can't get somebody out there to remove power poles, which we have basically no control over, hundreds of emails, hundreds of phone calls, dozens of meetings, and we are months and months later and we are still at the same battle that we have had the entire time. So I guess my concern is now we are back here again in October, it is 100 percent done, but we don't have a utility company that has come out and pulled their poles, so now I have a building that is not operational. Ms. Hebert responded you don't have a front door, you don't have a front driveway with safe access, you have an event center that could potentially hold large events, and you are using a secondary access through an age-restricted development. I just think that the safety concern of having a front driveway as it was

designed and approved by the Board is very important. Mr. Jensen responded I am not disagreeing with that; I am just saying if we have done 100 percent of what we are supposed to do and DOT won't sign off on it, where are we at that point. Chairman Levenstein replied why don't we decide at that point since you haven't done 100 percent yet.

Vice Chairman Newberry asked do you have a written agreement for this event with the Maple Ridge development? Mr. Winkle replied yes; I talked to them again on Friday. Vice Chairman Newberry stated thank you.

Chairman Levenstein asked for questions or comments from the audience.

Charlie Fairman, 243 Liberty Hill Road, stated I am a past President of the Bedford Rotary. First of all, on behalf of the Rotary I want to thank Noah's Event Venue for donating the time of this gorgeous facility; it is a great addition to the Bedford community. As most of you know, Bedford Rotary raises and donates almost \$40,000 to the Town, and this is one of our fund raisers replacing an event that we had for many years. I just want to thank the Board for their consideration of this. It is a little late because we have restaurants and wine tasting tied up committed to coming in. We have six restaurants at this point and a couple hundred tickets sold and this would really put us in a bind without this approval. Thank you.

**MOTION by Councilor Bandazian that the Planning Board approve an amendment to Condition #19 of the August 14, 2017 site plan approval for Noah's Event Venue at South River Road, Lot 35-3, to read as follows:**

- 19. Prior to issuance of a certificate of occupancy, all off-site improvements depicted on the plan shall be completed to the satisfaction of the Town and the NH Department of Transportation. If after making reasonable efforts to meet this condition the applicant is not successful by October 20, 2018, the Bedford Rotary event may be held on September 30, 2018 and a subsequent event on October 20, 2018 may be held on the condition that the Applicant shall work with staff to ensure that all other site conditions have been met on or before October 20, 2018 all of which would be until potentially October 20, 2018 prior to the completion of the off-site improvements, subject to the following stipulations:**
- i. All on-site improvements are completed to the satisfaction of the Planning Department.**
  - ii. Temporary signage shall be placed in front of the site, at South River Road on the approaches to Technology Drive and on Technology Drive informing event visitors of the traffic pattern to the site. All temporary signage shall be installed and removed the day of the event.**
  - iii. An attendant shall be stationed at the front of the property during the event and the South River Road driveway shall be blocked off from traffic.**
  - iv. Attendants shall be stationed on the Maple Ridge Estates property or on Technology Drive through the duration of the event to facilitate safe traffic flow. If attendants are stationed on the Maple Ridge**

**Estates property, the applicant shall provide Planning staff written permission from the management/ownership to allow attendants to be stationed on the property.**

- v. The temporary Assembly permit shall only be valid for the Bedford Rotary event on September 30, 2018 and the event on October 20, 2018 and will expire after the October 20, 2018 event.**
- vi. All other conditions of the August 14, 2017 Planning Board approval shall remain in full effect.**

**Mr. Sullivan duly seconded the motion. Vote taken - all in favor. Motion carried.**

Mr. Fairman and Councilor Murphy returned to the meeting.

**2. West Street Keene, LLC c/o Riley Enterprises (Owner) – Request to amend a condition of final site plan approval granted by the Planning Board April 9, 2018 to construct a 3,024 square foot restaurant at 28 South River Road, Lot 11-12, Zoned PZ.**

Chairman Levenstein recused himself from this application. Vice Chairman Newberry was appointed Acting Chairman.

Tom Riley was present to address this request to amend a condition of final site plan approval. Mr. Riley stated I would like to correct the opening statements. The property is owned by West Street Keene, LLC; Riley Enterprises is the developer.

Mr. Riley stated we are looking for an extension; I don't really know what and how, I just know that they did not get the building down in time for a couple of reasons, primarily due to the sewer access, which I wish Mr. Foote was here tonight but I think Ms. Hebert can probably fill you in on it. Also, a statement from the water works that they needed a lot more clarification on exactly what is going in; we don't know if it is going to be one bathroom or two, sinks, so we have a service card showing water is available with a  $\frac{3}{4}$  inch line today showing that water is available but we can't ask for anything different until we know precisely what is going to go in the facility. Other than that, we are ready and willing to tear that thing down and get the whole lot done. The way the approval was worded is we basically need to tear the building down in order to get the site plan signed, however, I need a site plan signed because once they tear the building down they are going to do the whole site at the same time. We are going to have an excavator in there cutting the trees, pulling the stumps, and digging the foundation all at the exact same moment. So I have been in discussion with Ms. Hebert basically just assuring that have met all the conditions of the approval, which it looks like we have, except we are waiting for a couple, and with that said, as soon as I can get that site plan signed we are ready to go, contracts have been issued, developers are ready and the builders are ready. Ms. Hebert I am sure you can fill them in better than I can because you know a lot more on this than I do.

Ms. Hebert stated yes; the demolition permit has been issued to remove the building, and the owners are negotiating with the adjacent property to acquire a private sewer easement; I believe that has been the delay in wrapping up the final conditions of approval. We are also waiting for

a letter from Manchester Water Works but otherwise everything is in very good shape, the building can come down at any time, and I believe your extension request was for 45 days from September 1<sup>st</sup>, which would give you until October 15<sup>th</sup>. Mr. Riley stated I am ready. The stickler here is basically that when they did Route 3, everybody on Route 3, every single lot had a sewer lateral put in except this one. He put it in on the corner. Well, we can get there, but we have to dig up the sidewalk or get an easement, so Mr. Foote is pushing really hard for us to get the easement. If we can't, the only other option is to dig up the sidewalk. I don't know what else we have other than doing it that way, and of course, you can't dig up the sidewalk because there is a moratorium for X number of years after you do a road and you would have to go to the Council, so it is much easier to try to pursue the neighbor and he was agreeable, but every time we would get him to agree and to the table he has another little modification, so I think that is what is happening right now. But we are ready to go; I am anxious to go.

Acting Chairman Newberry stated so the current request is to revise Condition #10 from September 1<sup>st</sup> to October 15<sup>th</sup>. Does that still look doable? Mr. Riley responded it is not up to me; it is up to the Town and the neighbor. If the Town says I can do it today by tearing up the sidewalk, it is doable by me. We are ready to go. Ms. Hebert stated the building needs to be demolished before the plans are signed so the demolition date is up to you. Mr. Riley responded but like I said, we are going to be doing it all at once. Once we get in there with an excavator, we are going to tear the building down, stump the lot, put in the foundation, and get the lot cleared, which is all at once, and in order to do that we have to have the site plan as well. Now, I understand there is some leniency and some considerations that we can do as we are there, but I just want to make sure that there are no sticklers and once we get in there the building is down. I don't see any, and I don't think you do either, but I am hoping, I don't have a problem tearing the building down. If I will have sewer one way or the other, I will tear it down right away.

Acting Chairman Newberry asked for comments or questions from the Board. There were none.

Acting Chairman Newberry asked for questions or comments from the audience. There were none.

**MOTION by Councilor Bandazian that the Planning Board amend Condition #10 of the Board's April 9, 2018 site plan approval for West Street Keene, LLC to construct a 3,024 square foot restaurant, small parking lot and associated site improvements at 28 South River Road (Lot 11-12), as shown on plans prepared by Stone River Architects, last revised June 6, 2018, to read as follows:**

**10. The existing structures on the lot shall be demolished by October 15, 2018.**

**Mr. Sullivan duly seconded the motion. Vote taken - all in favor. Motion carried.**

Chairman Levenstein returned to the meeting.

**3. ER Bedford, LLC c/o Encore Retail, LLC (Owner) – Request to amend a condition of final site plan approval granted by the Planning Board September 26, 2016 to construct**

**‘Market & Main,’ a mixed-use development at 125 South River Road, Lot 12-33 & 12-33-1, Zoned PZ.**

Chris Rice from T.F. Moran was present to address this request to amend a condition of the final site plan approval on behalf of the applicant.

Mr. Rice stated as laid out in the staff report, the original approval, which was done in November of 2016, had a condition that all of the offsite improvements would be done by October 1<sup>st</sup> of this year. We had subsequently, last year I believe it was, came in for a phasing approval to separate Phase 1, which is Trader Joe’s and Friendly Toast, which are the two buildings that are under construction right now and separate the offsite improvements that were associated with that from the remainder of the offsite improvements, which were associated with the remainder of the buildout.

Mr. Rice continued right now Trader Joe’s and Friendly Toast are under construction, they are slated to be turned over to the tenants for their tenant improvements in November and they are anticipated to open in February of next year. But with that, the next phase of the development is not starting until the spring and that is when it was now anticipated to start the remainder of those offsite improvements.

Mr. Rice stated we are here tonight to request an amendment to the prior condition to extend the date from October 1<sup>st</sup> of this year to October 1<sup>st</sup> of next year in order to complete all of the remaining offsite improvements. A bond is already in place for all of the work with the Planning staff, and I would be happy to answer any questions you might have.

Chairman Levenstein asked for comments or questions from the Board. There were none.

Chairman Levenstein asked for questions or comments from the audience.

Attorney Daniel Muller of Cronin, Bisson & Zalinsky stated I am here on behalf of Coldstream Park Condominium Associates. When the Board originally approved this back in 2016, there was a condition about an agreement with Coldstream for certain offsite improvements honored by their property. Obviously with the modifications it pushes dates out and there was some concern on the part of Coldstream that this might affect the offsite improvements for their particular property, which is what they are concerned with under their agreement. However, based on discussions tonight it appears that we have come to a general agreement as to when those would be done, and based on that, Coldstream has no objection to the modification being requested. Thank you.

**MOTION by Vice Chairman Newberry that the Planning Board amend the final conditions of site plan approval for the redevelopment of the Macy’s site as proposed by ER Bedford, LLC (Owner) and Encore Retail, LLC (Applicant) at 125 South River Road, Lot 12-33, Zoned PZ, be modified to amend Condition #8 from the September 26, 2016 and November 20, 2017 approval to read as follows:**

**8. The offsite improvement plan shall be revised to address all outstanding**

**technical comments to the satisfaction of the Public Works Director and Planning Director. A financial guarantee for the offsite improvements shall be provided to the town prior to the issuance of a certificate of occupancy for Building A and/or Building B or prior to any work within the public right-of-way, whichever occurs first. A temporary striping plan shall be provided for the site driveway and approved by the Planning Director. The offsite improvements as shown on the plan prepared by T. F. Moran, dated September 2, 2016 shall be completed prior to October 1, 2019, or prior to the issuance of a certificate of occupancy for any other building onsite, whichever comes first.**

**Councilor Bandazian duly seconded the motion. Vote taken - all in favor. Motion carried.**

**4. The Planning Board will hold an informal workshop to discuss general community planning issues.**

Ms. Hebert stated the Planning Board's workshop is held annually in September to talk about potential changes to the Zoning Ordinance and Land Development Control Regulations and to discuss any other community planning topics or issues that the Board might want to explore during the year. Because this year is the Master Plan update and last year we did a significant overhaul of the Table of Uses, we felt like it would be prudent to not recommend sweeping changes to the Zoning Ordinance until we heard back from the community during the Master Plan outreach efforts. Therefore, we don't have a long list of zoning amendments for tonight's workshop. We do have some changes to the Land Development Control Regulations that we would like to review with you.

- *Update Bedford Road Construction Standards to be consistent with the town's current construction procedures and practices for public road projects. The current standards were incorporated into the LDCR when the regulations were re-codified in 2002 and have not been revised since. A draft of the proposed standards is attached and the Town Engineer and DPW Director will present an overview of the revisions at the workshop.*

Ms. Hebert stated the Road Construction Standards are developed by the Department of Public Works, but in 2002 they were incorporated into the Land Development Control Regulations so they are codified as part of your regulations that are used to review site plan and subdivision developments and revisions to the construction standards and will require a public hearing and an amendment to the Land Development Control Regulations by the Board. Our Town Engineer Jean Walker is here to provide an update on the proposed changes and to try to walk us through what they are recommending. Essentially the Department of Public Works, who has been building roads one way since 2002 and the regulations haven't been brought up to speed, so the goals are to bring the Town's regulations up to the actual current standards that are being used during construction.

Mr. Pincince stated if I understand you correctly, we are building our roads better now than what

our standard calls for in writing. Ms. Hebert responded yes. Ms. Walker responded I would agree with that. We are rebuilding a lot of roads at this point and what we are trying to do now is to make sure that the developers or anyone else who is building a Town road that the Town is going to accept, own and maintain is built to the same standard as if we were building it ourselves. We are holding everyone to the same standard that we hold ourselves to.

Ms. Walker stated we went through the document and you can see the memorandum as I prepared it. It talks a little bit about basically we are updating the paving moratorium within our standards. (A copy of the noted document with edits shall be attached to these minutes.) We had a 3-year stipulation and it is now a 5-year, so we updated that to make it consistent with what we were doing, we added a note that the minimum inspection requirements have been defined but that all buried infrastructure must be inspected. If someone is doing something within the roadway and we are not going to be able to see it, we need to inspect it; we can't accept what we haven't looked at. And then the majority of the changes were related to driveway requirements. We have run into a tremendous amount of effort and confusion with the driveway standards, so we really tried to dive into those and make sure that it was as simplified as possible to make it so that everyone understands the rules and can construct driveways in the same manner.

Ms. Walker continued within the document portion of the road construction standards that you were provided we did a word-track changes version of it, so what you have in the red would be the changes we made to try and make them as clear as possible to you as to what we were changing and anything that we were deleting is stricken in red also. With the details themselves, it got a little more complicated because that wasn't a Word document. What we did is we gave you what showed the old and then provided the new right behind it, and then within the memo I tried to give you a brief description of what the changes were. Also attached would be the driveway permit application, which I believe is Appendix C, and when we distribute that, that is the permit application that anyone that wants a driveway permit is filling out, and then we put whatever comments we have on it, and then it allows a space for us to now sign off on it when the driveway is done so that we have it all in one place. Right now we have a piece of paper that we staple to the top of it so we are working to improve it.

Chairman Levenstein asked Ms. Hebert, these are part of the Land Development Control Regulations and in order to change them we have to have a public hearing before we vote on them? Ms. Hebert replied yes. Chairman Levenstein asked there is no Town vote like with the Zoning Ordinance? Ms. Hebert replied no.

Mr. Fairman stated I have one question in Section 6 with the driveway permit. It's not really a question about a change. Does the word 'modify' in the first line where it says 'request to construct or modify a driveway,' include repaving? Ms. Walker replied it does. They need a driveway permit before that, and basically what happens is if they are just doing an overlay where they are paving on top of pavement so they are going to lift it up a little bit, it is a formality but we need it for the records to make sure that they aren't widening it because that often happens. Mr. Fairman stated yes it quite often does. How do people know that? We see a lot of repaving. Ms. Walker responded we have people out; we have DPW staff that are out around the town. If we see someone doing something, and we stop and ask them questions and talk to them about it. Homeowners are very good about word-of-mouth from one to the next and

we try and get ahold of the paving contractors. There are a lot of them so we do the best we can and it is a process of education. Mr. Fairman asked is it your experience that the paving companies will notify a homeowner pretty well? Ms. Walker replied the ones that we see the most often definitely do. Mr. Fairman stated thank you very much. Mr. Pincince asked but there is no stipulation to actually pull the permit whether it is the homeowner or the contractor? Ms. Walker replied right, and within the application we have actually started asking for both. We prefer that the homeowners pull it but we want to make sure that the contractor has the insurance and that type of thing.

Chairman Levenstein asked does this cover sealcoating? Ms. Walker replied I don't believe it covers sealcoating. There is no excavation so it wouldn't change the driveway. Chairman Levenstein stated it is just painting it basically. Ms. Walker responded yes.

Ms. Hebert stated another thing to verify for folks who maybe don't think about driveways all of the time, the Town issues a permit for the portion of the driveway that is in the right-of-way; we don't inspect or review driveways beyond the limits of the right-of-way. If someone wants to use a different method of construction for their driveway leading up toward their home or have a different grade, it is not something the Town would be reviewing and inspecting unless it was required so during the subdivision approval by this Board.

- *Revise the Bedford Road Construction Standards to include a requirement that all residential driveways meet the National Fire Protection Association standards.*

Ms. Hebert stated we do add one section to the driveway regulations that requires the driveways to comply with National Fire Protection Association standards, and that is a new requirement which does move us much closer should that review of the entire driveway gives the Fire Department more authority to review how they are going to get emergency vehicles up a driveway and maneuver around once they get to the home.

Ms. Walker stated they are concerned with getting the trucks to the houses basically. There are certain things that the trucks, due to their size, can't do so their rules and regulations are a grade of the driveway greater than 10 percent talks about a hard time getting there and they have to be able to have a certain width of the driveway to allow the trucks to have access and that they have a hard surface. In the fire protection code those are the rules on that and we wanted to comply with their rules within our right-of-way section of the driveway, which is why we reference that. Anyone who is constructing a driveway is already subject to those rules but we just added it to reinforce it.

Mr. Fairman stated one other question in the same section under letter I. You state the driveway shall slope away from the roadway with a slope of 5 percent within the right-of-way. Is that to say that the driveway is ultimately going up, it has to start with a slope down before it can go up? Ms. Walker replied yes it does. Mr. Fairman stated that is what I understood it to say. Ms. Walker stated it all goes back to drainage and the concerns that we have with drainage and we don't want the site water coming down the driveway and into the road creating problems. Mr. Fairman stated I think it is perhaps a burden on fairly short driveways that have to go up a fair amount. Ms. Walker responded yes.

Councilor Bandazian stated on Condition H on driveway culverts, it is a requirement that they be 12 inches in diameter, but it doesn't specify a material. Is that something that is in the permit itself that it says corrugated metal, concrete, plastic, HDPE? Ms. Walker responded we have not specified a material. Councilor Bandazian stated from time to time we see problems and you probably do much more than we do. Ms. Walker responded right. We did not specify that; that is a great catch. It is certainly something that we could add. We do allow some variety of materials. We do allow the ADS for driveway pipes, for driveway culverts RCP would be good, and PVC depends on the type; we left it open so that, again, the thing about the culverts is the culvert remains the property of the homeowner so if they wanted to put in a type of material that wasn't going to last, we would prefer to see the good quality. Councilor Bandazian stated and our swale doesn't function the way it was and the stormwater is a problem that is bigger than the homeowner. Ms. Walker responded that's correct. It is something that I would be willing to add. I want to make sure that we don't limit it to just one type of piping; that would be more than my concern. I can add that. Mr. Pincince stated unlike the New Hampshire Department of Transportation that wants RCP everywhere and doesn't recognize HDPE. We are different. Are you saying that? Ms. Walker replied no, I am not saying that. For driveway culverts we would allow HDPE pipe, we would allow RCP pipe, and certain classes, I believe. If someone wanted to use A-Duck Aline, which would be very expensive or more expensive than the others than the other types potentially that would be allowed as well, so that there is a larger choice than what we would use for other types. Mr. Pincince asked you are not proposing to take a blind stance and say that it will be in accordance with New Hampshire DOT standards? Ms. Walker replied I am not sure what DOT specifies for driveway culverts either. I think they allow various types of pipe, but I am not positive. I would have to do some research on that one.

Mr. Fairman asked are there definitions someplace about what driveways need a culvert? I have seen some new driveways put in and immediately have a backup of water. Is that defined pretty well where and when that is required? Ms. Walker responded every driveway has to allow for the natural flow of water. So if the driveway itself is blocking a culvert, then it would need a culvert.

Ms. Hebert stated if the Board is comfortable, the next step would be to set a public hearing for these changes. We could probably do that at the second meeting in October. Chairman Levenstein stated okay.

Ms. Hebert stated next on the workshop agenda we have a discussion of radio communications needs by the Police Department and Fire Department. Lieutenant Bernard is here to provide an overview.

- *Amend the LDCR to include a new section requiring radio strength testing for new commercial buildings as recommended by the Police Department. The Police Department has prepared a draft BDA (bi-directional amplifiers) ordinance and will attend the workshop to discuss their recommendations with the Board.*

Police Lieutenant Michael Bernard stated I trust you all have copies of the proposed ordinance that we put together. This was done with the assistance of 2-Way Communications. There were

some questions about how other towns and cities do this that have an ordinance such as this. This one mirrors the City of Dover and Portsmouth as well has an ordinance. I have also reached out to Nashua and they have an ordinance, Manchester doesn't have an ordinance but they do fall under the NFPA, which is the National Fire Protection Act under 12.21, which mandates any kind of business that comes into town needs to do a survey to make sure they have radio operability in their building.

Lt. Bernard stated the reason why we are looking to do this is basically the number one reason is for public safety and first responder safety. In case you were not aware there are some buildings in town that when the police and fire go inside the building, we do not have operability. One of those would be the Sportsplex on South River Road, and I believe it is either Iron Horse Drive, that when we are in the building, we are not able to talk to dispatch due to the concrete walls or the metal inside the building. This ordinance would mandate that a new business that comes into town, and if you read the ordinance, any new business or any business that starts doing more than 50 percent reconstruction, needs to get a survey done. It does exempt single family homes from this ordinance, which would make sense, but any large complex like apartment complexes would have to get a survey done. In speaking with 2-Way to kind of understand how a BDA works, being a police officer I am not too familiar with the radios, but basically it is a pass or fail. Once the building is built, because obviously you would have to wait for the building to be complete before you can do a survey on it, there would be a pass or fail. If it passed, then the company would not have to act in any way. It would be all set. If the survey fails, then they would have to take steps to make sure that we can have radio operability in the building. Chairman Levenstein asked what do you do if they fail? If you build this building and they don't have operability, how do you get it? Lt. Bernard replied they would have to get some kind of receiver or a radio link inside the building, on the top of the building, to make sure that when we are in the building, we can get radio operability, because obviously if you take a slab of concrete and you do a test, it would come in because there is nothing prohibiting the radio link, but once it is built, they would then have to come in and do a test. Chairman Levenstein asked but it is something that can be fixed without tearing the building down? Lt. Bernard replied yes. I am told a lot of these companies that come in know that a lot of cities and towns in New Hampshire have this ordinance, like Dover and Portsmouth, and they are prepared that they have to do a test or survey once the building is erected and they get their final approval from the town. Vice Chairman Newberry asked so radio transparency is typically a design requirement? Lt. Bernard replied yes; they would have to have a design requirement that makes radio operability in the building work or enables us, whether it is fire or police, when they go in the building that they have to have some kind of plan if it does fail.

Councilor Murphy asked is that predominantly building materials or geographic location that causes the issue? Lt. Bernard replied it all depends. You could have a building that is so close to one of our towers, and when I say one of our towers, it could be the State Police tower, it could be Station Road, it really wouldn't need to get a BDA in the building but it all depends. There is really no way of telling if it is going to work or not until the building is erected and built.

Councilor Murphy asked is there some sort of a packet that people get if they are thinking of coming to town that explains all of these things to them? Ms. Hebert asked like a development handbook or guidebook? Councilor Murphy replied yes. Ms. Hebert stated there isn't but we

would love to put one together in our spare time. We have been talking about it, and I think something that spells out our review process would be really helpful. Councilor Murphy stated it could be something as simple as choice of materials that could make a huge difference at the onset before we get to the point where they are failing the test. Lt. Bernard responded I will give you an example. With Whole Foods we walk in and when you think of where it is located and we have no reception after going in there. We can't talk to dispatch on our portables when we are in Whole Foods. Another example that the Chief gave is at Sebbins Pond Marketplace. When he is inside one of the buildings, there is no radio reception. Obviously that is a concern because for safety, whether it is a fire, citizen safety and fire safety.

Ms. Hebert stated my recommendation would be to follow a similar process that Portsmouth uses that in their land development control regulations they require the site survey, and then reference the Bedford Police Department communications system specifications in an appendix or have them housed in the Police Department and they need to meet these standards. So if they fail the site survey, you would go to the Police Department. It would be unusual for us to include the level of detail in the proposed Bedford Police Department communications specifications in our Land Development Control Regulations, but in the back of your packet I have an example from the City of Portsmouth and I think it pretty clearly has flags that say yes, you are required to do this and you need to have adequate radio communications in the building. So that way if your standards change or shift, it is easier for you to maintain and update them.

Mr. Sullivan asked is this level of communication required throughout the entire building? I am thinking of a case like a government contractor that might need a secure room, something of that nature. Is that exempt, as long as there are other spots in the building that works? Lt. Bernard replied if I recall correctly in the ordinance that we drafted, there are certain areas. *'General building areas shall be provided with 95 percent radio coverage.'* Ms. Hebert stated the first time we dealt with this was with the Encore project, and if you remember, Chief Bryfonski had made several comments that he wanted to have the radio communications verified on the site, and he was specifically concerned with the parking garage and having adequate radio signal in the parking garage. So that was added as a condition of approval and Encore agreed to comply with the request and the Police standards. Mr. Pincince asked this is the lower level of the current garage that is erected? Ms. Hebert replied no, for the garage associated with the cinema, the taller garage.

Chairman Levenstein asked Ms. Hebert, what do you think we should do? Maybe add something like this Article 11 to our Land Development Control Regulations? Ms. Hebert replied yes, with a reference to Bedford Police Department communications specifications. Chairman Levenstein asked we could have a public hearing on the same night? Ms. Hebert replied yes we could. Councilor Murphy asked we are pushing to the first meeting in November for the public hearing? If we schedule it at our next meeting, that is the first meeting in October. Ms. Hebert stated October 22<sup>nd</sup> would be our second meeting in October. Councilor Murphy responded right, but if we are scheduling the public hearing at our first meeting in October, I thought you said you needed a month. So we're actually doing the public hearing at the first meeting in November? Ms. Hebert replied you can vote to schedule this for a public hearing tonight. Councilor Murphy stated but I don't think we actually scheduled the date for the public hearing for the prior item. Chairman Levenstein responded no. Councilor Murphy stated so we

could vote to schedule both public hearings on October 22<sup>nd</sup>. Ms. Hebert responded yes.

Mr. Pincince stated so there is nothing to say that designing a building in Bedford, and I know that there is a requirement for radio communications, that I design the building and design a radio communications system within the building while it is being erected and then you go in there after it is built and just verify that it is done. Lt. Bernard replied yes. My understanding is they would build it and if they have plans to put a BDA in there, once they build the building and install it, then the Town could send an independent contractor in to test it to make sure it is operable. If they don't have plans for one and we go in there and it is not working or there is no operability, then they would be mandated that they need to get some kind of connection.

Councilor Bandazian asked does anyone know sort of the order of magnitude how much a BDA costs? Lt. Bernard replied I don't know how much a BDA costs. Speaking with 2-Way, who does provide that, who is the Town's sole provider for radio communications, they estimated between, depending on the building, \$1,000 to \$2,000 to do the survey. Mr. Pincince asked not the cost of the equipment? Lt. Bernard responded correct. I am not sure; it depends on the size of the building. Chairman Levenstein asked Ms. Hebert, could you find that information? Ms. Hebert replied sure. Why don't we push this out to the second meeting in November along with the road construction standards and it would give us time to draft the actual ordinance and you could review it informally at one of your next meetings. Chairman Levenstein stated that is a good idea. Councilor Murphy asked are you lumping both items to the second meeting in November? Ms. Hebert replied I think that is a good idea.

**MOTION by Councilor Bandazian that the Planning Board schedule a public hearing on the proposed Land Development Control Regulations to the second meeting in November 2018. Mr. Pincince duly seconded the motion. Vote taken - all in favor. Motion carried.**

Ms. Hebert stated we are recommending one zoning amendment this year. Right now we only have lighting standards in the Performance Zone and we would like to apply these design standards to projects in all other districts and exempt single family homes. That would be something that Mr. Connors and I would draft and you would review in December if the Board is in favor of that. Right now our standards in the Performance Zone require 25 feet for commercial free-standing parking lot lights, they have to be completely cut off, so dark sky friendly, and they need to be not taller than 20 feet in residential areas. We have been applying this full cut-off standard throughout all of our commercial districts because it is best practice and most people are doing it anyway but it would be good to have it codified.

Mr. Pincince asked so this should apply to residential driveways? Ms. Hebert replied this would not apply to single family residential properties. Chairman Levenstein stated why don't you work on that and we will revisit it in December. Ms. Hebert responded we will write that up.

Chairman Levenstein asked is there anything else for the workshop? Ms. Hebert replied that is all I have tonight. If the Board has any other thoughts on zoning amendments or changes to the Land Development Control Regulations, we can talk about them tonight or you can email me if you have any additional thoughts.

Vice Chairman Newberry stated I am not sure that this is anything that would be a change in regulation, but I would just mention whether we can put together something that addresses the current state of apartments in town. I'm not sure exactly what I am asking for. I am just thinking about the recent conceptual that we heard for a proposed apartment development and some of the Town reaction to it. It occurs to me that it might be good if we have something that kind of summarizes this is what is permissible, where it is permissible, and if based on that we think we should be considering any modifications to that. Ms. Hebert responded sure. Chairman Levenstein asked do you think we should do that before we do the Master Plan stuff? Vice Chairman Newberry responded maybe it should be part of the Master Plan rather than something that the staff spends time on at this point. That's a good point. Ms. Hebert stated it will certainly be a focus at the Planapalooza discussion. Vice Chairman Newberry stated I was thinking that that seemed to touch a hot button with some parts of the community.

Mr. Pincince stated to talk to your point, do we really know how many apartments we need in town, particularly workforce housing and what currently exists. I will use the example of the development on Hawthorne Drive. I think there are 65 – 66 units there, and 25 percent of those are set aside, and I don't know how many other projects are in town and whether or not that 25 percent of the 65 units actually get into the count. Based upon the last hearing that we had I am not sure that we really know how many units we have in town. Ms. Hebert responded there are about 100 units in town that have been approved with some sort of affordability requirement. Councilor Bandazian stated that are rental units, and we have about 680 properties, either condos or single family dwellings that were assessed at \$200,000, which probably falls into that category as well. Ms. Hebert stated we can put together a brief assessment or memo on it. Mr. Pincince stated to me it would be interesting to get a stat sheet on that. Mr. Fairman stated it might also be interesting to see what we are seeing for students out of them, what the impact is on the schools. Councilor Bandazian stated that we did fairly recently with the impact fee study. Ms. Hebert responded correct. With the Wayfarer apartments the fiscal impact analysis estimated 0.249 students per apartment. That was conservative. Councilor Bandazian stated so one out of every four have a child, and those are typically 2-bedroom apartments. Ms. Hebert stated it would be less for single-bedroom units or studio units. Councilor Bandazian stated a single family home I think at the same time was 1.6 or something like that. Ms. Hebert stated it is significantly higher, and both are high compared to national averages because people tend to move to Bedford because the schools are so desirable.

Mr. Pincince stated in housing you have the private home, you have apartments, you have workforce housing, is there low-income housing or does that fall under workforce housing. Ms. Hebert replied that would be considered workforce housing. We can set the maximum amount you can charge for a unit but we can't set the minimum amount. Does that make sense? Mr. Pincince responded I am thinking on Hawthorne Drive that large building across the street from the hotel. Bedford Green is the name of it. Is that building not all workforce housing? Ms. Hebert stated on Hawthorne Drive it is 25 percent. Chairman Levenstein stated the only one that is all workforce housing is the one by the church. Is that right? Ms. Hebert replied yes; that is 100 percent and that is 41 units.

V. Approval of Minutes of Previous Meetings:

Approval of the Planning Board minutes from the August 27, 2018, September 10, 2018 and September 24, 2018 meetings was delayed until the next Planning Board meeting.

VI. Communications to the Board:

Ms. Hebert stated I can give you an update on the Master Plan. We had a great turnout at the kick-off meeting about a week-and-a-half ago. Mr. Connors and I went to the Bedford Olde Town Day and talked to folks who were walking around looking at booths at the event, and we had some really nice conversations about the Master Plan. We are working to pin down the schedule for Planapolooza, which is the next big event, and that is November 1<sup>st</sup> through November 5<sup>th</sup>. We will have a schedule shortly and hopefully by the next meeting we will have a definite schedule and we will share it with you as soon as it is ironed out. It would open with a kick-off meeting that would be more workshop in format with a shorter presentation and that would be an evening meeting on the 1<sup>st</sup>. Then there would be a few days with a series of focus groups and the consultants will be in town working on the project, and then there would be a closing presentation on the Monday night, which would be November 5<sup>th</sup>.

Mr. Fairman stated we had a couple of actions the Board took and some legal action was taking place, and if we could get an update on the legal actions. The two of them that I am thinking of is the cell phone tower down on Wallace Road, and there is legal action on the U-Haul complex. At some meeting would you give us an update on those? Ms. Hebert responded sure. I can briefly give you an update. With the U-Haul case the courts sided with the Town, so the Planning Board's decision was upheld by the courts. That decision came down over the summer. The cell tower was an appeal of the Zoning Board action, and the Zoning Board's decision was also upheld. So the approval is all set for the cell tower to be installed off from Wallace Road in the silo.

Mr. Fairman stated wasn't there something with timing? Ms. Hebert replied there was an action against the Planning Board and it was withdrawn early in the process. Mr. Fairman stated thank you. Ms. Hebert stated I can share those decisions with you. I will send them out to you by email. They are interesting.

VII. Reports of Committees: None

VIII. Adjournment:

**MOTION by Vice Chairman Newberry to adjourn at 8:04 p.m. Mr. Pincince duly seconded the motion. Vote taken – all in favor. Motion carried.**